



# POLICY BRIEF

## LEGISLATIVE PACKAGE THAT THREATENS THE AMAZON ON THE TABLE OF THE BRAZILIAN SENATE FOR 2022

The Federal Senate of Brazil postponed to 2022 the vote on two bills that, if approved, will contribute enormously to the increase in deforestation and violence against indigenous peoples and traditional communities in the country, especially in the Amazon. This will lead Brazil to the opposite direction of that [pledged during COP 26](#) and create a perfect storm that will make it harder to battle deforestation in the next years, pushing the ecosystem close to its [tipping point](#), what threatens the entire Planet.

Both bills, that change the current legislation on land grabbing and environmental impact assessment, are being analyzed at the same time by the environment and agriculture commissions of the Senate, and were almost approved in the second week of December 2021. Due to public outcry and a congested end of legislative year, the sessions that would analyze both bills were canceled and will resume again in 2022, when the National Congress resume its operations (in the beginning of February).

### Land Grabbing Bill (PL 2633/PL 510)

One of the bills (PL 2633, that is being discussed together with PL 510, in a unique text) intends to benefit invaders of public forests (land grabbers). Main problems of the bill:

- **Legalize invasions in public forests, inducing further deforestation**

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 as indigenous lands or protected areas<sup>1</sup>. Under Brazilian law, public lands with forests should be allocated preferentially to sustainable logging, once the territorial rights of the traditional communities that live in them are recognized.

But the legislation also allows individuals who have been engaged in agricultural activities on public lands for a long time to be granted the land title. This process is known as *land title 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 (**currently is 2011**). Any invasion that occurs after that date is considered a crime and must be punished, with the land reverted to forest management or environmental conservation.

The **PL 510 changes the deadline that allows invaders to be granted the land title, extending it from 2011 to 2017** (art.38, §1, I), and allows public lands invaded after 2017 to

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<sup>1</sup>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

be sold for agricultural use through public auctions, **in practice revoking the deadline**. 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**<sup>2</sup>. With a land title, **the invader can legally convert forest into agricultural use and sell the land at high profit**. 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 deadline. This is exactly what the bill supported by Bolsonaro intends to do. With a new modification, which would allow the private ownership of more than 500 thousand hectares of invaded public land, the message that will be sent is that **new invasions will not be punished**; on the contrary, will be awarded with a land title, stimulating the land grabbing economy, that currently is responsible for 40% of the deforestation in the region.

- **Weakens the existing verification mechanisms, which exist to prevent fraud in the land titling**

In addition to changing the deadline, the bill also weakens the existing verification mechanisms, which exist to prevent fraud in the regularization process. Under the current legislation, only small occupations (< 400 ha) can be granted land title without field inspection, based on the squatter declaration. The bill extend this to bigger occupations (up to 1.500 ha), what means that this fast track will be applied to plus 6,6 million hectares (1,5 times the Netherlands size) of large size invasions. This is a real threaten to indigenous and traditional communities land rights, as without field inspection it will not be possible to identify when the claimant is trying to register a land that, in fact, is not being occupied by him, but by these communities.

- **Legalize the land grabbing economy**

Finally, it authorizes individuals who have already invaded public lands and received land titles to be granted a new title over a new invasion, which legalizes the business of invasion and sale of public land.

According to Imazon<sup>3</sup>, 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 km<sup>2</sup> by 2027**. With the approval of the bill, 1.43 billion tons of CO<sub>2</sub>-eq would be released into the atmosphere in about a decade<sup>4</sup>, which is equivalent to almost five years of emissions from a country like France<sup>5</sup>.

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.

The rapporteur of this bill is **Senator Carlos Fávaro**, from Mato Grosso state, who has close ties with the most conservative part of the agribusiness sector and is from the government

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<sup>2</sup> 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.

<sup>3</sup> BRITO, Brenda et al. Stimulus for land grabbing and deforestation in the Brazilian Amazon. *Environmental Research Letters*, v.14, n.6, p.064018, 2019.

<sup>4</sup> Apud IPAM Amazônia - | Florestas públicas não destinadas & grilagem

<sup>5</sup> In 2018 France emitted 311 million CO<sub>2</sub> and (• France: CO<sub>2</sub> emissions 2006-2018 | Statista)



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support basis. He presented his report on December 8<sup>th</sup>, in which proposes to overturn the text approved by the Chamber of Deputies and introduce many negative topics (described above) in an already problematic bill.

## Environmental Licensing Bill (PL 3729/04)

The PL 3729/04 changes the Environmental Impact Assessment (EIA) legislation in the country. The 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 main problems are:

- **Weaken the control over deforestation induced by the construction or improvement of roads that cross well preserved forest regions**

The **most worrying change** is the one that intends to **end the analysis and mitigation of the indirect impacts promoted by the proposed 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 Bolsonaro Government is **to facilitate the reconstruction and installation of new roads in the Amazon**, which currently have difficulties in obtaining an environmental license because they are important drivers of invasion of indigenous lands, protected areas and deforestation.

Studies show that, between 1997 and 2013, 95% of all deforestation in the Amazon occurred within 5.5 km of an official or unofficial highway<sup>6</sup>. 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 without proper measures**<sup>7</sup>. Most of this deforestation is made by land grabbers, what can become even worsen if the PL 510 is approved.

- **Allows high impact projects to be installed without environmental assessment**

The bill brings a long list of activities (sewage treatment, agricultural activities, others) that will not need environmental assessment (EA) anymore. On the top of this, it allows municipalities and states to freely decide if a certain project needs EA previously to its installation, what will

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<sup>6</sup> [https://www.sciencedirect.com/science/article/pii/S000632071400264X?casa\\_token=a-fRk8dXi8kAAAAA:c-JFMsGGxTYg8pggfihM9KeUoDMG8OBED2-JvmNyQCK71E0iqcCu63oV5u4LlaR15kuWs8ZPIA](https://www.sciencedirect.com/science/article/pii/S000632071400264X?casa_token=a-fRk8dXi8kAAAAA:c-JFMsGGxTYg8pggfihM9KeUoDMG8OBED2-JvmNyQCK71E0iqcCu63oV5u4LlaR15kuWs8ZPIA)

<sup>7</sup> <https://www.mdpi.com/1999-4907/9/10/600>



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create a race to the bottom. Currently there is a national list of projects and activities that can only be installed after EA.

- **Allows automatic licensing of most projects, including mining and road improvement**

The bill creates an automatic licensing system that can be applied to any project, besides those with very high impact. Under this system, the license will be granted to anyone that fill an online form compromising himself to follow a set of environmental guidelines, without any interaction with the environmental authority or any field inspections to assure that what has been declared is true. Civil society organizations and experts agree with automatic licensing, but only if applied to low risk projects, what is not the case of the bill.

The rapporteur is Senator **Katia Abreu**, from Tocantins state. Former President of the National Farmers Union, she also has very close ties with the agribusiness sector and is currently the Chair of the Foreign Affairs Committee of the Senate. She has publicly promised to improve the text approved by the Chamber of Deputies but has not presented her proposal yet, so there is no public text available. She was supposed to read her report on **December 9<sup>th</sup>**, but an agreement with the chair of the Environment Commission **postponed it to 2022**.

## Legislative process

The Senate resume its operations by February 2022. Both commissions (Agriculture and Environment) will maintain the current chairs (Acir Gurgacz and Jaques Wagner) and composition, what means that they will be ready to start working soon, as there is no need to appoint new members, what usually takes time.

After being voted in both commissions, the bills need to be approved by the floor. This can happens at any moment, as there is no need to have public discussions before votation and, if there is any difference between the versions approved by both commissions, a new rapporteur will be designated to present the bill to the floor. As 2022 is an electoral year, the political window to approve new matters close around July, when most senator go back to their states to work in the election and the National Congress starts an informal break that last until November, after elections. Taking this into consideration, is possible that supporters of these bills will try to approve them between March and June.

These bills are ostensibly supported by President Bolsonaro and were recently (June 2021) approved by the Chamber of Deputies. Thus, if also approved by the Senate, the reviewing house, these bills will be very close to becoming law. If they are not changed, they will go directly to presidential sanction - and if they are improved, the Chamber of Deputies, where Bolsonaro has a more secure majority, will have the final opinion, being able to overturn the modifications.

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