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Key Regulatory Developments in Latin America: 2024 Review

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01. About The Author



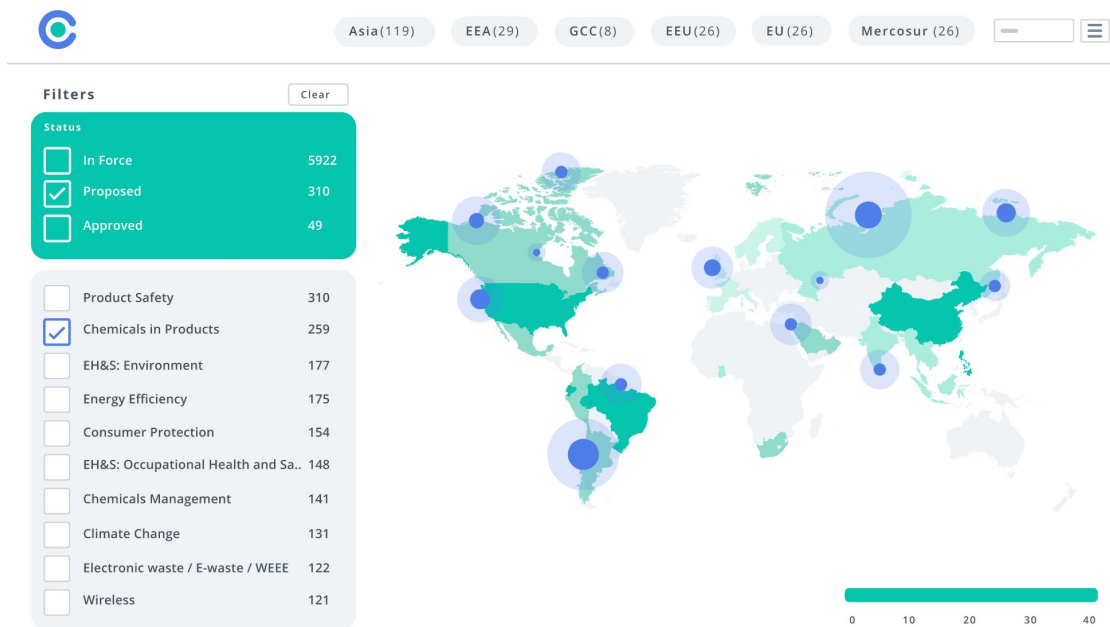
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Cecília is a Regulatory Compliance Specialist with the Global Regulatory Compliance team, responsible for the monitoring of regulatory updates in several Latin American countries and specialized in the topics of Product Safety and Leisure and Sporting Equipment. Cecília holds Postgraduate Degrees in both Public and Taxation Law, and is a qualified lawyer, registered in Brazil and Portugal.

Before joining Compliance & Risks in 2023, Cecília worked as a lawyer, representing several clients and providing legal advice in the areas of employment, public and commercial law, with over 10 years of legal experience.

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03. Introduction

In recent years, we are seeing an increasing approval of regulations targeting the betterment of our relationship with the environment, and a more conscious use and management of harmful substances.

As our understanding of the effects caused by human activities in the environment and human health grows, legislation all around the world advances in order to promote the world's sustainable and constant development.

This is no different across Latin America, as these countries show a continuous concern with regulating activities that could interfere with the balance of nature and human health.

Notably in recent years, the top subjects for regulation in Latin America include topics on:

- Climate Change;
- Circular Economy;
- Chemicals Management;
- Product Safety;
- ESG; and
- Energy Efficiency.

These are exciting times for Latin America, with important regulations being approved and in constant change.

This whitepaper gives an overview of the development of legislation in this region with a focus on key regulations that represent change in the legal framework of these countries, and with emphasis on relevant aspects for companies to ensure compliance with national laws.

Key points discussed in this whitepaper include:

- REACH-inspired regulations across Latin America;
- Energy efficiency programs in Brazil;
- Safety and energy efficiency certification in Chile;
- Sustainability reporting in Colombia;
- Circular economy in Mexico and Peru.



04. REACH-inspired Regulations

Peru, Colombia and Chile have adopted their REACH-inspired Regulations.

Peru

In 2023, Peru became the third country to adopt a REACH-inspired legislation in Latin America. Approved in May, Decree No. 1570 of 2023 is known as the Law for the Integral Management of Chemical Substances and it represents a significant step for Peru in regulating the use and management of chemicals as it aligns the country with international practices.

The purpose of this Decree, as with all REACH-inspired regulations, is to ensure the safe handling of chemicals and to protect the environment and human health from potential risks associated with certain substances.

Amongst other main key points of this regulation, it is worth mentioning the implementation of the Globally Harmonized System (GHS) for classifying and labeling chemical substances, which is an essential measure to guarantee a consistent communication across borders.

Notwithstanding a significant milestone for Peru, this legislation is still on its way to fully enable an integral management of chemical substances, and will require further legislation.

Therefore, along with requirements on registration, classification, labeling and packaging, this Decree announced a series of future legislative instruments necessary for the implementation of Peru-REACH that shall be issued within 2024, including the implementation of the National Registry of Chemical Substances (RENASQ), which should be expected shortly.

Colombia

In Colombia, Decree No. 1630 of 2021 is in force since 2021. As the second REACH-inspired regulation in Latin America, this Decree focuses on the comprehensive management of hazardous chemical substances for industrial use, also in accordance with the GHS, and that are manufactured or imported in quantities over 100 kg per year.

Similar to other REACH-inspired regulations, Decree No. 1630 provides for requirements on registration, labeling, reporting and risk management.

Importers and manufacturers whose volumes exceed 100 kilograms per year are obliged to submit information to the National Inventory of Chemical Substances for Industrial Use on each substance via <https://insqui.sical.gov.co/INSQUI/login.php>.

Information to be submitted includes identified uses of the substance, hazard classification and annual import/export quantities.

In order to facilitate and clarify its use, the Colombian Ministry of Commerce, Industry and Tourism published a User Guide with illustrative instructions on the submission process. Companies must be preparing to enter information in the National Inventory by 30 May 2025, and the information submitted to the National Inventory must be updated annually.

Industrial chemicals that are not registered before that date will be considered as new chemicals and therefore will be subject to more stringent data requirements for registration. Additionally, it is important to mention that foreign manufacturers cannot register their own chemicals in the database - the local importer must be involved.

Chile

A pioneer in Latin America, Chile was the first country to adopt a REACH-inspired regulation in 2019 for the control of hazardous chemicals, and is now operating an online system for the registration of the first category of covered substances, as Decree No. 57 of 2019 establishes a staggered implementation schedule depending on the type of substance:

- 9 February 2024: Substances for Industrial Use;
- 9 February 2025: Substances for Non-Industrial Use;
- 9 February 2027: Mixtures for Industrial Use;
- 9 February 2029: Mixtures for Non-Industrial Use.

Manufacturers or importers of chemicals under the first group must register until 30 August 2024 on the Chemical Substances Notification Platform via <https://plataformasqi.mma.gob.cl/login>.

Notifications must be submitted with respect to the substances manufactured and/or imported in the previous 2 calendar years.

Currently, Chile is the only Latin American country requiring the registration of chemical substances, followed by Colombia, where importers and manufacturers must register their substances in 2025.

Brazil

In Brazil, similar legislation was approved in the Chamber of Deputies and is now under consideration in the Senate.

PL No. 6120/2019 is the most robust of the regulations adopted or pending in the region, as it establishes the outlines for risk assessment and creates the figure of the Exclusive Representative of a Foreign Manufacturer, which is similar to the concept of the EU REACH's Only Representative.

As Latin American countries continue to develop and approve legislation requiring the registration of chemical substances, manufacturers and importers should be attentive to the submission deadlines and requirements.



05. Brazil

Still showing concerns regarding the use and management of chemicals, early in 2024 Brazil published an updated version of the National Implementation Plan for the Stockholm Convention (NIP) on Persistent Organic Pollutants (POPs).

The establishment of a National Plan setting out the strategies and measures to meet the country's commitments is a requirement for parties adherent to the Stockholm Convention, which Brazil ratified through Legislative Decree No. 204 of 2004.

Amongst other purposes, Brazilian NIP aims to reduce risks caused by persistent organic pollutants to human health and the environment, contribute to the environmentally adequate chemical management in the country, and update the list of chemicals identified as POPs since the first NIP submission. The implementation of this National Plan represents a significant step since the country initiated its journey to become an OECD member in 2022 followed by other countries in the region.

Together with its concern on the effects of chemical substances, Brazil has extensive legislation on energy efficiency.

In December 2023, the country published its new Target Program for Energy Efficiency of Refrigerators and Freezers. The approving Resolution is based on Law No. 10.295 of 2001, which establishes the National Policy for Conservation and Rational Use of Energy, and led to the approval of several regulations implementing the policy.

Amongst them, Portaria No. 1 of 2018 previously established the target program for the energy efficiency of refrigerators and freezers, and will be applicable until the dates established in the newer Resolution. This Resolution is applicable to the same categories of equipment for domestic use established in the aforementioned Portaria. Its provisions are divided in two stages, by the end of which the equipment must meet 85,5% of energy efficiency/maximum consumption on Stage 1, & 90% on Stage 2.

Companies must comply with the requirements set out in a staggered plan, which had its first deadline for manufacturing and importing of compliant products on 31 December 2023. By 31 December 2024, equipment marketed by manufacturers and importers must comply with the established requirements.

Similarly, in 2022 Brazil adopted a Target Program for Energy Efficiency of Air Conditioners, which will reach its final deadline for Stage 1 on 31 December 2024. Until this date, equipment marketed by wholesalers and retailers must comply with the established requirements.

In both cases, requirements for the last stage of the programs must be met until 31 December 2027.



06. Chile

Chile's history of being a pioneer in legislative advancement in Latin America puts the country in a premiere position with several regulations that have been approved in the region in recent years.

Alongside the approval of Chile's REACH-inspired regulation and the beginning of the registration period in February this year, the country issued Resolution No. 6149 in November 2023.

This Resolution implements Decision SC-9/11 of 2019 relating to the Stockholm Convention on Persistent Organic Pollutants and aims to prohibit the manufacture, import, export, distribution, sale, possession and use of certain active substances, including: binapacryl, captafol, chlorobenzilate, ethylene dichloride, dinitro-ortho-cresol, dinoseb, fluoroacetamide, phorate, phosphamidon, hexachlorocyclohexane, monocrotophos, ethylene oxide, trichlorfon, and dicofol.

Legislations on the control and use of chemical substances in Chile are in constant development, increasing the need for manufacturers and importers to be aware of the requirements and prohibitions applicable to substances they manage throughout the manufacturing process.

Amongst other recently approved regulations of importance in Chile, it is important to highlight that the country published several Protocols for the Safety and/or Energy Efficiency Certification of electrical and fuel equipment.

These Protocols are issued by the Chilean Superintendence of Electricity and Fuels (SEC), which periodically revises the certification process and its requirements. In 2023, the list of Protocols approved by the SEC is extensive, and includes but is not limited to:

- Household clothes and towels dryers: Protocol PE No. 1/41:2023;
- Air conditioning equipment: Protocol PE No. 1/26:2023 and 1/26/2:2023;
- Unipolar or multipolar electrical conductors for low voltage use: Protocol PE No. 2/15:2023;
- Refrigerators and freezers: Protocol PE No. 1/17:2023;
- Televisions: Protocol PE No. 8/1:2023;
- Fixed general purpose luminaires: Protocol PE No. 5/31:2023;
- Home automation devices: Protocol PE No. 8/11:2023;
- Decoders for televisions: Protocol PE No. 8/2:2023.

For most Protocols, in addition to specific requirements, the Certification Body will verify if the product contains relevant information (e.g. the country and date of manufacture, serial number, traceability, etc.) and if the product has the Certification Marking (SEC Seal), in accordance with R.E. No. 2142, dated 31.10.2012.



Despite the immediate entry into force of these Protocols, the majority of new requirements issued in 2023 will only be applicable in 2025. Protocols with application dates in 2024 and which companies should be preparing to comply with include the following:

- Energy Efficiency Certification of Testing of Double-Capped LED Lamps: 30 April 2024;
- Safety Certification of Batteries and Battery Chargers: 30 September 2024 (revised date);
- Safety Certification of Elastomeric Materials for Gaskets and Membranes of Appliances That Use Gaseous Fuel: 4 November 2024;
- Safety Certification of Unipolar or Multipolar Electrical Conductors for Low Voltage Use: 1 December 2024.

Lastly for Chile, it is important to mention that in 2023 the country opened a Public Consultation on the potential inclusion of solar panels in the scope of Resolution No. 207 of 2022, which proposes a preliminary bill on collection and recovery targets and associated obligations for batteries and electrical and electronic equipment.

The proposal of Resolution No. 207 was open for public consultation until April 2022. Certain responses openly challenged the exclusions of solar panels from the scope of collection and recovery goals and associated obligations arising from the extended producer responsibility (EPR) principle.

According to the Secretary of Public Health, photovoltaic panels must be managed as hazardous waste since they contain heavy metals and substances that are dangerous to health and the environment.

The period for comments expired in December 2023, and more information on this consultation is expected shortly.



07. Colombia

Following Latin America's tendency of regulating the management of chemicals, Colombia issued Resolution No. 130 earlier this year on the import of hydrofluorocarbons (HFCs).

This Resolution is based on the Montreal Protocol on Substances that Deplete the Ozone Layer and the subsequent Kigali Amendment, which aims to gradually reduce the emissions of hydrofluorocarbons and which incorporated a new annex on controlled substances into the Montreal Protocol - Annex F.

By issuing this Resolution, Colombia established an obligation of importers of pure HFC substances or mixtures containing HFC to obtain an environmental license specifying authorized quotas and to submit semi-annual information on the importation of HFCs, before February 15 and before July 31 of each year. Quota not used by the importers until the expiration of the license is not cumulative.

This regulation reveals the country's growing concern of controlling the use of chemicals in Colombia and aligns the country with global efforts to protect the environment and citizens from harmful substances.

Another milestone for Colombia in terms of aligning the country with international standards and regulations was the issuance of External Circular No. 100-000010 by the end of 2023.

This Circular adopted the International Financial Reporting Standards (IFRS) S1 (General Requirements for Disclosure of Sustainability-related Financial Information) and IFRS S2 (Climate-related Disclosures) as a basis for companies to elaborate sustainability reports regarding their business activities, practices, sustainability risks, and impacts on environmental, social and governance (ESG) issues in a transparent manner.

For this purpose, companies must implement a due diligence process that enables them to verify the veracity, credibility and transparency of the information presented in the report.

Companies shall furthermore designate a person responsible for the preparation and verification of the sustainability report.

In-scope companies must publish and disseminate their sustainability reports within the company and with relevant stakeholders annually.



08. Mexico

In March 2024, Mexico published a revision to the list of substances subject to regulation by the agencies that comprise the CICOPALFEST.

This revision included more than 30 substances covered by Mexico's treaty obligations under the Montreal Protocol and certain industrial POPs under the Stockholm Convention to the CICOPALFEST List.

Importers are now obliged to meet new compliance requirements as goods listed in Annex I of the regulation will be subject to verification and, where appropriate, the issuance of a verification record, through which interested parties will certify compliance with said verification in the points of entry to and exit from the country.

This modification represents an important change for importers, with the regulation coming into force in April 2024.

Another paramount advancement for Mexican legislation was the approval of the Law on Circular Economy in 2023.

With the approval of this Law, the Congress of Mexico City aims to promote a circular economy that minimizes waste and environmental impact and encourages responsible production and consumption through practices like reuse and recycling while fostering economic growth.

Amongst interesting instruments implemented by this Law, the establishment of a Circularity Label stands out as businesses are incentivized to adopt circular practices in order to receive public recognition through this label.

Also notable, this Law implements the Circular Economy Public Information System, a digital platform designed to register, organize, update and share information on the circular economy within Mexico City.

The approval of Mexico City's Circular Economy Law is a pivotal step towards the country's environmental legislation changeover.

In the past years, Mexico has issued several regulations in order to promote the circular economy and mitigate climate change effects, such as the General Law for the Prevention and Integral Management of Waste, the General Law on Climate Change and the Energy Transition Law.



09. Peru

In line with global concerns on climate change and waste production, in November 2023 Peru issued a proposal to address the management and handling of packaging and packaging waste, which is expected to be approved by the country.

This proposal implements a waste management regime based on the principle of the Extended Producer Responsibility (EPR) for packaging and its waste with the purpose of improving waste management, from the design of the products until their handling in the post-consumption stage.

Through this initiative, the country aims to promote the eco-design of plastic packaging and the inclusion of plastic waste as inputs in other production processes, with the aim of facilitating the transition to a circular economy.

The proposal follows familiar patterns of other EPR rules in the region, including requirements for the establishment of producer management plants, setting collection and recycling targets.

Peru has taken several measures to address the environmental problem throughout the years, amongst which are regulations related to the comprehensive management of solid and single-use plastic waste and disposable packaging, as well as circular economy roadmaps.



10. Conclusion

Evidence has shown that some chemical substances can resist physical, chemical, and biological degradation, can disperse over long distances, maintain high levels of toxicity, and can accumulate in organisms, threatening humans and wildlife.

Because of these characteristics, the use and management of chemicals has become a global concern, with countries increasingly regulating their use.

Alongside this concern, the effects of climate change are visible globally, impacting everything from weather patterns to human health. There is no uncertainty that human activities all over the globe interfere with the natural balance of ecosystems. The consequences of climate change are complex and interconnected, creating a ripple effect across the globe that can only be fought with international efforts.

The legislation framework in Latin America is changing rapidly as countries in this region align with international regulations to mitigate the effects of climate change and to protect the environment and citizens from harmful substances.

At the same time, countries continue to legislate over several different topics to guarantee the safety and well-being of citizens, with a range of regulations being approved every year.

Companies should be aware of these legislative updates in order to comply with national and international regulations, and to cooperate with this global effort to mitigate the effects of human activities on the planet.

OUR NUMBERS

300+

CUSTOMERS WORLDWIDE

195

COUNTRIES COVERED

90,000+

REGULATIONS