



**PERMANENT MISSION OF BRAZIL TO THE UNITED NATIONS OFFICE
AND OTHER INTERNATIONAL ORGANIZATIONS 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 honor to refer to the joint communication OL BRA 5/2025 by the Chair Rapporteur of the Working Group of Experts on People of African Descent; the Chair Rapporteur of the Working Group on Business and Human Rights; the Special Rapporteur on the promotion and protection of human rights in the context of climate change; the Special Rapporteur on the human right to a clean, healthy and sustainable environment; and the Special Rapporteur on the human rights to safe drinking water and sanitation.

The Government of Brazil would like to forward the attached inputs of the Government of Brazil regarding the aforementioned letter.

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

Geneva, June 10th 2025

To the Office of the United Nations High Commissioner for Human Rights (OHCHR);

Special Procedures Branch

E-mail: ohchr-registry@un.org

ohchr-spbquickresponsedesk@un.org





FEDERATIVE REPUBLIC OF BRAZIL

**OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN
RIGHTS (OHCHR)
OL BRA 5/2025
BILL N° 2.159/2021 – ENVIRONMENTAL LICENSING
STATE REPORT**

June 2025

SUMÁRIO

| | |
|--|-----------|
| I – INTRODUCTION..... | 3 |
| II – STATE RESPONSE..... | 4 |
| II. 1 – Information on Bill nº 2159/2021 | 4 |
| II. 2 –Information on the impact of the bill in the context of business activities | 6 |
| II. 3 –Protective measures for Indigenous Peoples, Quilombola communities, peasants, and artisanal fishers..... | 9 |
| III – FINAL CONSIDERATIONS..... | 12 |

I – INTRODUCTION

This report aims to provide information regarding the request from the Office of the United Nations High Commissioner for Human Rights (OHCHR), submitted through communication OL BRA 5/2025, concerning the legislative process of Bill No. 2159/2021, which addresses environmental licensing.

On May 26, 2025, five mandate holders of special procedures of the Human Rights Council sent a communication to the Brazilian Government expressing serious concerns about Bill No. 2159/2021, recently approved by the Senate and soon to be discussed by the Chamber of Deputies.

The main criticism is that, if approved, the bill would result in significant setbacks in environmental protection and human rights, especially in the context of the climate crisis. The rapporteurs emphasize that the proposal contradicts the country's international commitments, weakens environmental safeguards, threatens Indigenous and Quilombola communities, and undermines environmental licensing mechanisms.

The OHCHR requests the State to provide the following information:

1. Please provide any additional information and/or comments the Brazilian Government may have regarding the issues mentioned above.
2. Explain how this bill complies with international obligations, including human rights and other commitments related to the conservation and protection of the environment, considering the heightened risks posed by climate change. In particular, explain the effects of the proposed changes to the environmental licensing procedure in the bill with respect to the prevention, mitigation, and remediation of environmental and human rights impacts of large-scale projects.
3. Share information on how the Brazilian Government is fulfilling its duty to protect against human rights abuses in the context of business activities, how this bill does not contradict that duty, and how policy coherence will be ensured, considering other commitments related to responsible business conduct, in accordance with the UN Guiding Principles on Business and Human Rights.
4. Explain what measures the Government has taken to ensure the rights of Indigenous Peoples, Quilombola communities, peasants, and artisanal fishers in the context of the approval of this bill, and how it will ensure that it is not breaching its international obligations in this regard. In particular, clarify what measures have been taken to ensure that these groups are adequately consulted and that their rights to land,

livelihoods, participation, and environmental protection are respected, in full compliance with Brazil's international human rights obligations.

5. Indicate what measures have been taken to ensure effective public participation and meaningful inclusion and consultation of Indigenous Peoples and traditional communities — including those whose lands have not yet been formally demarcated — both during the drafting and legislative process of the bill, and in decision-making processes related to the approval of future economic ventures that may affect them.
6. Provide information on how the Government plans to ensure the monitoring of environmental and human rights impacts by public agencies, considering that environmental licensing promotes accountability regarding risks, impacts, and the effectiveness of prevention, mitigation, and remediation measures, as well as transparency.

On this occasion, the Brazilian State respectfully submits the following report, without prejudice to the provision of additional information at a later date.

II – STATE RESPONSE

II.1 – Information on Bill n° 2159/2021

The current environmental licensing framework is a foundational element of Brazil's National Environmental Policy and addresses the diffuse rights of the Brazilian population to an ecologically balanced environment, for both present and future generations. Furthermore, environmental licensing intersects with related fundamental rights, particularly the right to health (such as access to clean water and an environment free from pollutants or outbreaks like malaria caused by ecological imbalance) and the right to culture, especially in the case of hunter-gatherer communities that depend on natural resources for their survival.

Through its instruments (such as the Environmental Impact Assessment and Report – EIA-RIMA), environmental licensing establishes conditions that must be respected by developers, either by restricting their activities or by requiring the adoption of environmental control measures. These conditions function as mechanisms for the prevention, mitigation, and compensation of direct and indirect socio-environmental impacts.

According to the National Environmental Policy (Law No. 6.938/1981), there are no exceptions that allow environmental licensing to be bypassed, avoided, or relaxed — precisely to ensure the compatibility and evaluation of economic, social, and environmental values involved, and to prevent environmental degradation caused by any economic enterprise.

In this context, the bill aims to regulate item IV of paragraph 1 of article 225 of the Federal Constitution; it amends Laws No. 9.605 of February 12, 1998, and No. 9.985 of July 18, 2000; repeals provisions of Law No. 7.661 of May 16, 1988; and provides for other measures.

Article 1. This Law, referred to as the General Environmental Licensing Law, establishes general rules for the licensing of activities or enterprises that use environmental resources, are effectively or potentially polluting, or are capable, in any way, of causing environmental degradation, as provided in Article 10 of Law No. 6.938, of August 31, 1981.

§ 1. The provisions of this Law apply to environmental licensing carried out by agencies and entities of the Union, the States, the Federal District, and the Municipalities that are part of the National Environmental System (Sisnama), in accordance with the responsibilities established in Complementary Law No. 140, of December 8, 2011.

§ 2. Environmental licensing must uphold public participation, transparency, the primacy of the public interest, procedural efficiency and economy, prevention of environmental damage, sustainable development, and the analysis of impacts and, when applicable, environmental risks.

§ 3. For the licensing of large-scale and/or high-risk mining activities or enterprises, the provisions of the National Environmental Council (Conama) shall prevail until specific legislation is enacted.

Thus, the new Environmental Licensing framework proposed in Bill No. 2159/2021 introduces a sampling-based inspection system for enterprises granted a

simplified environmental license, given that the current procedure is more time-consuming. It is noted that the bill does not authorize the License by Adhesion and Commitment (LAC) in cases involving the suppression of native vegetation.¹

On this matter, it is important to recall that Bill No. 2159/2021 is subject to bicameral legislative procedure and is therefore still under consideration. In this context, the government's coordination regarding the bill is being led by the Office of the Chief of Staff of the Presidency of the Republic, in conjunction with the Secretariat for Institutional Relations (SRI), with the aim of ensuring a unified position from the Federal Government, including the Ministry of the Environment and Climate Change (MMA).

Finally, reference is made to the Official Note² issued by the MMA on May 21, 2025, in which the Executive Branch body outlines its concerns regarding the bill's text. These include the License by Adhesion and Commitment (LAC), the weakening of SISNAMA and the role of ICMBio, the omission of indirect and synergistic impacts, and the questioning of licensing conditions and exemptions for agricultural activities.

II. 2 –Information on the impact of the bill in the context of business activities

Initially, it is essential to highlight that, in 2022, the United Nations, through Resolution No. 76/300, declared that a healthy environment is a human right. In this regard, as noted in the report of the United Nations Working Group on Business and Human Rights, Session A/78/155, the importance of national legislation and regulation — in alignment with international human rights standards — in promoting a just transition is reaffirmed. This importance cannot be overstated, as it is understood that legislation must not replicate or create new forms of human rights and environmental abuses, including corrupt practices and conflict risks.

Moreover, it is crucial that any activity or enterprise conduct a specific analysis of human rights risks, particularly in conflict-affected settings. The aforementioned Working Group advises that States adopt measures requiring companies to identify and manage risks faced by Indigenous Peoples and other vulnerable groups, including through the acquisition of Free, Prior and Informed Consent (FPIC).

¹ <https://agenciabrasil.ebc.com.br/meio-ambiente/noticia/2025-05/projeto-de-lei-implode-licenciamento-ambiental-no-brasil-diz-especialista>

² Available in Portuguese at: <https://www.gov.br/mma/pt-br/noticias/projeto-de-lei-do-licenciamento-ambiental-desestruturacao-regramento-e-viola-constituicao-federal>

Furthermore, as highlighted in the report of Session A/HRC/56/55 of the same Working Group:

“[...] companies should consider how their investment strategies and business models ensure that they can effectively account for human rights impacts, taking into account investment decisions across all asset classes; the integration of human rights considerations into portfolio management, including through asset owners asking human rights-related questions in requests for proposals to asset managers and in due diligence questionnaires; the introduction of contractual clauses regarding the responsibility to respect human rights and an emphasis on the need to conduct human rights due diligence, both in contracts between asset owners and managers and between investors and investee companies, specifying the consequences of non-compliance; and finally, prioritizing meaningful stakeholder engagement, including: (i) collaborating with civil society organizations, affected rights holders, and others to obtain better data on potential and actual adverse human rights impacts; (ii) conducting meaningful stakeholder consultations [...]”

Although not legally binding under international law, it is appropriate to mention the United Nations Guiding Principles on Business and Human Rights, which outline possible pathways for holding companies accountable for respecting human rights and, in cases of actual impact, for ensuring proper remediation. These principles also establish the concept of “human rights due diligence,” which has inspired international movements toward the adoption of mandatory legal instruments on the subject.

More than merely complying with recommendations, the development of human rights due diligence processes points to the effective implementation of these rights in the corporate context, through policies, actions, initiatives, and mechanisms aimed at measuring impacts. This measurement reveals the effectiveness and efficiency of the measures adopted, contributing to the creation of a sustainable business ecosystem that is attentive and prepared to deal with potential risks — whether environmental, social, or related to governance.

For this reason, it is essential that companies anticipate risks and monitor periodic reports, regularly updating information. This underscores the duty to initiate human rights due diligence as early as possible in the development of a new activity or operation, considering that such risks may be exacerbated or mitigated during the structuring phase of contracts and agreements, and may also be inherited in merger or acquisition processes. It is, therefore, a continuous process.

From this perspective, it is equally essential that environmental licensing anticipates risks to both human rights and the environment, in a coordinated and integrated manner. It is important to note that, in the development and implementation of processes for identifying, assessing, and classifying risks, issues of gender, vulnerability, and/or marginalization must be effectively considered. This implies recognizing the specific challenges faced by Indigenous Peoples, women, the LGBTQIA+ community, national or ethnic minorities, religious and linguistic minorities, children, persons with disabilities, migrant workers, and their families.

Bill No. 572/2022, which establishes the national framework on Business and Human Rights and sets guidelines for the promotion of public policies on the subject — with the support of the Ministry of Human Rights and Citizenship and in line with Resolution No. 5/2020 of the National Human Rights Council — provides in its Article 9:

“The Union, the States, the Federal District, and the Municipalities shall take the measures provided for in Article 5 through public policies, within the scope and limits of their competencies, applicable norms, and regulations, including:

XIII – Improve mechanisms for the protection of water resources, ensuring corporate accountability for supply in cases of environmental damage, guaranteeing that the population does not lack access to drinking water and that permanent solutions to the problem are provided within a reasonable timeframe;

XVIII – Prevent corporate self-monitoring from replacing state oversight regarding safety measures, disaster and serious workplace accident prevention, compliance with environmental

legislation, and any other measures related to the protection of human rights in all their dimensions;

XIX – Take responsibility for conducting social, labor, and environmental impact studies, which must precede the authorization of economic activities and include effective public participation in their preparation, as well as in the definition of indicators and methodologies;

VII – Ensure that state monitoring and oversight prevail over measures adopted by companies, especially with regard to prevention and remediation, such as safety, disaster and serious workplace accident prevention, and compliance with environmental legislation.”

Thus, the Ministry of Human Rights and Citizenship (MDHC) has a dedicated unit specifically focused on this issue: the General Coordination for Human Rights and Business. This structure demonstrates the institutional commitment to aligning international principles with actions to promote and protect human rights in the business context. Through this work, the MDHC expresses its concern regarding the provisions set forth in Bill No. 2159/2021, particularly with respect to the possibility of automatic renewal of environmental licenses without proper reassessment of the risks of impacts on the environment and on communities affected by the activities or enterprises.

II. 3 –Protective measures for Indigenous Peoples, Quilombola communities, peasants, and artisanal fishers

The Brazilian State has made progress in protecting Indigenous Peoples and traditional communities, adopting an approach aligned with international commitments and focused on environmental preservation. Several measures have been implemented in this regard, including the creation of the Ministry of Indigenous Peoples, the demarcation of traditional lands, and the approval of a legal framework that provides mechanisms for addressing forest fires and rebuilding infrastructure destroyed by climate-related events in states and municipalities.

As part of the environmental prevention and fire response agenda, the federal government announced a public call for proposals totaling R\$ 32 million to fund projects that strengthen the capacity of municipalities in the Amazon and Pantanal regions. Of this amount, R\$ 12 million comes from the National Environmental Fund (FNMA), and R\$ 20 million from the Diffuse Rights Defense Fund, coordinated by the Ministry of Justice and Public Security (MJSP).³

Additionally, President Lula and the Minister of the Environment and Climate Change, Marina Silva, launched the largest environmental preservation package to date. The initiative includes the allocation of R\$ 825 million — the largest amount ever made available by the Amazon Fund — to the Brazilian Institute of Environment and Renewable Natural Resources (Ibama) to support environmental enforcement and deforestation control. It also includes the creation of three federal Conservation Units, such as the Environmental Protection Area (APA) of the Foz do Rio Doce in Espírito Santo, established as part of a judicial agreement to repair the damage caused by the Mariana (MG) disaster, among other measures.⁴

The Ministry of the Environment and Climate Change also established, through Decree No. 6.040, the National Policy for the Sustainable Development of Traditional Peoples and Communities (PNPCT), which aims to recognize and promote the rights of Traditional Peoples and Communities (PCTs) in Brazil. This policy was developed with broad participation from representatives of traditional peoples and communities across the country and sets guidelines to ensure their territorial, economic, cultural, and social rights. The PNPCT is an important instrument in the struggle for the recognition of Traditional Peoples and Communities, and its true strength lies in popular participation not only in its creation but also in its implementation and monitoring.

The composition of the National Council for Traditional Peoples and Communities (CNPCT) is parity-based, with representatives from both civil society and the federal government. Civil society representatives are nominated by organizations representing PCT segments, while government representatives are appointed by federal public agencies. This structure aims to ensure the effective participation of PCTs in the formulation, implementation, and monitoring of policies that impact their communities.⁵

³ <https://www.gov.br/mma/pt-br/noticias/governo-federal-lanca-segundo-pacote-de-medidas-para-avancar-na-protecao-ambiental>

⁴ <https://www.gov.br/mma/pt-br/noticias/lula-e-marina-anunciam-apoio-recorde-do-fundo-amazonia-ao-ibama-e-criacao-de-novas-unidades-de-conservacao>

⁵ <https://www.gov.br/mma/pt-br/noticias/oficina-de-elaboracao-do-plano-nacional-de-povos-tradicionais-marca-avanco-no-protagonismo-em-politicas-publicas-diz-edel-moraes>

The Federal Government has signed the decree establishing the new National Biodiversity Strategy and Action Plan (Epanb). With this, the initiative is now recognized as a guiding instrument for the implementation of goals and actions related to biodiversity conservation, the sustainable use of natural resources, and the fair and equitable sharing of benefits derived from biological diversity across the country, integrating various sectors of government and society. The new Epanb provides for coordination with other public policies, such as the National Plan for the Recovery of Native Vegetation (Planaveg), which sets a target of restoring 12 million hectares by 2030, and the Amazon Protected Areas Program (Arpa), which will promote the socioeconomic inclusion of local communities, among other programs. In addition to coordinating the implementation of the strategy, the Ministry of the Environment (MMA) will be responsible for monitoring the execution of Epanb. The strategy will be developed in partnership with the Brazilian Institute of Geography and Statistics (IBGE) and the Institute for Applied Economic Research (Ipea). The results will be consolidated into national reports to be submitted to the Convention on Biological Diversity (CBD).⁶

Despite the progress and actions that demonstrate the Brazilian State's commitment to environmental protection, Bill No. 2159/2021 does not provide mechanisms to ensure effective public participation, nor meaningful inclusion and consultation of Indigenous Peoples and traditional communities — including those whose territories have not yet been formally demarcated — either during the drafting and legislative process of the proposal or in decision-making processes related to the approval of economic ventures that may affect them.

In this regard, the Ministry of Indigenous Peoples emphasizes that environmental licensing is a fundamental element of the National Environmental Policy, as it addresses the diffuse rights of the Brazilian population to enjoy an ecologically balanced environment, for both present and future generations.

The Ministry points out that Bill No. 2159/2021, in the version approved by the Chamber of Deputies, subverts the logic of the current legislation by allowing the exemption of environmental licensing for various activities, without requiring appropriate measures for the prevention, mitigation, or compensation of socio-environmental impacts.

⁶ <https://www.gov.br/mma/pt-br/noticias/brasil-lanca-nova-estrategia-para-protoger-biodiversidade>

III – FINAL CONSIDERATIONS

Based on the above, it is evident that the Brazilian State has made significant efforts to preserve the environment and to guarantee the rights of Indigenous Peoples and traditional communities, in alignment with its international commitments regarding human rights and sustainable development.

It is also important to emphasize that Bill No. 2159/2021 is still under discussion and is not currently in force as law in Brazil. The democratic nature of the national political regime allows for broad public debate on legislative matters. Within the framework of the current and valid institutional structure, the subject of the bill is proceeding through the democratic process.

The Brazilian State remains at the disposal of the OHCHR to provide any additional clarifications and reaffirms its commitment and respect toward the International Human Rights System.

June 9, 2025