

## The Amazon Bioeconomy Fund: Annex 24 Country Assessments Biodiversity

Ratification of International Biodiversity conventions	Environmental Impact Assessment Legislation	National strategies on biodiversity for tourism, agriculture, marine resources and gender	Prior and informed consent by indigenous people/local communities legislation	Legal regimes on restauration of biodiversity imposed under procurement/concessional laws
BRAZIL				
<p>CBD Cartagena Protocol CITES Nagoya Protocol on Access and Benefit-sharing Convention on Migratory Species Ramsar Convention International Whaling Commission International Plant Protection Convention</p>	<p>Environmental licensing is one of the main impact management systems in Brazil. It was established by the National Environmental Policy Act (Law No. 6938/1981) with the objective of matching the country's social and economic development with environmental preservation. It is an administrative process that seeks to identify, prevent, mitigate and remedy the impacts of projects and activities on the environment. The entrepreneur is responsible for initiating the licensing process, as well as conducting impact assessments and implementing prevention and mitigation measures. Based on such assessments, the licensing entity may or may not approve the license, usually submitting it to conditioning measures. In order to allow continuous monitoring at each stage of a project, licensing of high impact projects requires three licenses (Preliminary License, Installation License and Operation License). Although the licensing procedure has been developed as an environmental management mechanism, it is also a tool for preventing and mitigating other types of impact, including social, cultural, economic, and human rights issues. Thus, the licensing agency has an environmental focus, but institutions such as FUNAI (protection of Indigenous</p>	<p>Several objectives and targets on biodiversity for tourism, agriculture, marine resources and gender are set in National Biodiversity Strategy and Action Plan of Brazil (2018-2022<sup>1</sup>).</p>	<p>In Brazil, the rights of Indigenous peoples are protected by the Federal Constitution, by the international human rights treaties ratified by Brazil, by the infra-constitutional legislation and by regulatory standards. Among other guarantees, indigenous peoples' have a right to the lands they traditionally occupy; the right to maintain their own culture; and the right to a free, prior and informed consent. Brazil is a signatory of ILO Convention. Compensatory measures are agreed whenever a project interferes with indigenous lands and livelihoods.</p>	<p>In Brazil there are three environmental compensation schemes embedded within the National Protected Areas System law (Federal Law 9985/2000, SNUC Law), the Forest Code (Law 12651 of 2012) and the Atlantic Rainforest Law (Law 11.428/2006.)</p> <p>The SNUC law requires project developers to offset their environmental impacts by paying a fee to support the implementation and maintenance of the Protected Area System (SNUC Law, art. 36), through the Environmental Compensation Fund (Reid et al, 2015). The Federal level has set the ceiling payment at 0.5 percent of the total costs of the project development.</p> <p>The Forest Code (Forest Code 12651/2012) requires private landowners to maintain a certain area of natural vegetation inside their rural properties. The Forest Code requires that compensation be of the same ecosystem type, unless the industrial development project directly impacts a protected area, in which case that protected area is the beneficiary (Reid et al, 2015).</p> <p>The Atlantic Rainforest law requires project developers to compensate their impact over the primary or secondary Atlantic rainforest vegetation by offsetting equivalent areas to the extent of the area deforested, the area must have the same ecological characteristics, be in the same hydrographical basin, and if possible in the same watershed (art. 17).</p>

<sup>1</sup> <https://www.cbd.int/doc/world/br/br-nbsap-v3-en.pdf>



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	rights) and IPHAN (protection of historical heritage) also participate in the process.			
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ECUADOR				
CBD Cartagena Protocol CITES Nagoya Protocol on Access and Benefit-sharing Convention on Migratory Species Ramsar Convention International Whaling Commission International Plant Protection Convention	The Ecuadorian environmental and social regulations largely coincide with international environmental and social safeguards. The Ecuadorian system has a systematized Environmental Impact Assessment process that considers tools for: i) screening (categorization of projects), ii) scoping (definition of the scope of environmental and social assessment), iii) identification, assessment and ranking of environmental and social impacts, iv) design of an ESMP (environmental management plan), v) analysis of the life cycle of the project (construction, operation and maintenance and closure phases).	Several objectives and targets on biodiversity for agriculture, marine resources and gender are set in the NATIONAL BIODIVERSITY STRATEGY of Ecuador (2015-2030) <sup>2</sup> .	Ecuador's Constitution, approved by Parliament in July 2008, explicitly recognizes Ecuador's multi-national and multi-cultural society and guarantees the right of Indigenous Peoples to Free, Prior, Informed <i>Consultation</i> , which obliges the state to conduct due process of consultation of communities potentially affected by projects that affect their culture or territory. However, consultation is not the same as consent. Despite being a signatory to UNDRIP, Ecuador refuses to codify the right to consent, effectively rejecting the right of Indigenous peoples to say no to government-imposed extraction projects on their ancestral territory.	No explicit word of ' <i>compensacion</i> ' in the main regulation except in the sense of compensating social losses for environmental damage. However, in the EIA regulation, it is mentioned that the Env. Management plan should include measures to compensate impacts. This has not been further elaborated in other regulations. Studies have categorized Ecuador as in the initial stage of developing a policy.

<sup>2</sup> <https://www.cbd.int/doc/world/ec/ec-nbsap-v2-p01-es.pdf>

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Peru				
CBD Cartagena Protocol CITES Nagoya Protocol on Access and Benefit-sharing Convention on Migratory Species Ramsar Convention International Whaling Commission International Plant Protection Convention	In 2012, the Government of Peru created the National Service of Environmental Certification for Sustainable Investments (SENACE), as part of the SEIA (National System of Environmental Impact Assessment) and under the auspices of MINAM (Law No. 29968). SENACE is a decentralized agency with technical autonomy whose core functions include (i) the review and approval of the Detailed-EIAs (EIA-d); (ii) the management of the National Registry of Environmental Consultants; (iii) the management of the Administrative Register of Environmental Certifications; (iv) the	Only a few objectives on biodiversity for agriculture and gender are set in the NATIONAL BIODIVERSITY STRATEGY of Peru (2014-2018) <sup>3</sup> . Actions are more defined for marine resources.	In 1994 Peru ratified ILO Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries, which establishes in article 6 the right of native peoples to be consulted on matters affecting their territories and way of life. But it is only recently (2010) that the House of Congress approved the Law on the Right to Prior Consultation for Indigenous or Native Peoples. In Article 3 of the law, the need to achieve consent between the State and Indigenous or Native Peoples, in regard to legislative or administrative measures that affect them directly, is incorporated, as required by the ILO Convention 169.	There is a clear requirement on offset with a stand-alone policy. A clear mandate to follow Mitigation Hierarchy. All are within the Ministerial Resolution No. 398. In Peru, the National System for Environmental Impact Assessment (SEIA) law requires large-scale projects classified as category III and subject to a detailed- EIA to offset, when appropriate, their environmental impact (art. 10 Law 27446). In 2014, the government approved "Guidance for Environmental offset under the SEIA framework" (Ministerial Resolution 398-2014-MINAM), which sets general provisions including the scope, concepts, principles, criteria and minimum requirements of the environmental offer plan.

<sup>3</sup> <https://www.cbd.int/doc/world/pe/pe-nbsap-v2-es.pdf>

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	coordination with other environmental authorities; (v) the formulation of proposals for the continuous improvement of the EIA process; and (vi) the implementation of a “one-window” system for environmental certification, in order to simplify and expedite administrative procedure.			
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Suriname				
CBD Cartagena Protocol CITES Nagoya Protocol on Access and Benefit-sharing Convention on Migratory Species Ramsar Convention International Whaling Commission International Plant Protection Convention	ESIA legislation is not yet officially in place in Suriname, although the National Institute for Environment and Development (NIMOS) has issued some guidelines. Some environmental laws do exist but are dispersed.	The NATIONAL BIODIVERSITY STRATEGY of Suriname (2012-2016) <sup>4</sup> sets goals and targets on biodiversity in terms of tourism, agriculture, and marine resources. No reference to gender.	In 2007, Suriname voted for the UN Declaration on the Rights of Indigenous Peoples. However, the legislative system of Suriname, based on colonial legislation, does not recognize Indigenous or Tribal Peoples, and Suriname has no legislation governing Indigenous and Tribal Peoples’ land or other rights.	-

<sup>4</sup> <https://www.cbd.int/doc/world/sr/sr-nbsap-v2-en.pdf>

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Guyana				
CBD Cartagena Protocol CITES Nagoya Protocol on Access and Benefit-sharing Convention on Migratory Species Ramsar Convention	The Environmental Protection Act of 1996 is the first comprehensive environmental legislation in Guyana. The Act established the Environment Protection Agency. The goal of the Act is to <i>"provide for the management, conservation, protection and improvement of the environment, the</i>	The NATIONAL BIODIVERSITY STRATEGY of Guyana (2012-2020) <sup>5</sup> does identify some targets for the tourism and agriculture sectors, but not really in terms of marine resources and gender.	The Constitution of Guyana in its Preamble recognizes "the special place in our nation of the indigenous peoples" and recognizes "their right as citizens to land and security and to their promulgation of policies for their communities". <sup>2</sup> There is a Ministry of Indigenous Peoples' Affairs (MoIPA – formerly the Ministry of Amerindians' Affairs MoAA); and Guyana endorsed the	No link between EIA and Offset. No specific requirement regarding offset in the general environmental law. No mention of the Mitigation Hierarchy only 'avoidance principles' There is a clear mention of offset with the right context in the regulations, even though without an explicit statement of offset as a mandatory requirement. It is only mentioned that license to hydropower projects should not be granted

<sup>5</sup> <https://www.cbd.int/doc/world/gy/gy-nbsap-v3-en.pdf>

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International Plant Protection Convention	<i>prevention and/or control of pollution, the assessment of the impact of economic development on the environment, the sustainable use of natural resources and for matters incidental thereto connected therewith".</i> The EP Act gives the EPA the mandate for the coordination of environmental management and outlines the legal process for undertaking sustainable and effective management of the natural environment. The EPA administers the EIA process set out in Part IV of the Act. The Act requires that an EIA be conducted prior to authorization of any project, which may significantly affect the environment.		UNDRIP in 2007. Guyana is one of the few countries in South America that has not ratified ILO Convention 169. The Amerindian Act of 2006 has many conditions that limit indigenous rights and FPIC is not directly mentioned.	unless "all appropriate measures for the conservation and preservation of environment.... surrounding hydroelectricity generating facilities" have been taken.
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Colombia				
CBD Cartagena Protocol CITES Nagoya Protocol on Access and Benefit-sharing Convention on Migratory Species Ramsar Convention	Decree 2811 of 1974, was the first law enacted in Colombia to regulate environmental policy and social action pertaining to natural resources management. This decree incorporated legal measures related to EIA. In 1991, the new Colombian Political Constitution incorporated	The National Biodiversity Strategy of Colombia (2016-2030) <sup>6</sup> features some targets in terms of biodiversity for the agriculture and marine sectors, but tourism and gender are not mentioned.	Colombia in 1991 was one of the first countries in Latin America to ratify ILO Convention No. 169 concerning Indigenous and Tribal Peoples. The first mention of the right to consultation was in environmental legislation of 1993, embodied in Decree 1320 of 1998 "which provides for consultation with indigenous	In Colombia, the offset scheme is embedded within the environmental licensing process. Offset mechanism applies to large-scale projects with significant environmental impacts. In 2012, the "Manual for the allocation of Compensation for Loss of Biodiversity" was adopted, through Resolution 1517, which sets the steps to determine and quantify how much, where and

<sup>6</sup> <https://www.cbd.int/doc/world/co/co-nbsap-v3-es.pdf>



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International Whaling Commission International Plant Protection Convention	more EIA measures and decree 2811 laid the groundwork for Law 99 of 1993. Law 99 was the first law to specifically incorporate EIS in the Colombian legal code (Article 57) in the same way that Articles 49–62 describe and regulate the environmental license. Decree 1753 of 1994 implemented Law 99, regulating forty-two sectors and activities, and required them to submit an EIS.		<i>and black communities, prior to the exploitation of renewable natural resources in the areas they inhabit".</i> Besides national legislation, the Colombian government is also bound by rulings on the right to consultation of indigenous peoples made by the Colombian Constitutional Court, which since 1997 (Ruling SU-039/97 regarding consultation on oil extraction in the habitat of the U'wa), has repeatedly upheld this fundamental right of indigenous peoples and afrodescendant communities, also in several recent judgments.	how to allocate biodiversity offset for terrestrial ecosystem, based on list of factors regarding the representativeness, rarity, eminence and potential of transformation of the affected ecosystem. The Manual is mandatory only for projects which environmental licensing approval is under the competence of the National Authority of Environmental Licenses (ANLA).
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