

# LATIN AMERICAN REGION

ENVIRONMENTAL REPORT © 2012



VOLUME IV, 2012

## NOTES FROM THE LATIN AMERICAN PRACTICE

Greetings from the Latin American Practice! We are pleased to provide our Latin American Region Environmental Report covering highlights from the fourth quarter (October - December) of the year. Please know that the Report is designed to capture major regulatory developments and emerging regional trends and is not intended to provide comprehensive coverage of all environmental initiatives. For more information on the Beveridge & Diamond, P.C. Latin American Practice, please contact Madeleine Kadas at [mkadas@bdlaw.com](mailto:mkadas@bdlaw.com).



### Report Contributors

#### Texas Office

98 San Jacinto Boulevard  
Suite 1820  
Austin, TX 78701

**Madeleine B. Kadas**  
[mkadas@bdlaw.com](mailto:mkadas@bdlaw.com)

**Daniel P. Berner**  
[dberner@bdlaw.com](mailto:dberner@bdlaw.com)

**Edward M. Grauman**  
[egrauman@bdlaw.com](mailto:egrauman@bdlaw.com)

#### Washington, DC Office

1350 I Street, NW  
Suite 700  
Washington, DC 20005

**Russell N. Fraker**  
[rfraker@bdlaw.com](mailto:rfraker@bdlaw.com)

**Daphne A. Rubin-Vega**  
[drubin-vega@bdlaw.com](mailto:drubin-vega@bdlaw.com)

In collaboration with  
**Melissa Owen, ambientelegal**  
[mowen@ambientelegal.com](mailto:mowen@ambientelegal.com)

If you do not wish to receive future issues of the LAR Environmental Quarterly, please e-mail [jmilitano@bdlaw.com](mailto:jmilitano@bdlaw.com)

## ARGENTINA HIGHLIGHTS

### AGROCHEMICAL CONTAINER DISPOSAL BILL INTRODUCED

On December 10, 2012, a bill (*Proyecto de Ley 7277-D-2012*; “Bill”) to regulate the disposal of agrochemical containers was introduced in the Chamber of Deputies. The Bill would apply to containers holding a broad range of chemical products used in agriculture, such as fertilizers, antibiotics, herbicides, fungicides, and insecticides. (Bill, Art. 1.) Wholesalers, retailers, distributors, importers, and manufacturers, among others, would be required to collect discarded containers and dispose of them in accordance with Argentina’s Hazardous Waste Law (*Ley Nacional No. 24.051*). (Bill, Art. 3.) The Bill also would require persons applying agrochemicals to triple wash containers under the procedure established in standard no. 12,069 promulgated by the Argentine Institute of Standardization and Certification (*Instituto Argentino de Normalización y Certificación*). (Art. 4.) The Bill has been referred to the Agriculture and Livestock, Natural Resource and Environmental Conservation, and Commerce Committees.

#### Reference Sources (in Spanish):

- [\*Proyecto de Ley 7277-D-2012 \(Cámara de Diputados\), December 10, 2012\*](#)

### BILL TO ADD CRIMINAL PENALTIES TO INDUSTRIAL WASTE MANAGEMENT LAW REINTRODUCED

On December 10, 2012, a bill (*Proyecto de Ley 7254-D-2012*; “Bill”) a bill was reintroduced in the Chamber of Deputies that would impose criminal penalties on persons who violate the Law on Integrated Management of Industrial and Service Wastes. (*Ley No. 25, 612, Ley de Gestión Integral de Residuos Industriales y de Actividades de Servicios*; “Law”). The Bill, which was unsuccessfully introduced in both 2006 and 2008, aims to restore criminal penalties that appeared in the original Law but were vetoed by the president. The Bill would make persons who pollute the environment with industrial or “service activity” wastes eligible for prison sentences from two to six years, with augmented sentences if the pollution results in personal injuries. (Bill, Art. 1 (proposed Art. 51 to Law).) Lesser penalties are prescribed if the pollution is the result of negligence. (Bill, Art. 1 (proposed Art. 52 to Law).) The Bill has been referred to the Natural Resource and Environmental Conservation and Criminal Law Committees.



**Reference Sources (in Spanish):**

- [Proyecto de Ley 7254-D-2012 \(formerly 4979-D-2008 and 2859-D-2006\) \(Cámara de Diputados\), December 10, 2012](#)

**NATIONAL SUPERINTENDENCY OF INSURANCE APPROVES GUIDELINES FOR ENVIRONMENTAL INSURANCE AND ENVIRONMENTAL SURETY POLICIES**

On October 19, the National Superintendency of Insurance (*Superintendencia de Seguros de la Nación*; “SSN”) issued a resolution (*Resolución No. 37.160*; “Resolution”) approving guidelines for the issuance of environmental insurance and environmental surety policies. (Resolution, Arts. 1-2.) The Resolution specifies mandatory contract terms for the two types of policies and provides an approved form for applications for coverage. (Arts. 3-5.) Prior to issuance of the Resolution, SSN had only authorized the issuance of environmental surety policies, not insurance policies. Companies that had been authorized to issue surety policies can continue to do so without special authorization from SSN, provided they meet prescribed capital requirements. (Art. 6.) Companies that wish to issue the new environmental insurance policies must seek authorization from SSN. (Art. 7.) The Resolution went into effect upon publication in the *Boletín Oficial* on October 23, 2012.

**Reference Sources (in Spanish):**

- [Resolución No. 37.160 \(Superintendencia de Seguros de la Nación\), October 19, 2012 \(published October 23, 2012\)](#)

**BOLIVIA HIGHLIGHTS**

**BOLIVIA ENACTS LAW TO HARMONIZE DEVELOPMENT WITH MOTHER EARTH**

On October 15, 2012, Bolivian President Evo Morales signed Law No. 300, the “Framework Law for Mother Earth and Integrated Development to Live Well” (*Ley Marco de la Madre Tierra y Desarrollo Integral para Vivir Bien*; the “Framework Law”). The Framework Law is the latest in a series of Mother Earth (or “*Pachamama*”) laws, intended to promote a culture of collective welfare and sustainable economic development. The 2010 “Law of the Rights of Mother Earth” (*Ley de los Derechos de la Madre Tierra*; Law No. 71) which established a Ministry of Mother Earth and appointed an ombudsman to represent her interests. The Pachamama laws are an outgrowth of a resurgence of indigenous principles, which also led to the adoption of a new Bolivian constitution in 2009.

The Framework Law is broad and ambitious, calling for, among other things: a healthy and safe food supply; the establishment of sustainable and regionally-appropriate industries; the minimization of the vulnerability of the Bolivian people to environmental risks (particularly those of climate change); the redistribution of wealth for social justice; the promotion of fair employment; and universal access to healthcare and education. Toward ensuring food security, the Framework Law calls for an end to the private ownership of water and genetic resources, and to all use of genetically modified crops. (Art. 12) Under the terms of the Framework Law, Bolivia’s extensive mineral and hydrocarbon industries will be required to use the cleanest and most appropriate technologies at all phases of development, from exploration to sale. (Art. 25)

**Reference Sources (in Spanish):**

- [Bolivia Law No. 300/2012](#)
- [Bolivia Law No. 71/2010](#)



# BRAZIL HIGHLIGHTS

## NATIONAL DEVELOPMENTS

### BRAZIL DEFINES EXEMPTIONS AND REQUIREMENTS UNDER NEW FOREST CODE

On October 17, 2012, President Dilma Rousseff signed amendments and an implementing regulation to Brazil's controversial new Law on the Protection of Native Vegetation (*sobre a proteção da vegetação nativa*) (No. 12651/2012; the "Law"). The Law, enacted in May 2012, replaced the 1965 Forest Code with a new set of rules requiring the preservation and restoration of minimum amounts of forest cover on rural properties, but also providing amnesty for certain illegal deforestation that occurred prior to July 22, 2008.

The new amendments, issued as Law No. 12727 (the "Amendments"), allow certain activities in what the Law defines as "Permanently Preserved Areas" (*Áreas de Preservação Permanente*), which include riparian buffer zones, mangroves and slopes greater than 45 degrees. Rather than requiring permanent preservation or restoration of native vegetation in such areas, the Amendments allow silviculture of non-native species and touristic activities as long as certain buffer zones are maintained, with the size of the required buffers determined by the overall size of the property. The new implementing regulation, Decree No. 7830, establishes the terms of the process of "regularization" (*regularização*), through which property owners are granted amnesty for past illegal cutting as long as they register their properties and comply with replanting requirements.

#### **Reference Sources (in Portuguese):**

- [Law No. 12651/2012](#)
- [Law No. 12727/2012](#)
- [Decree No. 7830/2012](#)

### BRAZIL ISSUES SYSTEMATIC LIST OF SOLID WASTES

With the publication of Normative Instruction No. 13/2012 ("NI 13"), on December 20, 2012, Brazil's environmental enforcement agency, IBAMA (*Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais*) has established the Brazilian Solid Waste List (Lista Brasileira de Resíduos Sólidos; the "List"), providing a standardized national waste classification system. The List will facilitate implementation of the National Solid Waste Policy Law (No. 12305/2010), which, among other things, creates a National System of Solid Waste Management Information (*Sistema Nacional de Informações sobre a Gestão dos Resíduos Sólidos*) and National Registry of Hazardous Waste Operators (*Cadastro Nacional de Operadores de Resíduos Perigosos*), both of which would be ineffective without nationwide consistency in the recording of waste information. Use of the List will also be required in annual reporting by companies registered in IBAMA's Federal Technical Registry of Potentially Polluting or Natural Resource Consuming Activities (*Cadastro Técnico Federal de Atividades Potencialmente Poluidoras e Utilizadoras de Recursos Naturais*) and those subject to the Federal Environmental Control and Enforcement Tax (*Taxa de Controle e Fiscalização Ambiental*). NI 13 also states that the List "will facilitate the exchange of information" relative to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal. (Annex 1 § I)

NI 13 indicates that IBAMA modeled the List on the European Solid Waste List (Commission Decision 2000/532/EC), and likewise denotes each of its 1,084 categories of wastes with a six-digit code. Wastes that are considered hazardous are designated with an asterisk. NI 13 does not provide guidance as to the reconciliation of potential conflicts between the List's hazardous designations and Brazil's existing hazardous waste classification standard, ABNT NBR 10004.



**Reference Sources (in Portuguese):**

- [IBAMA Normative Instruction No. 13/2012](#)
- [Law No. 12305/2010](#)

**CHAMBER OF DEPUTIES BILL WOULD REGULATE CLAIMS OF ENVIRONMENTAL BENEFIT**

Chamber of Deputies Bill No. 4752 (the “Bill”), introduced October 17, 2012, would prohibit “greenwashing” (in Portuguese, “green makeup”: *maquiagem verde*) and require that environmental representations about products or services include references to supporting information provided online. Product labels and advertising materials would be required to include links that take the consumer directly to a factual explanation of the purported environmental benefits. (Art. 2) The explanation would have to include supporting data about the product or the company’s actions in comparison to reference data, accredited by a certification organization or from a peer-reviewed journal, to quantitatively demonstrate the environmental benefit of the product or the company’s actions. (*Id.*)

The Bill would make greenwashing a punishable offense, defined as advertising used with the intent of providing an image of environmental stewardship that is not based in reality and therefore leads the consumer to a false conclusion. (Art. 1) The Bill would list seven types of false, vague, misleading or unsubstantiated declarations as greenwashing subject to penalties provided in the Environmental Crimes Law (No. 9605/1998).

**Reference Sources (in Portuguese):**

- [Chamber of Deputies Bill No. 4752/2012](#)
- [Law No. 9605/1998](#)

**BRAZILIAN STATE DEVELOPMENTS**

**RIO DE JANEIRO GREEN EXCHANGE CREATES PLATFORM FOR TRADING OF ENVIRONMENTAL RESERVE QUOTAS**

On December 10, 2012, Rio de Janeiro’s Green Exchange (*Bolsa Verde*, the “Green Exchange”) launched a platform for the trading of environmental reserve quotas (*Cotas de Reserva Ambiental*, “ERQs”). Pursuant to Brazil’s Forest Law (*Lei Florestal*), all rural real estate holders must maintain a certain amount of native vegetation on their land. The amount of native vegetation varies from 20% to 80% of each property area, depending on the location of the property. Those landowners whose property retains a greater amount of native vegetation than required by law may obtain ERQs which may be sold to landowners who have a deficit of native vegetation on their properties. By purchasing ERQs, those landowners with a deficit of native vegetation can avoid the payment of fines. The Green Exchange’s ERQ trading platform will be available online to landowners throughout Brazil.

**Reference Sources (in Portuguese):**

- [More information on the Green Exchange ERQ trading platform](#)

**SÃO PAULO CREATING ELECTRONIC TRACKING SYSTEM FOR CONSTRUCTION WASTES**

São Paulo has developed a robust new monitoring program for construction wastes throughout the state. The Electronic Management and Traceability System (*Sistema de Gestão Eletrônica e Rastreabilidade de Resíduos*; the “System”) is intended to enable both the environmental enforcement agency, CETESB, and the public to access detailed information on the movements of construction wastes from their point of origin to point of recovery or disposal. Secretary of



Environment Bruno Covas announced the plan at a public seminar on November 23, 2012, presenting it as the result of a partnership agreement signed in February 2012 between the State Environmental Secretariat (*Secretaria Estadual de Meio Ambiente*) the construction industry trade organization, SindusCom-SP. São Paulo's 2006 State Solid Waste Policy Law requires the civil construction sector to propose a management plan and recovery targets for its wastes. The System is expected to encourage proper management of construction wastes by removing potential competitive advantages of noncompliance. Staged implementation of the System is scheduled to begin with a pilot program for large generators in April 2013.

**Reference Sources (in Portuguese):**

- [São Paulo Law No. 12300/2006](#)
- [SMA Press Release \(Nov. 26, 2012\)](#)

## SÃO PAULO ENTERS ENVIRONMENTAL PARTNERSHIP WITH DUTCH GOVERNMENT

Through a letter of intent signed on November 21, 2012, São Paulo has launched a partnership with the government of the Netherlands to promote the implementation of environmental laws. São Paulo's environmental enforcement agency, CETESB, signed the agreement on behalf of the state. The agreement is intended to facilitate technical cooperation, focusing in particular on waste management and groundwater and soil remediation. In its press release announcing the partnership, CETESB highlights the Netherlands' waste recovery rate of 80% and the potential transfer of advanced technology for recycling and waste treatment, as well as the growth of bilateral trade between Brazil and the Netherlands.

**Reference Sources (in Portuguese):**

- [CETESB Press Release \(Nov. 21, 2012\)](#)

## CHILE HIGHLIGHTS

### CHILE SUPREME COURT SWEARS IN MEMBERS OF CHILE'S FIRST ENVIRONMENTAL TRIBUNAL

On December 28, 2012, the five judges that are to preside over Chile's first environmental tribunal (*Primer Tribunal Ambiental*, the "First Environmental Tribunal") were sworn in by the nation's Supreme Court. The First Environmental Tribunal will be charged with judicial oversight over environmental impact assessment processes and environmental qualification resolutions (*Resolución de Calificación Ambiental*) granted to investment projects. The First Environmental Tribunal is the first tribunal to be sworn in out of three environmental tribunals that are to operate in Chile. The two remaining environmental tribunals are to be headquartered in the cities of Antofagasta and Valdivia and their members are to be sworn in by June 28, 2013.

**Reference Sources (in Spanish):**

- [Ministry of the Environment \(\*Ministerio del Medio Ambiente\*\) press release](#)

### CHILEAN MINISTRY OF ENVIRONMENT ISSUES REPORT ON ENVIRONMENTAL DEVELOPMENTS IN 2012

On November 26, 2012, the Ministry of the Environment (*Ministerio del Medio Ambiente*) issued a report listing Chile's primary environmental accomplishments of 2012 (*Cuentas*



*Públicas 2012*, the “2012 Review”). The 2012 Review addresses developments in four strategic areas of focus: (1) development of environmental regulations and norms; (2) provision of environmental information to the population; (3) natural resource conservation; and (4) climate change.

With respect to the development of environmental regulations, the 2012 Review indicates that more than 20 environmental regulations became effective in Chile in 2012, 60% more than the number of regulations approved in 2011. Among other developments, the 2012 Review highlights the creation of Chile’s national environmental tribunals and the publication of proposed norms to limit emissions from copper foundries, which norms would result in expected reductions of 53% and 37% in sulphur dioxide and arsenic emissions, respectively. With respect to other strategic areas of focus, the 2012 Review highlights the publication of Chile’s first Report on the Environment (*Informe del Estado del Medio Ambiente*), various national campaigns aimed at increasing awareness of environmental issues, including the creation of a website that grants public access to the National System of Environmental Information (*Sistema Nacional de Información Ambiental*), and Chile’s participation in Rio + 20 and the negotiations of the United Nations Convention on Climate Change.

**Reference Sources (in Spanish):**

- [2012 Review](#)

## CHILE PUBLISHES TECHNICAL STANDARDS FOR LABELING OF OZONE-DEPLETING SUBSTANCES

Chile’s Ministry of the Economy and Tourism (*Ministerio de Economía, Fomento y Turismo*) has issued technical standards (*Resolución 183 EXENTA*, the “Labeling Standards”) addressing requirements for the advertising and labeling of regulated products containing ozone-depleting substances. The Labeling Standards contain requirements for warnings on labels and in advertising applicable to new or used products which are not banned under Chilean Law 20.096, which sets forth the requirements that must be met by ozone-depleting substances, and are to be sold or used industrially in Chile. (Art. 1).

The Labeling Standards were published on October 12, 2010 and go into effect 120 days from that date. (Art. 11).

**Reference Sources (in Spanish):**

- [Resolución 183 EXENTA, the “Labeling Standards”](#)

## COLOMBIA HIGHLIGHTS

### NEW BILL WOULD ESTABLISH COMPREHENSIVE ENVIRONMENTAL LIABILITY AND “SUPERFUND” LAW

A new “Superfund” bill has been proposed in Colombian Senate. The bill, if passed, would impose sweeping reforms to Colombia’s environmental sanctions law, Ley 1333/2009. The overall purpose of the bill is to allow redress and restoration of a broad range of environmental contamination, including past historic contamination of abandoned sites (*pasivos ambientales*) (Bill Art. 1). The bill would also grant new powers to environmental authorities to order or undertake remedial actions to prevent or mitigate environmental harms. In a provision still novel for the region, the bill would also create a fund for contaminated sites that would be derived from taxes, international funds, licensing fees, and private sector agreements. (Bill Art. 28). The lengthy bill also includes new provisions designed to improve environmental inspection and enforcement authorities of the national and regional environmental authorities (regional



autonomous corporations).

**Reference Sources (in Spanish):**

- *Proyecto de Ley No. \_\_\_\_\_, Por medio del cual se establecen reglas en materia de responsabilidad administrativa y penal pro daños, se modifica el procedimiento sancionatorio ambiental establecido en la Ley 1333 de 2009, se expiden normas para fortalecer el cumplimiento de la normatividad ambiental, y se dictan otras disposiciones.*

## COLOMBIAN BILL WOULD AMEND PENAL CODE TO BROADEN SCOPE OF ENVIRONMENTAL CRIMES AND PREVENT ILLEGAL MINING

A new bill proposed in the Colombian Senate would amend the Penal Code (Law 599/2000) and the Law of Environmental Enforcement Procedures (Law 1333/2009) to include specific environmental crimes that would be subject to increased fines and other penalties, including closure and license revocation. (Bill Art.1). Although the proposal is directed towards environmental harms attributed to illegal mining activities, most of the provisions are broadly written and could be applied to other activities. For example, new provisions would broaden the the scope of environmental contamination that could be subject to penalties. (Bill Art. 1A). Others are specifically directed towards illegal mining activities, including destruction of equipment and machinery. (Bill Art. 7). Colombia’s Penal Code remains among the most stringent in the world and includes a presumption of guilt where criminal activities is involved. (Bill Art. 7). The bill was likely inspired by a recent comptroller’s report on the state of the environment which details uncaptured costs associated with environmental impacts from mining activities.

**Reference Sources (in Spanish):**

- *Proyecto de Ley No. \_\_\_\_\_ de 2010 Senado y \_\_\_\_\_ Camara, por medio de la cual se modifican el código penal-Ley 599 de 2000, La Ley del Procedimiento Sancionatorio Ambiental – Ley 1333 de 2009 y el Código Nacional del Tránsito – Ley 769 de 2002, con el fin de adoptar medidas eficaces para la protección del medio ambiente y para combatir el desarrollo de actividades mineras sin los permisos y requisitos revistos en La Ley.”*

## COSTA RICA HIGHLIGHTS

### LANDMARK ENVIRONMENTAL INSURANCE LAW PROPOSED

In October, a bill (*Proyecto de Ley No. 18.613*; “Bill”) was introduced in the Legislative Assembly that would regulate—and in some cases, mandate— environmental insurance for the first time in Costa Rica. The resulting Environmental Insurance Law (*Ley de Seguro Ambiental*) would amend the country’s Law Governing the Insurance Contract (*Ley Reguladora del Contrato de Seguros*; “Insurance Law”) to establish environmental insurance as a tool for guaranteeing liabilities arising from environmental damage. (Bill, Art. 1, proposed Art. 90 of Insurance Law.) Environmental insurance would be need to be sufficient to cover the costs of implementing preventative measures and of remediating, compensating for, or providing an alternative remedy for environmental damage. (Art. 1, proposed Art. 91 of Insurance Law.) In the case of harm to collective environmental assets, the indemnity provided by the insurance would be paid to the Ministry of Environment and Energy (*Ministerio de Ambiente y Energía*); in the case of damage to private environmental assets, the owner would be indemnified. (Art. 1, proposed Art. 92 of Insurance Law.)

The Bill would also amend the Organic Environmental Law (*Ley Orgánica del Ambiente*; “Environmental Law”) to require persons who undertake activities posing a “high risk” to the



environment to obtain environmental insurance. (Art. 2, proposed Art. 21 bis. of Environmental Law.) The amount of required insurance would be determined by the National Environmental Technical Secretariat (*Secretaría Técnica Nacional Ambiental*). (*Id.*)

The Bill is now under consideration by the Committee on the Environment.

**Reference Sources (in Spanish):**

- [\*Proyecto de Ley No. 18.613, Ley de Seguro Ambiental \(Asamblea Legislativa\)\*, October 15, 2012](#)

## ECUADOR HIGHLIGHTS

### PROPOSED LAW TREATS AMAZONIAN TERRITORY WITH SPECIAL CARE

On November 20, 2012, a comprehensive bill setting forth requirements for the sustainable development of Ecuador's Amazon region (*Circunscripción Territorial Especial Amazonica*, the "Amazon Region") was submitted to the Ecuadorian Congress (*Proyecto de Ley Orgánica de la Circunscripción Territorial Especial Amazonica*, "Amazon Development Bill"). Ecuador's Amazon Region encompasses parts of the provinces of Pastaza, Napo, Morona Santiago, Orellana, Sucumbios, and Zamora Chinchipe. (Amazon Development Bill, Art. 1). The Amazon Development Bill has the objective of ensuring that social, economic, environmental and cultural factors are taken into account when entities carry out infrastructure or development projects in this region.

A centerpiece of the Amazon Development Bill is the creation of a centralized development plan (*Plan de Desarrollo y Ordenamiento Territorial*, the "Development Plan") for the Amazon Region. (Amazon Development Bill, Art. 9). The Development Plan is to apply to any entities, public or private, which carry out permanent or temporary projects in the Amazon Region. (Amazon Development Bill, Art. 2). Among other things, the Development Plan is to contain requirements relating to natural resource diagnostic studies; strategies and programs geared to supporting conservation and sustainable development; ecological, economic, and hydrological zoning; financial strategies identifying funding sources and framework investments, including financing mechanisms for environmental incentives, distribution of economic benefits and compensation for local actors; and an established review, monitoring and auditing process for development projects. (Amazon Development Bill, Art. 10). The Development Plan will operate in conjunction with local development plans which set forth standards for the management and regulation of specific local economic sectors (e.g., tourism, fishery productions, transportation infrastructure). (Amazon Development Bill, Arts. 12-14).

**Reference Sources (in Spanish):**

- [\*Ley Organica de Circunscripcion Territorial Especial Amazonica\*](#)

### COMPREHENSIVE MARINE FISHERIES BILL INTRODUCED IN ECUADOR

A bill introduced November 6, 2012 would replace the bulk of Ecuador's existing fisheries laws with a framework "Organic Law of Fisheries, Mangroves, Aquaculture and Collection" (*Ley Orgánica de Pesca, Manglar, Acuicultura, y Recolección*; the "Bill"). The Bill would reorganize the country's coastal and marine resource administrative structure, establishing a new National Fisheries and Aquaculture Authority (*Autoridad Pesquera y Acuicola Nacional*; the "Authority") to formulate and implement a National Plan of Fisheries and Aquaculture Development and





Promotion (*Plan Nacional de Desarrollo y Fomento Pesquera y Acuicola*; the “Plan”).

As outlined in the Bill, the Plan would be based on a scientific management model in which research and monitoring of marine resources would be analyzed to determine sustainable harvest quantities and methods. The Bill would create an onboard observer program to collect harvest data and would establish no-fishing zones and seasons to promote the stability of populations. Mangrove ecosystems would be accorded special status, and fisheries there would be strictly controlled and limited to certain low-impact methods. The Authority would oversee the research-based management program and licensing of all vessels and fishing operations, including Ecuador’s many shrimp farms. Unlike Ecuador’s existing fisheries laws, the Bill would also address the artisanal sector, both to promote rural economic development and to regulate its impact on resources.

**Reference Sources (in Spanish):**

- [Ecuador Fisheries Bill](#)

## MEXICO HIGHLIGHTS

### MEXICO PUBLISHES CHEMICALS INVENTORY

Representing the culmination of several years of data collection and developed in conjunction with the NAFTA Commission on Environmental Cooperation (CEC), Mexico’s National Ecology Institute has published its first Mexican National Chemicals Inventory. Like all countries in Latin America, Mexico lacks a framework chemicals regulation. Instead, regulations governing chemicals import, registration and use are under the jurisdiction of several agencies – including health, agriculture, environmental, and trade authorities – and governed by a patchwork of laws and regulations. Based on available data from 2009, the inventory catalogues 5852 chemical substances that are in commerce in Mexico, although information about their use is limited in light of existing reporting requirements. (Inventory at 47). The Inventory is expected to lay the groundwork for significant changes to national laws and regulations and proposals are expected to be forthcoming in 2013.

**Reference Sources (in Spanish):**

- INE, *Inventario Nacional de Sustancias Químicas Base 2009*, (November 2012)

### MEXICO CITY ADOPTS CLIMATE CHANGE REGULATION

The Federal District of Mexico (Mexico City), has published a comprehensive climate change regulation that will, once fully implemented, affect a range of sectors. The Regulation is largely a mirror of the national Climate Change Law. The City charges its environmental commission (*Comisión Ambiental Metropolitana*) and a newly created Interinstitutional Commission (*Comisión Interinstitucional*) with range of new tasks, including development of: a Climate Action Program; a Catalogue of Climate Change Risks; an Greenhouse Gas Emissions Registry, Information System and Carbon Exchange; and an Environmental Climate Change Fund to support implementation of the regulation, its programs and administrative infrastructure. The regulation could well have far-reaching regulatory consequences for the energy, water, solid waste, transportation, construction, and industrial sectors.

**Reference Sources (in Spanish):**

- [Reglamento de la Ley de Mitigación y Adaptación al Cambio Climático y Desarrollo Sustentable para el Distrito Federal \(Gaceta Oficial del Distrito Federal, October 19, 2012\)](#)



## MEXICO DEVELOPING STANDBY MODE ENERGY EFFICIENCY STANDARDS FOR ELECTRONIC EQUIPMENT INCLUDING TELEVISIONS

Mexico moves forward in the implementation of its controversial energy efficiency program, recently issuing prepublication drafts that would establish new stand-by mode standards for certain electronics products. The scope of the products includes copiers, DVD players, some televisions, set-top boxes and microwave ovens. The standards sets out maximum limits for energy use in standby mode, test methods, labeling requirements and compliance certification details. The draft was recently approved and it is expected to be published for public comments in the next few months. The standard has met criticism for its lack of international harmonization and requirements for local testing, labeling and certification.

### **Reference Sources (in Spanish):**

- *ANTEPROYECTO DE NORMA OFICIAL MEXICANA ANTEPROY-NOM-032-ENERO-2012 - Límites máximos de potencia eléctrica para equipos y aparatos que demandan energía en espera. Métodos de prueba y etiquetado*

## PERU HIGHLIGHTS

### MINISTRY OF ENVIRONMENT SOLICITS PUBLIC COMMENTS ON NATIONAL ENVIRONMENTAL AGENDA

Peru's Ministry of the Environment (*Ministerio del Ambiente*, "MINAM") has solicited public comments on its National Environmental Agenda for 2013-2014 (*Agenda Nacional de Acción Ambiental - AgendaAmbiente 2013 – 2014*, the "National Environmental Agenda"). The National Environmental Agenda sets forth environmental objectives and results to be attained throughout Peru by 2014 and serves as a roadmap for local and regional authorities in setting local environmental priorities. The National Environmental Agenda sets forth environmental objectives for 2013 and 2014.

Public comments are to be submitted to MINAM via email addressed to [agendambiente@minam.gob.pe](mailto:agendambiente@minam.gob.pe) or by mail addressed to MINAM at Avenida Javier Prado Oeste N° 1440, San Isidro.

### MINISTRY OF ENVIRONMENT ISSUES REVISED VEHICLE EMISSIONS REGULATIONS

Peru's Ministry of the Environment (*Ministerio del Ambiente*, "MINAM") has amended existing vehicle emissions regulations (*D.S. 047-2001-MTC*, the "Amended Regulations") and established new emissions limits for vehicles presently in circulation in Peru, imported vehicles (new and used) and vehicles assembled in Peru. (Amended Regulations, Art. 2). Among other things, the Amended Regulations set new hydrocarbon emission limits at sea level to a maximum of 12,000 parts per million ("ppm") for coupes or sedans built in 1995 or earlier, 8,000 ppm for coupes or sedans built from 1996 until 2012, 8,000 ppm for coupes or sedans built in 2013 and 100 ppm for vehicles built after 2003 and powered by liquefied petroleum



gas or natural gas. (Amended Regulations, Annex 1). The amended regulations do not apply to vehicles that are destined exclusively for use outside of Peru. (Amended Regulations, Art. 13).

The Amended Regulations provide for the enactment of future amendments to the testing methodologies for emissions limits pursuant to ministerial resolutions enacted by MINAM and the Ministry of Transportation and Communications. (Amended Regulations, Art. 9). The Amended Regulations were published in the Official Peruvian gazette (*El Peruano, Diario Oficial*) on December 18, 2012.

**Reference Sources (in Spanish):**

- [Amended vehicle emissions regulations - \*El Peruano, Diario Oficial\*, December 18, 2012](#)

## PERUVIAN PRESIDENT SIGNS LAW CREATING NATIONAL SERVICE OF ENVIRONMENTAL CERTIFICATION OF SUSTAINABLE INVESTMENTS

On December 19, 2012, Peruvian President, Ollanta Humala Tasso, signed into law a bill (*Proyecto de Ley 1461/2012-PE*) creating the National Service of Environmental Certification of Sustainable Investments (*Servicio Nacional de Certificación Ambiental para las Inversiones Sostenibles*, “SENACE”), an entity which will form a part of the Peruvian Ministry of the Environment (*Ministerio del Ambiente*, “MINAM”) and will be charged with approving Environmental Impact Assessments (“EIAs”) for public and private investment projects in Peru. SENACE’s Board of Directors will be presided over by a member of MINAM and will be constituted by members of various ministries, including the Ministries of Economy, Agriculture, Energy and Mines and Health. SENACE will also count with the support of a Technical Committee constituted by five specialists with experience in development and investments. The creation of SENACE significantly strengthens the role of MINAM by granting it ultimate and sole authority to approve EIAs and ensure their implementation.

**Reference Sources (in Spanish):**

- [SENACE Law](#)

## PERUVIAN CONGRESS TO DEBATE BILL STRENGTHENING ENVIRONMENTAL INSPECTION

On December 12, 2012, a bill (*Proyecto de Ley 01815/2012-PE*, the “Environmental Inspection Bill”) strengthening environmental inspection measures was submitted to the Peruvian Congress. The Environmental Inspection Bill proposes to modify the National System of Environmental Inspection and Assessment Law (*Ley Nro. 29325*, the “SINEFA Law”) and the General Environmental Law (*Ley Nro. 28611*) with respect to, among other things, environmental enforcement issues, the administration of environmental inspections, and the transparency of inspection results. (Environmental Inspection Bill, Art. 1, Art. 2).

The Environmental Inspection Bill incorporates various enforcement measures. Among other measures, it would increase the maximum fines for environmental violations from 10,000 tax units to 30,000 tax units. (Environmental Inspection Bill, Art. 3). It also would provide incentives for operators by both reducing fines imposed on operators that self-declare non-serious violations and by allowing operators a period to avoid fines by correcting the effects of environmental violations.



The Environmental Inspection Bill was approved by the Council of Ministers in November, 2012.

**Reference Sources (in Spanish):**

- [Environmental Inspection Bill](#)

## PERU IS DEVELOPING STANDARDS FOR DISPOSAL OF WASTE ELECTRONIC EQUIPMENT WITH SCREENS AND MONITORS

The Peruvian Commission of Technical Norms, Metrology, Quality Control and Tariffs (*Instituto Nacional de Defensa de la Competencia y la Proteccion de la Propiedad Intelectual*, “INDECOPI”) is developing technical standards (*Normas Técnicas Peruanas*, “NTPs”) regarding the treatment and disposal of waste electric and electronic equipment (“WEEE”) with monitors and screens and electric or electronic office equipment (*NTP 900.06X, Tratamiento de RAEE con Monitores y Pantallas y Otros Aparatos Eléctricos y Electrónicos*, the “Draft Monitors NTP”). The Draft Monitors NTP will complement Peru’s WEEE regulation (D.S. 001-2012-MINAM) in setting operational standards for companies that manage WEEE with monitors and screens regarding decontamination, dismantling, storage, conditioning, and final disposal of WEEE or WEEE components which contain screens or monitors. (Draft WEEE Treatment NTP, Arts. 3, 4, 5). The Draft Monitors NTP are still being developed and will likely change before they are finalized. Due to copyright restrictions, Beveridge & Diamond does not provide the Draft Monitors NTP here. Interested parties should request standards from INDECOPI directly.

**Reference Sources (in Spanish):**

- [INDECOPI’s website](#)

## URUGUAY HIGHLIGHTS

### URUGUAY TIGHTENS REGULATION OF MARINE POLLUTANTS

On November 23, 2012, Uruguayan President José Mujica signed Law No. 19012 (the “Law”), amending Law No. 16688/1994 on the protection and readiness for acts of pollution of jurisdictional waters (*la protección y vigilancia ante hechos de contaminación de las aguas jurisdiccionales*). The Law incorporates the definition of pollutants from the International Maritime Organization’s Protocol on Preparedness, Response and Co-operation to Pollution Incidents by Hazardous and Noxious Substances, 2000. This definition includes harmful aquatic organisms and pathogens. (Art. 1) The Law also grants the Executive Power the authority to expand its scope to include “any other element or contaminant of water or of the environment that originates from the activity of vessels, aircraft or maritime installations.” (Id.)

The Law creates a schedule of maximum fines for illegal discharges, varying from 1,000 to 10,000 “readjustable units” (*unidades reajustables*: a measure of value that is currently between U.S. \$20 and \$30). For hydrocarbons, the fine is calculated according to the amount discharged; whereas for harmful and potentially hazardous substances, the fine depends on several factors, and may be mitigated by the polluter’s response to the event. (Art. 5) The Law also strengthens liability provisions and adds financial guaranty and insurance obligations for ships and maritime installations, including a required contract with a contamination



remediation business. (Arts. 6-9)

**Reference Sources (in Spanish):**

- [Uruguay Law No. 19012/2012](#)

## NEW URUGUAYAN BILL WOULD REGULATE LARGE-SCALE MINING OPERATIONS

On October 16, 2012, Uruguay's Ministry of Industry Energy and Mining (*Ministerio de Industria, Energía y Minería*) submitted to the General Assembly a bill (the "Bill") to regulate large-scale mining (*minería de gran porte*) operations, to promote sustainable development of this sector. While mining has not traditionally been a major activity in Uruguay, it has increased in recent years, through foreign investment in gold and iron deposits. The Bill comes out of the work of the Multiparty Commission for the Analysis of Large-Scale Mining, which met from August to December of 2011.

The Bill would require applicant firms to submit an environmental impact statement as well as a plan for the closing and, if necessary, remediation, of decommissioned mines before commencing activities. Among other requirements for obtaining concessions, the Bill would establish compliance guarantees to cover the costs of the closing plan and any needed remediation of the site. Finally, the Bill proposes the creation of an Intergenerational Fund from government revenues for mining concessions, which would be used in part to finance environmental projects.

**Reference Sources (in Spanish):**

- [Uruguay MIEM Bill No. 717/2012](#)



**Office Locations:**

Washington, DC

Maryland

New York

Massachusetts

New Jersey

Texas

California