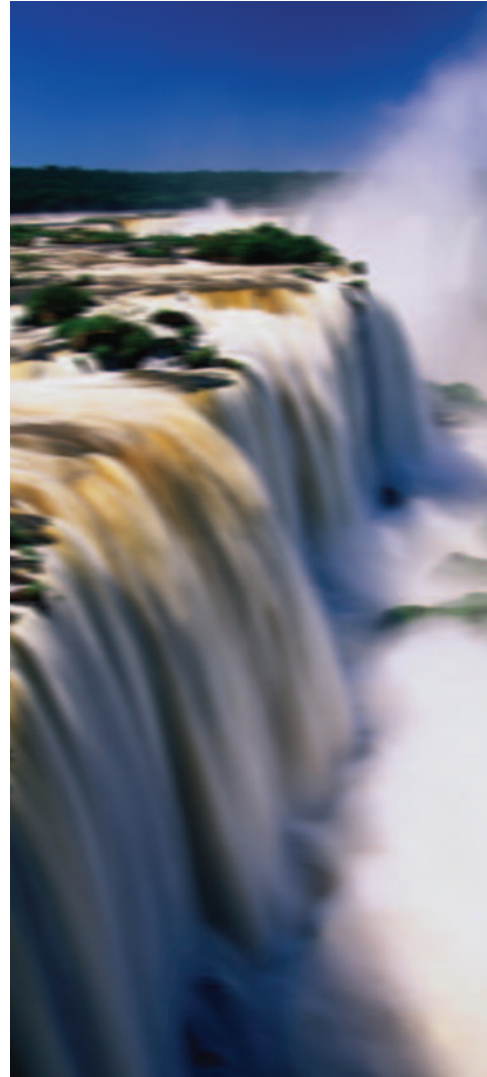


ARGENTINA REQUIRES ENVIRONMENTAL INSURANCE

Environmental insurance is now mandatory in Argentina, after the Congress acted recently to implement the 2002 National Environmental Law. The law requires any company performing any activity posing a threat to the environment to buy coverage that will guarantee the financing of remediation and cleanup. Argentina is one of the first countries to make environmental insurance mandatory for prescribed industrial operations.

Although the law does not specify fines or penalties, government authorities will not renew environmental certificates to companies failing to comply with the requirements, rendering those companies unable to operate legally in the country.

The law is expected to apply to approximately 35,000 companies in a wide variety of industries. The law not only identifies specific industries and activities, but also creates a formula for calculating required coverage limits. Limits are expected to range from ARS 500,000 (USD 167,000) to ARS 50,000,000 (USD 15,000,000) per insured site. Only one insurance company is currently authorized to provide the coverage that complies with the specific requirements of this new legislation, essentially in the form of a bond. Other carriers are applying for approved wording that complies with the new law.



Iguazu Falls

So far, Prudencia is the only carrier approved to offer such bonds. Escudo Cia. Aseguradora and Nación Seguros has obtained approval from the government environmental authority, Secretaria de Ambiente y Desarrollo Sustentable (SAyDS), for a similar bond product and has already presented the wording to the Superintendency of Insurance for final approval.

The highest limit Prudencia will currently offer is ARS 8,000,000 (USD 2,500,000). Premium rates of 2% to 3.5% of insured limits are anticipated for this product.

While some international insurers offer traditional admitted Environmental Liability policies in Argentina, these policies do not currently comply with the new law. We understand that some insurers (such as AIG and Sancor Seguros) are working on more comprehensive products that would incorporate the required coverage. However, wording has not been approved by the Superintendency of Insurance.

The Environmental Law is part of a national policy on promoting sustainability and protecting biological diversity. Its implementation was delayed by economic and political considerations, but is effective immediately.

The formula for determining required coverage limits includes a calculation of a minimum insurable amount (MMES). The MMES is defined as the insured limit that ensures the remediation of any damage resulting from a pollution loss. The insured limits in Environmental Liability programs, including Environmental bonds, must not be lower than the MMES. The formula takes into account vulnerability factors (e.g., distance to the ground water or surrounding rivers, lakes or seas) and the presence of environmentally dangerous products and disposal procedures. The MMES will be calculated by outsourced specialists approved by insurers, and the number will be confirmed by SAyDS authorities.

In addition to providing coverage, Prudencia has developed agreements with remediation companies to perform the necessary cleanup. If the damage cannot be repaired, the law requires payment to the state's Environmental Compensation Fund up to the insured limit.

The underwriting process for Environmental Liability policies and bonds entails various risk analyses, including the Initial Environmental Situation Survey (ESAI), Analysis of the Financial Situation of Assureds (requiring the two most recent balance sheets) and the Environmental Survey.

ACTIVITIES INCLUDED IN THE ENVIRONMENTAL LAW

- Agriculture, hunting and forestry
- Mining and quarrying
- Manufacturing
 - Food products and beverages
 - Textiles
 - Leather goods
 - Wood and paper products
 - Coke, refined petroleum products and nuclear fuel
 - Chemicals and chemical products
 - Rubber and plastics products
 - Basic metals and fabricated metal products
 - Machinery and equipment
 - Radio, television and communication equipment
 - Motor vehicles, trailers and semi-trailers

- Infrastructure construction
- Recycling
- Electricity, gas and water supply
- Transport, storage and communications
 - Land transport, transport via pipelines
 - Railways
 - Water transport
 - Supporting and auxiliary transport activities, activities of travel agencies
 - Cargo handling
 - Storage and warehousing at ports and airports)
 - Gas, hydrocarbons and chemical products warehousing
 - Health and social work (hospitals)
 - Sewage and refuse disposal, sanitation and similar activities
 - Funeral and related activities
 - Any other activity involving the production or handling of dangerous products

The new law will likely heighten awareness of environmental exposures and lead to an increase in environmental claims. All multinationals operating in Argentina are urged to review their environmental risk management procedures. Willis can provide assistance in this area. We can also assist in completing the environmental surveys required by the law.

Multinationals with operations in Argentina should be aware that since non-admitted coverage is prohibited in Argentina, evidence of local insurance is required. Inquiries with international carriers indicate that carriers will eventually have the capability to include the new coverage as an underlyer to a controlled master program.

CONTACTS

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