



*Permanent Mission of Brazil to the United Nations Office in Geneva
Chemin Camille-Vidart, 15 – 1202 - Genève*

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The Permanent Mission of Brazil to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and has the honour to refer to the joint communication OL BRA 4/2022, dated April 12th 2022.

The Permanent Mission would like to forward the attached observations from the Government of Brazil regarding the case of bill 191/2020, currently under consideration by the Brazilian Parliament.

The Permanent Mission of Brazil in Geneva avails itself of this opportunity to renew to the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, April 14th 2022.



To the
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ANNEX
REPLY OF THE GOVERNMENT OF BRAZIL REGARDING THE JOINT
COMMUNICATION OL BRA 4/2021, DATED APRIL 12th 2022.

With regard to the joint communication OL BRA 4/2021, dated April 12th 2022, about Bill 191/2020, currently under consideration by the National Congress, the Brazilian Government has the honor to convey the following preliminary comments.

2. The Brazilian Constitution protects the rights of indigenous peoples to their social organization, customs, languages, beliefs and traditions, as well as their original right to the lands they traditionally occupy. Currently, indigenous lands comprise more than 12% of the national territory. It should also be recalled that Brazil is one of only 23 countries that have ratified ILO Convention 169. We have also adopted the main regional and universal instruments on the subject, such as the American Declaration on the Rights of Indigenous Peoples and the United Nations Declaration on the Rights of Indigenous Peoples.

3. In light of its national and international legal obligations, the Federal Government deems it is important to provide an effective normative framework to regulate mining and hydroelectric activities in indigenous lands, in line with Article 231 of the Federal Constitution of 1988, which provides for "the use of water resources, including energy potentials, research and mining of mineral wealth in indigenous lands". The Government considers that the lack of adequate regulation has generated legal uncertainty over the years and brought about negative consequences to the country, such as the underutilization of its mining and energy potential, the loss in employment, income and tax revenue, the proliferation of illegal mining and logging activities, and unnecessary risk to the life, health and culture of indigenous peoples.

4. By submitting Bill 191/2020 to Congress, the Federal Government is fulfilling its constitutional obligation, namely to seek prior authorization by the National Legislature in order to regulate lawful economic activities in indigenous lands. Among other measures, the draft proposes criteria for prior consultation with affected indigenous communities, regulations for revenue sharing by indigenous communities derived from economic activities undertaken in their lands, governance structures for the management of financial resources by indigenous communities and administrative procedures for authorization by the National Congress.

5. The Federal Executive fully respects the legal prerogatives of the Legislative Branch to promote the necessary discussions and debates of the Bill, in a democratic and inclusive manner. Different levels of government, civil society, human rights organizations, specialists, the private sector and other stakeholders can participate in the law-making process, directly or through their elected representatives. Their voices are heard and their points of view are taken into account.

6. It should be noted that the Legislative process in Brazil allows for ample opportunity for discussion and deliberation. Since Bill 191/2020 was presented to the Chamber of Deputies in February 2020, it was sent to the Committees of Agriculture, Livestock, Supply and Rural Development; Foreign Affairs and National Defense; Environment and Sustainable Development; National Integration, Regional and Amazon Development; Mines and Energy; Human Rights and Minorities; Finance and Taxation; Constitution and Justice and Citizenship. The recently created

working group set up to study the Bill should provide additional opportunity to debate the matter, in full respect to the procedural rules of the Legislative.

7. During the discussions of Bill 191/2020, different aspects of the text are being considered, related to issues such as the protection of the environment and respect for human rights, including the rights of indigenous peoples. The legal consistency of the Bill is also being thoroughly examined by lawmakers, in light of the relevant disciplines of the Brazilian Constitution. At the regional level, a request for a roundtable session in the state of Rondonia has been presented, which further demonstrates the interest of parliamentarians to fully consult with civil society.

8. If approved by the Chamber of Deputies, the Bill will be considered by the National Senate, where further debate can take place, thus affording additional opportunities for dialogue and discussion.

9. The Brazilian Government is confident that the democratic and inclusive debate undertaken in Congress since the Bill was presented in February 2020 will be able to address the concerns raised by relevant stakeholders, including indigenous peoples. Given the ongoing discussions in the National Legislature, the Brazilian Government considers that it is premature to draw conclusions about Bill 191/2020. The Brazilian Government remains fully committed to the protection of the rights of indigenous peoples, in line with all its legal duties on both national and international levels.