

## **Rain One's Characterization of the Amazon**

From a Legal/Political Perspective

### **Legal/Political:**

#### **Good Laws (lack enforcement – no teeth):**

(All of the following laws are good laws with respect to environmental protection as well as access to biological diversity for research. The only problem with them is the lack of enforcement. The laws themselves have the potential to help preserve the rain forest but since they are not being followed, they are inutile.)

#### **Export/import**

- *In Brazil, imports of non-native organisms require prior authorization from the MMA and/or the Ministry of Agriculture and Supply.*
- Decree No. 24,114 establishes the norms for importing plants and plant parts, insects and micro-organisms for commercial or research purposes and establishes quarantine procedure for the exchange of live organisms destined for research in the biological control of pests, disease and weeds, as well as other lines of research.
- Decree No. 24, 548 establishes the regulations for importing domestic stock for farming.
- Decree No. 221 establishes the norms for importing aquatic species of any stage of development.
- Edict No. 29 establishes the regulations for imports of wild organisms
- Edict No. 142 prohibits the breeding or commercialization of non-native catfish in the Amazon and Paraguay River Basins in order to protect local fish communities and biological diversity.
- Genetically modified organisms are not allowed into Brazil as a result of a report by the National Technical Commission for BioSafety.
- Plant germplasm can only come into the country for research purposes and with special authorization from the Ministry of Agriculture and Supply. The Phytosanitary Certificate must bear a declaration that the material is free from pests or pathogenic agents, or else it will be destroyed.

#### **Environmental protection**

*Protection of new species legislation:*

Cultivar Protection Law No. 9, 456 - cultivars can be protected which are homogeneous, stable, and clearly distinct from other existing cultivars. A person who develops new genetic material, has the right to apply for a Certificate for Cultivar Protection that will guarantee the property and the rights to receive money. To obtain the protection, the applicant must describe the characteristics of the cultivar and demonstrate its homogeneity, stability, and distinctiveness.

*The Forest Code (specifically law no. 4,771)*

- Defines Areas of Permanent Protection as the forests and other forms of vegetation found alongside water courses, lagoons and headwaters, coastal sandy-soil (restigna), on the top or slopes of hills, on the slopes leading to coastal lowlands and plateaux and on land above 1,800 meters in altitude.
  - The law also prohibits the use of fire in forests and in "other forms of vegetation," except when authorized by the forestry authority, with prison sentences of up to one year for offenders. (*Perhaps this part of the law should be more strict*).
  - Also, under this law, the State has power to create National Parks, Biological Reserves, and National Forests (*Clearly the states can do their part under this law to protect a big chunk of the forested area*).
- Law of Environmental Crimes*
- Punishes any director, administrator, member of technical council or board, auditor, manager, agent or representative of a company who knew of the criminal conduct but did nothing to prevent it.
  - Restricting right penalties - replace prison sentences. This places an excellent instrument at the judge's disposal, allowing him to select the most appropriate option for the case, from the point of view of dealing with the culprit and the environmental damage caused. Examples include community service, suspension of activities, payment for damage caused, etc. (There should definitely be more laws like this one).
  - The Brazilian government will offer all necessary cooperation to any other country for the production of evidence, examination of objects and places, temporary presence of any prisoner whose evidence may be relevant to the decision of a case

### **Scientific study (permits, visas, etc.)**

All foreign visitors are required to present a passport and a visa, which can be obtained from the Brazilian Consulate general. An international certificate of vaccination against polio is recommended for all travelers. Also, all scientific expeditions must be authorized and supervised by the Brazilian Science Council of the Ministry of Science and Technology. Collected material leaving the country is inspected and inventoried, and representative samples, as well as pressings, copies, photographs, or drawings of the scientific material must be donated to an institution designated by the council. Transit through indigenous lands or federal protected areas also requires permits from the National Indian Foundation (FUNAI) and IBAMA.

### **Miscellaneous**

#### *Industrial Property Legislation:*

Law No. 9, 279 innovative inventions, activities, and industrial applications can be patented for a period of 20 years but the law forbids the patenting of all or part of natural living beings and biological material found in nature, or isolated from it, including the genome or germplasm of any natural living being or natural biological process. Plants and animals

therefore cannot be patented but transgenic (possessing a characteristic that cannot be achieved by the species in natural conditions) micro-organisms can. Also, certain categories of inventions, such as pharmaceuticals, food and chemical products and metal alloys can now be patented (a good thing since materials can be extracted from the Amazon without exploiting the rain forest i.e. antibiotics, narcotics, abortive drugs, contraceptives, anticoagulants, fungicides, anaesthetics, muscular relaxants, and antidiarrheal and antiviral medicines).

Advances in regulating access to biological diversity (previously covered - information can be found in September 23rd archive).

### **Bad laws (unintentionally bad):**

There are six main areas of the Brazilian laws that directly or indirectly encourage the deforestation of the Amazon by doing one or more of the following:

increasing demand for farm, pasture, or ranch lands and thus destroying any possibilities for success for projects or programs that try to preserve the rainforest.

These six areas are:

1. Taxes on agricultural income
2. Rules of land allocation
3. Land Taxes
4. Capital gains and commodity taxes
5. Regional and sectoral taxes
6. Provision for credit

#### **1. Taxes on Agricultural Income**

- laws almost completely (80%-90%) exempt agricultural income, creating a tax shelter for large corporations and ranches
- creates large demand for land by urban investors and corporations
- results in unequal ownership of land- large farms buy up smaller ones
- can choose between being taxed on 10% of agricultural income or cost of modern inputs or investments subtracted from gross agricultural income

#### **2. Rules for Land Allocation**

- corporate projects approved by SUDAM or the Grande Carajas program receive special preferences for land titling
- individuals most effective way of showing claim to land is by squatting--> direito de posse
- recognized since 1850; squatter, or posseiro, who lives on public land and used it 'effectively' for one year and one day has right to over 100 hectares
- if squatter uses land 'effectively' for five years, has right to obtain title
- SAME GOES FOR SQUATTING ON PRIVATE LAND
- squatters in Grandes Carajas area, for example, get preference to obtain title for up to three times the area which he or she cleared of forest ----> GIVES PEOPLE AN INCENTIVE TO RAPIDLY DEFOREST LARGE AREAS

- in many areas, large corporations and large ranches are allocated most of land because they have means to build their own access roads into forest, while poorer farmers cannot
- Rondonia is one place where land is divided into small plots to prevent this--> WORLD BANK sponsors projects there
- clearing land dissuades squatters from invading land since they can't clear it themselves and lay claim

### **3. Land Taxes**

- normally, the larger the land holdings, the more you are taxed on
  - Estatuo de Terra provides for a progressive land tax
  - small farmers (less than 2 modulos) pay no land taxes
  - large farmers (more than 100 modulos) pay 3.5 % of unimproved value of land
  - land tax can be reduced by 90% depending on intensity of land use and productivity of farm
  - FOREST LAND IS CONSIDERED UNUSED -->farms w/ forest are taxed more; farms that clear forests are taxed less
  - in settle areas, land taxes are strictly enforced
- MAJOR CHANGES NEEDED**
- lowering ceiling of land that can be allocated to single person to 100-200 hectares
  - eliminate large ranches
  - make land ceiling on corporate holdings
  - change definition of land use for the regularization process and forms of forest management

### **4. & 5. Taxes**

#### Regional and Sectoral Taxes

- SUDAM, IBDF, Grande Carajas program can provide special tax incentives to single corporate enterprises
- many regions and sectors have special incentives that affect deforestation
- five classes of incentives
- income tax holidays for up to 10 years(Grande Carajas only)
- reinvestment tax credits used for modernization or expansion (limited to 50% of liabilities)
- general tax credits used to set up, invest in, or participate in approved enterprises (25% of tax liabilities)
- tax credits for individuals up to 45% of investments into stocks of FIDAM, FINOR, Fiset (6%)
- exemption from import tariffs, export taxes, commodity taxes

### **5. Provisions for Credit**

- to get access to subsidized credit, need legitimate land title or certificate of land occupancy->hard to get
- increase in credit subsidy results in increase of demand for titled land

- ranchers and large corporations are more likely to receive subsidized credit
- SUDAM-approved ranchers and private farmers have subsidized credit available to them
- average small or poor farmer cannot get subsidized credit very easily

## **Public Relations:**

### **International:**

U.S.-Brazil relations, funding

US-brazil relations are generally very good. Brazil is already open to international cooperation, as demonstrated by recent Japanese and Dutch scientific studies in the Amazon. Brazil, as a whole, is enthusiastically pursuing programs such as SIVAM and ARPA within the country and are seeking international help. There should be little if any friction with International public relations.

### **Education:**

Status quo educational policies / awareness programs (pros and cons)

Iris said she would take care of this part.

### **Indigenous peoples:**

Cooperation

In general, indigenous people have little to no negative effect on the rainforest, so they will not interfere with our project as long as we do not pose a threat to them. Current Brazilian projects encourage cooperation with indigenous peoples.

### **Media:**

International

International media attention is currently supported by independent activists groups like Greenpeace. Television, the internet, and radio are all broadcasting information about the Amazon internationally. However, efforts are relatively ineffective at gaining broad public support.

Local (urban/rainforest)

In Brazilian urban areas, Television and radio broadcast a great deal of information. The ARPA reports numerous media outlets for conservation and Amazon information. However, the people living in the rainforest are hard to reach with media. They are essentially isolated, relatively unaffected by any media sources.

## **Data Management:**

(Not an aspect of the rainforest – doesn't require *characterization*)