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## Venezuela

## Biotechnology

## Biodiversity Law

## 2008

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**Report Highlights:**

Post provides an informal summary and commentary on the new Law on Biological Diversity, issued by Decree on 31 July 2008. This report complements GAIN VE8087.

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Includes PSD Changes: No  
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Annual Report  
Caracas [VE1]  
[VE]

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## Executive Summary

Post provides an informal translation and an analysis of the introductory section of the new Law on Biological Diversity, promulgated on 31 July 2008 by Presidential Decree.

## Biological Diversity

### Analysis of the Law on Biological Diversity

In the recent past Venezuela has taken legislative steps towards Biological Diversity and Biotechnology. In Venezuela, conservation, defense and environmental improvement have constituted strategic objectives for developing plans in the country. Venezuela is among the top ten countries with largest biological diversity on the planet, and sixth in the Americas. This condition is due largely to the convergence of four important bio-geographic regions: the Amazon, the Andean, the Caribbean and the Guianese.

The Constitution of the Bolivarian Republic of Venezuela, in force since 1999, points out in Article 127 that "The State will protect the environment, the biological and genetic diversity, the ecological processes, the national parks and natural monuments and other protected areas of special ecological importance". Article 129 points out that "all activities susceptible of generating damage to the ecosystems should be previously accompanied by environmental impact and social cultural studies.

In consequence, the State is responsible for the protection of the environment, and should issue rules concerning its conservation, as well as implementing the necessary policies to fulfill this objective. Those who seek to carry out activities that are susceptible to degrading the environment will undergo the legal provisions that force them to execute the necessary actions to protect, palliate and restore the ecological damages, produced by these activities. It is worth saying that they have the responsibility for carrying out the corresponding environmental impact studies.

The new Law on Biological Diversity in force in Venezuela on July 31, 2008 by Presidential Decree updates the Law on Biological Diversity promulgated on May 24th, 2000.

It lays down guiding principles for the conservation of biological diversity pursuant to the principles and provisions of the Convention on Biological Diversity. The law aims to establish the guidelines for knowledge, conservation and sustainable management of biological diversity. It establishes that the Venezuelan State exercises rights and obligations on biological diversity resources, and states as a public utility the conservation and the sustainable use of biological diversity, its restoration, the maintenance of essential processes and the environmental services that they render. It provides for the exercise of sovereign rights over those resources by the State.

The law's general dispositions include biotechnology management issues: 1) the purpose of regulating access to genetic resources and its derivations, 2) the actions and measures in matters of bio-safety regarding genetically modified organisms in order to prevent adverse effects on the biological diversity, 3) dictates actions and measures in matters of bio-commerce regarding organisms genetically modified and the genetic patrimony, in order to prevent adverse effects on the biological diversity.

**Begin informal translation****LAW ON BIOLOGICAL DIVERSITY****General Dispositions****Object:**

Article 1. The present law intends to establish the dispositions for biological diversity management and its different components, including natural or manipulated genotypes, genetic material and its derivations, species, populations, communities and the ecosystems of the continental, island, lacustrine and fluvial spaces, territorial sea, inner maritime areas and the soil and subsoil with their aerial spaces, in guarantee of the security and sovereignty of the Nation, in order to achieve the greatest collective wellbeing, in the framework of sustainable development.

**Scope:**

Article 2. As per this law, biological diversity management includes:

1. The conservation of all of its components in order to preserve or reestablish ecologic balances that permit human and other living beings harmonic coexistence within their environment.
2. Management and good use of the different components of biological diversity, under ecologic and bio-ethically sustainable principles, respecting cultural values and considering a fair and equitable participation of the population in the benefits derived from them.
3. Investigation and generation of knowledge on biological diversity, to ensure its conservation, good use and management.
4. Systematization of gathering, compilation and further analysis of data to generate basic information oriented to determine the current condition and situation of biological diversity components in every part of the Nation.
5. The promotion and development of technologies that are environmentally safe and fundamentally addressed to inventory, preserve and restore, focusing on the reestablishment and the management of diverse components of the biological diversity.
6. The compatibility between anthropic activities and the maintaining of environmental goods and services derived from biological diversity.
7. Prevention, follow-up, evaluation, mitigation, amendment and repair of the alterations to biological diversity caused directly or indirectly by human activities or extreme natural events.
8. The announcement of areas under special administration regime in order to protect and manage in situ the diverse biological diversity components and inherent ecological processes.

9. The adoption of actions and measures for the surveillance and control of activities capable of damaging the biologic diversity and negatively modifying its proper ecological processes.
10. The adoption of actions and measures with the purpose of regulating access to genetic resources and its derivations.
11. The adoption of actions and measures in matters of bio-safety regarding genetically modified organisms in order to prevent adverse effects on biological diversity.
12. The adoption of actions and measures in matters of bio-commerce regarding organisms genetically modified and the genetic patrimony, in order to prevent adverse effects on the biological diversity.
13. The incorporation of local communities' traditional knowledge, towns and native communities that constitute useful and favorable practices for the conservation, good use and management of the biological diversity.
14. Environmental education as a continuous, interactive and integrating process oriented to create conscience in the citizens and community in general, for a key and shared participation in the management of biological diversity.
15. The popular participation in the management of biological diversity under the constitutional principle of co-responsibility.
16. Promotion and disclosure of information and knowledge above all the aspects related with the management of biological diversity through mass media.
17. Coordination between diverse organizations and public power entities with the purpose of assuring the applying, follow-up and compliance of the contracts and international agreements on the matter.
18. Any others, according to that provided on the Ley Orgánica del Ambiente (Environmental Organic Law) and other regulations, in compliance with the objective of the present law.

### **Declaration of Public Benefit**

Article 3. All of the actions, measures and works whose purpose is the biologic diversity components' management are declared of public benefit and social interest.

### **Public Order Regulations**

Article 4. The regulations contained in this law, special laws and other applicable environmental regulations, are of public order.

### **Sovereignty**

Article 5. The State, in exercise of its sovereignty through the Environmental National Authority, will dictate the management practices that allow the compliance with premises that define their strategic value, utilization and good use of the biodiversity or biological diversity.

**Prevention of Damages in the Formulation of Policies**

Article 6. In the formulation and execution of the policy in matters of biological diversity management, the prevention of damages to its components and environment shall be incorporated as a key element of conservation of those environmental-juridical goods in all of the plans, programs, projects, activities or any other action or measure enforced by any individual or juridical person, public or private, national or foreigner.

**Resolution of Conflicts**

Article 7. Regarding the manifestation of conflicts derived from biological diversity management, the National Environmental Authority, under the principle of co-responsibility, shall promote participative processes of dialogue, analyses and resolution, affecting collective interest.

**Principle of Precaution**

Article 8. The National Environmental Authority will apply the principle of precaution on the conservation, management, utilization and use, or on any other activity related to biological diversity and its components, in order to comply with the object of the present law and other regulations on the matter.

**Protection of Native Species**

Article 9. In order to encourage the protection of native species on their natural ecosystems, any introduction of exotic species is presumed as potentially prejudicial for the environment, biological diversity, and its components.

**Management of Impacts**

Article 10. Preventive, mitigating, corrective and compensatory measures will be considered for the management of impacts on ecosystems and biological diversity components.

**International Measures**

Article 11. The Bolivarian Republic of Venezuela, in virtue of the ecosystems conservation principle as integrating part of the Nation's security fundamentals, will be able to enforce agreements or international agreements of reciprocity regarding prevention and treatment of the damages caused to the components of the biological diversity.

**Biotechnology****Preventive Measures**

Article 47. The State will establish the measures to prevent and avoid any threat derived from the practice of biotechnology on the biological diversity and its components, especially those related to development, managing, transportation, utilization, transport, and liberation of organisms resulting from modern biotechnology practices.

**Regarding Biotechnological Development**

Article 48. The State shall promote the country's biotechnological development as an instrument for sustainable development, focusing on conservation of the biological diversity and its components, health and agro-alimentary security.

**About Biotechnology Application Control**

Article 49. Whoever performs activities with organisms resulting from the application of modern biotechnology in the country will be under National and Environmental Authority control, and for that it shall be provided instruments of control established in the present law and other applicable regulations.

**End Informal Translation****International Regulations Related To Biological Diversity, Subscribed And Approved By Venezuela**

- Convention for the Protection of Flora, Fauna and Natural Scenic Beauties of America (October 12th, 1940, Washington D.C., United States).
- Convention concerning Wetlands of International Importance Especially as Habitat of Aquatic Birds (February 2nd, 1971 Ramsar, Iran).
- Biodiversity Agreement. Plant Variety (Cartagena Agreement), Decision, 21/10/1993, No. 345. Common Provisions on the Protection of the Rights of Breeders of New Plant Varieties

**Other Relevant Reports**

VE8087 Biotechnology Update