
THE GENERAL ENVIRONMENTAL LAW OF THE REPUBLIC OF PANAMA

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SUMMARY

Law No. 1 of July 1, 1998 established the General Environmental Law for the Republic of Panama. It was published in the official Gazette No.23578 of July 3, 1998. This paper describes the content and development of this law.

1 INTRODUCTION

The General Environmental Law was designed as a modern judicial instrument that includes the principles approved in the XV Ordinary Meeting of the Central American countries, held in Guasimo, Limon, Republic of Costa Rica, August 20, 1994. In this meeting the Presidents of the Central American countries adopted an Alliance for Sustainable Development as an overall initiative of the political, social and ecological contexts, with the purpose of developing coherent and integrated actions, with the participation of the community, to accomplish the strategy approved by the leaders of the Central American Region.

2 BASIC PRINCIPLES

The ideological content of the General Law of the Environment of the Republic of Panama is in harmony with international covenants and the basic objectives of sustainable development. It clearly states the responsibilities of the private sector to adopt "clean technologies" based on the new world open market concept, the natural environment and the community in general.

This new law builds on universally accepted rules and environmental principles as a means to access international markets, attract foreign investment, foster scientific investigation, the joint implementation and economic instruments for development in the carbon sequestration market.

The Law includes in Title I, the objectives and basic definitions in the technical language included in the international covenants, and environmental laws in the Republic of Panama. Title III establishes the relationship with the National Environment Policy. Specifically, Article 3 states: "The National Environment Policy constitutes the group of measures, strategies and actions established by the State, which orients, conditions and determines the behavior of the private and public sector, of the economic agents and the public or population in general, in the conservation, use, management and harvesting of the natural resources and the environment."

The executive agency, with the advice of the National Council of the Environment approves, promotes and oversees national environmental policy, as part of the public policies for the economic and industrial development of the country.

The Third (III) Title created the National Environmental Authority, administrative structures and activities. This autonomous institution has among others, the obligation to develop and sustain actions necessary to obtain results based on the integrated triangle of sustainable development with its economic, social and environmental components. It is an authority created to assess environmental problems created by each phase of human activity advancing social and economic interests.

Law No. 41 is a judicial instrument that is easy to understand. It is non repressive and focuses on prevention as a principal goal as well as the integration of science and law.

The judicial regime provides an extensive period of eight (8) years to provide for integrated implementation. This relatively long period permits the formulation of specific plans that integrate environmental concerns within the operations of companies. They have the time to include development of environmental concepts and achievement of government standards in their operations. Based on the fact that these companies were not subjected to environmental impact assessment requirements stated in Law No. 30 of December 30, 1994, this law is incorporated in the General Environment Law. The General Environmental Law requires all companies within a period of three (3) years to undergo environmental audits that the National Environmental Authority previously proposed and approved.

3 NATIONAL ENVIRONMENT STRATEGY

The National Environmental Authority is in the process of formulating its National Environment Strategy. This strategy will harmonize various economic, social and environmental plans and policies. The experience gained through existing planning exercises will be fully used and incorporated into a country driven environmental strategy. Its goals will be to ensure socially responsible economic development while protecting the resource base and the environment for the benefit of future generations. This strategy is developed through the widest possible participation and based on thorough assessment of the current situation and initiatives.

4 ROLE OF THE NATIONAL ENVIRONMENTAL COUNCIL

The National Environmental Policy from the point of view of the Law No. 41 states that it will be oriented by a National Environmental Council. This Council is composed of three (3) State Ministries that have five (5) specific functions that are in harmony with the Constitution Ecological Regime (Title III) that pertains to the Fundamental Guarantees consecrated in the Political Constitution of 1972, that expresses the ideological parameters for the environment activities in Panamá.

5 INTERGOVERNMENT COLLABORATION FOR ENVIRONMENTAL IMPACT ASSESSMENT

This law not only contains scientific and technical issues, but also provides a process to improve decision-making processes so that consideration of socio-economic and environmental issues is fully integrated and a broader range of public participation assured. The strategy delegates planning and management to the local levels of public authority

consistent with effective actions. It also strengthens intersectoral committees at both the political and technical level, including active collaboration on linkages with scientific, cultural, religious, business, social and other institutions, using networking arrangements.

The National Environmental Authority creates a Consultive National Commission that presents proposals to the National Environmental Council and the General Administrator. Also the Law creates the Provincial, Municipal and Indian Reserves Consultive Commissions.

The integration and interinstitutional coordination for the analysis of environmental assessments is a clear mandate that will be used by the group of sectorial units on the topic of environment.

The interinstitutional integration and coordination arrangements to conduct analysis and environmental studies is a clear responsibility that will be developed through a scheme to unite sectorial with environmental competence.

The modern focus and theory that Citizens have the right to participate actively in the application of the environmental Law is provided in the law, and for this it uses the mechanism of diffuse rights: Diffuse rights are the rights disseminated in the collective (It corresponds to each of its members, it does not originate in legal titles, actions or other legal ordinance). It enables all citizens to plea judicial, civil, administration actions in favor of the natural media.

Title N°IV of the instruments of Environmental Actions, includes, among others, land use planning with the purpose of using the land based on its ecological values. The Law also states the obligation to develop Environmental Impact Assessments. Article 23 establishes: "any activity or project, that by their nature, characteristics, effects, location or resources could generate environmental risk, require an environmental impact assessment previously to the start or beginning of the activity or projects." This aspect is of great importance, it is the formula needed to avoid the environmental deterioration and obtain mitigation actions as required.

The environmental quality rules result from environmental procedures that state the limits of the human activity and the Law establishes fixed periods of time, eight (8) years from the publication of the Law, for the companies to adopt or introduce clean technologies that minimize contamination, so that economic efficiency is achieved to guarantee the quality of life in benefit to the cultural plurality and life in all its manifestations.

In the context of the natural resources, it integrates technically and functionally the experience of several years gained in the management and use of these resources, such as water, air, forest are of extraordinary importance in the development of the Law.

The concern for biodiversity and protected areas are integrated in the National System of Protected Areas, that include all the territory that have this category. The functions and responsibilities are given to the Ministry of Agriculture in conformity with the Law N°8 that created the Metropolitan Park, located in the city of Panama. The Law is a general scheme to orient and consolidate technical-judicial concerns but also offers emphasis on environmental education.

The Law establishes the principles of environmental responsibilities and objective bases for defining responsibility. The Law also limits administrative interventions. Violations are sanctioned with fines up to \$10 million USD.

The General Environmental Law empowers the Public Ministry as the competent organization to conduct legal processes to prosecute the violations, destruction and contamination. A Public Attorney with clear responsibilities is the officer in charge of receiving pleas or complaints about environmental transgressions. The law also establishes two (2) Circuit Courts that will receive the complaints or pleas and hand down judicial judgments.

