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## Brazil

### Solid Wood Products

### Public Forest Management Law

### 2006

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**Report Highlights:**

On March 2, 2006, President Luis Inacio Lula da Silva sanctioned Law 11,284/2006, which regulates public forest management for sustainable production, creates the Brazilian Forest Service, and establishes the National Forest Development Fund.

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Includes PSD Changes: No  
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## Summary

President Lula sanctioned the Public Forest Management law on March 2, 2006. Initially seen as an attempt to privatize the Amazon forest by radical environmentalists, the new legislation is an important milestone for the conservation of the Brazilian forests through sustainable practices, and is considered an absolute priority by Ministry of the Environment (MMA) for the conservation of the Amazon.

Three options for public forest management are considered: Direct Management by public entities (see Chapter II); set aside for local communities (see Chapter III); and Forest Concessions (see Chapter IV). The new legislation foresees the concession of nearly 13 million hectares of public forests in the Legal Amazon region for the next 10 years. Only legal entities (corporations) constituted under Brazilian legislation that have headquarters and administration in the country are authorized to participate in the biddings for forest concessions.

Forest concessions do not imply the transfer of land property or ownership of those areas, but rather authorize the sustainable use of forest products and services. Grants for the right to access to genetic resources for research purposes, as well as the exploration of mineral, fishery, and wildlife resources are prohibited.

Besides public forest concessions, the new legislation foresees the creation of the Brazilian Forest Service (SFB), which is the regulatory body for public forest concessions, and the National Forest Development Fund (FNDF), which will raise funds for forest conservation and for the SFB administration.

It is important to note that the Brazilian legislation requires a regulatory decree signed by the President in order for a law to become effective. Although this law entered into effect as of March 03, 2006 (date of publication in the Official Gazette), a regulatory decree may be expected in the future to address further details. This does not affect the contents of the sanctioned law.

### **Main Points of Law 11,284**

Main points of Law 11,284/2006 signed by President Luis Inácio Lula da Silva and published in the Official Gazette on March 03, 2006.

**Direct Forest Management:** Government entities may exercise the direct management of national, state and municipal forests, and may have the choice to establish partnerships terms and contracts with third parties.

**Set Aside for Local Communities:** Before forest concessions are carried out, public forests occupied or exploited by local communities will be identified by the competent bodies for the creation of extraction and sustainable development reserves as well as concessions for use in community projects under the scope of forest products and services. Up to 25 million hectares of public forest will be destined for local communities.

**Forest Concessions:** Only public forests listed in the Annual Forest Grant Plan (POAF), and proposed by the management body (SFB), will be submitted for public bidding. Only legal entities or corporations that are headquartered and administered in Brazil will be eligible to participate in the biddings. Each concession may be exploited for up to 40 years. Up to 13 million hectares of public forests will be destined for forest concessions.

**Inspection:** Inspection, which was previously solely performed by IBAMA (Brazilian Environment Institute), will be performed at three different levels. 1) IBAMA and state environment agencies will assure the fulfillment of environmental regulations; 2) the Brazilian Forest Service (SFB) and state management agencies will inspect the fulfillment of concession contracts; 3) mandatory independent audits will be performed not to exceed a period of 3 years.

**SFB:** The Brazilian Forest Service acts exclusively in public forest management. Among its responsibilities are:

- Serve as the Management body in the federal scope, as well as management body of the National Forest Development Fund (FNDF).
- Support the creation and management of programs related to training, research and technical assistance for the implementation of forest activities.
- Promote market research for forest products and services.
- Manage the National Public Forest Register.

The SFB will be funded by resources from the National Budget, publication and research sales, donations, partnerships and agreements with organizations and private companies or government entities. 70 percent of the annual established value required from the concession owner will be destined for the SFB activities.

**FNDF:** The National Forest Development Fund will be managed by the SFB and is destined for the development of sustainable forest activities, as well as to promote technological innovation in the sector. 40 percent of the price paid for the concession (excluding the annual required value), will finance the FNDF.

### **Comments**

This new forest management law was widely celebrated by the Government, environmental agencies, NGOs, and the Amazon community. The new legislation provided a legal framework to promote and manage research activities, as well as capacitating the forest sector through training and investments. Both ruling and opposition parties worked together to approve law 11,284, such cooperation is rare in Brazilian politics.

Public areas represent nearly 75% of the Amazon territory and nearly 90 percent of native wood production comes from this region. Law 11,284/2006 is an important weapon for combating the destructive illegal logging activities. Amazon research institutes, such as IMAZON, state that 62% of logging activities in the region comes from predatory sources.

Another major accomplishment expected is the decrease in activities of land grabbers. Approximately 33 percent of potential forest management areas are under threat of grabbing. The new legislation would likely put an end to this, as designated areas for concessions would assure public ownership over the exploited areas.

Few comments were heard against the sanctioning of law 11.284. Mostly, the opposition came from the agricultural sector, whose land advances towards the Amazon region will be severely undermined.

President Luis Inácio Lula da Silva signed law 11.284 with 4 vetoes on amendments included in the text by the Senate. Among them was the requirement that the Senate should approve any concession above 2,500 hectares. Another veto was on the requirement that the Senate should confirm directors chosen for the SFB and PNDF. President Lula also vetoed a paragraph that interfered in the IBAMA and MMA's budget, as well as an amendment, which

required the creation of a management council formed exclusively by representatives from various ministries.

Inspection and law enforcement in the Amazon region has always been a big problem. The lack of sufficient IBAMA inspectors and corruption has hindered government measures to prevent deforestation. In 2005, the National Institute of Space Research (INPA) released figures showing near record levels of deforestation for the 2003-2004 year when more than 26,000 square kilometers of forest were destroyed.

President Lula has faced criticism over his handling of Amazon deforestation. The effectiveness of the new legislation is one of the biggest tests this administration faces regarding deforestation. The government hopes that, as companies are granted concessions, they manifest their will in acting legally, thus concentrating inspection in illegal areas.