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## **1 - Introduction**

The *Politica Por Inteiro* tracks policy signals that affect the environment and climate change in Brazil by using data science and policy analysis to understand government's actions and strategies. Through monthly outlooks like this one, we aim at differentiating signals from noise and capture relevant trends to economic and civic actors.

The current edition summarizes relevant Brazilian government's signals from SEPTEMBER 2020, quantifying the number of actions by theme (from energy to conservation) and by type (according to our own classification), as well as the most important trends for October.

## **2 – Number of actions<sup>1</sup>**

In September, our Government Actions Tracker identified **112** measures relevant to environmental policy and climate change in the Federal Official Gazette.

The three most frequent governmental signals detected were signals of: "regulation" (33 actions), "response" (17 actions, mainly due to the large number of declarations of emergency because of the dry season, drought, forest fires and floods in various municipalities) and "Law consolidation" (12 actions, due to expiry).

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<sup>1</sup> For further information regarding this work's methodology, refer to our [website](#).

The number of "flexibilization" signals was also noteworthy (8 actions, a few of which addressing extensions due to the Covid-19 pandemic).

We also identified 7 actions resulting in changes in structures in federal institutions, here listed under "institutional reform"; 3 "deregulation" actions, 1 "privatization" action and 1 "retreat" from federal government regarding prior deregulation. Another 23 "neutral" actions were also considered because, even if not really relevant at the moment, they may help future context assessment.

## 2.1 - Themes

The themes with the highest number of measures in September were: Energy (17), Institutional (17), Environment (15) and Disasters (10). All actions, their classification and implications may be checked by accessing [this spreadsheet](#) (currently available only in Portuguese).

Actions listed by theme	
Energy	17
Institutional	17
Environment	15
Disasters	10
Science	9
Water	7
Waste	7
Agriculture	6
Mining	5
Transportation	3
Pollution	3
Fisheries	2
Forests	3
Climate change	2
Tourism	2
Ocean	1
Land	1
The Amazon	1

Actions listed by classification	
Regulation	33
Neutral	23
Response	17
Law consolidation	12
<u>Flexibilization</u>	8
Institutional reform	7
Legislation	6
Deregulation	3
Retreat	1
Privatization	1
Revocation	1

### 3 – Analyses by type and by themes

#### Energy

[Decree n° 10.479](#) was published in the Federal Official Gazette on September 1<sup>st</sup>, making nearly 700 blocks available for oil and natural gas exploration and production under the Investment Partnership Program (PPI). Under the PPI, it is simpler to qualify for Repetro (special tax regime) and to apply for exploration and production equipment import tax exemption. The listed blocks have been offered in a permanent offer. More sensitive and "new frontier" areas have been included, such as the Camamu-Almada basin, in the Abrolhos coral reef region. During last year's auction none of the seven blocks near Abrolhos was bid on. The government decided on the inclusion of these areas in the auction in spite of the contrary opinion from Ibama, the Brazilian Institute for the Environment and Renewable Natural Resources, and of major mobilization actions, including a public civil action from the Federal Prosecution Office (MPF). This was listed under "**privatization**".

With [Ordinance 342, from September 14](#), the Ministry of Mines and Energy (MME) passed the budget proposal for the Energy Development Bill (CDE) of "Mais Luz para a Amazônia" and "Luz para Todos" Programs for 2021. This budget aims towards universal access to electricity in the country. This was listed under "**regulation**".

On the 1<sup>st</sup> of September there was a [notice of public consultation and hearing](#) referring to the [resolution addressing the risk levels](#) of economic activities at the National Agency for Petroleum, Natural Gas and Biofuels (ANP). This action is in line with a [resolution of the board](#) of ANP, as well as with guidelines established by Federal Decree 10.178/2019. This was listed as "**response**" because the call for public participation in discussions was only communicated because an opinion from the Federal Attorney's Office determined the ritual of public hearing could not be done without.

Provisional Measure (MP) n°998 was published, changing the norms for utilities in power generation transmission, distribution and electricity commercialization – and changing energy efficiency parameters and guidelines by the Brazilian Electricity Regulatory Agency (Aneel). Thus, the Provisional Measure was listed as "**institutional reform**". Among the various proposed changes, it eliminates subsidies that had been granted to new power plants based on renewable sources in Brazil. Another change it established was to allow the National Energy Policy Council (CNPE) to transfer the exploration of thermonuclear power plant Angra 3 to the private initiative. It also determined that the residual private participation in the nuclear sector shall go to the **hands of the government** by calling of shares. Moreover, Provisional Measure n°998 amended Law n° 9.427, from 26 December, 1996, including the commitment by the federal executive branch to establish within 12 months starting on 1<sup>st</sup> September, 2020, guidelines for the implementation of mechanisms to **take into consideration environmental benefits** related to low

greenhouse gas emissions, in line with mechanisms to guarantee the safety of supply and competition.

## Environment

[Ordinance n° 504/2020](#) established the national program for the management of urban green spaces, the Greener Cities Program, under the National Agenda on Urban Environmental Quality. It will be implemented by the MMA and may have support from States, Municipalities, state-owned consortia, organs and state-owned companies, civil society organizations and from the private sector. It created the CAU (Urban Environmental Registry) as a tool for identifying, mapping, ranking and promoting urban green spaces. The availability of CAU information updated by Municipalities and the Federal District is required for access to MMA (or MMA-controlled) funds aimed at creating, expanding, renovating and integrating green urban spaces. This program results from discussions and outcomes of the Greener Cities Project, funded by the Ministry of Justice, which intended to develop a database listing urban green spaces aiming at their preservation and conservation. This was listed as “**regulation**”.

With [Ordinance 2231/2020](#), Ibama, the Brazilian Institute for the Environment and Renewable Natural Resources, set forth the risk classification for economic activities associated to authorizations under its responsibility. Ibama published the [methodology on their website](#) as well as the technical aspects governing said risk classification. It has been indicated that the norm is not applicable as tacit approval for actions subject to Ibama’s approval under the corresponding articles of the Economic Freedom Act and of the decree that regulates it regarding risk classification. Among the activities included in the risk classification list are: Authorization for exploration of Sustainable Forest Management Plans (PMFS), at public federal forests, federal vacant lands or conservation units created by the federal government, except inside Environmental Protection Areas (APAs); large open mines of iron ore in sensitive areas; installation, operation and decommissioning/decharacterization of tailings dams for major mining operations in sensitive areas. This was listed as “**regulation**”.

## Disasters

In September, emergency situations were recognized in many regions around the country due to **dry season**<sup>2</sup>, **drought**<sup>3</sup>, **storm**<sup>4</sup>, **forest fires**<sup>5</sup>, **floods**<sup>6</sup> and **hail**<sup>7</sup>. All these were listed as “**response**”.

The fires striking the Pantanal started in July and are the biggest in the region’s history. The number of fires recorded in 2020 at the Pantanal biome was an all-time record for a single year, according to data collected by INPE (National Institute for Space Research) since 1998. Large proportion fires have spread smoke over State Capitals and caused the closing of the Chapada dos Guimarães National Park. Ever since August, six ordinances have acknowledged the emergency situation brought about by forest fires in Brazil, all of them in the States of Mato Grosso and Mato Grosso do Sul.

The Federal Government’s reaction came as a recognition of the States’ declaration of emergency. It was swifter in 2020 than in 2019: [ordinance 2.429](#) was published on September 14, the same day the State of Mato Grosso do Sul declared emergency; [ordinance 2.448](#) was published on September 16, two days after the State of Mato Grosso declared emergency. In 2019, it took the Federal Government over 2 months to acknowledge the emergency. However, the States were slower to officially declare the state of emergency. Acknowledgment by the federal government means the release of emergency funds. For the State of Mato Grosso do Sul, an ordinance authorized the release of R\$3,814,543.50, for response actions. For the State of Mato Grosso, besides the authorized release of R\$10,112,449.80, the use of the National Public Security Force until October 23<sup>rd</sup> in an ad hoc and planned for fashion. The measures for the States of MS and MT were listed as “**response**”.

## Forests

The Federal Executive branch’s single noteworthy action regarding forests in September, besides the acknowledgment of the fire-prompted emergency situation declarations (addressed in Disasters, above), is the [Coordinates publication n° 37 /2020](#), from Ibama, listed as “**response**”. It established the geographical coordinates for 7 areas embargoed due to deforestation, identified by satellite image and assessed during inspections. All areas are located in Amazonas, in the municipalities of Apuí (6 areas) and Novo Aripuanã (1). On October 10, 2019, a similar publication included the location of 20 areas embargoed because of deforestation. The areas are located in these

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<sup>2</sup> At Jacaraci/BA, Presidente Jânio Quadros/BA, Poções/BA, Tanque Novo/BA, Solonópole/CE, Pombos/PE, Boa Vista do Tupim/BA, Guajeru/BA, Maracás/BA, Lajedo do Tabocal/BA, Itapagé/CE, Nova Santa Helena/MT, Marcolândia/PI, Bom Jesus da Serra/BA, Boa Nova/BA, Coribe/BA, Encruzilhada/BA, Vitória da Conquista/BA, Itaobim/MG, São Raimundo Nonato/PI.

<sup>3</sup> At Jacobina do Piauí/PI and Campo Formoso/BA.

<sup>4</sup> Tavares/RS, São Jerônimo/RS, Jacarezinho/PR and Irineópolis/SC.

<sup>5</sup> Mato Grosso do Sul State, Mato Grosso State, Chapada Diamantina/MT, Águas da Prata/SP and São João da Boa Vista/SP.

<sup>6</sup> São Gerônimo/RS.

<sup>7</sup> Jari/RS.

same municipalities. The *MapBiomias Alerta* detected 556 warnings in the two municipalities, adding up to 31,279 hectares (including 17 warnings inside conservation units, totaling 1,192 hectares).

## The Amazon

Nothing really new here, besides what was mentioned in Forests and in Disasters. On September 24, the General Attorney's Office's (AGU) Task Force in Defense of the Amazon established by Ordinance n° 469, from September 24, 2019 was [extended for six months](#). According to the previous ordinance, this team conducts strategic action on specific judicial demands addressing law enforcement, damage compensation and the execution of credits related to Legal Amazon that are considered as priority. In one year of operations the Task Force filed 45 public civil actions against deforestation agents in States that comprise the Legal Amazon, claiming compensation for the environmental damage from the deforestation of around 34 thousand hectares, having judicially frozen over R\$570 million in assets. This measure was listed as “**response**”, in light of the intense pressure around socio-environmental issues in Legal Amazon.

## Biodiversity

[Ordinance N° 391/2020](#) changed the clause on obligations for the Term of Commitment to be signed between user and the Federal Government for regularization of access to the genetic heritage and associated traditional knowledge. This was listed as **flexibilization** because it expanded from six to nine months the period for presenting the benefit distribution agreement. It established that the period starts when the party learns the Federal Government has signed the Term of Commitment. Formerly, the period was not extendable, and counted from the effectiveness of the Federal Government's action. It now established that this new mode of period applies to Terms of Commitment already filed by users and are being analyzed at the Biodiversity Secretariat, or even those that have been signed by the Federal Government. In short, it makes the current norm flexible since: 1. it increases periods; 2. it lifts the non-extension limitation; and 3. it changes the initial date for calculating the period.

## Agriculture

Spotlight on [Resolution n° 78](#) from the Ministry of Agriculture, Livestock and Food Supply (Mapa), that altered the Annex of Resolution 74/2020, from the Inter-ministerial Steering Committee on Rural Insurance (CGSR). This document addresses the budget allocation for the Rural Insurance Premium Subvention Program (PSR) for the year of 2020. Besides making changes in the funds allocation, the total amount was reduced from R\$ 955,149,289 para R\$ 880,999,987. This was listed as “**neutral**”.



## Land

[Resolution n° 9](#) establishes deadlines for responses to public actions of authorization of economic activities under the responsibility National Defense Council. The longest periods listed apply to governmental actions affecting authorization of economic activities listed in the Annex of the Resolution, and include, among others, (i) Alienation and concession of public lands, (ii) Management plans and respective updates of the Conservation Units on border areas, (iii) Access to the genetic heritage and associated traditional knowledge in area indispensable for national security. This was listed as "**regulation**".

## Climate change

Worth highlighting a [Presidential order from September 10](#), which approved a National Council for Energy Policy (CNPE) norm that defined new yearly compulsory goals for greenhouse gas emission reduction for the commercialization of fuels. The goals are counted in millions of carbon credits (CBIOs) and were drastically reduced due to Covid-19. The CBIO (Decarbonization Credit) is one of the instruments adopted for meeting the goal of increasing the participation of bioenergy in the Brazilian Energy Matrix to 18% until 2030. Formerly, goals were defined by CNPE Resolution n° 15, from June 24, 2019, which established the goal of 28,7 million CBIOs for 2020. The new norm decreases the goal to 14,53 million. For 2021, the former goal was 41 million CBIOs, and now is 24,86 million. The action was listed as "**flexibilization**" since it softens individual obligations of fuel distributors and affects the general calculation of the participation of bioenergy in the Brazilian Energy Matrix in the long run.

Still on the same topic, [Order n° 797 form ANP](#) established new individual compulsory goals for fuel distributors. This action corrects [order n° 263, from March 19, 2020](#), that made public the individual compulsory goals, per fuel distributor, for greenhouse gas emission reduction, effective until December 31<sup>st</sup>, 2020. Formerly, the Total Sum of Emissions (tCO<sub>2</sub> equivalent) and the Market Share (%) of each distributed were informed, which is not contemplated in the new norm. Still, the Individual Goal 2020 (CBIO) was established, while the new norm establishes individual goals for both 2020 and 2019. It is, therefore, listed as "**flexibilization**".

[Ordinance n° 382](#) changed earlier Ordinance 113/2020 by designating full and substitute members of the Steering Committee for the National Fund on Climate Change, nominated by organs and entities represented at the collegiate. This measure was listed as "**neutral**". Nonetheless, it is worth mentioning that this designation is made in the wake of ADPF 708 (Petition of Non-compliance with Fundamental Precept) from the Federal Supreme Court (STF) that takes into account

the government's omission regarding the inactivity of the fund in the last year and a half, and may be interpreted as a "response" to this external event.

## Mining

Important norms regarding mining activities were published. A resolution, published on September 9<sup>th</sup> changed items from ANM Resolution n<sup>o</sup> 20/2019, which approved the National Mining Agency (ANM) Regulatory Agenda for the years 2020/2021. Among the changes there was (i) inclusion of the topic "Simplification and systematization of granting of mining titles" under the topic Production, which was not included in the previous norm; (ii) transfer of the responsibility for the coordination of theme axis to the Regulation and Regulatory Governance Superintendency (SRG), formerly under the responsibility of the Mining Regulation and Development Superintendency (SRDM); (iii) removal of theme axis 4 (Production) and 5 (Mineral Water), dispositions on the Economic Exploitation Plan (PAE). Said [restructuring of topics in ANM's Regulatory Agenda](#) indicates what topics the agency should focus on, that is, priority topics. This norm was listed as "**deregulation**".

Still, [Resolução 46, from September 10<sup>th</sup>](#), extended until December 31<sup>st</sup> various deadlines for defense, evidence, challenges and appeals filed in actions of charging, constitution and collection of revenues from Financial Compensation for Mineral Exploitation (CFEM), Yearly Fee per Hectare (TAH), inspection fee and fines. A few days later, the ANM communicated via LinkedIn that the Resolution would be corrected since it contained a few errors not aligned with the votes of the Collegiate Board. This arose in the wake of a [Draft Legislative Decree](#) to stop its effects. Thus, it was listed as "**neutral**". There are, however, signs of flexibilization – to be monitored. The correction has not yet been published by the agency.

An [Ordinance](#) instituted and formalized on September 28<sup>th</sup>, on ANM's Regulatory Agenda, the Mining and Development Program (PMD). The PMD addresses discussions that have been going on for years, especially in the Legislative branch (as the issue of mining in indigenous lands). It also addresses topics under the competence of other Ministries and public institutions (for instance, the disposition regarding the promotion/contribution for enhancing environmental licensing for mining, mining in buffer zones of Conservation Units and on underground cavities – caves). Thus, despite being a plan, there is the potential for influencing governmental and normative public policies. This was listed as "**flexibilization**".

## Water

Resolutions approved the internal regulations of the [Inter-ministerial Committee for Basic Sanitation](#) and of the [National Water Resources Council \(CNRH\)](#). Specifically for



the CNRH, formerly governed by MMA Ordinance nº 437/2013, the new internal regulations include as CNRH responsibilities the appreciation of the draft and reviews of the National Basic Sanitation Plan. Still, it has reduced the representation of some ministries, such as MMA and MME (they formerly had 3 representatives and now have 2), of representatives from State (and Federal District) Councils on Water Resources (formerly they were 10, now they are 9), of users (formerly 12, now reduced to 6) and of the civil society (formerly 6, now 3). The changes to the internal regulations of CNRH were listed as “**institutional reform**”.

Moreover, still on the topic of Water, a [resolution](#) extended the period for the National Water Resources Plan (PNRH), that would expire at the end of 2020, and now will be effective until December 31<sup>st</sup>, 2021. This norm was listed as “**neutral**” because of the pandemic.

## Fisheries

On the topic of fishing, [Ordinance 221](#) from the Secretariat for Aquaculture and Fishing, from the Ministry of Agriculture, Livestock and Food Supply (Mapa), was published to regulate the temporary authorization of fishing activity, for the Professional Industrial Fisher category, until the conclusion of the general re-registration of the General Registry of Fishing Activity (RGP). This was listed under “**flexibilization**” since it grants authorization to all industrial fishers who have requested registration since 2014, without screening nor evaluation. Since 2014, the government has communicated its intention to “thoroughly screen” the fishers registry – industrial and artisanal – for fraud detection. This screening, however, has never taken place and the deadlock for resuming the RGP’s request is mainly detrimental to artisanal fishers who need the registry for pension purposes.

## Institutional

According to Federal Decree 10.139/2019 on the review and consolidation of normative actions lower in hierarchy than decrees, 10 listings were made available in September including norms in effect on various authorities, such as (i) ANP, (ii) Mapa, (iii) Minfra, (iv) Institutional Security Office of the Presidency, (v) Government Secretariat of the Presidency, (vi) AGU, (vii) Ibama, (viii) MME, and (ix) IPHAN. It is a process in five stages: the first, until November 30<sup>th</sup>, 2020, and the following until November 30<sup>th</sup>, 2021. The review authority shall forward to the Special Secretariat on State Modernization, from the Government Secretariat of the Presidency, the full (i) effective or not expressly revoked actions included in such consolidation stage, (ii) expressly revoked actions after the examination; (iii) review actions considered effective at the end of the consolidation stage; and (iv) consolidated actions. It was not clear what was tacitly revoked, without inclusion on the general decrees. Thus,

POLÍTICA POR INTEIRO filed an information access request in order to check which acts have been revoked.

We listed all such actions as “**revisação**” (law review). There might be changes in categories, in case official responses to information requests indicate the revocation of relevant regulatory actions.

In September there was also a “**revogação**” (revocation effort) due to the publication of [Ordinance nº 376](#), from the Ministry of the Environment. 30 norms were revoked at once, according to Article 8 of Decree 10.139 / 2019. The full text of 11 norms that were not found was requested via Information Access Law (LAI). However, until the date of publication of this analysis, there has been no response.

#### 4 – Comments & context

”**OECD membership and the process of regulatory consolidation (law review):** Brazil’s process for joining the Organization for Economic Co-operation and Development (OECD)<sup>8</sup> is underway and justifies the regulatory “cleaning” agenda. It affects the process of ridding of obsolete laws and consolidating and reviewing existing norms, as set in Federal Decree 10.139/2019. Shortly, to move forward with the OECD, Brazil will have to consider an adjustment phase to environmental standards: there are 95 legal instruments to be taken in account. Despite addressing court decisions, the “OECD adherence” agenda shall not be automatically associated to “cattle”.

**Privatization of parks and other environmental assets:** this month there were no new projects on concessions of parks to the private initiative were forwarded. This trend was seen in the previous months and we expect it to continue in the coming months because revisions/updates of management plans for Conservation Units, like the [Jurubatiba National Park](#) are still taking place, determining new public use areas to be made available as new concessions. The government has communicated via social networks and the regular media, the launch of a program named “Adopt a Park”, apparently the pilot for future concessions. However, no legal action has yet officiated the program.

Members of a technical group were designated in September to support the Partnership for Investments (PPI) regarding projects for the capacity expansion for energy recovery of urban solid waste.

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<sup>8</sup> Os países que aderem aos Códigos da OCDE assumem a obrigação de eliminar, de forma progressiva e unilateral, restrições e barreiras a um ambiente aberto, estável e atraente para investimentos e acordos comerciais de quarta geração, que são mais sobre padrões do que tarifas e cotas.

**Conama deregulation:** The 135<sup>th</sup> Conama Plenary took place on September 28<sup>th</sup>. It addressed the revocations of Conama Resolution 284/2001 (on licensing of irrigation enterprises), Conama Resolution 302/2002 (on the parameters, definitions and Permanent Preservation Area [APP] limits for artificial reservoirs), Conama Resolution 303/2002 (on the parameters, definitions and Permanent Preservation Area - APP), besides voting for a new resolution, proposed by the Ministry for the Environment (MMA), on the licensing of waste co-processing activity with rotary kilns in clinker production. Operating under the new composition, without two of the organized civil society board members, who resigned, the meeting favored the revocation of the three court decisions and approval of the new norm. **POLÍTICA POR INTEIRO** published a [note](#) after the meeting indicating the main legal and technical aspects of the decisions. The revocations still need to be published on the Official Gazette – when they will be catalogued and included in the collection of the Public Actions Monitor –, but they face legal opposition even before that. Draft Legislative Decrees [PDL 414/2020](#), [PDL 415/2020](#), [PDL 416/2020](#) and [PDLs 417/2020](#) were forwarded aiming at stopping Conama’s decisions.

The mechanisms that allowed the deregulation discussed and approved on September 28<sup>th</sup> were established way before, by a [May 2019 Decree](#), altering the collegiate regulation. The Public Actions Monitor identified and listed this action last year as “institutional reform”. We can see that actions listed in this category pave the ground for future norms that impact public policy. This learning serves as a warning: there were seven institutional reform actions in September alone. It is essential to understand what is signaled by each act beyond the bureaucratic discussions on organizational charts.

Moreover, [Decree 10.483](#) from September 11<sup>th</sup> indicated an extension of terms at Conama, extended until March 21<sup>st</sup>, 2021 for: (i) 1 representative from each geographical region in the country, (ii) 2 representatives from municipal governments, (iii) 4 representatives from environmental entities, (iv) 2 representatives nominated by the following corporate entities – National Confederation of Industry, National Confederation of Trade, National Confederation of Services, National Confederation of Agriculture, and National Confederation of Transportation. The action was listed as “**neutral**” because it is a flexibilization due to the pandemic. The impact on the following Conama Plenary widely known, confirming the idea behind the importance of listing neutral measures.

**Petroleum:** French Oil Company Total withdrew on the operation of five oil and gas exploration blocks at the basin of the mouth of the Amazon river. Total, BP and Petrobras were partners in this endeavor. Total withdraws amid environmental licensing process difficulties for the areas. Petrobras agreed to take over the five exploration blocks<sup>9</sup>. A new licensing process shall take place. Conversely, on September 30<sup>th</sup>, federal substitute judge at the 21<sup>st</sup> Court at DF, Rolando Valcir

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<sup>9</sup> [O Eco](#).

Spanholo, gave 10 days for ANP and Ibama to explain why they failed to provide information on the legal situation of the blocks offered near the Abrolhos coral reef at the Camamu-Almada basin in Bahia in the “permanent offer for exploration published on July 21<sup>st</sup> this year, also requesting that ANP and Ibama conclusively explain “the alleged breach of court order”<sup>10</sup>. This situation refers to the permanent offer of over 700 blocks identified in September.

**New Gas Law:** On September 1<sup>st</sup>, the Chamber of Deputies passed the bill of law that establishes the new regulatory framework for natural gas, defended by the federal government as the way to enable new private investments and to bring more competitiveness to the sector. The bill is currently at the Senate. If passed, it may mean more competition for Petrobras in the sector in the coming years.

**The Amazon Council:** This month there have been no meetings nor publications regarding the National Council for the Legal Amazon (CNAL). We highlight the forwarding of planning for immediate actions, goals and priorities until December, 2022. This Planning includes 16 actions, a few of which are discussed in the following topics.

**Ineffective GLOs:** Since May the military have been running Operation Green Brazil 2 in the Amazon. It encompasses missions for Guaranteeing Law and Order (GLO), as published in April and June of 2020, and is expected to last until November. According to the Constitution, the GLO is a measure of exception to be used in situations of emergency and for a specific period of time. According to data from the Queimadas (Fires) Program of the National Institute for Space Research (INPE), the second worst index of fires in this biome this decade was recorded in September. 32,017 heat spots were identified in the Amazon last month. The prohibition to start fires in the Amazon and in Pantanal seems to have yielded opposite results: there was a larger incidence of heat spots this year than last year. Until now, therefore, GLOs have not had a positive effect. A plan forwarded by the National Council for the Legal Amazon (CNAL) to the Ministry of Finance estimates that the Armed Forces shall continue along these lines until the end of Jair Bolsonaro’s term, in December, 2022. The text does not identify the legal instrument on which the extension of military presence in the Amazon until 2020 is based.

**Land Regularization:** Minister Tereza Cristina (MAPA) and vice-president Hamilton Mourão have prioritized land property regularization in their statements to the press. In practice, possible land titles, according to Law n° 11.952, from June 25, 2009, on land property regularization for settlements in federal lands, are far below the yearly average for other administrations, of around 3,000 titles per year since 2010. This month, private sector events<sup>11</sup> discussed the need and the convenience of

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<sup>10</sup> [Estadão](#).

<sup>11</sup> <https://www.youtube.com/watch?v=dSI7FFy8RNg>

creating a new legal framework, in light of the current rhythm of implementation of the existing Law.

The government maintains in its short term agenda the articulation, via the Government Secretariat, for the approval of PL (Bill of Law) 2633/2020, on land property regularization and changing laws in effect. Moreover, declaring an Earth Moratorium is also part of the plan of the Amazon Council (by MAPA, until Dec 2020), as also is establishing a pilot project for land property regularization with issuing of property titles (by MAPA, until Dec 2020) and expanding the Rural Environmental Registry (CAR), by Ministry of the Environment, until Dec 2021. CAR is currently managed by MAPA, no longer being managed by the MMA.

**Deforestation control targets:** the Ministry of the Environment (MMA) is in charge of presenting 'realistic' goals for illegal fires and deforestation until October 2020, according to the plan of the National Council for the Legal Amazon (CNAL). Setting "field offices" from the Ministry of Defense is also called for to control deforestation and fires in Manaus and Belém until July 2021, besides setting a central office controlled by the Institutional Security Office - GSI (General Heleno) until December 2020.

**Reform of agencies responsible for fighting environmental crimes:** the Ministry of Justice is responsible for presenting, until December 2020, a restructuring project for the National Indian Foundation (Funai); the Ministry of the Environment (MMA), due to a restructuring of Ibama and Chico Mendes Institute for Biodiversity Conservation (ICMBio); and Ministry of Agriculture, Livestock and Food Supply (MAPA), due to changes at the National Institute of Colonization and Agrarian Reform (Incra). The ministries shall conduct studies on the need for changed personnel, logistics, budget (and doctrine, if applicable) structures. There are no details on what this "change" would be nor on how it would be conducted. For the case of ICMBIO and IBAMA, [ordinance 524, from October 2<sup>nd</sup>](#) suggested the merger of organs via the creation of a work group responsible for assessing this possibility within 120 days.

**Geospatial intelligence:** the government intends to establish until October, by Presidential Decree, the "Group for Protection of the Amazon" (Gipam), under the umbrella of the Operational and Administrative Center of the Amazon Protection System (Censipam). It will be lead by the Ministry of Defense, with representatives from Incra, Federal Highway Police (PRF), ICMBIO, Federal Police (PF), Brazilian Intelligence Agency (Abin), Brazilian Forest Service (SFB), ANM and Funai. The group is responsible for the integration of governmental databases and geospatial products. Inpe's absence is a result of the conflict over the purchase of satellite images and the implementation of a new national system of Earth observation. The Federal Court of Accounts (TCU) voided the Federal Police's (PF) purchase of private images from the company Planet, claiming that Inpe offers the same type of service without additional



cost to the public treasury. The Federal Police supported the purchase and stated that the new system has directly contributed to Operation Green Brazil 2 (an Operation still without proven outcomes, as mentioned above). The Ministry of Defense was not able to purchase a new satellite monitoring system for the Amazon, at the estimated cost of R\$ 575 million, after the Ministry of Economy reallocated R\$ 430 million from the MD's budget. Ibama's exclusion from Gipam is noteworthy – in this case it might mean that Ibama would only perform field control, with no strategic participation on the definition and monitoring of the 825 deforestation targets and the 325 fire targets that Gipam shall monitor to support Operation Green Brazil 2. If Gipam's strategy is successful, it may mean a new form of fighting environmental crimes, differently from the former Inpe warnings followed by Ibama's intelligence work, with strategic support from the remaining command and control organs. Meanwhile, Norway's government announced the purchase and free and open distribution of these images on a global scale.

**Amazon Fund:** As a result of resumed negotiations with Norway and Germany, Mourão informed the press that the Amazon Fund Guidance Committee (Cofa), extinguished by presidential Decree in April, 2019, will be created again. It was also announced that the Ministry of the Environment will no longer chair the Committee, which will be chaired by the vice-president. However, nothing was officially published and negotiations seem far from reaching an end. Cofa has been inactive for almost two years. Therefore, new fund transfers have stopped since last year. As mentioned in our August report, Cofa's constitution with equal representation (federal government, states and civil society) is one of the clauses between the Brazilian Development Bank (BNDES) and Norway for the donation of funds. The Fund's imbroglio will be the subject of public hearings (at the end of October) on the Direct Action of Unconstitutionality by Omission ([ADO](#) 59, with Justice Rosa Weber as Rapporteur at the Federal Supreme Court (STF). The reactivation of the Amazon Fund is a sort of international passport: for it to succeed, trust must be regained and dialogue resumed between Brazil and partner countries; if this happens, it may pave the way for other countries to cooperate with Brazil on forests and climate. The Ministry of Finance was in charge of determining funds distribution among priority projects, depending on the Fund's progress.

**Bioeconomy:** last year, the Special Secretariat for Productivity, Employment and Competitiveness (Sepec) of the Ministry of Finance (ME) announced the “New Green Amazon” program, which has not yet been formalized. Public statements by Secretary Carlos da Costa indicate that the program would focus on concrete measures for improving the business environment and attracting more investment to the Western Amazon region and the State of Amapá, together with the Superintendency of the Manaus Free Trade Zone (Suframa). During a recent Suframa meeting, the secretary promised to revise regulatory barriers that make investments difficult, to propose changes very soon, and to guarantee corporate entity status to the Amazon



Biotechnology Center (CBA). The Ministry of Finance wants the CBA to become a bio-business center. Formalization of the agenda is still missing.

**International fund for bio-economy:** for about a year, the Ministry of the Environment has counted on the creation of a bio-economy fund for Amazon countries, from the Inter-American Development Bank (IADB). The IADB has not officially confirmed any progress in this regard. In August, the topic once again surfaced during a meeting of Latin American countries, when president Bolsonaro made a new announcement on the subject. With the election of a US government representative to chair the Bank this month, the outcome of the US elections and the actual capitalization of a proposal will influence the take off of such initiative. Currently, the IADB is creating another fund dedicated to bio-economy aiming at the private sector.

**Central Bank's sustainability agenda:** in yet another effort from the federal government to ease investors' pressure for an anti-deforestation policy and for aligning Brazilian monetary policy with the international policy, the Central Bank's Sustainability Agenda was launched. The agenda includes climate risks in stress tests, and clearly signals that climate risk transparency standards will be regulated until 2022. The creation of a financial line with sustainable liquidity was also announced, as well as the inclusion of sustainability criteria for the selection of counterparts for the management of international reserves.

**Traceability agenda in Brazil and in Europe:** the UK government launched a public consultation on the creation of a future law that would prohibit the use of products connected to illegal deforestation. The United Kingdom chairs COP 26 and wishes to show leadership on the topic. Besides the UK, the European Commission also opened a consultation on potential measures to reduce the risk of deforestation and forest degradation associated to the block's import demands. The outcomes of the consultation and of the impact assessment study shall be communicated in the beginning of 2021. The European Commission committed to presenting a legislative proposal on the topic in the second quarter of 2021. In Brazil, the Climate, Agriculture and Forests Coalition presented a common agenda to address deforestation, with measures of increased transparency and traceability for the chains at risk. Brazilian company JBS announced a plan for tracing its entire beef supply chain and guaranteeing their products are free from illegal deforestation, including indirect suppliers, until 2025. This is also a reaction to investors' demands for more transparency and chain traceability. Nordea Asset Management dropped JBS shares in July this year, due to JBS's association to illegal deforestation in the Amazon and failing to protect workforce amid the pandemic.

**EU trade pressure on Brazil for the end of deforestation:** a motion from the International Trade Committee of the European Parliament issued on the 9<sup>th</sup> asked the EU to impose more environmental protection requirements in their trade agreements. It does not have immediate nor binding effect, but it reflects the growing trend of using

EU's trade and financial influence to pressure for environmental policies. The EU is looking for alternatives to preserve the trade agreement with Mercosur accommodating the environmental issue. And it is also putting pressure on Brazil. On the 16<sup>th</sup>, ambassadors from Germany, Belgium, Denmark, France, Italy, the Netherlands, Norway and the UK asked the vice-president for "immediate real actions" for fighting deforestation. Mourão minimized the issue. On a note, Brazilian Ministries of Foreign Affairs and of Agriculture stated that the agreement not coming into force may mean a "discouragement for the country's efforts towards further strengthening its environmental laws". In the beginning of October, the new EU trade commissioner stated that the ratification process for the agreement between the two blocks will not be initiated - "pre-ratification" commitments will be discussed.

**Trade pressure on Canada regarding agreement with Mercosur:** the Canadian government is also being questioned about how to address the Amazon deforestation in the context of Mercosur agreement negotiations. Last year the Trudeau administration refuted the possibility of suspending negotiations, mentioning the need for diversifying the country's trade partnerships. In 2020, Canadian environmentalists doubled their pressure for Ottawa to bring conversations with Mercosur to a standstill.

**Environmental conditioning of investments:** the New Development Bank (NDB), the BRICS bank, announced a new round of credit of US \$ 820 million for Brazil. Projects must be related to infrastructure with sustainability, the bank's priority focus for the post-pandemic period. This is good news since it means having a new source of funding at a time of fiscal tightening. However, Brazil faces the challenge of presenting sound infrastructure and logistics proposals with sustainability. A few of the projects for which investment is sought, like Ferrogrão, [involve large scale deforestation](#).

**Climate litigation:** in 2009, according to the National Policy on Climate Change law, Brazil committed to a 36% to 38% reduction of total emissions from the economy for the year of 2020, with a special commitment to the reduction of 80% of emissions from deforestation in the Amazon. The federal government has informed the press that deforestation will not decrease. Instead, it will increase this year, not fulfilling the commitment. One of the ways for demanding the government's accountability for not fulfilling the commitment is climate contention actions, which start to gain momentum with the judgment of two important instruments: the National Climate Fund and the Amazon Climate Fund, key to the success of the climate agenda in 2020. In September the STF (Federal Supreme Court) conducted a hearing with more than 66 participants to get an "objective and official report" on the outlook of the environmental situation in Brazil in view of ADPF 708 (Petition of Non-compliance with Fundamental Precept) regarding the Climate Fund. The closing remarks of the rapporteur, Justice Luís Roberto Barroso, carried a strong message stating that it is necessary to deal with the facts and not to "create and imaginary and parallel reality", an indirect reference to messages that there is an orchestrated conspiracy against

Brazil or the Brazilian government. Justice Barroso said the STF will rule based on facts, the Constitution, international agreements and the legislation.

**NDCs:** Brazil would have to present its revised commitment for the Paris Agreement this year at COP 26. Since the Conference was postponed to 2021 due to the pandemic, pressure has decreased. Still, many countries have already presented their revised commitments. The Paris Agreement established that Nationally Determined Contributions (NDCs), self-defined individual goals for countries, be revised every five to ten years, aiming at more ambitious goals. The Brazilian NDC presented in 2015 aims at a 37% reduction until 2025, and suggests a further reduction to 43% for the year of 2030 in reference to the 2005 emissions level.

There are no clear signs that the Brazilian government will revise its commitment this year. Even if this is done, in case it does not contemplate more stringent commitments and is open to the participation of society, it may raise discussions on its legitimacy.

**Brazil and China at UN General Assembly:** at the opening of the UN General Assembly, Brazil's president attempted responding to the international community regarding his environmental policies. The tone of the speech was defensive, stating that there is a conspiracy aiming at tarnishing the country's image. Jair Bolsonaro also claimed the country attracted record direct foreign investments this year – and was mistaken. 2020 saw an unprecedented outflow of capital from the country and there is indication from the market that Brazil is losing long term capital due to the environmental situation and to the government's inability to adequately respond to such demands. Chinese president Xi Jinping announced that China will aim at reaching carbon neutrality before 2060" – a true landmark in international climate policy. Currently, China accounts for almost 30% of global carbon emissions and faces serious air pollution problems.

**Upcoming US elections:** during the September 29 US presidential debate, former vice president Joe Biden, the democrat candidate, stated that, if elected, he will support actions against Amazon deforestation with unprecedented funds (US\$ 20 billion), but also threatened sanctions against Brazil in case deforestation continues. The following morning, Bolsonaro took part in the UN Biodiversity Summit and stated that organizations "associated to some NGOs are behind environmental crimes in Brazil and abroad". On a note, the government expressed repudiation regarding Biden's comments on the Amazon.

## 5 - Trends

October's agenda is full of interesting topics for climate and environmental policy. Besides the public hearings on ADO 59 on the Amazon Fund at the STF (Federal Supreme Court), and new developments at the last Conama's meeting that have caused significant instability and have not yet reached an outcome, the consolidation of deforestation and fires figures shall be the most sensitive topics.

The country's environmental policy fragility is ever more explicit, and deforestation data are symptomatic. In spite of governmental efforts, such as GLOs (Guarantee of Law and Order) and the creation of an Action Plan for the Development of the Amazon organizing the duties of each organ of the federal executive branch, the overall effort has clearly not been enough to evoke the desired response.

Charging of those responsible for environmental<sup>12</sup> crimes is still low, as also is adherence to the fine settlement system established in 2019 by an ordinance from the Minister of the Environment, Ricardo Salles; the system is paralyzed. The trend is for this **low performance to continue**, in line with the president's declaration "not to let Ibama get in the way" (the President's official Live on October 1<sup>st</sup>). In practice, this assures the impunity to offenders and the continuity of environmental crimes.

At the Executive branch, the "**restructuring**" of key positions for environmental themes at the Ministry of the Environment (MMA), the Ministry of Agriculture, Livestock and Food Supply (MAPA) and the Ministry of Science, Technology and Innovation (MCTI) will **go on**, affecting the monitoring and fight against environmental crimes. For Fishing, there is little visibility for topics related to environmental control. At the MMA, the pressure from the public opinion increased in September claiming for the replacement of Salles by judicial means. However, the outcomes of the administrative misconduct action filed by the Attorney General's Office and of other actions filed by political parties at the Federal Supreme Court (STF) are not clear.

There is a trend for increased **litigation**, that is, for more judicial actions aiming at guaranteeing effective environmental protection by means of questioning the government's actions – as in the case of the action filed by the Partido Verde (Green Party), having Justice Weber as rapporteur, challenging the presence of the military in the Amazon as part of Operation Green Brazil 2. In a certain way, this represents the loss of the capacity to negotiate and coordinate public policies otherwise. In the case of ADPF 708 for the Climate Fund, the action prompted a response from the government. In the case of recent revocations by Conama, judicial instability is harmful to economic agents, who shall wait for judicial outcomes at the various stages. It would be desirable for the government to reduce insecurity and to create a clear and stable regulatory environment.

The lack of deliveries has led to an **increasing mistrust** by private investors and trade partners, who demand for more facts and less words. Private actors have proposed alternatives, but there is no negotiation platform with the federal government.

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<sup>12</sup> [Revista Época](#).

In September, 230 agribusiness associations and companies, as well as environmentalist organizations, gathered around the Climate, Agriculture and Forest Coalition to propose to the government a common agenda for addressing deforestation. This action prompted Mourão to meet with Salles and Tereza Cristina. The vice-president has not indicated having received the proposals, at least not publicly – which has not helped calm down investors and entrepreneurs who met with him in the last few months. There are no clear indications that the government will change its short term strategy to accommodate private proposals and demands.

In face of the government's inaction, the private initiative has taken their own actions to address the deforestation risk throughout their chains. After the creation of a program for the Amazon by three private banks (Bradesco, Itaú and Santander), major beef industry companies have taken a stand. This type of response is expected to intensify due to the market appeal of deforestation risk management, and also to compensate, to some extent, for the lacking actions of the Brazilian Government.

**Pessimistic perspectives** for the future agreement between Mercosur and the European Union. The Brazilian government doesn't show signs of commitment to the deforestation and fires control agenda nor with the climate change agenda, which could inspire more confidence from international partners. Mass communication campaigns have reinforced a **confrontational approach**. The President's statements still oppose environmentalists and research institutes, attempting to blame them for Brazil's tarnished image abroad<sup>13</sup>. Although unlikely to happen under current circumstances, an "armistice" would be welcome. The misalignment between the political agenda for the environment and private and the market's expectations about deforestation risk reduction impacts trade agreements and investment partnerships in many areas (agriculture and infrastructure in particular).

Following this up close is extremely important, especially in order to learn where the government stands and what its performance in the matter is. The effect of the outcome of US elections early in November is a major cause of concern, especially considering that polls indicate a possible victory for the Democrat candidate.

In October, there's a chance projects around a [Green Agenda](#) for which there is consensus may be examined as a package at the National Congress. Bills of Law on zero deforestation, on climate emergency and on forest heritage are on the agenda. One of the obstacles for consensus has been the land regularization project (PL 2,633). Negotiations around the Tax Reform continue at the Chamber of Deputies. There have been proposals for "greening" the reform.

At the Senate, important matters such as the new natural gas law and the project for supporting collective urban public transportation due to the pandemic await due course. In response to the historical record in the rate of fires in Pantanal, an external

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<sup>13</sup> [General Heleno Twitter](#).

committee is being organized to pass biome-specific environmental guidelines and norms still in 2020. The "Pantanal Statute" has been drafted and shall be discussed by Senators in the coming weeks.

The Joint Budget Committees should work on budgetary issues - LDO (Budget Guidelines Law) and LOA (Annual Budget Law) - for 2021. Although municipal elections influence the pace of activities at the Congress, LDO and LOA may be passed before the parliamentary recess (at the end of December). The same cannot be expected for the remaining matters, since municipal elections impact the quorum of the Chamber of Deputies and the Senate alike.

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### **Contact information**

[politicaporinteiro.org](http://politicaporinteiro.org)

[contato@politicaporinteiro.org](mailto:contato@politicaporinteiro.org)

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