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Climate Change

New Commitments. From June 1st-11, 2010, the 12th session of the Ad Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol (AWG-KP) and the 10th session of the Ad Hoc Working Group on Long-Term Cooperative Action Under the Convention (AWG-LCA) were held in Bonn, Germany. Among others, the AWG-KP discussed the adoption of **future commitments after 2012** (when the first commitment period will have ended) - between 2013 and 2017 or 2020-, the percentage of reduction of

greenhouse gases to be adopted, if nuclear activities will be eligible as projects under the Clean Development Mechanism (CDM). The AWG-LCA addressed the adoption of the mechanism of **Reducing Emissions from Deforestation and Degradation (REDD)**, actions for the development and transfer of technology and rules for mitigation and adaptation actions, among other topics. ■

State of Espírito Santo. On May 19, 2010 the State Government sent to the State Legislative Branch the Bill No. 151/2010, which establishes the **State Policy of Climate Change**. The Policy aims, among others, to ensure the compatibility between the economic and social development with the protection of the climate system. To this end, the Bill encompasses certain instruments, such as **tax incentives** to encourage greenhouse gases (GHG) emission reductions and removals, the creation of specific financing lines, the assessment of

vulnerability and adaptation needs, the **Public Emissions Registry**, the assessment of GHG emissions in the **environmental licensing** procedure, the establishment of rules for sustainable public biddings and the establishment of sector **reduction targets**. ■

Specially Protected Areas

Forestry Code. On August 6, 2010, the Federal Deputy Aldo Rebelo, rapporteur of the Special Committee created to review a set of bills seeking to amend or revoke the **Forestry Code** (Federal Law No. 4,771/1965), has presented his controversial **report**. Among the various **proposed changes** are the following: (i) the reduction of the limits of permanent preservation areas (“APP”, in Portuguese); (ii) the possibility of States and the Federal District to reduce by 50% the minimum limits established for APPs in the margin of rivers and in the vicinity of artificial water reservoirs and springs; (iii) the definition of APPs by municipalities in consolidated urban areas;

Family agriculture. On May 25, 2010 the Resolution No. 425 of the Brazilian Council for the Environment (the *Conselho Nacional do Meio Ambiente*, or “CONAMA”) has been published. The Resolution defines the **cases of social interest** where, exceptionally, the competent environmental agency can allow the **intervention or removal of vegetation in Permanent Preservation Areas** that occurred until July 24, 2006. The Resolution is applicable to activities developed by a **family farmer or rural family entrepreneur** (those who do not own an area larger than a specified size, use mostly

(iv) the exemption from the requirement to maintain the legal reserve for small rural properties; (v) the possibility to consider the APP to constitute the legal reserve, provided that it does not result in the conversion of new areas for alternative land use; (vi) the non-characterization of APP in mountain tops and certain coastal zones; (vii) the exemption from the obligation to recover APPs in consolidated rural areas; and (viii) the prohibition against the removal of any native forests in farming activities during a 5-year term. ■

Conservation areas. Pursuant to the Normative Instruction No. 10 of the Chico Mendes Institute for the Conservation of

the own family labor force and have family income originated primarily from the activities of their own property, which is managed by the person itself or his/her family, as defined by Federal Law No. 11,326/2006. According to the Resolution, the activities that are deemed to have *social interest* are, among others, the extensive grazing in altitude grassland areas, the cultivation of perennial wooden species and the cultivation in swamp areas. ■

State of Bahia. Rule No. 12,908, of the environmental agency of the State of Bahia (the *Instituto do Meio Ambiente*, or “IMA”), published on June 1st,

Biodiversity (the *Instituto Chico Mendes de Conservação da Biodiversidade*, or “ICMBio”) published on May 21, 2010 procedures have been established for the **authorization** to the performance of technical studies on **hydropower potentials** and on technical and environmental viability of electric **energy distribution and transmission systems** inside **conservation areas of federal domain**. The Instruction regulates the Federal Decree No. 7,154, of April 9, 2010, which has systematized the performance of federal entities regarding the aforementioned authorization, as reported in the issue of this Bulletin of April 13, 2010. ■

2010 establishes procedures for the implementation of the **State Plan for Rural Property Environmental Adequacy and Adaptation** (created by State Law No. 11,478/2009 and regulated by State Decree No. 12,071/2010). As reported in the issue of May 11, 2010 of this Bulletin, the Plan aims to promote the **recovery and registration of the legal forestry reserve**, the **recovery of permanent preservation areas** and the **adequacy of environmental permits** and licenses necessary to the development of activities like farming, poultry, suineculture, cattle raising etc. The voluntary adhesion can be performed until December 11, 2012.

Environmental Licensing

State of São Paulo - Legal Reserve. Resolution No. 39 of the State Secretariat of the Environment (the *Secretaria de Estado do Meio Ambiente*, or “SMA”), published on May 19, 2010 establishes **procedures** for the formation, compensation or restoration of the **legal reserve** in order to allow the obtaining the **Operating License** for undertakings located in rural properties. Pursuant to the Resolution, in case of impossibility of registration of the legal reserve immediately, a Commitment Term must be executed establishing a 2-year maximum term for the presentation and ap-

proval of a proposal for the formation of and the legal reserve. By the time of the execution of the Commitment Term, the interested party must submit a schedule for the registration of the legal reserve as well as a planialtimetric map of the property indicating the location proposed for the reserve. In case of a gradual recovery, a schedule and a technical plan must be submitted indicating the areas to be recovered. Pursuant to the Resolution, the **renewal** of the Operating License will **depend on the compliance with the obligations under the Commitment Term.** ■

State of São Paulo – Farming. Pursuant to SMA Resolution No. 43, published on May 28, 2010, the entering into force of the SMA Resolution No. 26/2010 (reported in the issue of April 13, 2010 of this Bulletin) has been postponed to July 30, 2010. According to the latter Resolution, the activities of **poultry, suineculture, shrimp farming and aquaculture** must be registered with the São Paulo State Environmental Company (the *Companhia Ambiental do Estado de São Paulo*, or “CETESB”) **prior to requesting the environmental licensing.** ■

Environmental Governance

State of São Paulo - Simplified procedures. The SMA Resolution No. 50, published on June 8, 2010, has simplified the environmental licensing procedures of certain activities, including **energy cogeneration, water treatment, land splitting for industrial purposes, production of biofuel** (except alcohol) and thermoelectric plants with energy generation capacity of up to 100 MW, among others. Such activities are now **exempted from the submission of the Environmental Impact Assessment** and its Report as well as the Preliminary Environmental Report, for purposes of environmental licensing. ■

Sustainability Index. The 2010 version of the **Corporate Sustainability Index** (“ISE”, in Portuguese) of the Brazilian Securities, Commodities and Futures Exchange (BM&FBovespa S.A.) is under **public consultation** until June 18, 2010 and is available in the following site in the Internet: www.isebovespa.com.br. The ISE has been created in 2005 and is used as a reference standard to form a portfolio of shares of companies that are recognized by their corporate sustainability and social and environmental commitments. ■

Bovine products. On June 1st, 2010 the Federal Prosecution Office has launched the **“Legal Meat” campaign** (or “Carne Legal”, in Portuguese), which seeks to disseminate information

for the identification of the **origin and traceability of bovine meat and other by-products** (such as leather, gelatin, suet etc.). For this purpose, the campaign discloses in a specific site on the Internet - www.carnelegal.mpf.gov.br - the list of meatpackers, farmers, retailers and industries in general that have agreed on commitments to implement measures for environmental restoration and land registration, such as the georeferencing and environmental licensing of the property, the tracking of cattle, the acquisition of cattle only from suppliers who are not included in the lists of interdicted areas or use of slave labor and the prohibition to purchase cattle that was raised at rural properties that were deforested after January 2006. ■

Solid Waste

State of São Paulo. Decision No. 145 of the Board of Executive Officers of the environmental agency of the State of São Paulo (the *Companhia Ambiental do Estado de São Paulo*, or “CETESB”), published on May 13, 2010 established procedures for the management of leather scrap and dust generated in the **production of leather and footwear** subject to **chromium tanning**.

According to the Decision, such wastes can be destined to a non-hazardous waste landfill if they are segregated from hazardous waste (such as sludge containing chromium from the effluent treatment system of the chrome

tanning) and contain hexavalent chromium levels below 1.0 mg/kg. In addition, it is required that the landfill used for final disposal is duly licensed by CETESB. The decision also presents the methodology for testing the level of hexavalent chromium that must be performed in connection with the waste. ■

Environmental Liabilities

Joint liability. In a recent ruling (Special Appeal No. 880.160/RJ, published on May 27, 2010), the Superior Court of Justice, recognized that **environmental damages** initially caused by the Public Power do not exempt the private constructor from civil liability in connection with the environmental damages continued under the intervention of such private constructor in the same undertaking. The case in question involves the drainage of a swamp performed initially in the 60s by the National Department of Undertakings and Sanitation (“DNOS”, in Portuguese), and continued later by a private entity. According to the Court, the private entity acts as a **polluter and is jointly liable** for the damage recovery. ■

Hazardous Products

New POPs. From May 18 to 21, 2010, the environmental agency of the State of São Paulo (the *Companhia Ambiental do Estado de São Paulo*, or “CETESB”) hosted a meeting to build the capacity of regional environmental agencies about nine new persistent organic pollutants (known as “POP”) under the Stockholm Convention. The meeting in question refers to efforts to implement decisions SC-4/10 to SC-4/18, adopted at the 4th Conference of the Parties (COP4) under the Convention, which included nine new pollutants to the other 12 existing ones.



The decisions will enter into force on August 26, 2010, when the **use of the new following substances will be forbidden:** alpha hexachlorocyclohexane; beta hexachlorocyclohexane; chlordecone; hexabromobiphenyl; hexabromodiphenyl ether and heptabromodiphenyl ether (commercial octabromodiphenyl ether); lindane; pentachlorobenzene; perfluorooctane sulfonic acid, its salts and perfluorooctane sulfonyl fluoride; and tetrabromodiphenyl ether and pentabromodiphenyl ether (commercial pentabromodiphenyl ether). ■

Environmental Administration

Prior censure. Pursuant to Regulation No. 239 of the President of the Brazilian Institute for the Environment and Renewable Natural Resources (the *Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais Renováveis*, or “IBAMA”), of May 29, 2010 the **participation of IBAMA’s servants** in seminars, workshops or even the giving of interviews **will depend on** explicit authorization given by the President, Regional Directors or Superintendents of such environmental agency. ■

Controlled Products

According to Normative Instruction No. 05 of the Brazilian Institute for the Environment and Renewable Natural Resources (or “IBAMA”, in Portuguese), published on May 19, 2010 specific procedures were established for conducting research and testing, registration and renewal of registration of **remediation products used in the recovery of contaminated environments and in the treatment of effluents and wastes**. The registration is mandatory for the production, manipulation, import, commercialization or use of such products, which are also subject to packaging and labeling requirements, pursuant to the Normative Instruction. ■

Water Resources

State of São Paulo. On its session of June 8, 2010 the State Council for Water Resources (the *Conselho Estadual de Recursos Hídricos*, or “CRH”) approved the **charging for the use of water** by urban and industrial users in the **Tietê-Batalha Water Basin** (including, among others, the municipalities of Bauru, Lins and Promissão). The methodology for calculating the values was established by Resolution No. 02/2010 of the Tietê-Batalha Basin Committee and the billing shall start on January 1st, 2011. ■

Green Cup

During the morning of June 9, 2010, in the Brazilian British Center, in São Paulo, the Architecture and Engineering Union (SINAENCO, in Portuguese) promoted a panel of debates about sustainability in sports mega-events. On such occasion, among others, there was a presentation about the concept and main proposal of the Plan “Copa Verde” (“Green Cup”), which started to be conceived in October/2008 by professionals of the private sector and already has the current official support of the Green Building Council Brasil. The purpose of the “Copa Verde” is to serve as a guide of **sustainable practices** to be adopted in the preparation and planning, in Brazil, for the **World Cup of 2014** and the **Olympic Games of 2016**. The Plan is available in the Internet, at www.copaverde.com.



Contact:

Fernando Tabet
fernando@tabet.com.br
Tel. +55 (11) 2985 1070 (ext. 4)

Lucas Baruzzi
lucas@tabet.com.br
Tel. +55 (11) 2985 1070 (ext. 6)