

Brazil Continues to Implement Social, Environmental, and Climate Change Regulatory Reforms



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In line with our [November 2022 news alert](#), Brazil's new administration has had a very busy January pursuing its social, environmental, and climate agendas. In his first week in office, President Luiz Inácio Lula da Silva (Lula) initiated significant institutional restructuring, repealed previous administration policies, and announced several new policy directions. The changes highlighted below are significant, unprecedented, and unequivocally signal a government-wide emphasis on social, climate, and environmental matters to the full extent of executive branch power.

Lula appointed former environment minister and activist Marina Silva to lead a now remodeled and renamed "Ministry of Environment and Climate Change." Marina Silva served as the Minister of the Environment for five years during President Lula's first tenure. She resigned in 2008 after clashing with farming interests, being accused of hindering industrial and agricultural development, and losing political battles in relation to the Amazon.

Lula's initial package of environmental and climate regulatory changes that revoked his predecessor Jair Bolsonaro's policies include:

Structural Changes

- ◆ [Provisional Measure 1,154/2023](#) establishes the basic organization of the Presidency and the Ministries, and their areas of authority. The 31 ministries and six bodies with ministerial status (23 more than the Bolsonaro administration) prominently feature newly created ministries dedicated to Racial Equality; Women; Indigenous Peoples; and Management and Innovation in Public Services.
 - ◆ The Ministry of Racial Equality is responsible for affirmative action policies for combating and overcoming racism, as well as for policies for African communities (e.g., *Quilombola*), and traditional peoples and communities.
 - ◆ The Ministry of Women is responsible for formulating, coordinating, and executing policies and guidelines to guarantee women's rights, as well as for cooperation programs with national and international organizations and affirmative action policies to guarantee gender equality and combat gender discrimination.

- ◆ The Ministry of Indigenous Peoples will be in charge of the recognition, guarantee, and promotion of the rights of indigenous peoples, as well as the demarcation, defense, exclusive usufruct, and management of indigenous lands and territories.
- ◆ The Ministry of Management and Innovation in Public Services will be in charge of innovation, simplification, and increasing the efficiency and effectiveness of public policies, as well as digital transformation, governance, and data sharing.

The Provisional Measure also provides for seven advisory bodies to the President of the Republic, including Sustainable Social Economic Development, Energy Policy, and Food and Nutrition Safety. The provisional measure must be approved by April 2nd, and Parliamentarians can present amendments on February 2 and 3.

- ◆ [Presidential Announcement on CONAMA](#) orders a revision of former President Jair Bolsonaro's Decree 11,018/2022 to eliminate operational setbacks to the National Environment Council (CONAMA), guarantee the broad participation of society in the definition of the country's environmental public policies, and propose a new regulatory structure for the Council, within 45 days.
- ◆ [Decree 11,328/2023](#) creates the National Attorney's Office for the Defense of the Climate and the Environment within the General Attorney's Office (*Advocacia-Geral da União* - AGU).
- ◆ [Decree 11,349/2023](#) defines the structure and functions within the Ministry of Environment and Climate Change, reinstates the Climate Change Office. It creates the Department for the Protection of Animal Rights, and the Offices for the Bio-economy and Extraordinary Deforestation Control. Marina Silva also announced a National Climate Security Authority, to be implemented by March 2023, as well as a Presidential Climate Change Council, to be led by Lula and include the participation of all government ministries.
- ◆ [Decree 11,357/2023](#) defines the structure and functions within the Ministry of Foreign Affairs. It creates the new Secretariat for Climate, Energy, and the Environment, with departments for each area. Each department will be responsible for advising the Secretary General for Foreign Affairs on such issues, proposing foreign policy guidelines, and coordinating the government's participation in bilateral and regional negotiations and in international forums and organizations in matters under its responsibility.
- ◆ [Decree 11,367/2023](#) creates the Permanent Interministerial Commission for the Prevention and Control of Deforestation. It reestablishes the Action Plan for the Prevention and Control of Deforestation in the Amazon and other relevant biomes.
- ◆ [Decree 11,372/2023](#) restructures the National Environment Fund, with changes to the fund's deliberative council composition, and reinstates the participation of civil society organizations. Chaired by the Ministry of the Environment and Climate Change, the fund manages socio-environmental projects and initiatives.

Regulatory Changes

- ◆ [Decree 11,373/2023](#) makes substantial changes to Decree 6,514/2008, which implements the Environmental Crimes Law and establishes penalties and enforcement mechanisms. Decree 11,373 revives the original rules and repeals the previous administration's provisions that had altered the environmental enforcement process. Some relevant changes include: (i) elimination of the

conciliation hearing stage, so the defendant must either challenge the notice of violation within 20 days or pay the fine with a discount; (ii) provisions for the public availability on the internet of case files with data on environmental violations (fines, embargoes, etc.); and (iii) elimination of the discount provision of converting environmental fines into environmental services for cases that reach the administrative appeal level.

Relevant Appointments

- ◆ Federal Environmental Agency (IBAMA): On Saturday, January 14, Marina Silva appointed former Congressman Rodrigo Agostinho as the new President of IBAMA (Brazilian Institute for the Environment and Renewable Resources). Agostinho is the former coordinator of the Environmentalist Parliamentary Front in Brazil's National Congress. He was a member of the CONAMA during Lula's first government in 2004 and recently attended the 27th Conference of the Parties to the United Nations Framework Convention on Climate Change (COP27), as part of the transition team, together with Marina Silva. As one of the main representatives of the House environmentalist bench, Agostinho was a key catalyst in the discussions of Bill 6,120/2019, which proposed the creation of a National Inventory of Chemical Substances.
- ◆ Ministry of Agriculture: President Lula appointed Carlos Fávaro as the new Minister. A former Senator, businessman, and farmer, Fávaro has been on the government transition team since November as coordinator of the technical group for agricultural sector policies and played a fundamental role in the dialogue between Lula's Workers' Party and the agricultural sector. For the Secretariat of Agricultural Defense, Fávaro chose Agronomist Carlos Goulart. Food engineer Renata Bueno Miranda is the new Secretariat for Innovation, Sustainable Development, and Irrigation. Both Goulart and Miranda were already part of the Ministry of Agriculture.
- ◆ Ministry of Foreign Affairs and its Secretariat for Climate, Energy and the Environment: President Lula appointed the Brazilian career diplomat Mauro Vieira as the new Minister of Foreign Affairs. Vieira occupied the same office between 2015 and 2016 during President Dilma Rousseff's second term, and served at the Latin American Integration Association (ALADI) mission in Montevideo, at the Brazilian embassies in Washington, Mexico City, Paris, Buenos Aires, Argentina. For its Secretariat for Climate, Energy, and the Environment, Vieira appointed André Correa do Lago, until now the ambassador of Brazil in India, and an experienced negotiator on environmental matters in international forums on behalf of Brazil.

ESG Developments

- ◆ Brazil hailed the New Year with two important environmental, social, and governance (ESG) developments. The Brazilian National Standards Organization (*Associação Brasileira de Normas Técnicas* - ABNT) published ABNT 2030 Recommended Practice (PR), which provides guidelines and evaluation models for implementing ESG practices. The 2030 PR's goal is to assist and guide businesses and organizations in incorporating ESG practices and evaluation criteria. The 2030 PR is "inclusive": i.e., applicable to all types of organizations, including public or private companies, government entities, and non-profit organizations, regardless of their size and sector of activity. The document serves only as guidance, and is not enforceable unless Brazilian laws and regulations incorporate it by reference.
- ◆ Finally, the Brazilian Securities and Exchange Commission Resolution (RCVM) 59, of December 2021 took effect on January 2, 2023, following the country's trend to strengthen its ESG-related disclosure framework. RCVM 59 aligned the country's ESG-related disclosure norms with

international standards and, among other important features, reduced the cost of compliance by eliminating redundancies and simplifying the disclosure form's mandatory content.

President Lula and Minister Marina Silva are just getting started, and we expect many more substantive regulatory changes soon. Yesterday, in Davos, during her participation in the 2023 World Economic Forum Annual Meeting, Marina announced the formation of an interministerial group composed of 17 ministries, which will focus on advancing the environmental, climate, defense, social, family, and fight-against-hunger agendas, and implement changes to protect the Amazon Forest in partnership and coordination with the other eight countries in its territory. Marina announced an upcoming Latin America environmental and climate change roadshow, led by President Lula, to outline a common strategy for the Amazon, focusing on combating illegal occupation, preserving indigenous lands, and reducing deforestation.

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