

BILLS OF LAW UNDER CONSIDERATION - VOTING PROSPECTS

In 2022, the National Congress may finish the work started by the Bolsonaro government in 2019 to eradicate the social and environmental protection framework built in Brazil since the 1988 Constitution.

There are several bills in different stages of analysis in both Houses that, if approved, will cause irreversible damage to Brazilian ecosystems, traditional peoples, the global climate, and the safety of every citizen. They impose setbacks on issues ranging from land ownership, legalizing land grabbing - the main driver of deforestation - to environmental licensing, which defends society against potentially destructive economic activities.

In the first two years of the Bolsonaro regime, the dismantling was done by "infralegal" means. That is, by decrees and ordinances that can (and should) be reversed in the future. But with the help of the Speaker of the House of Representatives, Arthur Lira (PP-AL), the environmental destruction sponsored by Bolsonaro and his allies entered a dangerous phase of changes in legislation.

Besides the direct damage, the approval of the PLs described below would bring economic risk and deepen the image crisis in which the country is already immersed. At this moment, all of Brazil's largest trade partners (China, the United States, and the European Union) are debating some type of domestic legislation against imported deforestation to fulfill the commitment signed in the Glasgow Declaration on Forests of 2021 (of which Brazil is also a signatory).

By proposing the socio-environmental "death combo" in the middle of a general election year, Lira and his colleague in the Senate, Rodrigo Pacheco (DEM-MG), are giving the middle finger to Brazilians, the international community, and the climate. And they make a bold bet against the country's economic recovery, dependent on investments and the good performance of exports.

The projects that raise immediate concern are the following:

- PL 6,299 - Pesticides
- PL 2,633/PL 510 - Land Grabbing
- PL 3,729 - Environmental Licensing General Law
- PL 490 and PL 191 - Indigenous Lands

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PL 6,299/2002 - Pesticide Release ("Poison Bill")

Status: The bill, presented by former senator Blairo Maggi, was approved in a Special Committee in the House in 2018 and then dispatched to Plenary. It remained

stalled until February 2022, when it was approved in the House of Representatives, in the form of a substitute (alternative text) by Congressman Luiz Nishimori (PL-PR). For this, he had the support of the Speaker of the House of Representatives, Arthur Lira, the Bolsonaro government, and the entire rural caucus. The bill then returned to the Senate (PLS 526/1999), which will decide whether or not to accept the House text. As it was an original project of the Senate, this legislative house will have the final word on the process.

Worst setbacks:

1. Determines that the Ministry of Agriculture will be the only agency to register new pesticides, reducing Ibama and Anvisa to homologating agencies.
2. Enables the registration of agrochemicals proven to be harmful and carcinogenic, by excluding any such prohibition in the legislation currently in force.
3. Softens the rigor of the current legislation by opting to work with a generic concept of risk management that analyzes the effects on health and the environment and political and economic factors.
4. Changes the term "agrotóxico" to "pesticida" (a lighter expression to designate pesticides, in Portuguese) to disguise the harmfulness of the substances.
5. Removes the autonomy of health agencies to publish analyses about pesticides in food.

Analysis and further information:

<https://www.greenpeace.org/brasil/blog/pacote-do-veneno-pode-ser-votado-a-qualquer-momento/>

<https://reporterbrasil.org.br/2021/10/via-decreto-bolsonaro-altera-lei-dos-agrotoxicos-e-flexibiliza-aprovacao-dos-venenos/>

<https://www1.folha.uol.com.br/opiniao/2022/02/o-senado-deve-aprovar-o-projeto-que-amplia-o-poder-do-ministerio-da-agricultura-de-registrar-agrotoxicos-nao.shtml>

PL 2,633/2020 and 510/2021 - Land Grabbing

Status: PL 2,633/2020 was voted on by the plenary of the House of Representatives on August 3, with 296 votes for, 196 against and one abstention. Authored by Representative Zé Silva, this Bill stems from Provisional Measure 910, which expired in 2020. In the Senate, it was appended (attached) to PL 510/2021, by Senator Irajá Abreu (PSD-TO), which allows the regularization of illegally owned areas until 2014 and ends the face-to-face inspection for all properties subject to land regularization procedures. If the text is approved, areas of up to 2,500 hectares may be privatized through a mere self-declaration issued by the interested party, followed by documentary verification by Incra. The two projects will subsequently be voted on by the Senate in a single process. There is a requirement presented by Senator Carlos Favaro (PSD-MT) voting for the prejudiciality of 2,633/2020, and for the approval of

510/2021 with amendments that would allow the privatization of public land illegally occupied until 2017. Thus, if approved, the Senate will become the initiating house and the House of Representatives the revising one. If that happens, the Senate will have the final word on the process.

There is no need to change the current land tenure laws so that the more than 100,000 parcels of up to 4 fiscal modules could be titled (between 96 and 97% of those seeking land regularization in the country). This right is guaranteed by law 11.952, approved in 2009, and lightened in 2017. The aim in approving the current PLs is to extend the rights of small landowners to land grabbers and large landowners who have invaded public lands and illegally deforested them.

Worst setbacks of PL 2633/2020:

1. This Bill extends the benefit of exemption from inspection, which currently applies to small occupations (up to 4 fiscal modules, as provided for in current legislation) to areas of up to 6 modules.
2. It allows, through a bidding process, the future regularization of invaded public lands at any time (article 38, § 2).
3. Considers that the mere registration with the Rural Environmental Registry (CAR), which is self-declaratory, would be proof of environmental regularity (article 2, XII combined with article 15 § 10).
4. Releases properties covering up to 6 modules from the obligation to join the Environmental Regularization Program (PRA) or execute a Conduct Adjustment Term (TAC), when environmental damage is found to exist through an infraction or embargo notice in a prior inspection. The submittal of a CAR would be enough in those cases. This is incompatible with the Forest Code.

Worst setbacks of 510/2020:

1. Provides amnesty for those who illegally invaded and deforested public land until December 2014.
2. Increases the risk of providing land title to areas under conflict or with priority demands, as it eliminates the need for inspection prior to regularization of huge lands of areas up to 2,500 hectares. It also weakens the exceptional cases where inspection is mandatory.
3. Allows issuance of new land title to those already benefited with public land in the past.
4. Encourages the continuity of occupation of public land and deforestation, as it creates preemptive rights in the sale by bidding to those who have been occupying public land after December 2014.
5. Allows the issuance of land title to illegally deforested areas without requiring the prior signature of an instrument for the regularization of environmental liabilities, in cases where there has been no infraction notice issued due to environmental violations.

Analysis and further information:

https://www.oc.eco.br/wp-content/uploads/2021/04/posicionamento-OC_-regularizacao-fundiaria_abril21_revisado.pdf

<https://amazon.org.br/publicacoes/dez-fatos-essenciais-regularizacao-fundiaria-amazonia/>

<https://amazon.org.br/publicacoes/os-riscos-e-os-principios-para-a-regularizacao-fundiaria-na-amazonia/>

<https://www.wwf.org.br/?78308/PL-510-5-razoes-para-barrar-esse-projeto-que-libera-a-grilagem>

<https://amazon.org.br/publicacoes/nota-tecnica-projeto-de-lei-510-2021/>

PL 3,729/2004 - Environmental Licensing General Law

Status: It is now being discussed as PL 2,159/2021. Approved by the House of Representatives and awaiting consideration by the Senate. Senator Kátia Abreu (PP-TO) has been assigned as rapporteur in the Senate. In the House, the assigned rapporteur was Representative Neri Geller (PP-MT). This Bill of Law was the target of several expressions of repudiation, submitted by: [Observatório do Clima](#), [SBPC](#), [Abrampa](#), MST, Coalizão Brasil Clima Florestas, CBEDS, Apib and Conaq.

Worst setbacks:

1. Makes environmental licensing an exception rather than a rule.
2. Disseminates a method of self-declaratory licensing, through Adhesion and Commitment (LAC), in which not even the project definition report needs to be checked. This method becomes the rule and would apply to most processes.
3. Expands the list of activities that are exempt from environmental licensing (Articles 8 and 9, which grant exemption to 14 activities and are subject to constitutional challenge).
4. Eliminates national determinations of licensing procedures, granting excessive freedom to federal entities in defining the types of activities or undertakings subject to environmental licensing (article 4, § 1) and in the definition of the requirement or not of an environmental impact study (article 17, §4).
5. Increases legal uncertainty and opens the possibility of an anti-environmental war between the states due to the absence of rules, like the fiscal war. Those states that enforce less strict environmental protection rules in their licensing processes would theoretically be more attractive for investments.
6. Restricts the application of conditions referring to indirect impacts such as deforestation and to elements of the socioeconomic environment (art. 12).
7. Increases threats to traditional communities, as it only considers impacts on those communities that occupy ratified or titled areas (indigenous or *quilombolas*, respectively).

8. Greatly weakens the analysis of the direct and indirect impacts of projects on Conservation Units (CU), by restricting the involvement of CU management bodies to few cases and removing their veto powers.

See [here](#) the full list of all setbacks.

Analysis and further information:

<https://www.oc.eco.br/wp-content/uploads/2021/05/Nota-Licenciamento-Ambientall.pdf>

<https://www.oc.eco.br/ongs-pedem-a-pacheco-que-mande-lei-de-licenciamento-a-comissoes/>

<https://www.ecodebate.com.br/2021/05/26/pl-3729-o-fim-do-licenciamento-ambiental/>

<https://brasil.elpais.com/brasil/2021-05-21/o-pl-do-licenciamento-ambiental-o-que-esperar.html>

PL 490/2007 - Changes to the demarcation of Indigenous Territories (ITs) and related issues

Status: Approved in June 2021 in the House of Representatives' Constitution and Justice Committee. This bill still needs to be voted on by the House Plenary to proceed to the Senate. It received a contrary opinion from the Committee on Human Rights. It is currently awaiting the appointment of a plenary rapporteur. This bill tends to be prioritized over bill 191/2020, which sparked controversy.

Worst setbacks:

1. Allows the repossession of "indigenous reservations" by the Federal Government based on subjective criteria, putting at risk at least 66 territories, inhabited by more than 70,000 indigenous people, covering a total area of 440,000 hectares.
2. Applies a "time frame" to all IT demarcations, practically making an already complex and time-consuming process unfeasible.
3. Establishes that the demarcation may be challenged at all stages of the process, requiring the involvement of representatives of states and municipalities and allowing farmers' associations to also weigh in, making the process unfeasible.
4. Allows the implementation within Indigenous Territories of hydroelectric plants, mining, roads and large agricultural projects, among others, without consulting the affected communities.
5. Enables automatic legalization of illegal mining in ITs.

6. Opens loopholes for the end of the policy of no contact with isolated indigenous peoples. If contact is deemed of “public interest”, it may be carried out by public or private companies, including missionary associations.

Analysis and further information:

<https://www.socioambiental.org/pt-br/noticias-socioambientais/projeto-que-na-pratica-acaba-com-demarcacoes-pode-ser-votado-nesta-quarta-na-camara>

<https://brasil.elpais.com/brasil/2021-07-02/indigenas-isolados-no-brasil-entram-em-risco-de-extincao-com-avanco-de-projeto-na-camara.html>

PL 191/2020 - Mining at Indigenous Territories

Status: Submitted by the Executive Branch, awaiting the creation of a Special Committee in the House of Representatives since February 2020.

Worst setbacks:

1. It authorizes mining and the construction of hydroelectric dams on indigenous lands, including those with isolated indigenous peoples.
2. It validates all mineral exploration requirements that have been requested or filed before the law.
3. It works as a free-for-all for large enterprises and mining on indigenous lands, increasing risks to life, health, and the environment, as well as violence against indigenous peoples.
4. It legalizes wildcat mining, an activity that cannot be regulated on indigenous lands according to the Brazilian Constitution.
5. The proposed bill also authorizes hydroelectric dams, research and mining in indigenous lands that have not yet been formally declared (the last step in the recognition process), even without Congress permission or the informed consent of indigenous peoples provided for in the Constitution.
6. The bill does not consider the need for the consent of indigenous peoples for the activities provided for therein.

Analysis and further information:

<http://www.ihu.unisinos.br/78-noticias/596299-mineracao-em-terras-indigenas-o-pl-191-2020>

<https://www.socioambiental.org/pt-br/blog/blog-do-isa/pl-da-devastacao-pode-ser-um-liberou-geral-para-mineracao-em-315-terras-indigenas>



About Observatório do Clima: a network formed in 2002, comprising 70 non-governmental organizations and social movements whose mission is to foster dialogue, public policies and decision-making processes on climate change in the country and globally. Website: <http://oc.eco.br>.

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