

# Ecotourism in the Amazon

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**Abstract:** This paper presents the development of ecotourism in the Brazilian Amazon from a legal perspective. Firstly, it provides an overview of the Brazilian Amazon and highlights the growing importance of ecotourism in that region. Secondly, it examines the legal principles and rules on ecotourism at the international, regional and national levels. The regulation of ecotourism is crucial. Unregulated ecotourism is likely to cause environmental and social harm, particularly to local and indigenous communities. The legal framework regulating ecotourism activities is still incipient. This activity is generally regulated in an indirect manner, but it is in any case subject to the general environmental law rules and principles. Because ecotourism encompasses specific concerns when compared to traditional tourism, associated for example to the interactions with nature, local and indigenous communities, specific regulation is required. It is found that ecotourism has been perceived as an alternative for the promotion of sustainable development in the Brazilian Amazon. The increased importance of such activity might lead to the creation of legal definitions, principles and rules specifically regulating ecotourism and its impacts.

**Keywords:** Ecotourism; Brazilian Amazon; environment, indigenous people, legal regulation.

## 1. INTRODUCTION

The reason for looking at ecotourism through a legal point of view relates to the fact that legal regulation is central for the sustainable development of this type of activity. The regulation of ecotourism would basically involve the setting up of criteria defining what makes such activity "sustainable" and principles governing the interactions with local and indigenous communities. Regulation is required, for instance, to define a maximum number of visitors allowed to transit in fragile ecosystems or to set up parameters for building up infrastructure in ecotourism sites in such way as to avoid altering their landscape, topography and hydrological systems.

Ecotourism is defined by its objectives to conserve nature and to benefit the local people whilst

allowing profitable enterprises.<sup>1</sup> In practice, however, unregulated ecotourism may contribute to the lowering of genetic capital, for example biopiracy, environmental harm, and bring social negative impacts such as prostitution, commercialization of culture, and changing of social norms and values.

Tourism may be viewed as an environmental and cultural intrusion in local and native peoples' way

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<sup>1</sup> Wood, Megan Epler, "Ecotourism: Principles, Practices and Policies for Sustainability", United Nations Environment Programme, Division on Technology Industry and Economics, 2002, p. 19. The Brazilian Ministry of Environment has formulated the following concept of ecotourism as "part of the tourism trade which uses the natural and cultural heritage sustainably, promotes its conservation, and seeks to cultivate an environmental awareness through the interpretation of the environment and well being of the populations involved. It is a viable alternative to reconcile economic growth, strengthening regional and local economies, with the conservation of the natural and cultural heritage", Brazilian First National Report for the Convention of Biological Diversity, 2002, pp. 181-182, [www.mma.gov.br](http://www.mma.gov.br).

of life. It has been argued that “promoters of tourism have come to view third world destinations not as sovereign countries striving to make a place in the world, but rather as socially uninhibited places where metropolitan visitors can unwind amid abundance of sun, sand, sex and servility” (Matthews, 1979).

The negative impacts associated to tourism are, however, likely to decrease with the emergence of new forms and practices of tourism, such as ecotourism, with concerns for the protection of nature, local traditions and culture. In any case, ecotourism results to a great extent from planned and conscious efforts involving multiple stakeholders (governments, NGOs, private sector, civil society among others). The existence of new tourists more environmentally and socially conscious, however, is not sufficient to ensure more sustainable forms of tourism. The success of ecotourism depends on adequate services, appropriate infrastructure and essentially on the existence of conserved and protected natural areas with high ecological, aesthetical and cultural values.

The challenges to new forms of tourism are mainly to (i) promote conservation of the natural environment parallel to economic development, (ii) guarantee the development of this industry in such a way that the local communities benefit, and (iii) limit social impacts and harm to local traditions and culture. This involves, among other elements, the establishment of nationally and internationally accepted ecotourism standards aimed at reconciling economic growth with the conservation of the natural and cultural heritage in rich biodiversity areas such as the Amazon.

## 2. BRAZILIAN AMAZON

### 2.1 An Overview

The Amazon is one of the regions in the world that attracts most interest because of its incomparable biodiversity, untapped nature and beauty. The region thus has enormous potential for economic exploitation, particularly to ecotourism.

The Amazon region comprises nine South American countries, including Bolivia, Brazil, Colombia, Ecuador, Guyana, French Guyana, Peru, Venezuela and Suriname, over an area of approximately 7.5 million km<sup>2</sup>, which corresponds to 44 per cent of the South American territory. It is the largest tropical rainforest on the planet, which shelters 200 mammal species, 950 bird species, 2,500 fish species and 300 reptile species offering

the greatest genetic diversity in the planet and is the world's largest surface freshwater reserve in liquid form in a hydrographic basin (de Freitas, 2000).



**Figure 1:** The Brazilian Amazon

The Amazon, as a vast and complex ecosystem, remained almost intact for centuries, but should no longer be seen as a green and untouched sanctuary. The region underwent a process of economic growth, investments in infrastructure, and modernization of urban centers, which are most visible in Brazil.

The economic production in the Brazilian Amazon of US\$1 billion in 1970, rose to US\$25 billion in 1996, reaching almost 3.2% of Brazil's gross domestic product. There has been also a notable increase in the number of companies and workers in the Amazon. The annual increase in the number of companies operating in the Brazilian Amazon in various sectors from 1994 to 2001 was 20.8%, while the rate for Brazil as a whole was 15.82%. In the same period, the annual increase in the number of workers was 4% in the Amazon and just 1.95% in the country as a whole.<sup>2</sup>

This apparently intense economic growth has not been translated into human and social development. In the Amazon region as a whole there are high levels of illiteracy; precarious access to basic sanitation; high rates of deforestation and a predominantly predatory exploitation of natural resources. In the year 2003, an area over 21 thousand Km<sup>2</sup> has been deforested (Folha de Sao Paulo, 7 April 2004). The great challenge in the Amazon is to strive appropriately a balance

<sup>2</sup> Brazilian Ministry of Labour and Employment, Annual Register of Social Information, [www.mtb.gov.br](http://www.mtb.gov.br).

between the exploitation of the region's natural resources the creation of opportunities to improve the living conditions of over 22 million persons that inhabit this region, guaranteeing the area's sustainable development.<sup>3</sup>

## 2.2 Ecotourism in the Brazilian Amazon

The ecotourism is a growing economic activity in the Brazilian Amazon for the propitious conditions of the region and due to the fact that it generally aims at a wealthier public (particularly foreigners) when compared to traditional tourists.

The Brazilian Tourism Institute (EMBRATUR) is the organization that coordinates at national level the activities and policies related to tourism. Other private institutions play an important role in this domain such as the Brazilian Association for Ecotourism. The main ecotourism centres in the Amazon include the following:

Amazonian States	Ecotourism Centers
ACRE	Xapuri
AMAPÁ	Água Branca, Cutias, Ferreira Gomes, Itaúbal, Macapá, Porto Grande, Piracuuba, Santana, Serra do Navio, Tartarugalzinho.
AMAZONAS	Autazes, Barcelos, Careiro, Careiro da Várzea, Iranduba, Itacoatiara, Manaus, Novo Airão, Pres. Figueiredo, Rio Preto da Eva, Silvas.
MARANHÃO	Bacuri, Cedral, Cururupu, Mirinzal, Pinheiro.
MATO GROSSO	Alto Araguaia, Guaratã do Norte, Juara, Juína, Paranaltá, Peixoto de Azevedo.
PARÁ	Alenquer, Belterra, Monte Alegre, Óbidos, Oriniminá, Santarém.
RORAIMA	Amajar, Boa Vista, Pacaraíma, Normandia, Uiramutã.
RONDÔNIA	Costa Marques, Guajará-Mirim
TOCANTINS	Caseara, Pium

Source: Secretarias de Planejamento das Unidades Federadas da Amazônia Legal.

Additionally, there are two national parks in the Brazilian Amazon, which are ecotourism destinations: the National Park “Tapajós” (1,000,000 ha) and the National Park “Pico da Neblina” (2,200,000 million ha).

The participation of ecotourism in the Brazilian National Budget is not specified. The Brazilian GDP is composed by the following sectors: cattle, agriculture, industry and services, which participations, in 2003, were respectively 10.2%, 38.7% and 56.7%. The tourism parcel is under an item denominated “other services” that represents

10.3% of the national GDP. The participation of “ecotourism” in this amount is not specified.

## 3. REGULATING ECOTOURISM

### 3.1. The International Legal Framework

The process of defining national and international principles and rules for ecotourism activities is underway. The International Ecotourism Society has developed a set of principles, which are being embraced by a growing constituency of NGOs, private sector businesses, governments, academia and local communities. They include among others the need to minimize negative impacts on nature and culture that can damage a destination, stress the importance of responsible business to meet local needs and deliver conservation benefits, direct revenues to the conservation and management of natural and protected areas. General environmental law principles such as the responsibility not to cause environmental damage and the environmental impact assessment principles are, in any case, applicable to ecotourism (Rio Declaration, Principles 2 and 17).

The legal framework regulating ecotourism is still incipient despite the efforts undertaken by concerned actors. At the international level, the 1992 Convention on Biological Diversity (CBD) only indirectly deals with ecotourism as its objectives are the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources. The CBD calls the member countries to undertake general measures for the conservation and sustainable use of their biological diversity. For this purpose, countries shall create national strategies, plans or programmes for the conservation and sustainable use of biological diversity and integrate the conservation and sustainable use into relevant sectoral or cross-sectoral plans, programmes and policies (CBD, Article 6). Ecotourism activities are generally part of the countries national strategies.

### 3.2 The Legal Regional Framework in the Amazon

The legal international instrument that joins the Amazonian countries to the common objective of fostering the development and rational management of its trans-boundary resources is the Amazon Cooperation Treaty (ACT). The Treaty was adopted in 1978 by Bolivia, Brazil, Colombia,

<sup>3</sup> Sergio Sanchez, Amazon Cooperation Treaty Organization, ex-Secretary-General, www.tratadoamazonico.org.

Ecuador, Guyana, Peru, Suriname and Venezuela to “promote the harmonious development of their respective Amazonian territories in such a way as these joint actions produce equitable and mutually beneficial results and achieve also the preservation of the environment and the conservation of the natural resources of those territories” (ACT, article 1).

Tourism is included in the ACT as one of the means for fostering cooperation among the Amazonian countries (Article 13), as follows:

Article 13: “The contracting Parties shall cooperate to increase the flow of tourists, both national and from third countries, in their respective Amazonian territories, without prejudice to national regulations for the protection of indigenous cultures and natural resources”.

For that purpose, the ACT has established a Special Commission for Tourism in 1990. It was created to encourage ecological tourism in Amazon, identify the effects of tourism related activities upon natural resources and native communities, promote research, exchange of experience on different areas of tourism, encourage co-operation between national, public and private institutions engaged in tourism related activities, in accordance with the general goals of the Treaty, promote capacity-building and carry out market surveys on aspects related to tourism. Among the activities envisaged by this commission was the formulation of an Ecotourism Development Plan to guide the development and investments in tourism in the Amazon with the support and active participation of public and private sectors engaged in tourism, environmental and native affairs. Near future plans for ecotourism include the realization of a seminar on “Regional Ecotourism in the Amazon” to be held in Brazil in May 2004.

#### **4. THE BRAZILIAN NATIONAL LEGISLATION**

Ecotourism is perceived as a key instrument in the promotion of sustainable development in the Brazilian Amazon. It is listed among the most relevant economic sectors in the country (Decree 3,683, of 6 December 2000). This is also reflected in the “Positive Agenda for the Amazon”, which includes the implementation of the ecotourism programme “Proecotur” among its goals. The Amazonian Agenda was formulated at the initiative of the Ministry of the Environment (MMA) through the Secretariat for Coordination of the Amazon (SCA) at the beginning of 1999. It

aims to achieve a comprehensive solution to deforestation and to predatory development practices and proposes concrete alternatives for the practical construction of new models of development, which clearly favour sustainability.

The Brazilian government has claimed that ecotourism is a disordered activity due to the lack of regulation and guiding criteria. Brazilian ecotourism is oriented almost exclusively by market considerations without bringing the desired social and environmental benefits.<sup>4</sup> This led the Ministry of Industry, Commerce and Tourism and Ministry of Environment to institute a work group (Interministerial Act n. 1, 20 April 1994), composed by representatives of such ministries to propose a national policy and ecotourism programme. This document provides guidance to the development of ecotourism in Brazil, by indicating some strategic actions to be targeted by a national ecotourism plan, such as human resources capacity building, the active participation of local communities and notably the regulation of ecotourism.

The Brazilian national legislation up until now regulates only in an indirect manner ecotourism, although there is an increased interest for developing such activity. The national Law no. 6938 of 31 August 1981,<sup>5</sup> which established the National Policy for the Environment, includes among the instruments for implementing that policy, the definition of environmental standards and the creation of natural reserves and ecological stations. The utilization of such instruments will impact ecotourism activities as these latter will be subject to nationally established environmental standards and will benefit from the creation of national reserves and ecological stations as areas of interest to tourism.

The Decree n. 55, of 18 November 1966 establishes the national tourism policy and defines the organizations responsible for its implementation and supervision. Law n. 6513, of 20 December 1977, particularly, identifies the sites considered to be of interest to tourism, which are declared as such by the competent authorities. This latter law includes natural reserves and ecological stations; cultural and ethnological manifestations and the sites where they take place; landscapes with notable aesthetical value; places propitious for resting, practice of sports and general entertainment, and also sites with special climatic conditions. The mentioned national rules,

<sup>4</sup> Brazilian Ministry of Industry Commerce and Tourism and Ministry of Environment “Diretrizes para uma politica nacional de ecoturismo”, [www.mma.gov.br](http://www.mma.gov.br).

<sup>5</sup> [www.senado.gov.br](http://www.senado.gov.br)

however, do not set the criteria for the exploitation of such natural sites.

In any event, ecotourism activities must be in compliance with general environmental protection rules and principles. The alteration of natural sites protected by law for its aesthetical value, likely to occur in case of unsustainable ecotourism activities, constitute environmental crime under Article 63 of the Brazilian Law n. 9.605, of 12 February 1998.

## 5. LEGAL DEFICIENCIES

Ecotourism differs from traditional tourism as the former involves the interaction with nature, indigenous communities and cultures. These elements are at the same time a source of economic exploitation and conservationist concerns: it is the existence of protected natural sites and a rich cultural heritage that attracts interest and allows income generation through tourism. Ecotourism is by definition an activity that attempts to achieve a balance between the economic exploitation of natural resources and native communities' cultural heritage without threatening their existence. In practice, this requires criteria defining what makes this activity "sustainable" enabling the balance between profitable economic exploitation and conservation of the natural and cultural environment. Because ecotourism encompasses specific concerns when compared to traditional tourism, specific means and legal regulation may be considered to address them.

Ecotourism will often take place in areas of ecological importance containing rich and/or fragile ecosystems as well as endangered species of fauna and flora. It may also occur in sites that are at the same time natural reserves and indigenous lands or may happen in a manner that is harmful to those communities. Tourism, therefore, can be threatening to the conservation of nature and to local traditions and indigenous cultures. It can also lead to the commercialization of culture, change of traditional social norms and values. This occurs for example when locals begin to stage religious ceremonies out of time, place and time just to put on a show to tourists (Poon, 1993).

Additionally, ecotourism unlike other traditional forms of tourism will raise the question of how to provide the sharing of benefits derived from ecotourism activities with local and indigenous communities, considering that the respect to local culture and populations and their participation is

one of its pillars. The general principles and rules of environmental protection and rules dealing with tourism in general may not suffice to address the referred concerns.

Sustainability criteria in ecotourism activities, which are instrumental for containing its potential adverse impacts, are not clearly defined at national and international levels. Because such criteria are not legally established, it may be more difficult to (i) guarantee the optimal conservation of the natural environment, which is a precondition for the development of ecotourism, and to (ii) assess the liability of ecotourism operators in cases of environmental and social damages.

Besides the lack of specific legal regulation on ecotourism, other factors may impair the adequate development of this activity. In Brazil, particularly, many ecologically important areas are not delimited and legally protected as such (in the form of national, state and municipal parks, national forests, environmental protected areas). This may threaten the existence of rich ecosystems and their value as potential ecotourism sites. The greatest challenge is to create legally protected areas and ensure proper supervision of the existing ones to guarantee that the limits and specific uses of such areas are respected. The lack of qualified and sufficient personnel, the precarious governmental supervision infrastructure and means are obstacles for the adequate supervision and management of natural areas where ecotourism can ideally operate. The areas not properly supervised or under any form of legal protection are likely to be negatively impacted by activities such as agriculture, cattle, logging and mining.

Specific regulation dealing with the diverse economic aspects of ecotourism must be clearly established, at regional and national levels. This is especially true in terms of defining parameters for economic exploitation through ecotourism and the role of indigenous and local population. Ecotourism may generate wealth, prevent deforestation and loss of biodiversity and contribute to the protection of native cultures, provided that it complies with guiding criteria.

## 6. CONCLUSION

Ecotourism is by definition an activity that attempts to achieve a balance between the economic exploitation of natural resources and native communities' cultural heritage without threatening their existence. In practice, this requires criteria defining what makes this activity "sustainable", enabling the balance between

profitable economic exploitation and conservation of natural and cultural environments. Unregulated ecotourism may contribute to the lowering of genetic capital, for example biopiracy, environmental harm, and bring social negative impacts, such as prostitution, commercialization of culture, and changing of social norms and values.

The Amazon is one of the regions in the world with most potential for ecotourism due to its enormous biodiversity and natural beauty. This potential must be exploited in order to attract investments, create jobs and, at the same time, preserve the environment. Ecotourism in the Brazilian Amazon is a growing economic activity. The economic exploitation in the Amazon, however, is still predominantly predatory and the region faces a number of environmental social problems such as high levels of illiteracy, precarious access to basic sanitation and high rates of deforestation.

The legal framework regulating ecotourism activities despite the efforts undertaken by concerned actors is still incipient. The relevant legal means are at the international, regional and national levels respectively the 1992 Convention on Biological Diversity, the 1978 Amazon Cooperation Treaty, and national rules dealing with environmental protection and tourism in general. Because ecotourism encompasses specific concerns when compared to traditional tourism, such as the preservation of the natural environment, interactions with local communities and cultures, it will require specific means and legal regulation to address such concerns. In any case, general principles of environmental law apply to ecotourism such as the responsibility not to cause environmental damage and the environmental the impact assessment principles.

The lack of regulation at the national (for Brazil) and the international levels must still be overcome to allow clearer parameters defining the interactions with the natural environment and with local and indigenous populations. The increased importance of ecotourism might lead to more specific legal regulation on ecotourism and its impacts. The establishment of nationally and internationally legal standards for ecotourism would help achieving the goal of reconciling economic growth with the conservation of the natural and cultural heritage in rich biodiversity areas such as the Amazon.

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