Legal Environmental Handbook

Junto con: ALLENDE, Bruchou & Funes de Rioja, Brons & Salas, Beccar Varela, Dentons, Marval O'Farrell Mairal

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PREFACE

The members of the AmCham’s Environmental Committee are pleased to present a new edition of the Legal Environmental Handbook. This work is a renewed version of the handbook published in 2002, 2007, 2011 & 2018.

This e-book was created with the intention to be a useful tool for business and those who wish to know Argentina´s environmental legislation. It is jurisdictionally limited to Federal, Province of Buenos Aires, Province of Córdoba and the Autonomous City of Buenos Aires.

Aware of the fact that this document will suffer from being outdated, the readers are strongly encouraged to verify the continuing validity of the information presented, and to seek further council when discussing a project in Argentina. In addition, digital updates will be made by the Committee to complement the Handbook’s contents.

Despite the geographical constraints and the dynamic reality of the environmental activity and regulations, this Handbook is a valuable tool for understanding the environmental system in Argentina.

We sincerely hope you find it useful the information captured in these pages. Comments and suggestions regarding improvements are always welcome. Readers can contact us at the Chamber by telephone at (5411) 4371- 4500, or by e-mail at mparodi@amchamar.com.ar, Ref: Environmental Legislation Handbook.

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This ebook is intended to provide general information on the main issues of environmental legislation in Argentina. It does not purport to be comprehensive or to render legal advice. For advice on particular facts and legal issues, the reader should consult legal counsel.

FOUNDATIONS OF ENVIRONMENTAL LAWS AND REGULATIONS OF THE ARGENTINE REPUBLIC, THE PROVINCE OF BUENOS AIRES, THE PROVINCE OF CÓRDOBA AND THE AUTONOMOUS CITY OF BUENOS AIRES

Describing the legal framework of a civil law country like Argentina to a reader used to common law principles is not easy. At first glance, Argentina's legal system seems analogous to its U.S. counterpart. A federal governmental structure derives from a constitution that allocates certain powers to the federal government, while retaining all the others to the members (provinces) of the union. Indeed, the Argentine Constitution, originally ratified in 1853, is largely patterned after the U.S. forebear.

Nonetheless, reliance on the analogy is misplaced in several respects. As an example, the U.S. model has evolved to reflect a broadly empowered federal government that exercises policy-making powers, through mandates and grants, over the states. Argentine federalism has evolved in a far less centralized manner reserving most policy-making powers to the provinces[1]. Provinces have original dominion over the natural resources on their territory and exercise broad police power. As a result, provinces have broad legislative power to regulate environmental matters. Federal regulations are the exception to the provincial rule; The 1994 Constitutional amendment[2] gave the Federal Government the power to establish minimum environmental protection standards applicable in the whole territory[3]. Moreover, the Federal Congress may regulate inter-state environmental impacts and federal jurisdiction facilities (e.g. airports), as well as it passes federal codes (e.g. civil, commercial, mining and criminal codes).

In addition, civil codes, with sweeping statements of policy and objectives, are drafted in a far different way than the common law equivalent. In the civil law system, it becomes necessary to weave through and piece together sundry laws, resolutions (rules promulgated by ministries, agencies and other authorities of the executive branch), and decrees (rules issued by the executive branch).

Overall, environmental matters are regulated by federal, provincial and municipal statutes. As a general rule, provinces are entitled to regulate and control envirmental matters within their territories. As an exception, and based on the powers dele-

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1 Indeed, the Argentine Constitution expressly reserves to the provinces all powers not delegated to the federal government by the Constitution, as well as those expressly reserved by the provinces at the time of joining the Union. See Argentine Constitution Section 121. Cf. U.S. Constitution Amend. X.

2 See Bidart Campos, Germán J., Tratado Elemental de Derecho Constitucional Argentino. Tomo VI - La Reforma Constitucional de 1994 , EDIAR, 518 (Buenos Aires, 1997).

3 Minimum Environmental Protection Standards are discussed in detail below.

gated by the provinces, the federal government is entitled to issue certain environmental legislation applicable in all the country. Accordingly Federal Government has: (i) enacted environmental legislation consisting in Minimum Environmental Protection Standards; (ii) enacted several federal codes with environmental provisions (e.g. the Civil and Commercial Code, Criminal Code and Mining Code); and (iii) enacted certain environmental regulations that applies and regulates interjurisdictional matters.

SOURCES OF ARGENTINE LAW

Argentine law derives from the Federal Constitution and the Federal and Republican System it established. Two discrete rulemaking systems coexist, federal and provincial, interrelated only with respect to those matters in which the provinces have expressly delegated their powers to the federal government.

The Federal Constitution represents the supreme source of legal order, along with certain international human rights treaties that were expressly accorded constitutional status as a result of the 1994 constitutional amendments[4]. The Constitution preempts any conflicting legislation. Following the Constitution, in terms of hierarchical authority, are those international treaties to which Argentina is a party and which are referenced in the Constitution, followed by all other treaties and conventions entered into by the Federal Government. Next, in descending order, follow federal laws, executive decrees and resolutions and other administrative acts of the executive branch. Subordinate to the federal sources of law (only in those matters expressly delegated to the Federal Government) are the provincial constitutions, provincial laws, and provincial administrative rules or acts. Of least hierarchical authority are municipal laws and rules[5].

LAW, DECREE, RESOLUTION, AND DISPOSITION DISTINGUISHED[6]

In Argentina, a law (ley) represents a legislative enactment that can only be repealed by subsequent legislative enactment. If a law conflicts with a prior law, the prior law is deemed repealed to the extent of the conflict, unless the prior law was promulgated to more specifically address the subject matter.

A decree reflects the executive branch's administrative authority to declare rules

4 See Argentine Constitution Section 75, 22

5 See Roberto Dromi, "Derecho Administrativo" (Administrative Law), Ciudad Argentina 201-10 Publishers (Buenos Aires 1998).

6 See id. Section 99, 3.

and regulations. Under normal circumstances, a decree codifies a law consistent with the executive branch's administrative role Resolutions and dispositions are rules issued by agencies and other rulemaking authorities of the Executive Branch (e.g., ministries, secretariats) to complement prior laws and decrees[7].

FEDERAL CONSTITUTIONAL PROVISIONS OF ENVIRONMENTAL LAW

In 1994, a Constitutional Convention ratified various amendments to the Constitution. These amendments included a number of express rights and protections related to the environment. As a result, the Constitution guarantees all residents the right to a healthy, balanced environment, suitable to human development, and imposes an affirmative duty on each resident to preserve the environment [8]. Remediation of environmental damages is mandatory[9]. The amendments also grant standing to individuals, including environmental NGOs, and the Federal Ombudsman, to sue the government and individuals to enforce an environmental right specified in the Constitution, international treaty, or Federal Law[10].

The amended text also includes a blanket prohibition on the entry of hazardous, "potentially hazardous" and radioactive waste[11].

CONSTITUTION OF THE PROVINCE OF BUENOS AIRES: ENVIRONMENTAL LAW PROVISIONS

The Constitution of the Province of Buenos Aires, as amended in 1994, declares the right of the province's inhabitants to a healthy environment and imposes an affirmative duty to preserve it. The Constitution further proclaims the priority of the province's environment and natural resources to assure appropriate environmental management.[12]As amended, the Constitution also establishes the province's duty to preserve and recover renewable and non-renewable natural resources, create a plan for their exploitation, and control the environmental impact of those activities that may damage the ecosystem[13].

Moreover, the province has a constitutional charge to promote actions that avoid

7 See Juan Carlos Cassagne, "Derecho Administrativo" (Administrative Law), I ABELEDO PERROT 117-33 (Buenos Aires 1983).
8 See Argentine Constitution Section 41, 1.
9 See id.
10 See id. Section 43.
11 See id. Section 41, 4.
12 See Constitution of the Province of Buenos Aires, Section 28.
13 See ibidem.

air, water and soil pollution and to defend the environment and the natural and cultural resources, as well as to guarantee the public's right to request and receive information.

As amended, the Constitution forbids the entry of toxic or radioactive wastes to the province Territory.

THE AUTONOMOUS GOVERNMENT OF THE CITY OF BUENOS AIRES

The 1994 constitutional amendments established the City of Buenos Aires as an "autonomous government". As with the Federal Constitution, Article 26 of the Constitution of the City of Buenos Aires, adopted in 1996, elevates environmental concerns to a constitutional right.

Section 27 decrees a policy of planning and control to conserve, protect, and remediate the urban environment and Section 29 establishes that town panning policies should derive from an Environmental Urban Plan (Plan Urbano Ambiental) that should be previously defined.

Section 30 mandates environmental impact studies for all public or private undertakings that may affect the environment.

The Constitution states a prohibition of entry of nuclear and hazardous wastes to its territory and establishes that the City is a nuclear free territory.

CONSTITUTION OF THE PROVINCE OF CÓRDOBA: ENVIRONMENTAL PROVISIONS

The Constitution of the Province of Córdoba, as amended in 2001, declares that the Province shall protect the ecological balance and the environment, preserve the natural resources, and it sets the right of every person to a healthy environment. It also sets forth: (i) the right to live in a physical and social environment free of harmful health factors, (ii) the conservation of natural or cultural resources and the esthetic values that may allow settlements of people to be in line with human dignity; and (iii) the preservation of the flora and fauna.

Among the several sections related to environmental protection the Constitution establishes that the Province shall protect the soil, water and air as vital elements for human life, protects the environment and the natural resources and imposes to the Province the duty to pass laws that will allow to achieve the balance of ecosystems and the restorement of natural resources, the compatibility between the programmed activities with the preservation and improvement of the environment, a balanced urban distribution in the territory of the Province, and the assignment of enough resources to improve the quality of life in people settlements. The Con-

stitution grants legal standing to every person in order to enforce environmental rights.

LAW NO. 25,612[14] ON INDUSTRIAL WASTE AND WASTE GENERATED BY SERVICE ACTIVITIES

Law No. 25,612 provides for the minimum standards for the management of industrial and service industry waste, whether hazardous or non-hazardous, and governs, throughout the Argentine territory, the obligations resulting from the generation, storage, transport, treatment and final disposal of such waste.

By enacting such law, Congress attempted to replace federal Hazardous Waste Law No. 24,051. owever, the National Executive Branch, upon promulgating Law No. 25,612, vetoed Section 60 thereof which repealed the Hazardous Waste Law. As a result, both laws continue to co-exist.

In general terms, Law No. 25,612 imposes on local authorities the duty to: (i) identify waste generators;[15] and (ii) keep registries of all generators, transporters and operators of said waste.[16]

Generators of industrial waste and/or waste generated by service activities must, among other obligations: (i) periodically submit a sworn statement informing the authorities about the nature of the waste generated and the processes whereby it was produced;[17] and (ii) record the management of such waste in a specific manifest.[18]

Law No. 25,612 has not been regulated yet.

LAW NO. 25,670[19] ON POLYCHLORINATED BIPHENYLS (PCBs)

Law No. 25,670 –regulated by Decree No. 853/2007– sets forth the minimum environmental protection standards to manage PCBs.[20]

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14 Official Gazette, July 29, 2002.
15 Section 8.
16 Section 19.
17 Section 12.
18 Section 21.
19 Official Gazette, November 19, 2002.
20 Section 3 defines PCBs as polychlorinated biphenyl, polychlorinated terphenyl (PCT), monomethyltetrachlorodiphenylmethane, monomethyldichlorodiphenylmethane, monomethyldibromodiphenylmethane and any mixture containing a total of the above substances in excess of 0,005% by weight (50 ppm).

The main aspects of Law No. 25,670 are:

(i) Installation of equipment containing PCBs is forbidden throughout the country.[21]

(ii) Any person that possesses or uses devices containing PCBs must register with the Integrated National Registry of PCBs Holders.[22]

(iii) PCBs users must contract an insurance policy to guarantee the remediation of possible environmental and health damages.[23]

(iv) PCBs holders shall label their equipment containing PCBs and PCBs storage areas and take all the necessary measures to avoid risks to people's health and environmental pollution.[24]

LAW NO. 25,675[25] ON GENERAL ENVIRONMENTAL POLICY

Law No. 25,675, known as the Environmental Framework Law (Ley General del Ambiente or "LGA", after its Spanish acronym), **regulates the minimum environmental protection standards for an adequate and sustainable management of the environment, the preservation and protection of biological diversity and the implementation of sustainable development.**

"Minimum standards" are defined as any rule providing for uniform or common environmental protection for all the Argentine territory, intended to set the necessary conditions to guarantee the protection of the environment. Such standards must impose the necessary conditions to guarantee the dynamics of ecological systems maintain their loading capacity and, in general, ensure environmental preservation and sustainable development.[26]

The LGA provides for certain principles which determine the interpretation and application of the law, such as consistency, prevention, precaution, intergenerational equity, progressivity, responsibility, subsidiarity, sustainability, solidarity and cooperation.[27]

The LGA also regulates the following instruments of environmental policy: (i) the territory's environmental organization; (ii) the environmental impact assessment;

21 Section 5.
22 Section 8.
23 Section 9.
24 Section 17.
25 Official Gazette, November 28, 2002.
26 Section 6.
27 Section 4.

(iii) the system to control the development of anthropic activities; (iv) environmental education; (v) environmental diagnosis and reporting system; as well as (vi) the economic regime for the promotion of sustainable development[28].

The main aspects of the LGA are:

(i) Any work or activity which is likely to significantly deface the environment, any component thereof or affect the people's quality of life, is subject to an environmental impact assessment proceeding, prior to its execution.[29]

(ii) Individuals and legal entities must provide information related to environmental quality and to their activities being carried out.[30]

(iii) Any person carrying out activities that may pose a risk to the environment must hire an environmental insurance to ensure the financing of the remediation of the potential environmental damage that may be produced.[31]

(iv) An Environmental Compensation Fund is created to guarantee the prevention and mitigation of noxious or hazardous effects on the environment, the attention to environmental emergencies and the protection, preservation and compensation of the environment.[32]

(v) A coordination system between different jurisdictions is established to implement national and regional environmental policies through the Federal Environmental Council (Consejo Federal de Medio Ambiente or COFEMA, after its Spanish acronym).[33]

LAW NO. 25,688 ON RATIONAL MANAGEMENT OF WATER

Law No. 25,688 sets minimum environmental standards for the preservation of water and its uses.

The law requires that a permit must be obtained from the competent authority for the use of water.[34] "Water usage" comprehends taking and diverting surface waters, dumping substances into surface waters, discharging substances into coastal and underground waters, changing physical, chemical or biological characteristics

28 Section 8.
29 Section 1.
30 Section 16.
31 Section 22. See discussion infra regarding Environmental Insurance.
32 Section 34.
33 Section 23.
34 Section 6.

of water, among other activities.[35]

The law also authorizes the relevant federal enforcement authority to fix the maximum pollution levels pursuant to the various uses of water, as well as the environmental guidelines and standards concerning the quality of water, and to draw up and update the national plan for the preservation, development, and rational use of water.[36]

LAW NO. 25,831[37] ON ACCESS TO ENVIRONMENTAL INFORMATION

Law No. 25,831 was enacted for the purpose of guaranteeing free and public access to environmental information, defined as any information related to the environment, natural or cultural resources and sustainable development.[38] The Federal Government, public utility companies and independent governmental bodies holding environmental information are required to provide such information to any person who requires it within 30 working days as from the date the formal request was made, without the need for the petitioner to demonstrate any specific interest.[39]

The requested information may be denied in certain cases expressly mentioned in the law (e.g., when such information could affect trade or industrial secrets or intellectual property rights).[40]

LAW NO. 25,916[41] ON MANAGEMENT OF HOUSEHOLD WASTE

Law No. 25,916 regulates the minimum environmental protection standards for the management of household waste from residential, urban, commercial, medical care, health, industrial and institutional sources.[42]

Each local jurisdiction shall define the entities responsible for the overall management of household waste generated in their specific jurisdiction. Such entities shall establish a management system consistent with the special characteristics of their jurisdiction and enact supplementary regulations to enforce Law No. 25,916.[43]

35 Section 6.
36 Section 7.
37 Official Gazette, January 7, 2004.
38 Section 2.
39 Sections 4 and 8.
40 Section 7.
41 Official Gazette, September 7, 2004.
42 Section 1.
43 Section 6.

Law No. 25,916 imposes on household waste generators the obligation to conduct the initial gathering and initial disposal of household waste.[44] The law also sets the general guidelines for collection, transportation, treatment, transfer, and final disposal of household waste.[45]

Decree N° 779/22 [46] approved the regulation of the Integral Management of Household Waste Law N°25.916.

It approved the "Unified colour code for the classification and identification of household waste fractions" and invited the provinces and the Autonomous City of Buenos Aires to adhere to and incorporate its provisions progressively. It, also, established that

a. the integrated management of household waste should respect the following hierarchy of options: 1. Prevention/ Minimisation; 2. Reuse/ Reutilisation; 3. Recovery; 4. Treatment; and 5. Final Disposal.

b. local authorities must promote compliance with the objectives set out in the law, using integrated management systems that incorporate a circular economy approach with social inclusion. They must also adopt management systems that contemplate an initial selective disposal and subsequent collection, differentiated from household waste generated in their territories.

c. the enforcement authority may encourage and promote eco-design, as well as the development of products in which recovered material or material with potential for recovery is used, and also that it will provide technical assistance for the optimal regionalisation of integrated household waste management systems, allowing for proper implementation of the law.

d. Universal Generation Special Waste (REGU) will have special management programs, for example, WEEE, AVU, AMU, batteries, paints, among others.

LAW NO. 26,331[47] ON MANAGEMENT OF NATIVE FORESTS

Law No. 26,331 (regulated by Decree No. 91/2009) sets the minimum standards for the protection of native forests.[48]

44 Section 9.
45 Section 15, et seq.
46 Official Gazette, November 28, 2022.
47 Official Gazette, December 26, 2007.
48 "Native forests" are defined as the natural forests composed predominantly of mature native tree species, including various species of flora and fauna, together with the surrounding environment: soil, subsoil, atmosphere, water. The definition includes native forests of primary origin, where man has not been involved; those of secondary origin, formed after a clearing; and the ones resulting from vol-

Law No. 26,331 recognizes the concept of "environmental services", which includes regulation of water, conservation of biodiversity, soil, and water quality, sink of greenhouse gases, contribution to the diversification and scenic beauty and protection of cultural identity.[49]

Law No. 26,331 compels each jurisdiction to categorize their own forests into three classes, namely:

(i) Category I (red): areas of very high conservation value which shall not be transformed.

(ii) Category II (yellow): areas of medium conservation value, which may be subject to sustainable use, tourism, and scientific research; and

(iii) Category III (green): areas of low conservation value that can be partially or totally transformed.[50]

Law No. 26,331 bans the clearance of forests that fall within categories I (red) and II (yellow).[51] However, authorizations may be granted for using forests within category II (yellow) as well as for the clearance of forests within category III (green), provided that the activities are sustainable and ensure the maintenance of the environmental benefits that these native forests provide to the society.[52] Authorization of these activities are also subject to a mandatory environmental impact assessment proceeding.[53]

Almost all provinces have enacted their own legislation with equal or higher standards than the ones provided for in Law No. 26,331.

LAW NO. 26,562[54] ON CONTROL OF BURNING ACTIVITIES

Law No. 26,562 seeks to prevent fires as well as environmental damages and risks to public health and safety which are inherent to burning activities. For the purposes of this law, burning activity is defined as the removal of vegetation or debris with the use of fire, to enable the productive use of a land.[55]

The Law prohibits any burning activity that does not have the proper authoriza-

untary restoration. Excluded from the application of this law are the forest areas of less than ten acres owned by indigenous communities or small producers (Section 2).

49 Section 5.

50 Section 9.

51 Section 14.

52 Section 16.

53 Section 22, et seq.

54 Official Gazette, December 16, 2009.

55 Section 2.

tion issued by the competent local authority.[56] It also establishes that in certain areas, burning activities may be restricted permanently.[57]

LAW NO. 26,639[58] ON PRESERVATION OF GLACIAL AND PERIGLACIAL ZONES

Law No. 26,639, regulated by Decree 207/2011[59], provides the minimum standards for the protection of glaciers and periglacial environments to preserve them as water resources for human consumption, agriculture, and for protecting biodiversity. It also protects areas for scientific and tourism purposes.[60]

This law establishes that glaciers are public assets.[61] It also creates the National Glacier Inventory for identifying all glaciers and periglacial areas for suitable protection and control.[62]

Certain activities are banned in glaciers or periglacial zones, including: (i) mining and hydrocarbon exploration and exploitation activities; (ii) construction of architectural and infrastructural works, except for those necessary for scientific research and risk prevention; and (iii) the installation of industries or the development of industrial works or activities.[63]

All permitted activities conducted on glaciers and periglacial areas are subject to the approval of an environmental impact assessment and a strategic environmental assessment.[64]

LAW NO. 26,815[65] ON PROTECTION AGAINST WILDFIRES

Law No. 26,815 –as amended by Law No. 27,353[66]– sets forth the minimum environmental protection standards on forest and wildland fires within the national territory.

The law creates: (i) the Federal Fire Management System, to protect the environment from fire damage and to implement mechanisms to prevent and fight against fires;[67] (ii) the National Fire Management Service, which oversees developing and

56 Section 3.
57 Section 4.
58 Official Gazette, October 28, 2010.
59 Official Gazette, March 1, 2011.
60 Section 1.
61 Section 1.
62 Section 3.
63 Section 6.
64 Section 7.
65 Official Gazette, January 16, 2013.
66 Official Gazette, May 19, 2017.
67 Section 3.

implementing a national fire alert system;[68] and (iii) the National Fire Management Fund.[69]

Local authorities shall, among other duties, prepare a Jurisdictional Fire Management Plan, and regulate fire use in accordance with the characteristics of the area, the hazard level, the purpose of the activity, and the provisions of jurisdictional plans.[70]

Any person who is aware of the existence of a wildfire has the obligation to file a report with the nearest authority.[71] In addition, the person responsible for an environmental damage caused by a wildfire shall have the obligation to restore the environment and take those remediation measures that, in each case, may be necessary for the recovery of the burnt areas.[72]

LAW NO. 27,279[73] ON EMPTY CONTAINERS OF PHYTOSANITARY PRODUCTS

Law No. 27,279 sets minimum environmental protection standards for the management of empty containers of phytosanitary products. The law provides that these containers require a specific management and determines that they must be managed only through the channels established by the Integral Management System of Empty Containers of Phytosanitary Products, once approved by the competent authority.[74]

The law forbids: (i) any action involving the abandonment, dumping, burning or burying of empty containers of phytosanitary products; and (ii) the commercialization or delivery of these products to individuals or legal entities outside the authorized system.[75] The use of material recovered from phytosanitary containers to make any type of products that, due to its use or nature, may involve risks to human or animal health, or have negative effects on the environment, is also prohibited.[76]

LAW NO. 27,520[77] ON CLIMATE CHANGE ADAPTATION AND MITIGATION

Law No. 27,520 sets the minimum environmental standards on global climate

68 Section 23.
69 Section 30.
70 Section 14.
71 Section 16.
72 Section 22.
73 Official Gazette, October 11, 2016. Please also see Agrobusiness.
74 Section 12.
75 Section 8.
76 Section 9.
77 Official Gazette, December 20, 2019.

change adaptation and mitigation. The law ratified the Climate Change National Cabinet –created in 2016 by the Argentine Executive– and entrusted it with the implementation of the National Mitigation and Adaptation Plan ("NMAP") and of all climate change public policies adopted pursuant to said law.[78]

NMAP's goals include the development of climate change adaptation and mitigation public policies and evaluation tools, and the preparation of the administration and the general public for future climate changes.[79]

The NMAP must be comprised of: (i) the analysis and projection of climate variables; (ii) methods and tools to assess impact on social and natural systems and their adaptive capacity; (iii) identification of critical areas and appropriate adaptation measures; (iv) identification, measurement and quantification of GHG emissions and identification of responsible sectors; (v) development of mitigation measures to reduce GHG emissions; (vi) guidelines to be incorporated in Environmental Impact Assessment procedures; (vii) development of different scenarios on vulnerability and socioeconomic and environmental trends as a basis for considering future climate risks; (viii) elaboration of baselines to monitor and evaluate measures and policies to be adopted; (ix) improvement of hydro-meteorological observation and monitoring systems; and (x) promotion of new environmental awareness to reduce harmful effects of climate change and increase adaptation capacity.[80]

78 Section 7.
79 Section 18.
80 Section 19.

ENVIRONMENTAL LIABILITY AND RESPONSIBILITY

Argentine legal framework governing environmental liability and responsibility is summarized below.

CIVIL LIABILITY

a. Collective environmental damage

The LGA provides that those who cause a collective environmental damage are strictly liable for restoring the environment to the conditions prior to the production of the damage, and if this is not possible, they are obliged to pay a compensation to be determined by a Court.[81] "Collective environmental damage" is defined as any relevant alteration that negatively affects the environment, natural resources, the ecosystems' balance, or collective goods or values.[82]

The injured person, the Ombudsman, environmental NGOs as well as the federal, provincial, and municipal governments have legal standing to demand that the damaged environment be remediated. Any person may request, via an action seeking the protection of constitutional rights (amparo claim), that the activities causing collective environmental damage to be discontinued.[83]

For a party to exclude its liability for environmental damages, it must demonstrate that it adopted all measures aimed at preventing the damages and, provided that its concurrent negligence did not exist, that the damages were caused exclusively by the negligence of the victim or of a third party for which the first party is not responsible.[84]

If two or more persons are involved in causing a collective environmental damage or if the extent of the damage caused by each of them cannot be accurately established, all of them shall be jointly and severally liable, notwithstanding the reimbursement claims that may take place among them[85].

In case of collective environmental damages caused by legal entities, liability can be extended to the entity's authorities or professionals, depending on their level of participation.[86]

81 Section 28.
82 Sector 27.
83 Sector 30.
84 Section 29.
85 Section 31, 1st paragraph.
86 Section 31, 2nd paragraph.

b. Civil environmental damages

The ACCC[87] provides rules on liability that may be applicable to civil damages suffered by individuals, and which are derived from the same event that caused a collective environmental damage (personal or economic damages).

Based on the ACCC, any person having a reasonable interest in the prevention of a damage is entitled to file a preventive action whenever it is foreseeable that an act or omission contrary to the law may lead to the production, continuation, or aggravation of a damage[88].

Damages caused by or with dangerous assets or because of dangerous activities are subject to a strict liability regime[89]. A person who carries out a dangerous activity or benefits from it may be held liable for the damages caused due to that activity[90]. Likewise, the transferor of an asset that has a hidden defect which later causes an environmental damage may be liable after the transfer.[91]

The owner and the keeper of a dangerous asset or activity that harms the environment may be excused from liability only in case of force majeure, or when a third party or the victim has contributed to the damage.

The ACCC also provides joint liability for damages caused by a person who is part of a group or by a dangerous activity performed by a group[92].

On its turn, Law No. 24,051 on Hazardous Waste contains some provisions on tort liability related to hazardous waste management.

Hazardous waste generators or keepers may be held liable for any damages caused by or with said waste (which are considered dangerous things) and they shall not be exempted from liability by demonstrating the negligence of a third party for whom it should not be responsible and whose action could have been avoided if due care had been taken[93]. The Law also declares of no effects vis-à-vis third parties any transfers of title or voluntary abandonment of hazardous waste.[94]

Similar rules on tort liability are provided for in Law No. 25,612 on Industrial Waste.[95]

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87 Argentina´s Civil and Commercial Code.
88 Sections 1711 and 1712.
89 Section 1757.
90 Section 1758.
91 Sections 1034, 1051 et seq.
92 Sections 1761 and 1762.
93 Section 47.
94 Section 46.
95 Section 40, et seq.

CRIMINAL LIABILITY

Under the Argentine Criminal Code, persons who commit crimes against public health, such as poisoning or dangerously altering water, food, or medicine to be used for public consumption, or selling products that are dangerous to health, without the necessary warnings, may be subject to fines, imprisonment or both.[96]

According to Law No. 24,051 on Hazardous Waste, parties who use hazardous waste to poison, pollute or contaminate the soil, water, atmosphere, or the environment in general, endangering human health, can be sanctioned with imprisonment from 3 to 10 years.[97] In case of death, imprisonment will be between 10 and 25 years.[98]

When the crime is committed by negligence, inexperience, or the failure to observe rules and regulations, imprisonment shall be between one month and 2 years and, in case of illness or death, imprisonment will be between 6 months and 3 years.[99]

When a legal entity pollutes the environment with hazardous waste, sanctions shall be imposed on the legal entity´s directors, managers, statutory supervisors (síndicos), and representatives who have taken part of the criminal act, without detriment to any other criminal liability that may be in order.[100]

In addition, Argentine laws provides for imprisonment of up to 3 years in case of crimes against wildlife[101]; up to 2 years in case of crimes against archaeological and paleontological heritage[102]; and up to 1 year in case of acts of animal cruelty.[103]

ADMINISTRATIVE LIABILITY

The Federal Government, the provinces and the City of Buenos Aires have enacted specific regulations (e.g., laws, decrees, resolutions, provisions) addressing a wide spectrum of environmental matters. Under these regulations, they are entitled to impose administrative sanctions when the enforcement authority identifies any breach of such regulations, including fines, closure of facilities, suspension of activities, revocation of permits, among others.

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96 Section 200, et seq.
97 Section 55, 1st paragraph.
98 Section 55, 2ndt paragraph.
99 Section 56.
100 Section 57.
101 Federal Law No. 22,421, Section 24, et seq.
102 Federal Law No. 25,743, Section 46, et seq.
103 Federal Law No. 14,346, Section 1.

Province of Buenos Aires

Under the environmental regulation enacted by the Province of Buenos Aires[104], in case of an environmental liability[105] the responsible party obliged to restore the environment shall be the holder of the activity generating the damage and/or the property owner, if the former cannot be identified.[106] The environmental liability can be found either on the own property or adjacent land, whether public or private.[107]

Upon the detection of any indication that waters and/or soil have been affected by any substance that alters their natural conditions, the responsible party must perform an assessment to determine: (i) the contaminating substance and its concentration; and (ii) the extension of the potential contamination in soil and/or waters.[108]

If contamination is determined, the responsible party must submit to the Ministry of Environment a remediation plan[109] for its approval. The Ministry of Environment must approve the completion of the remediation plan and determine a post-remediation monitoring for a period between 2 and 5 years.

Given the hypothesis of definitive closure or transfer of activities, a closure audit must be submitted for its evaluation by the enforcement authority.[110] The result of the closure audit evaluation will determine the obligation to restore the environ-

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104 Provincial Law No.14,343 enacted by the Province of Buenos Aires and Resolution No. 95/2014 issued by the former provincial environmental secretariat. About this topic also see Soil: Province of Buenos Aires: Abandonned Environmentally Damaged Sites.

105 Provincial Law No.14,343 defines "environmental liabilities" as "joint of environmental damages in terms of water, soil and air pollution, deterioration of natural resources and ecosystems, produced by any public or private activity, during its regular operation or by unforeseen events throughout its history, which constitute a permanent and/or potential risk for the population's health, the surrounding ecosystem and the property, and that has been abandoned by the party responsible" (Section 3).

106 Section 5 of Provincial Law No.14,343, 1st paragraph.

107 Section 5 of Provincial Law No.14,343, 2nd paragraph.

108 Section 4 of Resolution OPDS No. 95/2014.

109 The remediation plan must achieve the following goals: a) total elimination of the non-aqueous liquid phase; b) reducing the concentration of contaminating substances in waters and soil below the guide levels set forth by Federal Decree No. 831/1993 or, if applicable, by international regulations (for instance, the Dutch Regulation). If remediation goals are not reached, Risk Based Correcting Actions (RBCA) under the IRAM 29.590 standards may apply (Section 8 of Resolution OPDS No. 95/2014).

110 Section 8 of Provincial Law No. 14,343.

ment after closure or transfer of activities.[111]

City of Buenos Aires

The Environmental Protection Agency of the City of Buenos Aires established several proceedings and standards related to the assessment of sites potentially polluted with hydrocarbons and the remediation of environmental liabilities in relation to certain types of sites.[112]

Province of Córdoba

Law No. 10,208 of the Province of Córdoba provides that all affected environment that constitutes a contaminated site must be remediated to achieve minimum environmental and public health conditions.[113]

Environmental liability is defined as the set of negative and irreversible environmental impacts that imply the deterioration of natural resources and ecosystems, produced by any type of public or private activity, during its ordinary operation or due to unforeseen events, that constitute a permanent or potential risk to human health, the ecosystem or property. The liability can be found either within the own property or on lands adjacent to it, whether public or private.[114]

The holder of the activity generating the liability or the owner of the real estate -in case the former cannot be located- are obliged to clean-up the environmental Summary of Select Environmental Laws and Regulations of the Argentine Republic, the Province of Buenos Aires, the Province of Córdoba and the Autonomous City of Buenos Aires.

ENVIRONMENTAL IMPACT AND REPORTING

FEDERAL

Law No. 25,675 establishes that any work or activity which, in the Argentine territory, is likely to significantly deface the environment, any component thereof or affect the people's quality of life, is subject to an Environment Impact Assessment (EIA) procedure, prior to its execution.

At federal level there is no general rule that regulates the EIA procedure. However, there are some regulations that establish guidelines for some specific aspects of

111 Section 9 of Provincial Law No. 14,343.
112 Resolution APRA No. 326/2013, as amended.
113 Section 93.
114 Section 89.

the EIA procedure. These are:

- Joint Resolution No. 1/2019 of the Ministry of Transportation and the former Government Secretariat of Environment and Sustainable Development: approves the environmental impact assessment procedures of the works project or activities that are located in the port of Buenos Aires.

- Joint Resolution No. 3/2019 of the former Secretariat of State of Energy and the former Government Secretariat of Environment and Sustainable Development: approves the environmental impact assessment procedures for hydrocarbon exploration and exploitation works projects or activities (including abandonment of wells and facilities) to be carried out in surface survey permits, exploration permits of hydrocarbon exploitation concessions developed after 12 nautical miles from the base line to the outer limit of the continental shelf.

- Resolution No. 337/2019 of the former Government Secretariat of Environment and Sustainable Development: approves the "Guide for the Preparation of Environmental Impact Studies" and the "Guide for the Preparation of the Strategic Environmental Assessment".

- Resolution No. 434/2019 of the former Government Secretariat of Environment and Sustainable Development: establishes the procedure for the application of the Strategic Environmental Assessment (EAE) to policies, plans and programs that are developed within the National Executive Branch.

EIA procedures in Argentina are implemented at provincial and municipal levels unless the projects are carried out in places subject to national or interjurisdictional jurisdiction or are applied on a sector- by- sector basis. For example, Federal laws regulating mining, petroleum, electrical energy generation and transport, natural gas transport and distribution, hazardous waste disposal, hydroelectric dams and the Public Investment Law (discussed below) all require EIAs.

PUBLIC INVESTMENT PROJECTS

Law No. 24,354, the Public Investment Law ("Ley de Sistema Nacional de Inversiones Públicas"), as codified by Decree No. 720/1995, requires EIAs or feasibility studies for all public investment projects receiving federal subsidies, contributions, or loans. Exhibit I of the Public Investment Law lists specific projects for which EIAs are mandatory, including those related to hazardous waste treatment, storage, and disposal, railway, highway, and commercial airport construction, and other large- scale public works.

Province of Buenos Aires

In the Province of Buenos Aires, Law No. 11,459 and its implementing Decree No. 531/2019 require environmental impact assessments for industrial facilities constructed or modified within the province of Buenos Aires. Additionally, Law No. 11,723 (the Provincial EnvironmentalLaw) incorporates environmental impact assessment requirements for diverse type of activities.

INDUSTRIAL FACILITIES INSTALLATION

Law No. 11,459 and its implementing Decree No. 531/2019 are applicable to all industries and industrial parks installed or that shall install, enlarge or modify its facilities within the Province of Buenos Aires. To such extent, this Law provides that industrial facilities must obtain an Environmental Aptitude Certificate ("Certificado de Aptitud Ambiental" - CAA-), which evidences the aptitude of the location chosen and the adequacy of the type of industry that may be installed on a certain place. The EAC is a mandatory requirement for municipal authorities to grant the corresponding industrial commissioning.

Prior to obtaining the CAA, those persons constructing or modifying industrial facilities and/or industrial parks mustconduct an evaluation of the plant's impact on public health and safety[115].

Law 11,459 and Decree No. 531/2019 apply to industrial activities described in Exhibit 2 of the Decree[116]. They classify these industrial facilities according to a level of "environmental complexity" ("Nivel de Complejidad Ambiental", - NCA-), or the degree to which the facilities manufacture, use, or store substances affecting the environment. "Innocuous" industrial activities that do not represent a risk to the population's health and safety nor harm the environment are categorized as Category I facilities. Facilities qualified as of Second Category are considered a nuisance since the operations carried out therein represent a disturbance to the population's health and hygiene or cause damages to material goods and to the environment. Finally, Category III facilities include industrial facilities that are considered dangerous because their activities constitute a risk to the population's health and safety or cause damages to material goods and to the environment[117.] Decree No. 531/2019 provides a specific formula for determining a facility's NCA level and provides an exclusion for those industrial facilities that are not considered as industries ("Establecimientos que No Clasifican como Industrias", -NCI-).

115 See Law No. 11,459 Sections 3- 4, 7.

116 See Law No. 11,459 Section 2.

117 See Law No. 11,459 Section 15.

All regulated industrial facilities must obtain a CAA from the enforcement authority.

The first task is to submit an environmental evaluation that describes the environmental characteristics of the surrounding area. The evaluation must take into account climate and geology, geomorphology, surface and ground water resources (and their current and potential use), atmospheric variables, and biological conditions. The evaluation should also consider socioeconomic aspects, including population density and type, the effect of industrial activity on the population, uses of soil, and available infrastructure.

The second task in an EIA process involves a detailed report of the project, identifying relevant aspects of environmental protection, type of activities involved, and procedures for production, treatment, and classification of generated waste. Lastly, industrial facilities must identify and evaluate the positive and negative, direct and indirect, and reversible and irreversible environmental impacts of the proposed project.

The approval of the EIA allows the issuance of the CAA. If an EIA is not approved, the owner of the relevant facility is required to introduce the necessary changes to the facility or the industrial processes for the purpose of mitigating the negative impact resulting from the operation of the facility. Only if such changes are made is the CAA issued.

The appropriate enforcement authority for Law No. 11,459 and Decree No. 531/2019 depends on the NCA classification as a Category I, II, or III industrial facility. While municipalities are authorized to grant CAAs to Category I and II facilities, the Provincial Environmental Authority ("Ministerio de Ambiente" –MA-) grants CAAs to Category III (unless the municipality agree otherwise with the MA in relation to the temporary transfer of the power to issue the CAA for the industries of Category II).[118]

CAAs must be renewed every 4 years[119]. The renewal process requires an environmental process which is regulated by the Resolution No. 494/2019 issued by the former Provincial Agency of Sustainable Development (OPDS), current MA.

Law No. 14,370 created a special registry ("Registro Ambiental de Establecimientos

118 Law No. 7,343 establishes the principles for the defense, preservation, conservation, defense and improvementof the environment in the Province of Córdoba. In June 2014 the Legislative Branch passed Law No. 10,208, whichestablishes the environmental policy within the Province in accordance with Section 41 of the Constitution and Federal Law No. 25,675. Law No. 10,208 complements and amends Law No. 7,343.

119 See Section 49

Industriales") for those facilities that have obtained a CAA[120].

Additionally, the Resolution 489/2019 of the former OPDS created the Registry of Professionals, Consultants, Organizations, and Official Institutions for Environmental Studies ("Registro Único de Profesionales Ambientales y Administrador de Relaciones", RUPAYAR)[121].

Violations to Law No. 11,459 and its implementing Decree are sanctioned with (i) warning (if the offender does not cure the cause, which originated the warning within the term established by the competent authority, a fine will be applied); (ii) fines: from 1 to 1,000 basic salaries of the lowest category of the provincial public employees (fines may increase if the offence is repeated); (iii) partial or total, temporary or definitive closure of the facility (when the seriousness of the infraction justifies the same and only in cases of recidivism or impossibility of technical adequacy to legal requirements). They can be applied together with a fine.

Law No. 11,459 also provides that total or partial closure of the facility shall proceed as a preventive measure when the facility lacks its CAA or when the situation is of such seriousness that such measure is advisable. The Decree No. 531/19 establishes new parameters for the determination of sanctions by the authority[122].

PROVINCIAL ENVIRONMENTAL POLICY

Law No. 11,723, the Provincial Environmental Law, regulates non- industrial activity outside the scope of Law 11,459 and its implementing Decree. As codified, the Provincial Environmental Law requires all projects that may produce a negative effect on the environment or natural resources, such as hydroelectric or nuclear energy generation and transmission, water treatment, highway construction, forestry, and hazardous waste treatment and disposal, to submit an environmental impact study and obtain an Environmental Impact Declaration ("Declaración de Impacto Ambiental", -DIA-)[123].

Resolution No. 494/19 of the former OPDS establishes the Environmental Impact Assessment (EIA) procedure and requirements for the obtaining of the DIA withing the framework of Law No. 11,723. It establishes different requirements for (a) ma-

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120 Those projects are listed in Annex I of Law No. 10,208. The following activities are included: Oil refineries, oil andgas pipelines, energy generation plants, nuclear plants, chemical plants, iron and steel factories, automotive plants,highways, railways, airports, oil and gas extraction activities, toxic and hazardous waste storage and disposal plants, industrial parks, commercial centers, among others

121 See Law No. 10,208 Exhibit II. 255 See Law No. 10,208 Section 28

122 See article 18.

123 See Law 11,723 Section 10.

jors works or projects, (b) minor works and (c) blueprints.

In addition, Resolution No. 263/19 of the former OPDS sets the requirements for the obtaining of the DIA withing the framework of Law No. 11,723 for the projects of dredging.

Additionally, Resolution No. 264/19 of the former OPDS establishes the procedure withing the framework of Law No. 11,723 for the environmental pre-feasibility for the develop of renewable energy projects.

Finally, the Resolution 431/19 of the former OPDS approves the provincial guide for the preparation of environmental impact studies for projects regulated by the Law No. 11,723.

OTHER LAWS AND REGULATIONS

Relevant provincial environmental laws that incorporate environmental impact assessment requirements include laws regulating special waste (Law No. 11,720 and Decree No. 806/1997), industrial waste transport (Resolution No. 63/1996 of the former Secretariat of Environmental Policy), medical waste generated by private establishments (Law No. 11,347), air quality and air emissions (Law No. 5965 and Decree No. 1074/18), silos (Law No. 12,605), feedlots (Law No. 14,867), native forests (Law No. 14.888) Also, through the Resolution No. 475/19, the former OPDS (current MA) approved the progressive digitalization of all environmental permit procedures, establishing that in the first stage the reengineering and modernization processes will be focused on the environmental impact assessment permits.

Province of Córdoba

Law No. 7,343[124] (amended by Laws No. 8,300, 8,779 and 8,789) and Law No. 10,208 provide that works or actions that degrade or may produce the degradation of the environment must file an environmental impact report and study - and should be authorized by the enforcementauthority (the Secretariat of Environment of the Province of Córdoba)[125].

The EIA procedure has been regulated by Provincial Decrees No. 3,290/1990, as

124 Law No. 7,343 establishes the principles for the preservation, conservation, defense and improvement of the environment in the Province of Córdoba. On June, 2014 the Legislative Branch passed Law No. 10,208, which establishes the environmental policy within the Province in accordance with Section 41 of the Constitution and Federal Law No. 25,675. Law No. 10,208 complements and amends Law No. 7,343.

125 See id. Section 19- 20.

amended byDecree No. 2,131/2000, No. 247/2015 and No. 248/2015.

These regulations require the prior EIA procedure for every new project that may imply somekind of intervention on the environment or natural resources before its implementation or execution. This procedure is required to both private and public entities.[126]

The environmental evaluation procedure has four requirements that must be fulfilledaccording to the category in which each project is classified:

I. the Project Notice ("Aviso de Proyecto");
II. the filing for evaluation of an environmental impact study;
III. the performance of a public hearing or other mechanisms that guarantees public participation (e.g. public access to environmental information regarding the project); and
IV. the issuance of an Environmental License by the enforcement authority authorizing the execution of Project.

The activities subject to the EIA process are separated into 2 categories: (i) projects that are obliged to file together with the Project Notice a detailed environmental impact study and to summon a public hearing in order to obtain the approval from the enforcement authority[127]; and (ii) projects that are required to file only the Project Notice as the enforcement authority to require the filing of a full environmental impact study if such authority considered it necessary.[128]

After filing the corresponding documents, the enforcement authority must make the characteristics of every project subject to the EIA process public.[129] The authority also may summon public or private persons listed in Annex I of Law No. 10,208 or entities affected by the project and non- governmental organizations whose activities are carried out within thearea of the project to a public hearing.[130]

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126 See Decree No. 3,290/1990 Section 3, Decree No. 2,131/2000 Section 7 and Law No. 10,208 Sections 15 and 16

127 Those projects are listed in Annex I of Law No. 10,208. The following activities are included: Oil refineries, oil and gas pipelines, energy generation plants, nuclear plants, chemical plants, iron and steel factories, automotive plants, highways, railways, airports, oil and gas extraction activities, toxic and hazardous waste storage and disposal plants, industrial parks, commercial centers, among others.

128 The type of projects subject to these requirements are listed in the Annex II of Law No. 10,208.

129 See Law No. 10,208 Section 28.

130 See Law No. 10,208 Sections 28, 29 and Chapter V

Finally, the enforcement authority shall issue a resolution setting out the main conclusions, recommendations and conditions for the authorization of the project. The Environmental License is issued once the fulfillment of the conditions provided in the authorization resolutionhas been verified.

Law No. 10,208 also provides for a Strategic Environmental Assessment [foot note: Law No. 10,208 Chapter VI], to be performed by different areas of the government, aiming to effectivelyand preventively assess aspects in policies, programs and plans making that could impact on the environment. This proceeding is implemented by Resolution No. 13/2015, issued by Ministry of Water, Environment and Public Services of the Province, and is applicable to landuse programs, inter-municipal and inter-county plans, regional urban development plans, zone division plans, and basins integrated management, among others.

As of 2020, the province began to implement procedures in digital format as established by Resolution 220/20 of the Secretariat of Environment.

Autonomus City of Buenos Aires

According to Section 30 of the Constitution of the Autonomous City of Buenos Aires any person proposing public or private projects that may affect the environment is obliged to perform an EIA for governmental and public consideration. Law No. 123, as amended by Laws No. 452, 1,733 and 6,014 and codified by Decree No. 85/2019, regulates EIA requirementsfor proposed activities in the City.[131] The enforcement authority of Law No. 123 is the Environmental Protection Agency ("Agencia de Protección Ambiental" –APRA-).[132]

Pursuant to Law No. 123 those activities, projects or programs related to construction, modification and/or enlargements, demolitions, installation or performance of commercial orindustrial activities that may produce an environmental impact of a significant effect must besubject to an EIA procedure as a previous requirement to their execution or development andwhen applicable, prior to its authorization.

Activities, projects and programs of environmental impact of insignificant effect must complywith certain stages of the administrative technical procedure of the EIA before their execution.Pursuant to such procedure, the APRA shall determine whether the same is categorized as being of significant or insignificant effect.

Section 13 of Law No. 123 provides a list of activities presumed to produce a signifi-

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131 See Law No. 123 Section 1; Constitution of the City of Buenos Aires Section 30.258 Decree No. 138/08.
132 See id. Sections 21- 33.

cantenvironmental impact.[133]

Facilities that carry out activities presumed to cause an environmental impact of significant effect must submit a Manifest of Environmental Impact ("Manifiesto de Impacto Ambiental"), which consists of a descriptive summary of the project or activity proposed[134], and a Technical Study of Environmental Impact ("Estudio Técnico de Impacto Ambiental") certified by a registered Environmental Auditor. This Technical Study must include information specified in Section 19 of Law No. 123, including a general description of the project, the requirementsregarding use of soil and other resources (water, fuel) that the project may demand, an estimation of the types and quantities of the waste that the project may generate and the way that they would be treated and disposed, among others. Furthermore, Section 19 requiresa description of the foreseeable effects, and of direct and indirect consequences, of the proposed activity on the human population, flora, fauna, soil, air, and water. The Technical Study of Environmental Impact must also include potential methods for reducing, eliminating,or mitigating possible negative environmental effects.[135]

Once the Manifest of Environmental Impact is submitted, the enforcement authority must elaborate a Technical Report ("Dictamen Técnico"). If a proposed project is deemed to have a relevant environmental impact, a public hearing must be summoned within 10 working days.[136]Within 15 days after the public hearing, the enforcement authority prepares a DIA, which approves –totally or partially- or rejects the proposed activity. Within five days of approvingthe project, the APRA grants a CAA.[137]

In the event of activities, projects, programs, enlargements or demolitions that have been initiated without the corresponding DIA or if they do not fulfill the requirements or controls established therein, the same can be suspended or closed down immediately, notwithstanding the liabilities that could correspond to their owners. In all circumstances, the enforcement authority may order the demolition of the works made in violation to Law No. 123, all of which shall be at the infringer's cost[138.]

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133 Those activities presumed to produce a relevant environmental impact include: construction of highways, railways, airports, and supermarkets; projects affecting more than 2,500 square meters of land; industrial parks;cement plants; treatment plants for domestic, medical, hazardous, and radioactive waste; deforestation; and activities in areas deemed "environmentally critical"; among others.

134 See Law No. 123 Section 17- 18.

135 See id. Section 19- 20.

136 See Section 26. See also Law No. 6 as amended

137 See id. Sections 21- 33.

138 See id. Sections 38- 39.

DUTY TO REPORT

At a Federal level, as well as in many jurisdictions, there is not a specific regulation that establishes the obligation of reporting events of contamination or environmental incidents. However, this obligation is scattered through the regulations that apply to different topics, such as hazardous wastes, air emissions, hydrocarbons storage tanks, etc.

Below is a brief description of the main statutory provisions that oblige companies andindividuals to report incidents, contingencies or events of contamination.

Federal

Regarding hazardous wastes, Decree No. 831/1993 establishes that the occasional, non- habitual or accidental generation of hazardous wastes must be reported to the federal environmental authority within 30 business days since the event occurred. Notice shall be furnished with a technical report which must describe the cause of the incident, type and amount of wastes generated, contingency operations, and preventive measures taken, amongothers.

Federal regulations on hydrocarbons storage tanks oblige fuel tank holders to report incidentsrelated to fuel spillage or leak.

Regarding underground storage tanks, Resolution No. 404/1994 of the former Secretariat of Energy -as amended by Resolution No. 1,102/2004- requires to inform within 24 hours any suspected fuel leak and to perform hermeticity tests on the tank or on the facility. If a leakis confirmed, the incident must be notified to the local environmental authority, the current Ministry of Energy and Mining and to the fire department of the area. If the leak might have affected ground waters, the incident must be reported to the Municipality.

Resolution No. 404/1994 also requires the submission of a contamination evaluation plan and a remediation plan –if necessary- to the current Ministry of Energy and Mining. Resolution No. 1,102/2004 complements this regulation establishing the obligation of reporting to the current Ministry of Energy and Mining any leak or spill of hydrocarbons, fires or explosions within 24 hours of its occurrence. A report - indicating proceedings and equipment used to detect the contamination and to perform clean up works- must also be submitted if thespillage or leak could lead to soil contamination.

With regards to above ground storage tanks, Exhibit I of Resolution No. 785/2005 of the formerSecretariat of Energy establishes that leaks that represent a risk to the environment, the population's health or safety must be reported to the Secretariat

of Hydrocarbon Resources (an agency under the current Ministry of Energy and Mining) and to the environmental authority within 48 hours. Events of fire and explosions must also be reported to the mentioned Undersecretariat within 24 hours.

Furthermore, Decree No. 853/2007, which regulates the Federal Law on PCBs No. 25,670, setsforth that spillages, leaks or releases of PCBs must be notified to the enforcement authority within 48 hours. A report indicating the contingency plan that was implemented must be filed before said authority. Transportation and relocation of equipment with PCBs must be also reported.

Law No. 25,018 on Radioactive Waste Management[139] obliges radioactive waste generators to report to the Nuclear Regulatory Authority ("Autoridad Regulatoria Nuclear") the existence of asituation that could derive in an incident, accident or operation failure.

Province of Buenos Aires

Decree No. 1074/2018 establishes the obligation of reporting the existence of emergency orabnormal situations in which gaseous emissions are temporarily released. The authority will establish the administrative procedure to execute the reporting obligation.

With respect to equipment containing PCBs, Resolution No. 2,131/2001 of the former Secretariat of Environmental Policy and its complementaryResolution No. 1,118/2002 set forth the obligation of reporting any situation of emergency or incident that may cause an environmental risk, by completing and submitting a special form included in Resolution No. 2,131/2001 within 24 hours of the event. A report indicating causes, scope of the incident, consequences, preventive measures that were taken and the corresponding remediation plan must be filed before the enforcement authority within 3 days.

Furthermore, Resolution No. 3,722/2016, issued by the former OPDS, obliges all industrial facilities categorized as third category industries (level of environmental complexity exceeding 25 points) to report any important modification of the facility's usual activities such as machinery start- ups, testing, or temporary shutdowns-must be reported to the enforcement authority (the current MA) 24 hours in advance, in case of scheduled activities, and 2 hours afterunforeseeable actions.

When those industries cause alterations, eventualities, or emergencies generating, among other impacts, noises that could affect neighbors, smells, black smoke, suspicion regardingthe affectation of health, safety of the community or the en-

139 See Section 6.

vironment; the company shall file a report of the event to the MA within 6 hours after its occurrence. A community communication strategy must be implemented within 2 hours after the event, reaching thesurrounding population, local media and available institutional social networks, volunteer firefighting associations and the Municipality.

Lastly, Law No. 14,343 –which regulates the identification of environmental liabilities andthe obligation to restore contaminated sites or areas of risk for the population's health- establishes that every person that knows about the existence of a polluted site has the obligation to report it to the Environmental Authority. It also states that the party responsiblefor generation of damages to the environment must report to the enforcement authority the urgent mitigation measures adopted, and shall propose remedial measures for damages caused for their approval, within a term of 24 hours after the damaging event occurs.[140] It is important to note that this Law has been partially regulated by Resolution No. 95/2014 of the former OPDS, which provides that upon the detection of any indication that the waters and/or the soilhave been affected by any substance that alters their natural condition, the party responsiblefor contamination must perform an assessment to determine: a) the contaminating substances, b) the magnitude of the contamination in terms of contaminant concentration, and c) the extension of the contaminated soil and/or waters.

Province of Córdoba

Law No. 10,208, that regulates the environmental policy within the Province, set forth[141] hat every person, whether private or public, that learns about the existence polluted sites has theobligation to report it to the environmental authority.

Autonomus City of Buenos Aires

Law No. 2,214 and its implementing Decree No. 2,020/2007 –which regulates the generation,management and disposal of hazardous wastes in the Autonomous City of Buenos Aires -states that the occasional, non- habitual or accidental generation of hazardous wastes must be reported to the enforcement authority within 10 days after the event occurs[142].The notice shall be furnished with a technical report describing the cause of the incident, type andamount of wastes generated, descrip-

140 See Law No. 14,343 Section 12.

141 See Section 92 of law No. 10,208.

142 See section 12.

tion of equipment used and tasks implemented. A final report specifying damages and a prevention plan must also be filed before the enforcement authority (APRA).

AIR

Federal

Two statutes address federal clean air standards: Law No. 20,284, the Air Resources Preservation Act (Ley de Preservación de Recursos de Aire), promulgated in 1973 to safeguard the environment from the effects of all air contamination sources, and Law No. 24,449, the Transit Act (Ley de Tránsito), enacted and codified in 1995 to protect the environment incidentally to its regulation of public road use.

ATMOSPHERIC CONTAMINATION

The Air Resources Preservation Act is a model statute whose standards are not compulsory for non-federal (i.e., provincial) territory. Several provinces, however, have adopted the Air Resources Preservation Act. Even where adopted, the Air Resources Preservation Act does not prohibit a provincial government from enacting laws that exceed or otherwise do not conflict with the Air Resources Preservation Act standards.

The Air Resources Preservation Act regulates both stationary and mobile (i.e., vehicular) sources of air pollution and requires point sources to obtain permits from the federal or relevant provincial health authority as determined by site location. The law establishes maximum levels for various pollutants (including NO_x, CO, O_3, SO_2 and suspended particulates) from stationary sources and calls for the determination of maximum levels applicable to mobile sources by the national health department (Autoridad Sanitaria Nacional) pursuant to subsequent rules. Because the national health department never implemented the mobile source rules called for by the Air Resources Preservation Act, the law has no real impact on vehicle emissions standards.

The law delegates enforcement, including the assessment of penalties, to the federal or provincial government with jurisdiction over the contaminating party. If the contamination extends to more than one jurisdiction, the Air Resources Preservation Act authorizes the federal government and the affected provinces to establish an intergovernmental committee to regulate and correct the contaminating activity, pursuant to separately codified rules. The Air Resources Preservation Act further mandates the creation of a Pollution Source Registry (Registro Catastral de Fuentes Contaminantes) and charges the national health department with its

maintenance.

The Air Resources Preservation Act authorizes each local health department to establish a Critical Stage Air Pollution Plan (Plan de Prevención de Situaciones Críticas de Contaminación Atmosférica). Each plan sets forth three stages of contamination levels defining the seriousness of the air pollution threat to human health and specifying the appropriate response. Once the local area reaches a critical stage, the plan authorizes the local public health department to limit or prohibit activity in the affected area.

The Air Resources Preservation Act provides for civil penalties in the form of fines, closure of the contaminating source, and other injunctive remedies. If the violation occurs during a critical stage alert, the fine may be doubled at the discretion of the applicable health authority. The Air Resources Preservation Act does not impose criminal liability. Although the enforcement provisions of the Air Resources Preservation Act lack any practical relevance, the law establishes generally applicable air quality standards.

EMISSIONS CONTROL

While not an environmental statute, the Transit Act's comprehensive regulation of public road use relates to environmental concerns in both emissions control and transport of "dangerous goods".

With respect to emissions, the Transit Act requires automobiles to be designed, constructed, and equipped to control toxic emissions, as well as to respect the emissions standards set forth in other applicable laws.

All vehicles must comply with the limits on polluting emissions, noise and parasitic radiation. The Ministry of Environment and Sustainable Development is the competent authority to grant each of the certifications inherent to these topics.

For the certification of gaseous pollutant emission limits, the environmental authority requires compliance with European Regulations 715/2007 and 692/2008 for light vehicles stage A and European Directive 2005/55 for heavy engines.

From other hand, the Secretary of Energy issued the Resolution No. 108/2001 that establishes the limits to the emission of gaseous pollutants produced by thermal power generation plants.

Province of Buenos Aires

Law No. 5,965, the Water Resource and Atmosphere Protection Act (Ley de protec-

ción a las fuentes de provisión y a los cursos y cuerpos receptores de agua y a la atmósfera), enacted in 1958, provides the regulatory framework for industrial air and water contamination in the Province of Buenos Aires. As originally codified by Decree No. 2,009/60, the Water Resources and Atmosphere Protection Act broadly prohibited point source air emissions, unless treated to render them "innocuous and inoffensive" to public health or otherwise to prevent their harmful effects.

Law No. 5,965 regulates all generators of gaseous effluents, including government agencies, public and private entities, and individuals that send this type of effluents to the public and private entities, and individuals who send this type of effluents to the atmosphere.

Law No. 11,723 establishes principles to define air quality parameters.

Decree 1074/18 and Decree 559/19 regulate Law 5965 and establish the procedures for obtaining permits and obligations for any generator of gaseous emissions, existing or to be installed, that discharges them into the atmosphere and is in the territory of the province of Buenos Aires.

Industrial air emissions must also be declared as part of the environmental impact assessment required by Law No. 11,459 the Industrial Zoning and environmental Classification Law.

Resolution 263/19 approves the minimum requirements of the Environmental Management Plan (PGA) for ports located in the jurisdiction of the province of Buenos Aires which should include an air quality and/or emissions sampling plan with a minimum frequency every six months.

Province of Córdoba

Provincial Law No. 7343 establishes the Principles for the Preservation, Conservation, Defense, and Improvement of the Environment in the Province territory. Articles 28 to 31 set forth the guidelines that the environmental authority should follow to issue regulations related to air quality standards and gaseous effluent standards.

The Air Quality Preservation Act (Ley de Preservación del Estado Normal del Aire), Provincial Law No. 8167, establishes the air quality standards that should not be altered by gaseous emissions from point and mobile sources. However, most of gaseous emissions standards were not included in the approved wording of this Law.

Provincial Transit Law No. 8560 establishes that vehicles should comply with applicable emissions and noise standards. Provincial Decree No. 318/2007, which codifies the Provincial Transit Law specifies that in the province's territory the emis-

sion standards are the same that adopted by National Decree No. 779/95.

Finally, Resolution 105/2017, issued by the Ministry of Water, Environment and Public Services, approved the Air Quality Standards for the Province of Córdoba –that include the air quality standards and the industries gaseous effluents standards- to facilitate the air quality management. Their monitoring and compliance should be included in Environmental Management Plans required to the industries by the local environmental regulations.

City of Buenos Aires

Law No. 1,356, Regulatory Decree No. 198/06 and Resolution No 68/21 provide for air preservation and contamination prevention and control of the atmosphere, both concerning non-movable and movable sources, within the jurisdiction of the City of Buenos Aires. Law No. 1,356 creates a Registry of Air Contaminant Generators where all non-movable sources generating gaseous effluents shall be registered, further creates an obligation to have an Emission Permit to operate and sets forth air quality standards.

Environmental regulations establish atmospheric quality standards, through which limit values are defined for the concentration or intensity of a pollutant in the atmosphere during a certain period. The purpose of these values is to protect the health of the population, improve public welfare and preserve natural resources and the environment.

To this end, the Environmental Protection Agency (APRA) has implemented the Registry of Air Contaminant Generators from Stationary Sources mentioned above. The Inventory of Fixed Sources, which has been built in a web system since 2018, can be consulted through the Map of Gaseous Emissions.

SOIL

Land use and planning fall mainly within the jurisdiction of the provinces.[143] Nonetheless, some federal laws establish certain restrictions and others affect land use.

Rural Lands

Law No. 26.737 and its codifiying Decree No. 274/2012 (amended by Decree No. 860/2016) establish the restrictions to rural land ownership and possession, mainly the following:

143 See discussion infra Land Use Planning: Province of Buenos Aires and Córdoba.

- foreign ownership or possession of rural lands must not exceed 15% of the total quantity of rural land of the Argentine territory, each province or each municipality, considered individually;

- foreign owners from the same nationality cannot own rural lands exceeding 30% of the 15% mentioned above at each of the national, provincial and municipality levels;

- ownership or possession of rural lands by the same foreign owner shall not exceed:

○ 1,000 hectares in the "core area", or certain number of hectares – set by each province – in the "non-core areas"; and foreign entities or individuals are prevented from becoming owners or possessors of rural lands that contain or are adjacent to large and permanent water bodies.

Security Zones Regulations

"Security zones" are certain areas along international borders or, inside the national territory, surrounding certain specific real estate properties located within Argentina.

By means of Decree Law No. 15,385/44, Decree No. 9,329/63, Law No. 23,554, Law No. 22,352, Law No. 26,737 and Resolution No. 166/2009 of the Ministry of Domestic Affairs any transaction involving real estate located within security zones must be previously approved by the National Commission of Security Zones. The purpose of these regulations is to allow the federal government to keep control over the security zones established by the law, for national defense purposes.

Other Federal Regulations

In addition, federal legislation regulates pesticide and agrochemical use, as well as problems related to soil over exploitation and erosion. For further information about those matters please see Agrobusiness chapter.

Province of Buenos Aires

LAND USE PLANNING

Law No. 8912/77, the provincial Land Use Law (Ley de Ordenamiento Territorial y Uso de Suelo), regulates the use, occupation, and subdivision of all provincial lands. The law delegates enforcement to the municipal government with jurisdiction over the property and authorizes the imposition of fines and corrective measures in cases of non-compliance.

Province of Córdoba

LAND USE PLANNING

Provincial Law No. 9,841 regulates the land use planning and launches the First Stage of the Metropolitan Plan for the Use of Soil (Plan Metropolitano de Usos del Suelo -Sector Primera Etapa-). As planned, this stage will be complemented by a second stage including the rest of the metropolitan area of Córdoba.

In this stage were established five categories for possible uses and assign one of them to part of the metropolitan area.

SOIL CONSERVATION

Federal

The federal Congress enacted a comprehensive soil conservation policy through Law No. 22,428, the Soil Conservation Act (Ley de Conservación y Recuperación de la Capacidad Productiva de los Suelos), as codified by Decree No. 681/81. The Soil Conservation Act declares the conservation and recovery of fertile soils to be in the "national interest." The law applies only to provincial land located within the various provinces that have adopted the federal law.

To foster its goal, the Soil Conservation Act authorizes the federal and provincial governments to establish "soil conservation districts" within their respective territories. The law provides several incentives to encourage individual farmers operating in these districts to work together through consortia. These consortia agree with the relevant government authority to abide by specific sustainable farming practices and to collaborate with the federal and local governments to counteract soil depletion and erosion. Each consortium must periodically provide the government with soil conservation plans.

Benefits conferred on consortia members include federal and provincial tax incentives, government subsidies and reimbursements, and special credit lines with the federal bank (Banco de la Nación Argentina). Unless excused by force majeure, the failure by a consortium to carry out a partially or wholly subsidized project within the agreed-on term requires members to disgorge all such subsidies, along with interest and penalties. The Soil Conservation Act specifically holds professionals (e.g., agrarian scientists) involved in falsifying a plan, or knowingly omitting material information from a plan, jointly and severally liable with the consortium members. The Ministry of Agriculture, Livestock and Fisheries or the provincial counterpart for matters involving provincial lands, enforces the Soil Conservation Act. The Soil Conservation Act also created the National Soil Conservation Commis-

sion (Comisión Nacional de Conservación del Suelo), which is charged with coordinating efforts under the Act at the national, provincial, and local levels.

By means of Law No. 24,701 Argentina approved the Convention to Combat Desertification (Convención de las Naciones Unidas de Lucha contra la Desertificación y la Sequía). In 2003 and by Resolution No. 250/03, the Argentine Government adopted the National Plan to Combat Desertification. By means of this resolution an advisory commission was created, having within its functions the suggestion of courses of action to combat desertification.

Province of Buenos Aires

The Province of Buenos Aires is among the provinces adhering to the federal Soil Conservation Act.

Province of Córdoba

Soil conservation it is not a new concern in the Province of Córdoba.

In 1956 it was issued the Decree-Law No. 2,111/56 that declares the public interest in soil conservation and establishes the obligation of inhabitants and authorities to adopt the necessary measures required to maintain soil integrity and fertility. That regulation also establishes actions to be taken when soil erosion is detected.

In 1981 the Province, through Law No. 6,628, adopted the regime of the federal Soil Conservation Act, i.e., Law No. 22,428.

Chapter 3 of Provincial Law No. 7,343 establish guidelines for public policies related to soil conservation and land use planning, which include the assessment of the status of provincial soils and the regulation of quality soils standards. Article 48 forbids the discharge of effluents to the soil in excess of admitted maximum values, and when they affect the quality of the soil according to the established standards or when such effluents affect the flora, the fauna, human health or goods in a negative way.

According to Provincial Law No. 8,936 are in the public provincial interest: (i) the control and conservation of the productive capacity of the rural soils, (ii) the prevention of the processes of degradation of the soils; (iii) the recovery of the degraded soils, and (iv) to promote the education related to soil conservation.

To reach those goals the Law establishes several duties to be carried out by the provincial authorities such as the diagnosis of provincial soil status and determination of areas that require recovery, establish a catalog of soil conserving practices, promote soil conservation education, among others.

WATER

The concurrent federal and provincial jurisdiction on environmental matters has led to an overlap of federal and provincial regulatory agencies. As a result of this administrative structure, it is sometimes difficult to determine which governmental agency will intervene in a particular case. For example, control on liquid effluents discharges has turned out to be one of the most crucial examples of jurisdiction superposition.

Federal

The protection, use and consumption of water is regulated under several federal and provincial statutes. The same applies for watercourses as an energy source or for navigation or shipping purposes.

For instance, the Federal Constitution sets forth: (i) the right to navigate and trade (section 14); the right of foreigners to navigate the rivers and coasts (section 20); (iii) the right to navigate inland rivers for ship of all flags (section 26); (iv) that the Federal Congress is empowered to regulate the free navigation of inland rivers and to authorize the operation of ports.

The Federal Civil and Commercial Code sets forth that the following are considered public goods: the territorial sea, inland waters, bays, gulfs, inlets, ports, anchorages, and maritime beaches; rivers, estuaries, streams and other waters flowing through natural channels, navigable lakes and lagoons; glaciers and the periglacial environment and any other water that has or acquires the ability to satisfy uses of general interest, including groundwater (section 235). As regards to private waters, such code sets forth the following: (i) private waters are the ones that arise in the lands of individuals, who can freely use them, as long as they do not form a natural channel; (ii) such waters are subject to the control and restrictions established in the public interest by authorities; (iii) private waters cannot be use in detriment of third parties (section 239).

Federal Law No. 23,879 establishes a mandatory environmental impact assessment for dams. Such assessment must be subject to approval by the federal environmental ministry and the province involved. Public participation is mandatory (a public hearing at the Federal Congress is required).

Federal Law No. 25,688 regulates the Minimum Environmental Protection Standards for Preservation, Development and Rational Utilization of Water. This Law provides that a permit must be obtained before carrying out any of the activities considered “water use” (such as taking and diverting surface waters, discharging of substances into coastal and ground waters, etc.). See discussion supra: Minimum Environmental Protection Standards.

It is worth mentioning that the access and consumption of water was recognized as a human right by the Federal Supreme Court of Justice (Case Kersich, December 2, 2014).

In addition, laws and regulations on water quality standards and liquid effluents enacted at the federal level comprise federal Decree No. 674/89, as amended by decree No. 776/92, law No. 26,221 and federal Decree No. 831/93, referred below.

DRINKING WATER STANDARDS

General drinking water standards are addressed by the Argentine Food Code ("Código Alimentario Argentino").

Moreover, Decree No. 831/1993 (Exhibit II, Table 1) sets out water quality standards for sources of water for human consumption with conventional treatment ("niveles guía de calidad de agua para fuentes de agua de bebida humana con tratamiento convencional").

In addition, Law No. 19,587, as codified by Decree No. 351/1979, specifies drinking water quality standards for the workplace as part of such law's regulation of occupational health and safety. Additional drinking water standards apply at the provincial level to regulate the one or more utilities that supply drinking water and sewage services. In some provinces, particularly in those where irrigation is significant, water codes and pollution statutes are more thorough and effective than federal standards.

Province of Buenos Aires

WATER USE AND LIQUID EFFLUENTS

a) The Water Resource and Atmosphere Protection Act and Decree No. 2,009/1960, as amended by Decree No. 3,970/1990, prohibit wastewater discharges into the provincial water system unless the effluent is treated to assure that it has been neutralized and that is harmless to public health and the environment[144].

Law No. 12,257 and its implementing Decree No. 3,511/2007 set forth the provincial Water Code ("Código de Aguas"), a comprehensive series of statutes aiming to protect, preserve, and manage provincial water resources. The Water Code created the Water Authority ("Autoridad del Agua"–ADA-) to, among other objectives, plan

144 See also Resolutions No. 287/90, 389/98 and 336/03 (establishing quality standards and permissible limits for liquid effluent discharges).

and protect water rights and enforce compliance. The Water Code regulates the use of water resources and its exploitation through permit and concession, conservation, and quality improvement, and means to protect water resources from prejudicial activity, among others[145].

Pursuant to Resolution No. 389/1998, as amended by Resolution No. 336/2003, the ADA is the agency that regulates all industrial liquid effluents. These Resolutions also establish the contaminant tolerance limits applicable to industrial effluent Resolution No. 333/2017, as amended by 2222/19, establishes that industrial facilities must obtain a permit to discharge liquid effluents and to use groundwater and/or surface water. Also, the resolution sets forth the proceeding to obtain each permit, authorization or prefeasibility. In addition, this resolution: (i) implements electronic administrative proceedings, to require authorizations and permits; (ii) sets forth new amounts of fees, to obtain such permits; and (iii) extends the validity of the permits up to four years.

b) Federal Law No. 26,221 sets forth the regulatory framework for the Concession of Drinkable Water and Sewage provided by AySA and states that industrial liquid effluent discharges must comply with the applicable limits set forth in Annex B of this regulation.

Moreover, Law No. 26,221 prohibits throwing hazardous, special, or pathogenic waste or other polluting substances into the sewage system.

It is worth stressing that if the liquid effluents discharged do not comply with the allowed limits, the concessionaire can request the polluter to make the adequate changes and/or notify the supervisory authority.

c) Federal Decree No. 674/1989 applies to liquid discharges to an interjurisdictional sewage system located within the City of the Buenos Aires and 13 counties ("partidos") of the Province of Buenos Aires.142 Federal Decree No. 674/1989, as amended, levies a "special rights" tariff on polluters failing to comply with the "allowed limits". Moreover, such decree foresees sanctions if the effluents discharged exceed the total estimated load (carga ponderada total).

d) Provincial Law No. 11,820, as amended, establishes a specific regulatory framework for drinking water and sewerage utilities serving the public in the Province of Buenos Aires. The Law fixes quality parameters for drinking water and sewage and declares goals to assure adequate drinking water and sewage service for the public, while protecting the public health, existing water resources, and the environment in general.

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145 See Law No. 12,257, Sections 10 to 24, 34 to 54 and 93 to 106.

Autonomus City of Buenos Aires

WATER USE AND LIQUID EFFLUENTS

Law No. 3,295 regulates the environmental management of water in the Autonomous City of Buenos Aires.

Pursuant to this Law, the Autonomous City of Buenos Aires establishes its own water policy based on the guiding principles set forth by the Federal Hydric Council ("Consejo Hídrico Federal" –COHIFE-) in the Water Federal Agreement included in Exhibit I of the Law.

This Law also provides for the implementation of a monitoring plan to determine the volume of flow and quality of the rivers, streams and lakes located in the Autonomous City of Buenos Aires. It also states that the enforcement authority shall determine the priority uses of water and the quality standards, as well as establish the liquid effluent discharge parameters, which must not exceed those parameters set forth in National Decree No. 674/1989. Such decree also sets forth that industries located in the City of Buenos Aires must obtain the conditional discharge permit (autorización condicional de vuelco) from AySA.

Furthermore, this Law establishes that a permit must be obtained in order to extract ground or surface water. On the other hand, it establishes that the discharge of industrial liquid effluents into the rainwater drainage system, into surface waters or into the public road is forbidden.

DRINKING WATER STANDARDS

Law No. 26,221 establishes a specific regulatory framework for the drinking water and sewerage utility serving the public in the Autonomous City of Buenos Aires. This Law also creates the "Ente Regulador de Agua y Saneamiento" ("ERAS"), an agency established to monitor the public service, ensure compliance with the concession agreement and enforce regulatory decisions. ERAS' jurisdiction, coterminous with the geographical limits of the concession, extends to metropolitan areas located in the Province of Buenos Aires.

Decree No. 303/2006 terminated the concession agreement between the Federal Government and the drinking water and sewerage utility (i.e. the private capital company, "Aguas Argentinas S.A."). Consequently, thereof, Decree No. 304/2006 created Aguas y Saneamientos Argentinos S.A. which currently provides the drinking water and sewerage services.

WASTE

Federal

Law No. 24,051 establishes the fundamental guidelines for the handling of hazardous waste. Hazardous waste is any waste capable of causing damage, whether directly or indirectly, to living beings, or of contaminating the soil, the water, the air or the environment in general, and which is identified as such according to the type of component and hazardousness. Household waste, radioactive waste and waste derived from regular vessel operations are excluded from the scope of such law, since they will be governed by special laws and current international agreements on the subject.

Law No. 13,592 establishes the legal framework applicable to the management of household waste, whether residential, urban, commercial, assistance, sanitary, industrial, or institutional, except for those that are regulated by special rules (such as hazardous waste).

HAZARDOUS WASTE

The Hazardous Waste Law, enacted in 1992 and codified by Decree 831/93, regulates the "cradle to grave" system of generation, transport, treatment, storage, and disposal of hazardous waste. The Law defines "hazardous waste" as waste that poses direct or indirect harm to human beings or may pollute the soil, water, atmosphere, or the environment in general.

The Hazardous Waste Law, modeled in part on the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, applies only to waste produced or deposited in federal territory, waste that may affect people or the environment beyond the boundaries of a single province, or waste that involves the transport across provincial boundaries. Penalties for violating the Law include fines and the removal from the National Registry of Generators and Operators of Hazardous Waste.

Under the Hazardous Waste Law, persons involved in the generation, transport, treatment, storage, and disposal of hazardous waste must be registered with the National Registry of Hazardous Waste Generators and Operators of the Ministry of Environment and Sustainable Development of the Nation and pay the Annual Environmental Fee (Tasa Ambiental Anual -TAA- determined by a formula based on waste quantity and danger).

Thereafter, the above-mentioned regulated community may obtain an annual hazardous waste permit (Certificado Ambiental Anual -CAA-) for the approval of the

hazardous wastes management system. The Hazardous Waste Law employs a manifest system to track hazardous waste transportation from the generator's site to each treatment, storage, or disposal facility and establishes clear lines of accountability among participants in the hazardous waste chain by maintaining information on each party controlling the hazardous waste through ultimate disposal. The manifest document also identifies the waste in terms of its level of danger, or hazard potential, and quantity to alert parties to the potential hazards to human health and the environment.

The Hazardous Waste Law establishes a system of responsibilities for damages caused by hazardous waste, which modifies the general liability system set forth in the Civil Code, thus being applicable throughout the Argentine territory.

The Hazardous Waste Law sets forth an iuris tantum presumption that all hazardous waste is considered dangerous under the terms of Section 1113 of the Civil Code (today Section 1757 of the National Civil and Commercial Code). In addition, this Law stipulates that the generator is responsible for damages caused by the waste it produces, in its capacity as the owner thereof. This liability continues even subsequently to its delivery to the transporter or to the treatment or waste disposal plant. Accordingly, the Hazardous Waste Law establishes that it cannot be invoked that ownership of hazardous waste has been transferred to third parties or voluntarily relinquished.

The Hazardous Waste Law further establishes that the owner or custodian is not held harmless even upon evidencing the negligence of a third party for which he is not responsible, when the damage could have been prevented by exercising the due care required in view of the circumstances.

The administrative penalties imposed for violating the Hazardous Waste Law range from fines up to the suspension and cancellation of registration with the National Registry of Hazardous Waste Generators and Operators; in cases of second offenses the penalties are increased and when they are committed by corporations, the officers in charge of their management, administration or conduction are personally, jointly, and severally liable. The statute of limitations of the legal actions to impose the penalties is five years following the date in which the infringement was committed.

The Hazardous Waste Law also contains criminal provisions. These penalties are applicable to those parties who use the hazardous waste to endanger human health, poison, pollute or contaminate the soil, water, atmosphere, or the environment in general. Should such act be followed by the death of a person, the penalty will be between ten- and twenty-five-years' imprisonment. When the act is committed due to negligence, inexperience, or failure to observe rules and regulations, im-

prisonment of between one month and two years will be applicable and should the act cause the illness or death of a person, the term of imprisonment will be between six months and three years.

When one of these acts has occurred as a result of a corporation's decision, the penalty will be imposed on its directors, managers, syndics, members of the supervisory committee, administrators or representatives thereof who have been party to the punishable act, without detriment to any other criminal liability that may be in order.

Province of Buenos Aires

HOUSEHOLD WASTE AND UNIVERSAL ESPECIAL WASTE

Comprehensive Management of Household Waste. Law No. 13,592 establishes the legal framework applicable to the management of household waste, whether residential, urban, commercial, assistance, sanitary, industrial or institutional, except for those that are regulated by special rules (such as hazardous waste referred to above).

Based on this regulation, the notion of Universal Special Waste has been introduced at a national level, comprising any waste the generation of which derives from mass consumption and which, due to its environmental consequences or hazardousness characteristics, require an environmentally sound management, separate from other types of waste.

Due to the specific characteristics of this type of waste, the responsibility for the comprehensive environmental management and financing thereof is upon the producer of the products that will become Universal Special Waste at the end of their useful life, regardless of whether they are manufacturers or importers. Notwithstanding the foregoing, such responsibility may be shared with the other links of the management chain, to the extent of their specific obligations. (Resolutions Nos. 522/16 and 189/19 of the Argentine Ministry of the Environment and Sustainable Development).

Resolution No. 580/19 approves the Provincial Strategy for the Management of Urban Solid Waste and the Guide por the development of the GIRSU Plan of the Municipalities of the Provincia of Buenos Aires.

Resolution 44/21 implements the Registry of Sustainable Destination Technologies, separation plants, conditioning and/or recovery of recyclable waste.

SPECIAL WASTE

Toxic waste, including hazardous waste, within the Province of Buenos Aires is regulated by Law No. 11,720, the Special Waste Law (Ley de Residuos Especiales), as codified by Decree No. 806/97 and 650/2011. The Special Waste Law, similar in certain respects to the Federal Hazardous Waste Law, promotes the use of appropriate technology to reduce special waste and the risks inherent in waste management.

The Special Waste Law regulates the generation, manipulation, storage, transport, treatment, and final disposal of "special waste," a category of waste that shows hazardous characteristics due to being explosive or inflammable, poisonous, or infectious, corrosive or carcinogenic, or reactive with water or air to release toxic chemicals in dangerous quantities. The Special Waste Law, like the Hazardous Waste Law, regulates waste according to a "cradle to grave" framework. The Law likewise employs a manifest system to track special waste transport from a generator's site to the transporter and from the transporter to final disposal.

Similar to the Federal Hazardous Waste Law, the Special Waste Law mandates the registration of parties involved in special waste management with the Provincial Registry. The Provincial Environmental Agency maintains the Provincial Registry and fixes the annual fee payable by generators, transporters, and treatment and storage facilities, based on waste classification.

Several of the Special Waste Law's provisions are environmentally proactive. For example, the Law obligates generators, or those involved in any process, operation, or activity that produces special waste, to adopt measures to decrease the quantity produced and, whenever possible, to treat and dispose of special waste on-site.

Penalties for violating the Special Waste Law range from warnings and fines to removal from the Provincial Registry or permit cancellation.

TOXIC WASTE LISTING

Article 28 of the Constitution of the Province of Buenos Aires establishes the obligation of the province to prohibit the entry of toxic waste into its territory. Resolution 4176/16 lists toxic wastes prohibited from entry into the province.

In case that waste generated in other provinces is to be treated by treatment facilities located in the Province of Buenos Aires, the operator must submit to the Environmental Authority a sworn statement with all the details regarding the type of waste. The presentation has to be accompanied with chemical qualitative, quantitative, and toxicological analysis done by duly authorized laboratories.

PCBS

In accordance with the commitment undertaken by Argentina upon executing the Stockholm Convention on Persistent Organic Pollutants, Resolutions Nos. 2131/01, 1118/02, 618/03, 964/03 and 376/18 are in force in the jurisdiction of the Province of Buenos Aires. Such resolutions regulate, among others, the obligations for the registration, handling, storage, treatment, terms and identification of closed systems and equipment containing PCBs, as well as for the analysis, approval and registration of technologies of decontamination and/or removal of such substance.

HOUSEHOLD WASTE

The Province of Buenos Aires has regulations that establish the procedures for urban solid waste management. Urban solid waste means any items, objects or substances generated and disposed of as a result of activities conducted in urban and rural areas, comprising any household, commercial, institutional, assistance and non-special industrial waste similar to household waste. Pathogenic, special, and radioactive waste are excluded. The comprehensive management comprises the following stages: generation, initial disposal, collection, transport, storage, transfer plant, treatment and/or processing and final disposal.

ELECTRICAL AND ELECTRONIC EQUIPMENT WASTE

Law No. 14,321 sets forth a system for the management of Electrical and Electronic Equipment Waste ("EEEW").

The aim of the Law is to prevent the generation of EEEW and to encourage its reuse, recycling, and the reduction of its environmental impact. Laws exhibit I sets forth the categories of the electrical and electronic equipment ("EEE") to which this regulation applies.

Among other issues, this regulation sets forth obligations for the producers and distributors of EEEs. Besides, the disposal of WEEE as household solid waste is forbidden. Resolution 269/19 establishes the set of guidelines, obligations, and responsibilities for WEEE managers that exclusively disassemble, dismantle, and classify them for their subsequent reuse, within the framework of the provisions of Law 14,321.

MEDICAL WASTE

Law No. 11,347, the Pathogenic Waste Law (Ley de Residuos Patogénicos) and De-

cree No. 450/94, as modified by Decree No. 403/97, regulate the treatment, handling, storage, transport, and disposal of medical wastes. Medical waste is defined as toxic or biological waste generated during diagnosis, treatment, or immunization of human beings or animals that directly or indirectly affects humans and contaminates the soil, water, or atmosphere.

Medical waste generators must register with the Ministry of Health. Parties involved in medical waste transport, treatment, or disposal must register with the Environmental Provincial Authority. Moreover, Resolution OPDS 350/10 sets forth how the product of the treatment of pathogenic waste must be disposed of.

Province of Córdoba

HAZARDOUS WASTE

The Province of Cordoba ratified the Federal Hazardous Waste Law (Law No. 24,051) through the passing of Law No. 8,973, ruled by Decrees No. 582/2002 and 2,149/2003.

This Law sets forth obligations which are like those contained in the Federal Hazardous Waste Law (i.e., storage, handling, treatment, disposal, payment of a fee, etc). The Law prohibits the entrance of hazardous waste from other provinces into the provincial territory, unless they enter as part of a vehicle in transit or if the waste enters for purposes of treatment and final disposal in plants located within the province authorized to that effect.

Moreover, several resolutions regarding hazardous wastes have been passed: (i) Resolution No. 102/2012 from the Environmental Secretariat adds Hazardous Waste category Y48; (ii) Resolution No. 1378/2009 from the Environmental Secretariat sets forth the Regime for Hazardous Waste Transportation; (iii) Resolution No. 535/2010 from the Environmental Secretariat rules the payment obligation of the Annual Environmental Inspection and Assessment Fee; (iv) Resolution No. 184/2004 of the Agency for Sports, Environment, Culture and Tourism created the Provincial Registry of Hazardous Waste Operators and Generators and approves the affidavit forms, transport manifests and the Annual Environmental Certificate; (v) Resolution No. 1432/2009 of the Environmental Secretariat modifies the hazardous waste transportation regime and the manifests.

Furthermore, Law No. 9164 sets forth provisions for handling chemical or biological products operations destined to agro-industrial production. This Law prohibits the burial, burning and/ or final disposal of remains or packages of chemical or biological agricultural products that have not been submitted to decontamination treatments, as well as the discharge of remains, waste and/or packages in bodies of water.

Autonomus City of Buenos Aires

HAZARDOUS WASTE

Law No. 2,214, ordered by Decree 2,020/7, regulates the generation, manipulation, storage, transport, treatment, and final disposition of the hazardous waste in the Autonomous City of Buenos Aires.

The objectives of this Law are: (i) to promote an environmentally suitable management of hazardous waste; (ii) to promote/encourage the reduction in quantity and dangerousness of the hazardous waste generated; and (iii) to promote the recovery, recycling and the reutilization of the hazardous waste.

The Law excludes solid urban waste, pathogenic waste, radioactive waste, and waste derived from the normal operations of vessels and airships regulated by special laws and international treaties, with the exception of those hazardous waste generated by vessels and airships within the territory of the Autonomous City of Buenos Aires.

The Law creates the Registry of Generators, Operators and Transporters of Hazardous Waste, in which persons or corporations (who are) responsible for the generation, storage, transport, treatment and/or final disposition of hazardous waste shall be registered. Like the Federal Hazardous Waste Law, this Law establishes obligations for the generators, transporters and treating facilities of the hazardous waste.

Other regulations establish specific obligations towards certain hazardous waste. For example, Law No. 3,166 and Decree No. 239/10 establish obligations for the generators of Used Vegetable Oils. This waste is edible oil which has suffered a thermic treatment of denaturalization in its usage, thus changing the physicochemical features of the original product. The Used Vegetable Oils must be disposed of in accordance with the manner prescribed by the legislation.

PCBS

In 2002 Law No. 760 of the Autonomous City of Buenos Aires prohibited the production and sale of PCBs and of products or equipment containing PCBs. Law No. 760 was regulated in 2003 by Decree No. 217/03. Law No. 760 adopts the criterion set forth in Law No. 25,670 and defines PCBs as materials with content higher than 50 ppm. Basically, Law No. 760 provides that guardians, owners and holders of equipment containing PCBs shall apply for registration in the relevant Registry, submit an equipment replacement plan and properly mark such equipment.

The registration obligation shall not apply to holders of equipment containing a

total volume of PCB of less than one liter.

ZERO WASTE

Law No. 1,854 sets forth the principles, obligations and liabilities for the comprehensive management of urban solid waste generated in the Autonomous City of Buenos Aires. Law No. 1,854, regulated by Decree No. 639/07 and 760/08, adopts the zero waste (basura cero) concept, which is defined as the principle of progressive reduction of final disposal of urban solid waste within concrete terms and with specific goals through the adoption of a number of actions intended to reduce the generation of waste and promote selective separation, recovery and recycling.

Law No. 1,854 contemplates a schedule for progressive reduction of final disposal of waste. The reduction goals are 30% for 2010, 50% for 2012 and 75% for 2017. Final disposal of recyclable and/or reusable materials for 2020 is prohibited.

Lastly, it provides that the regulations of Law No. 1,854 shall specify the obligations of the producer, importer, distributor, intermediary or any other person responsible for launching into the market products that turn into waste after use, including, among others, the obligation to assume direct liability for the management of waste generated by their products or for participating in a management system involving such waste or contributing financially to public waste management systems.

MEDICAL WASTE

Law No. 154, the Medical Waste Law (Ley de Residuos Patogénicos) regulates the generation, handling, storage, collection, transport, and final disposal of medical waste. This Law, which was modified by Law No. 747, excludes from its scope, domestic waste, radioactive waste, and other special waste regulated under the Federal Hazardous Waste Law not deemed “medical waste” by that statute.

Law No. 154 is further regulated by Decrees No. 1886/01 and 706/05. Moreover, other rules set forth several other obligations regarding pathogenic waste (laws No. 1897, 2203 and Resolution No. 112/02).

Law No. 154 prohibits the disposal of untreated medical waste and requires generators, transporters, and medical waste treatment facility operators to use suitable methods for managing and minimizing risks. Parties must register in the Registry of Generators, Transporters, and Operators of Medical Waste (Registro de Generadores, Transportistas y Operadores de Residuos Patogénicos) by filing an affidavit that includes, among other requirements, a description of on-site waste manage-

ment and final disposal methods. In addition to registration, the Pathogenic Waste Law relies on a manifest system that specifies waste characteristics and parties responsible for waste management. The Law further requires employers to provide specialized training, pre-employment and periodic medical examinations, immunization, and protective equipment to personnel handling medical waste.

POLLUTED SITES REMEDIATION

Federal

Resolution No. 515/2006 enacted by the former Secretariat of Environment and Sustainable Development –as amended by Resolution No. 940/2015– created the Program for Environmental Management of Contaminated Sites (PROSICO, after its Spanish acronym).
The general objectives of the PROSICO are[146]: a) to identify, systematize, qualify and quantify degradation processes due to contamination; and b) to define prevention, control and recovery strategies for contaminated sites. These objectives shall be pursued in a joint and coordinated manner between all local jurisdictions and the Federal Government.

Province of Buenos Aires

ABANDONED ENVIRONMENTALLY DAMAGED SITES (PASIVOS AMBIENTALES)

Law No. 14,343 aims to: (i) regulate the identification and registry of abandoned environmental damaged sites ("AEDS") and the existence of polluted sites in the Province's territory; and (ii) regulate the legal obligation of environmental restoration in those cases.

To detect possible AEDS article 7 establishes that every person that knows about the existence of one of them has the obligation to report it to the Environmental Authority ("Autoridad de Aplicación", i.e., currently, the Ministry of Environment). In order to prevent future AEDS the Law establishes a Closing Audit Procedure ("Auditoría de Cierre"), that should be filed in cases of termination or transfer of business.

According to this Law, the owner of the polluting activity is mainly liable for the restoration of the damaged environment, but the owner of the property will be also liable if the owner of the activity cannot be found. After the Closing Audit is

146 Section 2.

filed the liability of the owner of the activity remains until the Ministry of Environment releases him by issuing a resolution that says so.

Section 12 sets forth the obligation to adopt urgent measures when an environmental damage have been or can be produced. When urgent measures have been taken the Environmental Authority should be informed during the next 24 hours.

For proper registration, the Law creates the Registry for Abandoned Environmental Damaged Sites of the Province of Buenos Aires (Registro de Pasivos Ambientales de la Provincia de Buenos Aires) where every AEDS should be registered. The Registry for Abandoned Environmental Damaged Sites of the Province of Buenos Aires has to communicate every registration to de Property Registry of the Province of Buenos Aires (Registro de la Propiedad Inmueble de la Provincia de Buenos Aires) which has to make a marginal note in the property registry that should be canceled after the site is cleaned up.

SITE REMEDIATION

OPDS`s Resolution No 95/2014 establishes the standards and the legal proceedings in order to determine if a remediation is necessary and how to obtain the approval of the remediation tasks of polluted sites in the territory of the province of Buenos Aires.

Section 3 confirms that will be liable to perform the remediation tasks and all the associated obligations, the owner of the polluting activity or the owner of the property, if the owner of the activity cannot be found.

As a first step in the process, if any evidence of existence of a pollution condition is detected, the owner of the activity or the owner of the property (when applicable) have the duty to perform a characterization of the site, in order to determine the existence or not of a pollution condition and if remediation tasks are required.

Section 6 establish the standards in order to determine if the property should be considered a polluted site: if so, the filing and approval of a remediation plan will be required prior to the execution of those tasks.

According to Section 14, if after performing the approved remediation tasks the remediation goals are not reached, Risk Based Correcting Actions (RBCA) may apply under the standards of IRAM 29.590 Rule.

When the remediation goals are reached, Ministry of Environment will grant the termination of the remediation tasks and establish a post remediation monitoring plan.

Province of Córdoba

CONTAMINATED SITES AND ENVIRONMENTAL LIABILITIES

Law No. 10,208 of the Province of Córdoba provides that all affected environment that constitutes a contaminated site must be remediated to achieve minimum environmental and public health conditions.[147]

Environmental liability is defined as the set of negative and irreversible environmental impacts that imply the deterioration of natural resources and ecosystems, produced by any type of public or private activity, during its ordinary operation or due to unforeseen events, that constitute a permanent or potential risk to human health, the ecosystem or property. The liability can be found either within the own property or on lands adjacent to it, whether public or private.[148]

The holder of the activity generating the liability or the owner of the real estate -in case the former cannot be located- are obliged to clean-up the environmental liabilities or contaminated sites.[149]

City of Buenos Aires

MANAGEMENT OF POLLUTED SITES AND THE ASSESMENT OF SITES POTENCIALLY POLUTED WITH HYDROCARBONS AND THEIR REMEDIATION

Law No. 6,117 regulates the environmental management of polluted sites in the City of Buenos Aires, establishing mainly -but not only- the duties of filing -when necessary- a site characterization and a remediation plan, and executing it once it is approved by the local environmental authority.

To govern the management of polluted sites, Section 3 establishes two principles applicable to this matter: the priority hierarchy principle and the comprehensive management principle. According to the first one, polluted sites must be managed according to the following order of priorities: prevention of their generation, mitigation of environmental damage through the implementation adequate contingency plans, remediation of the environment, and, finally, compensation for environmental damage in the corresponding cases. The comprehensive management principle establishes that the management of contaminated sites must comprehensively cover the following stages: identification of currently or potentially contaminated sites, evaluation, diagnosis, categorization, prioritization, application of contingency measures and damage mitigation, restoration, monitoring and com-

147 Section 93.
148 Section 89.
149 Section 91.

pensation.

According to this law, the entity or person that developed the risky or dangerous activity that caused the damage is the main liable for the compliance of the obligations that arise from this law but, in case that the main liable person cannot be found, will be also liable the owner of the property where the polluted site is located.

The non-compliance to the obligations established in this law by the obliged persons -in addition to the sanctioning proceedings that may result in fines-, may allow the local environmental authority to perform the required environmental remediation, compensation and refunctionalization works to be subsequently collected from the obliged.

In a lower regulatory level, Resolution No. 326/2013, the Environmental Protection Agency of the City of Buenos Aires (APRA) established several proceedings and standards related to the assessment of sites potentially polluted with hydrocarbons and their remediation, in order to clear the environmental liabilities in relation to certain kind of sites.

PROTECTION OF BIODIVERSITY

Main laws and regulations on biodiversity

Law No 25,675 (General Environmental Law) provides the minimum standards for an adequate and sustainable management of the environment and the protection of different species. Law No. 22,351 creates the Federal System of Protected Areas; and Law No. 26,331 establishes the minimum standards for the protection of native woods at the federal level, recognizing their contribution to the biodiversity conservancy.

Argentina has also ratified the Convention on Biological Diversity and the Nagoya Protocol on Access and Benefit Sharing.

As a state party of the Convention on Biological Diversity, Argentina adopted the first National Biodiversity Strategy Plan (NBSAP) in 2003, which addressed the following issues: institutional, legal and political arrangements; sustainable use and conservation of genetic resources; national capabilities; and international aspects. Argentina subsequently developed a revised report of the NBSAP for the 2014-2020 period focusing on ten overarching themes: conservation; restoration and sustainable use of biodiversity; management of biodiversity; awareness-raising; communication and education strategies regarding biodiversity; sustainable production and consumption practices; genetic resources; biodiversity's valuation; monitoring, control and auditing of biodiversity; inter-institutional and inter-sectoral co-

ordination; international cooperation; and financial mechanisms.

This is the sixth report submitted by Argentina regarding the implementation of the NBSAP for the 2014-2020 period, which confirms the progress made towards the achievement of the AICHI targets and the Sustainable Development Goals.

COMPLIANCE

The compliance of environmental laws and regulations for any person that want to develop any activity that may impact the environment in Argentina includes two main spheres of obligations: the compliance of applicable environmental legislation and the environmental damage restoration if an environmental damage occurred.

Since environmental law is primarily focused in minimizing negative environmental impacts and preventing any environmental damage (that includes but is not limited to polluting events), most of the relevant environmental laws and regulations applicable to economic activities usually have a command-and-control format, sometimes requiring certificates, licenses or registrations, the payment of fees and perform environmental monitorings among other obligations.

Despite the minimum environmental protection standards that federal laws may establish, environmental laws subject to compliance and enforcement are mainly provincial[150] and will vary from one jurisdiction to another. Anyhow, usually non-compliance of environmental laws may result in adequation requirements or sanctioning proceedings.

In some cases, special regulations frame the transition of non-complying companies (sometimes called “Polluting Agents”) to compliance status by Adequation Plans or Industrial Reconversion Programs (“PRI” for its acronym in Spanish), that should be filed, approved and complied.

As seen above, according to constitutional mandate and legal liability rules, the one that generates an environmental damage is liable for the environmental restoration. The compliance and enforcement of this obligation is sometimes subject to specific provincial regulation. In addition, those specific regulations usually establish that if the one that generated the environmental damage cannot be found, the owner of the property will be liable for the remediation works.

ENFORCEMENT

The enforcement of environmental law is a complex matter mainly derived from the provincial jurisdiction of environmental matters and the activity subject to

150 It should be noted that federal or municipal legislation may also apply and be subject to compliance and enforcement. Interjurisdictional transport of hazardous wastes is a federal matter subject to the enforcement of the federal environmental authorities. On the other hand, solid non-hazardous wastes management is a typical municipal matter subject to local regulations and enforcement.

environmental control.

As a general rule, environmental matters are under provincial competence unless interjurisdictional aspects take place[151], in which case the competence and the enforcement extends to the federal level (regulations and enforcement). For example, hazardous wastes generation is subject to the compliance of provincial hazardous wastes laws and regulations (with the enforcement of the local environmental authorities), but if for proper disposal those wastes should be sent to other province, federal hazardous wastes laws will also apply and the enforcement of federal authorities applies.

In addition, for certain activities special environmental authorities may apply. For example, some provinces have -in addition to the environmental agency for the enforcement of environmental laws applicable to most of the activities developed within its territory- a specific environmental authority for extractive activities, circumstance that may have some permitting and enforcement implications.

In conclusion: the environmental authorities in charge of the enforcement of environmental laws will change from one jurisdiction to another and may also vary for certain activities or aspects of the environmental management (i.e., water concessions when required). In addition, federal or municipal enforcement may be applicable for certain aspects of environmental management or special cases.

Finally, it should be also noted that the strength of the enforcement of each regulation in each jurisdiction and the possibility and severity of sanctions for non-compliances should be assessed on a case-by-case basis, since each environmental law has different obligations and possible sanctions that may include from warnings to fines and even the closure of activities in some cases.

AUTHORITIES

As seen above, the provincial environmental authorities are the most relevant for permitting and enforcement purposes.

In the Province of Buenos Aires the main environmental authority is the Ministry of Environment (the former Provincial Agency of Sustainable Development), while the Water Authority ("Autodidad del Agua" -ADA-) is also highly important in relation to certain aspects of the environmental compliance and enforcement related to water use and the discharge of liquid effluents.

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151 Please note that other exceptions may apply. For example, environmental impact assessment for dam construction is regulated by federal Law No. 23.879.

The Environmental Protection Agency ("Agencia de Protección Ambiental" –APrA–) and the Secretariat of Environment ("Secretaría de Ambiente") are the environmental authorities in the City of Buenos Aires and in the Province of Córdoba respectively.

Other relevant environmental authority is the Matanza Riachuelo River Basin Authority ("Autoridad de Cuenca Matanza Riachuelo" –ACUMAR–), an inter-jurisdictional agency created with the exclusive purpose of monitoring the environmental conditions of the Matanza Riachuelo River Basin, as a direct consequence of the "Mendoza" case, has regulatory power on matters related to the Basin environment.

At the federal level the Ministry of Environment and Sustainable Development ("Ministerio de Ambiente y Desarrollo Sostenible", -Ministry of Environment-), is the most important environmental agency and the authority for the enforcement of International Environmental Conventions.

Historically, the Ministry of Environment concentrated more power, but it has been gradually distributed to provincial and local authorities. Nowadays, this authority, in addition to the enforcement of International Environmental Conventions, is currently limited to the intervention in certain inter-jurisdictional and particular matters.

Anyhow, other relevant federal Agencies that handle certain environmental matters are the Secretariat of Energy ("Secretaría de Energía), the Administration of National Parks ("Administración de Parques Nacionales"), and the Ministry of Agriculture, Livestock and Fisheries ("Ministerio de Agricultura, Ganadería y Pesca").

For climate change matters Argentina has a sophisticated governance system. The National Cabinet on Climate Change ("Gabinete Nacional de Cambio Climático" -GNCC-) is the main -but not the only- climate change policy-maker that has the duty to issue the National Plan for Adaptation and Mitigation to Climate Change in order to achieve the national goals on this matter. The activity of the GNCC is coordinated by the higher federal authority on climate change, currently the Secretariat of Climate Change, Sustainable Development and Innovation ("Secretaría de Cambio Climático, Desarrollo Sostenible e Innovación").

JUDICIAL ENFORCEMENT

In addition to the administrative enforcement carried out by the environmental authorities judicial environmental enforcement may arise from environmental litigation.

In order to protect the environment two main types of claims may be found: the ones that aim to prevent or cease an environmental damage or its risk, and the lawsuits that claim the remediation of an environmental damage that already occurred.

The Argentine Constitution and environmental law grants broad standing to sue to any actual or potential affected party, the Ombudsman and non-governmental organizations for claims that aim to protect the environment. The standing to sue is even broader for the legal actions that seek the cease of activities that damage the environment: according to law, they can be filed by "any party".

In addition, for those types of claims the National Constitution enabled an abbreviated and exceptional legal action called "amparo" that, according to its ordinary scope, is available for parties against acts or omissions coming from public authority or from individuals that actually or potentially damage, restrict, alter, or threaten rights provided for in the Federal Constitution, federal statutes, or international treaties. Regarding environmental protection, when a risk of such type of damage arises or an activity harms the environment, the "amparo" action allows affected parties to seek its cease.

On the other hand, the Federal Supreme Court decided that the amparo is not the appropriate action to seek environmental remediation if a broader discussion and evidence of the damages is required. In those cases, the ordinary procedure is the legally appropriate[152].

The measure of tort liability on environmental matters is strict liability (i.e. negligence or willful misconduct will not have to be proved by claimant). Strict liability is set forth by Section 1,757 of the Civil and Commercial Code. However, the plaintiff must establish that damages were caused by a polluting asset (i.e. a property, substance, waste, etc.) owned by or under the custody of the defendant, or by a risky or dangerous activity. Defendant would only avoid liability in case of force majeure or when a third party or the victim contributes to the damages. The fact that the defendant has obtained all authorizations required by Law to operate its facilities and has complied with all administrative regulations (i.e. maximum disposal parameters) would not prevent or waive liability for environmental damages.

The Civil and Commercial Code provides joint liability for damages caused by a person who is part of a group or by an activity performed by a group. In the event of damages caused by several parties (i.e., several industries polluting the same river), liability may be joint and several unless the portion of each party depending on their contributions to the contamination can be clearly demonstrated.

152 Federal Supreme Court Rulings Collection: Book 327; page 2967.

CIVIL REMEDIES AND DAMAGE CLAIMS

In addition to the collective environmental claims discussed above, environmental litigation may also include individual tort claims seeking compensation to recover damages from the one who caused an environmental damage (i.e., pollution of a neighboring property or health problems arising from pollution).

Since this kind of claims pursuit, the compensation of an individual loss (and not to prevent or repair a collective damage) are governed by regular civil tort rules. A main difference among both types of claims (individual or collective) is the role of the judge: while in collective environmental damage procedure according to environmental law the judge should play an exceptional active role to protect the general interest, in cases of individual environmental damage the role of the judge does not fall within that exceptional mandate.

NUISANCE SUITS

Argentine Law recognizes claims for ceasing or reducing nuisances. Section 1,973 of the Civil and Commercial Code, under the chapter dealing with restrictions and limitations on ownership, refers to nuisance caused by smoke, heat, smells, light, noise, vibrations, immissions or similar nuisances derived from the operation of any activity in neighboring buildings, as long as the nuisance exceeds normal tolerance levels. Even if there is an administrative authorization for the activity, courts may order the responsible party to cease the nuisance and/or compensate damages, depending on the circumstances.

ENVIRONMENTAL INSURANCE

Section 41 of Constitution of the Argentine Nation and section 28 of Law No. 25,675 (LGA) establish that the one that causes environmental damage has the obligation to restore it up to its status ante quo.

In order to guarantee the compliance with this obligation, section 22 of LGA states that individuals performing activities which may create a risk to the environment have to hire an insurance policy to guarantee the funding of the restoration activities.

The former Secretariat of Environment and Sustainable Development ("SAyDS") codified the environmental insurance by the issuance of several Resolutions in order to determine which activities fall within the obligation to hire this policy considering their Environmental Complexity Level ("Nivel de Complejidad Ambiental" -NCA-), the amount of the coverage that the policy should cover and other regula-

tory matters, including the requirement that the insurers should comply to offer this coverage[153].

Despite according to Decree No. 447/2019 the obligation created by Section 22 of LGA could be complied with different types of insurance policies and other financial instruments, up to date the only policy available is an environmental surety bond that guarantees the applicable environmental authorities the availability of the required funds (up to the assured amount) if remediation works are required.

153 It should be noted that to be authorized to offer this policy, insurers must obtain an "environmental compliance" ("conformidad ambiental") granted by the Ministry of Environment and Sustainable Development.

AGROBUSINESS

This chapter will discuss the main environmental legal aspects involved in the agrobusiness, including seed production and vegetal genetically modified organisms ("VGMOs"), pesticides and agrochemicals and feedlot regulations.

SEED PRODUCTION

Federal

Law No. 20,247 aims to promote an efficient seed production and commercialization, assure the farmers the identity and quality of the seeds they purchase and to protect the property of the plant genetic creations.

According to this law, the seed exposed to the public or delivered to users under any title, must be duly identified. To this purpose, the law created the National Registry of Cultivars ("Registro Nacional de Cultivares") and the National Registry of Cultivars Property ("Registro Nacional de Propiedad de Cultivares"), where the seeds and their owners must be registered. In addition, law includes the minimum information that the label of seed containers must detail. The seed authority is the National Seed Institute ("Instituto Nacional de Semillas" -INASE-).

In case of VGMOs for agricultural use that were not yet granted commercial approval, additional prior authorizations are required to perform essays, for their release into the environment, and their precommercial seed multiplication.

Resolution No. 763/2011 established that commercial authorizations of GMOs may be granted only after performing (i) a risk assessment, the design of biosafety measures and risk management, for the different evaluation phases (to be performed by the National Advisory Commission on Agricultural Biotechnology, "CONABIA" for its acronym in Spanish), (ii) an evaluation of human and animal safety of food products derived from GMOs (to be performed by the National Service for Agrofood Safety and Quality, "SENASA" for its acronym in Spanish), and (iii) an analysis of the impacts in production and commercialization that from the authorization may arise (to be performed by the Sub Secretariat on Agrofood Markets). The authority that currently grants the commercial authorization of GMOs is the Secretariat of Food, Bioeconomy and Regional Development.

Province of Buenos Aires

Provincial Law No. 12.605 and its codifying Decree No.96/2007 regulate the settlement of facilities to perform the activities of storage, classification, conditioning,

and grain preservation.

According to this law, the approval of the project, authorization and operation of new plants, extensions, or modifications of the existing ones, require the filing and approval of an Environmental Impact Study ("EIS") in order to obtain an Environmental Impact Statement ("Declaración de Impacto Ambiental"). The environmental assessment and approval of the EIS is under the competence of the local Municipality.

Special requirements apply to these facilities, including the obligation to have appropriate truck parking lots to avoid truck parking in urban areas, noise and gaseous effluents standards and several requirements tending to dust control.

The non-compliance of this law may result in sanctions of warning, fines, revoke or decide the total or partial suspension of the license to operate or closure.

PESTICIDES AND AGROCHEMICALS

Federal

In the federal sphere, several laws regulate the manufacture, import, marketing, and use of fertilizers and other chemicals determined to be harmful to human, animal, and plant life.[154]

As codified and amended, Law No. 18,073 also prohibits the use of certain pesticides on soil or livestock, establishes maximum residue levels ("MRLs") for pesticides, and authorizes the executive branch to modify these standards.

Consistent with this delegation, the executive branch issued Resolution No. 934/10 to modify the list of controlled substances and their specified MRLs for the local market. Resolution No. 561/99 adopted the tolerance standards recommended by the Southern Cone Common Market ("Mercosur"), in turn based on the Alimentarius Code and the limits adopted by the Foodand Agriculture Organization and the United Nations World Health Organization.

Currently, crop protection products control and enforcement and pesticide residue control is under the competence of the National Health and Agriculture Quality Service (Servicio Nacional de Sanidad y Calidad Agroalimentaria, -SENASA-),an agency currently reporting to the Ministry of Economy. Argentina is a party to the Rotter-

154 See Law No. 20,466 (regulating fertilizer use and establishing a federal approval and labeling regime); Law No. 22,289 (prohibiting the manufacture, import, and marketing of chemical products determined to be harmful to human health); Law No. 18,073 (prohibiting substances such as Dieldrin, Endrin, Heptachloride, and HCH) and and Law No. 20, 418 (limiting controlled substances levels in agricultural and livestock byproducts).

dam Conventionon the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade.

AGROCHEMICAL EMPTY CONTAINERS

Law No. 27,279 and its codifying decree establish the minimum environmental protection standards applicable to the management of agrochemical empty containers, adopting the Extended and Shared Responsibility Principle.

Section 19 establishes several obligations that any person that obtained from SENASA the certificate for phytosanitary products use and commercialization (the registrants) must fulfill, being the main one that they are responsible for the implementation of a System for Comprehensive Management of Empty Phytosanitary Product Containers ("Sistema de Gestión Integral de Envases Vacíos de Fitosanitarios") required for the proper management of the empty containers that they place in the market, that should follow the hierarchy of management options provided by law: prevention, reuse, recycling, valorization and final disposal and be approved in every province. It should be noted that the management system to be deployed in each province should be priorly filed and approved by each jurisdiction. Is important to point out that companies can comply with this responsibility by adhering to a priorly approved management system. The law also establishes certain obligations for the compliance of other parties in the cycle of life of empty containers.

This legislation is applicable in all the national territory but with the enforcement of the provincial authorities. Non-compliances may be subject to sanctioning proceedings.

Province of Buenos Aires

In the Province of Buenos Aires, Law No. 10,699, the Agrochemical Law (Ley de Agroquímicos), aims to protect human health, natural resources, and agricultural production by assuring appropriate and reasonable pesticide and agrochemical use. The provincial Ministry of Agricultural Development (Ministerio de Desarrollo Agrario) further regulates pesticide and agrochemical use in the province of Buenos Aires. The intergovernmental Agricultural Council (Consejo Federal Agropecuario), comprising representatives of the federal government and the provinces, coordinates agriculture policies, including those related to pesticide use.

Law No. 10,699, as codified by Decree No. 499/91, requires persons involved in the use, handling, transportation, research, development, and manufacture of con-

trolled chemical substances to hire a technical advisor licensed by the applicable professional board to assure compliance with the law. If the provincial executive branch considers the use of certain agrochemicals inadvisable due to their high toxicity, prolonged residual effect or for any other reason that makes their use dangerous, the law calls they should request to the National Agrochemical Authority their exclusion from the list of authorized products, notwithstanding the urgent adoption of the necessary measures for the protection and preservation of the environment, people and goods.

Persons subject to the law must permit the inspection of facilities and property related to the handling of a controlled substance. Violations of the law are punishable by fines set by the Ministry of Agricultural Development.

AGROCHEMICAL EMPTY CONTAINERS

Law No. 27,279 is provincially codified by Resolution No. 505/2019 issued by the Provincial Agency of Sustainable Development ("Organismo Provincial para el Desarrollo Sostenible" –OPDS-) to regulate the compliance and enforcement of this legislation within the territory of the province of Buenos Aires.

Province of Córdoba

Provincial Law No. 9,164, that regulates the use of chemicals and biological products for agricultural use, aims to: (i) protect human health, natural resources, agricultural production, private property of third parties from the damages that the improper use of agrochemicals may cause, (ii) preserve the quality of the food, and (iii) to ensure the traceability of agrochemicals.

Ministry of Agriculture and Livestock is in charge of the regulation and control of agrochemicals use in the Province of Córdoba.

The preparation, formulation, transportation, storage, distribution, division, retailing, and use of agrochemicals and the final disposal of empty containers of agrochemicals are included in the scope of the Law and most of those activities require a special registration.

As codified by Decree No. 132/05 the preparation, formulation, division and the final disposal of empty containers of agrochemicals also requires previous authorization of the provincial authorities.

The Law also distribute liabilities among the different involved parties, i.e., appliers, plant protection advisors (asesores fitosanitarios), retailers and users of agrochemicals.

FEEDLOT

Province of Buenos Aires

Provincial Law No. 14.867 regulates the bovine and ox feedlot facilities located in the province of Buenos Aires aiming to protect human health, the environment, natural resources, by preserving the quality of the food generated, respecting health and the principles general animal welfare.

According to this law, feedlot facilities will not be able to function without prior authorization granted by the applicable authority. To obtain this authorization the law requires have been granted the municipal license, the approval of the Environmental Impact Study and certain infrastructure conditions according to applicable regulations. Once granted, authorizations are registered in the Provincial Registry of Bovine and Buffalo Feedlots ("Registro Provincial de Habilitación de Establecimientos de Engorde Intensivo de Ganado Bovino/Bubalino en Corral").

Special fees are created by this law: (i) the fee for pre-authorization inspection, (ii) the fee for Environmental Impact Study approval, and annually (iii) the registry, authorization and renewal fee for the facilities that fall within the scope of this law.

In relation to porcine production, provincial Law No. 10,510 and its codifying decree regulate the different kinds of facilties that may develop that activity, that should be authorized by agricultural authority (currently the Ministry of Agricultural Development).

In the event that epizootic, zoonotic or exotic diseases occur in pigs, immediate communication to the competent health authority is mandatory. In that case that provincial authorities are authorized to take measures of interdiction, closure, confiscation, slaughter or transfer, in safeguarding public health, animal health and environmental pollution. In addition, pig facilities should have a yard for the ten percent of its total capacity for the case that isolation measures are required.

Both laws establish sanctioning regimes for non-compliances and enforcement.

Province of Córdoba

Provincial Law No. 9,306 regulates the feedlot activities (Sistemas Intensivos y Concentrados de Producción Animal -SICPA-) aiming to protect human health, the natural resources, animal production, quality of food, the sustainable development of the feedlot activities and reduce its' environmental impacts.

According to this Law there are considered critical or sensitive areas, where feedlot activities will not be allowed: those located in less than 3 kilometers from any village, river, lake or when groundwater can be found in less than 10 meters depth.

In spite of this regulation special registration and monitoring, adequate treatment of wastes andthe filing and approval of an environmental impact assessment are required.

Resolution No. 333/2010 created the Registry of Feedlots and the Registry of Technical Advisorsfor Feedlots.

In addition, Resolution No. 29/17 approved the Environmental Emission and Effluent Standards and Technological Standards for the Management and Agronomic Application to Livestock Waste in the Province of Córdoba. Finally, by means of Resolution No. 284/21 the Secretariat of Environment approved the Protocol for the Management of Animal Corpses in Feedlots.

EXTRACTIVISM

MINING

INTRODUCTION

In order to conduct mining activities an environmental permit is required. As in any other risky activity an environmental impact report must be filed before the competent authority, which will conduct an assessment and decide the approval or rejection of the activity. In case of approval, an Environmental Impact Statement is issued, which usually involves a set of rules that the mining company must comply with. Such permit must be updated at least once every two years.

The main rules for mining are set forth in the Federal Mining Code (FMC) and provincial laws. As a rule, provincial authorities are the competent authorities for enforcing environmental regulations for mining activity.

LEGAL FRAMEWORK

The main legal statutes regulating the mining industry arise from the following statutes: (i) the Argentine Constitution; (ii) the FMC; (iii) Federal Law N° 24,585 (specific environmental title for mining included in the FMC); (iv) the Minimum Environmental Protection Standards Legislation, enacted by the Federal Congress; and provincial and municipal regulations.

The FMC regulates the rights, obligations and substantial procedures for the acquisition, exploration, exploitation and termination of mining rights and properties, and is applicable all through the country and is enforced by provincial or federal authorities, depending on the jurisdiction (or federal territory) where the deposits are located. Each province retains the power to regulate and enact local mining procedures.

Moreover, through inter-provincial bodies or councils, provinces may agree on certain standardized environmental principles that are applicable in all provinces that adhere to this sort of interprovincial environmental agreements. An example of this is the COFEMIN Supplementary Regulation (Bariloche 1996), which consists of a regulation that further regulates the environmental chapter included in the FMC and was adopted as a supplementary regulation by different provinces.

ENFORCEMENT AUTHORITIES

With respect to deposits located in provincial territories, each province is in charge of enforcing the FMC, the procedural codes and environmental legislation. Provinces are the competent authority to regulate and control environmental matters in their jurisdiction, without any participation from national authorities.

The federal government has jurisdiction only in the following cases: (i) when deposits are located in a territory that is subject to federal jurisdiction; (ii) when there is an interjurisdictional environmental impact; (iii) to set national mining policies and co-ordinates such with the provinces; (iv) to regulate and apply the Mining Investments Law, which includes a promotional investment regime for mining.

Furthermore, in some cases, and based on the Provincial Constitution, municipalities are empowered to issue certain types of environmental regulations or even participate in the provincial environmental impact assessment process.

ENVIRONMENTAL PROTECTION

In addition to the mining-related permits, the development of mining projects requires an environmental permit and different sort of sectorial permits for performance of prospection, exploration, construction and/or exploitation activities, which should be requested and are granted at the provincial level.

In order to conduct mining activities an environmental permit is required. An environmental impact report must be filed and, after its assessment, the authority approves or rejects it. In case of approval, an Environmental Impact Statement is issued, which usually involves a set of rules that the mining company must comply with. Such permit must be updated at least once every two years.

STAKEHOLDER ENGAGEMENT AND SOCIAL IMPACTS

Public participation is mandatory during the procedure to approve the Environmental Impact Report of mining projects (according to the Federal Environmental Law No 25,675 and provincial legislation). Moreover, the environmental impact report must consider the project's social impacts and propose mitigation measures. Conducting a public participation is mandatory, but its outcome is not binding for the competent authority. As regards to indigenous people, a prior consultation must be carried out in certain cases (under International Labor Organization Convention No. 169 and other federal and provincial regulations).

PROHIBITION OF METALLIFEROUS MINING IN LOCAL JURISDICTIONS

Some provinces, under the heading of mining environmental regulation, have enacted legislation to prohibit metalliferous mining in a direct manner, or, in an indirect manner, by means of the prohibition of the use of cyanide and other chemical substances in metal mining.

For example, Law No. 5,001 of the Province of Chubut, which prohibits metalliferous open-pit mining activity and the use of cyanide in mining production processes; Law No. 7,722 of the Province of Mendoza, which bans the use of chemical substances such as cyanide, mercury, sulfuric acid, and other similar toxic substances in the metalliferous processes of prospecting, exploration, exploitation and/or industrialization of metalliferous minerals obtained by any extraction method; among others.

HYDROCARBON ACTIVITIES

OIL & GAS ACTIVITIES

Argentina has 2.4 billion barrels of proven crude oil reserves distributed within 23 sedimentary basins.[155] It also has an oil production of 627,000 barrels per day and a natural gas production of 38.6 billion cubic meters.[156] These statistics place the country as the first-largest producer of natural gas and the fourth for crude oil in South America.

155 There are 23 sedimentary basins (9 offshore or partially offshore and 14 completely onshore) with a total surface of 3.6 million square kilometres.

156 See: BP Statistical Review of World Energy 2022 (https://www.bp.com/content/dam/bp/business-sites/en/global/corporate/pdfs/energy-economics/statistical-review/bp-stats-review-2022-full-report.pdf)

In terms of unconventional hydrocarbons[157], reports produced during the past decade announcing that Argentina has the second-largest shale gas reserves and the fourth-largest shale oil resources have had a groundbreaking impact on the country's position as a global energy player.[158] More than 50% of these unconventional resources are located in the Neuquén Basin, especially in the Vaca Muerta Formation, which constitutes a huge shale resource.

As of 2018 the Federal Government has fostered the development of hydrocarbon activities in the Argentine Sea, launching in 2019 the first bidding round after 3 decades, which concluded with the awarding of 18 offshore exploration permits to 13 companies, covering roughly 225,000 km2 and with winning bids of more than USD 718 million.

HYDROCARBON REGULATORY FRAMEWORK

Hydrocarbon resources are severable from the general ownership of property. According to the Argentine Constitution, as amended in 1994, natural resources, including hydrocarbon reserves, belong to the provinces whereby they are located (original domain)[159]. Nevertheless, the Constitution empowers the Argentine Federal Congress to legislate on hydrocarbon matters (jurisdiction).

The main regulatory mechanisms for the hydrocarbon industry are framed under Federal Hydrocarbons' Law No. 17,319 and the Federal Natural Gas Law No. 24,076[160], which contain the national criteria regarding exploration, production, and transportation of hydrocarbons. The National Secretariat of Energy is the enforcement authority of the under Federal Hydrocarbons' Law at a federal level and, therefore, it regulates several aspects of the hydrocarbon regime.

In 2006 hydrocarbon resources located within the provinces and territorial waters of up to 12 nautical miles measured from the baseline were transferred from the

157 Unconventional hydrocarbon production is defined as the extraction of oil and gas through unconventional stimulation techniques applied to deposits in geological formations characterized by the presence of rocks with low permeability. These include the following: shale or slate rocks (e.g., shale gas and shale oil), compact sandstones (tight sands, tight gas and tight oil) and layers of coal (e.g., coal bed methane).

158 See: U.S. Energy Information Administration (EIA), Technically Recoverable Shale Oil and Shale Gas Resources: Argentina. Independent Statistics & Analysis, U.S. Department of Energy, September 2015 (https://www.eia.gov/analysis/studies/worldshalegas/pdf/Argentina_2013.pdf).

159 Under Section 124 of the Argentine Constitution the provinces have the original dominion over the natural resources existing in their territory.

160 In addition, some provinces have enacted their own regulations regarding hydrocarbon matters, which despite having several discrepancies with the Federal Hydrocarbons Law, are still in force. Lack of regulatory coordination between federal and provincial hydrocarbon regulation has led to federal court disputes, with some cases making it to the Supreme Court of Justice.

federal domain to the provinces, as well as exploration permits and production and transportation concessions granted originally by the Argentine Government.[161] Notwithstanding, federal regulations regarding the exploration and production of hydrocarbons, which include provisions dealing with the protection of the environment, are still in effect and coexist with provincial laws and regulations.

ENVIRONMENTAL LEGAL FRAMEWORK APPLICABLE TO HYDROCARBON ACTIVITIES

FEDERAL ENVIRONMENTAL REGULATIONS

Federal environmental regulations for upstream, midstream, and downstream activities are summarized below.

- General hydrocarbons regime

Hydrocarbons production concessions and exploration permits may be revoked in case the operator or concessionaire do not comply with the reporting obligations set forth by the Hydrocarbons' Law No. 17,319 or by its complementary regulations, which comprise environmental information, among others.[162]

Under Law No. 24,076 construction and operation of natural gas transportation and distribution systems must comply with rules related to the protection of the environment and public safety. The Gas Regulatory Agency (ENARGAS) has issued rules for safety and environmental protection applicable to gas pipelines.[163]

National and provincial states shall promote the enactment of a uniform environmental legislation, which will have as a priority objective to apply the best environmental management practices to the exploration, productions and/or transportation of hydrocarbons to achieve the development of the activity with suitable protection for the environment.[164]

- Inspection and safety conditions of storage facilities

Federal regulation provides for safety rules, conditions, standards, requirements, and procedures applying to facilities in which solid, mineral, liquid or gaseous fuels are elaborated, transformed and/or stored.[165] Hydrocarbons' storage facilities located within the boundaries of hydrocarbons' concessions must comply with these safety requirements.[166] On an annual basis, Hydrocarbons' concessionaires

161 Federal Law No. 26,197, which amended the Federal Hydrocarbons' Law.

162 Section 80 of the Federal Hydrocarbons Law.

163 NAG Rules No. 100 and 153, among others.

164 Section 23 of Federal Law No. 27.007, which amended the Federal Hydrocarbons Law.

165 Law No. 13,660 and Decree No. 10,877/1960, implementing said law. Under this regime, the Secretariat of Energy issued Resolutions No. 419/1993, 404/1994, 1,102/2004 and 785/2005, among others, which provides for safety and environmental requirements for the storage of solid, liquid and gaseous fuels.

must submit before the Secretariat of Energy audit reports on the safety conditions of such facilities. Said reports must be prepared by external registered auditors.

- Environmental reports

Companies, economic groups, concessionaires, holders of exploration permits or operators that are subject to national production of hydrocarbons or works related to such activities are obliged to perform environmental studies prior to the exploitation and production stages.[167]

Works and tasks controls corresponding to the exploration stage must be filed with the Secretariat of Energy within 30 days as from the completion and testing of a well. Controls corresponding to the production stage must be conducted annually and be reported to the Secretariat of Energy. Monitoring reports must include an evaluation of the environmental conditions of soil, groundwater, surface water, air and the ecosystems.[168]

- Hydrocarbon pools

The criteria and terms for the reconditioning of pools and remediation of soils contaminated with oil as a result of hydrocarbons' exploration and/or production activities are set forth by Resolution No. 341/1993 of the Secretariat of Energy. Pools are classified in accordance with the risks that they may pose to birds and animals in general, soils, groundwaters and other natural resources: (i) pools requiring immediate action; (ii) high risk pools; (iii) medium risk pools; and (iv) pools of minimum risk or pools presenting no risks.

- Natural gas venting

Venting of natural gas produced in oil and gas wells and its ancillary facilities is permitted only in those oil wells in which the gas/oil ratio ("GOR") does not exceed 1 m3/m3. Such rule also forbids the venting of natural gas in oil wells which GOR exceeds 1,500 m3/m3 and provides that such wells must be closed down until its natural gas could be commercially produced and exploited. Under certain circumstances, the operator is allowed to apply for an exemption to the above thresholds[169]. Concessionaires must report semiannually to the Secretariat of Energy the volumes of natural gas vented in each well in their concessions.

- Abandonment of hydrocarbon wells

Hydrocarbons' concessionaires must comply with certain technical methods and procedures for the abandonment of wells. They also must report annually to the

166 Resolution No. 14/1998 issued by the Undersecretariat of Fuels.
167 Resolution 105/1992 issued by the Secretariat of Energy.
168 Resolution No. 25/2004 issued by the Secretariat of Energy.
169 Resolutions No. 236/1993 and 143/1998 of the Secretariat of Energy.

Secretariat of Energy: (i) wells which are abandoned every year; (ii) the schedule for the abandonment of wells in each area for the current year; and (iii) the proposed schedule for wells to be abandoned in the following year.[170]

- Incident reporting

Companies operating exploration and production areas shall report to the authorities, within 24 hours, every major incident that affected or could affect human health, natural and socioeconomics resources.[171] Minor incidents must be documented and registered internally.

- Environmental impact assessment for offshore activities

To develop offshore projects, any holder of a surface reconnaissance or exploration permit or production concession must comply, prior to its execution, with a specific environmental impact assessment and obtain an environmental impact declaration approving the development of project.[172]

The environmental impact assessment proceeding for offshore activities involves the following stages: (i) submission of a project notice by the proposer; (ii) categorization of the project by the enforcement authority; (iii) submission of an environmental impact study; (iv) public participation stage, through public hearings or public consultations; (iv) technical review by the enforcement authority; and (v) issuance of the environmental impact declaration.

PROVINCIAL ENVIRONMENTAL REGULATION

Most of the hydrocarbon-producing provinces have currently issued specific environmental regulations for the hydrocarbon industry, which are listed below.

- Province of Neuquén

Law No. 2,175 provides for rules on gaseous emissions generated by hydrocarbon activities.

Decree No. 2,656/1999 (Annex VII) provides for environmental rules for operations of prospecting, exploration, exploitation, transportation, and processing of hydrocarbons.

Decree No. 1,631/2006 approves the provisions for abandonment of hydrocarbon wells.

170 Resolution No. 5/1996 issued by the former Secretariat of Energy, Transport and Communications.

171 Resolution No. 24/2004 issued by the Secretariat of Energy.

172 Joint Resolution No. 3/2019 issued by the former Secretariat of State of Energy and the former Government Secretariat of Environment and Sustainable Development, current Ministry of Environment and Sustainable Development.

Decree No. 1,483/2012 provides for the procedures for exploration and exploitation of unconventional reservoirs.

Resolution No. 982/2014 of the State Secretariat of Environment and Sustainable Development provides for the obligation of using oleophilic organic blankets.

Provision No. 29/2012 of the Undersecretariat of Mining and Hydrocarbons provides for the standards for the assisted recovery practices for extraction of hydrocarbons.

Provision No. 1,185/2021 of the Secretariat of Environment provides for rules on environmental incident reporting.

- Province of Santa Cruz

Law No. 3,122 provides for an environmental clean-up program for areas affected by hydrocarbon activities.

Resolution No. 43/2015 of the Institute of Energy provides rules on environmental incident reporting.

Provision No. 45/2007 of the Undersecretariat of Environment provides for the obligation of using a dry location system when drilling hydrocarbons extraction wells.

Provision No. 135/2007 of the Undersecretariat of Environment provides for standards and technical procedures on secondary recovery during the extraction of hydrocarbons.

Provision No. 119/2012 of the Secretariat of Environment creates the Provincial Registry of Environmental Liabilities.

- Province of Chubut

Law No. XI-35 (Book II, Title V): provides for regulations on environmental management of hydrocarbon activities.

Decree No. 1,151/2015: provides for the procedure to be followed in the event of environmental incidents.

Resolution No. 3/2008 of the Ministry of Environment and Sustainable Development Control provides for the obligation of using a dry location system when drilling hydrocarbons extraction wells.

- Province of Tierra del Fuego

Resolution No. 225/2015 of the Secretariat of Energy and Hydrocarbons creates the Provincial Registry of Environmental Incidents, in which all incidents reported by the operators of hydrocarbon areas must be recorded.

Resolution No. 233/2015 of the Secretariat of Energy and Hydrocarbons creates the Provincial Registry of Generators and Operators of Hydrocarbon Waste.

ENERGY SECTOR

CONVENTIONAL POWER

Law 24,065 provides that the infrastructure, facilities, and the operation of the equipment associated with the generation, transport and distribution of energy must follow the guidelines aimed to protect the watersheds and ecosystems involved. Likewise, such facilities must comply with the standards on air emissions established at the federal level.

All companies requesting to act as an agent of the Wholesale Electricity Market (MEM, after is acronym in Spanish) either as a generator, self-generator, co-generator, or transporter must submit the relevant authorization to the federal Secretary of Energy alongside with the environmental impact study (EIS).

The EIS must indicate the relevant stage of the project (i.e., the feasibility stage or the executive stage) and observe the methodological guidelines established in the applicable regulations issued by the federal Energy Secretariat.

Such guidelines apply to the following activities:

- Guidelines for Conventional Thermal Power Plants, approved by Resolution No. 149/1990 issued by the former federal Energy Secretariat, as amended by Resolution 154/1993 and supplementary regulations.

- Guidelines for Hydroelectric Power Plants, approved by Resolution No 718/1987 issued by federal Energy Secretariat and supplementary regulations.

- Guidelines for the Extra High Voltage Electric Transmission System, approved by Resolution 15/1992 issued by federal Energy Secretariat and supplementary regulations.

- Procedures for Environmental Management Programs, approved by Resolution 32/1994 and supplementary regulations.

In addition, generating agents, self-generators, co-generators, transporters of electricity in high voltage, by trunk distribution, international interconnection, and distributors of electricity under federal jurisdiction of the WEM must prepare, implement, and certify an Environmental Management System for the facilities under their responsibility. They must also submit the Environmental Plans in accordance with the guidelines established in the Resolution 558/22 issued by the Federal Electricity Regulatory Agency (ENRE for its Spanish acronym).

RENEWABLE ENERGY

In the past years, the generation of electricity from renewable sources has been included in the government agenda.

Law 26,190, enacted in December of 2006, and its supplementary regulations considered renewable energy generation as a public service declared of national interest.

Such law sets forth a clear goal: to achieve an 8% participation of renewable generation in the Argentina electric matrix within a 10-year period. In addition, it establishes a special tariff and a promotional regime for renewable energy projects.

On September 23, 2015, Law 27,191 modified Law 26,189.

The amendments to Law 27,191 -intended to increase the investments in renewable energy projects as well as promote the diversification of the electricity generation matrix by increasing the participation of renewable sources- established both a short and long-term goal: electricity generation from renewable sources should reach an 8% participation in the market's electricity consumption by December 31, 2017. This participation percentage was to be increased progressively and reach 20% by December 31, 2025.

Additionally, the amendments to Law 27,191 aimed to (i) increase the limit of power for the hydroelectric plants included in the promotional regime; (ii) modify and expand the tax benefit scheme for the eligible projects; (iii) create the FODER, a trust authorized to grant loans, capital contributions and any other financial instruments to fund eligible projects.

In line with the provisions, the supplementary regulations of Law 27,191 established some environmental standards for renewable energy projects, which must be observed in the relevant EIS[173].

For instance, Resolution 136/2016 establishing the Terms and Conditions of the RenovAr Round 1 Program adopted the Performance Standards on Environmental and Social Sustainability of the World Bank Group.

The International Finance Corporation (IFC) of the World Bank Group establishes eight standards adopted by the International Bank for Reconstruction and Development (IBRD) for operations involving private sector activities.

Such standards are applicable to private companies and include guidelines to identify, prevent, mitigate, and manage risks and impacts of renewable energy in a sus-

173 The EIS is submitted before the provincial agency except for the case of hydroelectric dams. In the latter case, the EIS is submitted and approved at the federal level.

tainable manner. Sustainability standards also include the obligation to produce reports disclosing relevant environmental aspects of the project.

Besides Resolution No. 330/22 issued by the Federal Secretariat of Energy launched an expression of interest request for the development of renewable energy projects and associated storage infrastructure.

The environmental requirements applying to such projects, were established by Resolution No. 36/23 issued by the Federal Secretariat of Energy.

Moreover, Resolution 558/22 issued by the ENRE establishes alternative mechanisms for the compliance of some obligations related to the environmental management system applying to: (i) agents responsible for photovoltaic solar parks or solar thermoelectric power plants whose facilities have an environmental complexity level lower than 14.5 points; (ii) agents responsible for wind farms, whose facilities have an environmental complexity level lower than 14.5 points; (iii) agents responsible for thermal power plants with an installed capacity of less than or equal to 2 MW, (iv) agents responsible for thermal power plants larger than 2 MW and less than or equal to 50 MW of installed power.

Besides, such resolution sets forth an alternative procedure for agents responsible of hydroelectric plants that exploit public watercourse and generate power exceeding 500 kV.

To summarize, the regulations aforementioned provide guidelines concerning the management of environmental and social risks; the efficiency of the resources used; the prevention of pollution as well as measures related to the public health and safety, land acquisition , biodiversity conservation and sustainable management of natural resources.

ARGENTINE FEDERAL ENVIRONMENTAL REGULATORY STRUCTURE

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President of Argentina

(Presidente de la Nación Argentina)

ALBERTO FERNANDEZ

Chief of the Cabinet of Ministers

(Jefatura de Gabinete de Ministros)

AGUSTÍN OSCAR ROSSI

Minister of Environment and Sustainable Development

(Ministro de Ambiente y Desarrollo Sustentable)

JUAN CABANDIE

Undersecretary of Administrative Management

(Subsecretaria de Gestión Administrativa)

JOAQUÍN LARRAÑAGA

Interjurisdictional and Institutional Undersecretary

(Subsecretaria Interjurisdiccional e Interinstitucional)

NICOLAS FERNANDEZ

Secretary of Environmental Policy and Natural Resources

(Secretaria de Política Ambiental en Recursos Naturales)

BEATRIZ DOMINGORENA

Secretary of Climate Change and Sustainable Development

(Secretaria de Cambio Climático y Desarrollo Sustentable)

CECILIA NICOLINI

Secretary of Environmental Control and Monitoring

(Secretario de Control y Monitoreo Ambiental)

SERGIO FEDEROVISKY

Undersecretary of Fiscalization and Restoration

(Subsecretario de Fiscalización y Recomposición)

JORGE LUIS ETCHARRAN

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(Gobernador de la Provincia de Buenos Aires)

AXEL KICILLOF

Vice Governor of the Province of Buenos Aires

(Vicegobernadora de la Provincia de Buenos Aires)

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(Ministra de Ambiente)

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(Subsecretario de Política Ambiental)

TAMARA BASTEIRO

Undersecretary of Control and Environmental Fiscalization

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(Gobernador de la Provincia de Córdoba)

JUAN SCHIARETTI

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LUCRECIA PANIZONI

Recycling and circular economy

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FRANCISCO SANCHEZ MORENO

Planning and Coordination of Urban Interventions

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Undersecretary of Urban Green Infrastructure Policies and Sustainable Development

(Subsecretario de Políticas de Infraestructura Verde Urbana y Desarrollo Sostenible)

ARIEL ANIBAL ALVAREZ PALMA

Mendoza Beatriz Silvia et al. vs. the National Government et al. about damages - damages derived from the environmental pollution of the Matanza-Riachuelo River (Mendoza Beatriz Silvia y otros c/ Estado Nacional y otros s/ daños y perjuicios - daños derivados de la contaminación ambiental del Río Matanza-Riachuelo).

This complaint was filed before the National Supreme Court of Justice (Corte Suprema de Justicia de la Nación -CSJN-) by Ms. Beatriz Silvia Mendoza and other plaintiffs against the Federal Government, the Province of Buenos Aires, the Autonomous City of Buenos Aires and forty-four companies that carry out their industrial activities in the Matanza-Riachuelo basin[174] claiming on the basis of the pollution of the Matanza-Riachuelo river: (i) compensation for "environmental damage with a collective impact" (plaintiffs divide their claims depending on the "reversible" or "irreversible" nature of the damage with a collective impact, establishing that (a) in case of "reversible" environmental damage with a collective impact, the compensation shall be allocated to a "common restoration fund" to bear the restoration of the ecosystem, while (b) in case of "irreversible" environmental damage with a collective impact, the compensation shall be used to mitigate "collective moral damages"), and (ii) the redress of individual damages caused through the environmental damage. The CSJN held that it has no jurisdiction regarding claims for personal injuries.

In a decision entered on June 20, 2006, the CSJN required that the Federal Government, the Province of Buenos Aires, the Government of the City of Buenos Aires and COFEMA submit an integrated plan contemplating an environmental system for the territory, the control over the performance of anthropic activities, an environmental impact study of the forty-four companies, a program for environmental education and a program for public environmental information. Likewise, in the same decision, the CSJN required that the forty-four companies being sued inform of the following aspects in connection with the environmental management of their industrial plants: (i) liquids discharged into the river, their volume, quantity and description (including a subsequent enlargement concerning waste, whether solid or not, and gaseous emissions), (ii) if they have any waste treatment system, and (iii) if they acquired the environmental insurance regulated in Section 22 of the LGA.

174 See discussion infra Water: Matanza-Riachuelo Basin Authority.

A resolution issued by the CSJN on August 24, 2006 admitted the participation of the Ombudsman as a third party[175]. Such participation was allowed by the CSJN under the provisions of the LGA and according to section 90 of the Argentine Code of Civil and Commercial Procedure. However, the amendment of the complaint was dismissed when the claimant sought to include fourteen Municipalities[176] as defendants in addition to the Federal Government, the Province of Buenos Aires and the Government of the Autonomous City of Buenos Aires[177].

The authorities submitted the integrated plan, and the companies filed their respective answers in compliance with the order issued in June 20, 2006. The CSJN also placed two public hearings on calendar, which were held on September 5 and 12, 2006. In those hearings, the authorities explained the integrated plan to the CSJN and third parties and some of the defendants made oral statements. Afterwards, the plaintiffs extended their complaint to the Municipalities comprised in the Matanza-Riachuelo basin.

Further hearings took place during 2007 in which the authorities informed on the progress of the integrated plan. In August 2007, the CSJN required the Matanza-Riachuelo Basin Authority ("ACUMAR", a basin authority created to fulfill the integrated plan - see discussion infra ACUMAR) to provide a list of all the facilities located in the Riachuelo-Matanza basin. In the same opportunity the CSJN ordered to serve the defendants with the complaint and established that the answers to the complaint would be presented in public hearings. Answers to the complaint were filed in late November 2007.

On July 8, 2008 the CSJN rendered its final judgment. The CSJN ordered the Federal Government, the Province of Buenos Aires and the Government of the Autonomous City of Buenos Aires to prevent further contamination and to restore the environmental damage. In order to comply with this ruling in a heavily populated basin, with more than 5,000,000 inhabitants and more than 3,000 industries, the CSJN provided a thorough procedure. Under this procedure, the three states must perform a wide scope of tasks, from identifying the polluters and forcing them to cease the polluting activity and to undergo an industrial restructuring process, to

175 In this resolution, dated August 30, 2006, four Non-Governmental Organizations have been accepted, with the aim of protecting the environment as if they were interested third parties.

176 Almirante Brown, Avellaneda, Cañuelas, Esteban Echeverría, Ezeiza, General Las Heras, La Matanza, Lanús, Lomas de Zamora, Marcos Paz, Merlo, Morón, Presidente Perón and San Vicente.

177 The CSJN issued such a resolution taking into account that it must strictly exercise the court's powers in connection to the case as set forth in section 32 of the LGA since, even though in similar cases certain principles which rule traditional civil proceedings have been applied in a less stringent manner and customary formalities have been softened, this is not an adequate ground to allow the inclusion in this kind of issues of motions and requests inconsistent with essential procedural rules, which will finally cause legal proceedings to be anarchical, thus frustrating the court's jurisdiction and the redress of any violation of those rights and interests sought to be protected.

planning and building treatment plants and sewers. The CSJN allocated the execution of this ruling to a Federal Court in the district of Quilmes and held that this case would produce a litis pendentia effect on other litigation processes with the same subject matter.

Regarding past damages, the CSJN decided that the suit will continue in order to determine the companies' liabilities and contributions to the pollution of the river basin.

In February 2015, the CSJN rejected the exception for insufficiency of a pleading, which was required by the defendants. The CSJN understood that the claim was not inaccurate, since: (i) the plaintiff identified accurately the environmental resource for which every company had been sued; (ii) all the defendants could responde to the lawsuit, in accordance with the right of a legal defense; and (iii) every defendant knew what kind of environmental impact its activity could cause.

In December 2016, after a public hearing in which the restoration of the Matanza-Riachuelo Basin was evaluated, the CSJN ordered to ACUMAR to establish a system, in order to determine which remediation objectives had and had not been accomplished. The CSJN ordered: (i) industrial contamination controls; (ii) landfill and riverbank cleaning; (iii) expansion of the potable water network; (iv) relocation of precarious settlements; v) development of a sanitary plan and; (vi) measurement of the environmental quality.

Pipet Luisa et al. Vs., Shell CAPSA et al., about damages ("Pipet, Luisa y Otros c/ Shell CAPSA y otros s/ daños y perjuicios").

Seventy-seven applicants started a legal action against forty-five companies, the National Government, the Government of Buenos Aires and the ACUMAR (authority of the Matanza- Riachuelo Basin), in order to obtain a compensation for the alleged damages that they suffered from the polluted environment. The plaintiffs also required preliminary proof regarding their physical and psychological health, to determine which treatment would be the best in each case, as well as quaterly analysis of the plaintiffs.

The first instance judge granted the petition, the defendants appealed it, and the Court of Appeal sustained it.

The defendants required the intervention of the Supreme Court, alleging that the

Court of Appeal was incompetent to decide in that matter. They argued there was a legal precedent which was a similar case decided by the Supreme Court of Justice: “Mendoza Beatriz Silvia et al. vs. the National Government et al. about damages - damages derived from the environmental pollution of the Matanza-Riachuelo River”.

The Supreme Court, therefore, rejected the decision of the Court of Appeal, since the subject of the trial had already been covered by “Mendoza”, and ordered to send the case to the executing court -where “Mendoza” case was currently at- in order to review it and decide on the measures to be taken.

Líneas de transmisión del Litoral S.A. vs. Province of Corrientes about Statement of Unconstitutionality (Líneas de transmisión del Litoral S.A. c/ Provincia de Corrientes s/declaración de inconstitucionalidad).

This complaint was filed in the CSJN by Líneas de Transmisión del Litoral S.A. (“LITSA”), which had been granted a federal tender to construct and operate a transmission line related to the Hydroelectric Power Station of Yacyretá, in the Province of Corrientes. The CSJN held that the local legislation of the Province of Corrientes that required LITSA to fulfill certain legal environmental requirements was unconstitutional, since this issue referred to a national public interest, and therefore, was governed by federal regulations.

The CSJN stated that the local legislation interfered with the federal one and decided that, since these regulations were incompatible, the national public interest had to prevail.

Bellini, Edgardo C vs Tripetrol petroleum Ecuador Inc. – Netherfield Corp et al about writ of relief (Bellini, Edgardo C vs Tripetrol petroleum Ecuador Inc. – Netherfield Corp y otros s/ amparo)

Mr. Bellini interposed a writ of relief against the oil companies that are licensees of the exploration and exploitation of petroleum at Orán department, province of Salta, and against the national government. The plaintiff alleged damages that were cause to his property, his livestock and the underground water of his property by the spillage of the oil well identified as MDT-14. He also claimed potable water to feed the livestock and an analysis of the underground water to determinate its state.

The plaintiff said that the oil well was created by the national government in 1970 through YPF S.E. and was abandon in 1978 without having the proper treatment before its abandon. The plaintiff demanded the responsibility of the government for its behavior in 1978 and the responsibility of the actual licensees since they have the alleged duty to control and administrate all the oil wells in the area. It claimed that the concessionaires had approved an agreement to remediate the well and pay the damages caused to the landowners, according with the agreement signed with the National Secretariat of Energy in 2007.

The first instance sentence decided in favor of the plaintiff, condemning all the defendants responsible for the damage caused by the oil well, and it also extend the responsibility to the environmental damages that may have caused. The defendants appealed the first instance sentence.

The Court of Justice of Salta (CJS) intervened and granted the writ of relief in favor of the plaintiff. The CJS argued that despite of the abandon of the oil well in 1978 and the lack of its exploitation, the national government should have abandoned it according with reasonable guidelines to avoid future and possible damages, which had not happened. The rest of the defendants were hold responsible since they had the obligation to control all the oil wells in the area that are exploring. In addition, they had knowledge of the oil well MDT-14 situation by the meetings that had with the Secretary of Energy of the Nation, when they assumed the obligation to collaborate in order to restore the damages caused to the environment by the well MDT-14.

Finally, the CJS confirmed the first instance sentence.

Kersich, Juan Gabriel et al. Vs. Aguas Bonaerenses S.A., et al., about action of protection (Kersich, Juan Gabriel y otros c/ Aguas Bonaerenses S.A. y otros s/ amparo)

This claim was originated in the province of Buenos Aires against Aguas Bonaerenses S.A. and the government of Buenos Aires for the alleged contamination of water with arsenic. The applicants required the adequacy of water to the standard measures of the World Health Organization and the Alimentary Code of Argentina.

The judgement of first instance ordered a precautionary measure to Aguas Bonaerenses in order to provide all the claimers with potable water in the necessary amounts to fulfill the human basic needs, as well ordered and periodical analysis of the distributed water.

After that decision, the judge accepted the addition of 2.641 new applicants, and he extended the sentence to them.

The defendant appealed the decision, which was confirm by the Appeal Chamber as well as the Supreme Court of the Province of Buenos Aires.

The National Supreme Court of Justice (CJSN), revoked the judgment for which was accepted the extension of applicants since it was a violation of procedural guarantees of the defendant, although the Supreme Court kept the precautionary measure based on the preventive and precautionary principles.

ASSUPA vs. YPF S.A. et. al about Environmental Damage (ASSUPA c/YPF S.A. y otros s/ daño ambiental).

This lawsuit was brought by an interest group named “ASSUPA” -integrated by surface owners of the hydrocarbon Neuquén basin-, against several oil and gas companies. The plaintiff seeks the restoration and remediation of an alleged environmental damage that could have been caused by the development of oil and gas exploration and production activities.

The Provinces of Neuquén, La Pampa, Río Negro, Buenos Aires and Mendoza were summoned as third parties at ASSUPA’s request and in accordance with Section 90 of Argentine Code of Civil and Commercial Procedure (this means that any third person who has an individual interest in the case or has the standing to sue or be sued can be brought to the lawsuit). ASSUPA stated that the environmental resources of those provinces were in danger and that any person was entitled to sue the oil and gas producers.

The CJSN accepted the intervention of those third parties.

The defendants filed a motion to dismiss, arguing that their right of defense was hampered as: (i) the accusations were drafted in vague terms; (ii) the complaint did not describe the status of the resources whose restoration was requested; and (iii) essential facts were meant to be discovered in the evidentiary period, after the defendants filed their defenses.

On August 29, 2006, the CSJN admitted the motion and upheld that: (a) it was necessary to describe all the facts in the complaint as the Court cannot substitute the

plaintiff's lack of activity; (b) it is not acceptable to incorporate the facts in future stages of the legal procedure different from the lawsuit; (c) the protection of the environment is an important constitutional right with the same constitutional status as the right to a proper defense in trial.

Therefore, ASSUPA had to re-file its claim, and, in March 2007, the defendants answered the complaint. On August 26, 2008, the CSJN decided that the defects of the previous complaint had been rectified. The CSJN ordered to summon the third parties to answer the complaint and said it would decide over the pending issues and preliminary motions afterwards.

The plaintiff and YPF S.A. (one of the defendants) requested the suspension of the judicial proceeding, in order to attempt to reach an agreement. On December 13, 2011, the CSJN granted the suspension of the proceeding and ordered the parties to weekly inform the CSJN about the outcome of the negotiations.

In 2012, ASSUPA informed about the negative outcome of the negotiations.

In December 2014, the CSJN decided to reject ASSUPA's request to include Repsol S.A. in the lawsuit, as the main shareholder of YPF S.A., as well as the request of ASSUPA to grant responsibility to YPF's directors. The CSJN argued that Law 19.550 protects shareholders of the companies, who can only be sued in the cases included in the referred law, such as fraud cases. Environmental damages are not contemplated as one of the exceptions to that protection.

Also, the CSJN declared it had no jurisdiction over environmental damages related to local and provincial situations, and that only "inter-jurisdictional situations" (such as the Colorado River basin) would fall under its federal venue.

This Court decision means that the subject matter of the case will be reduced to inter- jurisdictional damages and that ASSUPA should address the other claims before local courts.

Martínez, Sergio Raúl vs Agua Rica LLC Suc. Argentina about writ of relief (Martínez, Sergio Raúl c/ Agua Rica LLC Suc Argentina y su propietaria Yamana Gold Inc. y otros s/ acción de amparo).

A group of plaintiffs from Andalgalá, Province of Catamarca, required a protective action against the Province, the company "Minera Agua Rica LLC Sucursal Argen-

tina", Yamana Gold Inc., and the municipal government, in order to obtain the suspension of the mining activity at the Minas de Agua Rica mining site.

The plaintiff argued that the Environmental Impact Assessment proved that the activity did not fulfill the legal requirements to proceed, but the government of Catamarca approved the activity anyway.

Both the Lower Court and the Court of Appeal rejected the protective action, claiming that the issue should be analyzed in a larger procedure, in order to properly prove the facts brought by the plaintiff.

The CSJN understood that those rulings were arbitrary, since the Mining Code and Law No. 25.675 regulate that situation, including the writ of relief as a legal action to protect the environment. The Secretariat of Environment of Catamarca stated that the mining activity might cause landslides, floods, and other environmental damages. Therefore, the CSJN interpreted that the authorization granted to the mining activity was opposite to the environmental laws that regulate it.

According to the prevention and precautionary principles, the activity could not proceed as long as the risk situation can be controlled, so the CSJN overruled the decision and ordered to pass a new one, according to the legal principles and the protective action required by the plaintiff.

Cabaleiro Luis Fernando vs. Papel Prensa S.A. about writ of relief (Cabaleiro Luis Fernando c/ Papel Prensa S.A. s/ Amparo).

The plaintiff required a protective action against Papel Prensa S.A., regarding the lack of environmental authorization to carry out forestry activities in Mercedes, Province of Buenos Aires. The plaintiff stated that the company did not perform the Environmental Impact Assessment (the "EIA"), so the enforcement authority never granted the Declaration of Environmental Impact required by National Law No. 25,675 and Buenos Aires' Environmental Law No. 11,723.

The plaintiff also argued that the company was using agrochemicals without wastes disposal plan, as required by Law No. 10,699 and the Decree No. 499/19991.

Both the Lower Court and the Court of Appeal rejected the writ of relief, stating that the issues discussed required a different kind of procedure, with more proofs. The Supreme Court of Justice of the Province of Buenos Aires (SCJBA) overruled the decisions, considering that they were arbitrary for being opposite to the federal

and provincial environmental regulations. It stated that the preventive and precautionary principles contained in the environmental laws were enough to treat the issue through a protective action.

The SCJBA decided to suspend the activity of Papel Prensa until it obtained an authorization from environmental enforcement authority and submitted a plan, according to Law No. 10,669, to dispose the agrochemicals wastes properly.

PRECAUTIONARY AND PREVENTIVE PRINCIPLES

The precautionary and preventive principles have been defined by the LGA, respectively, as follows: "In case of threat of serious or irreversible damage, the absence of scientific information or certainty shall not be used as a reason to delay the adoption of cost- effective actions to prevent the degradation of the environment" and "causes and sources of environmental problems shall be given preferred and integrated treatment aimed at preventing any possible negative effects on the environment".

Many of the environmental lawsuits have been decided by different Courts with grounds on these principles.

Figueroa Eusebio Sebastián et al. about a Summary Action to Protect a Constitutional Right (Figueroa Eusebio Sebastián y otros s/amparo).

This holding was issued by the Appellate Labor and Administrative Court, Civil and Administrative Division of the Judicial District IV, in Cipolletti, Province of Río Negro, on July 8, 2004. The holding applied the LGA and Law No. 25,612. The complaint was filed due to the alleged pollution of the "Canal de los Milicos" which was caused by liquid effluents discharged by several companies. The court decided that no user of the "Canal de los Milicos" shall discharge any effluent other than those complying with Law No. 25,612 and with local rules. Thereafter, applying the precaution and prevention principles, the Court ordered that an expert carry out a research on the environmental impact in such place to determine any measures to be taken. As from December 31, 2004, effluents may be discharged to the canal only if authorized by the local enforcement authority, which must from time to time, control that the quality of the water complies with the rule's provisions and report on this matter to the Court.

Asociación para la Protección del Medio Ambiente y Educación Ecológica 18 de Octubre vs. Aguas Argentinas S.A. et al.

Filed by the neighbors of the District of Quilmes against Aguas Argentinas S.A., the Province of Buenos Aires and the Water and Sewer Controlling Authority (Ente Tripartito de Obras y Servicios Sanitarios -ETOSS-) since the people's quality of life had been altered due to the rise of groundwater, being people's health and real properties under a great risk given that the dumb wells in each house were overflowing. The judge issued the precautionary measure sought by the "Asociación" and the appellate court modified such order by requesting the defendant to implement within a final 60-day term the mechanisms and processes set forth in the agreements executed between the litigating parties prior to the filing of this summary action so that an ecological balance may be achieved in the region.

Asociación Coordinadora de Usuarios, Consumidores y Contribuyentes vs. ENOE-EDESUR (Asociación Coordinadora de Usuarios, Consumidores y Contribuyentes c/ ENOE-EDESUR).

This case was dismissed on the grounds that such action had not been properly filed since the legal requirements to request a measure of immediate effectiveness had not been met. This legal action seeks to prevent the effects caused by exposure to the electromagnetic fields deriving from the wiring laid by the companies providing electricity, and specially the new cabling work which was to be made by EDESUR S.A. in the locality of Ezpeleta to enlarge the Transformer Substation in Sobral. It was requested that such substation be transferred. The Appellate Court held, on the basis of the precautionary principle since the required information was not available, that the cabling work to feed the Substation in Sobral be suspended, and it also ordered the defendants to submit a report specifying the measures they will apply to protect the Ezpeleta's neighbors from the potentially negative effects to their health deriving from such companies' activities.

Ancore S.A. vs. Municipality of Daireux

This case was decided by the Supreme Court of Justice of the Province of Buenos Aires (Suprema Corte de Justicia de la Provincia de Buenos Aires -SCBA-). The complaint was filed on the grounds that the Municipality of Daireux, under Ordinance 557/1996, prohibited the installation of feedlots within an area of fifteen kilome-

ters from the main square of the city, forcing the existing ones to adjust their facilities within one month. Thus, Ancore S.A., which at such time was operating within such 15-kilometer area, had to close down and filed a complaint for damages. In this case, whereby an administrative action was challenged, the SCBA considered that such administrative action was reasonable on the basis of the precautionary principle, and grounded its resolution on the fact that administrative authorities are to safeguard the inhabitants' health since the claimant had not foreseen nor controlled the environmental impact deriving from its activity. Therefore, the claimant had no right to any damages whatsoever.

Romero, Alicia B. vs. Colgate Palmolive Argentina S.A. about a Summary Action to Protect a Constitutional Right (Romero, Alicia B. c/Colgate Palmolive S.A. s/amparo).

In this case, the plaintiff filed a motion to: (i) obtain information from the defendant -a cosmetic and household cleaning product manufacturer- on the generation and disposal of hazardous wastes at the company's plant, and (ii) seek for the closure of the plant, the clean-up of the site, and the removal and proper disposal of hazardous wastes if the existence of said wastes were proved. The defendant provided information regarding the existence of asbestos wastes that had been buried in the plant and informed about the monitoring program implemented to control the situation. The Judge of first instance dismissed the motion filed by the plaintiff, stating there was no reason to consider that the defendant should adopt measures to modify the situation of the hazardous wastes inside the plant. This decision was reversed by the Court of Appeals with grounds on the preventive and precautionary principles set forth in the LGA. This Court upheld that, by non-compliance with the regulatory requirements for hazardous wastes disposal, the defendant had violated the right to a healthy, balanced environment guaranteed by the Constitution.

On those grounds, the Court ordered the appointment of an environmental expert and the participation of the enforcement authorities in order to decide how the defendant should proceed towards the buried wastes of asbestos.

Salas, Dino et al. vs. Province of Salta and National Government about a Summary Action to Protect a Constitutional Right (Salas, Dino y otros c/ Provincia de Salta y Estado Nacional s/amparo).

The case was brought to the CSJN by a group of NGOs, neighbors, and native communities. The plaintiffs requested the CSJN to reverse the administrative authorizations granted by the Province of Salta during 2007 for the clearing and cutting

down of native forests, the cease of such activity, and a prohibition for the province to grant such authorizations in the future. The plaintiff also sought the restoration of the environment.

The CSJN, by applying the precautionary principle, ordered the cease of the clearing and cutting activities until the Province of Salta carried out an EIA evaluating the accumulative impacts of all the activities that had been authorized. The CSJN applied the precautionary principle to the case as it considered that -even if there was not enough information on the global impact that all the clearing activities may cause- the cleaning of an area of 1 million hectare was bound to lead to a negative and irreversible impact.

On December 13, 2011, the CSJN held a new decision. Due to the fact that the Province of Salta carried out the EIA required by the CSJN, developed several public policies and passed several statutes in order to protect the native forests, the CSJN held the following decision: (i) it decided to lift the cease of logging activities, though the private parties previously entitled to conduct those activities must comply with the new forest regulations; (ii) it decided that the CSJN has no original jurisdiction to decide in this case, and submitted the case to the Supreme Court of the Province of Salta.

The Province of Santiago del Estero vs. Cía. Azucarera Concepción S.A. et al about a Summary Action to Protect a Constitutional Right ("Santiago del Estero, Provincia de c/ Cía. Azucarera Concepción S.A. y otro s/ amparo ambiental")

The Province of Santiago del Estero and the provincial Ombudsman filed a complaint against two sugar companies, Concepción S.A. and Los Balcanes S.A., both located in the Province of Tucumán, and requested: (i) they cease polluting the lake of the Front Dam Termas de Río Hondo by discharging untreated molasses from sugar canes on the effluents that form the Salí-Dulce basin (which is an interjurisdictional river basin); (ii) they remediate the environmental damage or, if this is not possible, balance the damaged ecological system; and (iii) an urgent precautionary measure to suspend the production of bioethanol or any other type of alcohol that uses molasses from sugar canes, until the companies mentioned above ensure the implementation of discharging measures that meet the legal regulations in force.

The injunction was filed in the Federal Court of Santiago del Estero, which declared itself incompetent and sent the case to the CSJN.

Afterwards, the Argentine Environmental and Sustainable Development Secretar-

iat (SAyDS) carried out some acts in order to attempt to overcome the denounced pollution.

In December 12th, 2011, the CSJN decided: (i) to require that the SAyDS inform about the state of development of the actions fostered for the Salí-Dulce basin ecosystem's protection, and in particular about the denounced pollution caused by the facilities located in the Province of Tucumán; and (ii) to deny the petition for precautionary measures (alleging that it would be premature to issue an order of that nature without even hearing the interested parties).

The CSJN has not decided yet whether it has jurisdiction to settle the matter. The case's final resolution is still pending.

Barrick Exploraciones Argentinas S.A. et al vs. Federal State about a Request to Declare Unconstitutionality of a Law ("Barrick Exploraciones Argentinas S.A. y otro c/Estado Nacional s/ acción declarativa de inconstitucionalidad").

On June 4, 2019, the Supreme Court rejected a declaratory relief action filed by mining companies Barrick Exploraciones Argentina S.A. and Exploraciones Mineras S.A., concessionaires of the "Pascua Lama" binational project and adhered to by the Province of San Juan to obtain a declaration of unconstitutionality of Law 26,639 on Minimum Standards for the Protection of Glaciers. The same decision was taken concerning the lawsuit filed by Minera Argentina Gold S.A. with regards to the "Veladero" project. The plaintiffs argued that Law No. 26,639 had been passed by the Senate infringing the legislative due process, introducing new auditing obligations on ongoing projects that may result in additional protective measures, including the end or transfer of mining projects, thus violating mining vested rights. The Supreme Court found that plaintiffs had failed to demonstrate that Law No. 26,639 caused any actual damage to their mining exploration and exploitation rights and rejected the action.

In addition, the Supreme Court considered that the Province of San Juan had failed to prove any national interference with powers reserved to the provinces under the National Constitution.

Vargas, Ricardo Marcelo vs Province of San Juan et al., about environmental damages (Vargas, Ricardo Marcelo c/ San Juan, Provincia de y otros s/ daño ambiental).

In April 2012, the plaintiff, Mr. Vargas, brought legal action against Barrick Exploraciones Argentinas S.A. (BEASA) and Exploraciones Mineras Argentinas S.A. (EMA) related to the “Pascua-Lama” mining exploration and exploitation, which is a common project between the governments of Argentina and Chile.

The plaintiff required BEASA and EMA to acquire an environmental insurance policy, in order to guarantee the environmental recovery of the potential damage that the mining activity could cause in the area in which those companies develop their activities. The plaintiff also required an environmental analysis to determine the status of the exploited areas and an eventual ruling for the defendants to perform an environmental restoration.

The CSJN requested the Government of San Juan a copy of the administrative file where the Environmental Impact Assessment had been submitted. In addition, the CSJN requested to the National Government to submit the environmental studies and all the information exchanged between Argentina and Chile.

During 2014, the plaintiff informed to the CSJN that the Court of Appeal of Copiapó –Chile-, suspended the Pascua-Lama mining activity, since it was proved that the Toro I Glacier, which is also shared with Argentina, had suffered environmental damage.

In 2015, the CSJN stated that was not possible to ignore the situation since Pascua-Lama is a project between the two nations, and the National Environmental Law No. 25,675 sets forth the principles of prevention and cooperation. Since the ruling of Copiapó’s Court of Appeal demonstrated the dangerous situation that the mining exploitation had caused to the referred glacier –this ruling was confirmed by the Supreme Court of Chile- the CSJN decided to broaden the information required to the Government of San Juan. Therefore, the CSJN required that government inform about: (i) the glacier’s monitoring, from 2013 to the date; (ii) if there had been any kind of abnormal situations reported in the area; and (iii) if the monitoring of the surface water and the groundwater extraction had been carried out in accordance with the regulations.

This case’s final ruling is still pending.

Cruz Felipa et al vs. Minera Alumbrera Limited about summary (Cruz, Felipa y otros c/ Minera Alumbrera Limited y otro s/ sumarísimo).

The plaintiff required a precautionary measure, in order to suspend the activity of

the mines called “Bajo La Alumbrera” and “Bajo el Durazno”, both of them located inside its property, in the Province of Catamarca. The plaintiff required that precautionary measure should be maintained until there are environmental studies regarding the pollution and degradation caused by the leakage of the tailing dam.

The Court of Appeal of Tucuman denied the petition, so the plaintiff submitted an extraordinary petition, requiring the intervention of the CSJN. The Court of Appeal denied the extraordinary petition, which resulted in a Constitutional complain, so the CSJN could intervene.

The CSJN’s ruling was in favor of the plaintiff and sustained the prevention and precautionary principles contained in Law No. 25,675. According to those principles, the judge can provide all the measures needed to protect the environment, even precautionary measures. In addition, the judge can order those measures, even without a requirement from the plaintiff nor a hearing with the defendant.

The CSJN interpreted that the decision of the Court of Appeal of Tucuman was arbitrary, so it overruled the decision and ordered the Courts to rule again, following the environmental principles contained in Law No. 25.675.

Telecom Argentina S.A. – Telecom Personal S.A. vs. Municipality of General Güemes about declaratory judgment action (Telecom Argentina S.A. – Telecom Personal S.A. c/ Municipalidad de General Güemes s/ Acción meramente declarativa de derecho).

The plaintiffs required a declaratory judgment action against the Municipal Regulation No. 299/10, by which the Municipality sets forth the eradication of the antennas and its structures within five hundred meters from the city. The plaintiffs argued that the regulation was contrary to the Federal Communications Law (Law No. 19,798) because it was an attribution of the federal government to decide about the communicational matters.

The Lower Court ruled against the request of the plaintiffs, who appealed.

The Federal Court of Appel of Salta stated that, even though the Federal Law No. 19,798 refers to the importance of wireless communications, the Municipality had the power to decide on how the antennas should be installed, since the municipalities are authorized by the National Constitution to decide on urban matters.

Regarding the environmental interest involved in the complaint, the Court of Appeal interpreted that the scientific facts were contradictory, so the precautionary principle of the National Environmental Law No. 25,675 must be fully applied to the ruling. In fact, the Court applied a broad interpretation of the referred principle, thus rejecting the complaint and ordering the plaintiff and the Municipality to work together in a plan to remove the antennas from the city and installing them somewhere where there was no possible damage to be caused to the population, maintaining the communicational service with the same quality.

Fundación Ciudadanos Independientes c/San Juan Provincia De, Estado Nacional y otros s/ acción ambiental meramente declarativa

On October 21, 2021, the Supreme Court rendered a decision in the case Fundación Ciudadanos Independientes c/San Juan Provincia De, Estado Nacional y otros s/ acción ambiental meramente declarativa, filed by the NGO Fundación Ciudadanos Independientes against the Province of San Juan; the Secretary of the Mining of the Province of San Juan; and the companies Minera Argentina Gold S.A., Barrick Exploraciones Argentina S.A., Exploraciones Mineras Argentina Sociedad Anónima (concessionaires of the Veladero-Pascua Lama Project); Minas Argentinas Sociedad Anónima, (a concessionaire of the Gualcamayo Project); and Intrepid Minerals Corporation, (a concessionaire of the Casposo project).

The case aimed to challenge the validity of the environmental licenses granted by the Province of San Juan to the projects mentioned before since -according to the plaintiff- they are located in glaciers of the mountain range area where the mining activity should be prohibited. Moreover, the plaintiff argued that the Province of San Juan authorized the mining projects without considering the potential environmental damages and claimed that the federal government omitted to include the areas where the defendants developed their mining activities in the National Glacier Inventory, created by Law No 26,639.

Besides, the plaintiff required a preliminary injunction to ban the mining projects until experts on the environmental field were able to monitor, control and analyze the environmental components -especially the water, the air, and the soil-, and report any potential changes.

The court considered that it lacks exclusive jurisdiction on the case based on the following grounds:

1) The fact that the plaintiff attributed responsibility to the federal government because the binational nature of the Pascua-Lama project does not justify per se the court's exclusive jurisdiction, which only applies when the action filed is based «directly and exclusively» on constitutional matters, federal laws, or treaties and, thus, the federal matter is predominant on the case. On the contrary, the exclusive jurisdiction is not authorized when the subject matter involves local issues and powers, such as those related to environmental protection.

2) In the cases aimed to remediate collective environmental damages, the provincial jurisdiction should apply and exceptionally the federal courts may exercise its jurisdiction in the cases related to natural resources belonging to more than one province (Cfr. art. 7, law 25,675). The court considered that, in the case at hand, it was not demonstrated that the activity carried out by the defendants could affect the environment beyond the limits of the Province of San Juan.

3) The exclusive jurisdiction of the court is not justified since the plaintiff's argued on the potential effects of a conviction that could result from the process filed against Barrick Gold Corporation (BGC), domiciled in Canada, as the controlling company of one of the defendants. The Court clarified that exclusive jurisdiction applies in the cases in which a foreign citizen is a party, provided that there is a civil case involved (causa civil), as established in article 24, subsection 1 of Decree-Law 1285/58. Such a requirement was not met in the case at hand and, thus, the dispute should be resolved in accordance with the public local laws and regulations. The foreign nationality, in effect, yields to the superior principle of provincial autonomy so as not to interfere with the internal administration.

4) The responsibility attributed to the federal government because of the alleged omission to include the area where the defendants conducted their mining activities in the national glacier inventory should be treated on a separate case according to the criterion set forth in "Mendoza" case. In this regard, the court held that more than one ruling can be validly issued if the subject matter of the case determines that the defendants have a separate standing.

Given the reasons above mentioned, the action filed against the Province of San Juan to cease and repair the alleged environmental damages that may occur due to mining activities related the “Pascua-Lama” and “Veladero” projects and other mining projects was rejected by the Supreme Court. As regards the claims filed against the federal government, the Supreme Court considered that the plaintiff should file a separate action.

Equística Defensa de Medio Ambiente Aso. Civ. c/ Santa Fe, Provincia de y otros s/ amparo ambiental

On August 11, 2020, the Supreme Court declared its jurisdiction to consider the collective action filed by the civil association Equistic Defense of the Environment against the federal government, the provinces of Santa Fe and Entre Ríos and the municipalities of Rosario and Victoria due to the fires taking place in the islands, off the coast of the city of Rosario.

Considering the places where the fires occurred, the court decided to summon the Province of Buenos Aires and ordered, as a precautionary measure, that such province and all the provinces and municipalities sued should constitute an Environmental Emergency Committee.

Such a committee must adopt effective measures for the prevention, control and extinguishment of fire in the Paraná Delta region in accordance with the standards established in the “Comprehensive Strategic Plan for Conservation and Sustainable Use in the Paraná Delta” (PIECAS-DP). The court also ordered that, within 15 calendar days, the provinces and municipalities mentioned above should submit to the Supreme Court a report concerning the actions carried out to prevent fire.

In addition, the court considered the fires that occurred in Paraná Delta Region constitute an ancient practice which acquired a dimension that affects the entire ecosystems and the health of the population. It also highlighted that the ruling was not about an isolated grassland burnt, but rather about the cumulative effect of numerous fires that spread throughout the region posing an imminent threat to the environment.

Thus, the court declared that the facts of the case allows prima facie and considered

the fires reported as an environmental emergency (in accordance with section 2, subsection k, and 4, “principle of cooperation”, of Law 25,675) and concluded that they should be extinguished immediately.

To that aim, the court urged the provinces to take the relevant actions and comply with the applicable environmental laws.

Finally, it required the federal government (Ministry of Environment and Sustainable Development), the provinces of Santa Fe, Entre Ríos and Buenos Aires, and the Municipalities of Rosario and Victoria to produce the report provided in Section 8 of Law 16,986 and to submit their defense.

Majul, Julio Jesús c/ Municipalidad de Pueblo General Belgrano y otros s/ acción de amparo ambiental

On July 11, 2019, the Supreme Court of Justice overturned the sentence issued by the Superior Court of Justice of the Province of Entre Ríos that dismissed the action filed by a resident of the City of Gualeguaychú. Such action aimed to ban the development of a real estate project on the banks of the Gualeguaychú River and claim for compensation due to alleged environmental damages.

The provincial Superior Court of Justice considered that the Municipality of Gualeguaychú had filed a complaint before the provincial authorities prior to filing the action before the provincial court. Therefore, the plaintiff’s claim was a “mirror claim” of the one filed before the provincial executive branch. In fact, due to such a procedure, the Governor of the Province of Entre Ríos had suspended the works through the provincial decree 258/2015.

Notwithstanding the aforementioned, the Supreme Court of Justice accepted to review the appeal filed by the plaintiff, because it considered its purpose was broader than the previous administrative process initiated by the Municipality of Gualeguaychú.

The Municipality of Gualeguaychú considered that the sentence issued by the Supreme Court of Justice of Entre Ríos was arbitrary since it made a merely ritual and insufficient assessment and failed to consider the right to live in a healthy envi-

ronment (Section. 41 of the National Constitution and Section 22 of the Provincial Constitution). The representatives of the municipality said that the Supreme Court also failed to consider the sustainability, precautionary and prevention principles, the rational use of natural resources, the intergenerational equity and the progressive development principle.

In addition to the principles mentioned before, the Supreme Court highlighted the importance of the precautionary principle established in Section 4 of Law No. 25,675, which also has constitutional hierarchy in the province of Entre Ríos as well as the significance of two novel principles such as the principle in dubio pro natura (established in the Declaration of the World Congress of Environmental Law, Rio de Janeiro, 2016) and the principle in dubio pro aqua (established in the Brasilia 8th World Water Forum, Brasilia (Brazil), March, 21, 2018.

INTERNATIONAL TREATIES AND CONVENTIONS

Argentina is a signatory to multilateral treaties and conventions related to environmental issues. The following provides a summary of the various treaties and conventions, which, in accordance with the Constitution, have been adopted as Federal Law.

VIENNA CONVENTION ON THE PROTECTION OF THE OZONE LAYER

Argentine National Law No. 23,724 adopted the Vienna Convention on the Protection of the Ozone Layer ("Convenio de Viena para la Protección de la Capa de Ozono") in 1989 to help protect human health and the environment against the adverse effects of ozone layer depletion. The Convention binds Argentina to cooperate in research concerning ozone- depleting substances and processes and in formulation and implementation measures to control activities that adversely affect the ozone layer. Moreover, Argentina must exchange with other signatory nations scientific, technological, socioeconomic, commercial, and legal information relevant to the Convention and cooperate in the development and transfer of technology and knowledge.

MONTREAL PROTOCOL ON SUBSTANCES THAT DEPLETE THE OZONE LAYER

Argentina's adoption of the Montreal Protocol on Substances that Deplete the Ozone Layer ("Protocolo de Montreal relativo a las Sustancias que Agotan la Capa de Ozono") and amendments comprises several national laws: Law No. 23,778 (1990), Law No. 24,040 (1991), Law No. 24,167 (1992), Law No. 24,418 (1995), Law No. 25,389 (2001) and Law No. 26,106 (2006). Together, these laws oblige the Argentine government to protect the ozone layer by taking precautionary measures to control ozone depleting substances. The Montreal Protocol operates within the Vienna Convention on the Protection of the Ozone Layer and provides for measures of technology transfer and information exchange among signatory nations, calculation of control levels, and special provisions regarding trade with non-parties to the Protocol.271 Decree No. 1,609/2004 creates a registry of importers and exporters of ozone depleting substances and regulates a permit to perform such activities. Resolution No. 953/2004 (as amended by Resolution No. 1813/2012) sets forth the procedure to obtain trading permits and provides a list of ozone depleting substances. Resolution 104/20 incorporates hydrofluorocarbons of the Kigali amendment to the Montreal Protocol into the import and export licensing system established by Decree 1608/04.

CONVENTION ON THE PREVENTION OF MARINE POLLUTION BY DUMPING OF WASTES AND OTHER MATTERS

In 1979, the Argentine government promulgated Law No. 21,947, approving the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter ("Convenio sobre Prevención de la Contaminación del Mar por Vertimiento de Desechos y Otras Materias").

The objective of the Convention and the National Law is to control sea pollution cause by deliberate disposal of waste that represents a threat to human health, marine life, and legitimate uses of the sea. The Law strictly prohibits offshore dumping of pollutant substances such as crude oil, diesel fuel, hydraulic fluids, or radioactive waste. The Law requires special permits to dump waste containing chemicals and pesticides beyond specified limits and general permits to dump other materials into the sea.

BASEL CONVENTION ON THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL

In approving the Basel Convention on the Control of Transboundary Movements of Hazardous Waste and their Disposal ("Convenio de Basilea sobre el Control de los Movimientos Transfronterizos de los Desechos Peligrosos y su Eliminación") with Law No. 23,922 enacted in 1991, Argentina agreed to reduce and manage the movement of waste across international borders and minimize the amount and toxicity of hazardous waste generated more efficiently. The Law prohibits the export of waste to foreign countries when those countries have not consented in writing to its import and requires persons transporting or disposing of waste to be authorized by the government. Argentina, as a party to the Convention, must cooperate with other nations to achieve environmentally sound waste management. The Convention also provides arbitration procedures for settling disputes between nations. Under Law No. 26,664, Argentina ratified the Amendment to the Basel Convention.

JOINT CONVENTION ON THE SAFETY OF SPENT FUEL MANAGEMENT AND ON THE SAFETY OF RADIOACTIVE WASTE MANAGEMENT

Argentina approved the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management ("Convención Conjunta sobre Seguridad en la Gestión del Combustible Gastado y Sobre Seguridad en la Gestión de Desechos Radioactivos") in 2000 with Law No. 25,279, aiming to achieve and maintain a high level of safety in spent fuel and radioactive waste management and to prevent accidents with radiological consequences and mitigate their ef-

fects.276 The Convention applies to all stages of spent fuel and radioactive waste management, including handling, storage, treatment, transport, and disposal. The Convention also requires the consent of the importing nation for transboundary movement of spent fuel and radioactive waste.

ROTTERDAM CONVENTION ON THE PRIOR INFORMED CONSENT PROCEDURE FOR CERTAIN HAZARDOUS CHEMICALS AND PESTICIDES IN INTERNATIONAL TRADE

Law No. 25,278 approved the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade ("Convenio de Rotterdam sobre el Procedimiento de Consentimiento Fundamentado Previo Aplicable a Ciertos Plaguicidas y Productos Químicos Peligrosos Objeto de Comercio Internacional") to manage international commerce of highly dangerous pesticides and chemicals and prevent their unwanted entry.280 The Convention details a Prior Informed Consent procedure for formally obtaining, disseminating, and enforcing national decisions regarding chemical and pesticide importation. The Convention also provides for the exchange of information between nations about potentially hazardous materials and promotes technical assistance for the development of infrastructure and capacity necessary to manage such chemicals. Within the framework of the Convention, Argentina has laid down regulations that establish the procedure for the import and export of chemicals subject to the Prior Informed Consent established in such Convention (Resolution 213/21).

CONVENTION ON BIOLOGICAL DIVERSITY

In order to conserve biological diversity, promote sustainable use of its components, and encourage equitable sharing of the benefits from the use of genetic resources, Argentina approved the Convention on Biological Diversity ("Convenio sobre Diversidad Biológica") with Law No. 24,375 (1994) and Regulatory Decree No. 1,347/1997. The Convention's comprehensive strategy for sustainable development requires that nations conserve biodiversity within and outside their jurisdictions and elaborate national biodiversity strategies and action plans. The Convention further provides for access to and transfer of technologies to facilitate biodiversity conservation and sustainable use. Before implementing projects likely to adversely impact biodiversity, nations have a duty to conduct EIA proceedings. When proposed national projects are likely to adversely affect the biodiversity of other nations, information exchange and consultation is required. Resolution No. 91/2003 approves Argentina's national biodiversity strategy and action plans. Resolution No. 226/2010 provides for a system to have access to the genetic resources, establishes the requirements to be met by users of such resources for the provision

of information and creates a Register for Access to Genetic Resources. Resolution MAyDS No. 151/2017 adopts a National Strategy on Biodiversity and the 2016-2020 action plan.

NAGOYA PROTOCOL

In December 2015, Argentina approved, through Law No. 27,246, the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits arising from their Utilization to the Convention on Biological Diversity entered into in Nagoya, Japan, on October 29, 2010 ("Protocolo de Nagoya sobre Acceso a los Recursos Genéticos y Participación Justa y Equitativa en los Beneficios que se Deriven de su Utilización al Convenio sobre la Diversidad Biológica").

Upon ratification, Argentina declared that the provisions on benefit-sharing in this Protocol are applicable to genetic resources and their derivatives.

THE UNITED NATIONS CONVENTION TO COMBAT DESERTIFICATION (UNCCD)

In 1996 Argentina approved the United Nations Convention to Combat Desertification ("Convención de las Naciones Unidas de Lucha contra la Desertificación") through Law No. 24,701. The Convention's main objective is to improve the living conditions for people in drylands, to maintain and restore land and soil productivity, and to mitigate the effects of drought. Drylands are arid, semi-arid and dry sub-humid areas where some of the most vulnerable ecosystems and people can be found. Resolution No. 250/2003 approved the National Action Program to Combat Desertification "Programa de Acción Nacional de Lucha contra la Desertificación y Mitigación de los efectos de la Sequía y su Documento Base"). Within the framework of the Convention, Argentina has proposed policies, programs and projects aimed at combating desertification and mitigating the effects of drought. In 2019, it updated and approved the last National Action Program to Combat Desertification, Land Degradation and Drought Mitigation adjusted to the targets of the 2030 Agenda (Resolution 70/19).

CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA

Argentina approved the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("Convención sobre el Comercio Internacional de Especies Amenazadas de Fauna y Flora Silvestre" -CITES-) and its amendments with Law No. 22,344 (1982), Law No. 25,337 (2000), Regulatory Decree No. 522/1997, and

Resolution No. 254/2005 (as amended). The purpose of the Convention is to protect certain endangered plant and animal species from overexploitation through a system of import/export permits.288 Law No. 22,344 requires permits for trading threatened and potentially threatened animal and plant species listed in Appendices I and II. Additionally, Appendix III provides participating nations the option of listing native species that are nationally protected.

STOCKHOLM CONVENTION ON PERSISTENT ORGANIC POLLUTANTS (POPS)

Upon approving the Stockholm Convention On Persistent Organic Pollutants ("Convenio de Estocolmo sobre Contaminantes Orgánicos Persistentes") with Law No. 26,011 enacted in 2004, Argentina agreed to: (i) eliminate the POPs listed in Exhibit A of the Convention, (ii) reduce the POPs listed in Exhibit B of the Convention, and (iii) reduce releases of POPs from unintentional production, listed in Exhibit C of the Convention. The Convention states that the Parties must develop a plan for the implementation of their obligations under the Convention within two years of the date of entry into force of the Convention (May 17th, 2004). The Convention also calls for promotion of public information, awareness and education.

Argentina has taken several actions related to PCBs management and removal. In 2002, Argentina passed Minimum Standards on PCB Management and Removal Law No. 25,670,291 worked on the "Rational Management and Disposition of PCB in Argentina" Project with the United Nations Development Programme (UNDP), and in 2015, it created the National Program for the Comprehensive Management of PCB through Resolution No. 840/2015.

In 2019 it banned the production, import, formulation, trade and use of chemicals subject to the Convention either as pure substances or present in mixtures or formulations in accordance with the directives set forth in Resolution 451/19.

AGREEMENT ON ENVIRONMENTAL ISSUES OF THE COMMON MARKET OF THE SOUTH (MERCOSUR)

Argentina approved the Agreement on Environmental Issues of Mercosur with Law No. 25,841 (2004). The Agreement describes the Parties' intentions to protect the environment but does not include any obligations. It is merely a letter of intent, which encourages the Parties to undertake joint projects towards the protection of the environment.

CHEMICAL WEAPONS CONVENTION

In 1995 Argentina approved through Law No. 24,534 the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction ("Convención sobre la Prohibición del Desarrollo, la Producción, el Almacenamiento, y el Empleo de Armas Químicas y sobre su Destrucción" -CWC-). In 1997, the Argentine Executive Branch created through Decree No. 920/1997 the Inter-Ministerial Committee for the Prohibition of Chemical Weapons in the ambit of the Ministry of Foreign Affairs, International Trade and Worship, comprising a Board of Directors and an Executive Secretariat. Resolution No. 904/1998 issued in 1998 by the Secretariat of Industry, Commerce and Mining of the former Ministry of Economy and Public Works and Services created the Registry of Chemical Weapons in the ambit of the Undersecretariat of Industry. This Resolution established the forms for the declarations to be filed in the Registry by all persons and entities that produce, trade, export and import the products listed in Schedules 1, 2 and 3 of the CWC. It also defined organic chemicals not listed in said Schedules when the amount of operations exceeds the limits established by the CWC.

UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE

In 1994 Argentina approved through Law 24,295 the United Nations Framework Convention on Climate Change ("Convención Marco de las Naciones Unidas sobre el Cambio Climático").

THE KYOTO PROTOCOL

The Kyoto Protocol ("Protocolo de Kyoto") signed in December 11, 1997 was ratified by Argentina in July 13, 2001 pursuant to Law No. 25,438. The Protocol established emission reduction targets for 44 developed and developing countries. These targets had to be achieved either by effective reduction of greenhouse gases inside their territory, or indirectly, through the application of greenhouse gas reduction projects in developing countries (Clean Development Mechanisms or CDMs). CDM projects varied from renewable energy (i.e. biomass, wood waste, and wind), fuel substitution (i.e. from coal to natural gas), landfill gas recovery, reforestation, among others. In 2015, Argentina approved the Doha amendment to the Kyoto Protocol to the United Nations Framework Convention on Climate Change (Law 27,137).

PARIS AGREEMENT

On September 1, 2016, Argentina became the 24th country to ratify the Paris Agreement on Climate Change ("Acuerdo de París"), pursuant to Law No. 27,270.

On October 1st, 2015 Argentina presented its Intended Nationally Determined Contribution. In November 2016 Argentina presented the review of its previous Nationally Determined Contribution. The measures presented in 2015 were revised, the ones that were non-existent or were counted twice were eliminated, and the ones that could be achieved were confirmed with the ministries. As far as figures are concerned, the outcome is very similar to the previous one, but with a level of confidence in the execution.

Argentina will not exceed the equivalent net emission of 483 million tons of carbon dioxide in 2030. Measures focused on the sectors of energy, agriculture, forests, industry, and waste.

Argentina presented the adaptation communication and is dedicated to the development of the National Adaptation Plan before 2019.

In 2020, Argentina renewed its commitment by proposing a post-pandemic national reconstruction strategy based on sustainable and comprehensive development. In the framework of the Climate Ambition Summit held during the fifth anniversary of the Paris Agreement, Argentina announced a new commitment to reduce its greenhouse gas emissions by 2030 and to strengthen the capacities of communities to adapt to the consequences of climate change, particularly the most vulnerable ones, with the aim of promoting comprehensive and sustainable development. Within the new targets proposed for 2030, Argentina committed not to exceed the net emission of 359 million tons of carbon dioxide equivalent (MtCO2e) by 2030, which is applicable to all sectors of the economy.

THE CONVENTION ON WETLANDS OF INTERNATIONAL IMPORTANCE, ESPECIALLY AS WATERFOWL HABITAT (THE RAMSAR CONVENTION)

Argentina approved the Convention on Wetlands of International Importance, especially as Waterfowl Habitat ("Convención Relativa a Los Humedales de Importancia Internacional Especialmente como Hábitat de Aves Acuáticas") through Laws No. 23,919 and 25,335. The RAMSAR Convention embodies the commitments of its member countries to maintain the ecological character of their Wetlands of International Importance and to plan for the "wise use", or sustainable use, of all of the wetlands in their territories. In 2014, Argentina approved the procedure to be observed for inclusion of a site in the List of Wetlands of International Importance under the Convention Of Wetlands of International Importance, in particular as

habitat of waterbirds (Resolution No. 776/2014). In 2021 the Argentine Ministry of Environment created the Wetlands Program under the purview of the National Bureau of Environmental Management of Water and Aquatic Ecosystems. This Program proposes interjurisdictional collaboration with provincial authorities and the design at a federal level of policies that promote the conservation and sustainable use of wetlands in Argentina (Resolution 80/21).

ESCAZÚ AGREEMENT

Through Law No. 27,566, Argentina approved the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters adopted in the City of Escazú, Republic of Costa Rica (the "Escazú Agreement"). The objective of the Escazú Agreement is to guarantee the full and effective implementation in Latin America and the Caribbean of the rights of access to environmental information, public participation in the environmental decision-making process and access to justice in environmental matters.

MINAMATA CONVENTION

Through Law No. 27,356, Argentina approved the Minamata Convention on Mercury (the "Convention") whose objective is to protect human health and the environment from anthropogenic emissions and releases of mercury, mercury mixtures and mercury compounds.

INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE

The objectives of the International Treaty on Plant Genetic Resources for Food and Agriculture (the "Treaty") are the conservation and sustainable use of plant genetic resources for food and agriculture and the fair and equitable sharing of the benefits arising out of their use, in harmony with the Convention on Biological Diversity, for sustainable agriculture and food security. It was adopted on November 3, 2001 by the Food and Agriculture Organization of the United Nations (FAO) (31st session) and became effective in June 2004. Argentina signed the Treaty in June 2002, which was approved through Law No. 27,182 enacted on September 23, 2015 and promulgated on October 5, 2015.

AmCham Argentina