



The Human Right to a Clean, Healthy and Sustainable Environment in Brazil

4th Cycle of the Universal Periodic Review

03.30.2022

Articulação dos Povos Indígenas do Brasil – APIB (Articulation of the Indigenous Peoples of Brazil) is a representative organization protecting the Rights of the Indigenous Peoples of Brazil. A national benchmark for the indigenous movement in Brazil, this grassroots Association was built from the bottom up. Gathering regional indigenous organizations together, its core purpose is to strengthen union among these peoples, building up links among different parts of Brazil and their indigenous organizations, in addition to mobilizing these people and their organizations against aggressive threats jeopardizing indigenous rights.

Conectas Direitos Humanos (Conectas Human Rights) is a human rights organization based in São Paulo, Brazil. Established in 2001, Conectas works to enforce and promote human rights and combat inequalities to build a fair, free and democratic society from a Global South perspective. Since 2006, Conectas holds Special Consultative status with the United Nations Economic and Social Council (ECOSOC).

Instituto Socioambiental – ISA (Socio-environmental Institute) is a Brazilian civil society organization founded in 1994 to propose integrated solutions to social and environmental issues with a central focus on the defense of social and collective goods and rights related to the environment, cultural heritage, human and peoples' rights.

Laboratório do Observatório do Clima - OC (Climate Observatory Laboratory) is a civil society network composed of more than 70 organizations, with 20 years of experience, dedicated to building a decarbonized, egalitarian, prosperous, and sustainable Brazil, in the fight against the climate crisis.

WWF-Brasil is a non-profit, non-governmental Brazilian civil organization that is part of the WWF Network, one of the largest nature conservation organizations in the world. Established in 1996, WWF-Brasil mission is to stop the degradation of the planet's natural environment and to build a future in which humans live in harmony with nature.

The UN Human Rights Council has recognized the existence of the human right to a clean, healthy and sustainable environment, as well as its interdependence with other human rights, such as the rights to life, housing, and adequate food¹. With this in mind, National States were encouraged to adopt appropriate policies focused on the protection of their ecosystems and biodiversity, among other measures.

The brisk destruction of local ecosystems, especially rainforests, is not only one of the main causes of biodiversity losses, but it also exacerbates greenhouse gas emissions and the climate emergency. This is particularly worrisome in Brazil². These two problems combined have severe human rights consequences. To illustrate, the destruction of ecosystems can negatively impact the right to adequate food. When species become extinct in their natural environment, it causes deep imbalances in biological food chains, which in turn directly affect agriculture. As a consequence, new plagues can emerge once their natural predators were exterminated. This phenomenon causes the loss of a large number of crops and increases the need for intensive use of agrochemicals and pesticides, which contaminate water and food. Moreover, the destruction of natural habitats combined with weather changes results in the decimation of a number of pollinizers, which directly affects productivity of numerous crops, such as coffee, beans, tomatoes, and many others³. The unabated deforestation of the Amazon puts Brazil the top 10 countries with the highest greenhouse gas emissions on the globe. In fact, according to Observatório do Clima (Climate Observatory) Brazil is the fifth largest greenhouse gas emitter, responsible for 3,2% of global emissions, the lion's share coming from Amazon deforestation⁴. This worsens global warming and reduces the availability of fertile land to produce diverse and essential crops for global food security.

The Fourth National Communication of Brazil to UNFCCC⁵ demonstrates the perverse climate change effects regarding access to clean water and agriculture production. Between 1980 and 2018 there was a reduction in the hydric availability in the country, and analysis of future scenarios indicate a 80% decrease in the productivity of soy, 51% decrease in the productivity of corn, 46% decrease in the productivity of wheat, among other products.

¹Resolution adopted by the Human Rights Council on 8 October 2021. 48/13. Available at: <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2FRES%2F48%2F13&Language=E&DeviceType=Desktop&LangRequested=False> (last seen: 23.03.2022).

²OBSERVATÓRIO DO CLIMA. Greenhouse Gas Emission and Removal Estimating System. Available at: https://plataforma.seeg.eco.br/total_emission (last seen: 23.03.2022).

³Giannini TC, Costa WF, Cordeiro GD, Imperatriz-Fonseca VL, Saraiva AM, Biesmeijer J, et al. (2017) Projected climate change threatens pollinators and crop production in Brazil. PLoS ONE 12(8): e0182274. <https://doi.org/10.1371/journal.pone.0182274> (last seen: 23.03.2022).

⁴OBSERVATÓRIO DO CLIMA (OC). SEEG 2021. Análise das emissões brasileiras de e suas implicações para as metas climáticas do Brasil 1970-2020. Piracicaba, 2021. p. 8 e 29. Available at: https://seeg-br.s3.amazonaws.com/Documentos%20Analiticos/SEEG_9/OC_03_relatorio_2021_FINAL.pdf. (last seen: 23.03.2022)

⁵FEDERATIVE REPUBLIC OF BRAZIL. Fourth National Communication of Brazil to the UNFCCC. em: https://issuu.com/mctic/docs/quarta_comunicacao_nacional_brasil_unfccc. Available at: <https://unfccc.int/sites/default/files/resource/4a%20Comunicacao%20Nacional.pdf> (last seen: 23.03.2022).

Climate change has already had an adverse impact on the environment and will continue to do so even more drastically on people's life, health, and food security. To mitigate this catastrophic scenario, halting Amazon's deforestation is paramount. Changes in the use of land and soil for agriculture and cattle rearing are the main causes of Brazilian greenhouse gas emissions.

This report aims to evaluate the implementation of two recommendations adopted by Brazil in the third cycle of the UPR. Both relate to Amazon deforestation (described below). Moreover, organizations subscribing to this report propose new recommendations to be issued to Brazil, to promote the right to a clean, healthy and sustainable environment, which will consequently promote the right to life, health, and adequate food.

#55: Continue its efforts on the implementation of the National Policy on Climate Change on reducing deforestation in the Amazon region.

#239: Speed up through executive action the processes of demarcation and protection of the lands of indigenous peoples and protect their respective rights.

Methodological note

The data used in this report related to Amazon deforestation and environmental degradation inside Indigenous Lands sourced from official data produced by the National Institute for Space Research in the Brazilian Ministry of Science and Technology. The Institute relies on two tools to monitor deforestation and environmental degradation in the Amazon.

The first one, *Measurement of Deforestation by Remote Sensing – PRODES* (Portuguese acronym), carries out satellite monitoring of clear-cut deforestation in the Amazon and has produced, since 1988, annual deforestation rates in the region, which are used by the Brazilian government to establish public policies. Every mention of deforestation rates or “official data” in this report is based on PRODES data.

The second one, *Deforestation Detection in Real Time – DETER* (Portuguese acronym), is an alert tool for monitoring and controlling deforestation, especially for the Brazilian Amazon. DETER registers different types and levels of environmental degradation. It provided the evidence Instituto Socioambiental (*Socio-environmental Institute*) used to produce its analysis on environmental degradation inside Indigenous Lands.

Other data, such as the number of infractions issued by IBAMA; or budget spendings; were either gathered from governmental databases by civil society organizations; or produced by governmental institutions, such as the Controller-General. Civil society reports and/or official institutions' documents that provided the information quoted hereunder are duly mentioned in endnotes.

1. The rise in Amazon deforestation: recommendations 55 and 239 were not implemented

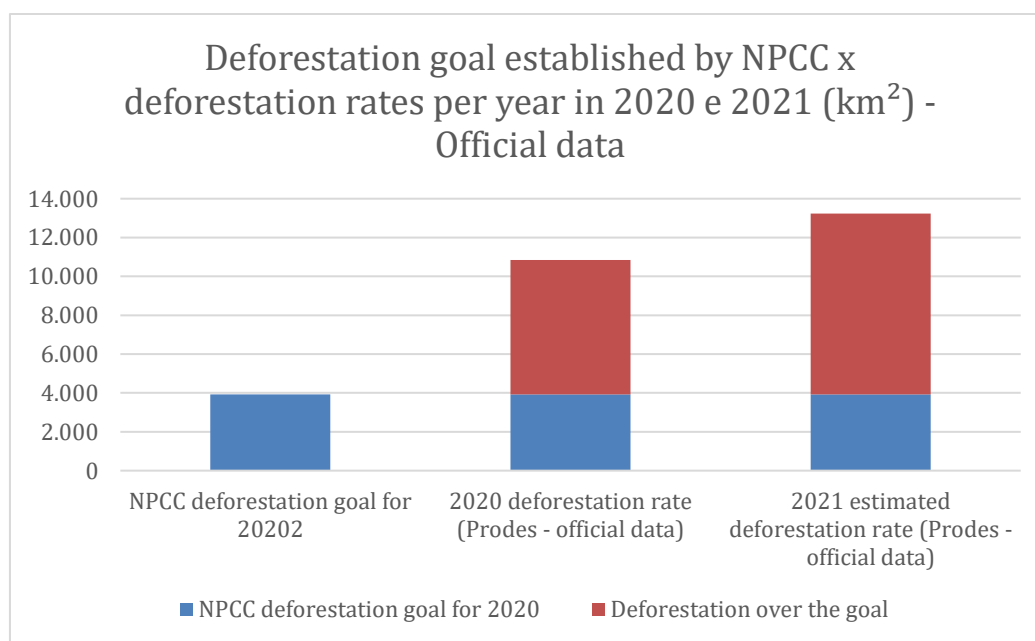
The *National Policy on Climate Change - NPCC*⁶ determined that, by 2020, **deforestation in the Amazon** had to be decreased by 80% in relation to the average verified between 1996 and 2005⁷. It sets a maximum limit of **3.925 km² annual deforestation in 2020**.

In 2017, the year the recommendation 55 was adopted, deforestation reached 6.947 km² (official data – please, refer to *Methodological note* above). To implement recommendation 55, Brazil was expected to maximize its efforts to reduce this rate, reaching the goal established by the NPCC (3.925 km²).

However, this was not the case. Since 2018, deforestation has risen at exponential rates – year after year. According to official data, the **total deforestation in 2018 was 7,536 km², in 2019 it climbed to 10,129 km², and in 2020 it increased to 10,851 km²**. This means that **in 2020 the deforestation rates in the Amazon were over two times higher than they were allowed to be, according to the goal established by the NPCC. The difference was 6.926 km²**, an area twice the size of Luxembourg.

In 2021, the problem was worsened. According to official data, the deforestation rate in 2021 is estimated to have been **13.235 km² - an area over three times the threshold established by NPCC**, and almost two times higher than the deforestation rate in the year the recommendation was adopted (2017). **The difference between 2021 estimated deforestation and the NPCC established goal for 2020 is about 9.310 km²**, an area the size of Cyprus.

The graph below illustrates this situation.



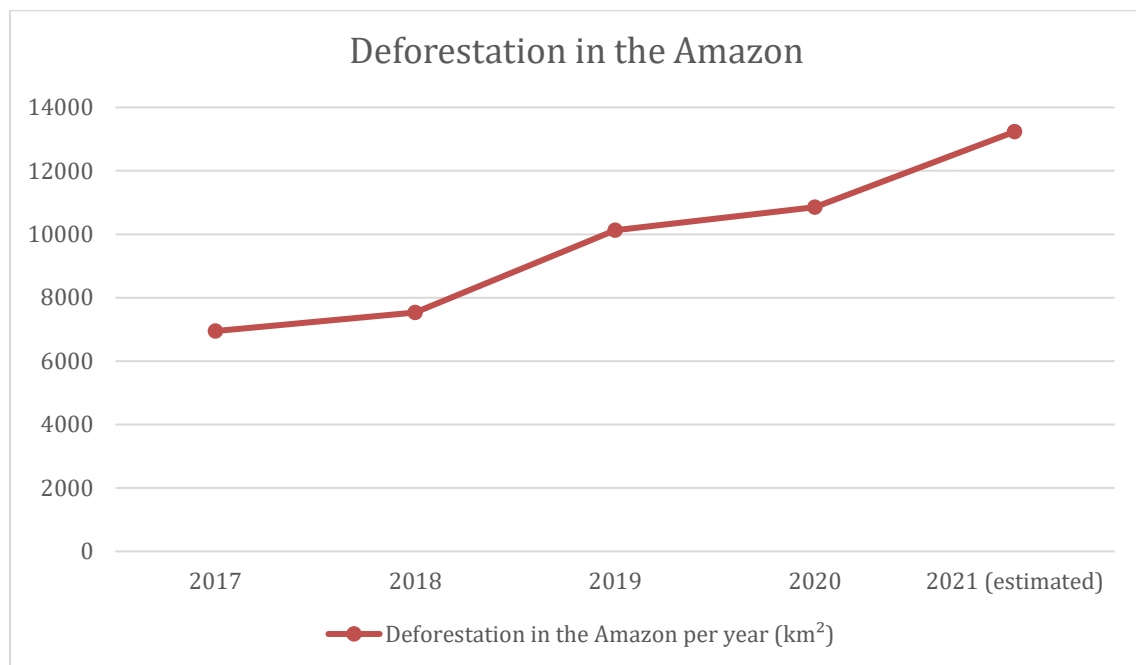
⁶ Established by Law 12,187/2009 and regulated by Decree 9,578/2018. Available at:

http://www.planalto.gov.br/ccivil_03/_ato2007-2010/2009/lei/112187.htm e

http://www.planalto.gov.br/ccivil_03/_ato2015-2018/2018/decreto/d9578.htm (last seen: 23.03.2022).

⁷ Article 12 of the Law 12.187/2009, in accordance with article 19, paragraph 1, item I, of Decree 9,578/2008.

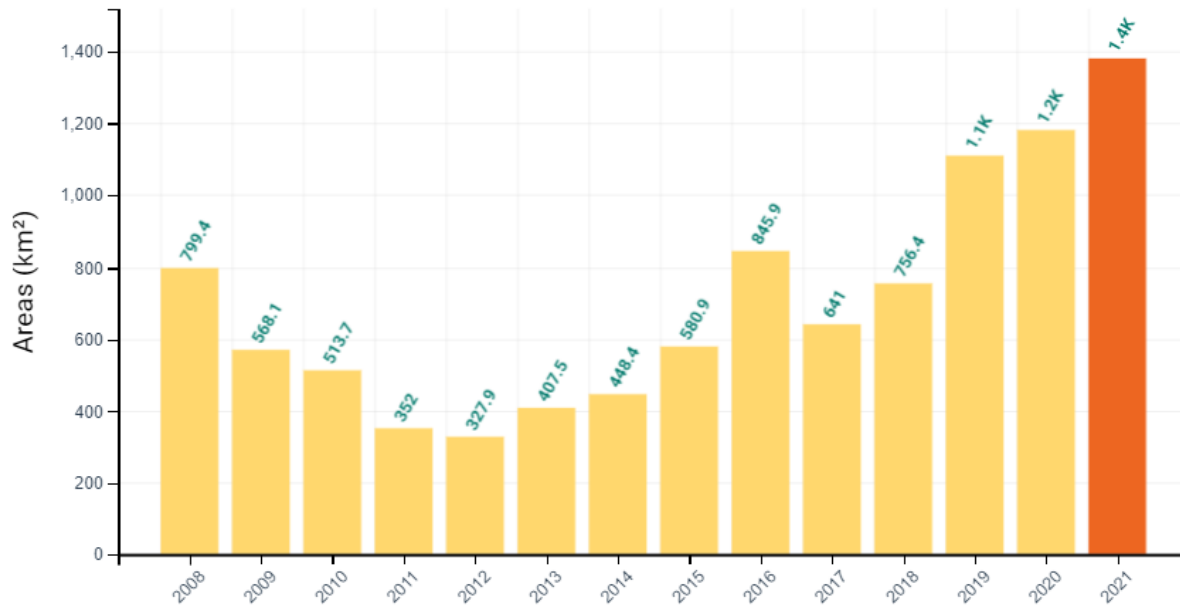
According to *Observatório do Clima (Climate Observatory)*, in 2021 deforestation reached three records: (i) it was the highest level of deforestation in 15 years, since 2006; (ii) it was the first time deforestation rates increased three times consecutively during the same presidential mandate, since 1988 when rates started being assessed; and (iii) it was the first time deforestation rates increased four times in a row (from 2018 to 2021)⁸. The graph below, based on official data, illustrates this scenario:



According to official data, the increase of deforestation in Protected Areas in the Amazon has never been so dramatic. **In Conservation Units, deforestation reached 1,382 km² in 2021, the highest level since 2008.** Since 2019, these rates have remained above 1,000 km², also the highest rates since 2008 (see graph below). **Deforestation in Indigenous Land has drastically increased in the last few years** (more information below). Conservation Units and Indigenous Lands are specific types of protected lands according to Brazilian Law. In most cases, the national legal framework bans deforestation in these areas. **The increase of deforestation inside Conservation Units and Indigenous Lands constitutes evidence of failure in law enforcement. Public Authorities were supposed to protect these areas. However, they did not comply with their duty.**

⁸ OBSERVATÓRIO DO CLIMA. **The Bill Has Come Due: the third year of environmental havoc under Jair Bolsonaro.** 2022. p. 13. Available at: <https://www.oc.eco.br/wp-content/uploads/2022/02/Relato%CC%81rio-OC.pdf> (last seen: 03.23.2022)

Deforestation increments - Amazon Biome - Conservation Units



Therefore, not only did Brazil not make enough efforts to implement the NPCC goals on reducing deforestation in the Amazon, but it also did not act sufficiently to protect Indigenous Land, as granted by Brazilian Law. On the contrary, what has happened is a considerable reduction of public efforts to protect the biome.

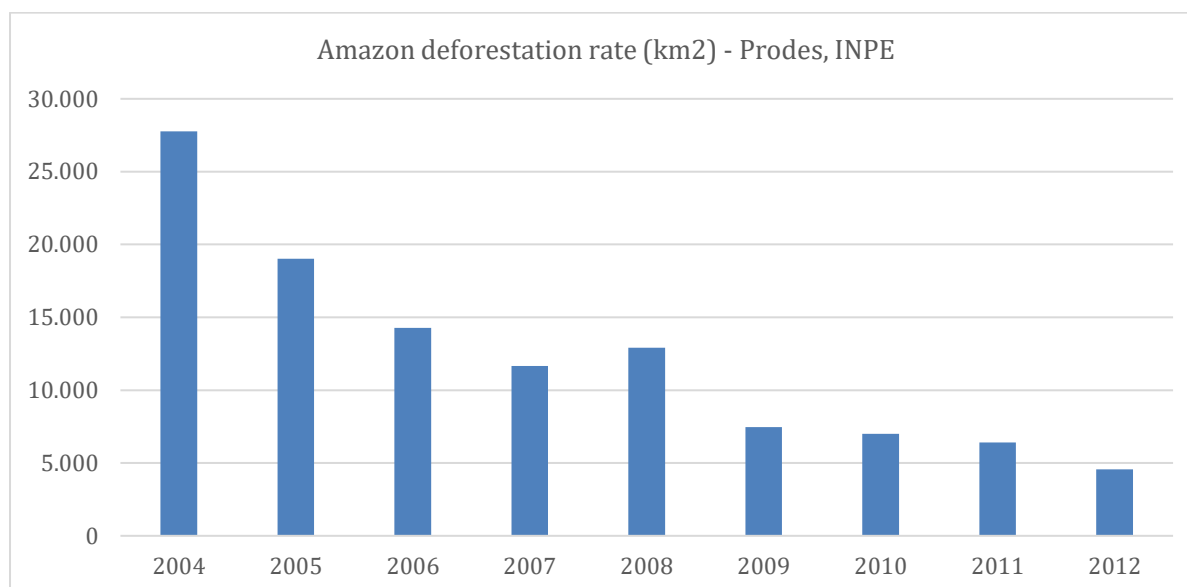
2. Reasons for non-implementation: PPCDAm interruption and abandonment.

In order to reduce deforestation, the NPCC relies on a crucial element: The **Action Plan to Prevent and Control Amazon Deforestation (PPCDAm – Portuguese acronym)**⁹. The PPCDAm was a thorough and complex environmental based on quadrennial *operational plans*. Implemented in 2004, it was responsible for a relevant reduction in Amazon deforestation between 2006 and 2012 (see graph below). However, in 2019 this policy was interrupted and abandoned¹⁰.

⁹ Article 6, item III, of Law 12,187/2009, in accordance with article 17, item I, of Decree 9,578/2008.

¹⁰ Seven political parties and ten civil society organizations took legal actions asking the country's highest court to order the federal government to resume the PPCDAm, with the adoption of concrete measures to reduce deforestation in the Amazon, at compatible rates with the international commitments assumed by Brazil. The lawsuit is ongoing at the Federal Supreme Court, under identification ADPF 760. The entirety of the process can be found here: <http://portal.stf.jus.br/processos/detalhe.asp?incidente=6049993>. A summary of the case, in English, can be found here: http://climatecasechart.com/climate-change-litigation/wp-content/uploads/sites/16/non-us-case-documents/2020/20201111_ADPF-760_application-1.pdf (last seen: 03.23.2022).

One day after the Vice President of the Republic admitted, on July 9, 2020, that the government had no plan to reduce deforestation, the “Plan for Control of Illegal Deforestation and Recovery of Native Vegetation 2020-2023” was announced. The document, however, has serious structural deficiencies. Firstly, it is not suitable to replace the PPCDAm, as it covers all biomes and is not specific to the Amazon. Moreover, it does not have



2.1 The decline of Inspection activities.

More than 90% of deforestation in the Amazon is illegal¹¹. To counter deforestation, the government must impede all illegal activities. This is the reason one of the key components of PPCDAm are environmental inspections, which encompass several activities, including the identification of illicit actions perpetrated by environmental wrongdoers and the enforcement of administrative penalties against them. **Regarded as "essential to suppress environmental infractions and (...) their immediate effects"¹², according to the official *operational plan 2016-2020*, environmental inspections have been substantially reduced in the past three years, even with the escalating deforestation during this period.** This reduction does not contribute to countering

strategic guidelines; goals; actions defined for each goal; lines of action; schedule; skills distribution; articulations with actors other than the federal government (especially with state governments); resource sources; expected results; sources of resources or indicators for monitoring expected results. With only 25 pages, including cover, table of contents, references, etc., the document is a compilation of generalities. In an operational audit to assess the effectiveness of the measures adopted by the federal government to contain deforestation and fires in the Amazon, **the Federal Audit Court identified a series of deficiencies in the aforementioned plan. It was also recognized that the PPCDAm did not guide the actions of the current federal government and that, in 2020, months went by without there being even a formal plan to combat deforestation in the Amazon. TC 038.045/2019-2.** Available at: <https://portal.tcu.gov.br/imprensa/noticias/aumento-do-desmatamento-e-reducao-na-aplicacao-de-sancoes-administrativas.htm> (last seen: 23.03.2022)..

¹¹ RAJÃO, Raoni; et all. Desmatamento Ilegal na Amazônia e no Matopiba: falta transparência e acesso à informação. Policy Brief. UFMG, ICV, Imaflora, WWF-Brasil. Available at: <https://www.wwf.org.br/?78570/Estudo-inedito-aponta-falta-de-transparencia-e-ilegalidade-em-94-do-desmatamento-na-Amazonia-e-Matopiba> (last seen: 23.03.2022).

¹² Action Plan for the Prevention and Control of Deforestation in the Amazon – PPCDAM: operational plan 2016-2020. p.2. Available at: http://www.fundoamazonia.gov.br/export/sites/default/pt/_galleries/documentos/prevencao-e-controle-do-desmatamento/PPCDAm_Plano-Operativo.pdf (last seen: 02.03.2022)

deforestation or protecting Indigenous Lands. On the contrary, it encourages wrongdoers to act, stimulating further increase of deforestation.

“*Infraction notices*” are the first step in IBAMA’s “penalty proceeding”. They are official documents that identify illicit actions against the environment. They are also the starting point of an administrative procedure held by the federal agency to determine whether an individual or company is responsible for committing the identified infraction and what sanction will be imposed. During the “penalty proceeding” period, the alleged wrongdoer has the chance to defend itself.

According to official data gathered by the civil society organizations APIB, ISA, OC, Conectas, and others, the number of *infraction notices* issued by IBAMA (the federal environmental agency) dropped sharply. **Notices related to illegal deforestation in the Amazon decreased 29% in 2019, and 46% in 2020, in comparison to 2018¹³.**

In the context of the significant increase in deforestation rates, the sharp decline in *infraction notices* issued by IBAMA shows an extremely worrisome reduction in inspection activities to protect the Amazon rainforest against deforestation.

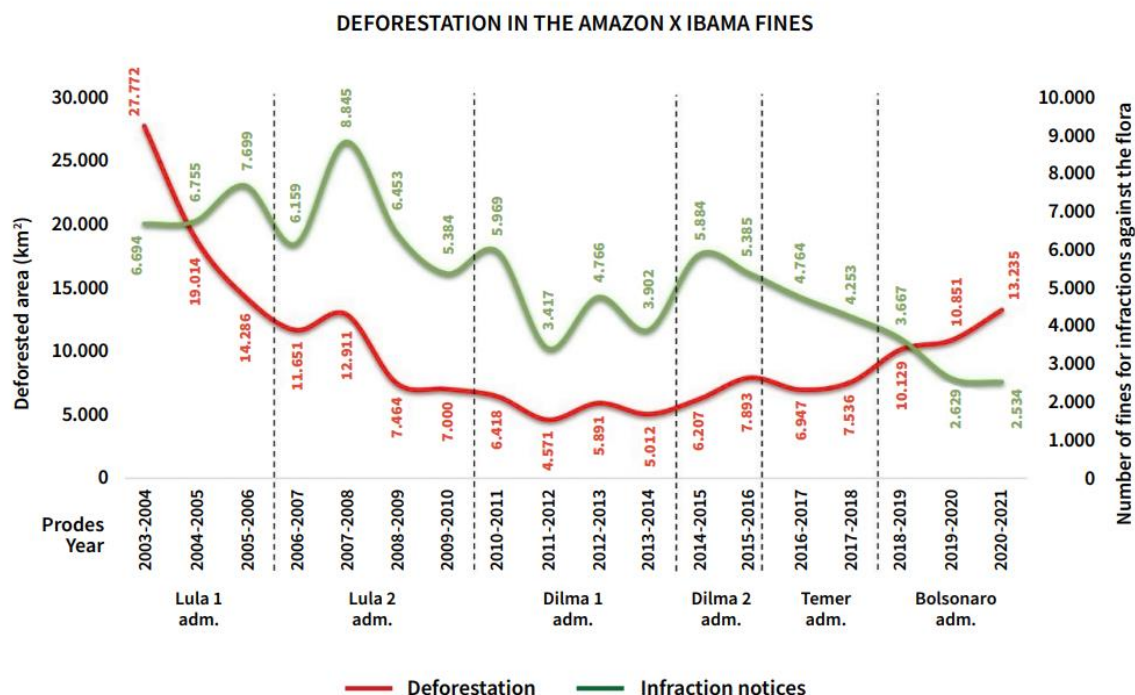
In a recent report, Observatório do Clima (*Climate Observatory*) concluded that **from August 2020 to July 2021, the number of *infraction notices* to deforestation in the Amazon issued by IBAMA was the lowest in two decades and represented a drop of 40% in relation to the period of August 2017 and July 2018¹⁴.** The graph below illustrates this situation and shows the correlation between the decrease in inspection and the increase of deforestation, in the past few years:

¹³OBSERVATÓRIO DO CLIMA, et al. **Executive Summary: Organizations take Brazilian government to the Supreme Court over deforestation and human rights abuses.** 2020. Available at: http://climatecasechart.com/climate-change-litigation/wp-content/uploads/sites/16/non-us-case-documents/2020/20201111_ADPF-760_application-1.pdf (last seen: 23.03.2022).

¹⁴ “If the data from January to December is considered, the negative record is repeated – the average in the three years of the Bolsonaro administration was 2,963 infraction notices for crimes against the flora in the nine states that make up the Legal Amazon, a number that is 40% lower than the average for the decade before to the current administration (4,864). Embargoes and seizures carried out by environmental inspectors in the Amazon also plummeted under Bolsonaro. In 2021, embargoes on rural properties dropped 70% compared to 2018, the last year of the Temer administration: 722 were registered in the Amazon, against 2,368 in 2018. The embargo is one of the most effective measures to combat deforestation, as it causes immediate economic restrictions to offenders. When his area is embargoed, the farmer is prevented from selling products derived from the place where the environmental damage occurred. In the case of seizures, there was a drop of 80% in the same period - there were 452 in the Amazon in 2021, against 2,391 in 2018.”. OBSERVATÓRIO DO CLIMA. **The Bill Has Come Due: the third year of environmental havoc under Jair Bolsonaro.** 2022. p. 13. Available at: <https://www.oc.eco.br/wp-content/uploads/2022/02/Relato%CC%81rio-OC.pdf> (last seen: 03.23.2022)

REDUCED FINES IN THE FIELD BY MORE THAN 80%.

Jair Bolsonaro, January 17, 2022



Sources: Inpe and Ibama. Data downloaded in January 2022.

Along the same lines, the Brazilian Senate’s Environmental Committee identified an **expressive drop in inspection and control of environmental crimes, both in the number of notices of infraction issued and in the number of inspection operations executed, in 2019**¹⁵.

When analyzing IBAMA’s “penalty proceedings”, WWF-Brazil and the Climate Policy Initiative identified an alarming interruption of IBAMA’s activities¹⁶. **Between October 2019¹⁷ and May 2021, almost all (98%) of the 1154 notices of infractions issued by IBAMA were put on hold** – that is, after issuing the notice of infraction, IBAMA was not able to proceed with “penalty proceeding”. The seventeen proceedings related to the most critical deforestation cases also remained on hold in the period. Considering these cases together, wrongdoers are accused of destroying more

¹⁵ “The reduction in the number of fines is in line with the reduction in the number of IBAMA inspection operations scheduled for 2019. The retraction in IBAMA’s command and control actions is in line with the aforementioned discontinuity in the coordination of policies to combat deforestation, which was the responsibility of the MMA and which is now experiencing a void: there is no government agency currently in charge of coordinating policies to combat deforestation. The withdrawal of all competences related to combating deforestation from the MMA is part of the weakening of the Ministry’s technical and political role since 2019.” Available for download at: <https://legis.senado.leg.br/sdleg-getter/documento/download/be24ff00-0608-4f8b-9d57-804c33097882> (last seen: 22.03.2022)

¹⁶ Lopes, Cristina L., João Mourão, Joana Chiavari, Clarissa Gandour. **Conciliação Ambiental e Desmatamento na Amazônia Implicações e Desafios a partir de Evidências**. Rio de Janeiro: Climate Policy Initiative e WWF-Brazil, 2021. Available at: https://wwfbr.awsassets.panda.org/downloads/pb_wwf_pt.pdf (last seen: 23.03.2022).

¹⁷ In October 2019, Decree No. 9,760/2019 entered in force. This Decree amended IBAMA’s “penalty proceeding” rules.

than 400 thousand hectares square of the Amazon rainforest. They are being charged with fines that, together, add more than R\$ 380,000,000.00 (which is four times more than all the money spent by IBAMA in inspection activities in 2021 – IBAMA spent R\$ 88,000,000.00 by December 2021¹⁸). These interruptions in the “penalty proceedings” entail a serious failure in environmental inspection and law enforcement since wrongdoers are not duly trialed and sanctioned. They stimulated a widespread feeling of impunity, further encouraging wrongdoers to practice illegal deforestation.

This diagnosis is supported by researchers from the Universidade Federal de Minas Gerais (*Federal University of Minas Gerais*), who identified that **after 2019, 98% of the penalty proceedings from IBAMA related to environmental violations were put on hold**¹⁹.

Although carrying out the inspection is not enough, it is clearly an essential step to halt deforestation in the Amazon and other biomes. Given the connection between Amazon deforestation and climate change, inspection is thus indispensable to prevent further climate change aggravation, as well as its dramatic consequences to basic human rights, such as life, wealth, and food security.

Therefore, the subscribing organizations urge the following recommendations to be issued to Brazil:

To prohibit any deforestation in the Amazon for at least five (5) years, with exceptions made for subsistence agriculture and practices of traditional populations, smallholder agriculture, sustainable forestry, works of public utility and national security issues.

To publish an annual report assessing the implementation climate change mitigation actions, according to the NPPC, based on objective indicators.

To implement an effective plan (PPCDAm) to halt deforestation in the Amazon, designed upon thematic axes, strategic guidelines, objectives, priority actions, and expected results, and provide enough resources for its appropriate implementation.

¹⁸ OBSERVATÓRIO DO CLIMA. **The Bill Has Come Due: the third year of environmental havoc under Jair Bolsonaro**. 2022. p. 13. Available at: <https://www.oc.eco.br/wp-content/uploads/2022/02/Relato%CC%81rio-OC.pdf> (last seen: 03.23.2022)

¹⁹ “More than 2 years after the creation of the [environmental conciliation] nucleus, only 252 conciliation hearings were concluded, which represents less than 2% of the infraction notices carried out in the same period (26). This indicates that almost all infraction notices carried out between 2019 and 2020 are still suspended. Therefore, despite a great public effort (people, technology, budget) to implement this mechanism, the nucleus must generate few effective results, in addition to increasing the risk of statute of limitations, improper negotiations, and reducing the deterrence of infractions.”. RAJÃO, Raoni, et al. **Dicotomia da impunidade do desmatamento ilegal (Dichotomy of impunity for illegal deforestation)**. CSR e LAGESA/UFMG. 2021. p. 6. Available at https://csr.ufmg.br/csr/wp-content/uploads/2021/06/Rajao_Schmitt-et-al_Julgamentos-IBAMA_final.pdf (last seen: 02.23.2022).

To resume IBAMA's penalty proceedings of federal environmental infractions, issuing consistent sanctions against wrongdoers, and ensuring all procedure are completed in under 3 years, especially the ones related to deforestation of large areas (more than 50 hectares).

To make IBAMA's penalty proceeding rules more efficient and effective, and to improve IBAMA's operational capacity, so these proceedings can be concluded in three years at most.

2.2 Interruption of Amazon Fund operations and lack of funds to implement PPCDAm.

The **Amazon Fund** is an *international cooperation mechanism* created with resources from international donations²⁰. The Fund was created to **finances projects to halt deforestation**. Financial resources had to be allocated to projects aligned with the PPCDAm guidelines, which meant, projects that contributed to *monitoring and combating deforestation, and promoting the conservation and sustainable use of the forest*²¹.

For years the Amazon Fund was one of the main sources of funding for activities developed by public authorities and civil society organizations to protect the rainforest. As of today, the Fund has received R\$ 3,3 billion²². Until 2018, financial resources allocated to projects added up to R\$ 1.8 billion; and R\$ 1.1 billion was disbursed to a total of 103 projects²³. In 2018, a major part of resources from the Amazon Fund (46%) was allocated to federal inspection and monitoring entities, such as IBAMA²⁴.

However, in 2019 **two important governance structures responsible for the Fund functioning terminated**: the Technical Committee (TCFFA) and the Guidance Committee (GCFA)²⁵.

²⁰ All relevant information are available at the Amazon Fund web site: <http://www.amazonfund.gov.br/en/amazon-fund/> (last seen: 23.03.2022).

²¹ Art. 1º, incisos I a VII, e parágrafo 2º do Decreto 6.527/2008.

²² Information available at: <http://www.amazonfund.gov.br/en/donations/> (last seen: 23.03.2022).

²³ AMAZON FUND. **Portfolio Report**. December 31, 2018. Available at: http://www.fundoamazonia.gov.br/export/sites/default/pt/.galleries/documentos/informe-de-carteira/2018_12_Informe-da-Carteira-Fundo-Amazonia.pdf For the English version (values in dollars), please, refer to: http://www.fundoamazonia.gov.br/export/sites/default/en/.galleries/documentos/portfolio-report/2018_12_Amazon-Fund-Portfolio-Report.pdf (last seen: 23.03.2022).

²⁴ CALIXTO, B. O dinheiro da Noruega está pagando a fiscalização da Amazônia. Revista Época, 2017. Available at: <<http://epoca.globo.com/ciencia-e-meio-ambiente/blog-do-planeta/noticia/2017/08/o-dinheiro-da-noruega-esta-pagando-fiscalizacao-da-amazonia.html>>. (last seen: 03.23.2022)

²⁵ The Guidance Committee (COFA), was responsible for establishing guidelines and criteria for the application of Amazon Fund resources, monitoring information on the application of resources and approving the Amazon Fund Activities Report. It had a tripartite composition, with members of the federal government, subnational governments and civil society entities (business and non-business). It was created by art. 4 of Decree 6.527/2008. It was extinguished by art. 1, CCII, of Decree No. 10.223/2020. The Technical Committee (CTFA) was responsible for attesting the amount of carbon emissions from deforestation calculated by the Ministry of the Environment. It evaluated the methodology for calculating the area of deforestation and the amount of carbon per hectare used in the calculation of emissions. It was made up of specialists of unblemished reputation and notorious technical-

Since that year, due to those changes in the governance system, all donors have stopped contributing to the Fund, and no new projects have been approved²⁶. Between 2019 and 2021, only R\$ 300 million were disbursed to ongoing projects that had received support in 2018, which represents an average of R\$ 100 million per year. This is equivalent nearly half of disbursements made in 2017 (about R\$ 220 million) and significantly less than disbursements in 2018 (about R\$ 180 million)²⁷.

The R\$ 3.3 billion of donations received by the Fund generated further income which then raised the total amount to R\$ 4,8 billion. Considering that R\$ 1,8 billion was already allocated to projects, there are still **R\$ 3 billion available for new projects. This amount, however, is completely frozen, without any plans to be allocated and disbursed.** The Amazon Fund Activity Report 2020 confirms this:

“The total amount of resources to be invested in projects (97% of the total donations received + income generated over the years) is R\$ 4,853 million, with R\$ 1,825 million being allocated to projects under execution or concluded, of which R\$ 1,304 million have already been disbursed”²⁸.

According to the Senate Environmental Committee, considering the dramatic increase in Amazon deforestation rates, it is unacceptable that Amazon Fund assets are frozen. As reported in the Committee’s *National Policy evaluation concerning Climate Change*:

"The government seems to ignore that about 60% of the projects already supported by the Fund aim to assist governments at a federal, state, and municipal level, exactly in actions to strengthen the forest’s public administration. It also ignores the fact that the Amazon Fund has been representing important complementation to IBAMA’s reduced budget, including environmental inspections, and to support the National Center for the Prevention and Combat of Forest Fires (PrevFogo/PrevFire). Governors from the region have manifested in favor of continuing the fund operations and highlighted its importance. Even though, **today, the Fund assets are frozen. There have not been any new projects supported since January 2019.** As a result of the (Brazilian) government’s posture, Amazon Fund’s main donors - Germany and Norway - withdrew their donations to Brazil. (...) **There are not, under any lens of analysis, acceptable reasons to abandon this revenue source,**

scientific knowledge, appointed by the Ministry of the Environment, after consultation with the Brazilian Forum on Climate Change. It was extinguished by art. 12, II, of Decree No. 10.144/2019.

²⁶ Conclusion reached when analyzing the donations received, according to information from the Amazon Fund, available at: <http://www.amazonfund.gov.br/en/donations/> (last seen: 03. 22.2022).

²⁷ Conclusion reached from the Portfolio Report, of December 31, 2021. Available at: http://www.fundoamazonia.gov.br/export/sites/default/pt/.galleries/documentos/informe-de-carteira/2021_6bi_Informe-da-Carteira-Fundo-Amazonia.pdf Document in English available at: http://www.fundoamazonia.gov.br/export/sites/default/en/.galleries/documentos/portfolio-report/2021_6bi_Amazon-Fund-Portfolio-Report.pdf (last seen: 03. 22.2022)

²⁸ AMAZON FUND. **Activity Report 2020.** Available at: http://www.amazonfund.gov.br/export/sites/default/en/.galleries/documentos/rafa/RAFA_2020_en.pdf p.28 (last seen: 03.23.2022)

that's why we understand it is essential to immediately reactivate the Amazon Fund operations, as well as its Guidance Committee (COFA)" ²⁹.

Besides the Amazon Fund, the Ministry of the Environment, and its affiliated entities (such as IBAMA) have also suffered severe restrictions in budget and budget spending, since 2019 – especially on activities regarding the fight against Amazon deforestation. The General Controller's Office identified: "relevant reduction on the budget, in the last four years (2016 to 2019), to [the programs on Climate Change, Biodiversity Conservation, and Environmental Quality], going from about R\$175 million to only R\$ 20 million, which means that there was a reduction of almost 90% on funding" ³⁰.

Observatório do Clima (*Climate Observatory*) identified that, until December 31st, 2021, **the Ministry of the Environment spent the lowest level of its budget since 2000** (in updated values based on monetary correction)³¹. Spending in 2020 was the lowest in history (as illustrated in the graph below)³². **In 2021, IBAMA spent only 41% of its budget allocated to deforestation inspection activities**³³. This percentage is much lower than in the years before 2019³⁴. Between 2016 and 2018, for example, IBAMA spent from 86% to 92% of the budget allocated to deforestation inspection activities³⁵.

²⁹ SENATE, Environment Commission. Evaluation Report of the National Policy on Climate Change. 2019. (SENADO FEDERAL, Comissão de Meio Ambiente. **Relatório de Avaliação da Política Nacional sobre Mudança do Clima**. 2019). Available for download: <https://legis.senado.leg.br/sdleg-getter/documento/download/be24ff00-0608-4f8b-9d57-804c33097882> (last seen: 03.22.2022)

³⁰ CONTROLADORIA-GERAL DA UNIÃO. **Relatório de Avaliação**: Secretaria Executiva – Ministério do Meio Ambiente. 2019. p. 12. Available at: <https://www.gov.br/mma/pt-br/aceso-a-informacao/transparencia-e-prestacao-de-contas/exercicio-2019/relatorio-de-avaliacao-cgu-2019.pdf> (last seen 03.23.2022).

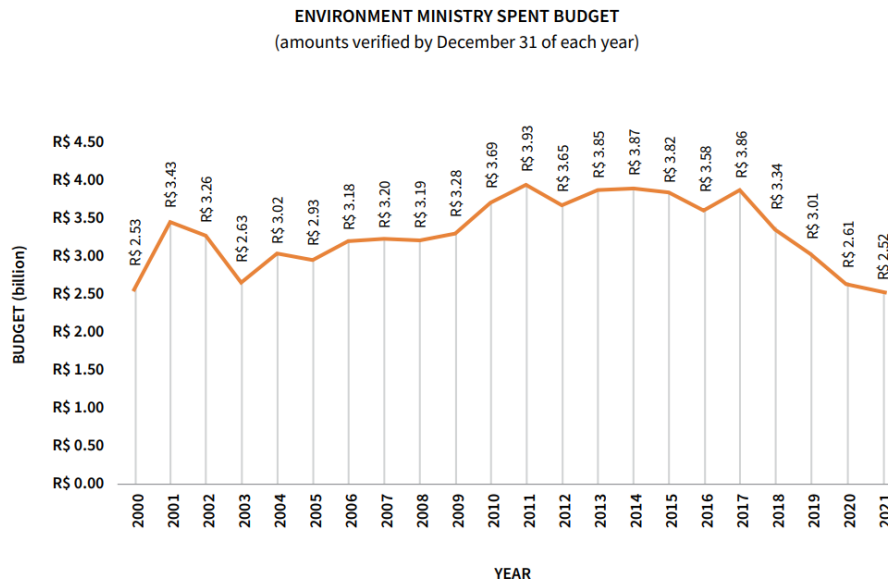
³¹ OBSERVATÓRIO DO CLIMA. **The Bill Has Come Due: the third year of environmental havoc under Jair Bolsonaro**. 2022. p. 13. Available at: <https://www.oc.eco.br/wp-content/uploads/2022/02/Relato%CC%81rio-OC.pdf> (last seen: 03.23.2022)

³² Idem

³³ Idem

³⁴ Idem

³⁵ Idem



Considering the sharp increase in deforestation rates in the Amazon since 2018, these numbers provide a loud and clear sign: **not enough money has been spent by the government to prevent deforestation.**

The lack of budget to implement public policies, combined with the lack of expenditure of the available budget, have been prejudicial to the efforts against deforestation. Given the connection between Amazon deforestation and climate change, this failure violates the basic human right to a clean, healthy and sustainable environment. With this scenario in mind, the subscribing organizations suggest the following recommendations to be issued to Brazil as a matter of urgency:

To resume the Amazon Fund's operations, as well as other funding mechanisms to promote the inspection, protection and sustainable use of the forest and its protected areas.

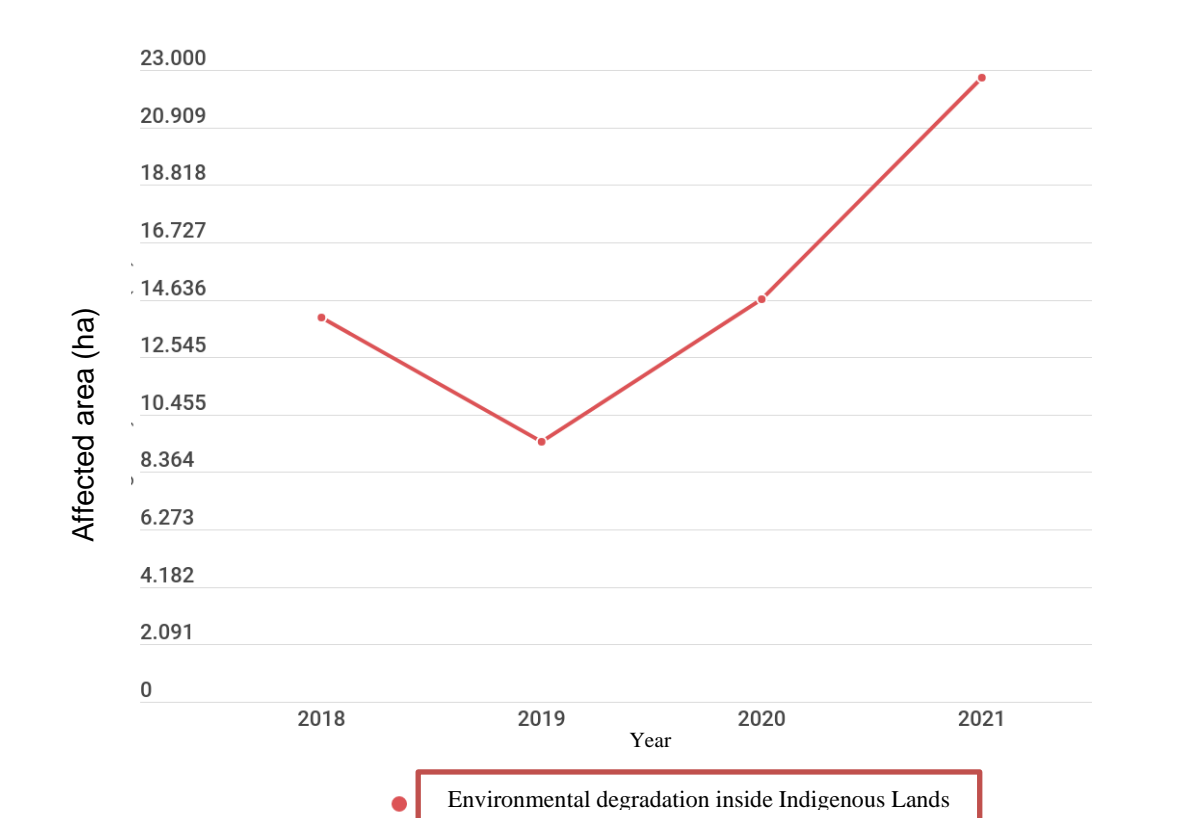
To immediately resume actions to halt illegal deforestation, by restoring the budget of the Ministry of the Environment (in updated values based on monetary correction), and hiring staff for IBAMA, so the agency has the conditions, based on 2014 levels, to inspect and impose penalties against wrongdoers.

2.3 Deforestation and environmental degradation inside Indigenous Lands in the Amazon

Deforestation in the Amazon escalated in the last four years, and the increase of rainforest destruction inside Indigenous Lands is especially disturbing. According to official data gathered by Instituto Socioambiental (*Socio-environmental Institute*), **deforestation inside Indigenous Lands increased 138% in the last three years (2019 to 2021) compared to the three previous years (2016**

to 2018)³⁶. In 2021 alone, deforestation impacted 155 Indigenous Lands, affecting 32,864 hectares (three times the size of Paris). This is equivalent to **more than 18 million trees cut down**.

According also to Instituto Socioambiental (*Socio-environmental Institute*), since 2019 illegal logging, mining and fires have increased 140% inside Indigenous Land. This happened due to the increase of illegal activities perpetrated by illegal gold miners, loggers, and land grabbers, who saw in the lack of punishment and inspection an opportunity for committing those crimes without facing any type of legal consequence:



In 2021, over 55.000 hectares of Indigenous Land were deforested or suffered forest degradation, an area larger than Andorra. The table below shows the deforestation area inside the twenty most affected Indigenous Lands:

³⁶ The report was produced for the purpose of basing the manifestation of APIB in a lawsuit (Arguição de Descumprimento de Preceito Fundamental – ADPF nº 709), in progress before the Federal Supreme Court, which deals with the indigenous peoples' right to life, health and territories, that were seriously affected by the Covid-19 pandemic. The report is available at: https://acervo.socioambiental.org/sites/default/files/documents/prov0448_0.pdf (last seen: 03.22.2022).

Indigenous Land (IL)	State	Deforestation (ha)
L Apyterewa	Pará	6.771,21
IL Trincadeira/Bacajá	Pará	3.552,79
IL Kayapó	Pará	2.573,96
IL Cachoeira Seca	Pará	2.345,38
IL Mundurucu	Pará	2.212,30
IL Piripkura	Mato Grosso	2.151,98
IL Sete de Setembro	Rondônia and Mato Grosso	1.478,70
IL Marãiwatsédé	Mato Grosso	1.039,89
IL Kayabi	Pará and Mato Grosso	842,75
IL Karipuna	Rondônia	669,72
IL Ituna/Itatá	Pará	440,87
IL Roosevelt	Rondônia and Mato Grosso	345,15
IL Arara do Rio Branco	Mato Grosso	331,88
IL Tenharim Marmelos	Amazonas	282,39
IL Manoki	Mato Grosso	252,65
IL Sai Cinza	Pará	251,45
IL Bacurizinho	Amazonas	242,65
IL Sarauá	Pará	206,55
IL Sissáíma	Amazonas	202,73
IL Jauary	Amazonas	201,90

Those numbers show how **Indigenous Lands are under systematic invasions**. This situation violates Indigenous Peoples rights, undermines the protection of the Amazon and makes the global efforts to mitigate the climate emergency unfeasible.

Moreover, since 2019, following his electoral campaign promises, **President Bolsonaro** has frozen the procedures to demarcate Indigenous Lands. This means that, **since he took office no new areas have been recognized as Indigenous Lands³⁷, even though there are more than 200 areas under formal review, conducted by federal entities, waiting to be declared Indigenous Lands³⁸**.

³⁷According to information gathered by the Instituto Socioambiental, available at: <https://widgets.socioambiental.org/pt-br/placares> (last seen: 03.22.2022).

³⁸ According to information consolidated by the Instituto Socioambiental (Socio-Environmental Institute) and the Fundação Nacional do Índio (Indigenous National Foundation), an official body of the Brazilian government. Information available, respectively, at:

Since Indigenous Land are the most preserved types of protected areas in the country³⁹, the interruption in the demarcation process has been leaving large parts of the territory unprotected and Indigenous populations in a vulnerable position.

Considering this critical, the subscribing organizations urge the following recommendations to be issued to Brazil:

To resume the implementation of the National Policy for Environmental Management of Indigenous Lands (NPEMIL), allocating resources to the implementation of those Territorial and Environmental Management Plans that have already been elaborated by organizations and Indigenous communities.

To resume and conclude, by 2026, at least 50% of Indigenous lands' demarcations by the Indigenous People Federal Agency (FUNAI), recognizing adequate land rights to Indigenous peoples.

3. Reasons for non-implementation: expectations that legislation will change and promote impunity and further deforestation

Widespread impunity, as perceived by society, was a key factor to the unprecedented increase in deforestation. This perception comes not only from the interruption in administrative penalties and fewer inspection operations, but also from the promises made by several public authorities (President Bolsonaro included) that illegal activities would be tolerated and would become legal. **According to the Brazilian Federal Court of Accounts “authorities from the Executive branch, especially the President of Brazil, and the Ministry of the Environment, have been delivering messages that harm IBAMA’s inspection activities and potentially incentivize deforestation in the Amazon”⁴⁰.**

Currently, there is a set of bills tabled in the Brazilian Congress, supported by the Federal Government⁴¹, which, if approved, would cause enormous harm to the rainforest. Indeed, if

https://pib.socioambiental.org/pt/Situa%C3%A7%C3%A3o_jur%C3%ADdica_das_TIs_no_Brasil_hoje e <https://www.gov.br/funai/pt-br/atuacao/terras-indigenas/demarcacao-de-terras-indigenas> (last seen: 03.22.2022).

³⁹ According to a survey produced by the MapBiomass project, based on official databases. Available at: <https://ipam.org.br/imagens-de-satelite-comprovam-que-terras-indigenas-sao-as-areas-mais-preservadas-do-brasil-nas-ultimas-decadas/> (last seen: 03.22.2022).

⁴⁰ FEDERAL COURT OF ACCOUNTS - TC 038.045/2019-2. p.20 Available at: <https://portal.tcu.gov.br/imprensa/noticias/aumento-do-desmatamento-e-reducao-na-aplicacao-de-sancoes-administrativas.htm> (last seen: 29.03.2022)

⁴¹ Ordinance No. 667/2022, which establishes the Federal Government's Priority Legislative Agenda for the year 2022. Available at: <https://www.in.gov.br/en/web/dou/-/portaria-n-667-de-9-de-fevereiro-de-2022-379226707> (last seen: 03.23.2022)

approved, it would make impossible to control deforestation. Laws that protect both public and private forests would be weakened. Rights guaranteed to Indigenous people would be abolished.

One of those bills, PL 510, popularly known as the "Land grabbers Bill", is likely to benefit land grabbers. It would allow invaders of public forests to become the legal owners of the land they invaded and to engage in agricultural activities. Public forests occupy 57,5 million hectares of the Amazon - an area the size of Spain. According to data from Instituto de Pesquisa Ambiental da Amazônia (*Amazon Environmental Research Institute*) between 2019 and 2021, more than half (51%) of total deforestation in the Amazon occurred in public forests⁴². The reason for this is an expectation that the illegal invasion, today considered a crime, will be eventually forgiven and legalized by this new set of bills, such as PL 510/2021. According to the current Public Forest Law⁴³, these lands should be destined either to Indigenous peoples and traditional communities who live in the place (through demarcation processes handled by federal agencies, such as the Indigenous People Federal Agency – FUNAI); or, where the land is not occupied, to activities compatible with forest maintenance, such as sustainable logging. PL 510/21 inverts these priorities by favoring activities that can be very destructive to the forest, such as unsustainable farming and logging.

Another bill that can profoundly affect deforestation is the PLS 2.159/2021⁴⁴, which establishes new rules for environmental licensing. The bill is likely to weaken the environmental impact evaluation of large infrastructure projects as well as the measures of control that may be requested by public authorities. According to Instituto Socioambiental (*Socio-environmental Instituto*) and Universidade Federal de Minas Gerais (*Federal University of Minas Gerais*), if the bill was approved and its dispositions were enforced, the implementation of only one highway (BR-319) would elevate the deforestation rate to 9.400 km² per year in 2050, only in the State of Amazonas, which is one of the nine states that form the Amazon. The deforestation resulting from this project would be equivalent to the 2019 deforestation rate of the entire Brazilian Amazon⁴⁵.

Another bill worth mentioning is PL 191/2020, which allows land grabbing, industrial gold mining, and exploitation of hydroelectricity, oil, and farming on Indigenous land, without indigenous peoples' and communities' consent. These activities are currently banned in Indigenous Lands, of which 98% are forests. Therefore, this bill represents an enormous threat to forest and its peoples.

⁴² ALENCAR, Ane. **Amazônia em chamas: o novo e alarmante patamar do desmatamento na Amazônia**. INSTITUTO DE PESQUISA AMBIENTAL DA AMAZÔNIA. 2022. Available at: <https://ipam.org.br/desmatamento-na-amazonia-cresceu-566-sob-governo-bolsonaro/> (last seen: 03.23.2022)

⁴³ Federal Law n.º 11284/06.

⁴⁴ Brazilian Senate's identification number for the General Environmental Licensing Bill. Brazilian Chambers of Deputy have already approved this Bill. Chamber's of Deputy identification number for this Bill was PL 3.179/2004.

⁴⁵ SOARES Filho, Britaldo Silveira, et al. **Technical Note: Analysis of Impacto f the General Environmental Licensing Law On Amazon Deforestation and Climate Change**. INSTITUTO SOCIOAMBIENTAL e UNIVERSIDADE FEDERAL DE MINAS GERAIS. 2021. Available at: https://www.socioambiental.org/sites/blog.socioambiental.org/files/nsa/arquivos/nota_tecnica_licenciamento_a_ambiental_isa-ufmg_pl_3729-2004_-_versao_final_-_pdf.eng_.pdf (last seen: 03.23.2022)

With these in mind, the subscribing organizations suggest the following recommendations to be issued to Brazil as a matter of urgency:

To cease any legislative changes and new legal measures that may:

- *facilitate or encourage deforestation, especially in the Amazon and Cerrado biomes;*
- *allow private appropriation of public land, invaded after December 22, 2011;*
- *waive or weaken the environmental impact assessment of large infrastructure projects;*
- *allow, without indigenous peoples and traditional communities consent, mining hydroelectric exploitation and farming on indigenous land; and*
- *reduce the limits of indigenous land already demarcated.*

To abstain from reducing the boundaries of Protected Areas and Indigenous lands.