

BRIEF 11 cont.

The Brazilian Amazonian forest, the Atlantic forest, the Serra do Mar, the Mato Grosso Pantanal and the coastal zones are national patrimony. The use and development of their natural resources shall only be undertaken within conditions, determined by law, that assure the preservation of their environment.

Indians shall have the right to their lands, their customs, languages, beliefs, and their traditional occupations. The lands they have traditionally occupied by the Indians and which are permanently inhabited by them, shall be subject to the purposes, necessary for the preservation of the natural resource necessary to assure the well-being of the Indians for physical and cultural development, according to their customs and traditions.

Lands traditionally occupied by the Indians are subject to exclusively to federal jurisdiction (Article 174, paragraph 1, of the Constitution of the United States). It is responsibility of the federal government to demarcate Indian lands and to protect the Indians and their property. Lands traditionally occupied by the Indians are inalienable and the rights to them are not to be transferred to others.

Indians shall have exclusive rights in the use of the resources found in the soil, rivers, and lakes of their lands. Mineral resources and other resources found in these lands may only be exploited with the participation of Congress, after hearing from the communities affected shall benefit the Indians of these resources, in terms to be established by law.

Indians may not be removed from their lands except in cases of epidemic or catastrophe which pose a serious risk, or in the interests of national defense. They may only be removed from their lands if the Congress, after hearing from the Congress and their immediate representatives, shall determine that the public risk ends is guaranteed.

All actions intended to change the boundaries of lands occupied by Indians are nullified, without prejudice to indemnification or judicial appeal, except in cases of improvements to the land resulting from the good faith.

Article 174 authorizing the state to exploit the lands of the concession of mineral resources to private companies (co-operative garimpeiros) does not apply to Indian lands (Arts 231-232)