



## Request to Financial Institutions to publicly support protection of strong indigenous rights in Brazil

7 June 2023

Dear CEO,

**We write to you to share our deep concern with the ongoing assault on Indigenous People's rights in Brazil. A strong agribusiness lobby group is rallying support for a bill that will abolish Indigenous rights enshrined in the constitution. If the bill is approved, it will inevitably lead to a strong increase in land conflicts, violence against Indigenous Peoples and deforestation. It will drastically increase the chance that the bank's agribusiness clients in Brazil will be complicit in international indigenous rights violations, as well as violations of the bank's own policies. We therefore strongly urge the bank to publicly state it supports the protection of the rights of Indigenous peoples in Brazil and rejects the use of the "Marco Temporal", the Milestone Thesis.**

The Milestone Thesis intends to restrict the demarcation of indigenous lands only to those areas that were under the proven possession of the original peoples on October 5, 1988, date of the promulgation of the Federal Constitution. The Thesis of Indigenato, on the other hand, recognizes indigenous possession of the land as original, that is, prior to the creation of the Brazilian State itself.<sup>1</sup>

On May 30th, Brazil's lower house passed a bill (PL490/2007), that adopts the Milestone Thesis. The bill will, among other changes, allow the exploitation of Indigenous lands for the construction of highways, hydroelectric plants and other works without free, prior, and informed consent of the affected communities. It will also authorize anyone to question demarcation procedures of Indigenous lands, including those already officially recognized. The bill will create legal insecurity as it may be in conflict with the Brazilian constitution as well as with the ILO 169 convention, which Brazil has signed.

The increased chance of conflicts with Indigenous peoples also creates reputational risk for companies and their financiers/investors. In addition, the increased exposure to human rights violations and environmental destruction can lead to market risks, especially for companies that export to jurisdictions like the EU, which has a [law on deforestation free products](#) and is in the process of adopting stricter due diligence requirements.

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<sup>1</sup> Available at: <https://apiboficial.org/2022/06/24/indigenous-people-from-all-over-brazil-struggle-for-federal-supreme-court-stf-to-end-the-threat-of-the-milestone-thesis/?lang=en>

The Amazon provides crucial environmental services on which the agribusiness sector depends, such as a balanced rain cycle.<sup>2</sup> But in their search for short term gains, part of the agribusiness sector is supporting this attack on the rights of Indigenous peoples, the guardians of the forest. They fail to realize that if the Amazon, which is already close to a tipping point<sup>3</sup>, collapses, the sector will also collapse.

**The bill still needs to be approved by the Senate (PL2903/23), so time is of essence now!**

Considering that the weakening of Indigenous rights is a reputational, legal, and financial risk<sup>4</sup> for the bank, we urge the bank to publicly support the protection of Indigenous rights. We also urge the bank to ensure this position is reflected in the bank's policies on Indigenous people.

Kind regards,

Forests & Finance Coalition  
Amazon Watch  
Rainforest Action Network  
Washington Brazil Office (WBO)

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<sup>2</sup> Leite-Filho, A.T. et al. Deforestation reduces rainfall and agricultural revenues in the Brazilian Amazon. *Nature Communications* (2021) 12:2591. <https://doi.org/10.1038/s41467-021-22840-7>

<sup>3</sup> Boulton, C.A., Lenton, T.M. & Boers, N. Pronounced loss of Amazon rainforest resilience since the early 2000s. *Nat. Clim. Chang.* **12**, 271–278 (2022). <https://doi.org/10.1038/s41558-022-01287-8>

<sup>4</sup> Birss M. and Finn, K. (2022), The Business Case for Indigenous Rights. *Stanford Social Innovation Review* (2022). DOI: 10.48558/556s-4a69