



# Nuts & Bolts of Colombian Environmental Law

Latin American Region  
Environmental Roundtable

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# Overview

- Country Overview
- International, Environmental and Regulatory Framework
- Media-Specific Regulation
- Enforcement
- Recent Developments
- Practice Tips and Electronic Resources

# Colombia in a Nutshell

- Most populous country in Latin America, after Brazil and Mexico
  - Highly urbanized
- Rich in natural resources
  - Petroleum, coal, natural gas, nickel, emeralds
  - Second only to Brazil in hydropower potential
- Substantial indigenous land base



# Growth Economy

- 5<sup>th</sup> largest economy in Latin America
  - On track for 6% GDP growth in 2010
  - Exports: commodities
  - Imports: industrial equipment, consumer goods, chemicals
  - U.S., China, Venezuela major trading partners
- #1 ranking for LAR in World Bank's "Ease of Doing Business" index
  - Legacy of Pres. Alvaro Uribe
  - Next generation of emerging markets (CIVETS)
- Pres. Juan Manuel Santos – more of the same?
  - Challenges: security; Venezuela; persistent, high unemployment (12%)

# Government

- Constitutional, multi-party democracy
- National: Executive, Legislative and Judicial Branches
  - Strong Presidential regime, broad national planning functions
  - Bicameral Congress
  - Four, roughly co-equal Supreme Judicial Courts
- Provincial and Local: 32 Provinces (*Departamentos*),  
1 Capital District, Municipalities

# International Framework

- Actively engaged in international arena
  - Climate (e.g., UNFCCC, Kyoto Protocol, Montreal Protocol)
  - Waste (e.g., Basel)
  - Chemicals (e.g., Stockholm POPs; Rotterdam PIC)
  - Bio-D (e.g., Convention on Biological Diversity, CITES)
  - Sectoral (e.g., MARPOL, Oil Pollution Preparedness, Response and Cooperation)
  - Indigenous Peoples (e.g., ILO Convention 169 on Indigenous and Tribal Peoples)
- Promotes free trade
  - Member of Andean Community trade bloc
  - Free Trade Agreements
    - In force: Colombia-Chile, Colombia-Mexico-Venezuela (G-3), Colombia - Northern Triangle (Colombia - El Salvador, Guatemala and Honduras)
    - Signed, but not in force: Colombia-Canada, Colombia-European Free Trade Association, Colombia-EU, Colombia-U.S.

# Constitution

- Colombian Constitution of 1991 provides a strong legal framework for environmental protection
- More than 30 provisions related to environment
  - Protection by the State of natural assets (Art. 8)
  - Right of every person to healthy environment (Art. 79)
  - Obligation of individual citizens to protect country's natural resources (Art. 95)
  - Constitutional causes of action (Arts. 77, 86 and 88)

# General Regulatory Framework

- Laws: Legislative Branch
- Decrees: Executive Branch
- Resolutions/Norms: Ministry
- Technical Standards (NTCs): ICONTEC
- Voluntary Regulation
  - Environmental Guides (*Guías Ambientales*)
  - Clean Production Agreements
- Legal Stability Contracts



# Framework Environmental Laws

- Law 23 of 1973
  - Establishes general environmental protection principles
- National Renewable Resources and Environmental Protection Code, Law Decree 2811 of 1977
  - Comprehensive statute -- air, water, waste, hazardous and toxic substances, noise, flora and fauna
  - One of first environmental protection statutes to incorporate environmental impact assessments
  - Renewable natural resources belong to the State
- National Sanitary Code, Law 9 of 1979
  - Environmental health and safety law; grants regulatory authority to Ministry of Health (now Ministry of Social Protection)

# Law 99 of 1993

- Establishes guiding principles for protection of environment
  - Decentralized, democratic, and participatory
- Requires environmental licensing and environmental impact studies for activities with potential significant environmental impact
- Creates National Environmental System (SINA) and Ministry of Environment

# Key Environmental Authorities

- Ministry of Environment (Minambiente, part of MAVDT)
  - Establishes national policy, develops regulations, plans and coordinates environmental management
- Regional Autonomous Corporations (CARs)
  - Responsible for implementing and enforcing environmental policies
- Departments and municipalities
- Other Ministries (e.g., Ministry of Social Protection)

# Waste Regulation

- Law 430/98
- Decree 4741/05
  - Waste: any discarded object, material or substance
  - Hazardous waste classification scheme largely follows Basel Convention
  - Manufacturers/importers deemed generators
  - Management plans and registration required
  - Product take-back for lead-acid batteries, pesticides, pharmaceuticals
- Law 1252/08
  - Codifies Decree 4741/05

# Transport of Hazardous Wastes and Goods

- Imports of hazardous, toxic and nuclear wastes are banned
- Certain solid wastes may require import permits
- Land transport of hazardous goods generally follows UN Model Recommendations (Decree 1609 of 2002)

# Contaminated Sites & Remediation

- No national framework law
- Potentially sweeping liabilities
- National Environmental Policy for Integral Management of Hazardous Wastes (2005)
  - Highlights need for legal framework and technical requirements
- Technical Guides on Contaminated Sites (POPs, hydrocarbons)

# Water Regulation

- Law 9 of 1979
  - Establishes general norms and control procedures for water quality aimed at protecting human health
- Law Decree 2811
  - State owns water for public use
  - Concession required for use of state water
- Law Decree 2324
  - Regulation of maritime waters
- Decree 1541/78
  - Environmental impact study required for concession
- Decree 1594/84
  - Prohibits discharges into water bodies without permit
  - Discharges must be treated to meet certain parameters

# Air Regulation

- Decree 948 of 1995
  - General principles and regulations for air quality
  - Emission permits required
- Resolution 601/2006
  - Establishes air quality standards for national territory
- Resolution 909/2008
  - Stationary sources
- Resolution 910/2008
  - Mobile sources



# Enforcement

- Administrative, civil and criminal enforcement mechanisms
- Law 1333 of 2009
  - Presumes guilt of offender
  - Extends statute of limitations to 20 years
  - Establishes register of offenders (Resolution 415/2010)
  - Creates procedures for contesting enforcement
  - Sanctions include:
    - Penalties
    - Revocation of license
    - Temporary or permanent closure of operations
    - Seizure of goods
    - Restitution
  - Issued draft enforcement criteria
  - Law recently upheld by Constitutional Court

# Civil Liability

- Types
  - Popular action to protect collective
  - Action for compliance
  - Tutela action
- Increased use in Region
- NGO activity/interest
- History in Colombia

# Recent Developments

- New Minister – New Priorities?
- Heightened Emphasis on Product Stewardship
- New Water Policy; Constitutional Amendment?
- New Air Policy; New Air Quality Monitoring Standards
- Impact of Law 1333 on Effort to Extend Mining and Oil Concessions
- Climate Change Mitigation Projects Program
- Remediation?

# Electronic Resources

- Presidency website
  - Key recent legislation – all areas
  - See <http://web.presidencia.gov.co/>
- Minambiente website
  - Key environmental legislation
  - See <http://www.minambiente.gov.co/portal/default.aspx>
  - For Environmental Guides (*Guías Ambientales*), see <http://www.minambiente.gov.co/contenido/contenido.aspx?catID=841&conID=3098>
- Congressional websites
  - Bills
  - See <http://www.senado.gov.co/> and <http://www3.diputados.gob.mx/index.php/camara/content/view/full/107>
- Bogotá Environment Secretariat website
  - National and local laws at <http://www.secretariadeambiente.gov.co/sda/libreria/php/decide.php?patron=02.16>



**¡Gracias!**