

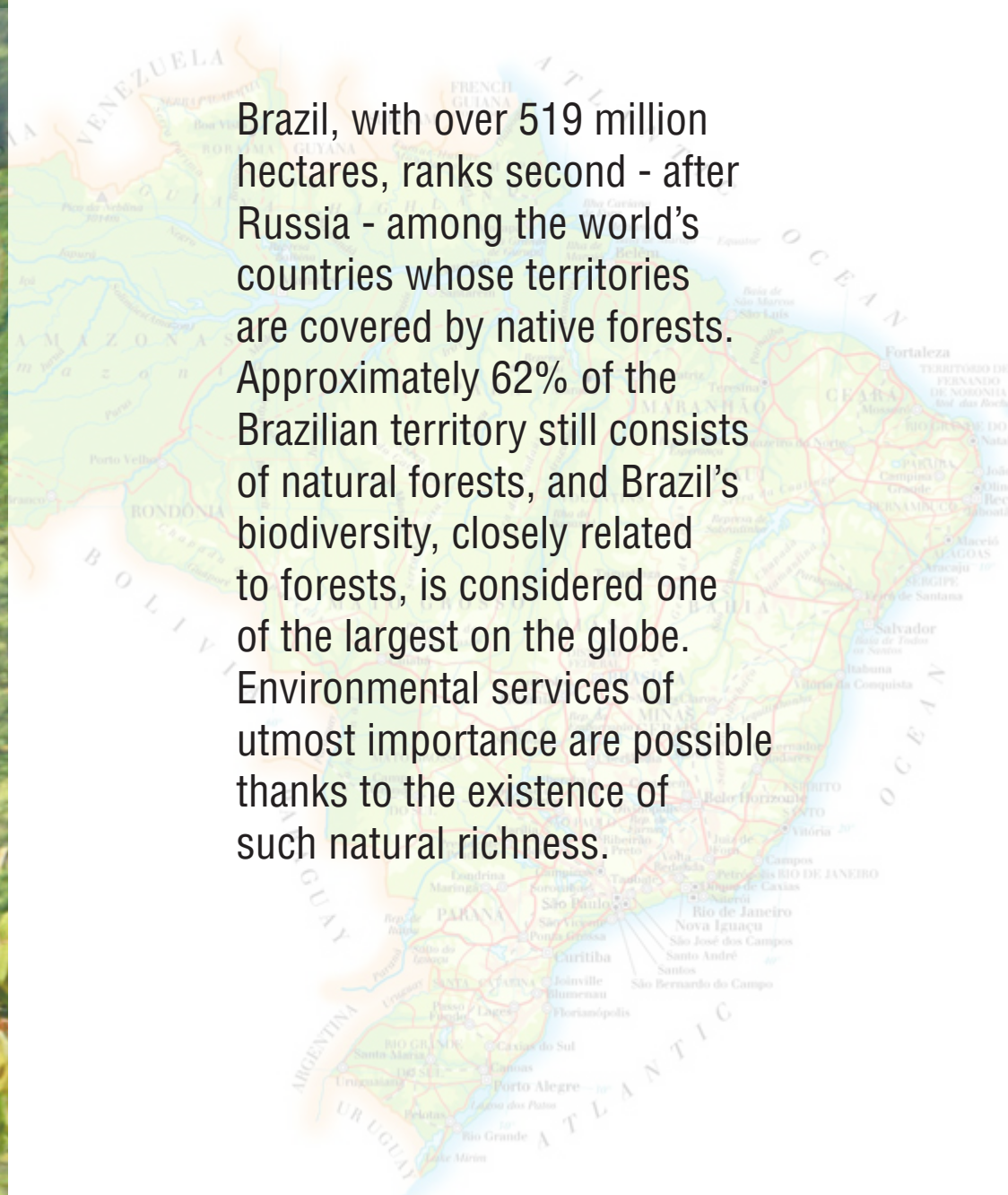
Brazil | AMAZONIA | ENVIRONMENT

**Changes to Brazil's
Forestry Code:**
an example of
backing down and
lack of commitment
to the future





Brazil, with over 519 million hectares, ranks second - after Russia - among the world's countries whose territories are covered by native forests. Approximately 62% of the Brazilian territory still consists of natural forests, and Brazil's biodiversity, closely related to forests, is considered one of the largest on the globe. Environmental services of utmost importance are possible thanks to the existence of such natural richness.




The Forestry Code currently in force in Brazil, which resulted from the need for perfecting previous legislation on the subject, dates back to 1965. Throughout the past three decades, this 46 year-old Code has been subjected to different laws and provisional regulations meant for improving it as part of an intent for adapting environmental preservation policies to present-day conditions.

The Brazilian Parliament is currently considering a proposal for a Forestry Code Reform that was submitted in the year 1999. So far, during the 12 years elapsed, the law reform bill has undergone several modifications prior to the approval by the House of Representatives. Later on the Senate passed an amendment that implied changes to the original bill approved by the Representatives, so the subject will have to be considered again at the lower chamber.

Contrary to what occurred in 1965, the current proposal for amending the Forestry Code is not necessarily based on a concern about the preservation of forests in Brazil, but rather the opposite.

Sectors related to the field of agro-business have been putting pressure on both the Parliament and the Government for reducing the protection of forests in order to allow for agricultural and livestock activities to expand over areas of native forests while granting pardons to those who have infringed environmental laws.



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A very simple reason can explain the present onslaught of the so-called “*ruralist group*” within the National Congress in Brazil aimed at dismantling not only the Forestry Code **but also all environmental laws applicable in the country, along with the government’s structures responsible for implementing such regulations.** All changes introduced in the 1965 Forestry Code during the past years have broadened the demands and restrictions on property seeking to guarantee a greater degree of environmental protection. Parallel to this, other laws have also been passed to clear the way for the State to impart stronger controls and supervision.

Despite the referred legal modifications and their objectives, the level of compliance with environmental laws continues to be significantly below expectations, due to the typical lack of structuring in the official bodies and entities responsible for environmental controls and inspection.

Recent improvements in the usual patterns applied to public issues have led to an increased number of economic, controlling and management instruments in what concerns the environment, and this has disappointed offenders. What we can conclude from this is that, the advances in law-making in this field have come true only because the conservative forces of the economy never thought this was

possible within the governmental sphere. Upon realizing that the law was actually on its way to being applied, these forces turned around and started to mess around with Brazil’s present framework on environmental legislation. Those who stand by the changes officially justify their position with the argument that the current laws hinder the expansion of food production and drives thousands of rural producers to poverty and/or illegality. However, that is not the opinion of Brazilian scientific organizations traditionally focused on agricultural research.

Two of the main representatives of Brazilian academicians, the entities known as **SBPC** (as per its Portuguese acronym: *Brazilian Society for Scientific Advances*), and **ABC** (*Brazilian Academy of Sciences*), **have published a joint research to scientifically prove the irrelevance of the present proposals for changing the law. In addition to such changes being unnecessary from the viewpoint of agricultural and livestock production, they also represent a great harm to the environment.**

Researchers from two of the most prestigious agricultural research agencies in Brazil - *Empresa Brasileira de Pesquisa Agropecuária* (**EMBRAPA** – *Brazilian Agricultural Research Enterprise*) and *Escuela Superior de Agricultura “Luiz de Queiroz” de la Universidad de São Paulo* (**ESALQ/**

The grazing land areas in Brazil are 3.5 times as the total of areas occupied by all other forms of agricultural production, thus proving the great potential available for expanding agricultural activities in already deforested areas, without the need for modifying the environmental legislation in force today.

USP-“Luiz de Queiroz” School of Agricultural Studies, University of Sao Paulo), have published articles of significance to demolish the arguments of ruralists regarding the alleged need for making environmental legislation more flexible towards increasing the viability of food production.


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In Brazil, livestock-raising is mostly an extensive activity with very low productivity levels. According to Brancalion et. al. (2012), the average capacity in Brazil’s cow production is 1.14 heads per Hectare. The author of the study indicates that this figure could

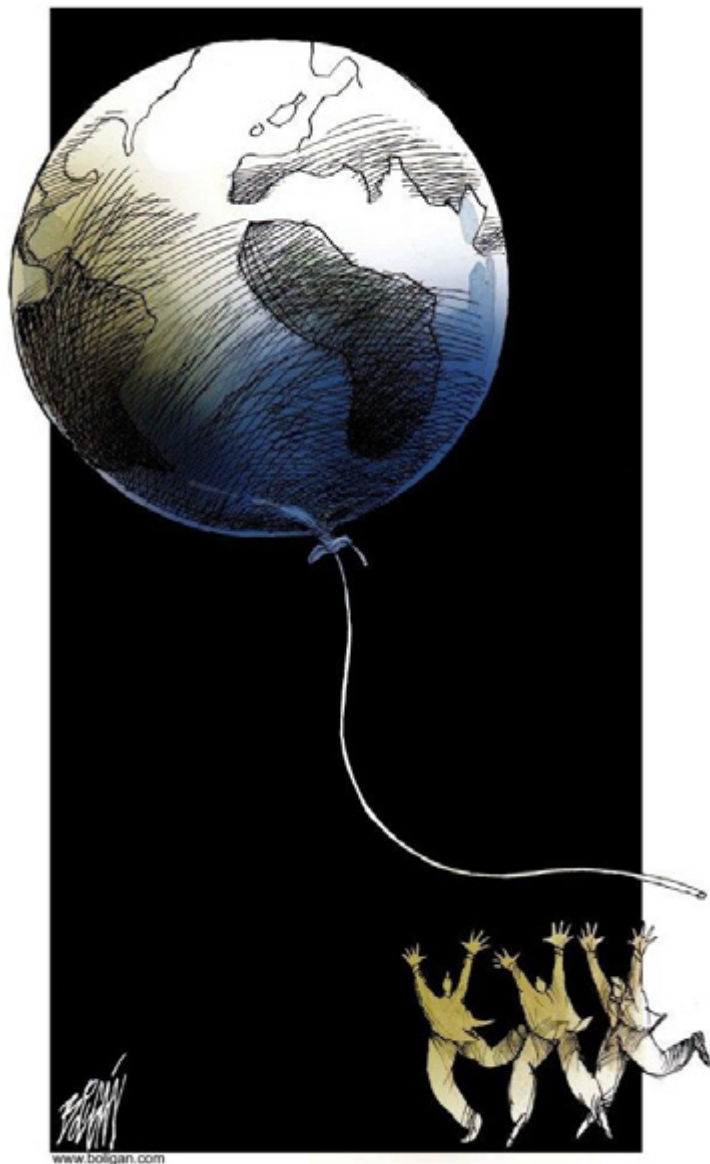
rise to an average rate of 1.5 heads/Ha by adopting more intensive technology, and this would mean the release of 69 million hectares to be used in agricultural activities.

This data shows that environmental policies are not only an issue for agriculture. Agricultural policies themselves also face a big problem, since they can hardly solve the problem of low productivity in livestock breeding.

Another argument used against the present Code is that apparently, it would not be founded on scientific data. In fact, at the time when the forest protection law was passed, related data was simply unavailable for providing the proposal with a scientific base.

An aerial photograph showing a large, rectangular agricultural field with a vibrant green crop. A prominent dirt road runs horizontally across the middle of the field. To the right, another dirt road runs parallel to the field's edge, separating it from a dense, dark green forest. The background shows a vast expanse of forest stretching to the horizon under a blue sky with scattered white clouds.

However, all the studies performed at later dates, even the most recent ones, have shown that the forest-protection instruments included in the current Code are either compatible with the scientific data available relative to requirements for maintaining ecologic stability, or otherwise do not fulfill such needs and call for legal perfecting, but in the sense of even stronger restrictions on land uses.



Procedural aspects of the New Bill relative to the Forestry Code

The bill introducing changes to the Forestry Code was approved by the lower chamber of parliament in May 2011, with wide support by the allied parties of the Federal Government as well as from the opposition.

Despite the support shown, the Government expressed an official position as to being against the document approved by the Representatives, and leaders in the executive power of government promoted further changes to the text of the bill in the Senate. The changes sought by the Government were indeed approved by the higher chamber of parliament in December 2011, though the changes so approved did not imply substantial changes to the contents of the bill, which remained as a backing down element in regards to the forestry protection policy.

Surveys carried out on Brazilian citizens revealed that most of them are opposed to the Forestry Code being changed.

As a consequence of the changes introduced to the bill in the Senate, it will have to be considered once again by the House of Representatives. **The Federal Government has been urging the Parliament to have the bill voted on prior to the Rio+20 event (the upcoming UN Conference on Environment to take place in Brazil), for it is the intention of the government to avoid a weak image in the eye of international public opinion.**

Research done on the population of Brazil has shown that the majority of people are against changes to the Forestry Code. The scientific community has been seriously critical of the rush that is evident in those willing to pass this bill, for they consider that the contents of the document proposed totally lack a scientific basis, so more time would be necessary for the Parliament to take into consideration, during their own debates, the opinion of scientific experts on the subject.

Non-governmental organizations connected with environmental issues, together with entities organized

within civil society, particularly those representing family agriculture and peasants in general, have been putting pressure on the President of the nation to have her veto any amendments, if any is approved by the Parliament. Despite all these battling actions, the member of both the Government and the Parliament continue to lack sensitivity regarding the subject and insist on passing the bill.



Changes proposed for the Forestry Code

The negative changes proposed may be classified into two groups: on one hand are the changes that abide by the current requirements maintaining them for the future but granting amnesty to those who have infringed the law in the past – which in practice hinders the recovery of the existing forestry liabilities -, on the other hand, changes that reduce the protection levels and allow further deforestation.

Among the proposals tending to amnesty is one that defines the concept of consolidated rural area, according to which the areas classified as consolidated would be those occupied prior to 22 July 2008.

The main purpose here is to grant amnesty to individuals liable for deforestation activities in regards to administrative as well as civil and criminal responsibility. This proposal for pardon leads to environmental injustice, for it punishes all those who in fact abode by the law all these years. In addition to this, the damages caused by a few who actually benefitted from environmental degradation will affect the whole population in the end.



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The changes currently under consideration at the House of Representatives also allow for releasing those responsible for having deforested up to four taxable modules (which could amount to 400 hectares) from the obligation to recover the deforested legal reserves. An important aspect to remember is that, in the present Forestry Code, small rural properties are those occupying an area not greater than 150 hectares.

Among the modifications approved by the Senate is the extended list of environmental interventions to be considered in the public and social interest, which will be allowed in permanent preservation areas. Even soccer stadiums will be allowed on areas occupied by gallery forests, in addition to infrastructures for education, leisure and cultural activities.

Several Amazonian properties will see their legal reserve areas reduced from 80 to 50%. The application of environmental compensations (financial contributions to make up for projects causing large-scale effects), currently

related to preservation units, will also include parks in urban areas, with purposes much more related to leisure than to preservation.

Among the changes approved by the Parliament, two are extremely serious insofar as they allow further deforestation. The first of them deals with the procedure for defining the limits of Permanent Preservation Areas (*Áreas de Preservação Permanente* - **APP**) that protect riparian forests. According to the Forestry Code in force, the permanent preservation areas of watercourses start at the maximum level of water reached during the rainy season. This is a fact fundamental in determining the flooding plains of rivers and even for protecting human settlements against possible floods, by banning the construction of housing in specific areas next to riverbanks.

Politicians at the Parliament wing it when they consider permanent preservation areas as starting at the “shore of the course, at the average height of the river”. But, what exactly is the average height of a river? According to the

definition provided in the Bill, it is “the average height of the course at which the water flows regularly throughout the year”. This means that, based on this new method for measurement, in many cases, it will be possible to implement constructions or plantations very close to the watercourse, since in several regions, the difference between the so-called “regular riverbed” and the boundary of the floodplain is really significant. **This means that the whole area could be subject to deforestation, since it will no longer be a protected area.**

The other amendment that implies further deforestation refers to the possibility of considering permanent preservation areas within the calculation of legal reserves. In general, according to the present Forestry Code, permanent preservation areas are not to be considered in the calculation of mandatory legal reserves, since the purpose of such areas is different from that of the legal reserve.

Nevertheless, some exceptions to this rule take into consideration the owners of small tracts of land and properties where the permanent preservation areas are significantly extended. The new Forestry Code would allow for any permanent protection area to be included in

the calculation of a legal reserve and this could probably constitute the aspect of most grave concern. Even when the regulation establishes that permanent preservation areas shall not be computed if that implies the conversion of new areas into alternative land uses, there is still no deadline for the deforestation that makes recording the legal reserve unviable to be calculated in the permanent preservation areas as per the percentage required. **This provision in the bill approved by the Senate is the one most permissive as far as the advance of deforestation is concerned.**




The consequences of approving the new Forestry Code

If approved by the Parliament, the new code will turn the National Policy on Climate Change practically unfeasible. This will show the world that, with its new legislation, Brazil will have no way of fulfilling its commitment to reduce the emission of greenhouse gases, and will bring about negative consequences for the country in the international scenario.

The worst consequences will be those affecting the quality of life. Biodiversity will be lost as a result of deforestation, and, once again, Brazil will miss opportunities for development based on the sustainable use of these riches which are the object of worldwide amazement.

Scientists have already explained that the changes proposed to the Forestry Code will prove detrimental even for agriculture. The National Water Agency (*Agência Nacional de Aguas - ANA*) has determined that the amended

law, and more specifically in what concerns Permanent Preservation Areas (*Áreas de preservação permanente - APP*), will negatively affect the quality of water sources, to the extent that the occupation of highlands is maintained, thus causing the contamination of underground water reservoirs that are aquifer recharge areas.

A photograph showing a vast, deforested landscape. The ground is covered in a dense layer of dark, charred tree trunks and branches, some standing upright and others lying horizontally. The soil is a mix of brown and grey, appearing barren and eroded. In the center of the image, a person wearing a dark t-shirt and blue shorts is walking away from the camera, carrying a black bag. The overall scene conveys a sense of environmental devastation and loss.

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¿Who will benefit from the new Code?

A deceiving argument repeated by the advocates of amendments to the Forestry Code is that such changes would benefit those working on small-scale land production. The study by **Brancalion et. al. (2012)** referred to above has concluded that such changes “will not imply specific advances towards better conditions for production, neither among small-scale landowners, nor for family agriculture”.



Those who will really benefit from the changes are corporations, businessmen and landowners in the field of great agro-businesses. Stockbreeders, producers of agricultural commodities, timber companies, the sugar-alcohol sector, as well as the industry of agro-chemicals and genetically-modified seeds are among the interested parties who promote the idea of attacking environmental laws.

As per data informed by the National Rural Land Registry System (**SNCR**), 65% of Brazil's rural properties represent less than one taxable module, meaning that they do not provide the support for rural workers.

Consequently, excluding properties of up to four modules from the forest reserve would obviously not be the solution to the problems of family agriculture. Several entities related with family agriculture, like the *Comisión Pastoral de la Tierra (CPT)* y el *Movimiento de los Pequeños Agricultores (MPA)*, have clearly made public their opposition to the changes proposed for the Forestry Code. The actual beneficiaries of these changes will be corporations, entrepreneurs and landowners linked to great agro-businesses. Stockbreeders, producers of agricultural commodities, timber companies, the sugar-alcohol sector, as well as the industry of agro-

chemicals and genetically-modified seeds are among the interested parties who promote the idea of attacking environmental laws.

The food production sector is not the one claiming for changes, since the agricultural expansion taking place is not actually being built to replace the demand for basic foods regularly used by the community (like rice, beans, tapioca and other crops). On the contrary, the production of crops meant for exports is expanding, such as the cases of sugar and soy.

Conclusions

Based on the above, we could conclude that the process that is currently changing Brazil's Forestry Code is in fact a significant drawback in what concerns forestry protection and the equitable distribution of riches derived from Brazil's biodiversity and other natural resources.

The proposed changes to the law lack scientific bases and are perversely focused on concentrating profits and social unfairness, since it represents benefits only for large corporations and the owners of large extensions of land.

In addition to the harm it will represent for the whole nation, approving the new law will mean losing the chance for sustainable development, due to the quick extinction of natural resources, as a result of non-corrected forestry liabilities and even further deforestation.



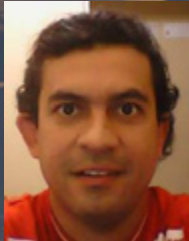
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