ICLG

The International Comparative Legal Guide to:

Environment & Climate Change Law 2018

15th Edition

A practical cross-border insight into environment and climate change law

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EDITORIAL

Welcome to the fifteenth edition of *The International Comparative Legal Guide to: Environment & Climate Change Law.*

This guide provides corporate counsel and international practitioners with a comprehensive worldwide legal analysis of environment and climate change laws and regulations.

It is divided into two main sections:

One general chapter. This chapter is entitled: "*The 'Brexatom' Conundrum*".

Country question and answer chapters. These provide a broad overview of common issues in environment and climate change laws and regulations in 24 jurisdictions.

All chapters are written by leading environment and climate change lawyers and industry specialists, and we are extremely grateful for their excellent contributions.

Special thanks are reserved for the contributing editors Daniel Lawrence and John Blain of Freshfields Bruckhaus Deringer LLP for their invaluable assistance.

Global Legal Group hopes that you find this guide practical and interesting.

The *International Comparative Legal Guide* series is also available online at www.iclg.com.

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1 Environmental Policy and its Enforcement

1.1 What is the basis of environmental policy in your jurisdiction and which agencies/bodies administer and enforce environmental law?

The purpose of the Environmental National Policy (Federal Law No. 6,938/1981) is the preservation, improvement and recovery of the environmental quality, in order to ensure the socio-economic development, the interests of national security and the protection of human rights.

The Federal Constitution sets forth the duty to preserve the environment for future generations and sets out criminal and administrative sanctions, both for individual and legal entities, as well as the obligation to repair the environmental damages.

The competent licensing authority enforces the environmental law and, in case of an omission, the other environmental authorities may step in.

The federal environmental agency, the Brazilian Institute for Environment and Natural Renewable Resources (IBAMA), has jurisdiction for licensing depending on the locality and the characteristics of the enterprise (i.e. nuclear power plants, hydroelectric power plan, among others). The Municipal environmental agencies have jurisdiction to license enterprises and activities with local impacts, while the State environmental agencies have a general jurisdiction over the environmental licensing proceedings of enterprises and activities that are not covered by Federal or Municipal agencies. In addition, the public prosecutors monitor the compliance with the environmental legislation, as well as seek the recovery, repair and compensation of any environmental damage.

1.2 What approach do such agencies/bodies take to the enforcement of environmental law?

The licensing environmental agencies periodically perform site inspections of the potentially polluting enterprises and in case any environmental damage and/or non-compliance is identified, the agency may impose administrative sanctions, such as warnings, fines and embargoes, and also ensure the recovery of the environmental damages. In addition, such authorities may communicate any suspicion of environmental crime to the Police and Public Prosecutor's Offices.

In addition, the public prosecutors may investigate any complaints from the public regarding non-compliance.

1.3 To what extent are public authorities required to provide environment-related information to interested persons (including members of the public)?

According to Federal Law No. 10,650/2003, the public authorities shall grant public access to any environment-related information, especially regarding: environmental quality; environmental policies; plans and programmes; accidents, risk and emergency situations; discharge of wastewater, atmospheric emissions and generation of waste; toxic and hazardous substances; biological diversity; and genetically modified organisms (GMO). Exceptions are made for confidential information.

2 Environmental Permits

2.1 When is an environmental permit required, and may environmental permits be transferred from one person to another?

Pursuant to the National Environmental Policy, the construction, installation, expansion and operation of any establishment or activity that uses environmental resources, deemed as polluting or potentially polluting, or that could possibly cause any kind of environmental damages, is subject to a prior licensing proceeding.

The environmental licence may be transferred from one titleholder to another at anytime, providing the successor fulfils the licensing requirements.

2.2 What rights are there to appeal against the decision of an environmental regulator not to grant an environmental permit or in respect of the conditions contained in an environmental permit?

All the administrative decisions – including the decision on the granting of an environmental licence – may be challenged by means of an Administrative Appeal. The environmental authorities may foresee different procedures for challenging the denying of an environmental licence.

A Judicial Lawsuit may also be filed seeking the annulment of an illegal administrative decision.

2.3 Is it necessary to conduct environmental audits or environmental impact assessments for particularly polluting industries or other installations/projects?

In order to support the environmental licensing, the entrepreneurs

must prepare technical studies demonstrating the main characteristics of the intended activities and foreseen environmental impacts that may be caused by such activities, as well as the conditions of the location of installation. The comprehensiveness of the studies varies according to the potential environmental impacts, and, depending on that, entrepreneurs may be required to conduct simplified or complex evaluations contemplating multidisciplinary aspects.

The projects capable of causing significant impact to the environment are subject to the preparation of a detailed technical study referred to as Environmental Impact Assessment and related Report of Environmental Impact (EIA/RIMA); a time-consuming task involving a multidisciplinary team and significant expenditure.

2.4 What enforcement powers do environmental regulators have in connection with the violation of permits?

The environmental authorities can suspend or cancel the permit in case of a breach of environmental rules or any of the technical conditions set forth in the licences. In addition, the licence might be cancelled in case of supervening severe environmental or health risks or if false and/or missing information was provided during the environmental licensing.

The absence of environmental licences for enterprises or activities considered as deemed polluting or potentially polluting is subject to criminal and administrative sanctions, besides the obligation to redress the damages caused.

3 Waste

3.1 How is waste defined and do certain categories of waste involve additional duties or controls?

Pursuant to the National Solid Waste Policy (Federal Law No. 12,305/2010), the definition of waste is very broad. In a nutshell, waste is a material or substance discarded as a result of human activities in society, whose final disposal is required.

The hazardous waste is a category of waste subject to some additional controls. They are also defined as a waste involving substantial risks to public health or environmental quality due to some characteristics (such as inflammability, corrosivity, reactivity and toxicity). Some additional authorisations may be required for their transportation, storage and exportation.

3.2 To what extent is a producer of waste allowed to store and/or dispose of it on the site where it was produced?

To the extent that the storage or disposal of its waste is duly licensed by the environmental authority. In case the company carries out any activities beyond those which are permitted, it may be subject to the imposition of penalties.

3.3 Do producers of waste retain any residual liability in respect of the waste where they have transferred it to another person for disposal/treatment off-site (e.g. if the transferee/ultimate disposer goes bankrupt/ disappears)?

According to the National Solid Waste Policy, the inadequate disposal of solid waste, as a potential source of contamination of soil and groundwater, may lead to the imposition of penalties irrespective of liability for damages. Pursuant to the National Environmental Policy, the polluter is obliged, independently of fault, to indemnify or repair the damages caused to the environment and to third parties, affected by its activity (which is the strict liability). As the waste producer can be considered as an indirect polluter, it may be jointly and severally responsible for the environmental recovery.

3.4 To what extent do waste producers have obligations regarding the take-back and recovery of their waste?

The National Solid Waste Policy sets forth the shared responsibility for the life-cycle of products, which includes manufacturers, importers, distributors and retailers, consumers and the holders of public services. With regard to the shared responsibility, the law provides that some industrial sectors shall implement reverse logistics systems (take-back systems), actions, procedures and the means to enable the collection and recovery of solid residues, aimed at their reuse in the industrial cycle or other productive cycles, or other destinations. The reverse logistics systems may be implemented jointly or individually by the companies.

4 Liabilities

4.1 What types of liabilities can arise where there is a breach of environmental laws and/or permits, and what defences are typically available?

There are three types of liability that may arise due to breach of environmental laws and/or permits, as follows:

Civil liability: The National Environmental Policy sets forth that environmental civil liability is of an objective nature (strict liability or liability irrespective of fault), meaning that demonstration of cause-effect relationship between the damage caused and the agent's conduct suffices to trigger the obligation to redress the environmental damage. The entities authorised by law may file claims for the recovery of the environment, usually through a public civil action. In this case, the polluter shall defend him/herself in a judicial proceeding (appeal).

Administrative liability: According to the Federal Decree No. 6,514/2008, any action or omission that infringes legal rules pertaining to the usage, enjoyment, support, protection and restoration of the environment is deemed to be an administrative violation or infraction. Perpetrators may face administrative penalties that are imposed by means of infraction notices. In this case, the violator has to present an administrative defence. Also, it is possible to file an action seeking annulment of the infraction notice.

Criminal liability: Pursuant to the Federal Law No. 9,605/1998, environmental criminal liability applies to every person, whether individual or legal entity, which concurs with certain offences considered as crimes. The criminal liability depends on the verification of fault or intent. In this case, the plaintiff shall defend him/herself in a judicial proceeding (appeal).

4.2 Can an operator be liable for environmental damage notwithstanding that the polluting activity is operated within permit limits?

If there is a cause-effect relationship between the damage and the activities of the operator, it may be held liable for the environmental damage, even when operating within permit limits.

4.3 Can directors and officers of corporations attract personal liabilities for environmental wrongdoing, and to what extent may they get insurance or rely on other indemnity protection in respect of such liabilities?

Upon occurrence of an environmental violation, a legal entity's officer, administrator, director, manager or agent would also be subject to criminal sanctions. However, these individuals would only be prosecuted and convicted for having caused environmental damage if and only to the extent it can be proved that the crime is attributable to their conduct or omission.

Individual transgressors are subject to the following criminal sanctions: (i) custodial sentence – imprisonment or confinement; (ii) temporary interdiction of rights; and (iii) fines. The sanctions imposed on legal entities, on the other hand, are: (a) temporary interdiction of rights; (b) fines; and (c) rendering of services to the community.

There is no insurance or indemnity that could protect a person from the criminal liability. However, besides the common civil liability insurances, there are specific environmental insurance types in the market, which can assist/protect a company or person when subject to the payment of an amount regarding environmental liabilities.

4.4 What are the different implications from an environmental liability perspective of a share sale on the one hand and an asset purchase on the other?

From an environmental liability perspective, the difference between a share sale and an asset purchase is mainly associated with the successor's liability. In the first case, the successor assumes the environmental liability arisen from the operation of the company as a whole.

In the second case, the buyer assumes the liability only related to the acquired asset.

4.5 To what extent may lenders be liable for environmental wrongdoing and/or remediation costs?

The question that is frequently raised due to the wide definition of "indirect polluter" is whether lenders may be considered as an indirect polluter if a given financed project causes environmental damage. In Brazil, there is still no deep analysis related to the definition of the indirect contribution for the activity that caused the environmental degradation. In other words, even though there is no questioning about the indispensable conditions for the responsibility on the environmental civil sphere (i.e., author – direct or indirect polluter – occurrence of an environmental damage and causality relation), there is no definition of the limits of the indirect contribution for the activity that caused the environmental degradation. However, the National Environmental Policy is silent in relation to private lenders and there is no precedent that could be singled out where a private lender has been held liable for any environmental damage.

5 Contaminated Land

5.1 What is the approach to liability for contamination (including historic contamination) of soil or groundwater?

The responsibility for environmental damages in the civil sphere is joint and several, including for damages caused by contamination of the ground and groundwater. Anyone who has contributed or benefited from a specific area can be held responsible for its remediation. In case of purchase of a contaminated property, the buyer will assume responsibility for repairing the environmental damages, even if it did not cause it directly. The assumption by the buyer of a joint and several liability to remedy any existing contamination requires the adoption of contractual mechanisms in order to protect the interests of the new owner, which may exercise its right of recourse against the polluting agents.

5.2 How is liability allocated where more than one person is responsible for the contamination?

Since liability is of a joint and several nature, the aggrieved party may choose one out of all polluting agents (that meets all legal requirements to be sued, or simply the one with the healthiest economic situation) to redress the damages caused. The sued polluting agent will have a right of recourse against the other actually having caused the environmental damage.

5.3 If a programme of environmental remediation is 'agreed' with an environmental regulator, can the regulator come back and require additional works or can a third party challenge the agreement?

The regulator may require additional work for a remediation programme if there is a clear justification. Interested third parties, including the public prosecutors, may question the remediation process approved by the environmental agency if not in compliance with the applicable law.

5.4 Does a person have a private right of action to seek contribution from a previous owner or occupier of contaminated land when that owner caused, in whole or in part, contamination; and to what extent is it possible for a polluter to transfer the risk of contaminated land liability to a purchaser?

Those who acquire a contaminated area may seek compensation for prior damages caused by the former owner or possessor. However, even though this is important for strengthening the right of recourse, contractual clauses are not enforceable against third parties, mainly public authorities.

5.5 Does the government have authority to obtain from a polluter, monetary damages for aesthetic harms to public assets, e.g. rivers?

Public authorities and especially the Public Prosecutor's Office have the right to demand monetary compensation for aesthetic damages to public properties, as this kind of damage is also considered as environmental damage under current legislation. However, it is important to state that in any environmental damage, the priority is to repair it, returning it to its original state, and that monetary compensation may be required only when the damage is irreversible or the population suffered from collective moral damages.

6 Powers of Regulators

6.1 What powers do environmental regulators have to require production of documents, take samples, conduct site inspections, interview employees, etc.?

Environmental agencies have the power to conduct site inspections,

require technical assessments from the entrepreneurs or the collection of samples to verify the compliance of the environmental conditions to the legal standards. Additionally, the public prosecutors may also require information from entrepreneurs, environmental agencies and interview employees under a civil inquiry.

7 Reporting / Disclosure Obligations

7.1 If pollution is found on a site, or discovered to be migrating off-site, must it be disclosed to an environmental regulator or potentially affected third parties?

The legislation in force for some States requires the immediate communication upon discovery of contamination, even if suspected, so the competent environmental and health bodies monitor the confirmatory and remediation processes. In particular, the regulation enacted for the State of São Paulo has been recently modified, in order to increase protection and control over contaminated areas. In any case, disclosure of contamination and other environmental events is recommended to take place as soon as possible, in order to avoid liabilities and prevent pollution from spreading. Exceptions relating to specific activities may apply, notably in case of environmental accidents (e.g., mining, oil and gas, among others).

7.2 When and under what circumstances does a person have an affirmative obligation to investigate land for contamination?

Pursuant to the Environmental National Policy, the monitoring of environmental quality and conditions is mandatory for both private and public individuals. As a consequence, licensing authorities generally require the conduction of environmental investigations aiming at evaluating the existence of pollution or suspected contamination. In case of confirmed contamination, however, the management of such liability, submission of periodic reports and conduction of monitoring campaigns, may also be required.

7.3 To what extent is it necessary to disclose environmental problems, e.g. by a seller to a prospective purchaser in the context of merger and/or takeover transactions?

Although there is no legal provision on the mandatory disclosure of environmental liabilities among private contracting parties, the performance of due diligence in transactions is a common practice in Brazil, in order to identify potential liabilities and required mitigation measures. As a result of this procedure, the parties can contractually allocate the responsibility between themselves for any issues which have arisen, in attention to the regulation in force and respect of the parties' right of recourse.

8 General

8.1 Is it possible to use an environmental indemnity to limit exposure for actual or potential environment-related liabilities, and does making a payment to another person under an indemnity in respect of a matter (e.g. remediation) discharge the indemnifier's potential liability for that matter?

Brazilian civil environmental liability is based on strict, joint and several liability standards. Therefore, in case one's activity or enterprise is related to an environmental damage (irrespective of fault or intent), such person or legal entity may be held liable for repairing or compensating the damage. Joint and several liability standards, on the other hand, set forth that, in case more than one person or legal entity can be deemed liable, the whole reparation/compensation can be sought against any of them, individually. The aggrieved individual might seek the right of recourse against the others that caused the damage.

As per contractual provisions, based on Brazilian law, environmental liability allocation clauses may only govern the relation between the contracting parties. Thus public authorities are not bound by such contractual provisions. Therefore, for example, in a contract involving A and B, despite the existence of a specific clause allocating the environmental liability to B, in case A is deemed by law as a liable party (e.g. for remediating a contaminated area), public authorities may seek the whole reparation/compensation from A. The referred contractual provision would not shield A from public authorities' claims. Nonetheless, A could afterwards seek indemnification from B, since, between them, the contract provided that the liability ultimately incurred by A should be dealt with and paid by B.

8.2 Is it possible to shelter environmental liabilities off balance sheet, and can a company be dissolved in order to escape environmental liabilities?

In theory, considering that environmental issues may be deemed a liability of the corporation, it should be considered at least as a contingency in the balance sheet.

As per the dissolution of a company, we must highlight that potentially pollutant enterprises must be subject to deactivation procedures in order to legally cease their activities. Legislation has been tightening in this direction. The State of São Paulo has recent laws and regulations describing how the deactivation of a company must be carried out. Therefore, the abrupt dissolution of a company without the proper decommissioning and resolution of existent environmental liabilities may have its legality questioned by the authorities.

8.3 Can a person who holds shares in a company be held liable for breaches of environmental law and/or pollution caused by the company, and can a parent company be sued in its national court for pollution caused by a foreign subsidiary/affiliate?

Due to the application of the piercing of the corporate veil theory in Brazil, shareholders can be liable for breaches of environmental law. Such theory may apply whenever the existence of the company jeopardises the recovery of environmental damages or act as an obstacle (irrespective of fault or abuse of right) to the proper reimbursement or remediation of the former environmental conditions.

Nonetheless, in relevant environmental cases it is usual for prosecutors to seek shareholders' joint and several liability and not the piercing of the corporate veil. In this case, please note that the liability sought is not subsidiary, but directly attributed to the shareholder. Such liability, however, should only be applied in case the shareholder is directly involved with the management of the company and involved with the practices that caused the environmental damages.

Regarding the parent company's exposure in its national courts, it would depend vastly on the specificities of the law applicable in the parent company's country.

8.4 Are there any laws to protect "whistle-blowers" who report environmental violations/matters?

Public institutions that provide a whistle-blowing mechanism for anonymous tips in Brazil must protect the identity of the whistle-blower. The specific forms of identity protection varies according to the institutional regulations. In the State of São Paulo, for example, the state environmental agency provides for confidential procedures when dealing with an anonymous contribution.

On the other hand, in cases of corporate "whistle-blowing" policies, employees that provide licit information shall not be subject to persecution from the employer due to the provided information.

8.5 Are group or "class" actions available for pursuing environmental claims, and are penal or exemplary damages available?

The Public Civil Action is the most common type of action used in Brazil for pursuing environmental claims. Public Civil Actions may be filed by public prosecutors and defenders, the government (federal, state and municipal), civil associations, foundations, as well as fully or partially public companies. Popular Claims, which may be filed by any individual, may also be filed with such purpose. Such actions must be filed aimed at the recovery of the environment exclusively.

Regarding damages to individuals or group of individuals, as a consequence of an environmental damage, Public Civil Actions and Popular Actions are not applicable. Individual actions must be used for such purpose.

Punitive damages (penal or exemplary) are not applicable in Brazil.

8.6 Do individuals or public interest groups benefit from any exemption from liability to pay costs when pursuing environmental litigation?

For the filing of Public Civil Actions and Popular Actions, claimants do not need to pay for the costs upfront. Besides such rule, certain parties legitimated to file such actions are exempted by law from such costs, such as public prosecutors and public defenders.

On the other hand, in individual private actions seeking indemnification as a consequence of an environmental damage, costs must be paid upfront by the claimant. However, in case the poor financial condition of the claimant is proven, the benefit of free judicial assistance may be granted and the costs may be waived.

9 Emissions Trading and Climate Change

9.1 What emissions trading schemes are in operation in your jurisdiction and how is the emissions trading market developing there?

In line with the policies set out by the United Nations Framework Convention on Climate Change ("UNFCCC"), as well as according to the goals established when the Kyoto Protocol was in force, Brazil has developed its own guidelines and objectives on the reduction of gas emissions, mainly by means of the National Policy on Climate Change (Federal Law No. 12,187/2009). Pursuant to such legislation, the Brazilian government has committed to a voluntary target on the reduction of gas emissions, which has been replicated at State and Municipal levels. Even though no emission trading scheme has been formally implemented so far by the public authorities, Certified Emission Reductions (CER) can be traded by private parties in different ways, notably through the stock exchange.

9.2 Aside from the emissions trading schemes mentioned in question 9.1 above, is there any other requirement to monitor and report greenhouse gas emissions?

The legislation in force provides for specific guidelines on air emissions, as well as on emission standards, but no cap for GHG emissions has been established so far. During the environmental licensing process, the competent authorities may require the adoption of control measures, improvement of existing equipment and periodic monitoring of gas emissions in general. Obligations vary from case to case and failure to comply subjects the offenders to both criminal and administrative penalties, irrespective of the liability for damages.

9.3 What is the overall policy approach to climate change regulation in your jurisdiction?

The provisions enacted by the National Policy on Climate Change are an important step, as Brazil made a national voluntary commitment for reducing local gas emissions, with the main objective of decreasing emission levels by 2020. There has been a lack of concrete actions to date, however; on the other hand, firm progress has been made in reducing emissions arisen from deforestation. Surveillance measures are constantly been improved, in an attempt to prevent forests from being converted mainly to new crop and livestock areas.

10 Asbestos

10.1 What is the experience of asbestos litigation in your jurisdiction?

The liabilities involving asbestos products are divided into four main areas of concern: (a) environmental restrictions; (b) labour force exposure; (c) exposure of consumers to asbestos containing products; and (d) other people indirectly exposed to the asbestos. Most of the asbestos liabilities are resolved by monetary awards. Successful labour, consumer and civil claims result in decisions awarding compensation for damages suffered in connection with the asbestos exposure, including both (a) compensation for damages, and (b) compensation for pain and suffering in an amount that gives comfort to the inflicted person and punishes the offender (provided that such compensation for pain and suffering does not cause unreasonable enrichment).

10.2 What are the duties of owners/occupiers of premises in relation to asbestos on site?

Under an environmental perspective, the major aspects that the owners/occupiers shall focus on are: (a) management and disposal of the residues generated by the use of asbestos; and (b) eventual land contamination.

The management and final disposal of residues containing asbestos must cause neither any damage to the environment, nor any inconvenience to the public health and welfare. Therefore, disposal and control measures for the correct management of such residues must be implemented by the company.

The owner or occupier of a property which is contaminated by hazardous materials, such as asbestos, is subject to a notice of infraction to be issued by the environmental authority demanding the clean-up of the land, being or not the entity which has caused such contamination – a circumstance that may entail significant expenditures.

11 Environmental Insurance Liabilities

11.1 What types of environmental insurance are available in the market, and how big a role does environmental risks insurance play in your jurisdiction?

For a long period, the environmental insurance market in Brazil was restricted to common civil liability insurances. Currently, however, the development of the Brazilian Environmental Law and the enforcement thereof has triggered a surge of different and specific environmental insurance types in the market, such as insurances covering risks due to: (i) installation and operation of infrastructure assets; (ii) civil works and services; (iii) transportation of environmental interest materials; and (iv) liability derived from pollution damages, amongst others.

So far, environmental risks insurance has played a small role in Brazil. This scenario, however, is currently changing in light of the law enforcement hardening, the international reckoning of the environmental insurance as a tool for the fostering of green financing and the discussions taking place in Brazil due to legislative proposals for the establishment of mandatory environmental risks insurances.

11.2 What is the environmental insurance claims experience in your jurisdiction?

Due to the incipient role that environmental insurance has played so far in Brazil, there are not many claims relating therewith. Nevertheless, considering the strengthening of law enforcement and some relevant environmental accidents that happened in Brazil over the last decade, the stiffening of the scrutiny of insurance companies is clearly visible.

12 Updates

12.1 Please provide, in no more than 300 words, a summary of any new cases, trends and developments in Environment Law in your jurisdiction.

At a Federal and State level, new rules have been published in relation to several areas, such as oil & gas, solid waste, environmental licensing, contaminated areas and specially protected areas. We will give an overview of the main ones.

The Brazilian National Council for the Environment (CONAMA) published Resolution No. 479/2017 that provides for environmental licensing of rail projects with low potential of environmental impact and ensures the compliance of the enterprises in operation.

CONAMA also published Resolution No. 482/2017 which aims to regulate the emergency response procedure of using controlled oil burning to deal with oil leakage incidents in the sea.

Regarding solid waste, Resolution No. 11/2017 and Federal Decree No. 9,177/2017 regulated the reverse logistics systems (take-back systems), created by the Solid Residues National Policy, laid out by Federal Law No. 12,305/2010.

In the State of São Paulo, several new rules have also been published, such as: (i) the Board of Officers Decision No. 0382017/C, from the State Environmental Agency (CETESB), which updates the procedures and guidelines for the management of contaminated areas within its competence; (ii) Resolution No. 82/2017, from the State Environmental Secretary (SMA), which regulates the permitted activities in sandbank vegetation (*restinga*) areas; and (iii) Resolution No. 74/2017, from SMA, which provides for the environmental licensing of electric power generation by solar photovoltaic sources.

Finally, in 2017, we also followed the progress of two important matters: (i) the discussions regarding the Federal Bill on the environmental licensing – even though there has been great activity in the House of Representatives with the objective of concluding its final version, it has not yet been voted; and (ii) the judgment of four unconstitutionality actions (*Ações Diretas de Inconstitucionalidade* or "ADIs") and a declaratory action of constitutionality (*Ação Declaratória de Constitucionalidade* or "ADC") related to some provisions of the current Forest Code (Federal Law No. 12,651/2012) – the Federal Supreme Court heard the oral arguments and their judgment was indefinitely suspended.

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Partner of the Environmental Law practice and Head of the Labour, Real Estate, Litigation and Competition Law practices, Roberta Danelon Leonhardt is a specialist in environmental law, having outstanding performance in the management of complex environmental crises due to her skills for the composition of multiple interests in negotiation processes. Leonhardt's work embraces the coordination of working teams for the provision of environmental assistance in matters related to the implementation of potential polluting projects and the analysis of environmental liabilities, support to investors and financial institutions for the identification and management of environmental risks, as well as working with environmental agencies and the Department of Public Prosecution. Leonhardt is becoming renowned in the market of Environmental Disputes practice due to her persuasive ability and solid environmental practice background and has experience in assisting clients of a wide range of areas such as infrastructure, logistics, food and beverage, chemicals, real estate, agribusiness, steel, mining, automotive, banking, pharmaceutical and heavy industry in general.

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Daniela Stump is a specialist in environmental litigation and consultancy with emphasis on the identification and management of environmental risks and liabilities in the structuring of infrastructure, sale of assets, mergers/acquisitions and concessions projects. A large part of Daniela Stump's work concerns legal assistance for the management of contaminated areas, identification and allocation of environmental responsibilities among the contracting parties, support to environmental litigation and practice before environmental agencies and the Public Prosecutor's Office, and drafting administrative defences. Daniela Stump has previous experience in providing legal assistance to clients of several business areas, such as infrastructure, logistics, food and beverage, chemical, real estate, agribusiness, and mining.

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