

Legal update

Venezuela's price control program

December 2017

Public Law

On November 22, 2017, the National Constituent Assembly issued the *Agreed Prices Act*, published in Official Gazette No. 6,342 Extraordinary. The act's purpose is to establish the grounds for the "agreed price program" by means of a dialogue and shared responsibility among the public, private, community and worker sectors, through the encouragement of production, distribution and marketing of goods and services that the National Executive declares "prioritized."

Purposes

- Establish the grounds for an agreed price policy (i.e., price controls)
- Encourage good production, distribution and marketing practices
- Guarantee the availability of prioritized products at agreed prices through the application of control and audit processes
- Guarantee food security and sovereignty, as well as domestic supply
- Guarantee the economic and social development of the nation, economic peace and the stability of prices of prioritized goods and services.

Scope

This law applies to public and private individuals and legal entities who directly or indirectly participate in producing, distributing or marketing goods and services deemed a priority by the National Executive, as well as everything related to the import and export of raw materials and finished products.

Agreed price program

The program is governed by the following guidelines:

- Promotes entering into voluntary agreements on prices, quality, stock, distribution and supply of prioritized goods, as well as mechanisms for their evaluation and follow-up, between the National Executive and the sectors and all those participating in production, distribution and marketing.
- The sectors and all those participating in production, distribution and marketing that make up the supply chain for the prioritized goods and services, will be jointly responsible for complying with agreed prices.

- Productivity and quantities produced will be the main criteria for establishing the cost structure in the agreed prices. This will allow profits to be the result of a combination of productivity, production and distribution volumes, in addition to the commercial margin of each product or service unit.
- Goods or services with the highest national content with respect to imported inputs or goods, will be encouraged and recognized in the agreed price.
- Prices are agreed upon to ensure efficient access and replacement, while recognizing ordinary profit.
- Agreed prices will be mandatory.
- Agreed prices will be regularly reviewed and updated.
- Raw materials for producing goods defined as prioritized goods must be destined for the production of same.
- The public, private and community sectors will promote and publish the agreed prices, especially through social media.
- Only those who have signed agreed price agreements will be beneficiaries of the incentives derived from these agreements.

Call for agreed price negotiations

The National Executive will convene the agreed price negotiations. Agreements under the agreed price program shall be entered into directly between the body determined by the National Executive and the individuals or legal entities that carry out the economic activities. The Executive Vice-Presidency of the Republic will assume the Technical Secretariat of the agreed price negotiations.

Cost analysis

The cost analysis of the prioritized goods and services will be governed by the following guidelines:

- The interested parties will present their cost structures to the Executive Vice-Presidency of the Republic by means of a formal notice of costs and prices to be analyzed in the agreed price negotiations, through the Price Administration Computer System.
- The Price Administration Computer System will take into account the public policies of production, distribution, marketing, import and administration of currencies. The input of information to the system will be mandatory for the public, private and community sectors.
- The price of the by-products derived from a main product will be defined and established in the agreed price negotiations when there are joint costs in the production of certain finished products.
- The state will establish the exchange rate for estimating cost structures, when appropriate and according to the content of the imported good or component relative to the overall finished product.
- Replacement costs will be understood as the analysis of the inventories and their valuation will be a key element in the negotiation of agreed prices. The valuation of the inventories will be recognized at the weighted average costs, to the inventory valuation method known as FIFO (first in, first out) or through another method established in the agreed price agreements.
- The ordinary profit margin shall be the result of the sectoral study and will be determined by the nature, seasonality, productivity, size of the parties, region or locality, as well as the opportunity of production and distribution.

Validity and updating of agreed prices

The agreed prices for prioritized products and services will be regularly reviewed based on the information available in the Price Administration Computer System or other data. The updated prices will be the result of multiplying the weights or average weights defined for each supply involved, remuneration and indirect costs, for the new prices.

Consequently, the variation of the agreed price will be the result of the sum of price variations multiplied by the weight of each supply, remuneration and indirect costs in the cost structure.

Incorporation of goods and services

The National Executive reserves the right to incorporate any good or service into the agreed price program.

Capacity of the state on pricing

The state reserves the right to establish the prices of prioritized goods and services when special circumstances or the general and social interest so require.

Repealing provision

All the provisions that conflict with this law are repealed.

Temporary provision

Failure to comply with the agreed prices will be sanctioned in accordance with the provisions of the Organic Law of Fair Prices, until the Integrated Monitoring and Control System for Sovereign Supply and Compliance with the Price Policy is created.

Effective date

The *Agreed Prices Act* became effective on November 22, 2017.

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