



FACT SHEET: VENEZUELA'S ENABLING LAW

In late December 2010, Venezuela's National Assembly approved an Enabling Law that would allow President Hugo Chávez to enact decrees relating to infrastructure, transportation, and housing and public services, amongst other matters.

The Enabling Law is a measure permitted by the Venezuelan Constitution that concedes powers to the Executive Branch for a determined period of time to approve decrees that permit the implementation of critical policies which would otherwise take too long to enact due to bureaucratic obstacles.

The passage of the recent Enabling Law responded to the need of the Venezuelan government to act quickly and decisively in response to record rains and floods that have left tens of thousands of Venezuelans without homes, jobs and access to basic services and have seriously impacted agricultural production.

EMERGENCY CAUSED BY HISTORIC RAINS

Since the final months of 2010, Venezuela has been battered by rains of historic proportions, with November presenting some of the heaviest rains according to the National Institute of Hydrology and Meteorology. From January to November 2010, 1491 millimeters (58 inches) of rain fell in Caracas, far above the 40-year average of 866 millimeters (34 inches). Since May, rain totals have consistently been above the four-decade average. Similar rains fell in other coastal parts of Venezuela, leading to flooding and mudslides that have left 138,000 Venezuelans without homes and scattered 831 refugees throughout the country. Additionally, 35 people have been killed and six people remain unaccounted for.¹

The Venezuelan government has worked around the clock to address the needs of those affected by the rains, going as far as to open up the grounds of the Miraflores Presidential Palace to 26 families in Caracas who had lost their homes.²

The Enabling Law will further allow President Chávez to enact laws in the areas of infrastructure, transportation, housing, and public services that offer longer-term solutions to the tens of thousands of Venezuelans that require aid and attention.

On January 4, President Chávez announced that the first law to be implemented under the Enabling Law will address the need for permanent housing for those who lost their homes to floods or mudslides.³ Additionally, in the closing days of 2010, President Chávez used the Enabling Law to create a \$2.3 billion emergency fund that will direct resources to help those affected by the rains. The fund includes \$117 million for the construction of 4,000 new homes in the heavily affected western state of Zulia.⁴

WITHIN CONSTITUTIONAL BOUNDS

President Chávez has used Enabling Law power three times since he was first elected in 1998 – in 1999, 2001 and 2007. Other Venezuelan presidents have used enabling powers in the past. The 1961 Constitution authorized the used of enabling powers, and the 1999 Constitution also does it under the provisions of Articles 203 and 236.

The laws decreed must conform to constitutional provisions and restraints. They have to be issued only in the areas approved by the National Assembly and within the time period allowed. The Supreme Tribunal of Justice maintains the capacity to rule on the constitutionality of those that are proposed as Organic Laws.

The last time President Chávez used the Enabling Law in 2007 he enacted laws to make institutions more efficient; to regulate the Armed Forces, Social Security System, and agricultural production; to modernize Venezuelan financial system; and to upgrade Venezuela's science and technology sectors.

Legislation such as the Hydrocarbons Law, which returned the administration and oversight of national oil resources to Venezuela in order to directly benefit and address the needs of the people; the Law of Food Sovereignty, which contributed to improving the nutritional index in the country; and the Fishing Law, which eliminated trawling as a form of fishing, were all approved under Enabling Laws.

In late December 2010 Chávez announced that he already had the drafts of 20 decrees ready to be enacted.



Embassy of the Bolivarian Republic of Venezuela to the United States

Among them were the creation of a fund for flood relief and infrastructure repair, agricultural credits aimed at recuperating food production and the “integral reconstruction” of flood-affected rural zones, and housing laws that embolden the state to “guarantee the right to adequate, safe, comfortable, and hygienic housing,” as mandated by the Enabling Law.⁵

FUNCTIONING OF NATIONAL ASSEMBLY

During the 18 months that the Enabling Law remains in effect, the members of Venezuela’s National Assembly – which were seated on January 5 for their 2011-2016 session – will continue representing their constituents and debating and passing laws.

OPEN TO REFERENDA

As in any other Congress in the world, the laws approved by the Venezuelan National Assembly remain in effect beyond the different legislative periods, though they could be rescinded by popular vote at any time.

Additionally, as stated in Article 74 of Venezuela’s 1999 Constitution, any of the laws enacted by the president are open to a public referendum, if at least five percent of voters request one. Additionally, the National Assembly can change or rescind decree laws any time by majority vote.

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¹ http://www.inameh.gob.ve/documentos/informe_nov.pdf

² “Chavez opens his palace to Venezuelan homeless,” Reuters, November 29, 2010. <http://www.reuters.com/article/idUSTRE6AS2MN20101129>

³ “Chavez uses decree for disaster fund in Venezuela,” AP, 26 de diciembre de 2010.

http://news.yahoo.com/s/ap/20101227/ap_on_re_la_am_ca/lt_venezuela_c_havez

⁴ “Venezuela’s Chavez Decrees Fund for Construction of 4,000 New Homes,” Venezuelanalysis.com, December 30, 2010.

<http://venezuelanalysis.com/news/5905>

⁵ “Venezuela’s National Assembly Passes Enabling Law for Chavez”, <http://venezuelanalysis.com/news/5879>.