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Considerations in Developing Common Environmental Legislation Among MERCOSUR Countries

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Carlos Vigil is a counsellor on environmental matters to the Joint Commission of the Argentine Congress on the MERCOSUR¹ and the President of the Convocation for Environmental Defense.

According to Señor Vigil, the environmental legislation in member countries of MERCOSUR can be characterized as ambiguous, confusing, and made up of laws that needlessly overlap. Furthermore, he points out that these laws are not being adequately enforced. In his opinion, the Parliamentary Commission of MERCOSUR presents an opportunity to ameliorate these defects, since common laws among the MERCOSUR countries should now be initiated. In considering these laws, however, it is very important to realize that we are not only talking about Argentina's legislative problem, but legislative problems in the other member countries as well. For this reason, coordinating these processes will be more complex. Due to the environmental degradation now existing in these countries, Señor Vigil believes that radical changes are necessary. However, these changes should not be achieved by abruptly altering the laws, but through a more gradual, elastic and steady process.

According to Señor Vigil, the following five problems have to be taken into consideration before developing common environmental legislation among the MERCOSUR countries:

1. Argentina-Brazil-Paraguay-Uruguay: Treaty Establishing a Common Market (signed Mar. 26, 1991), U.N. Doc. A/46/155 (1991), reprinted in 30 I.L.M. 1041 (1991).

1. There are jurisdictional conflicts between federal and provincial agencies. Routinely, jurisdictional conflicts confuse the resolution of environmental problems in particular regions.
2. Information is unavailable to the general public. It is important to disclose all significant facts regarding contamination at the local level. This information must be reliable to guarantee that public participation can be effective.
3. There is a lack of opportunity for public participation in our environmental systems. According to Señor Vigil, without achieving meaningful public participation, the social climate needed to support a strong system will not develop.
4. There is a lack of sound environmental standards. It is important that standards be enforced. In order to do this, the standards must be much clearer so that they can be understood by every segment of the population. Señor Vigil believes that a good starting point would be to create a framework for the development of quantitative standards.
5. Finally, there is not a coordinated system to monitor compliance with environmental standards. According to Señor Vigil, MERCOSUR countries should study the enforcement and monitoring functions that exist in various national agencies and strive to improve and coordinate them.