



POLICY BRIEF

LEGISLATIVE PACKAGE SUPPORTED BY THE BOLSONARO GOVERNMENT WILL UNDERMINE THE PARIS AGREEMENT

1. Summary

The Brazilian Parliament is about to approve, with endorsement of the Bolsonaro administration, a legislative package that will deeply change key environmental legislation. If approved, these bills will:

- a) grant amnesty to **land grabbers** and generate **deforestation of up to 16 million hectares by 2027**
- b) allow for the **construction of major projects** (roads, dams, railways) in well conserved areas of forest **not taking into consideration the deforestation** that they will cause, which can amount to around **14.7 million hectares** if projects for new roads, or improvements to existing roads, are implemented in the Amazon without proper assessment
- c) open **indigenous lands** to the implantation of dams, mining, oil exploitation and industrial farming, what will generate social conflicts and **put at risk 115 million hectares of forests currently protected**
- d) **downsize or degazette dozens of protected areas**
- e) allow new deforestation of up to **178 million hectares on private land**.

If the Parliament approve this legislative package, it will be **impossible to control deforestation and violence against indigenous peoples and traditional communities in the Amazon in the next decade**, as it will affect profoundly the legal framework and will start negative processes hard to reverse in the short or mid-term. With that, the forest will get dangerously closer of its tipping point, what, if happens, will be a climate disaster.

2. Introduction

Brazil has sovereignty over 61% of the 7 million square kilometers of the Amazon biome, the largest tropical forest on the planet, responsible for the stock of 10% of all carbon reserves (73 billion tons of carbon¹) and habitat of 10% of all the world's biodiversity, including more than 2,500 species of fish and 40,000 species of plants².

Due to its size and importance in terms of carbon stocks and biodiversity, the fate of the Amazon will guide the fate of the Planet. Today, 14% of the biome (considering the Pan Amazon, spread over 9 countries) has already been converted to agricultural, mineral or urban

¹ <https://www.socioambiental.org/pt-br/noticias-socioambientais/novo-estudo-faz-balanco-geral-do-estoque-de-carbono-na-amazonia>

² Charity, S., Dudley, N., Oliveira, D. e S. Stolton (editores). 2016. Relatório Amazônia Viva 2016: uma abordagem regional à conservação da Amazônia. WWF Iniciativa Amazônia Viva, Brasília e Quito

use, at an increasing pace³. In the Brazilian territory, the conversion has already reached 20% of the original forest⁴. The increase in deforestation, especially in the southern and eastern part of the biome, located in the Brazilian territory, has pushed the forest close to the point of no return (*tipping point*)⁵, a situation in which the forest begins to lose its ability to recycle the moisture that comes from the Atlantic Ocean, dries out and begins a slow and definitive degradation, which will cause it to lose most of its carbon stocks and biodiversity. If this happens, it will be impossible to limit the global warming to 1.5°C or below 2°C, as defined by the Paris Agreement.

The pace of deforestation in Brazil had a significant reduction between the years 2005 and 2015, as a result of a set of policies adopted by the Federal Government, among them the creation of protected areas, recognition of territorial rights to indigenous peoples and a better enforcement of the environmental legislation. However, since 2016 deforestation rates in started to increase again, gaining grip since President Jair Bolsonaro took office. In his first two years in government (2019-20), he used his administrative powers to dismantle law enforcement agencies, such as IBAMA, which in 2019 imposed the lowest number of fines due to illegal deforestation in 30 years⁶. With reigning impunity, illegal deforestation promoted mainly by miners, loggers and land grabbers increased by 47% in the first two years of government⁷, including inside indigenous territories and protected areas. It is not by chance that the cases of violence against indigenous peoples and environmental activists increased exponentially, placing Brazil in the 3rd place in the world ranking prepared by Global Witness⁸. Bolsonaro's success in dismantling environmental policies and institutions, however, was not the same when it comes to changing the legal framework. As he didn't have, in the first two years, a robust parliamentary support base, and didn't count with close allies in the presidency of both legislative houses (Chamber of Deputies and Federal Senate), he was unable to approve substantial changes in the legislation that protects forests, indigenous lands or protected areas, even trying a couple of times⁹.

2. The problem: substantial changes in the legal framework are on the horizon and will produce longstanding effects in deforestation

The situation, however, changed in 2021. Using the offer of government positions, the power to control anti-corruption agencies (Federal Police and Federal Prosecutor Office) and to allocate the public budget, President Bolsonaro managed to form a support base in the

³ Apud MapBiomias, accessed in 03/04/21

⁴ Apud Monitoramento - Imazon (accessed in 25/03/21)

⁵ The tipping point can be reached when forest fragmentation reaches a level between 20% and 25% of the total area, according to calculations made by Brazilian and foreign scientists, led by Carlos Nobre (National Institute for Space Research - INPE). To learn more about the theory and the possible consequences of reaching the point of no return for the climate of Brazil and the world, see: NOBRE, Antônio D. The climatic future of the Amazon. ARA, 2015.

⁶ <https://www.poder360.com.br/governo/ibama-aplica-o-menor-numero-de-multas-em-21-anos-m/>

⁷ According to the 2019 Report on Annual Deforestation in Brazil, produced by the MAPBIOMAS Project, in that year, 2,110 hectares of forests in the Amazon were deforested per day. Of the total deforestation, only 0.3% occurred according to the law, that is, with prior authorization from the environmental agency and in an area suitable for that (without legal restriction). This means that 99.7% of deforestation in the region in 2019 was illegal.

⁸ *Defending Tomorrow* | Global Witness

⁹ As an example: [Brazilian National Congress can grant amnesty to large public lands invaders | WWF Brasil](#)



parliament. Now with allies in the presidency of both legislative houses, he will be able to not only prevent the advance of an impeachment process but also to push forward most of his legislative proposals. The former chair of the Chamber of Deputies, Rodrigo Maia, played a key role in preventing the approval of many bills that could harm indigenous and environmental rights. The new chair, Arthur Lira, was elected with a compromise: to push forward the legislative agenda of the Federal Government related to economy and environment, what also please the parliamentarians linked to the agribusiness, a strong power inside the Parliament.

In February 2021 Bolsonaro sent to the National Congress a desire list, highlighting the bills his government will work to approve. Many of them are related to forest and indigenous lands protection. Taken together, these bills will destroy the legal framework that has enabled Brazil to control deforestation in the past, making it impossible to control deforestation in the Amazon for the next decade, what, for its turn, will bring severe consequences for the climate and biodiversity of the Planet.

Below we explain what these legislative proposals and their possible effects are.

2.1. Land grabbing / land regularization (PLS 510/21 and PLC 2633/20)

The Brazilian Amazon still has a large stock of public lands (**143 million hectares - 2.2 times the territory of France**) that have not been designated to specific uses, as environmental protection, sustainable forestry or indigenous use¹⁰. Most of this land is forested. By law, public forests should be allocated preferentially to sustainable logging, once the territorial rights of indigenous people and traditional communities are recognized.

But the legislation also allows, as an exception, to grant land titles to individuals that have been occupying these lands since a long time ago. This process is known as land regularization and should, in theory, apply only to public lands that have long been converted for agricultural use, even if done without legal authorization at the time. To prevent further invasions from happening, the legislation establishes a deadline after which occupations cannot be regularized. Any illegal occupation that occurs after that date is considered a crime and must be punished, with the land reverted to forest management or environmental conservation.

The PLC 510, that stands in the Senate, changes the deadline that allows the invasion to be regularized, extending it from 2011 to 2014. It would be the second modification on that date in less than four years: in 2017 the deadline has already been modified (from 2004 to 2011) and legalized the invasion that occurred in **3.6 million hectares of public forests**¹¹. This ended up stimulating a sharp increase in deforestation on public lands in the following years, given the expectation that new changes in the law could occur to benefit those who disrespected the new date. This is exactly what the bill supported by Bolsonaro intends to do. With a new modification, which would legalize at least another 400 thousand invaded hectares, the message that would be sent is that new invasions will not only not be punished, but, on the contrary, will be awarded with a land title, stimulating the land grabbing economy.

¹⁰ BRITO, Brenda. Dez fatos essenciais sobre regularização fundiária na Amazônia / Brenda Brito; Jeferson Almeida; Pedro Gomes; Rodney Salomão. – Belém, PA: Instituto do Homem e Meio Ambiente da Amazônia, 2021

¹¹ Apud SPAROVECK, G.; RAJÃO, R.; TORSIANO, R.; NICOLAUS, A.; BARRETO, A. *Análise dos efeitos da MP 910/2019 na destinação das glebas públicas federais na Amazônia Legal*. Março de 2020.



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In addition to changing the deadline, the bill also weakens the existing verification mechanisms, which exist to prevent fraud in the regularization process. Finally, it authorizes that individuals who have previously received land titles in public land regularization processes can benefit again from this mechanism, which legalizes the business of invasion and sale of public land. According to Imazon¹², the changes proposed by PL 510 in the current rules would threaten at least **19.6 million hectares** of public non-designated land in the Amazon and could generate **deforestation of up to 16 thousand km² by 2027**. With the approval of the bill, 1.43 billion tons of CO₂-eq would be released into the atmosphere in about a decade¹³, which is equivalent to almost five years of emissions from a country like France¹⁴.

The Federal Government argues that the change in the law is necessary to recognize the rights of tens of thousands of small farmers who arrived in the Amazon decades ago. Is not true. For this audience, the current legislation is already sufficient. Indeed, since Bolsonaro took office, the number of land titles granted to small farmers decreased sharply: from an average of 3.2 thousand per year from 2009 to 2018, it dropped to less than 300.

2.2. Opening of indigenous lands for activities with a high environmental impact (PLC 191/20)

Indigenous lands protect about 34% of the carbon stocks in the Brazilian Amazon¹⁵ and have historically had very low rates of deforestation (less than 2% of their territories have been deforested). This high protection level is a result not only of the natural ability of indigenous peoples to live from the forest, but also of the legislation that prohibits the installation of activities with high environmental impact in their territories.

The PL 191/2020, sent by Bolsonaro to Parliament in February 2020, intends to profoundly change the current legislation to allow activities such as mineral, oil and gas exploitation, hydroelectric building and conversion of large extensions of forests for agricultural use. All of this, by the bill, could be carried regardless the Free, Prior, Informed Consent of the affected communities.

If approved, this bill will weaken the ability of indigenous territories to block deforestation¹⁶ and allow the well-being of indigenous communities. Around 30% of indigenous lands (215) are already subject of mineral requests, what would affect directly 160 different people. If all requests are effectively exploited, 28 million hectares (area equivalent to that of the United Kingdom) of forests would be directly impacted by mineral exploitation, in addition to the contamination of the soil, water and air generated by such activities. At least 28 indigenous territories currently have 100% of their territories required for mineral exploration, what means

¹² BRITO, Brenda et al. Stimulus for land grabbing and deforestation in the Brazilian Amazon. Environmental Research Letters, v.14, n.6, p.064018, 2019.

¹³ Apud IPAM Amazônia - | Florestas públicas não destinadas & grilagem

¹⁴ In 2018 France emitted 311 million CO₂ and (• France: CO₂ emissions 2006-2018 | Statista)

¹⁵ WALKER, Wayne S. et al. O papel da conversão florestal, da degradação e do distúrbio na dinâmica do carbono dos territórios indígenas e das áreas protegidas da Amazônia. Available in

[o papel da conversão florestal da degradação e do distúrbio na dinâmica do carbono dos territórios indígenas e das áreas protegidas da Amazônia.pdf \(socioambiental.org\)](#)

¹⁶ Apud [The role of forest conversion, degradation, and disturbance in the carbon dynamics of Amazon indigenous territories and protected areas | PNAS](#)



that they could simply disappear if all the mining requests are approved, what is allowed by the bill¹⁷.

The construction of hydroelectric dams on rivers that cross indigenous lands is another element that may make the survival of several peoples unfeasible, especially if done without consultation with the affected communities, as provided in the bill. In addition to flooding large areas when installed in lowland regions - as is the case of much of the Amazon - hydroelectric plants also interrupt migratory flows of fish and severely alter aquatic ecosystems, directly affecting populations living on fishing, as is the case indigenous peoples. If the bill is approved, the Bolsonaro government plans to install 28 hydroelectric dams inside indigenous territories in the Amazon alone¹⁸.

But perhaps the activity authorized by the bill that may have the greatest impact is the implantation of large agricultural monocultures or pastures within indigenous territories. Currently, the forests located in these territories have a special degree of protection, being the forest conversion allowed only for some social interest activities, such as subsistence agriculture. If the bill becomes law, **there will be no limits to the conversion of forests into agriculture**, which could **compromise a significant part of the 115 million hectares of forests** currently protected in indigenous territories.

2.3. Environmental Impact Assessment legislation (PL 3729/04)

The Environmental Impact Assessment (EIA) is one of the main instruments of environmental policy in Brazil, responsible for preventing projects with a significant environmental impact from being installed in regions of high environmental sensitivity or without the necessary measures to conform to the standards established by law.

The bill intends to modify several topics in the current legislation, which dates from the 1980s. The most worrying change is the one that intends to end the analysis and mitigation of the indirect impacts promoted by the projects. One example of indirect impact is the deforestation associated with the construction or expansion of highways, when they are located in well-preserved stretches of forest. An easier access exponentially increases the value of the land, which in turn attracts land grabbers interested in invading, deforesting and selling public land. The bill says that such an impact simply should not be taken into consideration, what means that bad designed projects could be installed without any deforestation control measure.

One of the declared objectives of the bill's supporters, among them the Minister of Infrastructure of the Bolsonaro Government, Tarcísio Gomes de Freitas, is to facilitate the reconstruction and installation of new roads in the Amazon, which today have difficulties in obtaining an environmental license because they are important drivers of invasion of indigenous lands, protected areas and deforestation.

One of the first roads to benefit from this legislative change will be BR 319, which connects Manaus to Porto Velho. Built during the Military Dictatorship in Brazil, with the perspective of accelerating the colonization of the Amazon region - which led to the deforestation of an area the size of France in 40 years – it was later abandoned and currently can not be used during

¹⁷ [Por que não minerar em Terras Indígenas? | ISA - Instituto Socioambiental](#)

¹⁸ [Terras indígenas podem receber até 40 hidrelétricas, estima Ministério de Minas e Energia | Economia | G1 \(globo.com\)](#)



the wet season. According to estimates made by researchers from the National Research Institute of the Amazon - INPA and the Federal University of Amazonas - UFAM, if rebuilt without proper governance, a 528.1% increase in deforestation around the highway is expected by 2050¹⁹, one of the best preserved areas of tropical forest in the world, with an area the size of Ireland going to the ground. If this bill is approved, this impact (deforestation) will simply no longer be taken into consideration when assessing the environmental viability of the work, or even control measures.

As this other study shows, 95% of all deforestation in the Amazon between 1997 and 2013 occurred within 5.5 km of an official or unofficial highway²⁰. About **14.7 million hectares can be converted to soy and livestock if projects for new highways, or improvements to existing highways, are implemented in the Amazon**²¹.

2.4. Reduction of Indigenous Lands and Protected Areas (PADDD) - PL 490/07 and others

According to the Brazilian Constitution, a protected area can only be reduced or extinguished by the Parliament. The Federal Government has already expressed interest in submitting a bill to the National Congress to **reduce more than 60 protected areas**²². In addition, another proposal is being prepared by the Ministry of the Environment to **extinguish the federal agency** that currently takes care of federal protected areas (ICMbio), that is, which is responsible, only in the Amazon, for protecting more than **64 million hectares (an area equivalent of France)**.

Beyond that, the Bolsonaro government has been supporting the advancement of legislative proposals that seek not only to paralyze the demarcation of indigenous lands (PEC 215), but also to decrease already demarcated lands (PL 490/07), which began to move at an accelerated pace through the legislative process this year. This last bill is of great concern: the exponential increase in the number of invasions on indigenous lands in the past two years has as an incentive precisely the expectation that the invaded areas may be reduced and titled in the name of the invaders. Here ([BBC iPlayer - Our World - Selling the Amazon](#)) a brief documentary that illustrates the issue.

2.5. Changes to the Forest Code (PL 3511/19 and others)

Although not included in the formal list of priorities of Bolsonaro, the government and his support basis in the Parliament will try to approve new changes in the Forest Code, that protect forests in private land. A study prepared by the Climate Policy Initiative mapped **56 bills in the National Congress that modify, for the worse, the Forest Code**²³.

¹⁹ [BR-319 como propulsora de desmatamento: simulando o impacto da rodovia – Idesam](#)

²⁰ https://www.sciencedirect.com/science/article/pii/S000632071400264X?casa_token=a-fRk8dXi8kAAAAA:c-JFMsGGxTYg8pggfihM9KeUoDMG8OBED2-JvmNyQCK71E0iqcCu63oV5u4LlaR15kuWs8ZPIA

²¹ <https://www.mdpi.com/1999-4907/9/10/600>

²² <https://sustentabilidade.estadao.com.br/noticias/geral,por-estradas-e-portos-governo-federal-quer-reduzir-60-florestas-e-reservas,70002866853>

²³ <https://www.climatepolicyinitiative.org/wp-content/uploads/2020/09/NT-projetos-de-lei-ameacam-codigo-florestal.pdf>



One of these proposals is Bill 3511/2019, which legalizes at least **5 million hectares** of land that was illegally converted from native vegetation to agricultural use, especially in the Cerrado biome. This Bill proposal is underway in the Federal Senate and had a favourable opinion on its approval in the first of the two committees that will be processed, having not yet been voted due to the pandemic of COVID-19, which paralyzed normal parliamentary activities during 2020.

Another worrying project is Bill 2362/2019. Proposed by Senators Flávio Bolsonaro (son of the President of the Republic) and Márcio Bittar (important representative of agribusiness in Parliament), it extinguishes the Legal Reserve, a legal requirement that exists in Brazilian legislation since 1934. If approved, it **will be legal to convert 167 million hectares of forests and other types of native vegetation that are currently protected**²⁴. In addition, it would automatically legalize the agricultural production currently existing in the Legal Reserves (11 million hectares), cancelling fines and any forest restoration obligation. **In total, this Bill's approval would allow agricultural production on 178 million hectares of land that, under current legislation, must be covered by forest.** This means an area more than 7 times that of the United Kingdom. This bill received a favourable opinion for its approval by the Senate Constitution and Justice Committee, but was later dismissed by the authors. It can, however, be proposed again at any time, at the initiative of any senator.

3. Conclusion

The approval of the legislative package supported by President Bolsonaro will bring serious consequences for the Amazon, as it will make much harder to control deforestation in the region for many years. It is highly likely that deforestation will remain at levels as high or greater than current ones, but, under the new legal framework, part will be considered legal. This will certainly undermine any efforts to curb all illegal deforestation by 2030 or any time in the next decade.

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For more information:
Raul Silva Telles do Valle
Director, Social and Environmental Justice
WWF - Brazil
raulvalle@wwf.org.br

²⁴ <https://www.wwf.org.br/?70802/Projeto-de-lei-do-Senado-pode-causar-desmatamento-de-167-milhoes-de-hectares-alerta-cientista>

