



REGIONAL ASSOCIATION OF OIL AND NATURAL GAS
COMPANIES IN LATIN AMERICA AND THE CARIBBEAN

Participatory Monitoring of the Socio-Environmental Management of the Oil and Gas Industry in Latin America and the Caribbean



ARPEL Socio Environmental Report
*Participatory Monitoring of the Socio-Environmental
Management of the Oil and Gas Industry in Latin
America and the Caribbean*

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Disclaimer

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ARPEL Relations with Indigenous Peoples Working Group

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The objectives of the ARPEL Relations with Indigenous Peoples Working Group are:

- To share and design best practices for the relationship between industry and indigenous peoples
- To exchange and develop best practices on issues related to the socio-environmental management of the industry in areas inhabited by indigenous communities
- To represent the oil industry participating of the tripartite dialogue.



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EXECUTIVE SUMMARY

Participatory monitoring of the socio-environmental management (PMSEM) of the oil and gas industry in Latin America, is another tool to accomplish sustainable development and its implementation is possible by means of a pro-active approach on the part of industry and adequate legislation to sustain it so that it can be applied effectively and this is only possible through decision by the States that have enacted such legislation with the active participation of stakeholders.

As part of such process, governments have developed--and are currently analyzing-- normative mechanisms to legislate and regulate means so that civil society may have an active role in the evaluation of social and environmental performance of oil and gas facilities operating near their communities. Some companies in this sector, in turn, are beginning to develop participatory monitoring of the socio-environmental management in some of their operations, within the framework of their corporate responsibility policies.

It is within this context that ARPEL has put together this report geared to identify existing regulations relative to participatory monitoring. The following is an analysis of existing legal instruments in the countries involved, as well as international practices carried out in this field.

The report includes a summary of international agreements and also constitutional, legal and regulatory provisions in Latin-American and Caribbean countries, relative to participatory monitoring of the socio-environmental management.

The PMSEM issue is quite a novelty to many people and the existing information on standards and international practices described in this report provides useful guidance for stakeholders, such as information that supports their search for efficient mechanisms to implement PMSEM schemes.



1. INTRODUCTION

1.1. Objectives

- a) To compile constitutional, legal and regulatory standards relative to socio-environmental management plans and participatory monitoring in 13 countries:
 - Argentina
 - Bolivia
 - Brazil
 - Chile
 - Colombia
 - Cuba
 - Ecuador
 - Mexico
 - Paraguay
 - Peru
 - Suriname
 - Uruguay
 - Venezuela
- b) To prepare a chart relating State institutions, their functions and instruments to comply with Socio-Environmental Management Plans and Participatory Monitoring.
- c) To revisit "international practices" in the hydrocarbon industry, the international financial sector and civil society in general, in terms of Participatory Monitoring and Socio-Environmental Management.

The research will take into account certain components of the Participatory Monitoring, namely: protocol, monitoring issues, information and previous consultation, training, participation mechanisms, management indicators, mechanisms to prevent conflict, inter-institutional cooperation, that will be duly analyzed in each case. The determination of international practices constituted relevant information input for a discussion in a workshop organized by ARPEL on "*Participatory monitoring of socio-environmental management in the oil and gas industry of Latin America and the Caribbean*", held on March 8-9, 2005 in Puerto La Cruz, Venezuela, and also for the information of the companies.

1.2. Methodology

A research involving a team of professionals was carried out, together with a review of documents prepared by consultants and in the Internet (see Sources) in order to identify the constitutional set up, the regulatory framework and the institutional structure governing participatory monitoring of socio-environmental management (PMSEM) in the countries under study. In some cases, the specific environmental legislation includes concrete provisions relative to socio-environmental management plans, while in others they are more of an overview.



1.2.1. Constitutional Setup

We have gone over existing versions of the relevant national constitutions, according to the Political Database in the Democracy Promotion Unit of OAS and in the University of Georgetown (<http://pdba.georgetown.edu/Constitutions/constudies.html>). All constitutional provisions presented below are not directly related to the socio-environmental management plans or participatory monitoring, however, they provide the first legal support. Likewise, we have resorted to primary sources drawing from interviews in Embassies and Consulates of the countries targeted for this research, as well as visits paid to relevant officials in Ecuador, Bolivia and Peru.

During the constitutional analysis, the presence of the following was verified:

- Environmental and/or diffuse rights
- Rights to information
- Rights to citizen participation
- Indigenous peoples rights

The relevant texts were systematized in the National Analysis Matrix (See Section 3).

1.2.2. Regulatory Framework

The main laws and regulations applicable in participatory monitoring of socio-environmental management plans (SEMP) were assessed by a structured search on the basis of three bodies of law:

- Environmental legislation in general, granting privilege to framework instruments that generate environmental systems or authorities and those that refer to Environmental Impact Assessments (EIAs) or socio-environmental management plans.
- Hydrocarbon legislation, including environmental or social legislation that applies to the hydrocarbon sector in particular.
- Legislation on citizen participation in general, in particular legislation relative to the socio-environmental management in the private sector.

Selected legal instruments were reviewed to ensure they included--or omitted-- the following issues:

- Environmental Impact Assessments
- Socio-environmental management plans
- Monitoring or evaluation
- Citizen participation
- Participatory monitoring



1.2.3. Institutional Structure

State control entities with competence in participatory monitoring of socio-environmental management were identified; priority was given to entities with competence in the hydrocarbon sector in particular. National socio-environmental control authorities and local governments or sub-national governments with competence in socio-environmental fields, were also included.

Institutions were systematized with the help of National Analysis Matrices that indicate the corresponding legal framework that entitles each of them.



2. ANALYSIS

2.1. Analyzed Legislation

In the Analyzed Legislation Matrix (in Excel) described in Appendix 4, the main laws, regulations, decrees and resolutions relative to each Latin-American and Caribbean country are included in the analysis of this study.

The contents of the Matrix have been designed following the hypothesis that express legal provisions on the issue of participatory monitoring in socio-environmental management plans are very scarce and, therefore, the search was conducted on the basis of hydrocarbon, environmental and citizen participation-related legislation in each country in Latin America and the Caribbean and on the basis of the matrix components, elements that contributed to the research.



3. OUTCOMES

3.1. National Analysis Matrix

Apart from the overall details, there is a National Analysis Matrix per country under study. This matrix systematizes the main constitutional articles referring to issues such as diffuse rights, information and consultation; indigenous peoples; environmental rights; citizen participation and hydrocarbon-related issues; and the core articles of laws, decrees and regulations identified in terms of: environmental impact assessment, socio-environmental management programmes, monitoring and evaluation, citizen participation and participatory monitoring.

Matrices indicate the number or numbers of articles corresponding to each provision and the information can be expanded with the complete list of articles in Appendix 3.

3.2. Institutional Structure

One indispensable complement in the compilation of constitutional, legal and regulatory standards relative to participatory monitoring in socio-environmental management plans is the need to identify state or public law institutions among whose functions is that of socio-environmental management and monitoring.

Within standards, it is usual for environment-related laws themselves to determine these institutions and their specific attributes and for this reason, when preparing this chart the following three aspects will be taken into account: the institution, the legal provision granting it power/authority and its competence. An alphabetical order of countries was maintained.



ARGENTINA

INSTITUTION	LAW	COMPETENCE
<i>Federal level</i>		
Ministry of Health and Environment		
Secretariat for the Environment and Sustainable Development		<ul style="list-style-type: none"> ▪ Preservation and protection of the environment ▪ Sustainable development ▪ Rational use and conservation of natural resources ▪ Environmental ordering of territory
Federal Council for the Environment (COFEMA)	Agreement creating the Federal Council for the Environment (31-08-90)(Article 2)	<ul style="list-style-type: none"> ▪ Policy formulation ▪ Coordination of regional management strategies and programs ▪ Environmental impact control ▪ Establishment of monitoring methodologies
Department of State Energy	Law 17319 - Hydrocarbon Law Decree 27(27-05-2003)	<ul style="list-style-type: none"> ▪ Ruling authority in the field of hydrocarbon ▪ Promote and supervise rational exploitation of hydrocarbon resources and the preservation of the environment in all stages of the oil industry.
<i>Provincial level</i>		
MENDOZA Ministry of the Environment and Public Works	Law 6367/95 (Articles 6,7,27,29,31,33) Decree 437/93 (Articles 2,6,9)	<ul style="list-style-type: none"> ▪ Environmental plan ▪ Environmental report ▪ Environmental impact procedure ▪ Invitation for public hearing ▪ Public information ▪ Environmental evaluation of oil industry ▪ Registry of environmental status of oil production



ARGENTINA (Cont.)

INSTITUTION	LAW	COMPETENCE
<i>Provincial level</i>		
<p>CHUBUT Provincial Executive Power</p>	<p>Law 4563 (Articles 26-31)</p>	<ul style="list-style-type: none"> ▪ Policy and environmental management plan ▪ Approve environmental impact studies ▪ Surveillance and control during execution of projects ▪ Environmental information system ▪ Surveillance of application of standards ▪ Investigation of claims ▪ Registration of non-governmental organizations ▪ Coordination of actions at the level of Provincial Council for the Environment
<p>Provincial Council for the Environment</p>	<p>Law 4563 (Article 33)</p>	<ul style="list-style-type: none"> ▪ Advisor to ruling authority ▪ Policy proposal
<p>Environmental Protection Directorate (Ministry of Economy, Services and Public Works)</p>	<p>Law 4032 (Article 13)</p> <p>Decree 10/95 (Articles 1-11)</p>	<ul style="list-style-type: none"> ▪ Promotion of citizen participation ▪ Analysis of Environmental Impact Assessment ▪ Evaluation of preliminary Environmental Study by companies devoted to oil exploitation and exploration.
<p>BUENOS AIRES Provincial Executive Power Provincial Institute for the Environment</p>	<p>Law 11723 (9-11-95) (Article 13)</p>	<ul style="list-style-type: none"> ▪ Provincial Environmental Policy ▪ Environmental Impact Assessment ▪ Collects citizen opinions ▪ Standardization ▪ Education and dissemination of information



ARGENTINA (Cont.)

INSTITUTION	LAW	COMPETENCE
<i>Provincial level</i>		
<p>NEUQUEN Provincial Council for the Environment (Enforcement Body)</p>	Law 1875 (Articles 25-26)	<ul style="list-style-type: none"> ▪ Advises the Governor ▪ Coordinates activities of provincial agencies ▪ Proposes legislation and reforms ▪ Provincial plan to preserve and protect the environment ▪ Approves Environmental Impact Declaration
<p>Provincial Council for the Environment (Consultative Body)</p> <p>General Directorate for the Environment and Sustainable Development</p>	Provincial Law 2267 (Articles 25-26)	<ul style="list-style-type: none"> ▪ Advises the Governor ▪ Consultative Body for the powers of the Provincial State ▪ Approves the Global Impact Declaration
<p>LA PAMPA Under-Secretariat for Ecology</p>	Provincial Law 1914 (Article 3)	<ul style="list-style-type: none"> ▪ Environmental Impact Declaration ▪ Applies Environmental Impact Assessment
<p>Ecological policies entity</p>	Decree No 1921/96	<ul style="list-style-type: none"> ▪ Calls for public hearings through Under-Secretariat for Ecology ▪ Resolves on environmental impact declaration
<p>RIO NEGRO Provincial Government</p>	Law 3266 (Article 7)	<ul style="list-style-type: none"> ▪ Calls for public hearings ▪ Information system ▪ Environmental resolution ▪ Audits and monitoring
<p>TIERRA DE FUEGO Secretariat of Provincial Planning and Science</p>	Law 55 (Articles 20,84,87-89)	<ul style="list-style-type: none"> ▪ Environmental policy and management ▪ Environmental impact report ▪ Calls for public hearings ▪ Provincial System for environmental information technology ▪ Research on environment degrading activities ▪ Registration of entities related to environmental activism
<p>Provincial Council for the environment</p>	Law 55 (Article 99-100)	<ul style="list-style-type: none"> ▪ Consultation body



BOLIVIA

INSTITUTION	LAW	COMPETENCE
<p>Ministry of sustainable development and environment</p>	<p>Law 1333 (Article 7)</p>	<ul style="list-style-type: none"> ▪ National environmental policy ▪ Planning, evaluation and control of environmental management activities ▪ Environmental impact assessment studies ▪ Territorial articulation and coordination of public and private entities.
<p>National Secretariat for Natural Resources and the Environment (SNRNMA)</p>	<p>Regulation of law 1333 on the environment</p> <p>General regulations on environmental management (Chapter II, Article 7)</p> <p>Regulations for environmental law 1333</p> <p>General regulations for control (Articles 9,13)</p> <p>Environmental Regulations for the Hydrocarbon Sector (Articles 4-5)</p>	<ul style="list-style-type: none"> ▪ Body that creates regulations and rules and controls. ▪ Sectoral policies orientation. ▪ Establishes coordination mechanisms with public and private sectors ▪ Prevention and control mechanisms ▪ Manages and plans: national environmental information system, environmental impact assessment, and environmental quality control ▪ Formulates Environmental Action Plan and monitors its enforcement ▪ Knowledge of citizen participation initiatives ▪ Follow-up on environmental audits ▪ Agreements with public and private participatory and environmental control institutions ▪ Recognized as competent authority at the national level in environmental management in the field of hydrocarbon and gas.



BOLIVIA (Cont.)

INSTITUTION	LAW	COMPETENCE
<p>Authority at level of Departments (administrative and political division of national territory)</p>	<p>Regulations for environmental law 1333. General regulations for environmental management (Article 8)</p> <p>Environmental Regulations for the Hydrocarbon Sector (Articles 4-5)</p>	<ul style="list-style-type: none"> ▪ Responsible for environmental management in the department ▪ Creates mechanisms for participation and concentration with public and private sectors ▪ Coordinates actions with municipal governments in the field of laws for participation ▪ Reviews Environmental Registers, defines the category of Environmental Impact Assessment and issues Certificate of Dispensation ▪ Competence attributes in environmental management in the field of hydrocarbon and gas
<p>Municipal Governments</p>	<p>Regulations for Environmental Law 1333 General Regulations on Environmental Management (Article 9)</p>	<ul style="list-style-type: none"> ▪ Municipal Environmental Action Plan in the scope of national and department policies ▪ Environmental register review ▪ Report on the categories of the Environmental Impact Assessment Studies (EIAS) ▪ Reviews EIAS and submits report to the mayor ▪ Issues or cancels: Environmental Impact Declaration and Environmental Compliance Declaration ▪ Monitoring and control
<p>Territory-Based Organizations</p>	<p>Regulations for Environmental Law 1333. General Regulations on Environmental Management (Article 10)</p>	<ul style="list-style-type: none"> ▪ Request information, promote initiatives, formulate petitions, call for public hearings and denounce plans and activities within its territorial unit
<p>Competent Sectoral Entities (OSC in Spanish)</p>	<p>Environmental regulations for the hydrocarbon sector (Article 17)</p>	<ul style="list-style-type: none"> ▪ Follow-up, surveillance and control in the implementation of mitigation measures included in the Environmental Impact Declaration and Environmental Compliance Declaration



BRAZIL

INSTITUTION	LAW	COMPETENCE
National Environment System	Law 6938 (31/08/1981) – DOU 02/09/1981 (Article 6)	
Council of Government		Supreme Body
National Council for the Environment (CONAMA)		Consultative Body
Secretary for the Environment of the Presidency of the Republic		Central Body
Brazilian Institute for the Environment (IBAMA)		Executive Body

CHILE

INSTITUTION	LAW	COMPETENCE
National Commission for the Environment	Law 19300 (Article 70)	<ul style="list-style-type: none"> ▪ Proposals on environmental policies submitted to government ▪ Follow-up on the enforcement of current legislation ▪ Consultative body ▪ Environmental Impact Assessment System
Board of Directors	Law 19300 (Articles 71-74)	<ul style="list-style-type: none"> ▪ Executive Body of the National Commission
Executive Director	Law 19300 (Articles 75-77)	<ul style="list-style-type: none"> ▪ Legal and administrative representative of the National Commission
Consultative Council	Law 19300 (Article 78)	<ul style="list-style-type: none"> ▪ Consultative body of the National Commission
Regional Commissions (includes non-governmental organizations)	Law 19300 (Articles 80-86) DS 95 (Article 49)	<ul style="list-style-type: none"> ▪ Regional Bodies of the National Commission ▪ They must ensure the informed participation of the population



COLOMBIA

INSTITUTION	LAW	COMPETENCE
Ministry of Environment	Law 99 National Environmental System (Article 2)	<ul style="list-style-type: none"> Coordinates the National Environmental System
Regional Autonomous Corporations	Law 99 National Environmental System (Article 23)	<ul style="list-style-type: none"> Manages environment and renewable natural resources within its area of jurisdiction and fosters their sustainable development.

CUBA

INSTITUTION	LAW	COMPETENCE
Ministry of Science, Technology and the Environment	Environmental Law Nr. 88 (Title II, Articles 11-12)	<ul style="list-style-type: none"> National Environmental Strategy and coordination of sectoral strategies Evaluation and enforcement of environmental rules and regulations Economic proposals for the rational use of natural resources Settle disputes amongst State Bodies Surveillance of status of environment, climate and natural disasters Control of protected areas
Environmental Inspection and Control Center	Regulations 77/99 (Article 11) Resolution 16/99 (fourth)	<ul style="list-style-type: none"> Environmental permit: well drilling for the extraction of hydrocarbons Organizes and executes State Environmental Inspection: compliance with monitoring plan (Resolution 130/95) Conduct and rule on Environmental Impact Assessments
Environmental Information, Management and Education Center	Resolution 15/99 (fourth)	<ul style="list-style-type: none"> Promotes de participation of civil organizations, unions and communities in environmental decision-making



CUBA (Cont.)

INSTITUTION	LAW	COMPETENCE
State Central Administration Agencies	Environmental Law Nr. 88 (Article 13)	<ul style="list-style-type: none"> ▪ Incorporate requirements on environmental protection. Execution of sustainability projects and sectoral environmental strategies ▪ Systems for the surveillance and control of natural resources ▪ Coordination with the Ministry of Science and Technology
Local popular power Bodies (equivalent to Municipalities)	Environmental Law Nr. 88 (Article 15)	<ul style="list-style-type: none"> ▪ Set environmental priorities and plans within their territory (location)
Council of Ministers or their Executive Committee	Environmental Law Nr. 88 (Article 17)	<ul style="list-style-type: none"> ▪ Approves and evaluates the National Environmental Strategy and the National Environmental Plan ▪ Settles discrepancies amongst government agencies ▪ Declares protected areas and their buffer zones or ecosystems or specific systems



ECUADOR

INSTITUTION	LAW	COMPETENCE
Ministry of the Environment	Environmental Management Law (Article 8)	<ul style="list-style-type: none"> ▪ National System coordination. ▪ Decentralized Environmental Management. ▪ Land Use Management. ▪ Suggests environmental management regulations and Environmental Impact Assessment. ▪ Approves plans and projects. ▪ Determines works and investment that require approval of EIA. ▪ Settles competence-related disputes. ▪ Compiles environment-related information that will integrate the National Environmental Information Network. ▪ Creates Advisory Councils and ensures participation of the civil society. ▪ Defines a monitoring and follow-up system relative to compliance with regulations and permit and license schemes. ▪ Fosters community participation.
National Sustainable Development Council	Environmental Management Law (Article 7)	<ul style="list-style-type: none"> ▪ Consultation and advice on National Environmental Policy
General State Comptroller's Office	Environmental Management Law (Article 25)	<ul style="list-style-type: none"> ▪ Audits processes relative to implementation and approval of environmental impact assessment and studies
Ministry of Energy and Mining	Hydrocarbon Law (Article 9)	<ul style="list-style-type: none"> ▪ Controls and supervises hydrocarbon operations.



ECUADOR (Cont.)

INSTITUTION	LAW	COMPETENCE
<p>Environmental Protection Under-Secretariat (SPA) through the National Environmental Protection Directorate (DINAPA)</p>	<p>Regulations Substituting the Environmental Regulations for hydrocarbon operations (Article 3, Article 88)</p> <p>Regulations for Consultation and Participation in the execution of hydrocarbon-related activities (Article 4)</p>	<ul style="list-style-type: none"> ▪ Technical and administrative instance of the sector that will control, supervise and audit environmental management in hydrocarbon activities. ▪ Conducts evaluation, approval and follow-up of Environmental Studies. ▪ Defines and coordinates citizen participation mechanisms in the surveillance and monitoring of hydrocarbon activities. ▪ Controls application and compliance of rules and regulations and its resolutions as well as consensus reached in the consultation process whenever applicable in the development of hydrocarbon-related activities.



MEXICO

INSTITUTION	LAW	COMPETENCE
<p>Federation (Federal Executive Power through Ministry of Environment and Natural Resources)</p>	<p>General Law on Balance and Protection of the Environment (Article 5)</p> <p>Planning Law (13- 06- 2003)</p> <p>Regulations relative to General Law on Balance and protection of the Environment in terms of Environmental Impact (Article 2)</p>	<ul style="list-style-type: none"> ▪ Directs National Environmental policy ▪ Applies instruments ▪ Issues regulations and supervises Law enforcement. ▪ Control of hazardous, emergency and environmental contingency activities. ▪ Ecological management programs ▪ Environmental impact assessment ▪ Social participation promotion. ▪ Direct national environmental planning ensuring democratic participation of social groups. ▪ Assess environmental impact and issue the corresponding resolutions. ▪ Disseminate prevention report. ▪ Undertake public consultation processes. ▪ Add information to data resulting from public consultation process. ▪ Weekly publications in the Gaceta Ecológica (Ecological Newsletter) ▪ Send communications to stakeholders. ▪ Organize public information-sharing meetings (Article 43).
<p>At the level of each state</p>		<ul style="list-style-type: none"> ▪ Direct state environmental policy. ▪ Issues state legislation. ▪ Application of instruments. ▪ Prevention and control of contamination due to substances not restricted to the Federation. ▪ Ecological Management Programs. ▪ Promotion of social participation. ▪ Environmental Impact Assessment.



MÉXICO (Cont.)

INSTITUTION	LAW	COMPETENCE
Municipalities		<ul style="list-style-type: none"> ▪ Directs municipal environmental policy. ▪ Application of instruments. ▪ Application of legal provisions. ▪ Ecological preservation areas. ▪ Ecological management programs. ▪ Participation in the Environmental Impact Assessment.
Oil Administration Council of Mexico, integrated by: Secretary for the Environment and Natural Resources and five representatives from the oil trade union.	Organic Law of Petróleo Mexicanos and its Subsidiaries (Article 10)	<ul style="list-style-type: none"> ▪ Central management and strategic management.
General Directors	Organic Law of Petróleo Mexicanos and its Subsidiaries (Article 11)	<ul style="list-style-type: none"> ▪ Control systems and evaluation mechanisms. ▪ Compliance with provisions relative to ecological balance.

PARAGUAY

INSTITUTION	LAW	COMPETENCE
National Environment System (SISNAM) (integrates public and private sectors)	Law 1561/00 (Title I, Chapter I, Article 2)	<ul style="list-style-type: none"> ▪ Solves inter-institutional conflicts. ▪ Responds to environmental policy objectives.
National Environment Council (CONAM)	Law 1561/00 (Title I, Chapter II, Article 3-6)	<ul style="list-style-type: none"> ▪ Defines, supervises and evaluates the national environmental policy. ▪ Suggests standards and criteria. ▪ Coordinates with SEAM.



PARAGUAY (Cont.)

INSTITUTION	LAW	COMPETENCE
Ministry of the Environment (SEAM)	<p>Law 1561/00 (Title II Chapter I, II, III, Article 12)</p> <p>Law 294/93, Environmental Impact Assessment (Article 6), competent authority modified by Law 1561/00 (Title II, Chapter V, Article 14, Letter i)</p> <p>Decree 1428 EIA Regulations (Chapter III, Article 11) competent authority modified by Law 1561 (Article 14, Letter i)</p>	<ul style="list-style-type: none"> ▪ Elaboration of environmental policy on the basis of a broad participation of citizens. ▪ Formulates and executes management of plans on environmental preservation. ▪ Stimulates the participation of social sectors in the environmental management plans. ▪ Monitoring-related tasks. ▪ Determines socio-economic and environmental costs. ▪ Organizes and administrates a national environmental information system. ▪ Supervises and controls resource exploration activities. ▪ Takes into consideration and supports civil and non-governmental organization activities in the environmental field. ▪ Resolves on Environmental Impact Assessments. ▪ Establishes regulations relative to community participation in environmental impact assessment.
General Directorate for Environmental Management	Law 1561/00 (Title II, Chapter IV, Article 22)	<ul style="list-style-type: none"> ▪ Formulates, coordinates and supervises projects / programs on environmental management.



PARAGUAY (Cont.)

INSTITUTION	LAW	COMPETENCE
General Directorate for Environmental Quality and Natural Resources Control	Law 1561/00 (Title II, Chapter IV, Article 23)	<ul style="list-style-type: none"> Coordinates environmental impact assessment studies with department and municipal governments. Monitors environmental quality management.
Ministry of Public Works and Communications	Law 779 (Title XIV, Chapter XIV, Article 76)	<ul style="list-style-type: none"> Applies sanctions in cases of non-compliance with provisions on the protection of the environment in hydrocarbon-related activities.

PERU

INSTITUTION	LAW	COMPETENCE
National Environment Council (CONAM)	Law 26410 (Article 4) modified by Law 28245 (Article 9)	<ul style="list-style-type: none"> Proposes, coordinates, directs and evaluates the National Environmental Policy. Coordinates environmental issues with Central Government, Regional and Local Governments. Directs the Environmental Impact Assessment System. Fosters citizen participation at all levels. Standardizes Policies and other Planning and Environmental Management instruments. Creates the Environmental Disputes Settlement Tribunal.
Environmental Education and Culture Directorate of the CONAM	Supreme decree 022-2001-PCM (08-03-01) (Title IV, Chapter VI, Article 53, Letter c)	<ul style="list-style-type: none"> In charge of citizen participation: criteria and instruments relative to environmental information, research and education.
Ministry of Energy and Mining	Supreme decree 27-93-EM (19-06-93) (Article 4, Letter c)	<ul style="list-style-type: none"> Sets forth measures relevant to environmental protection in the sub-sectors of its competence.
General Directorate for Hydrocarbons (DGH)	Supreme decree 27-93-EM (19-06-93) (Article 39)	<ul style="list-style-type: none"> Promote, guide and supervise all activities in the hydrocarbon sub-sector. Monitors compliance with provisions relative to the preservation of the environment.



PERU (Cont.)

INSTITUTION	LAW	COMPETENCE
Energy Investment Supervisory Agency (OSINERG)	Law 26734 creates OSINERG	<ul style="list-style-type: none"> Supervises legal and technical aspects relative to hydrocarbon activities.
General Directorate for Environmental Affairs (DGAA)	Supreme decree 27-93-EM (19-06-93) (Article 39)	<ul style="list-style-type: none"> Suggests policy and legal standards for the preservation and protection of the environment and for the promotion and strengthening of harmonic relations between Companies in the Energy and Mining Sector and the civil society. Standardizes, grades, evaluates and approves the EIA in the Energy and Mining Sector. Conducts Public Hearings.

URUGUAY

INSTITUTION	LAW	COMPETENCE
Ministry of Housing, Territorial Ordering and Environment (MVOTMA)	Law 16112 (Article 3)	<ul style="list-style-type: none"> Formulation, execution, supervision and evaluation of national plans to protect the environment. Implementation of the national environmental policy.
	Law 16112 (Article 6)	<ul style="list-style-type: none"> Controls enforcement of environmental protection rules and regulations. Execution of sanctions. Elaboration of legislation.
	Decree 435/994	<ul style="list-style-type: none"> Environmental Impact Assessment. Issues preliminary environmental authorizations. Calls for public hearings.
National Directorate for the Environment (DINAMA)	A Division of MVOTMA	<ul style="list-style-type: none"> Formulates, executes, supervises and evaluates National Environmental Protection Plans and proposes and implements the relevant National Policy.



VENEZUELA

INSTITUTION	LAW	COMPETENCE
<p>Ministry of the Environment and Natural Resources (MARN)</p>	<p>Decree Nr. 1475, Official Publication Nr. 37305 dated 17/10/2001 (Article 12)</p>	<ul style="list-style-type: none"> ▪ Environmental policy regulation, formulation and follow-up for the Venezuelan State. ▪ Design and implementation of environmental educational policies. ▪ Planning, coordination and execution of National Executive Power activities to foster and improve quality of life, environment and natural resources. ▪ Land use planning and management. ▪ Administration and management of water basins. ▪ Preservation, defense, management, restoration, adequate use, rational and sustainable use of natural resources and biodiversity. ▪ Management and control of forest resources. ▪ Administration of the corresponding Areas under Special Management Schemes (ABRAE). ▪ Evaluation, surveillance and control of activities carried out within the national territory, in particular in urban and marine coastal areas, more likely to degrade the environment. ▪ Elaboration and implementation of technical environmental standards. ▪ Competent as national water authority. ▪ Generation and upgrading of national cartography and registers. ▪ Conducts environmental studies and projects. ▪ Operation and maintenance of public works and environmental sanitation to ensure enhanced use of water resources.



VENEZUELA (Cont.)

INSTITUTION	LAW	COMPETENCE
<p>National Environment Council (CNA) and National Environment Bureau (ONA), both branches of the Presidency of the Republic, as is the Office for the Defense of the Environment (Procuraduría del Ambiente)</p>	<p>Organic Environmental Law (G.O. 31.004, 16/06/1976)</p>	<p>CNA:</p> <ul style="list-style-type: none"> ▪ Suggest coordination standards relative to preservation, defense and enhancement of environment; ▪ Examine the institutional legal framework of the State vis-à-vis the environment; ▪ Elaborate National Plan on environmental preservation, defense and enhancement, and helps in the formulation of annual programs relative to the environment. <p>ONA:</p> <ul style="list-style-type: none"> ▪ Monitor the execution of regulations on the coordination of environmental public administration agencies. ▪ Evaluate and monitor the execution of the Plan. ▪ Coordination of environmental protection services. ▪ Promotes the creation of Boards for the preservation, defense and enhancement of the environment.
<p>National Biological Diversity Bureau, branch of the Ministry of the Environment and Natural Resources</p>	<p>Law on Biological Diversity (G.O. 5468, 24/05/2000)</p>	<ul style="list-style-type: none"> ▪ Coordination of plans for biological diversity preservation. ▪ Protection of traditional knowledge of indigenous peoples and communities. ▪ Regulation of access to genetic resources, economic valuation of natural resources in addition to areas such as bio-safety.
<p>General Directorate for Environmental Education and Community Participation (under MARN)</p>		<ul style="list-style-type: none"> ▪ Formulation, execution and evaluation of policies targeted to the promotion of environmental education, citizen and community participation and dissemination in environmental management, following sustainability criteria.



VENEZUELA (Cont.)

INSTITUTION	LAW	COMPETENCE
Ministry of Energy and Mining (MEM)	Organic Hydrocarbon Law (G.O. Nr. 37.323 13/1101) and Decree-Organic Hydrocarbon Law (Decree Nr. 1.510 02/11/01)	<ul style="list-style-type: none"> ▪ Regulation, formulation and follow-up of policies, planning, implementation and supervision of National Executive Power activities relative to mining, hydrocarbons and energy in general; ▪ Development, adequate use and control of non-renewable natural resources and other energy resources as well as mining, electrical, oil and petrochemical industries; ▪ Prevention relative to environmental pollution stemming from mining, energy and hydrocarbon-related activities, in coordination with the MARN.

3.3. International Conventions

International environmental conventions relative to indigenous peoples, given their nature, would require a specific research project, in particular when dealing with concrete issues such as participatory monitoring in socio-environmental management plans. However, in order to complement research conducted on legislation and regulations relative to participatory monitoring, some of the agreements relevant to the issue of monitoring must be mentioned. In the following matrix, an analysis of the most relevant international agreements relative to this issue is presented:

Convention	Date	Contents	Reference made to participatory Monitoring
On indigenous and tribal peoples (N° 169 of the International Labour Organization)	June 27 1989	Amendments and extension of agreement 107 of 1957. Declaration on collective rights of indigenous peoples and their participation in measures to protect and control the environment.	Article 4, Number 1 Article 6, Letters a and b Article 7, Numbers 1 and 3 Article 8 Article 15, Numbers 1 and 2
Convention on Biological Diversity (United Nations)	June 5 1992	Sustainability of biological diversity	Article 14, Letters a and c



4. INTERNATIONAL PRACTICES

4.1. Methodological Recommendations

International practices are actions or guidelines relative to an industry that, on the basis of conceptual and operational innovations, offer the most rigorous alternative possible in terms of a given business activity, in this case, socio-environmental challenges linked to hydrocarbon operations. There are three main sources to identify international practices: the international financial sector, including multilateral donor agencies and private banking; the industry itself, through industry associations or individual companies; and, finally, entities advancing development through international organizations, non-governmental organizations (NGOs), social organizations or pressure groups.

As regards the hydrocarbon industry, international practices stem from the World Bank Group (www.worldbank.org), its policies and guidelines, management or operational manuals, socio-environmental standards and overall recommendations. One example is the recent creation of the Equator Principles and their growing adhesion (www.equator-principles.com), the large infrastructure for international funding, both multilateral and private, with a clear trend towards making loans and disbursements conditional on the implementation of best practices during project development, including permanent audit and oversight mechanisms that have become contractual requirements, in particular during information and consultation phases.

At the level of the industrial sector, several industry associations are in charge of the promotion, compilation and communication of international practices. Firstly, World Business Council for Sustainable Development (www.wbcsd.org) is a source of socio-environmental guidelines and parameters for the private sector in general.

Regarding the exploration and production of hydrocarbon, a very relevant agent in the generation and dissemination of best practices worldwide is the International Association of Oil and Gas Producers, known as OGP (www.ogp.org.uk). Regional associations, such as ARPEL (www.arpel.org), also develop and facilitate processes for the implementation, transmission and validation of international practices, as do associations devoted to specific socio-environmental issues, such as IPIECA, the International Petroleum Industry Environmental Conservation Association (www.ipieca.org). Other important sources are the United Nations Environment Program, UNEP (www.unep.org) and the International Association for Impact Assessment, IAIA (www.iaia.org).

Development agencies are also a source of international practices for the hydrocarbon sector. Differences are noticeable between actors that approach the issue from an environmental perspective and those that do so from a social perspective (though in practice their voices come together to speak about sustainable development and their activities are both related to one or the other issue).

Larger NGOs with an international projection, in particular, muster sufficient resources so as to suggest and generate public discussions or political debate around acceptable socio-environmental performance parameters for hydrocarbon-related activities.



4.1.1. International Practices: International Financial Sector

4.1.1.1. World Bank

The World Bank Manual on "Participation and social assessment tools and techniques" devotes an entire chapter to participatory monitoring. It defines the concept as a "collaborative process in problem solving through the generation and use of knowledge that leads to corrective action, involving all levels of stakeholders in shared decision-making" (Rietbergen-McCracken and Narayan. 1998. *Participation and social assessment: tools and techniques*. International Bank for Reconstruction and Development, Washington, D.C.).

While recognizing that it may take different forms and involve different levels of participation, the manual proposes four key principles in participatory monitoring, four distinctive characteristics repeated throughout the process regardless of its nature. First, emphasis is placed on the active roles to be performed by the parties engaged. Second, parties are considered the main participants and actors throughout the process: compiling and analyzing information and generating recommendations; the function of external parties is only that of facilitating and supporting such activities. Third, parties involved must build on their capacity to generate and analyze relevant information. Fourth, those involved must demonstrate their commitment around both the implementation of recommended actions and continuous improvement of the process. In terms of its application, it is recommended to carry out participatory monitoring as a permanent activity throughout the project cycle, from the initial phase of design, information and consultation to its termination or abandonment phase.

Key principles in participatory monitoring (Rietbergen-McCracken and Narayan. 1998. *Participation and social assessment: tools and techniques*. International Bank for Reconstruction and Development, Washington, D.C.)

- Local inhabitants are active participants, not just sources of information.
- Parties involved evaluate, external parties facilitate.
- Capacity is built on the analysis and solution of problems and conflict.
- Commitment is engaged in order to implement recommended corrective action.
- Transparency and trust across parties is strengthened.
- The information and communication process is improved.

Conventional monitoring activities tend to be implemented with predetermination to comply with legal or administrative requirements and are oftentimes led and steered by an external agent that is considered necessary to ensure impartiality and objectivity; however, the industry is currently focusing on it as part of the Management Commitment and of the qualitative changes corporations are applying in their areas of influence within a new concept of Social and Environmental Responsibility.



The Participatory Monitoring of Socio-environmental Management is used to build new relationship scenarios between parties, based on trust and transparency, in whose process consensus is reached in terms of the methodology, parameters, outcomes and their interpretation, thus overcoming the "suspicious attitude" that is always present, especially in relations between extraction companies and social groups.

Participatory monitoring is carried out in order to identify and respond to the changing needs of a project given the permanent evolution of the environmental, social and operational circumstances around it. To this end, monitoring planning and execution is delegated to the stakeholders, including the evaluation of results and the recommendation of corrective action; the external agents are limited to facilitate during the process and provide support in capacity building.

Details and outcomes of a participatory monitoring are topics agreed upon in the course of the process and not before it though it is necessary to reach a prior consensus (Protocol) as to what and when to monitor, definition of a methodology, parameters and legal references. This is an iterative and flexible activity that includes evaluations of monitoring outputs, quality of the process itself, so that the process permanently adapts to its determining factors, thus maintaining its social validity. To keep a balance of approaches, most experiences in participatory monitoring have included parallel conventional monitoring efforts in order to compare outcomes and foster community commitment to action.

Participatory monitoring involves four main stages:

- a) Preparation;
 - b) Participatory measuring and analysis;
 - c) Corrective action;
 - d) Processing and dissemination of outcomes.
- a) During the Preparation stage, the need and general scope of monitoring are agreed upon by parties engaged; this could be through a Protocol. Operational bases for the program are established (timeframes, necessary resources, etc.). During this phase of planning it is convenient to specify all details relevant to monitoring, participants, schedule, logistics and other specifications to make this process viable.
- b) The participatory measuring and analysis stage implements participatory methodologies to generate and systematize the information needed; at this stage, capacity building is particularly relevant. If bio-physical aspects are to be monitored, it is necessary to reach consensus regarding the method, equipment, calibration, resistance tests, so that all elements are carefully included in the protocol with their respective control mechanisms, without neglecting their being understood by all those involved. Oftentimes when we want to implement this stage in the Participatory Monitoring, all parties may agree on engaging a third party with a technical and ethic qualification to act impartially whether to take samples or check activities during monitoring, with an emphasis on the social aspect.



- c) The corrective actions stage implements participatory methodologies to determine and recommend appropriate corrective measures and implies compliance thereof by parties, pursuant to their relevant commitments. This is a very important stage to reinforce relations of trust between the parties. If outcomes are correct *vis-à-vis* the terms of reference and legal rules and regulations, it is obvious that the relation will become transparent and safe; however, if there are deviations, this will be the opportunity to draw a micro-plan of improvement.
- d) The processing and dissemination of outcomes is a stage used for the process feedback. It aims at a continuous improvement and to reinforce commitments by the parties as to this process. Keeping registers may help the parties in this commitment to continuous improvement, will ensure more transparency in their relations and basically will help handle objective data. In the original protocol the channels must be clearly established as well as the modality and definition as to who will deal with information and communication of outcomes, so that stakeholders can learn directly and not through the interpretation of third actors.

In order to be effective, participatory monitoring must ensure public participation all along its different stages. The World Bank defines participation as "*a process through which the stakeholders influence and share the control on development initiatives, decisions and resources affecting them*" (World Bank Operations Policy Department, *The World Bank and Participation*, 1994).

Consultation with stakeholders is the first step towards participation. In this regard, the International Finance Corporation, a branch of the World Bank Group, recommends four principles in information management (IFC.1999. *Doing better business through effective public consultation and disclosure*: (www.ifc.org/enviro/Publications):

- 1) Present information as early as possible.
- 2) Use the presentation of information to support consultation processes.
- 3) Make sure information provided is understood.
- 4) Ensure access to information.

4.1.1.2. International Finance Corporation

In terms of socio-environmental management plans for hydrocarbon activities, the international financial sector has stipulated practices they recommend by gradually incorporating them to the requirements for funding. A very recent and significant example is the transmission of investment standards of the International Finance Corporation (IFC) to the private banks through the Equator Principles that set conditions on loans to projects with a total cost of over 50 million US dollars.

The Fourth Principle in the Equator Principles states that in order to access a loan "*for Category A projects, and Category B projects if deemed appropriate, the borrower or an expert third party has prepared an Environmental Management Plan (EMP) that contemplates mitigation, action plans, monitoring, risk management and schedules.*"



According to the Fifth Principle, this EMP must take into account "*the consultation, in a structured and culturally appropriate way, with groups affected by the project, including indigenous peoples and local NGOs on the part of the borrower or expert third party*". (*Equator Principles: an industry approach for financing institutions in determining, assessing and managing environmental and social risk in project financing*, June 4, 2003; www.equator-principles.com)

Finally, from a multilateral perspective and in relation to the funding of projects, participatory monitoring of the Socio-Environmental Management Plans is currently considered part of a broader social development agenda. It is stated that participatory monitoring should be expressly considered part and catalyst agent of the social investment of a company that seeks community development in its area of influence, the kind of disbursement that today becomes indispensable to ensure the normal flow of hydrocarbon-related operations in Latin America. In this regard, the World Bank proposes 10 critical factors to ensure the success of social investments by hydrocarbon companies (McPhail and Davy. 1998. *Integrating social concerns into private sector decision making: a review of corporate practices in the mining, oil, and gas sectors*. World Bank Discussion Papers Nr. 384):

1. Adopt a policy relevant to social issues and develop capacity to implement.
2. Identify stakeholders and accept the legitimacy of their perspectives.
3. Identify risks and social opportunities.
4. Thoroughly assess social and environmental impacts: integrate when appropriate.
5. Recognize public involvement as integral part in the sustainability of the project.
6. Spell out responsibilities vis-à-vis the provision of social services.
7. Focus on equity in income distribution, compensation and other social investments.
8. Develop alliances that support sustainable development.
9. Develop long-term mechanisms to represent stakeholders and solve conflicts.
10. Assess the effectiveness of social investments.

In addition, through the International Finance Corporation, the Bank suggests eight key principles for community development programs (IFC. sf. *Investing in people: sustaining communities through better business practice. A community development resource guide for companies*; www.ifc.org/enviro/Publications):

1. Undertake effective community consultation.
2. Build trust between parties.
3. Manage expectations by clearly defining roles and responsibilities.
4. Develop the right capacity.
5. Mobilize core competence.
6. Set measurable goals and report on their progress.
7. Generate strategic alliances.
8. Plan for sustainability.



Many of today's Participatory Monitoring processes are better understood within the strategic environmental assessments--SEAs-- (please refer to: "*Strategic Environmental Assessment in World Bank operations. Experience to Date Future Potential*". Document prepared by ECON, Centre for Economic Analysis, Oslo, Norway or UNEP's "*Environmental Impact Assessment and Strategic Environmental Assessment: Towards an Integrated Approach*").

SEAs help visualize indirect socio-environmental, bio-physical, landscape impacts resulting from operations by companies performing extraction activities, the type of impact that --in the short term--may seem insignificant but over the years, due to accumulation or association, become critical. For example, permanent industrial waste disposal with low concentration of a heavy metal which, due to time and accumulation, cause irreversible impact, especially in relation to water. The SEA integrates participatory monitoring of the parties involved from the initial analysis to the actual monitoring practice throughout all its stages.

4.1.2. International Practices: The Hydrocarbon Industry

As regards the generation of international practices in participatory monitoring, the individual hydrocarbon corporations, either on their own or in the framework of multi-stakeholder collaboration, show the greatest dynamism. Participation is considered basically a social issue that stems from a managerial decision, a corporate commitment with its surroundings and mutual respect of actors involved; however, it is mainly in the social aspect of the business practice where we can find explicit references to participatory monitoring.

In fact, the main industry associations address participatory monitoring issues through commitments that relate, either directly or indirectly, with Corporate Social Responsibility (CSR), that the World Business Council for Sustainable Development (WBCSD) defines as "*the business commitment to contribute to sustainable economic development, working with the staff, their families, the local community and society in general to improve their quality of life*" underlining their importance in obtaining and keeping a "social operation license".

Three bibliography cases have been pointed out as brief examples but during ARPEL's Workshop on "*Participatory monitoring in socio-environmental management in the oil and gas industry of Latin America and the Caribbean*" (March 8-9, 2005 in Puerto La Cruz, Venezuela) other valuable cases of companies directly or indirectly connected to ARPEL were presented, namely, the case of Repsol YPF in Block 16 (Ecuador), ConocoPhillips in the Gulf of Paria (Venezuela), Occidental Petroleum in Block 15 (Ecuador) and the case of Pluspetrol in Camisea (Peru).

During this Workshop, participants from several companies in the hydrocarbon sector identified the elements that constitute an ideal participatory monitoring:

- Protocol
- Information and/or communication
- Consultation
- Training
- Participatory mechanisms
- Mechanisms to prevent conflicts



- Inter-institutional cooperation
- Monitoring issues
- Management indicators

4.1.2.1. Shell

The search for international practices must be carried out both at the corporate level of a company as well as at its operational level. When reviewing public information available in the Internet on the main hydrocarbon companies at world level, it was revealed that the issue of participatory monitoring has been more broadly developed by the Royal Dutch/Shell Group (www.shell.com). In the first place, the Group has a solid socio-environmental structure of commitments that is efficiently documented and communicated. Second, a 2004 report on its corporate program for Social Development makes an explicit mention to participatory monitoring as common requirement for any effective management of social impact resulting from its operations. Finally, Shell presents specific operational experiences relative to participatory monitoring of its activities.

Shell acknowledges sustainable development as one of its socio-environmental commitments. Its specific commitment to society consists of permanent improvement of the social performance of its operations. The interaction with communities is a key component of such performance. Among other measures, Shell implements Plans and Evaluations on Social Performance in its operations in order to mitigate their impact on the communities. Shell's Social Performance Management Unit has recently published an analysis of the program (Fossgard-Moser. 2004. *Social performance: key lessons from recent experiences within Shell*. Social Performance Management Unit, Shell International).

Among other findings, the report suggests that Social Performance management basically deals with "*how operations mitigate impact--whether real or perceived--in the lives of individuals throughout the life cycle of a project.*" In this sense, social performance of a hydrocarbon-related project turns around its operational impact and not around the social investment linked to it. Shell acknowledges seven types of social impact in its operations: life style; health; safety; cultural and community way of life; social infrastructure; lack of safety, violence and conflict; indirect economic impact. As requirements for the effective management of social impact, the report recommends the "*participation of the community in the development, implementation and mitigation strategies monitoring (for example, community monitoring of air).*"

4.1.3. International Practices: Development Agencies

The main contributions of development agencies in terms of international participatory monitoring practices are to be found in the construction of conceptual frameworks and in the design of application models. The non-business civil society has significantly contributed to the definition of what "participation" implies. In particular, they posit that the term can be understood from a broad perspective and that when expanding the scope of what it means to "participate", it enhances the analysis of what is "participatory" and that which is not. In this sense, it is more useful to set up a typology describing different participation modalities than to assign one single meaning to such a complex paradigm.



The International Institute for the Environment and Development (IIED, London, www.iied.org) breaks down participation into a whole range of different types of interactions between a company and third parties. While it does not define methodological practices, the IIED classification is useful as it introduces an upscale in terms of stakeholder empowerment.

IIED classification vis-à-vis “participation”

- Manipulative
- Passive (unilateral announcements)
- By consultation (does not grant decision power)
- Material incentives
- Functional (its end is to attain predetermined objectives)
- Interactive (involvement in decisions and activities)
- Self-management (independent initiatives)

4.1.3.1. Business Partners for Development

In terms of models for the application of participatory monitoring, the civil society and multilateral development agencies have during recent years suggested a variety of participatory methodologies applicable in relation to socio-environmental management plans. As regards the hydrocarbon industry in particular, the pilot project on tripartite alliances of the Business Partners for Development (www.bpdweb.com) provides an interaction model between companies and third parties, whose application to participatory monitoring programs promises to be useful as the method is based on the cooperation between company, communities and the public sector, including regulatory agencies. Public participation is manifest during the negotiation of the terms of reference of an alliance, and in the shared responsibility that its execution implies. Many companies are applying and executing tripartite alliances to address community development projects, participatory environmental monitoring, productive projects, capacity building of civil society organizations, showing that this initiative is very effective as it helps improve communications across parties, it builds trust in the future and, mostly, the company--especially in the extraction sectors--it does not become the pillar for development but rather another actor so that working together as a team they can overcome needs and face community problems. It is obvious that pressure needs to be well distributed.

BPD and Tripartite Alliances

Business Partners for Development (BPD) was an international initiative that between 1998 and 2001 promoted and facilitated the creation of tripartite alliances as a mechanism to optimize the contribution of the private sector to development. BPD organized its activities into four groups, out of which the Natural Resources Group was created to work with the hydrocarbon and mining industries. It was a joint program of BP Amoco, WMC Resources Ltd, CARE International, and the World Bank Group.

The BPD Natural Resources Group sought to consolidate practical examples in the application of tripartite alliances around community relations and the mitigation of social risk.



This was achieved through the cooperation of mining or hydrocarbon companies who, with the support of external consultants, implemented the tripartite alliance approach regarding specific issues. For example, in Nigeria, Shell applied a tripartite alliance scheme in order to improve its procedures *vis-à-vis* the approval of environmental impact studies. In Venezuela, Placer Dome set up tripartite alliances in order to improve health-care services available in the neighborhood around Las Cristinas gold mine.

Alliances are inter-institutional working relations geared to consolidate cooperation agreements between the company and third parties. Tripartite Alliances are relations and cooperation agreements between the company, public sector entities and civil society organizations, including local communities.

When setting up an Alliance program, an attempt is made at ensuring that the social investment of a company has the most positive impact on the quality of life of the people around their operations. An Alliance program is a channel of the company's social investment so that its contributions complement and strengthen the other social development resources available.

In total, the BPD Natural Resources Group was able to implement six main projects (two in Asia, two in Africa and two in Latin America) and four minor projects (one in Asia, two in Africa and one in Latin America). Projects were carried out in a wide variety of extracting activity contexts, both in mining, oil and gas activities, during different stages of the operation and at different socio-economic levels, from working with communities or specific nationalities to maintaining dialogues with regional associations of broad social spectrum.

Through these pilot cases, the BPD experience applied the tripartite alliance approach in relation to the following social issues:

- Community relations management during financial uncertainty periods.
- Community relations management during periods of abandonment.
- Contribution to community development.
- Contribution to long-term regional development.
- Prevention and solution of community conflict.
- Improvement of Environmental Impact Assessment (EIA) processes.
- Management of corporate foundations.

Despite this variety, all cases shared common grounds: the business need to achieve and maintain a Social License for its operations, granted by communities and other relevant social actors in the Areas of Influence. The BPD project revealed that tripartite alliances constitute a useful tool to this effect.

In addition to the practical application of tripartite alliances, the BPD program put in considerable efforts to generate new concepts on the issue. A theoretical model of the process was created in order to establish alliances, together with a substantial body of analyses on its benefits, risks, diverse applications, potential monitoring methods, etc. Moreover, training and dissemination material was prepared on alliances and a strict systematization of knowledge acquired during practical cases was undertaken.



4.2. Case Studies

Case 1: Pluspetrol, Camisea and the Community Environmental Monitoring Program (CEMP)¹

The Community Environmental Monitoring Program (CEMP) implemented by Pluspetrol during the construction of the upstream component of the Camisea Gas Project in Peru, illustrates what the participatory monitoring of a hydrocarbon project implies.

The main objective of CEMP is to involve male and female representatives from indigenous and settlers populations, living in the direct area of influence of the Camisea project, upstream stage, in the activities to monitor potential social and environmental impact resulting from the execution of different components (3D Seismic, Drilling, Pipes, Gas Plant) of this project.

Implementation of CEMP contemplates two main lines of action:

1. Monthly visits by community monitors to different facilities used by the project during its construction stage, in order to learn about policies and strategies of field work implemented by Pluspetrol and its contractors to minimize such impact.
2. Monitoring potential environmental and social impact resulting from different Camisea project components in the territories of the seven native communities and one settlement located in the direct area of influence of the project.

Accordingly, the two specific objectives of CEMP are thus accomplished:

1. To disseminate accurate information to the local population on the monitoring and environmental/safety oversight activities by Pluspetrol, through monthly follow-up activities conducted by community monitors.
2. To receive local population concerns on potential impact in their territories in a well-organized manner, resulting from observations made by the community monitors themselves.

CEMP considered three main working stages:

- Stage one. Following a call launched by Pluspetrol to a set of 8 (eight) national NGOs, an association of 2 NGOs was selected (Pro Naturaleza and RAP-Red Ambiental Peruana), who designed the monitoring program on a participatory model that directly involved the boards of directors of the seven native communities and the settlement located in the area of influence. In addition, with the participation of two indigenous federations, they appointed a Coordination Committee to supervise the work of community monitors periodically.
- Stage two. Selection of environmental monitors, two per native community, who receive training in issues relative to: environmental monitoring techniques and concepts, safety standards, hydrocarbon legislation and native communities' legislation.

¹ Source: Contribution by Pluspetrol Peru Corporation. For further details: <http://www.camisea.com.pe/esp/reports/Enero-marzo06/Anexo%2018.pdf> (online, quoted on December 15, 2006)



- Stage three. Implementation of participatory environmental monitoring in two field activities for every month of work, that is:
 - ✓ One visit to different project facilities, to which purpose the 16 environmental monitors broke out into 3 or 4 working groups to cover the different project facilities.
 - ✓ A general meeting for coordination and training on monitoring-related aspects; thus, every fortnight a field activity was carried out.

Following this trend, in almost two years more than 20 monitoring, oversight and training meetings have been held with this working group. This has allowed for a fluid exchange of information between Pluspetrol and the local populations.

CEMP is currently completing its second year of field work and it coincides with the termination of the construction stage of Camisea project. For this reason a dialogue is beginning with native communities and indigenous federations involved in this experience so as to define jointly a new working model that allows for an adjustment of the indigenous environmental monitoring to the new operational stage of the Camisea project.

CEMP has allowed Pluspetrol, the company exploiting the upstream stage of the Camisea project, to rapidly learn about potential infractions by contractors and sub-contractors to social and environmental policies, designed for the best control of impact resulting from the execution of the different project components. This, in turn, has allowed for the implementation of quick corrective measures as well as for the dissemination among local populations. Apart from being a very united and highly-motivated team handling basic information on topics relative to oversight and environmental and social monitoring, they have sufficient information to play the role of adequate interlocutors spreading their environmental and social concerns, and this in the long-run contributes to improve the dialogue and discussions that Pluspetrol maintains with local populations and those that represent them.

Case 2: Shell Chemical and the Participatory Monitoring Program on Air (New Orleans Refining Company - NORCO)²

The operational experience of Shell in the field of participatory monitoring is precisely framed within the efforts to identify and mitigate impact. On the one hand, Shell implemented a tripartite alliance strategy in Nigeria to reinvigorate its EIA processes, strengthening its "social license to operate" when opening up the process to public participation (see Development Agencies, below). On the other hand, and responding to community concerns on the quality of air near one of its refineries, Shell Chemical installed the participatory monitoring program on air near its New Orleans Refining Company (NORCO).

In March 2002, Shell Chemical started a program on participatory monitoring of air responding to concerns over the quality of air in the area around NORCO, Louisiana, United States. The program is being executed by two working teams that include members of the state environmental authority, technical experts from local universities, community residents and Shell staff. On the one hand, the Technical Team is in charge of deciding the location of air monitors, frequency of monitoring and list of compounds to be monitored. On the other hand, the Communications Team is responsible for the early, accurate and understandable delivery of information on air quality to the community.

² Source www.shellus.com/norco → Air Monitoring ...Norco



The local residents participated in the selection of both the contractor that provided monitoring as well as the laboratory that analyzed the samples. To disseminate outcomes a variety of methods was used, including: newsletters, community meetings, group meetings, school programs, videos and the Internet. Through the Public Health School in one of the participating universities (Tulane), the program contributed to build on the local capacity and knowledge in terms of community health and air quality.

4.3. Comparative Analysis of Main Aspects Found in International Practices

In short, the Participatory Monitoring of Socio-Environmental Management is a process that allows a company to articulate citizen participation in some or several of the activities involved in monitoring social and environmental parameters relative to its operations. Such process includes four stages that determine and group specific activities together within the framework of a monitoring program. The four stages of this PMSEM are: design, implementation, revision and validation. Public participation --required so that monitoring is participative-- can be expressed in one or several such stages or, in many cases involving the whole monitoring process- from the protocol to the analysis of indicators relative to management, assessment and monitoring.

The design stage contemplates the conceptualization of a monitoring program, definition of its scope, methodologies to be used and expected outcomes. The implementation stage refers to the field or laboratory activities associated to monitoring itself. During the stage of revision suitability and veracity of outcomes attained during the previous state are checked, and the way in which monitoring is taking place is also supervised. The validation stage implies acceptance, by agencies or specific groups, of the monitoring work and its findings.

Each PMSEM case analyzed in this report (see next Table) can be identified with each of these four stages.



Comparative analysis of main aspects found in international practices

OBJECTIVE CRITERIA

	<i>Cases</i>	<i>STAGE OF PMSEM</i>	<i>Legal framework and project</i>	<i>Previous consultation</i>	<i>Participatory mechanisms</i>	<i>Training in socio-environmental issues</i>	<i>Mechanisms to prevent conflict</i>	<i>Inter-institutional cooperation (multi-partnerships)</i>	<i>Aspect monitored</i>	<i>Management indicators</i>	<i>Phase</i>
1	CAMISEA PLUSPETROL PERU	Implementation	YES	YES	YES	YES	YES	YES	Biological preservation		CONSTRUCTION
2	SHELL CHEMICAL New Orleans USA	Design	YES		YES			YES	Air quality	YES	OPERATION
3	Complejo Industrial GMA. ConocoPhillips VENEZUELA	Design	YES	YES		YES		YES	Biological preservation	YES	EXPLOITATION
4	SHELL Gabon, field of Gamba and Rabi GABON	Design				YES	YES	YES	Biological preservation	YES	PRODUCTION
5	CHEVRON Lake Kutubo Papua NEW GUINEA	Design	YES	YES		YES	YES	YES	Biological preservation		PRODUCTION



4.4. Participatory Monitoring and Social Responsibility Processes

Many companies have developed Management Systems based on ISO standards, others on Total Quality Management criteria, as well as on the Malcolm Baldrige model; in all these systems stakeholders' participation becomes a cross-cutting element, especially in the case of social actors that co-exist with extraction activities. Therefore, today we are evolving from the managerial level to the operations level, from internal process organization models to open models that are bi-univocally connected with the environment, social aspects and operations.

Energy-sector enterprises are adopting, for example, the criteria of the United Nations Global Compact, and are preparing codes of conduct, codes of ethics for their business, principles on human rights and environmental protection. All these efforts will help Socio-Environmental Management plans to facilitate consistent action in Participatory Monitoring.

If we take into account the legislation in some of the countries we have examined, there are issues that will rapidly become business policies and strategies, such as tripartite alliances, support to sustainable development projects, active participation of stakeholders, social watch, etc.

These new processes in Social Responsibility, plus the contribution of new methodologies such as the Strategic Environmental Assessment, will no doubt lead to information and consultation, external audits, and participatory monitoring to become the new rules of the game in the relations between industry, communities and governments, always aiming at symmetric relations.



APPENDIX 1: Introduction to Participatory Monitoring



Introduction to Participatory Monitoring

In the development of a legal-administrative research on participatory monitoring, it is necessary to take into account some concepts and practices relative to such process. Initially, a definition of monitoring will be needed and then its environmental nature and implications in social participation can be addressed.

Before generating a consistent model of what "participatory monitoring" implies--as basis for a discussion, analysis and proposal--it is necessary to understand its two built-in concepts separately.

First, monitoring is a term that implies measuring over time, oftentimes in order to determine changes and trends from a baseline. With a Latin root, the concept is based on the *monitor*, the person acting as guide and counselor. Therefore, the essence of monitoring is control on the basis of an early warning of unwanted conditions, which brings forth the opportunity to implement timely corrective actions.

In environmental terms, monitoring implies "the systematic compilation of data on a specific parameter in order to determine changes at the level of its status within a given period of time." It has to do with an "intermittent surveillance (regular or irregular), carried out to assess the extent to which a predetermined standard is being complied with, or otherwise the degree of deviation from an accepted standard" (Goldsmith. 1991. *Monitoring for conservation and ecology*. Chapman and Hall, London).

From a social perspective, monitoring seeks a similar objective by measuring cultural, demographic, political and socio-economic characteristics, with a focus to understanding the current status of a human group, and its ongoing evolution over time. Such is the case of Human Development Reports that the United Nations Development Program (UNDP) publishes on a yearly basis. (www.undp.org).

In short, monitoring is an activity that can be defined in operational terms.

On the other hand, participation is a much broader concept that makes it difficult to reach a consensus definition as it goes more in depth and presents additional levels of complexity. Given a circumstance, a given hydrocarbon-related project, where participation is sought, in the first place we might ask "who should participate?" (i.e., who are the stakeholders?), and secondly, "what does participation imply?"

Regarding the stakeholders, the people or social sectors involved in the future of a project, they are defined as "those affected by the outcome--either negative or positive--or those that may affect the outcome of the proposed intervention" (World Bank Participation Sourcebook. 1996. Environmentally Sustainable Development).

In terms of participation itself, the World Bank considers it "a process through which the stakeholders influence and share control on development initiatives, decisions and resources affecting them" (World Bank and Participation, Operations Policy Department, 1994).

However, participation may be considered from a less restrictive perspective so that when we expand the scope of all that relates to "participating", the analysis of what is and what is not "participatory" may be enhanced. In this sense, one can argue that participation is not an easily defined term in itself: In order to make sense, it must be characterized somehow. It would seem more appropriate to establish a classification for participation instead of giving the concept one single meaning.



In fact, the International Institute for the Environment and Development (IIED, London) breaks down participation in a broad range of different types of interaction between the social agent promoting an initiative and the stakeholders.

Hence, ***participatory monitoring*** is an activity of periodic mediation of social and environmental parameters that includes in its planning, execution or interpretation, some type of involvement on the part of human groups that have received the impact of an initiative or undertaking of a productive nature.

The World Bank defines participatory monitoring as *"a collaborative process in problem solving by means of the generation and use of information ... that leads to corrective action when involving all stakeholders in shared decision-making"* (World Bank Technical Paper Nr. 207, 1993).

In their comprehensive review of relevant literature, Pasteur and Blauert (2000, Institute of Development Studies, University of Sussex, United Kingdom) identified three approaches vis-à-vis the conceptual development of "participatory monitoring". In the first place, its use in optimizing the involvement of research beneficiaries. Secondly, its potential to improve the effectiveness and suitability of monitoring efforts initiated by traditional donors. Lastly, participatory monitoring as a self-reflective way and learning cycle that allows NGOs and communities to contribute to the improvement of the initiative in question.



APPENDIX 2: Introduction to Socio-Environmental Management Plans



Introduction to Socio-Environmental Management Plans

As the concepts relative to Participatory Monitoring have been revisited, we will now focus on the Socio-Environmental Management Plans (SEMP) as the instruments that facilitate preventive measures, that correct impact resulting from a given hydrocarbon project.

These SEMPs articulate to various requirements such as Environmental Impact Studies, Rapid Assessments, Strategic Environmental Assessments and Environmental Declarations, depending on the legislation of each country and on the projects to be developed.

As part of the environmental assessments or Environmental Impact Studies, the Socio-Environmental Management Plans are considered as one of the pillars, as the tool to implement a set of structured procedures and practical and feasible guides before, during and after a project.

A SEMP responds to the interaction of the environment, of the communities and human groups with the project, within a horizon of temporality in the short, medium and long run, in order to mitigate, compensate, and/or prevent socio-environmental impact, putting emphasis more on the preventive than on the corrective aspect. A SEMP will be valid to the extent of the application, the control of all processes and, in particular, of the management indicators that confirm there is an anthropic capacity to control the more critical processes.

A SEMP with a traditional Socio-Environmental Impact Study is in relation to the effects and impact resulting from the interaction of the project with the environment, with a priority on the anthropological rather than the biotic or bio-physical aspects. The positive contribution provided by Strategic Environmental Assessments regarding the configuration of plans is that one can see them within a temporal horizon, examining all the factors relative to the project and its setting, projecting secondary impact and not just the primary.

Today, SEMPs resulting from a good project impact evaluation, become the best instrument to apply the principles of institutional policies and declarations, apart from revealing a real commitment for the prevention of impact, in particular the one that may become irreversible and bring about indirect consequences.



APPENDIX 3: Summary of International Agreements, Constitutional, Legal and Regulatory Provisions



Summary of International Agreements, Constitutional, Legal and Regulatory Provisions

- A3.1 Content of the International Agreements on participatory monitoring.
- A3.2 Constitutional support of the participatory monitoring thematic of socio-environmental management in Latin America and the Caribbean
- A3.3 Content of the environmental and hydrocarbon laws in the Latin America and the Caribbean countries, regarding participatory monitoring and other relative regulations.
- A3.4 Regulations related to the participatory monitoring of the socio-environmental management plans in relation to the hydrocarbon industry in Latin America and the Caribbean



A3.1 Content of the International Agreements on participatory monitoring

International agreements (or Conventions) have double condition: one is to rule in the supranational scope of the countries subscribed to them and the other is to become part of the internal right of each one of them, according to the corresponding constitution. Therefore it is easy to detect that the Convention 169 of the ILO of Indigenous and Tribal Peoples, in addition to regulate in the United Nations and subscribed countries, is noticed in the Constitutional articles, related to collective and diffuse rights or in indigenous population life and culture regulations. This is common in the Constitutions that will be later considered, but its influence is also found in the specific legislation on the matter.

In relation to the Convention on Biological Diversity, without involving the direct influence of the Agreement 169, it is also detectable in some constitutional norms, mainly the most recent ones, as is the case in Venezuelan and Ecuador. The agreement refers to the countries sovereignty on their natural resources and the specific protection of valuable biological resources, to guarantee the economic indemnity of the countries where the resource has been generated, or even of the indigenous ethnics, where it was traditionally used. The same as in the previous case, once ratified the agreement, it becomes Law of the respective State.

Convention on Biological Diversity (Rio de Janeiro, June 5, 1992)

Article 14, Number 1, Letters a & c

1. Each Contracting Party, as far as possible and as appropriate, shall:
 - a) Introduce appropriate procedures requiring environmental impact assessment of its proposed projects that are likely to have significant adverse effects on biological diversity with a view to avoiding or minimizing such effects and, where appropriate, allow for public participation in such procedures;
 - c) Promote, on the basis of reciprocity, notification, exchange of information and consultation on activities under their jurisdiction or control which are likely to significantly affect adversely the biological diversity of other States or areas beyond the limits of national jurisdiction, by encouraging the conclusion of bilateral, regional or multilateral arrangements, as appropriate;

Country	Date of Ratification
Argentina	22-11-1991
Bolivia	03-10-1994
Brazil	17-02-1994
Chile	09-09-1994
Colombia	28-11-1994
Cuba	08-03-1994
Ecuador	23-02-1993
México	11-03-1993
Paraguay	24-02-1994
Peru	07-06-1993
Suriname	12-01-1996
Uruguay	05-11-1993
Venezuela	13-09-1994

TABLE PREPARED IN JUNE 2005

Convention on Indigenous and Tribal Peoples (C169, Geneva, June 27, 1989)

Article 4, Number 1

Special measures shall be adopted as appropriate for safeguarding the persons, institutions, property, labour, cultures and environment of the peoples concerned.



Article 6, Number 1, Letters a & b

In applying the provisions of this Convention, governments shall:

- a) consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly;
- b) establish means by which these peoples can freely participate, to at least the same extent as other sectors of the population, at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programmes which concern them;

Article 7, Numbers 1 and 3

1. The peoples concerned shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic, social and cultural development. In addition, they shall participate in the formulation, implementation and evaluation of plans and programmes for national and regional development which may affect them directly.
3. Governments shall ensure that, whenever appropriate, studies are carried out, in co-operation with the peoples concerned, to assess the social, spiritual, cultural and environmental impact on them of planned development activities. The results of these studies shall be considered as fundamental criteria for the implementation of these activities.

Article 8

1. In applying national laws and regulations to the peoples concerned, due regard shall be had to their customs or customary laws.
2. These peoples shall have the right to retain their own customs and institutions, where these are not incompatible with fundamental rights defined by the national legal system and with internationally recognised human rights. Procedures shall be established, whenever necessary, to resolve conflicts which may arise in the application of this principle.
3. The application of paragraphs 1 and 2 of this Article shall not prevent members of these peoples from exercising the rights granted to all citizens and from assuming the corresponding duties.

Article 15, Numbers 1 & 2

1. The rights of the peoples concerned to the natural resources pertaining to their lands shall be specially safeguarded. These rights include the right of these peoples to participate in the use, management and conservation of these resources.
2. In cases in which the State retains the ownership of mineral or sub-surface resources or rights to other resources pertaining to lands, governments shall establish or maintain procedures through which they shall consult these peoples, with a view to ascertaining whether and to what degree their interests would be prejudiced, before undertaking or permitting any programmes for the exploration or exploitation of such resources pertaining to their lands. The peoples concerned shall wherever possible participate in the benefits of such activities, and shall receive fair compensation for any damages which they may sustain as a result of such activities.

Country	Date of Ratification
Argentina	03-07-2000
Bolivia	11-12-1991
Brazil	25-07-2002
Chile	07-08-1991
Colombia	02-04-1993
Ecuador	15-05-1998
México	05-09-1990
Paraguay	10-08-1993
Peru	02-02-1994
Venezuela	22-05-2002

TABLE PREPARED in June 2005



A3.2 Constitutional support of the participatory monitoring thematic of socio-environmental management in Latin America and the Caribbean

Participatory monitoring in socio-environmental management plans in the oil and gas industry is a specific issue referenced in the constitutions, but with difficulty it receives an explicit consideration; however, there are some environmental rights stances that can support or induce it. Such is the case of the Articles related to: environmental protection itself; the civic participation; the right to public –and in some cases, personal-information; the collective rights of the indigenous peoples and those denominated as diffuse rights, when they are clearly expressed.

The fact that a Constitution contains one of these rights, will be an indicative of the existence of national policy to force or encourage participatory monitoring or that –on the contrary- it does not even tacitly induce it.

Therefore, follows the revision of the constitutional contents according to the methodology and goals established.

ARGENTINA

Constitution of Argentina (1853, last reform, August 22, 1994)

Chapter I, Article 41

The Constitution of the Republic of Argentina in relation to the environment states that: "All the population have the right to a healthy, secure environment, suitable for human development and for the productive activities to satisfy the needs without compromising future generations; and they have the duty of preserving it. The environmental damage will obligate to recompose it, according to what the law establishes. The authorities of the country shall protect this right and foster:

- ◆ The rational use of natural resources
- ◆ The preservation of the natural and cultural patrimony and biological diversity
- ◆ The environmental information and education

The nation (i.e., the Federal government), shall provide the minimum budgets of protection in the whole Republic of Argentina, as well as in the Provinces, without altering the local jurisdictions. It is expressly forbidden, the entrance of potentially dangerous residues, including the radioactive ones.

Chapter I, Article 42

In relation to consumers, an important provision is specified to promote the association of consumers and users and their participation, which, although there is no relation with environmental matter, it is necessary to mention since it is an initiative of a policy towards citizen participation.

Chapter I, Article 14

Argentinean citizens have the right to petition to authorities

Chapter IV, Article 75 (Congress Authority) Number 17

Likewise the Constitution, recognizes the ethnic and cultural preexistence of the Argentinean indigenous peoples, guaranteeing them, among other rights, the community possession and property of the lands they currently occupy assuring their participation in the management of their natural resources

BOLIVIA

In the revision of the Political Constitution of the Republic of Bolivia, we found the text of 1995 (*law 1615 06-02-95*)



Article 7, Letters m, n

Referring to individuals' fundamental rights, it was considered the right to enjoy of a healthy environment, ecologically balanced and appropriate for the well-being, preserving the right of future generations. The access to public information was also guaranteed. In the updated version of this country Constitution (Law 2650 from April 13, 2004), Letters m and n of Article 7 are eliminated, and therefore a confusion is produced, concerning to the constitutional guaranty in relation to the environment and to the information; although, as it will be seen afterwards, the laws plenty develop those rights and subsequently the participatory monitoring does not lose enforcement.

Article 171

Referring to the indigenous peoples rights, they are recognized, respected and protected within the framework of the Law, especially those in relation to the origin community lands, guaranteeing the sustainable use of the natural resources.

BRAZIL

Constitution of the Federative Republic of Brazil (updated in January 2004)

Title II, Chapter I, Article 5, Number LXXIII

In the Federative Republic of Brazil, the free legal actuation of the citizens in favor of the environment is guaranteed, when it states that anyone will be able to propose popular action aimed to nullify the prejudicial act to the cultural patrimony, to the environment or the historical and cultural patrimony, being the actuation, except because of bad intentions, exempt of judicial costs and of the *onus probandi* (obligation of proving interest in the cause)

Title I, Chapter II, Article 23, Number VI

It is the competence of the Federal Union, of the States, of the Federal District and of the Municipalities, to protect the environment and to combat pollution in any way.

Title I, Chapter II, Article 24, Number VI

Likewise, it shall legislate all matters related to forest, hunting, fishing and fauna, nature conservation, defense of the natural resources, environment protection and contamination control, the Federation, the States and the Federal District in a concurrent way.

Title IV, Chapter IV, Article 129, Number III

Among the functions of the Public Ministry is to promote the public civil action for the protection of the environment and other diffuse and collective interests.

Title VIII, Chapter VI, Article 225, Number 1 IV

It is established the right of an ecologically balanced environment, a healthy quality of life. For this reason the Government and the collectivity shall preserve. Among other things the law will demand for activities potentially causing of degradation of environment, to perform previous environmental impact studies with appropriate publicity.

Title VIII, Chapter VI, Article 225, Number 2

Those who carry out exploitation of mineral resources are forced to recover the degraded environment according to the technical condition demanded by the competent public organism as established by the law.

Title II, Chapter I, Article 5, Numbers XIV, XXXIII

It is guaranteed to everybody the right to information making no mention to the source when it is professional practice. Likewise, all the persons are entitled to receive from public organizations all information of particular, collective or general interest that will be provided in the term foreseen in the law, under penalties of responsibility reserving those whose silence is indispensable to the security of the society and the State.



Title II, Chapter I, Article 5, Number XXXIV

It is established the right to request to the government in defense of rights or against illegalities or abuse of power.

Title IV, Section VII, Article 58, Number II

The National Congress and their Chambers, regarding the discussion of their activities, will carry out public hearings with entities of the civil society.

Title VIII, Chapter I, Article 204, Number II

Regarding social assistance, it is guaranteed the participation of the population by means of representatives' organizations, during the formulation of the policies and control of actions at all levels (although the topic is not specifically of environment, it constitutes a precedent)

Title VII, Chapter I, Article 177

The search and extraction of petroleum and natural gas and other liquid hydrocarbons, as well as petroleum refining –be it by national or foreign companies- constitutes monopoly of the Union. The federation (Union) may have public or private companies to perform the mentioned activities.

Title VIII, Chapter VIII, Article 231

It is established the recognition of Indigenous Peoples rights in Brazil that include its beliefs, customs, traditions, social organizations and the right on the lands they traditionally occupy, being the Union forced to demarcate the territories and to protect its goods, guaranteeing the respect for all. The lands traditionally occupied by the Indigenous are constituted of their permanent possession, corresponding to them the exclusive usufruct of the wealth of the existent soil, rivers and lakes. The use of the hydrological resources, included the power potential, the search and extraction of the mineral resources in indigenous lands, can be performed only with the National Congress authorization, the affected communities shall be listened and the participation in the earnings of the extraction shall be guaranteed according to what is established by the law.

CHILE

Politic Constitution of the Republic of Chile (1980 reform 2003)

Chapter III, Article 19, Number 8

In the Chilean Constitution we find the classic right to live in a pollution-free environment and it constitutes a duty of the Government to guard this right and to preserve Nature conservation. The Law will be able to establish specific restrictions to the practice of certain rights or freedoms to protect the environment.

Chapter III, Article 19, Number 14

The right to request is also stated in the Constitution, when it says that requests can be submitted to the authority in relation to any matter of public or private interest, without another limitation that the one of proceeding in respectful and convenient terms.

Chapter III, Article 19, Number 24

The Government has the absolute, exclusive, inalienable and imprescriptibly domain of all the mines, embracing all the carbon and hydrocarbon reservoirs. It corresponds to the Law to determine what substances of those referred to the mines and their exploitation in general, can be subject to exploration or exploitation concessions except liquid or gaseous hydrocarbons.

Chapter III, Article 20

The right of a pollution-free environment is constitutionally protected and it is possible to go to the appeals court, in case of any violation.

Chapter XIII, Article 107

In the Municipalities' environ, it is established the citizen participation in the community activities, in order to reach the economic, social and cultural progress.



COLOMBIA

Politic Constitution of Colombia 1991, reforms up to June 2004

Article 2, Article 7

It points out in its fundamental principles, among the essential objectives of the State, to facilitate everyone's participation in the decisions that impact them. On the other hand, the State recognizes and protects the ethnic and cultural diversity of the Colombian nation.

Article 20, Article 23

It is guaranteed to all the people, to receive truthful and partial information; the right to present respectful petitions to the authorities for reasons of general or particular interest and to obtain a prompt resolution.

Article 79, Article 88

The nearest reference to participatory monitoring, in relation to environmental issues in the hydrocarbon industry, is that all individuals are entitled to enjoy a healthy environment, for which the law will guarantee the participation of the community in the decisions that can impact it. It is also added that the Law will regulate the popular actions for the protection and collective rights, among which the environment is included.

Article 95, Numbers 5, 8

In the same way, individuals and citizens duties include the participation in the political, civic and community life of the country and to protect the cultural and natural resources, looking after the conservation of a healthy environment.

Article 152, Letter c

It corresponds to the National Congress, among other matters, to enact statutory laws about institutions and mechanisms regarding citizen participation.

Chapter IV, Article 330 Paragraph

The exploitation of natural resources within indigenous territories will be performed without damaging the cultural, social and economic integrity of the indigenous communities. The government shall provide the participation of the representatives of the communities in the decisions that will be adopted regarding this exploitation.

CUBA

Constitution of the Republic of Cuba (June 2002)

The Republic of Cuba constitutes a socialist State. This fact determines its constitutional and legislative nature.

Chapter I, Article 27

In relation to the environment, the Government protects it the same as the natural resources, because they are considered as a link to the economic and social development, and at the same time it is defined as sustainable and that it shall assure the survival and well-being of the current and future generations. The disposition orders that the citizens must contribute to the protection of the water, atmosphere, as well as, to the conservation of the soil, the fauna and in general the potential of the nature.

Chapter III, Article 39, Letter i

In relation to the participation, in the Chapter related to the education and the culture there is a rule in which the State promotes citizens participation, through mass and social organizations of the country in the educational and cultural policy.

Chapter VII, Article 63

In the orientation of the Cuban Government political objectives, what is related to the access in the public administration of the citizens, it is ordered that they have the right to forward complaints and petitions to the authorities and to receive the attention or pertinent answers, in the appropriate term according to what settles down the law.



ECUADOR

Politic Constitution of the Republic of Ecuador (RO1, 11-08-1998)

Title III, Chapter V, Article 84, Number 5

Referring to the indigenous, Negros and afro Ecuadorian peoples, it stipulates that they will be consulted about the plans and programs of non renewable resources exploitation on their lands and that can affect the environment or the culture; to participate in the reported benefits, if at all possible, and to receive indemnification for the socio-economic and environmental damages caused.

Title III, Chapter V, Articles 86-88

The State will protect the population right to live in a healthy, ecological balanced environment that guarantees a sustainable development. It is considered of public interest the preservation of the environment, the conservation of the ecosystems, the biodiversity, the integrity of the genetic patrimony of the country; the prevention of the environmental contamination; the sustainable management of the natural resources and the requirements that – for these purposes- the public and private activities shall fulfill. A national system of protected areas is established, aiming at preserving biodiversity. In relation to environmental matter, the law establishes the sanctions and determines the procedures to establish responsibilities. The participation of the community (and/or citizens) is consecrated in all the government decisions that can impact the environment; the community will be properly informed in order to express their criteria, the law will guarantee this participation.

Title III, Chapter V, Article 91

The diffuse rights are established since any natural or juridical person or human group will be able to practice the actions foreseen in the law for the protection of the environment.

Title III, Chapter VI, Articles 94-95

The Constitution also stipulates the *Habeas Data*; all individuals will be entitled to access to the database and reports on them or about their goods available at public or private entities, as well as to know what they are used for and their purpose.

It is also important to point out the constitutional protection, any individual –by its own rights or as legitimated representative- will be able to propose a protect action before the judicial institution designated by the law. It will be processed in a summary fashion and the adoption of urgent measures will be required aimed to cease, to avoid or to remedy the consequences of an act or emission of a public authority that violates –or may violate- any right consecrated in the Constitution or in an international treaty or agreement in force and that in an imminent way threatens with a serious damage. Also, a protection action can be presented against particulars, when their behavior seriously and directly affects a community, collective interest, or a diffuse right. Being the protection a guarantee of rights, it strongly encourages citizen participation and the environmental right.

Constitutional regulations, as in some cases are referenced, require the law for their execution, that is why it is important to revise the main, secondary and regulatory legislation.

MÉXICO

Politic Constitution of the Mexican United States (February 5, 1917, last reform applied to August 2, 2004)

Article 4, Article 25

It is established that all individuals are entitled to an appropriate environment for their development and well-being. Likewise, although the activity of the companies of the social and private sectors of the economy is impelled, these will be subject to the public interest and to the use for general benefit of the productive resources, taking care of its conservation and the environment.



Article 26

The right to the information is guaranteed by the Government. Planning has to be democratic and the diverse social sectors, can express their aspirations and demands, which will be incorporated in the planning and development programs.

Article 8

The Constitutional ordinance also points out that the public officers and employees must respect the right of petition, whenever this it is formulated in writing, in a peaceful and respectful way; however only Mexican citizens can make petitions of political character. The authority has the obligation of responding to the individual who has forwarded the petition in a short term, although no number of days or hours is established.

Article 2

In relation to the indigenous thematic, it is established a pluri-cultural composition of the Mexican nation, the recognition of the indigenous peoples and communities shall be made in the Constitutions and Laws of the federative entities; they can practice their normative systems for the resolution of their internal conflicts, whenever they are subject to the principles settled down in the Constitution; likewise it is recognized the integrity of the lands of the indigenous groups and the preferential usufruct of the natural resources, of the places where communities dwell and occupy, except for those that are strategic areas. In the same way the indigenous peoples will be consulted for the elaboration of the National, Government and Municipal Development Plans; the Government and Municipal Plans will establish specific rules to regulate this procedure, in order that the communities participate in the practice of the constitutional norms and their vigilance.

Article 73; Paragraph XXIX, Number 5, Letter c

The Constitution in their organic part, grants to the Congress the capacity to legislate on hydrocarbons; gasoline and other derived products of the petroleum and also on the protection of the environment and renovation of the ecological balance.

PARAGUAY

Constitution of the Republic of Paraguay (Sanctioned on June 20, 1992)

Chapter II; Articles 7-8

It determines the right of the people to an ecologically balanced healthy environment. It declares that is of social interest the environment conservation, conciliated with the social development, constituting to these the purposes of the legislation and the politics of the country in the environmental matters. Additionally, it establishes expressed prohibitions of dangerous activities, including include the nuclear, chemical or biological weapons. It establishes that the law will be able to forbid other dangerous elements; it consecrates the existence of the ecological crime that will be sanctioned by the law.

When declaring of social interest the topics related to the environment and not only making it public, it could infer in a regulation that would support the participatory monitoring.

Chapter II; Article 28

We become aware of the topic of information, in which is recognized that people are entitled to receive truthful, responsible and equitable information. Where the public information sources are available for all. In which the people affected by the false, distorted or ambiguous diffusion have right to demand the rectification or explanation for the same via and under the same conditions that have been disclosed, without damage other compensatory rights.

This right will proceed in double line, for the possibility to receive information on Government policies and actions, and also to ratify uncertain or bad intentioned information's about people or institutions in relation to their life and activities. In relation to the participatory monitoring, it will provide the first element for its existence, it means, that the need of information is satisfied.



Chapter II; Article 38

Another of the rights and guarantees that would support the participatory monitoring and in which the Paraguayan constitution is clear, is in relation with the defense of the diffuse interests, thematic that had charged special emphasis in the last 30 years in the right and specially referenced to the environment. These consist in that immediate or particularly economic personal interest should not be proven, to be able to demand or to claim for damages that affect a group of people, the environment, etc. In this way it is pointed out: "All person is entitled, individual or collectively, to claim to the public authorities the measures for the defense of the environment, the habitat integrity, the public health..... that belong to the community and are related to the quality of life and to the collective patrimony"

Chapter II; Article 40

The diffuse interests are reinforced even more for the right to make petitions to the authorities, what can be asked for any person, in writing and the authority has the obligation of responding in the modalities pointed out by the law. However this right does not consecrate the administrative silence and if the authority does not answer, the petition is declared as refused.

Chapter V, Articles 62 - 67

The Paraguayan constitution establishes rights for the indigenous populations, recognizing their identity, the conservation of their habitat, their collective organization systems, particularly their common right, in the measure in that they do not oppose to the regulations of the constitution and particularly to the participation in the national life according to their uses, customs and laws. This right to the participation is wide and obviously support specific activities related to natural resources.

PERU

Constitution of the Republic of Peru (*Sanctioned in 1993, updated with the reform included in the law 27365 of 02-11-2000*)

Title I, Chapter I, Article 2, Number 5

In the Republic of Peru in what refers to its Constitution, we find that in the person fundamental rights, it is possible to request without express cause the information that requires and to receive it from any public entity, in the legal term. Right that is only limited by what says the law or for security.

Title I, Chapter I, Article 2, Numbers 17, 20

For our study, it has been interesting to identify other two fundamental rights, they are: to participate, individually or associated, in the politics, economic, social and cultural life of the Nation and to formulate singular or collectively petitions, in writing in the face of the competent authority.

Title III; Chapter II; Articles 66-69

The Constitution attend also in a specific way the environment and the natural resources, being these renewable or not, constituting patrimony of the Nation. The Government is sovereign in its use. An organic law fixes the conditions for use and grant to particulars. In any event the concession grants its holder a real right. The Government determines the environmental national politics and is forced to promote the conservation of the biological diversity and the protected natural areas and the sustainable development of the Amazonian, with an appropriate legislation.

Title III, Chapter VI, Article 89

In this Constitutional limit it is also pointed out that the rural and native communities have legal existence, they are autonomous in their organization, in the communal work and in the use and the free disposition of their lands, as well as in the economic and administrative matters. The property of their lands is imprescriptibly, except for the case of abandonment. The Government respects the cultural identity of the Rural and Native Communities.



SURINAME

Constitution of Suriname (1987, reforms 1992)

Chapter III, Article 6, Letter g

Among the social objectives of the government they are: To promote the necessary conditions for the protection of the natural resources and for the preservation of the ecological balance.

Chapter V, Article 22

Everybody are entitled to request petitions in written to the competent authority

URUGUAY

Constitution of the Republic of Uruguay 1997 (*plebiscitary modifications November 26, 1989, Nov 26, 1994, Nov 8, 1996*)

Section II, Chapter II, Article 47

The constitution of the Republic of Uruguay, points out that: "the protection of the environment is of general interest. People shall abstain of any act that causes serious damage, destruction or contamination to the environment. The law will regulate that disposition and will foresee sanctions for the transgressors.

Section II, Chapter I, Article 30

In what refers to the right of petition, all resident of the country, has that right, in the face of all the authorities of the Republic, it means, without restrictions.

VENEZUELA

Constitution of the Bolivarian Republic of Venezuela (1999)

In the own preamble, it is mentioned: "the ecological balance and the juridical environmental goods as common and non waiver patrimony".

Title II, Chapter I, Article 12

The mining and hydrocarbon locations, of any nature, existent in the Venezuelan territory, offshore, in the exclusive economic area and in the continental platform, are goods of public domain and therefore inalienable and imprescriptibly.

Title III, Chapter IX, Article 127

It constitutes duty and right of each generation to protect and to maintain the environment in benefit of themselves and the future world. The Government will conserve the environment, the diversity biology, genetics....., etc. The genome of the human beings will not be able to be patented, receiving legal regulation. It is a fundamental obligation of the Government, with the active participation of the society, to guarantee that the population is developed in an environment without contamination.

Title III, Chapter IX, Article 127, Article 129

All the activities susceptible to generate damage to the ecosystems should previously have the socio cultural and environmental impact studies. In the contracts that the Republic signs with natural or juridical, national people or foreigners, or in granted permits that involve natural resources, it shall be considered inclusive, although it is not expressed, the obligation to conserve the ecological balance and to allow the access to the technology and the transfer of the same according to conditions mutually agreed.

Title IV, Chapter II, Article 156, Number 16

It is competence of the Government, among other things, the regime and administration of the mines and hydrocarbons.



Title III, Chapter I, Article 26

People are entitled to access to the institutions of justice administration to asserts their own rights and interests, including the collective and diffuse ones, for the effective guide of the same and to obtain promptly the corresponding decision

Title III, Chapter I Article 28

The person is entitled to access to the information and data about himself or his goods, keeping the secret of the journalistic information sources and other professions that the law determines.

Title III, Chapter III, Article 58

The communication is free and plural and contemplates the duties and responsibilities established by the law

Title III, Chapter IV, Article 62

All the citizens are entitled to take part of the public matters directly or by means of their representatives.

Title III, Chapter IV, Article 70

The assemblies of citizens, will force to involve the authorities

Title III, Chapter VIII, Article 119

The Government recognizes and guarantees the existence of the indigenous populations, their social, political and economical organization, their culture, use and customs. It will guarantee the right of their lands, which will be inalienable..... in accordance with that settled down in the Constitution and the law. Likewise their participation is settled down in the national economy.

Title IV, Chapter IV, Article 168

In the efforts of the Municipalities, in its competences, it shall include the civic participation to the definition and execution process of the public management and in the results control and evaluation.

Title V, Chapter I, Article 187, Number 4

Another function of the National Assembly is to organize and to promote the civic participation in the scope of their competence.



A3.3 Content of the environmental and hydrocarbon laws in the Latin America and the Caribbean countries, regarding participatory monitoring and other relative regulations.

Considering, that the Venezuelan Law of Biological Diversity, is the closest law to the determination of the Participatory Monitoring in its text, it is observed the evident influence of the International Agreement and therefore the pressure of environmentalist groups, who have taken, since the conference of Rio de Janeiro in 1992, a new flag of environmentalist fight in favor of the biodiversity, that is involved with the defense of the cultural rights of the indigenous populations; this sequence will support to detect identity of regulations, as in the Agreement 169 or Biological Diversity, emphasizing the protection guarantees in double juridical line, in one hand as a collective right of indigenous and in the other, as a diffuse right of the respective country.

ARGENTINA

Environmental General Law (Law 25.675, 06-Nov-2002; 27-Nov-2002)

Article 2, Letters c, i

The Environmental General Law of the Republic of Argentina, the National environmental policy among its objectives highlights the one "to foment the social participation in the processes of making a decision" and "to organize and integrate the environmental information and to assure the free access of the population to the same."

Article 8, Article 10

Between the Politic and Environmental Management instruments, it is the evaluation of the environmental impact and in relation to the territorial classification, it is ordered to promote the social participation, in the fundamental decisions of sustainable development.

Articles 11-13

A special chapter is dedicated for the environmental impact evaluation, pointing out this evaluation as fundamental requirement in the execution of activities that can alter the quality of the population's life. The procedure to be followed is to submit a sworn presentation, explaining if the jobs or activities will impact the environment. The competent authorities will determine the presentation of an Environmental impact study, specified in the relevant regulation. An explanation of the impact shall be prepared, in which the approval or rejection to the presented studies will be showed.

The Environmental impact studies will contain, as minimum, a detailed description of the work or activity to be carried out, and the identification of the consequences toward the environment, and the necessary actions to mitigate the negative impacts.

Articles 16-18

The Law regulates also the environmental information, establishing the right of all residents to obtain all the environmental information from the authorities, without having the character of reserved. The authorities shall develop an integrated information system to manage all the significant and relevant environmental data. The authorities are responsible of informing on the environmental situation and the possible impact that could be provoked by the performed and planned activities. The Government is obligate to submit an annual report on the environmental situation of the country to the Congress.

Articles 19- 21

In relation to the participation of the citizens, it is established the right that all persons have to be consulted and be part of administrative procedures that are related to the preservation and protection of the environment.

For this reason the authorities shall institutionalize procedures of consultations or public audiences, as obligatory instances for the authorization of those activities that can generate negative and significant impacts in the environment.



The opinions surged in those audiences do not force the convocants authorities; however they shall make public, duly based, their objections to the results of the audience.

The civic participation will proceed especially in: The procedures of environmental impacts evaluation, in programs of territory environmental classification and in phases of results planning.

Hydrocarbon Law (*Law 17.319, June 23, 1967*)

Article 69, Letter e

In relation to the environmental protection, it is established a disposition that orders to take the necessary measures to reduce the damages to agricultural, fishing and communications activities, as well as to the water wells discovered during drilling operations.

PROVINCE LEVEL **BUENOS AIRES**

Environmental Impact Evaluation (*Law 123, BOCBA 622 Pub01-12-1999*)

In the province of Buenos Aires, a regulation has been generated (Province Laws) in connection with the objective of our study.

Article 5

First in relation to the environmental impact, it establishes the type of activities that will be subject to the environmental impact evaluation, within the public and private areas.

Article 9 Letter e, Article 26

As part of the administrative evaluation process, it is established to develop a public audience of the interested parties and the possible affected people that shall be carried out in 10 days after the presentation of the respective reports

In a specific law, (Law 6 of AP of the City of Buenos Aires), the nature of the public audiences is consigned, according to three classes: the thematic, called upon to know the civic opinion regarding to an administrative decision; the one of the citizen request that are related to the initiative of the citizens themselves, with the support of 50% of those registered; and the one for appointments and agreements.

The requirements to participate in these audiences are: to be domiciled in Buenos Aires, to summon a right or simple interest related to the thematic of the audience and to register in the open registration of the competent organism. This audience has a direct relation with the participatory monitoring.

CHUBUT

General Environmental Law (*Law 4563, 7-Dic-1999*)

Article 3, Number 6

The province of Chubut, the citizens are entitled to take part of actions related to environment and defense of their rights in this nature, in what refers to administrative and judicial

(Article 4, Number 9) (Article 7, Letter d)

It is defined as policy among others, the development of public and private activities that stimulate the civic participation surrounded by environmental policies there are the environmental impact evaluation systems.



Environmental Impact Evaluation (Law 4032, approved on Nov-11-1994, promulgated 23-nov-1994, published BO 30-Nov-1994)

Article 2

In what refers to the environmental impact, the environmental degrading effects are listed that can produce projects and activities, detailing the conditions of the impact, regarding to the recourses not to the orientations of the project.

Article 3, Article 6

As follows the environmental impact study conditions are listed, establishing the convocation for a public audience and the type of attendants that will be present including officers, intermediate associations, private sector representatives and community representatives associated or not. All the attendants will be able to hold a position. No vote shall be considered in such audiences but an act shall be prepared, constituting a trial condition for authority without forcing any decisions.

MENDOZA

Environmental Preservation, Conservation, Defense and Improvement. (Law 5961 Approved on Nov- 26-Nov -92 BO 25-Feb-93)

Title I, Chapter II, Article. 3, Letter d

In Mendoza, the civic participation is stimulated in the issues referred to the environment and the provincial government institutions is obligated to prepare an environmental plan, in which one the potential environmental impact that can be caused because of the new operative activities shall be included.

(Title V, Article 29, Letter b) (Title V, Article 31)

The procedure for the environmental impact evaluation of evaluation of the environmental impact, contains the realization of a public audience that will be arranged by the Ministry of the Environment and will attend natural, juridical, private or government institutions, that are potentially affected because of the execution of the project and the non government institutions interested in conserve the environmental values.

Title V, Article 33

Likewise the Ministry of Environment jointly with the municipalities, will establish an open system of public information, in order to publicity the environmental impact demonstrations, as well as the opinions of the citizens and technical verdicts that take place in the procedure of environmental impact evaluation.

Annex, Letters e, f

Between the projects and activities subject to the environmental impact evaluation process, there are the exploitation and exploration of hydrocarbons and minerals used in the generation of nuclear energy in any of their ways; and the gas pipelines constructions, pipelines, aqueducts and any other energy conductor or substances.

Environmental evaluation of the oil industry (Decree No 437/ 1993; Nov-26-92; BO 25-feb-93)

Title I, Article 6

In the specific of the environmental evaluation of the oil industry, the Ministry of Environment, will approve the call to public audience in the term of 15 days had received the Previous Environmental Study or the specific Manifestation of environmental impact, as it corresponds to physical or juridical, public or private, state people or not, potentially affected by the realization of the project, in this convocation it will be indicated the topics, the day and the place of the meeting, by means of public bans in charge of the interested in the official bulletin, a newspaper of official circulation or another means of communication.

Title II, Article 9

The oil activity is subject to an evaluation and permanent surveillance with the registration of the environmental situation of the oil production (RSAPP) in the Environment Control and Sanitation Office.



Title II, Article 11

The Environment Control and Sanitation Office of the Ministry when the initial report shall be submitted, by the oil companies, it will summon to the same in the stipulated terms in each case, to adjust the labors to the technical provisions previously established in the regulations. Likewise the companies could be forced, based on the reports from the Environmental Minister, to prepare the environmental impact studies and sanitarian plans, in the event of incurring in omission or contempt of these decisions they can be sanctioned.

LA PAMPA

Environmental Province Law (*Provincial Law 1914-- BO February 2 2001-02-14*)

(Title I, Article 1) (Title I, Article 2, Letter a)

In the Province of La Pampa, it is granted the importance to the civic participation, promoting and establishing the obligation by the authority part to take into account the opinion of the users in the use and the exploitation of natural resources.

Title II, Chapter I, Article 2, Letter b

At the same time to the civic participation, the Provincial Law, establishes the environmental impact evaluation.

Title II, Chapter II, Article 5

Among environmental politics' instruments, the declarations of environmental impact that shall be presented as a proposal to the provincial and municipal organizations that have direct competition with the realization of the work or project.

Title II, Chapter II, Article 8

The entity of the ecological policies, through the Sub secretary of Ecology, will summon to a public audience, with the participation of natural and juridical people, public and private, state or not, interested in the preservation of the environmental values. The interested will have all the antecedents of the case that will include: the evaluation of environmental impact (EIA), previously presented; the emitted technical verdicts and the whole relative documentation to the case.

Title II, Chapter II, Article 12

The regulations establish the terms and modalities of the procedure to obtain the declaration of the environmental impact and the development of the audiences.

Annex 1, Letters d, e, k

Among the works and actions that will complete the evaluation of environmental impact, there are the exploration and exploitation of hydrocarbons; the construction, operation or gas pipelines, pipelines, aqueducts and any other energy duct or substances; and the refineries of non processed petroleum.

Title II, Chapter II, Article 16

The official entities are obligated to provide to the natural or juridical people who request it, the information that they prepare in regards to the environment, natural resources and of the declarations of environmental impact. Such information can be denied only when the entity designates as confidentially.

NEUQUEN

Provincial Law (*Law 2267, approved 27-11-98; published Decree No 4468 16-12-98, Published BO 23-12-98*)

(Title I, Article.1) (Title I, Article.3, Letter d)

This law is dedicated to establish a policy of integral development, governed by principles for the preservation, conservation, defense and improvement of the environment, ratify in their purposes the population's participation in all that refers to the protection of the habitat and of the environment.



Title I, Article 24

Referring the order to have the environmental impact declaration and the environmental management plan, as well as the procedures to be determined for the realization of public audiences and the concession of environmental licenses.

Title IV, Article 31

These public audiences will be finally summoned by the application authority of consulting to the community, on the projects that require the presentation of an environmental impact study. The convocation will be made through the media with a minimum of 30 days in advance. Interested people will be able to consult the antecedents of the project, object of the audience, starting from the convocation. The result of the public audience does not force to the authorities to take actions on the discussed projects.

RIO NEGRO

Environmental Impact Evaluation (*Law 3266, approved 16-12-98, distributed 07-01-99, decree No 6; BO 3642*)

Title I, Article 1- Title II, Article 3, Letter b

This juridical instrument is dedicated to rule the procedure of evaluation of environmental impact. The prospecting, exploration, extraction, transport, industrialization of the hydrocarbons and derived, facilities for the gasification of hydrocarbons, are works and projects that are subject to the evaluation of environmental impact.

Title III, Article 7, Letter c

The process of this evaluation it should be summoned to public audiences of the interested and affected instead of project displacement and/or where the impacts take place.

Title III, Article 9 - Title III, Article 11

The application authority summoned to public audience as established, to the interested and affected people. Likewise the authority of application of the Law should establish a system of public information, absolutely open in order to publish to the sworn declarations of environmental impact, as well as to the public opinions and technical verdicts that take place during the evaluation of environmental impact.

Title III, Article 13

The environmental resolution without a technical verdict and previous public audience will not be considered valid.

Title III, Article 16, Letter k - (Title IV, Article 22

Within the data to be considered in the Environmental Impact Study, it shall be included the monitoring of the variables to be controlled during and after the operation or project. The authority shall program an audit, monitoring, control and focalization system.

Title IV, Article 26

In the case of monitoring, it will operate during all the stages of the work or project, the costs will be in charge of the responsible for the work.

TIERRA DE FUEGO

Environment (*Law 55, approved 02-12-1992, distribute 22-12-92, DP2327, Published BOP 30-12-92*)

Title I, Chapter I, Article 1

This regulation for the environment jurisdictionally is applied in the Province of Tierra de Fuego; Antarctica and the Islands of South Atlantic.



Title I, Chapter II, Article 6, Letter g

Among the actions dedicated to the conservation, defense and improvement of the environment, there are the actions to foment and develop public and private initiatives that stimulate the civic participation in the environmental issues.

Title II, Chapter II, Article 16

Likewise the objective of the Law is to defend the diffuse interests of private people and intermediate associations dedicated to the protection of the environment.

Title II, Chapter IV, Article 26

It corresponds to the Authority of Application, in this case the Provincial Government, a politics' program and the environmental management. The public opinion will be informed thoroughly on this program, guaranteeing the open access to the information and stimulating to natural and juridical people regarding to the environment protection and improvement.

Title III, Chapter IX, Articles 81-86

It is established the obligatoriness of the environmental impact studies for projects potentially able to generate environmental negative alteration and among them the energy development projects and petrochemical industries are included.

Title III, Chapter X, Article 87-90

The public audiences should be called by the Authority of Application, convocation that will be made through the media, with a minimum of 30 days in advance. The interested people can consult the antecedents of the project starting from the convocation of the audience. It will be presided by the Authority of Application, being able to attend the public officials, the intermediate associations and natural people who may give out their opinion.

Title III, Chapter XI, Article 91-93

Apart from the participation of the public audiences all the natural or juridical people are authorized to report to the Authority of Application any action or work that deteriorates the natural resources or contaminates or degrades the environment, this report shall include the personal data of the person who reports and the location of the causing source of the damage.

BOLIVIA

Environmental Law (Law 1333, 27 March 1992)

The issues related to the ecology in the Republic of Bolivia are regulated by this law and the respective regulations.

Title II, Chapter III - Title III, Chapter III

In addition to establish general norms of environmental policy and to create an executor organism, the Environmental National Secretary (ENS) and the Departmental Council of Environment (DCE) the law establishes the instruments for the environmental planning, including the preparation of the Environmental Impact Studies, and the Environmental quality control and follow up.

Title III, Chapter IV

The realization of studies is a prerequisite to the phase of works and projects investment that is generated in public or private activity that can cause an environmental impact. It establishes up to 4 categories of studies: the first denominated in Environmental Impact Study integral analytic, the second Environmental Impact Study specific analytic, the third in which there is not requirement of Environmental Impact Study but it is advised for a conceptual revision and the last one that does not require the study. The declaration of environmental impact will be made local or nationally depending on the project to be executed.



Title IV, Chapter XII, Articles 73-74

Referring specifically to energy resources it states that the Bolivian company YPF when carries out hydrocarbon activities, in all phases, shall comply prevention and control environmental measurements in relation to contamination, deforestation, erosion and sedimentation, as well as flora protection and wild fauna, natural landscape and protected areas. Implementing also contingency plans to avoid oil and other pollution products' spills. The specific regulations are in charge of the Ministry of Energy and Hydrocarbons in coordination with the National Secretary of the Environment.

Title X, Chapter I, Articles 92-94

The chapter of the law that comes closer to the studied thematic is the relative to the civic participation where it is declared emphatically that all natural or collective person (that is to say legal) is entitled to participate in the environmental management in legal terms, and in the duty of intervening in the defense and conservation of the environment. Next it is said that all person is entitled to be informed truthful and appropriately in an enough way on the questions linked to the protection of the environment as well as to formulate petitions and to promote initiatives of individual or collective character, in the competent authorities that are related with this protection.

The petitions and initiatives can be made before the Departmental Secretary of the Environment who should solve in public audience in 15 days after the submittal of documentation. The resolutions that are dictated will be able to be appealed with suspense character (the activity stops until later resolution) before the National Secretary or the Departmental Secretary of the Environment, without damage of incurring to other legal instances.

In the case that a negative resolution will be surged by the competent authority or that no audience will be carried out, actions may be followed against the mentioned authority by violation to the constitutional or legal rights. As it may noticed the dispositions before summarized is related to the diffuse and information rights.

Title XI, Chapter III, Article 100

The order of civic participation that has been commented, conducts any participatory monitoring program, that which is corroborated below when, in the relative chapter to the administrative infractions, it is required that people not only can but also has the obligation to report when an infraction is made against environmental protective norms.

Hydrocarbon Law (Law 1689, April 30, 1996)

Title I, Chapter I, Article 7

A disposition is established in relation to Article 171 of the Constitution related to the economical, cultural rights of the indigenous population, the one that refers to the sustainable use of the natural resources in their origin lands. In addition to this, the law declares that the dispositions of the Law of the Environment and Regulations are applicable to the hydrocarbon sector.

BRASIL

Law 6938 (31/08/1981) – DOU 02/09/1981

The National Council of Environment establishes norms for the environmental authorization (Article. 8), requirement for all activity "environmental resource users, considered effective or potentially contaminant" (Article. 10). The environmental inspection and control will be executed by IBAMA (Article. 11).

CHILE

Law on Environmental General Bases (Law 19300, 09 March 1994)

Title I, Article 4

In relation to participatory monitoring the Chilean legislation, we find that constitutes duty of the Government to facilitate the civic participation and to promote educational campaigns dedicated to environmental protection.



Title II, Article 10, Letters i,j

In the Chapter related to Environmental impact evaluation, it states that the mining projects shall be subject to evaluation, including petroleum and gas understanding the prospecting, exploitations, processing and residual disposition plants, as wells as pipelines, gas pipeline and similar.

Title II, Article 14, Letter d

In the administrative process to carry out the environmental impact study, the way to have the citizens' organizations shall be established.

Title II, Articles 26-31

But, in addition to the previous disposition, a special chapter is dedicated, in which is pointed out that the Regional Commissions and the National Commission of the environment, according to the case, established the mechanisms that assure the informed participation of the community in the process of qualification of the received environmental impact studies. Such publications shall be published within the next 10 days. The extract shall have the minimum and indispensable data. Although the legal organizations, by means of their representatives and the natural persons may be informed of the study content and the on that have that have the documents, however the Commission will be able to keep in reserve the technical, financial and others antecedents that the interested persons consider necessary not to inform to public knowledge, they can formulate observations to the Environmental impact study, with the competent organism, within a 60 days term, starting from the extract publication.

The Regional Commissions or National Commission of the Environment, shall publish the first working day of each month, in the Official Newspaper and in a regional or local newspaper, as corresponds, a list of the projects or activities subject to declaration of environmental impact that have been submitted to procedure in the past month.

Title II, Article 45, Letter e

Referring to the environmental management we find that this law establishes that the prevention and contamination plans shall include the environmental management instruments that shall be utilized to comply their objectives.

COLOMBIA

Law 99 of 1993, Environmental National System (December 22)

Title VIII, Articles 49-62

The projects that can produce environmental damages or alterations shall have an environmental license that establishes requirements "in relation to the prevention, mitigation, correction, compensation and environmental management"

Title VIII, Article 52 (1; paragraph 2)

The Licenses for hydrocarbon activities are involving exclusively the Ministry of Environment.

Title VIII, Article 57

The EIS's shall include "the design of impact prevention, mitigation, correction and compensation and the Environmental management plan for the job or activity"

Title X, Articles 69-76

It is established the right for natural people to intervene in environmental management procedures.

Article.74, Article 76

It is established the right of information petition.

It is allowed the consultation to indigenous and Negros communities.



CUBA

Environmental Law (Law 81, 11-July-1997)

Contrary to the Political Constitution, the Environmental Law of Cuba, has more international characteristic, this means that the principles, objectives and orders, are related to environmental agreements and arrangements. For this reason the orders referred to participation and that can help to participatory monitoring are better.

Chapter I, Article 4, Letters e, k, m

In the principles of the Law it establishes that: All people shall have appropriate access, as legally established, to the information regarding to Environment that the Government can have.

For this reason, it becomes fundamental the public knowledge of the environmental actions and decisions and the consultation to the citizens opinion, that shall be done in the best possible way and as unavoidable.

As well as it is recognized as essential the community involvement in order to reach the objectives of the Law, by means of the effective participation in making decisions and in the development of management process, oriented to the environmental protection and the elevation of the human being quality of life.

Chapter V, Article 37

The Ministry of Science, Technology and Environment shall establish the mechanisms and procedures for information access.

Chapter III, Article 9, Letters c, d, e

Likewise in the objectives of the Law, it established to promote the residents participation in the environmental protection and sustainable development. Also to generate a conscience on the environmental problems is included as an objective, through the education and information. Next it is ordered to regulate the development of environmental evaluation and control.

Title III, Article 18, Letters d, e, f, g

Among the instruments, related to participatory monitoring, we can find in the Environmental License Law, the Environmental Impact Evaluation, the Environmental information system, the Environmental Government inspection system.

Chapter III, Articles 25-26

The Environmental license is mandatory to all s susceptible activity to produce significant effects in relation to the environment, it is provided by the Ministry of Science, Technology and Environment, is subject to payment, without exemption of administrative, civil and penal responsibilities. In the chase that any public activity do not have the environmental license, it can be temporally or definitive suspended by the Ministry of Science, technology and Environment.

Chapter IV, Articles 27-33

IT is established to carry out the Environmental Impact Evaluation, that includes the license request, the environmental impact study, the evaluation and finally the approval or not for the license. Between the public works that are subject to the environmental impact study, there are the refineries and hydrocarbon and derivates plants, the facilities for gasification and hydrocarbon liquefying and wells perforation.

The costs for the preparation of the environmental impact study, and the monitoring, mitigation, rehabilitation or other measurements appropriate for the environmental rules compliance, are in charge of the representatives of the works. Additionally, those who will take part in the environmental impact evaluation process will be responsible of the truthfulness of the provided information and the consequences that could result from any false or hidden information.



Chapter V, Articles 37-38

The environmental information system, is based in the fact that the government institutions are forced to maintain and provide the information required by the Ministry of Science, Technology and Environmental, in order to appraise the current environmental situation, without any payment or damage to any existent intellectual property. The Ministry is forced to diffuse freely this information to the government who can ask for and as it was before mentioned, to facilitate the information access to the public.

Chapter VI, Articles 39-45

In relation to the environmental inspection, we find a disposition closer to the objectives of this investigation, when it established: For the inspection works, the involved authority could be supported by organizations, associations and other institutions recognized by the Law and in general the residents that, as popular inspections, and a previous determination of capability, are forced to collaborate to comply with the Law and all environmental dispositions set forth.

Chapter XI, Article 69

In the Chapter related to the administrative sanctions, it is a disposition that is closer to the diffuse rights, when it establishes that: Who knows about any omission of the established infringements on the complementary environment legislation, will report to the authorities, who will be forced to inform on the regulations and compliance when necessary.

ECUADOR

Environmental Management Law (*Law 99-37, RO245 30-07-99*)

Title I, Articles 1-5

It establishes the principles and regulations of the environmental policy, determining the obligations, responsibilities, and levels of participations of public and private sectors in the environmental management, oriented by the universal principles of the sustainable development, based in the declaration of Rio de Janeiro in 1992. It establishes a procedure for any environmental regulation that shall include sector technical, economic, community relation studies, institutional capacity and consultation to involved organizations and information to the citizens. Civil society will take part of this system as established by the law.

Title II, Chapter I, II, Articles 7-9

Being the maximum authority the President of the Republic, he is supported by a National Council of Sustainable Development, although the involved organism of the Ministry of Environment is the appropriate director and coordinator of the Decentralized Management System.

Title II, Chapter IV, Article 11

There is a Coordination National Commission of the decentralized system, that are between other institutions represented: The Ecuadorian Committee for the Nature protection and Environment Conservation and the Council of Development of the Ecuadorian Nationalities and Populations (CODEMPE), (this is an specific information related to our topic), such commission is controlled by the Ministry of Environment.

Title II, Chapter IV, Articles 12, 13

Additionally, the province councils and municipalities, decentralized institutions are forced to respect the national regulations on the Patrimony of Protected natural areas and shall ask for the representatives of the indigenous, afro African and local populations to delimit, manage and administrate the conservation and ecology reserve areas.

Title III, Chapter II, Articles 19-27

In relation to the Environmental Impact evaluation, all the public, private or mixed works, and the public or private projects, that can cause environmental impacts shall be previously qualifies before execution and shall have an environmental license provided by the Ministry of the Environment, risk evaluation, management plans, risk management plan, monitoring systems, contingency and mitigation plans, environmental audits and abandonment plans. In the environmental impact evaluation, the biodiversity, problems caused by contamination, noises, vibrations, etc, the historic, scene and cultural patrimony shall be taken into account.



Title III, Chapter III, Articles 28-29

Next, an exclusive chapter regarding to the social participation mechanisms is established. In that way, all natural or juridical person is entitled to take part in the environmental management through the mechanism of the regulation, which will include: consultations, public audiences, initiatives, proposals or any form of association between the public and private sector. It is granted the social action to them who will violate this guarantee, without damages to civil and penal responsibility. Social action is granted to who do not respect the guarantee, without perjuries of the civil and penal responsibility because of wrongly accusations formulations. In the case, of non compliance in the consultation process, in connection what is established the Article 88 of the Constitution; the activity shall be unexecutable and shall cause annulations to the respective contracts. All natural or juridical people is entitled to be opportunely and efficiently informed on any activity from the Government Institutions that can produce environmental impacts. For this, petitions and demands as an individual or collectively can be generated.

Title V, Article 39

The institutions in charge of the natural resources management, environmental contamination control and protection, shall establish as social participation, environmental system programs in the involved areas. This information shall be published.

Title VI; Articles 41, 42, 43

A Chapter below is especially dedicated to the individual and collective environmental rights protection, providing public action to the natural, juridical or human groups the environmental rights in order to report the non compliance of the environmental regulations, without damage the constitution action provisioned in the Constitution.

All natural or juridical people shall be assisted in penal, civil or administrative process, previous slander bond that is initiated by non compliance of environmental character, although the rights have not been damaged. But the judge will condemn to the responsible for the damages to pay compensations in favor of the directly affected collective and to the repair the caused damages. It will also condemn to the responsible for the demand to pay 10% of the resulting value from the compensation in favor of the auctioneer.

Hydrocarbon Law (supreme decree 29-67, reformed in several times)

Article 1

It established that the hydrocarbon and derived substances, in any physical status located within the national territory, including the areas covered by the territorial water, are indispensable patrimony of the government and the exploitation will follow the sustainable development and the environmental conservation schemes.

Article 31

It established as obligation for the oil companies to carry out their operations according to the environmental protection law and regulations and to prepare environmental impact studies and environmental management plans to prevent, mitigate, control, rehabilitate and compensate the environmental and social impacts resulting of their activities.

MÉXICO

General Balance and Environmental Protection Law (1988, last reform 13 June 2003)

Chapter I, Article 1, Number VII

In relation to this investigation, the Mexican Law on ecology Balance and Environmental Protection, in the policy definitions will guarantee the co-responsible individual or collective participation for the restoration of the ecologic balance and the environment preservation.

Chapter II, Article 5

Between the duties of the Federation, it is established: the generation of ecological order programs, the environmental impact evaluation, the society participation in relation to the environment, the promotion to comply this law and relative regulations.



Chapter II, Article 7, Number XVI

Functions and changes that are applied in the Government. Although in the case of Government, the environmental impact evaluation in works and activities related to the Federation and the respective authorizations according to the Article 35 Bis2, and shall be expressly determined in the government regulation.

Chapter II, Article 12, Number 9 y 10

As per the Mexican legal structure, that is federal, the municipality also, shall formulate and issue the programs on ecological order and participate in the environmental impact evaluation in government jobs and activities, when they are performed in the territory.

Chapter II, Article 14 Bis

Due to the three administrative levels, the Law discuss the coordination through an organism that will meet periodically, in order to analyze and exchange opinions on the environmental matter and to recommend in all the related to the objectives and principles of the same Law.

Chapter IV, Second Section, Article 20 Bis

In relation to the participatory monitoring, it will promote interest in the different social groups for the elaboration of the programs with the objective of ecological balance preservation and restoration and environmental protection. All these issues will recon ciliate later, when the Secretary of Environment, Natural Recourses and Fishing shall promote the participation of social groups, social and enterprises organization, academic and investigation institutions and the rest of interested people in the generation of the general reorder of the territory.

Chapter IV, Second section, Article 20 bis 5

The government and the Municipalities are forced to establish norms and regulations for the people to intervene in the execution and control of the ecological order programs.

Title fifth, Chapter I, Article 157, Article 158 I, II, III, IV,

The Law has a complete Title regarding to the social participation and the environmental information, ratifying the obligation of the Federal Government to promote the residents participation in the control of the environmental policy and the natural resources. The obligations of the Secretary are to call for a Democracy Planning to all worker, enterprising organizations, agricultural productors and rural people, fishing and foresting, agricultural communities, indigenous population, educative institutions, social and private organizations, non lucrative and all interested people to provide proposal and to give opinion. It also shall sign agreements with the before mentioned organizations and with the mass media, will establish recognition of the relevant efforts for preserve the ecological balance.

Title Fifth, Chapter I, Article 159

It shall be part of the institutions of consulting with public administration, academic institutions and social and enterprise organizations. Such organization shall have functions of advisory, evaluation and follow in environmental polity and can give opinion and observations considered as relevant.

Title Fifth, Chapter II Article 159 Bis; 159 Bis 1; 159 Bis 2

The Secretary shall developed a National System of Environmental information and Natural recourses that have as objective to register and diffuse the environmental national information, that will be available for consulting and will be coordinated and complemented with the National Record System. Also, it will be publishing a bi-annual report detailing the existent general situation in the country in what refers to ecological balance and environmental protection, additionally an official gazette publishing all Mexican juridical dispositions, official regulations, decrees, rules and agreements and other administrative acts, in addition to other general information's.

Title Fifth, Chapter II, Article 159 Bis 3

All people shall be entitled to the right of the Secretary, the Government, the Federal District and the Municipalities to provide all required information. Environmental information is those written information, visual or as data base available for environmental authorities in relation to water, air, soil, fauna and natural resources, as well as the activities or actions that is affecting or can be affected.



Title Fifth, Chapter II, Article 159 Bis 4

Authorities can deny information only in case of legal disposition that considers as confidential the information that affect the National Security; the information that is involved with legal proceedings or inspection and control, pending of resolution; that is related to inventory or consumables and process technologies, including the description.

Title Fifth, Chapter II, Article 159 Bis 5

The environmental authority shall reply in written to the information requesters within 20 days, starting of the date of the request and if the reply is negative, it shall be detail the reasons for that determination. If the established term is over, no reply is received from authority, the petition shall be considered as denied for the proposal. The environmental authority within the next 3 days of the date of the petition, shall communicate to the proposer the acknowledge receipt. Those who will be affected by the Secretary actions can refuse with the interposition of the revision right, according to what established in the Environmental Law and the Federal Administrative Procedure.

Chapter IV, Section fifth, Article 28

The environmental impact evaluation shall affect through the Secretary of Environment, which will establish a procedure, and all the activities determined by the law shall be followed like the oil industry and the petrochemical.

Chapter IV, Section fifth, Article 30

To get the authorization, the interested people shall submit to the Secretary a environmental impact report, including a description of all possible effects in the ecosystems that can be affected by the activity, considering all the elements that are conformed, as well as the mitigation preventive measurements and all the necessary to avoid and reduce the negative impact on the environment.

Chapter IV, Section fifth, Article 34; Numbers IV, V

Once the Secretary received an environmental impact report, and prepares the respective expedient, it shall be available for the public, in order to be consulted by any person. The interested people within the term of 20 days counted since the Secretary open to the Public the Environmental Impact Report can propose additional measurements for prevention and mitigation, as well as observations considered as relevant. The Secretary will add the observations performed by the interested people to the respective expedient and will consign the respective resolution alter a public carried out consultation and with the results from the proposals that have been done.

Chapter IV, Section fifth, Article 35 Bis 1

Those people who provide environmental impact services shall be responsible in front of the Secretary on the preventive inform environmental impact reports and risk studies, who declare under judgment to tell the truth in all documentation and that the best techniques and methodologies are utilized, as well as the prevention and mitigation measurements.

Law of Planning (1983, last reform 2003)

México is considered in Latin America, without including Cuba, as the country with the most government intervention in the economy, in spite of the politic changes in 2000, maintains a structure, in which one the planning continues being very important.

Chapter I, Article 1

La law, makes an effort to establish basic principles and rules for the national development planning, making as functional a national system in which one the federal executive can coordinate with other entities of the country and also to look for the promotion and guarantee of the democratic participation of the different social sectors, as well as the indigenous population and communities, always with the importance of the environment protection.

Chapter III, Article 20

The Democratic Planning Systems is the exact entity for the participation and consultation of the different social groups in order to express the opinions for the preparation, update and execution of the Plan.



In this sense the representative organizations of the workers, rural people, population and social groups, of academic, professional and investigation institutions and of other social organizations, participant as consulting entities in the aspects of the democracy planning aspects related to the activity through the consultation forum, the deputies, senators of the Union Congress.

The indigenous communities shall be consulted and can be part of the programs that affect the population development. For the effect the System shall allow the organization and operation, the formalities, periodicity as subject of participation and consultation for the Development National Planning.

Organic Law of Mexican Petroleum and Subsidiary Organism. (1992, last reform 2002)

The Mexican constitution defines that it corresponds to the Nation the direct control of all natural resources in which obviously is included the oil and all the hydrocarbon like as solid, liquid and gas hydrogen, and that the use of them can be done by particular people or constituted societies, granted by the federal executive. This makes that the corresponding Organic Law of Mexican Petroleum and Subsidiary organisms to determine that the government shall carry out the activities in the strategic areas of petroleum, hydrocarbon and basic petrochemical, conducted by Petroleos Mexicanos.

Article 11, Number XV

Based on this, the functions of the General Directors are to control the compliance of the dispositions relative to the ecological balance and the environmental environ that guarantees the correct use of hydrocarbon. There are a legislative abundance in environmental and resident participation issues, the Petroleum Law, apparently, is limited to an organic disposition in relation to the environmental protection.

PARAGUAY

En the republic of Paraguay, the laws for the environmental activities shall be considered, such is the case of the law 1561 "That creates the nation environmental system, the environmental national council and the environmental secretary ".

Title II, Chapter II, Article 12, Letters a, g, o

It is a Law specifically to coordinate the public administration in relation to the environmental policies. The Chapter of the mission, objectives, in three times including the topic of the participation. The first when the functions of the Environmental Secretary SEAM are determined, it states to elaborate the national policy the residents participation is the base for the elaboration; the second specifies the national and regional plans for the environmental order, shall be proposed when they would be subject of public participatory opinion of the involve social sectors. The third specifies the SEAM to support the actions of the civil associations, the non government institutions, which one of national public in environmental issues and related, in which we find an important antecedent in the participatory monitoring in the socio-environmental management plans.

Environmental Impact Evaluation Law (law N 294/93), includes a very important approach to our investigation.

Article 3, Letter e

In addition to establish the content of the evaluation, it expressly dispose the inclusion of the environmental management plan, describing the protective and corrective actions and the negative impact mitigation that are allowed in the project, it will specify the compensations and indemnities, and the methods of the control and monitoring instruments to be utilized.

Article 7, Letter f

It is required the environmental impact evaluation the public or private projects or activities: construction and operation of water, petroleum, gas, minerals, treated waters and residual conducts and pipelines in general.

As it can be observed, if a participatory monitoring is established, in compliance with the constitutional intentions, only it could exist in accordance with the environmental management plan.



Decree 1428 July 96, Article 11

The environmental management plan was regulated, and designs the Environmental Order Direction (SEA) after the Secretary of Environment (DOA) to establish the rules for the community participation in the areas of impact.

Law of Hydrocarbon (No 779)

The disposition can be related to the socio participatory monitoring in relation to the refining, commercialization and others.

Title VI, Chapter VI, Article 37

This Chapter states the compliance of the dispositions of this law and the provision of other laws and regulations that rule the hydrocarbon activities, as well as the environmental protection and environmental impact.

(Title VII, Chapter VII, Article 40, Letter n) (Title X, Chapter X, Article 58, Letter o)

The Ministry of Public Works, constituted in the law execution, shall coordinate with the duly authorities, the compliance of the related dispositions to preserve the environment.

In the same way, the concessionaries are forced to comply all what is established in set forth laws and regulations, to avoid the environmental contamination and the alteration of the ecological balance in the concession areas.

Title XIV, Chapter XIV, Article 76

Finally, the law is much more specific in a chapter and article dedicated to the environmental preservation, when establishes that the natural or juridical people developing activities related to the hydrocarbon shall comply the disposition on environment and environment impact. In the case of non compliance of the respective regulations, The Ministry of Public Works and Communications shall apply the established sanctions as stipulated in the lay besides to those consigned in the special legislation. In the other hand the consencionary will be responsible for situations and acts of damage and perjuries to the environment. The sanctions established by the law are referred to penalties, from 5.000 up to 10.000 dollars, as established the respective regulation.

The legislation in Paraguay includes dispositions to facilitate the participatory monitoring in environmental management programs, although the specific topics are referred to the impact evaluation, though this is constituted a priority in the international environmental policies.

PERU

Code of Environment and Natural Resources (*D.L. 613:08-09-90*).

Preliminary Title III

The Preliminary Title of the Code includes issues related to the participatory monitoring of environmental management plan, as states: "All people are entitled to demand an immediate and effective action from the justice in defense of the environment and the natural and cultural resources. Actions can be taken, even though in the cases without affecting the economic interest of the denunciative. The moral inters authorizes the action even though it is not directly referred to the agent or the family" based on this the diffuse rights are consecrated, its development is observed also in the legislation of Paraguay already commented.

Preliminary Title VI

Likewise it is mentioned the resident participation, when it specifies the any person has the right to be part in the policy definition and in the adoption of national, regional or local actions related to the environment and natural resources. In the same way, to be aware of the actions or activities that can affect direct or indirectly the health in the people and the environment and natural resources integrity. There is the obligation to provide to the authorities the information they may require in the execution of the work to control and save the environment.

Chapter II, Article 6

IT is also mentioned the participation as a mechanism of planning in which the society, the national, regional and local government will interfere.



Chapter III, Article 8, derogated by the decree 757, 1991, Article 51

The code immediately involve all issues related to the Environmental Impact, being forced to such studies among other projects, the installation of pipelines, ducts of gas an similar, as well as the chemical, petrochemical industries, etc or any activity that can produce noises or any kind of non tolerable damage.

This article was substituted by the Legislative Decree Nr. 757 that states that the sector authority shall determine the activities as per its environmental risk can exceed the tolerable levels of contamination or damage to the environment so that it is required the elaboration of Environmental Impact Studies before initiating such activities.

Chapter III, Article 11

It is mentioned the public character of the Environmental Impact studies, any person interested in the topic can request although the promoters of a project can also require maintaining in reserve determined information, which publicity could affect the industrial, commercial or personal safeguard property rights.

Chapter V, Articles 20-22

In relation to the evaluation, supervision and control, the authorities are entitled to evaluate. The natural patrimony, counts on a special valuation, and the president shall inform on the residents situation. The environmental authorities also can inspect stores and places that generate environmental risks and ask the help of the public forces.

Chapter VII, Articles 34-35

This dispositions, grant initiative to the participatory monitoring, according to the participation of the community direct or indirect the in the environmental policy and in the execution of those instruments. It is ratified again that any person can report to the involved authority the facts that demand the adoption of necessary actions.

Chapter XIII, Article 76

In relation to the petroleum activities, it states that the exploration and exploitation activities, as well as those to hydrocarbon or natural gases secondary recovery shall comply the conditions and requirements established by the authority, in order to avoid risks and environmental damages with the production and transportation process as well as the water and other utilized substances.

Hydrocarbon Organic Law (*Law 26221*)

Title IX, Article 86

It is mentioned the environmental protection when it is specified that the natural or juridical people, national or foreigners, that perform the hydrocarbon activities, shall comply with the dispositions of the environmental protection. In case of non compliance of the mentioned dispositions, the Ministry of Energy and Mines will settle down the pertinent sanctions and can terminate the respective contract.

Law of the Environmental National Council (*Law 26410*)

Chapter I, Articles 1-2

The same that creates the CONAM as main organism for the environmental national policy, in charge of promoting the environment conservation, and motivate the socioeconomic balance and the sustainable use of the natural resources. It is composed by a directive council, an executive secretary and a consultant commission. It counts on proper budgeting resources, donations, etc and another public funds in relation to agreements. The functions shall be consigned in the structure of the government institutions.

Law of the National System of Environmental Impact Evaluation (*Law 27446*)

Chapter I, Article 1, Letter c

In the objectives there are mentioned the mechanisms to assure the residents participation in the Environmental Impact Evaluation.



Chapter I, Articles 2-4

It requires the environmental study of public or private investment projects that involves activities, constructions or activities that can cause negative impacts to the nature. It is consigned the need to environmental certification and it is established three categories for the certification, the first that demands a Environmental Impact Declaration due to that the project does not origin significant environment impacts; the second is to demand an Environmental Impact Study, semi detailed, though the execution can originate to take some actions easily applicable; the third is for those projects that demands a Detailed Environmental impact study, because of negative effects that require a management strategy.

Chapter III, Articles 13-14

The environmental impact studies shall be diffused and have participation with the community. The National Environmental Impact evaluation system shall guarantee, first formal for diffusion and participation of the community in the process of request tramitation and in the corresponding environmental impact studies, and second, non formal instances that the proposer shall promote to incorporate in the Environmental Impact study, perception and opinion of the potentially affected or advantaged population with the proposal actions.

Likewise the EIES establishes phases to allow the participation of the community: the first involves the authority, to be in charge of requesting to the community or informal representatives, the antecedents or observations on the proposal actions: second, the poposer and the technical team submit a plan on residents participation and execution; third the authority perform a formal consultation during the revision phase only in case the Environmental Impact Study detailed and semi detailed.. These studies shall be open to public for observations and comments in the regional respective office. The convocatory shall be done by mass media of the most diffusion, by means of the publication of an ad according the approved format I the Environmental impact Evaluation Law, which cost shall be charged to the proposer. The diffusion shall be done by electronic communication and forth a public audience shall be performed as part of the revision of the detailed Environmental Impact study, 5 (five) days before the formal consultation period is due.

The respective authority shall dispose the prevention in Public Audience of the semi detailed Environmental Impact Studies.

Law Marho of the National Management System (*Law 28245: 08-06-04*)

Title I, Articles 2-3

The Environmental Management National system is constituted by the participation of the private sector, the civil society and has as objective to orientate, integrate, coordinate, and supervise evaluation and guarantee the application of the policies, planes, programs, related to the Environment and natural resources.

Title II, Article 5, Letters f,g

Between the principles, it is guarantee the right for environmental information and to the participation in order to promote the integration of the private sector representing organizations and the civil society in the environmental decisions.

Title II, Article 6, Letter k

Later, in relation to the instruments for Environmental Management and Planning, in the regional and local competences, it is established as one of the instruments the development of mechanisms for the residents participation.

Title III, Article 27

The participation mechanisms of the civil society in the environmental management are referred in the actions of the Environmental Commission Municipality to promote: first the information that shall be acquired through public meetings of council, public audiences, with participation of the base social organism, second the planning that will be effected through concertation meetings, development councils, leadership meetings, youth councils and interdistrital committees; third the project management, through the environmental organizations, economic promotions committees, products committees, cultural associations, health committees, education committees, and habitant management and forth the supervision, by means of the environmental quality monitoring,



intervention of participants associations, users, consumers and the rural y/o outside the city organizations, as each case.

Title III, Article 28

It is a citizen's obligation to take part of the defense and protection the environmental patrimony, natural resources of the location, the government of those places could sign an agreement with the private and public organisms specialized in environmental issues to train the involved organization. Even though the national, regional and locals organisms motivates the participation of the citizens granting ratifications and honorific granting for those citizens that support the defense and prospect ion of the environmental patrimony and natural resources.

URUGUAY

Environmental Law (Law 16.466, 1994)

Article 1

The environmental law reaffirms the Constitutional principal by declaring that the environmental protection is of general and national interest.

Article 2

It established what is considered as negative environmental impact and that can be experimented in: health of population quality of life, esthetic, cultural, and sanitary conditions, the configuration, quality and diversity of natural resources.

Article 4

Who alters the environmental conditions will have sanctions on civil, penal and administrative character.

Article 5

The public organization in charge of the execution of the Law is the Ministry of Housing, Territory Order and Environment, that is in charge of having a record of all the environmental impact studies.

Article 6, Letters b, c

Constructions or public works: ports, oil a chemical products trasvase terminals, as well as pipeline, gas pipeline and residual liquids are subject to the realization of the environmental impact study.

Article 9, Article 10, Letter c

The realization of this works demand the presentation of an written authorization, signed by the project representative, being one of the requirements the environmental impact evaluation signed by the technician in charge of the work.

Article 14

Also, the same Ministry will dispose the realization of a public audience when considers the project can involve serious damage to the cultural, social or environmental aspect, and will determine the convocatory and the relevant related aspect in order to get involved to the interested people. Although the final resolution on this issue corresponds to the executive power.

General interest, according to the established in the Article 47 of the Constitution of the Republic that refers to the environmental protection, (*Law 17283, 2000*)

Chapter II, Article 6, Letters D, E, F

In the legislative ampliation produced in Uruguay in 2000, referring to environmental affairs, we find an express reference about the citizens' participation and the environmental management. In the first case, it states that the environmental protection constitutes a commitment to all the society, which is why the people and representative organizations have the right-duty to be part in this process. In relation to the management, it is recognized as transectorial, and involves the public or private sectors and shall be decentralized. Additionally, it will be based on an appropriate information management, in order to assure the availability and access to any interested people.



Article 7, Letters E, F

It is considered between other environmental management instruments the; sworn declarations, the environmental impact evaluation, prior the convocatory for public audience, for this it is referred to the Law 16466 on 19-01-94, as well as the analysis and risk evaluation, environmental audit and certifications and the environmental order.

Hydrocarbon Law (Law 14.181, 1974)

In the hydrocarbon law there are no dispositions in relation to the topic, it means, related to the participatory monitoring in the socioenvironmental management plans. But it may be important to mention that the organism in charge of the execution of the Law is the "National Administration of combustibles, alcohol and Portland (ANCPF) and executes activities related to business and operations of the hydrocarbon industry.

VENEZUELA

Environmental Organic Law (1976, Gazette Official 31004 of 16/06/76)

Article 21

No Environmental Impact Study is mentioned. Indirect reference is made to the PGSA: "sensible activities to damage the environment.... Could be authorized only when the guarantees, procedures and regulations are established.

Article 32

It is recognized the citizen right to appeal to the Environmental Direction "to demand the compliance of the dispositions related to the environment observation, defense and improvement..."

Biological Diversity Law (2000, Extraordinary Official Gazette 5468)

Articles 46-53

The projects impacting the Biodiversity shall have the Environmental Impact Study and contingency Plan.

Article 47

The Environmental Impact Studies are subject to public consultation.

Articles 39-45; 84-91

It is recognized the "patrimony rights and the traditional knowledge of the local communities, indigenous population and communities, in relation to biodiversity"

Articles 63-66

It is allowed the participation and collaboration of the civil society in the biodiversity protection.

Participatory Monitoring: Article 113

"The Government will provide mechanisms for the effective participation of the organized community in the process of planning, investigation and supervision.... As established by the Law. All personal shall be entitled to proceed with actions in the judicial and administrative area, in defense and protection of the Biodiversity protection"

Environmental Penal Law (1992, Official Gazette 4358)

It established except for ethnic communities and groups in relation to the application of sanctions established in this Law when the facts will occur in places where in ancestrally places and shall be done according the traditional model, space occupation and ecosystem coexistence..... (Article 67). The judge will request a socio-anthropologic report and will consider the opinion of the affected community of ethnic group (Sole Paragraph).



A3.4 Regulations related to the participatory monitoring of the socio-environmental management plans in relation to the hydrocarbon industry in Latin America and the Caribbean.

The regulations constitute the viable law to have absolute compatibility with the respective Constitutions and these inspire or generate the application of International Agreement, for this reason after the expedition of the law it will be indispensable, the respective sanction according the regulation. In the case of Participatory monitoring as bellow explained, the regulations shall apply the regulations as established. It is important to keep in mind that in relation to regulations, it is applied the juridical phrase; the luck of the secondary consent the main, it means that a regulation is related first with the law and then probably with the agreement or Constitution.

ARGENTINA

Regulations and procedures to protect the Environment during the Hydrocarbon Exploration and Exploitation stages.

Article 3

Disposition that established norms and regulations to protect the environment during the hydrocarbon exploration and exploitation activities, the concessionaries are obligated to provide to the Secretary of Energy the necessary information for the appropriate follow of the natural environment.

In such regulations (1.2 Procedures, a) previous studies b) monitoring) it is established when the drilling activities will Start, if the well results dead, it will continue with the environmental monitoring Works, as established in the specific instruction in the document Chapter 3.

The annual report corresponding to the works during the hydrocarbon phase shall be submitted to the authority after a year of the distribution of the regulations and with subjection to the same document.

BOLIVIA

The general regulation on the environmental management (*Regulation to the environmental law 1333*). The socio participatory monitoring reaches the viability in Bolivia according to the regulations.

Title I, Chapter II, Article 4

This is to define the environmental monitoring as “continues follow up system in environment quality through the observation, measurements and evaluations of one or more environmental conditions with defined objectives”.

Title III, Chapter III, Article 24

As follows it is ratified the right of everyone to obtain information on the environment.

Title V, Chapter II, Article 54

After, it appears the government obligatory of the Environmental impact Study (EEIA) to immediately proceed with the Environmental Impact declaratory that result in an Appropriate environmental declaratory.

Title VII, Articles 72-78

So that civil participation has special attention in this regulation. In this way it is important that environmental authority promotes the participation, by mean of diffusion and education campaigns. The citizens, Territorial Base Organizations and other entities legally constituted shall, as established in the regulation, contribute to the process of general decision through initiatives with the competent authority or conform consulting and advisory groups. It is determined the way to submit the initiate, remitting to the law in relation to terms for response, for this it hall be established that previous participation in general decision process were made. In the first of the cases, the authority has a term of 10 days to reply and in the second 15 days. In relation to the authority decision, it shall be informed on other particular decisions related to the regulation, such as environmental licenses or permits and shall provide the relevant documentation.



Title VII, Articles 79-82

The public audience convoked by the Authority will not solve controversies or complaints. Previously a Technical committee shall be constituted representing by the involved areas according to the topic to be discussed, and it shall issue a report prior to the analysis of opinions and suggestions on the discussed topics. Based on that report, the authority will prepare the resolution within the next 72 hours.

As Opinions in Public Audience are essentially consultative, the Authority and the Technical Committee shall consider them partially or totally, modify or reject.

Title VII, Articles 83-85

In relation to complaints, it is ratified that any citizen, Territorial Base Organization or other legal entity can report. It is established the way as the document shall be presented and the legal remissions that the authority shall consider for each case. Then the civil and penal responsibility is established for the informer, if the report is false and the crime it means.

Environmental Control and Prevention Regulation (*Regulation to the Environmental Law 1333*)

Title III, Chapter IV, Article 23, Letter c

It is established, in relation to the Environmental Impact Evaluation Study, as an important identification of impacts element, the recommendations shall surge from the citizen participation.

Title IV, Chapter VI, Article 93

In case that Authority determines, through a monitoring, the mitigation actions provided in the Environmental Impact Evaluation Study result inefficient, the legal representative of the executor organism, in a determined term, to perform the necessary complementary adjustments or improvements to the mitigation and prevention and mitigation program to correct the found environmental damages.

(Title IV, Chapter VII, Article 95) (Title V, Chapter II, Article 107)

It is established that the Municipalities shall inspect frequently within its environmental jurisdiction and have as reference the Environmental and Application Plan for monitoring the impact source in the environment.

Title VII, Chapter I, Article 161

Again, it is states the citizen's participation specifying that during the administrative process of the Environmental Impact Evaluation and Environmental Quality Control Study, all natural or collective people shall access to the information. Additionally, in the categorization and realization phases of the Environmental Impact Evaluation Study the public can contact the team in charge of those tasks to require or provide information and data in relation to the project, job or activity, informing to the Legal Representative (of the company of project gestor) who can maintain in reserve the information that can affect the rights of industrial property of mercantile licit interests.

Title VII, Chapter I, Article 162

In the phase of impacts identification, the Legal Representative shall perform the public consultation to consider observations, suggestions and recommendations of the community that can be affected by the implementation of the project or activity. If it is not included this in the Environmental Impact Evaluation Study it shall proceed to include in the Study a consultation period and to compile opportune information before remitting the Environmental Impact Declaration.

Title VII, Chapter I, Article 163

The forms duly fulfilled in the Environmental file and in the Environmental Impact Evaluation Study of each project, shall be available to the public in general in the installations of the Ministry of Sustainable Development and Environment (MDSMA) and in the offices of the dependent environmental offices of Prefect, during the revision period, in each an official registration shall be open. This registration shall have an updated list of these documents.



Title VII, Chapter I, Article 164

Any natural or collective person through the Base Territorial Organizations shall inform in writing the recommendations, comments or proposals in relation to the Project or activity to the Authority, Sectorial Organism or Municipality, in the normal jurisdiction, technical and legally supported. The Authority shall consider these observations before prepare its report informing to the Legal Representative for the respective consideration.

The environmental authority shall consult to people, institutions or communities in the Environmental Impact Evaluation Study or Environmental Report , they can comment in a term of 15 working days alter the next day of the consultation.

Title VII, Chapter I, Articles 165,166

It shall submit a petition or initiative to Public Audience in any moment of the life of the project, work or activity, as well as any citizen shall report through the Territorial Base Organization.

Environmental Regulation for the Hydrocarbon Sector. The activity of oil and gas exploitation has this Regulation that supports the Environmental Lay and the Hydrocarbon Law, which has also connection with the General Regulation of Environmental Management.

Title I, Chapter IV, Articles 9, 17

In this regulation, it is established that the environmental file is the document that stipulates the beginning of the Environmental Impact Evaluation, for projects or works to be executed and that the Environmental Report is the requirement for those that are in execution or abandon. This documentation shall be as sworn declaration. It is considered that the Environmental Impact Declaration, the Dispensation Certificate of the EIES, as well as the Declaration of Environmental abdication are the documents for the environmental license which support the other legal instruments in relation to the participatory monitoring.

The sectorial organism shall follow, supervise and control the implementation of the mitigation and adequate actions included in the Environmental Impact Declaration and in the Environmental Declaration in coordination with the involved Environmental Authorities.

Title II, Chapter I, Article 21

It is ratified to perform the public consultation at the same time of the verification of the Environmental Impact Studies.

Bolivia is a country that historically has involved with the social development, that is why the environmental laws, are expressly established the social or civil participation in relation to environmental protection, mitigation and reparation actions.

BRASIL

Decree 99.274 (06/06/1990) – DOU 07/06/1990

The Board of the CONAMA includes the civil society representation (Article 5). Natural or juridical people shall have access to the technical analysis results from the National Environmental System entities. (Article 16). The EIEs (named RIMAs, Related to Environmental Impact) will be to public disposition (Article 17). In the competence of Ibama, the project analysis is included, projects subject to approval of private entities “interested in the conservation and recovering of environmental resources” (Article 21). IBAMA can delegate the fiscalization activities and control the official entities of the Governments (Article 44).

PERU

Regulation on the consulting and civil participation in the procedure of environmental studies approval in the energy and mines studies. (*Ministerial Resolution 596-2002-EM/DM, 20-12-02*)



Article 1

Rules the participation of the natural people, social organizations, project representatives and authorities for who the Ministry of Energy and Mines perform information activities with the people interested in the project such as mining or energy, and in the procedures of the Environmental Impact Adequation Programs (PAMA), Environmental impact study (EIA), preliminary Environmental Impact Study (EIAP) and the Environmental Evaluation.

Article 3

The participation of the citizens will be carried out by: previous consultation and public audiences.

Articles 4-5

The Environmental affairs general direction (DGAA) of the Ministry of Energy and Mines or the Energy and Mines Regional Direction (DREM) are in charge to settle the day and hour to sustain the project in public audience. In addition, the DGAA in coordination with the Project representative will communicate to the population by publishing in the Peruvian official newspaper and in high circulation newspaper, 40 days before the audience.

Article 9

The project shall include an executive summary that will allow to the interested people to have an idea in relation to the location, kind of recourse, quantity, infrastructure, execution schedule, area of the project, work requirement, possible impacts, actions to mitigate and eliminate the impact, etc. The non compliance of these dispositions could be applied to consider the Environmental Impact Study as not presentable.

Regulation for the Environmental Protection in the Hydrocarbon Activities (*Supreme Decree 046-93-EM*)

Title I, Articles 1-3

Its objective is to avoid the environmental impact in the hydrocarbon resources development. It is responsibly of natural and juridical people who develop any activity related to the hydrocarbon in the Peruvian territory caused by emissions, spill and waste management disposition as a result of the processes performed in the facilities.

Title IV, Article 10

For this reason, prior to start any Hydrocarbon activity or upgrade, the responsible of the project shall submit to the Authorities, an Environmental Impact Study or a Preliminary Environmental Impact Study, performed by a registered company and qualifies by the Environmental Affairs National Direction (DGAA), that has include: a Base Line study to determine the environmental situation and the contamination level, including the description of the existent natural resources, geographical aspects, such as social, economic and cultural aspects from the communities or populations located in the influenced area, also a detailed description of the proposed project, the technical description with the indirect and direct revisable impacts. Long and short term, what is planned to perform in the project area; a detailed Environmental Management Plan (PMA), which execution do not exceed the maximum acceptable levels and reduce the impacts detailed in the above paragraph and an Abandonment Plan.

Title IV, Article 15

It corresponds to the Hydrocarbon General Direction, the approval of all the Environmental Impact Studies within 45 days after the submittal of the project. Within this term the natural or juridical interested people can review in the office of the Environmental Affairs General Directions and forward opinions to the Hydrocarbon General Direction.

The regulations of the republic of Peru will concrete through the executive measurements the participatory monitoring in the socio environmental management plans.

URUGUAY

Regulation of the Law 16.466, Environmental Impact Evaluation Law (*Decree 436/1994, 1994*)



Article 2, Numbers 6, 7

In order to facilitate the Law application in this regulation, some specific disposition are established; it states that the environmental authorization is required before starting operation, within a list of 26 activities, the construction of terminals of oil travase petroleum and chemical products and the pipeline construction, gas pipeline that overcome the length of 10 km.

Article 3

The procedure to issue the previous environmental authorization will consist of: a project communication, classification; request of the environmental previous request, information to public audience and resolution.

Article 15

After carrying out this process, the Ministry of Housing, Territory Ordering and Environment, will expose the environmental report and will publish the communication in the Official Newspaper and other national circulation newspaper, all this will be recorded in the documentation procedure. Term of publishing shall be 20 working days, counted since the next day of the last publication.

Article 17

In the case that negative environmental impacts surge from the project, and can be eliminated or reduced to acceptable levels, the Ministry of Housing will conf the previous environmental authorization, conditioned to the inclusion of modification in the project and the adoption of preventive or mitigation measurements considered as necessary.

VENEZUELA

Regulations on Environmental Evaluation in sensible areas for environmental degradation (*Decree 1257, 1996. G.O. 35.947 de 25/4/96*)

Article 28

It establishes within the Environmental Supervision Plan, part of the EIS, the verification and evaluation of the implanted measures, the identification of non foreseen impacts and proposes the corrective actions in addition to the normal actions. Non explicit reference is made in relation to Environmental Monitoring Plans, although, they are included as verification and evaluation mechanisms as the article establishes.

Article 26

It is granted the faculty to the Ministry of Environment and Natural Renewable Resources to order a revision and public consultation process of the Environmental Impact Studies, in that case the observations and comments shall include technical, scientific and juridical fundaments to sustain, and they can be incorporated to the studies according to the technical analysis.

Article 27

It established the obligation to maintain the expedients with the EIS's documentation available to the public for revision and consultation.

Regulation of the Environmental Organic Law on the Board meeting for the Conservation, Defense and Improvement of the Environment (*Decree 2935, 20/05/93*)

Article 1

It establishes a mechanism for the constitution, organization and functioning of the Board of citizens and civil associations without lucrative objectives, dedicated to the service for the collectivity for the conservation, defense and improvement the quality of life in general.

Article 9

It establishes between the duties and attributions to supervise the exploration activities and the renewal natural resources development, or those that are influencing on the environmental conditions, or the life quality, shall be effected according to the set forth regulation and the established conditions in the respective authorizations.



The following regulations shall be applied when the authorization or environmental license is provided for a project and involves an operations license. These shall require the environmental variable monitoring, submittal of adequate plans and involve the civil participation to be followed.

Norms to control the Dangerous Recuperation Material and dangerous waste management (Decree 2635, 1997. G.O. 5.245 de 3/8/98)

Article 60

The generators of waste coming from oil exploration and exploitation activities, including fluids and cuttings, muds, production sands, Hydrocarbon contaminated solid... shall be registered in the Sensible Activities Registration to damage the environment before the operation starts, as the dangerous waste generators shall register the year relation of the results of evaluations perform to maintain the practices effectiveness for the dangerous waste management and the monitoring and control studies.

Article 61

The companies registered under RASDA shall submit to the Ministry of Environment and Natural Resources, each year, the schedule on waste management.... The actions to evaluation the effectiveness of the practices of final disposition and monitoring and control actions.

Articles 129, 134

The dangerous waste generators who does not comply with the established regulations to recover the dangerous material or waste management.... Shall submit an Adaptation Plan to obtain a temporary operation license. This Plan shall include Environmental Monitoring as per MARN requirement.

Article 137

The generators of dangerous recovery material and dangerous material shall publish the Adaptation Proposal with the authorization in order to inform to the public and promote the participation in following process.

Norms for Classifications and Quality Control of water, flow and liquid emanation. (Decree 883, 1995. G.O. 5.021)

Articles 23, 26, 28

Las activities listed in the Decree... as petroleum and natural gas production.. shall be registered in the Registration of Sensible Activities to damage the Environment (RASDA) before initiating operations... as generators of liquid flow... The registered under el RASDA shall submit to the Ministry of Environment and the Natural Resources the characteristics of the effluents, at least once each three months.... The data related to the water contamination control are not considered as confidential.

Articles 30, 34

The generators of liquid flow who does not comply with the emission limits established in the Decree shall be submit an Adaptation Plan and get the necessary temporary authorization. This Plan includes the requirements of Environmental Monitoring MARN.

Article 35

The generators of liquid flow shall publish the education and authorization proposal in order to inform to the civil public the participation in following the process.

Norms on air quality and Atmospheric Contamination Control (Decree 638, 1995. G.O. 4.899)

Articles 24, 26

The activities listed in the Decree.... as oil and gas exploitation shall be registered in the Registration of Sensible Activities to damage the Environment (RASDA) before initiating the operation.... The Registered in the RASDA shall submit to the Ministry of Environment and Natural Resources the characteristics of emissions, at least once in a year.... The data corresponding to the atmospheric contamination control are not considered as confidential....



Articles 29, 33

Los generators of atmospheric emissions who does not comply with the emission limits established in the Decree shall be submit an Adaptation Plan and get the necessary temporary authorization. This Plan includes the requirements of Environmental Monitoring MARN.

Article 34

The activities schedule and the authorization shall be published by the responsible.... In order to communicate to the citizens and promote the participation in the following of the process.



APPENDIX 4: Analyzed Legislation Matrix



2.0 Summary of legislation analyzed

COUNTRY	Hydrocarbon Legislation	Environmental Legislation	Legislation Citizen participation
ARGENTINA	Law 17.319-Hydrocarbon Law (23 June 1967) Standards and procedures to protect the environment during the stage of hydrocarbon exploration and exploitation (Resolution 105/92, 11 Nov 1992)	Law 25.675, General Environmental Law (sanctioned 6 Nov. 02; enacted 27 Nov. 02)	
Buenos Aires		Environmental Impact Assessment (Law123, BOCBA622, Pub.-01-12-1999)	
Mendoza	(Decree number 457/93 on Environmental Assessment of oil industry; 26 Nov 92; BO 25 Feb 93)	Law 5961 Preservation, conservation, defense and improvement of the environment (sanctioned 26 Nov 1992) BO 25 Feb 93	
Chubut		General Environmental Law (L4563, 7 Dec. 99) Law 4032-Environmental Impact Assessment (Sanctioned 11-11-94; enacted 23-11-94) (Published BO 30 Nov 94)	
Neuquen		Provincial Law (Law2267, sanctioned 27-11-98) Published BO 23-12-98	
Rio Negro		Law 3266 - Environmental Impact Assessment (Sanctioned 16-12-98, published BO N°3642)	
La Pampa		Provincial Law 1914 - Environmental Provincial Law BO 2 Feb 2001-02-14 Decree 2139/03 Regulates Environmental Law 1914	



Tierra de Fuego		Environment (Law 55, sanctioned 02-12-92, published BOP 30-12-92)	
BOLIVIA	Hydrocarbon Law (Law 1689, 30 April 96) Environmental Regulation for Hydrocarbon Sector formalized by DS24335, 19 July 96	Law 1333-Environmental Law (enacted 27 April 92) Regulation to Law 1333 General Regulation on Environmental Management (published 8 Dec 95, formalized DS24176/95) Regulation to Law 1333 Regulation for Environmental Prevention and Control (published 8 Dec 95, formalized DS24176/95)	
BRAZIL		Law 6938, National Environmental Policy (31 August 81) Decree 99274 (1990)	
CHILE		Law 19.300-Law on Generalities of the Environment (9 March 1994) DS 95 Regulations for the Evaluation System of the Environmental Impact Assessment (2001)	
COLOMBIA		Law 99-General Environmental Law of Colombia (22 Dic 93) Decree 1180 - Environmental Licenses (2003)	
CUBA		Law 81 - Environment - 11 June 1997 Resolution 77/99 - Regulations on EIA Process (Official Newspaper of the Republic of Cuba, Ordinary Edition, Havana, 6 August 1999) Resolution 15/99 creates Center for Information, Management and Environmental Education (04-03-99) Resolution 16/99 creates Environmental Inspection and Control Center (04-03-1999)	



ECUADOR	Substitute Regulation for Environmental Regulation on Hydrocarbon Operations (Decree 1215) (published RO 265, 13 Feb 2001) Hydrocarbon Law 2967	Law 99.37; Environmental Management Law (1999)	Regulation for Consultation and Participation for the implementation of hydrocarbon-related activities (Decree 3401; December 2002)
MEXICO	Organic Law for Mexican Oil and Subsidiary Agencies (published DOF, 16 July 92) (Reformed: DOF 22 Dec 93, DOF 15 Jan 2002)	General Law on Ecological Balance and Protection of the Environment (28 Jan 88) LGEEPA Regulation on Environmental Management (30 May 2000)	Planning Law (published DOF 5 Jan 1983, Reform 13 June 03)
PARAGUAY	Hydrocarbon Law (Law 779, 1995)	Environmental Impact Assessment Law (Law 294/93) Regulation to Law 294/93 on Environmental Impact Assessment D 1428, 31 July 96 Creates National Environment System, National Council for the Environment and Department of Environment Law 1561, May 2000	
PERÚ	Hydrocarbon Organic Law (Law 26.221) (Nov. 1993) Regulation for Environmental Protection in Hydrocarbon-related Activities (Supreme Decree 046-93-EM, Nov. 93)	DL 613 - Code for the Environment and Natural Resources (8 August 1990) Law - National Council for the Environment Law 26410, 22 Dec 94 Law - National EIA System (Law 27446 - March 20001) Framework Law for National Environmental Management System Law 28.245, 08-06-04	Regulation for Consultation and Citizen Participation in the procedure to approve environmental studies in the energy and mining sector (Ministerial Resolution 596-2002 EM/DM, 20-12-02)



URUGUAY	Hydrocarbon Law (Law 14.181, 1974)	<p>Law 17.283 General Law on the Environment (published DO 12 Dec 00, N° 25663)</p> <p>Law 16.466 Environmental Impact Assessment Law (published DO 26 Jan 94, N°23977)</p> <p>Law 16.112 creates Ministry of Housing, Land Use Management and the Environment and sets competence (published DO 8 Jun 90, N°.23119).</p> <p>Decree 435/994 Regulations to Law on Environmental Impact Assessment (2 September 2004)</p>	
VENEZUELA		<p>Environmental Organic Law (16 June 76)</p> <p>EIA Regulation (1992)</p> <p>Biological Diversity Law (2000)</p>	



National summary matrix

3.1.1 ARGENTINA

A. Constitutional framework	Diffuse rights	Information and consultation	Indigenous peoples	Environmental rights	Citizen participation	Hydrocarbons
Constitution of the Argentine Nation (1853, last reform 22 August 1994)			art.75(17)	art.41	art.42	
					art.43	
					art. 14 petition	

B. Laws and regulations	EIAs	SEMP	Monitoring and evaluation	Citizen participation	Participatory monitoring
Law 25.675-General Environment Law (sanctioned: 6 Nov 2002) (enacted: 27 Nov 2002) Environmental authority: appendix 1	art.8 (2) arts.11-13	art.13		art.2(c,i) art.10 arts.16-18 arts.19-21	
Law 17.319-Hydrocarbon Law (23 June 1967) Application authority: art. 97	art.69(e) environment				
Standards and procedures to protect the environment during hydrocarbon exploration and exploitation stages. (Resolution 105/92, 11 Nov 1992)			art.3		



National summary matrix

3.1.2 BOLIVIA

A. Constitutional framework	Diffuse rights	Information and consultation	Indigenous peoples	Environmental rights	Citizen participation	Hydrocarbons
Political Constitution of the State 1994			art.171	art.7(m)*	art.7(n)*information	

*These two numerals were eliminated by constitution of 2004.

B. Laws and regulations	EIAs	SEMP	Monitoring and evaluation	Citizen participation	Participatory monitoring
Environment Law (Law 1333, 27 March 1992) Authority: arts. 6,8	art.12(d) arts.24-28	art.28 art.73	art.7(3) art.12(g) art.28 arts.95-96	art.62 art.78 art.92 art.93-94 petition art.100claim	
Hydrocarbons Law (Law 1689, 30 April 1996)	arts.7,10, 36,41 environmental				
The General Regulation on Environmental Management (DS 24176, 8 Dec. 1995) Authority: arts.7,9	art.7(g) art.8(g,h,i) art.38(II,c) art.60 arts.52-54 art.96(a,b,c,e)	art.21 art.57 art.96(g,h)	art.7(f) art.52 art.58 arts.86-93	art.3(e) art.8(d,e) art.21 art.23 arts.24-26 arts.28-29 arts.72-83	



<p>Regulation on Environmental Prevention and Control (DS24176, 8 Dec. 1995)</p> <p>Authority: art. 9</p>	<p>art.2 Title III (14-35) EIA Title IV (36-97) EIA Procedure</p>	<p>art.14 art.22 art.23(g,h,i) art.26 art.27 arts.29-30 art.33 art.35 art.51 arts.59-68 art.74 arts.89-90 art.93 art.95</p>	<p>art.23(l) art.31-32 art.51 art.74 arts.89-90 arts.92-94 arts.95-97 art.99 arts.106-107 arts.108-121 arts.122-128 arts.149-151 arts.153-159</p>	<p>art.23 c art.35 arts.36-37 arts.160-166</p>	
<p>Environmental Regulation for the Hydrocarbon sector (formalized by DS24335, 19 July 1996)</p> <p>Authority: art. 4,5</p>	<p>arts.9-18</p>	<p>art.17 arts.22-116 art.117</p>	<p>art.17 art.34(e)</p>	<p>art.21</p>	



National summary matrix

3.1.3. Brazil

A. Constitutional framework	Diffuse rights	Information and consultation	Indigenous peoples	Environmental rights	Citizen participation	Hydrocarbons
Federative Political Constitution of Brazil (updated January 2004)	art.129 (III)	art.5(XIV)	art.20(XI)(2)	art.5 (LXXIII)	art.5(XXVII)(a)	art.20(XI)(1)
		art.5(XXXIII)	art.22(XVI)	Art.23(VI)	art.5(XXXIV)(a)	art.22(XII)
			art.49(XVI)	art.24(VI)(VIII)	art.5(LXXVII)	art.49(XVI)
			art.129(III)	art.129(III)	art.58(II)(IV)	art.176
			art.129(V)	art.170(VI)	art.176(2)	art.177
			art.176(I)	art.225(chapter)	art.204(II)	art.238
			art.215			
			art.231(chapter)			
			art.232			

B. Laws and regulations	EIAs	SEMP	Monitoring and evaluation	Citizen participation	Participatory monitoring
Law 6938 (1981)	arts. 8-10		art. 11		
Decree 99.274 (1990)	art. 17		art. 1 art. 16 art. 21 art. 44	art. 1 art. 5 arts. 16-17	



National summary matrix

3.1.4 CHILE

A. Constitutional framework	Diffuse rights	Information and consultation	Indigenous peoples	Environmental rights	Citizen participation	Hydrocarbons
Political Constitution of the Republic of Chile (1980 reforms up to 2003)				art.19 (8)	art.107	art.19 (24)
				art 20	art. 19 (14)	

B. Laws and regulations	EIAs	SEMP	Monitoring and evaluation	Citizen participation	Participatory monitoring
Law on General Bases for the Environment 1994 Environmental authority: art.9 Legal action: arts. 64-65	arts.8-25 art.10(i,j)hydrocarbons arts.26-31 arts.64-65	art.12(e) art.16 art.27(e)	art. 12(f)	art.4 art.14(d) arts.26-30	
DS N°95, 2001 Regulations for the Environmental Impact Assessment System	X art.3(i,j)hydrocarbon	art.12(a,h) art.27(c,d,g) art.37 art.50(e) arts.57-62	art.12(a,i,j) art.27(g) arts 63-64	art.1 art.12(k) art.19 art.27(h) art.45 arts.49-54	



National summary matrix

3.1.5 COLOMBIA

A. Constitutional framework	Diffuse rights	Information and consultation	Indigenous peoples	Environmental rights	Citizen participation	Hydrocarbons
Political Constitution of Colombia (1991) updated with reforms until 2002		art.20	art.7	arts.78-82	art.2	
			art.246	art.95(8)	art.23 petitions	
			arts.329-331	art.268 (7)	arts.78-79	
				art.334	art.95 (5)	
					art.152 (d)	
					art.270	

B. Laws and regulations	EIAs	SEMP	Monitoring and evaluation	Citizen participation	Participatory monitoring
Law 99, 1993 National Environmental System	art. 1(11) art. 5(15) arts. 56-58	arts. 49-62 art. 57	art. 5(16) art. 31(11,12) art. 74	art. 1(12) art. 2 art. 4(4) 31(3) arts. 69-76	
Decree 1180 of 2003 on Environmental Licenses	art. 1 arts. 13-16	art. 1 arts. 3-4 art. 16(7)	art. 1 art. 16(7,b) art. 24	art. 26	



National summary matrix

3.1.6 CUBA

A. Constitutional framework	Diffuse rights	Information and consultation	Indigenous peoples	Environmental Rights	Citizen participation	Hydrocarbons
Constitution of the Republic of Cuba (June 2002)				art.27	art.39 (i)	
					art.63 petitions	

B. Laws and regulations	EIAs	SEMP	Monitoring and evaluation	Citizen participation	Participatory monitoring
Law N° 81 Environment Law (11 July 1997) Environmental authority: arts. 10-17	arts.27-33 art.28(j,k,r)hydrocarb	art.30	art.9(e) art.30 art.39-45	art.4(e) art.4(i,k,m) art.9 c art.32 art.37	art.45
Resolution 77/99 Regulations for Environmental Impact Assessment Process (Official Newspaper of the Republic of Cuba Ordinary edition, Havana, 6 August 1999) Environmental authority: art.2, art. 11	X art.5(j,k)hydrocarb	art.4 c art.15 art.25(e)	art.4 c art.9 c art.14 art.15 art.25(k) arts.39-45 arts.53-54	art.9(d) art.15 art.23(g) art.25(p)	



National summary matrix

3.1.7. Ecuador

A. Constitutional framework	Diffuse rights	Information and consultation	Indigenous peoples	Environm. Rights	Citizen participation	Hydrocarbons
Political Constitution of Ecuador (1998)	art.91	art.23(7)	art.24(10)	art.3(3)	art.63	
	art.95	art.94-95	art.83-85	art.23(6)	art.88	
		art.81		art.32	art.95	
				art.86-88	art.225	
				art.84	art.230	
				ar.97(16)	art.248	

B. Laws and regulations	EIAs	SEMP	Monitoring and evaluation	Citizen participation	Participatory monitoring
Law 99-37, Environm. Management Law 1999 Decentralized scheme: art. 38 Legal action: arts.41-43	art. 9(e) arts. 19-27	arts. 21-22	art. 9 (h) arts. 21-22 art. 25	art. 5 art. 9(i,m) art. 12(f,g) arts. 28-29 art.41-43	art. 39
Law 2967, Hydrocarbon Law	31(u)	31(u)	31(u)		



D3401 Regulations for Consultation and Participation to carry out hydrocarbon-related activities (2002)	art. 1 art. 7(b) arts. 10-11 art. 17 art. 32 art. 35-6	art. 1 art. 5 arts. 10-11 art. 13 art. 18 art. 28(2,d) arts. 31-34 art. 38	arts. 10-11 art. 13	art. 1 arts. 16-20 art. 28(2,d) art. 31	
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	EIAs	SEMP	Monitoring and evaluation	Citizen participation	Participatory monitoring
D 1215 Environmental Regulations for Hydrocarbon-related operations (2001) Environmental authority: art. 3 Legal action: art. 91	art.13 arts. 33-46 art. 48 art. 51 art. 55 art. 63 art. 70 art. 75 art. 84	art. 10 art. 41(7)	arts. 10-13 arts. 14-16 art. 41(8) arts. 42-46 arts. 88-89	art.6 art. 9 art. 37 art. 41(7,vi)	arts. 88-89



National summary matrix

3.1.8. Mexico

A. Constitutional framework	Diffuse Rights	Information and consultation	Indigenous peoples	Environm. Rights	Citizen participation	Hydrocarbon
Political constitution of the United Mexican States, February 1917, reformed 2004.		art.6	art.2	art.4	art.8 petitions	art.27
			art.27(VII)	art.25	art.26	art.28
				art.27		art.73(XXIX,5,c)
				art73(XXIX,G)		

B. Laws and regulations	EIAs	SEMP	Monitoring and evaluation	Citizen participation	Participatory monitoring
<p>General Law on Balance and Protection of the Environment (1988, latest reform June 13, 2003)</p> <p>Federal authority: art5-art6 State authority: art.7 Municipal authority: art.8 Legal actions: art. 171-175bis</p>	art.5(X) art.7(XVI) art8(XIV) art12(IX,X) arts.28-35 Bis 3	art.5(IX) art.7(IX) art.8(VIII) art.30 art.34(IV) art.35 bis1 art.64 art.78 Bis (IV) art.95 art.104	art.5(XIX) art14 bis art.20 Bis 3(III) art.38 art.38 bis art.38 bis1 art.38 bis2 art.56 bis art.66(II) art 160 arts. 161-169	art.1(VIII) art.5(XVI) art.7(XV) art.18 art.20 bis art.34 art.47 art.56 bis art.66(III) art.78bis(IV) art.109 bis arts. 157-159 art.159bis-bis6 art.180 art.182 arts.189-204	art.20bis5(VII) art.38bis(VI) art.78 art.157 art.159



	EIAs	SEMP	Monitoring and evaluation	Citizen participation	Participatory monitoring
Regulations of the General Law on Ecological Balance and Protection of the Environment in terms of Environmental Impact Assessment (30-05-00)	X art.5(c,d)hydrocarbon	art.12(VI) art.13(VI) art.41(III) Art.44(III)	art.4(VI) art.30(III,c) art.55	art.4(II,III,IV) art.26(III) art.35 arts.37-43 art.65	
Organic Law of Petróleos Mexicanos and Subsidiaries Published: DOF 16 July 1992 Reform: DOF 22Dec'93, DOF 15Jan2002			art.11(VI,XI)		
Planning Law (published DOF 5Jan1983 Reform 13 June 2003			art.18	art.1(IV) art.20 bis	



National summary matrix

3.1.9 PARAGUAY

A. Constitutional framework	Diffuse rights	Information and consultation	Indigenous peoples	Environmental rights	Citizen participation	Hydrocarbons
Constitution of the Republic of Paraguay (June 1992)	arts.38-40	art.28	arts.62-67	arts.7-8	art.65	
		art.135				

B. Laws and regulations	EIAs	SEMP	Monitoring and evaluation	Citizen participation	Participatory monitoring
Environmental Impact Assessment Law (Law N° 294/93) Authority: art. 6	X art.7(f)hydrocarb.	art.3(e) art.11 art.13	art.3 (e) art.13	art.8	
Hydrocarbons Law (Law N°779, 1995) Authority: art. 40	art.37 art.58(a)environm. art.76		art.58(a)		
Regulations to Law 294/93 on Environmental Impact Assessment (D1428, 31 July 1996)	art.5(6)hydrocarb.	art.17(II,IV) art.25(a)	art.17(II,IV) art.23 art.24	art.9 art.11 art.16	



National summary matrix

3.1.10 PERU

A. Constitutional framework	Diffuse rights	Information and consultation	Indigenous peoples	Environmental rights	Citizen participation	Hydrocarbons
Constitution of the Republic of Peru (1993, reformed 2002)		art.2(4,5)		arts.66-69	art.2(17)	
					art.2(20)petitions	

B. Laws and regulations	EIAs	SEMP	Monitoring and evaluation	Citizen participation	Participatory monitoring
Code on the Environment and Natural Resources (DL 613, 08/09/90)	arts.9-13 art.72	art.72 art.77	art.20-24	Preliminary Title III Preliminary Title VI art.6 art.11 arts.34-35 art.54	
Law on National System for the Environmental Impact Assessment (Law 27446, March 2001) Authority: art. 16	x	art.7(7.1,a.4) art10,1 c	art.6(5) art.10,1(e) art.15	art.1 c art.10,1(d) art.13 art.14	



Hydrocarbon Organic Law (Law 26221) (Nov 1993) Authority: art. 3,5	art.87, environm.			art.37, information	
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	EIAs	SEMP	Monitoring and evaluation	Citizen participation	Participatory monitoring
Framework Law on National Environmental Management System (Law28245, 08/06/04)	art.6 c Art.9 (f)			art.2 art.5 (f,g) art.6 (k) art.27 art.30	art.27(d)
Regulation for environmental protection of hydrocarbon-related activities (supreme decree 046-93-EM) Authority: art. 4 Legal action: arts. 48-52	art.9 art.10-16 art.31-32 art.39-42 art.48 Title XIV	art.10(d,e) art.11-12 art.17-47 art.48 Title XIV	Title XV	art.15 art.53	
Regulation for Citizen Consultation and participation in the procedure to approve environmental studies in the Energy and Mining sectors (RM 596-2002 EM/DM, 20-12-02)	art.1-12	art.1 art.9		art.1-12	



National summary matrix

3.1.11 SURINAME

A. Constitutional framework	Diffuse rights	Information and consultation	Indigenous peoples	Environmental rights	Citizen participation	Hydrocarbons
Surinam Constitution (1987) with Reforms in 1992				art.6(g)	art.22	

B. Laws and regulations	EIAs	SEMP	Monitoring and evaluation	Citizen participation	Participatory monitoring
Law to Preserve Nature (1954)					
Law for the Administration of Forests (1992)					



National summary matrix

3.1.12 URUGUAY

A. Constitutional framework	Diffuse rights	Information and consultation	Indigenous peoples	Environmental rights	Citizen participation	Hydrocarbons
Constitution of the Republic of Uruguay (1996)				art.47	art.30petitions	

B. Laws and regulations	EIAs	SEMP	Monitoring and evaluation	Citizen participation	Participatory monitoring
Law 16.466- Environmental Impact Assessment Law (published DO 26 Jan 1994, N°23977)	arts.5-17 art.6(b,c)hydrocarb.			art.14 art.13	
Law 17.283-General Environmental Law (published DO 12 Dec 2000, N°25663) Legal action: art. 15	art.7(E)	art.1(D) art.7(B) art.16	art.7(F) art14(A)	art.6(D,E,F) art.11	
Decree 435/994 Regulations for Law on environm. impact assessment (2 Sept. 2004)	X art.2(6,7)hydrocarb.	art.4(F) art.12, part III art.17	art.12, part II part IV	art3.(e) art.15 art.16	



National summary matrix

3.1.13 VENEZUELA

A. Constitutional framework	Diffuse rights	Information and consultation	Indigenous peoples	Environmental rights	Citizen participation	Hydrocarbons
Constitution of the República Bolivariana de Venezuela, 1999.	art.26	art.28	art.9	art.15	art.62	art.12
	art.280	art.58	arts.119-126	art.112	art.70	art.156 (16)
	art.281(2)	art.101	art.260	arts.127-129	art.128	
			art.281(8)	art.178 (4)	art.178	
				art..299	art.187(4)	
				art.326		

B. Laws and regulations	EIAs	SEMP	Monitoring and evaluation	Citizen participation	Participatory monitoring
Environment Organic Law (1976)		art. 21		art. 32	
Biological Diversity Law (2000) Authority: arts. 19, 21	arts. 46-49	arts. 50-53	art. 49 art. 62 art. 89	art. 8 arts. 39-45 art. 47 arts. 63-66 arts. 84-91	art. 113

ARPEL

Regional Association of Oil and Natural Gas Companies in Latin America and the Caribbean

Established in 1965, ARPEL is an association of 30 state owned and private oil and gas companies and institutions with operations in Latin America and the Caribbean, which represent more than 90 percent of the Region's upstream and downstream operations. Since 1976, ARPEL holds formal UN-ECOSOC special consultative status.

ARPEL works together with its members –through its various Committees and Working Groups- on issues that contribute to sustainable development in the Region:

- *Economic issues:* regional energy integration, pipelines and terminals, downstream and fuels
- *Environmental issues:* climate change, atmospheric emissions, oil spill contingency plans and best practices in environment and occupational health and safety management.
- *Social issues:* corporate social responsibility and relations with indigenous peoples

ARPEL develops a proactive attitude on issues of interest to the industry and produces documents representing the views of its members. It also promotes interaction among its members and with governments building alliances and establishing agreements with international organizations with the aim of presenting and developing a regional perspective. To accomplish its objectives, ARPEL organizes regional workshops and symposia to share information and best practices and develops technical documentation for capacity building and information exchange on the issues of interest to its members. To support its management ARPEL has an interactive Portal in which all documents developed by ARPEL Technical Committees and Working Groups are available for its Members. This tool also facilitates the virtual interaction within the ARPEL community and with those stakeholders that interrelate with it.



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