

CLIMATE CHANGE LEGISLATION IN ARGENTINA

AN EXCERPT FROM

The 2015 Global Climate Legislation Study **A Review of Climate Change Legislation in 99 Countries**



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Argentina

Legislative Process

Argentina (officially The Argentine Republic) is a federal republic with a bicameral congress. The National Congress is composed of the Senate and the Chamber of Deputies. Each of the 23 provinces (and the autonomous federal capital, Buenos Aires) elects three senators (two from the majority party and one from the first minority) for a total of 72 senators. The 257 representatives of the Chamber of Deputies are elected by congressional districts based on proportional representation. The last legislative elections were held in 2013 and the next will occur in 2015.

Legislative proposals are called law projects and are generally introduced in the Chamber of Deputies before debate and vote in the Senate. To become law, all bills must be passed by both congressional bodies and signed by the President, who acts as both head of state and head of government.

A law project is first drafted, proposed and debated in legislative committees in the Chamber of Deputies. Often included in the committee debate is expert testimony. Once the proposal has passed the relevant legislative committee, it is officially presented and debated by all deputies, and amendments may be considered. Once passed by both chambers of congress, the President promulgates, vetoes or partially vetoes the legislation within 10 working days. A presidential veto can be overridden with a two thirds majority in both chambers of congress.

Argentina is a federal republic made up of 23 provinces and an autonomous national capital city. Each province elects its own governor and congress and is granted significant authority over the running of its territory. While federal law usurps provincial law, many of the laws passed by National Congress and enacted by the President are written to coexist with provincial law. Some provinces have passed legislation directly or indirectly related to climate change. Article 41 of the Argentine National Constitution declares the importance of the natural environment and its protection from contamination a national priority. It considers “enjoyment” of the natural environment an individual and cultural right. Constitutionally, each province has the gubernatorial authority to legislate and control its natural resources; however, the national government is granted authority to establish norms and standards for the protection of the environment.

Approach to Climate Change

Legislation or regulation related to climate change has been particularly difficult to enact. The country experienced a severe recession from 1998 until 2002, and an acute crisis in 2001, after which nearly 60% of the population was plunged into poverty. During the last decade, the federal government’s priority has been economic recovery and growth. Investments necessary to mitigate emissions and adapt to climate change are politically conceived as pitted against social investments in health, education and poverty reduction as in a zero-sum game. As such, Argentina has neither enacted comprehensive legislation related to climate change nor made an official pledge to reduce GHG emissions. It is one of two countries in the G20 that has declined to make such voluntary pledges under the Copenhagen Accord.

In its second report to the UNFCCC (2007), the government maintains that the country is vulnerable to climate change, particularly floods and landslides related to increased rainfall, melting glaciers and increased river flow. Various government-commissioned studies have laid out both mitigation and adaptation strategies; however, the government insists that substantial international funds would be necessary for their implementation. In a public speech before the UNFCCC conference in Copenhagen in 2009, President Cristina Fernandez de Kirchner argued that developing countries

should set GHG emissions reduction goals that were “humbler” but more feasible, and that wealthy nations that are the principal polluters should set more ambitious reduction goals as well as finance the mitigation and adaptation efforts of poorer nations.

That is not to say, however, that Argentina has made no institutional attempts to respond to climate change. The country ratified the UNFCCC in 1993 and the Kyoto Protocol in 2001. In 2002 a presidential decree replaced the Secretary of Natural Resources and Human Environment with the Secretary of Environment and Sustainable Development (SAyDS), which does not hold ministerial status but reports directly to the Executive Cabinet. The SAyDS houses the Direction for Climate Change, which has responsibility for introducing and co-ordinating policies and actions relating to climate change. Other subgroups include the National Advisory Commission on Climate Change, which includes various academic and industry experts, and the Gubernatorial Committee on Climate Change, comprised entirely of government organs and intended to co-ordinate cross-sector government actions.

The comprehensive General Law of Environment states that modules related to the natural environment, protection of natural resources and prevention of pollution must be included in primary and secondary school curricula. Later congressional legislation and presidential decrees have mandated that climate change material (including information about mitigation of emissions and adaptation through individual and collective action) should also be included. In addition to the production of educational materials and curricula for school-aged children, various laws call for “massive public education campaigns” on issues such as pollution and energy efficiency targeted to the general population.

Energy Supply

Argentina has made the use of biofuel-blends obligatory for all liquid fuel types used for transportation. Part of legislation meant to promote the production and use of biofuels, regulations for the commercialisation of petrol now mandate that all fuel types must contain a minimum of 5% biodiesel or bioethanol. The Secretary of Energy increased this minimum to 10% by decree in 2013. Similar legislation related to renewable sources of electricity stipulates that by 2016, 8% of all electricity consumed must come from renewable sources. The federal government has laid out several tax benefits and financing and grant schemes to encourage new production of alternative energy and energy efficiency technologies.

Energy Demand

Argentina has enacted legislation to reduce energy demand through the promotion of energy efficient practices in the private, public and residential sectors. The policy mechanism through which most energy demand projects are implemented is the National Programme for Rational and Efficient Energy Use, which, according to official estimates, will lead to a 2,400MW reduction in demand for electricity by 2015 and a 28m tonne reduction in CO₂ emissions (between 2006 and 2015).

Since the economic crisis of 2001, the federal government has subsidised residential and commercial electricity, gas and water use resulting in some of the lowest energy consumer prices in the continent. In 2011 the Ministry of Economy issued a resolution that ended subsidies to large corporations and residencies deemed to be in “high income” areas in the Buenos Aires metropolitan area (home to 39% of the population) as well as gated communities and country clubs throughout all provinces. While this policy was not directly motivated by climate change, possible effects include a decrease in energy consumption and more competitive price schemes for renewable energies in the future.

Carbon Pricing

In 2005 Argentina created the Argentine Carbon Fund through executive decree. The Fund, financed by The World Bank and administered by The Secretary of Environment and Sustainable Development, has the purpose of trading in carbon credits in order to fund projects within the Clean Development Mechanism of the UNFCCC. According to recent academic review, the Fund acts to advise private sector actors presenting projects for CDM consideration rather than as either a finance mechanism itself or a regulatory body.

REDD+ and LULUCF

According to a National Native Forest Inventory completed in 2005, deforestation is increasing, amounting to 1.22% yearly loss. In 2007, Congress passed a law establishing a general framework for forest conservation. One mechanism through which this legislation aims to safeguard carbon sequestration is to pay landowners to preserve forests on private property. Between 2010 and 2014, USD300m was invested in these local preservation initiatives.

Argentina became a member of the UN REDD programme in 2009. The programme has a budget of USD3.59m beginning in 2014. Still in the early stages of implementation, the “Roadmap for Readiness” has four objectives: (i) to draft a REDD+ National Strategy, (ii) to establish a National Forest Reference Emissions Level, (iii) to strengthen the National Forest Monitoring System, and (iv) to develop a Safeguard Informational System.

Argentina: Legislative Portfolio

Name of law	Law 26473 Prohibiting commercialisation of incandescent light bulbs
Date	31 December 2010
Summary	Prohibits the importation and commercialisation of incandescent light bulbs for residential use throughout the country.

Name of law	Law 26.190 Regimen for the National Promotion for the Production and Use of Renewable Sources of Electric Energy
Date	2 January 2007
Summary	The Law declares the production of electricity from renewable energy sources a matter of national interest. It requires that within 10 years (2017), 8% of all electricity consumed nationally must be generated from renewable energy sources. The law directs the executive power to co-ordinate a Federal Programme for the Development of Renewable Energy, which for a period of 10 years will create a fund to finance renewable energy projects. Private firms who are recognised as beneficiaries of the Plan and/or the Fund will enjoy a series of tax benefits.

Name of law	Law 26.123 (2006) Promotion of Hydrogen Energy
Date	25 August 2006
Summary	The law declares the technological development, the production of, and the use of hydrogen fuel, as well as other alternative energy sources, a matter of national interest.

The executive power will determine the federal organisation responsible for developing a National Programme for Hydrogen, which will have among its objectives: develop and strengthen the technological and scientific research into alternative energy sources; incentivise the application of hydrogen energy technology; incentivise the participation of the private sector in the generation and production of hydrogen energy where it strengthens the national industry; promote the regional co-operation and technology transfer between MERCOSUR member-countries; develop a plan to educate the general public about the necessity to diminish contamination of the national environment and the importance of alternative energy use; incentivise the industrialisation of hydrogen fuel cells; and promote links between state entities, university research centres and private industry in the interest

of a national industry of hydrogen energy.

The objectives will be realised primarily through the creation of The National Fund of Hydrogen Promotion (FONHIDRO), which will depend on the national fiscal budget and which will also oversee various tax exemptions and deductions for participating firms.

Name of law	Law 26.093 (2006) Regimen of Regulation and Promotion of the Production and Sustainable Use of Biofuels
Date	12 May 2006 with some provisions activated 1 January 2010
Summary	<p>The object of the law is to provide a regulatory framework for the production and promotion of biofuels. The law creates and defines the authority of a federal regulatory entity, The National Advisory Commission for the Promotion of the Production and Sustainable Use of Biofuels, delineates the chemical definitions of biodiesel and bioethanol and provides direction for the issuing of subsidies and tax reductions. The Commission also has the charge of facilitating technology transfer, especially between small and medium sized firms who are beneficiaries of the law.</p> <p>Four years after enactment (by 2010) all gasoline produced and consumed in Argentina must be composed of no less than 5% biofuels.</p> <p>The regulations enacted and the Commission will be valid for a period of 15 years from the Date; however, the Executive Branch will have the authority to extend the law based on pre-existing tax law.</p>

Name of law	Law 25019 Declaring a national interest to generate electricity from wind and solar energy.
Date	19 October 1998
Summary	This law is an early precursor to 2010 legislation promoting renewable energy. It declares wind and solar power a national interest and created the Renewable Energy Fund to encourage production.

Argentina: Executive Portfolio

Name of Policy	Decree 140/2007: Presidential decree declaring “rational and efficient” energy use a national priority
Date	21 December 2007
Summary	<p>This decree has far-reaching and ambitious goals to reduce energy consumption and promote the use of renewable energy in the public sector (including public transport and lighting), private industry and private residences.</p> <p>The decree’s main purpose is to announce a National Program for Rational and Efficient Energy Use, to guarantee funding for the program in the federal budget, to name the Energy Secretary as the main authority for implementing the plan and to create a federal commission to oversee and monitor progress.</p> <p>This Policy stipulates that 8% of all electric energy consumption must come from renewable sources by 2016.</p> <p>The National Programme for Rational and Efficient Energy Use is divided into actions to be realised in the 1) short term and 2) medium and long terms.</p> <p>In the short term (30 days from implementation) the commission is to initiate a “massive” public education campaign about energy efficiency, take necessary measures to manage the replacement of incandescent light bulbs with energy efficient bulbs in all private residences in the country, begin work to rate the energy efficiency of all electric appliances, improve the energy efficiency in all sectors of public administration and promote agreements with energy providers, national universities and business associations to improve energy efficiency in private sectors.</p>

In the medium to long term, the actions are further subdivided by sectors:

- Industry: formulate a strategy to increase competitiveness by reducing energy costs; work to monitor and improve energy efficiency with those corporations that voluntarily participate in the programme; disseminate and replicate the program; facilitate energy efficiency technology within the private sector; offer financing to small and medium companies who voluntarily invest in energy saving technology
- Commercial and Service Sectors: tailor an energy efficiency programme to the specific circumstances of office buildings, retail shops, hotels, restaurants, commercial banks etc.; develop efficiency standards for the consumption of energy (lighting, heating and air-conditioning, food storage)
- Education: incorporate energy efficiency and renewable energy themes into pre-existing curricula at primary and secondary education levels; develop postgraduate programs focussing on energy efficiency at national universities
- Cogeneration: develop a plan to promote and regulate the cogeneration of electricity and heat with new and existing energy providing companies
- Energy efficiency standards and labelling: designate maximum and minimum standards of energy efficiency for electric appliances and machines produced or commercialised in the country; propose a timeline to ban the production, importation and commercialisation of incandescent light bulbs
- Public lighting: implement system technologies to make public street lighting and traffic lights more energy efficient
- Transportation: improve the management and distribution of public transportation in regards to energy consumption; with corresponding authorities develop minimum standards of efficiency for new automobiles; initiate a monitoring and maintenance program for public vehicles, commercial transportation vehicles and taxis and limousines; design a public education campaign about the impacts of the excessive driving of automobiles
- Residences: initiate a system of energy certification for newly constructed residences in co-operation with construction-industry associations, architect associations and universities; introduce energy efficiency as an indicator of construction quality in the academic departments of engineering and architecture; indicate maximum energy consumption guides for new homes based on regional geographies; optimise solar energy in new construction projects; incentivise reduction of energy consumption in existing residences; develop a strategy to design “massive systems” of water heating using solar technology
- Climate Change–Clean Development Mechanism (CDM): evaluate the role of CDM, including international carbon markets, in supporting energy efficiency projects; develop a plan to take advantage of international sources of financing and technological co-operation; promote the CDM in public and private entities that could have a role in identifying new energy efficiency projects

Name of Policy	National Decree 1070/05 (2005) Creation of the Argentine Carbon Fund
Date	5 September 2005
Summary	National Decree 1070/05 has the single purpose of creating the National Argentine Carbon Fund (FAC) and to incentivise projects within the framework of The Clean Development Mechanism, as defined by Article 12 of the Kyoto Protocol. The fund is administered by the Secretary of Environment and Sustainable Development.

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