



# 牛肉、银行 与巴西亚马逊雨林

巴西牛肉公司及其幕后国际金融机构  
如何掩盖他们与亚马逊毁林的关联





Tapajós河流域毗邻名为Sawré Muybu的原住民土地,这里是巴西帕拉州Munduruku人的家园。巴西政府计划在该地区修建43座水坝。其中最大的水坝São Luiz do Tapajós将对原住民和沿河社区的生活产生影响。这样的水坝对亚马逊脆弱的生物群落造成威胁,因为这里的河流是植物物种再生和散播以及本土植物群生存的基础。太阳能和风能等可再生能源才是决定巴西能源未来状况的关键。©罗热里奥·阿西斯(Rogério Assis) /绿色和平组织

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## 巴西牛肉公司及其幕后国际金融机构 如何掩盖他们与亚马逊毁林的关联

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- > 全球见证(Global Witness)的一项调查显示, 仅在亚马逊地区的一个州, 牛肉巨头 JBS、Marfrig 和 Minerva 就在三年时间里共计从 379 个牧场采购了牛, 这些牧场的毁林面积积达 2 万个足球场。
- > 这几家公司没有对毁林面积达 14 万个足球场的其他牧场进行监测, 检查他们是否遵守了不毁林承诺。
- > 国际审计机构 DNV-GL 和均富 (Grant Thornton) 的评估存在缺陷, 他们声称这几家公司遵守了承诺, 但全球见证能揭露出他们的评估结果严重存疑。
- > 德意志银行(Deutsche Bank)、桑坦德银行(Santander)、巴克莱银行(Barclays)、法国巴黎银行(BNP Paribas)、荷兰国际集团(ING)、汇丰银行(HSBC)等世界知名金融机构不顾这些公司面临倒闭的警告, 继续为其提供资金。

亚马逊獾据称是地球上最原始的哺乳动物, 历经数百万年而没有改变, <sup>1</sup> 有“森林园丁”之名。<sup>2</sup> 它们以草木为食, 再将种子带到数英里之外, 让树木蔓延开来。<sup>3</sup> 随着树木的生长, 它们与根、真菌和细菌组成的地下网络相联,<sup>4</sup> 经过近 5 亿年形成一张森林大网<sup>5</sup>, 通过这一网络交换养分和抗生素保护, 并将碳储存在树干和土壤中。<sup>6</sup> 树枝为无数物种提供了栖身之所,<sup>7</sup> 而树叶则释放出水蒸气, 在空气中形成巨大的水河, 再形成云, 然后在数千英里之外形成降雨。<sup>8</sup> 一些科学家估测, 亚马逊的地质历史有 2500 万年。<sup>9</sup> 然而现在, 这个极其复杂和古老的生态系统正受到一种数量远超獾的动物的威胁: 普通的牛。<sup>10</sup>



亚马逊獾因能传播种子而被称为“森林园丁”。©绿色和平组织/约翰·诺维斯(John Novis)

亚马逊地区的一个养牛场, 正在把牛分开。©法比奥·纳西门托(Fábio Nascimento)/绿色和平组织



停止将雨林转变为生产牛肉的牧场，可以将巴西的农业碳排放量减少69%，<sup>11</sup> 这有助于减缓12第六次物种大灭绝<sup>13</sup>，并维持对气候降温至关重要的碳汇。<sup>14 15</sup> 但正如全球见证这份新的调查报告显示，从牧场主到跨国牛肉贸易商及其背后的欧美审计机构和国际金融机构以及监管他们的政府等一系列行为者，要么在破坏亚马逊雨林，要么做得不够，要么视而不见。更为糟糕的是，其中一些破坏还涉及对原住民和无地居民的人权侵犯。除非这些问题得到解决，否则世界最大的热带雨林将面临不可逆转的破坏。转折点<sup>16</sup>

巴西最大的三家牛肉公司<sup>17</sup>是JBS， Marfrig和Minerva。上世纪90年代，它们还是规模相对较小的公司<sup>18</sup>，但本世纪头十年后期，在巴西政府的大力资助下，它们崛起为全球巨头。<sup>19</sup> 2017年，Marfrig和JBS的高管<sup>20</sup>卷入了不断蔓延的“洗车”(Car Wash)事件，这是巴西有史以来最大的腐败丑闻之一。一名JBS高管承认向1829名政界人士行贿，金额超过1亿美元。<sup>21</sup> 同时，Marfrig所有人马科斯·莫利纳(Marcos Molina)在公司一名员工被控行贿后，支付了1900万美元的赔偿金。<sup>22</sup> 2017年，Minerva的一家屠宰场因涉嫌贿赂巴西农业部检查人员而受到调查——该公司则表示，其员工没有被控告<sup>23</sup>，而且公司全力配合了调查。<sup>24</sup> 然而，这些事件似乎都没有影响到他们的业务。

仅2017年一年，这三家牛肉公司就宰杀了共计1800多万头牛。<sup>25</sup> 他们的屠宰量占亚马逊地区的40%以上<sup>26</sup>，出口量占巴西牛肉出口总量的64%，产品销往欧盟、美国和中国市场。<sup>27</sup> 牛成了他们的摇钱树。2018年，这三家公司的毛利润合计超过80亿美元。<sup>28</sup> 这三家公司并不饲养牛，而是从数千个独立牧场采购。这份调查可以发现，这个产销网络的某些部分与热带森林遭毁有很深的牵连。

## 触目惊心的毁林问题

全球见证调查了这三家公司在帕拉州(Pará)的业务。帕拉州是亚马逊地区的第二大州，其面积超过法国、西班牙和葡萄牙的总和。<sup>29 30 31</sup> 2017年至2019年，JBS至少从327个有毁林行为的牧场采购了牛，Marfrig从89个有毁林行为的牧场采购了牛，Minerva从16个有毁林行为的牧场采购了牛。巴西政府的卫星数据显示，这些牧场清除了面积达2万多个足球场的森林，<sup>32</sup> 所有这些毁林行为都是非法的。<sup>33</sup> 这违反了三家公司不从这些牧场采购的法律义

务，因为这些牧场没有获得授权采伐森林的相关许可证。

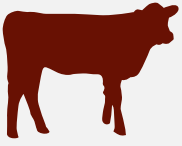
更糟糕的是，这几家公司的直接供应商还从其他牧场——即所谓的“间接供应商”——采购了牛。卫星数据显示，其中至少有4000个牧场含有被毁林地，面积相当于近14万个足球场。<sup>34</sup>如果这些牧场的牛最终要被送到这几家牛肉公司的屠宰场，根据其法律义务，他们本应对这些牧场的毁林情况进行监测，并阻止这些牛进入自己的屠宰场，

上图：2017年至2019年间帕拉州向JBS、Marfrig和Minerva供应牛且包含非法被毁林地的379个牧场的分布图。下图：2016年至2019年间与牛肉公司供应链相关的“间接供应商”的分布图。



## 间接供应商

可将育种的牛饲养8-10个月



经长达16个月可将牛养大



## 直接供应商

经6个月至2年可将牛育肥



但他们却没有这么做。本报告中的六个案例研究说明了JBS、Marfrig和Minerva如何在数年里从非法毁林的牧场采购牛。一些牧场被国家机构指控犯有破坏环境罪、掠夺土地、非法使用原住民土地甚至暴力行为。而这几家牛肉公司否认了所有的指控。

全球见证的调查也让人对挪威大型审计机构DNV-GL及其美国竞争对手均富所做审计的真实性产生了怀疑，他们多次声称JBS、Marfrig和Minerva遵守了自己的承诺。但他们却没有发现大量从毁林地区采购的案例。审计人员声称他们受制于交给他们的审计方法，以此推脱指责。

而承诺过不毁林的标志性银行却继续支持这几家牛肉公司，尽管多次警告过这几家公司可能会倒闭。<sup>35</sup> 全球见证此前的研究发现，JBS、Marfrig和Minerva在2017年至2019年获得了超过90亿美元的投资和贷款，这些投资和贷款由250家金融机构促成或提供——其中41%来自总部位于美国和欧盟的银行和投资机构。德意志银行、巴克莱银行、桑坦德银行、汇丰银行和摩根士丹利等家喻户晓的

银行都搭上了牛肉企业全球崛起的顺风车。<sup>36</sup> 仅在2020年3月，就有30家来自中国大陆和香港的进口商、11家来自欧盟的进口商和1家来自美国的进口商从这几家公司购买了牛肉产品。<sup>37</sup> 沃尔玛<sup>38</sup>、家乐福<sup>39</sup>和汉堡王<sup>40</sup>都是近期往来过的客户。这几家公司与毁林问题的持续关联暴露出他们没有进行充分的尽职调查，考虑到牛肉巨头们的过往记录以及众所周知的巴西出口牛肉涉及的毁林风险，这一点尤其令人震惊。连带千里之外的消费者和银行开户人也被卷入了亚马逊悲剧的风险之中。

更为糟糕的是，欧美的法律缺口意味着，银行、投资机构、信用评级机构、进口商和超市在为牛肉公司提供服务或与之做生意前，没有法律要求他们对毁林问题进行任何尽职调查。

您将读到的这份披露报告表明，依靠不受监管的私营部门和自愿性的不毁林政策，并不能解决森林破坏问题，反而可能导致亚马逊雨林永久消失。<sup>41</sup> 还存在另一种选择。英国和欧盟成员国目前正在考虑出台新的法律，要求

根据巴西国家空间研究所的数据，2020年亚马逊地区被烧毁的森林面积创下了新高。

图片来源：拉罗·德·阿尔梅达(Lalo de Almeida)





巴西的牛比人还多。©绿色和平组织 /丹尼尔·贝尔特拉(Daniel Beltrá)

企业(包括金融机构)在其供应链和投资组合中消除毁林行为。这也向牛肉公司以及支持他们的金融机构发出了一个明确的市场信号,即预期正在改变,中美等国政府也将密切关注事态发展。无论是为了亚马逊,还是依赖亚马逊生存的人类和物种,都应该做出这样的选择。

## 亚马逊雨林遭破坏

据估计,巴西亚马逊地区70%的被毁林地现在都是养牛的地方,<sup>42</sup> 这让巴西拥有世界第二大牛群。<sup>43</sup> 巴西的牛比人还多,<sup>44</sup> 其中40%在亚马逊地区,<sup>45</sup> 全都由约39万个牧场饲养、买卖。<sup>46</sup> 据报道,仅巴西的牛肉生产就构成整个拉丁美洲毁林排放的主要驱动因素。<sup>47</sup> 据世界资源研究所(World Resources Institute)估算,2002年至2018年间,巴西亚马逊地区有2000多万公顷的原始热带森林消失。这种破坏相当于一片面积几乎与英国相当、有数百万年历史的森林在短短16年内被毁殆尽。<sup>48</sup> 去年,亚马逊大火震惊了全球观众,巴西的毁林面积达到了2008年<sup>49</sup> 以来的新高——2020年的情况会更糟。<sup>50</sup> 博尔索纳罗(Bolsonaro)政府已经削减了用于森林保护和环境执法的资金,并取消了对原住民土地的承认,削弱了森林保护工作。<sup>51</sup>

2009年,绿色和平组织巴西分部(Greenpeace Brasil)揭露了巴西牛肉公司经常从涉及毁林问题的牧场采购牛。<sup>52</sup> 因此,JBS、Marfrig和Minerva<sup>53</sup> 承诺(以下简称绿色和平协议),不会从2009年10月后有毁林行为的、被巴西环境监察机构Ibama列入禁止采购区的、与受保护的土

地或原住民社区土地有重叠的牧场采购牛。他们还承诺,不向被检察官指控有掠夺土地行为的牧场主采购。<sup>54</sup> 这些协议旨在迫使这三大巨头利用其商业实力阻止任何供应商毁林。

同年,这几家牛肉公司开始与亚马逊地区帕拉州的联邦检察官签署平行协议(以下简称检察官协议),并扩展到马托格罗索(Mato Grosso)和阿克里(Acre)等州,<sup>55</sup> 以此为交换,逃避对其违法行为的起诉。<sup>56</sup> 这些协议要求JBS、Marfrig和Minerva<sup>57</sup> 不得从2008年7月22日之后有任何非法毁林行为的牧场采购牛。因此,十多年来,这三家牛肉贸易商有两套类似的不毁林承诺,一套是自愿性的,另一套是有法律约束力的。这一安排为JBS、Marfrig和Minerva提供了一个对进口商和金融机构完美的机敏回应。

但如何核实这些公司是否遵守了自己的承诺呢?审计机构站了出来,通常是国际会计或合规事务所。这些巨头机构会提供一种西方认可,证明这三家公司没有采购有问题的牛,藉此向支持他们的银行和投资机构发出信号,可以为他们提供资金。

全球见证现在揭开了这几家巨头公司供应链的真相——并揭露了漏洞百出的审计为其提供了证明合规运营的报告,而牛肉公司背后的金融机构对供应链和报告都没有进行充分的审查或提出质疑。

# JBS:违背承诺



JBS是世界上最大的牛肉公司之一。卢克·夏勒特(Luke Sharrett)/彭博社(Bloomberg), 来自盖蒂图像(Getty Images)

JBS被认为是世界上最大的牛肉公司，<sup>58</sup> 2017年占巴西肉牛屠宰总量的30%<sup>59</sup>，每年从亚马逊地区的数千个牧场采购牛。<sup>60</sup> 2019年所报告的毛利润超过56亿美元，<sup>61</sup> 在全球拥有20多万名员工。<sup>62</sup> JBS在确保牧场主保护森林方面发挥着重要作用。起初，它的承诺似乎奏效了。<sup>63</sup> 2012年，亚马逊地区的毁林面积降到了八年来的最低水平，政府在此期间也采取了各种措施来解决这一问题。<sup>64</sup> 就在协议签署前不久，36%的JBS供应商有过毁林行为——但到了2013年这一比例下降到了4%。<sup>65</sup> 截至2014年，JBS报告称，已将2259家牧场从其供应商名单中剔除。<sup>66</sup> 英国会计师事务所BDO的审计发现，在2011年至2015年间，JBS平均只有0.27%的肉牛采购违反了绿色和平协议。<sup>67</sup> 当挪威审计机构DNV-GL接手审计合同时，发现在2016年至2018年间，所分析的26306例肉牛采购中，仅有4例违反协议。<sup>68</sup> 在其2018年《年度可持续发展报告》(Annual Sustainability Report)中，JBS宣称：“公司取得了自2014年开始审计以来的最佳成绩，99.99%的采购遵守了承诺。”<sup>69</sup> 更妙的是，在其2019年可持续发展报告中，JBS宣称“100%遵守了”其对绿色和平组织的承诺。<sup>70</sup>

在DNV-GL自己的网站上，有这样一条标题：“DNV-GL的报告证明，该公司[JBS]遵守了绿色和平协议，进行了负责任的原材料采购。”<sup>71</sup> 2018年，帕拉州联邦检察官办公室(Federal Prosecutors Office of Pará)公布了DNV-GL对JBS 2017年的审计结果，审计发现JBS 100%合规。<sup>72</sup>

但全球见证的调查对JBS声称的合规提出了严重质疑。调查结果还对DNV-GL的审计提出了质疑，也对银行、投资机构、超市和进口商未能坚持充分的尽职调查所需的供应链透明度提出了质疑。

## 我们做了什么

全球见证获取了2017年、2018年和2019年JBS从帕拉州拿到的所有活牛运输许可证。联邦政府为了卫生控制，要求在全国范围内运输活牛时提供这些文件。它们展示了牛从出生到屠宰的活动轨迹。全球见证使用这些公开的文件来确定JBS所有肉牛的原产地牧场，然后使用州数据库获得这些牧场的边界。再用这些数据与政府卫星数据相叠加，检查毁林情况。

全球见证的调查人员与巴西非政府组织Imazon合作，分析了毁林是否发生在2008年7月和2009年10月之后。这两个截止时间分别是在与帕拉州检察官、绿色和平组织的协议里定下的。<sup>73</sup> 然后，用陆地卫星(Landsat)和哨兵卫星(Sentinel)图像进一步检查是否发生了毁林行为，并消除任何误报。最后，全球见证在Imazon的帮助下对发布森林采伐许可证的帕拉州和联邦数据库进行核实，以确定牧场的采伐行为是合法还是非法。根据巴西主要的森林法规——《森林法》(Forest Code)，想要在自己的土地上采伐森林的农村生产者必须获得这一许可(称为Autorizacao de Supressao de Vegetacao)。根据该法的第5章第26条规定：“在公共和私有土地上，为了土地的其他用途而抑制原生植被的生长，必须……得到主管国家机关的事先授权。”帕拉州经授权签发这种许可证的主管国家机关是特别环境秘书处(the Environmental Secretariat, 以下简称SEMAS)。该法第1条第A1款将“原生植被”一词定义为“森林和其他形式的原生植被”。此外，巴西还有一项关于与环境相关的违法行为的联邦法令(Federal Decree)，其中第43条规定，“未经主管机关授权，破坏、损害森林或其他形式的植被”属于行政违法行为”。因此，根据该法，如果没有获得采伐森林的授权，就被认为是一种违法行为(详见方法部分)。这是一个非常缜密、谨慎的过程。

全球见证的调查显示，仅在2017年，JBS就从至少177个包含被毁林地的牧场进行了采购，<sup>74</sup> Imazon发现所有这些牧场的毁林行为都是非法的。<sup>75</sup> 然而，在DNV-GL的审计中，这些案例没有一个被列为违反检察官协议或绿色





巴西森林监察机构(Ibama)提供的亚马逊毁林最严重地区的图片。图片来自Ibama

和平协议的行为。<sup>76</sup> 2018年, JBS从231个有毁林行为的牧场进行了采购, 据Imazon称, 所有这些毁林行为都是非法的。而且, DNV-GL的审计还认为, 这些采购100%遵守了绿色和平协议。<sup>77</sup> (对检察官协议当年遵守情况的审计报告尚未公布。)对2019年这两项协议遵守情况的审计结果都尚未公布。但全球见证透露, 2019年, JBS从至少204个包含被毁林地的牧场采购了牛, 据Imazon称, 所有这些毁林行为都是非法的。<sup>78</sup> 据估计, 这些牧场导致了1.7万公顷雨林消失。<sup>79</sup> 如需查看在每个牧场发现的毁林证据, 请访问[此链接](#)。

当向JBS提出这些指控时, 该公司回应道, 在所有案例中, 公司都是有正当理由从这些牧场采购的。对于这327起案例, JBS声称: 在40%的案例中, 所涉及的牧场正逐步符合巴西的《森林法》, 因此根据协议可以向其采购; 在22%的案例中, 全球见证所发现的毁林面积低于6.25公顷, 因此根据2020年为实施检察官协议而制定的附件, 从这些牧场采购是适当的; 在21%的案例中, 可以修改土地边界使相关牧场符合其协议; 而还有6%的案例, 其内部系统没有登记过从这些牧场进行的采购。JBS还声称, 在6%的案例中, 他们的肉牛采购是在全球见证发现毁林之前进行的。对于其余案例, JBS试图证明其肉牛采购的正当性, 声称这些牛是根据2020年制定的一项协议附件采购的, 该协议附件旨在监测牧场遵守协议的情况, 但在我们设定的调查期间内(2017年至2019年)还没有这一协议附件。只在

一个案例中, 该公司承认了他们是从一家不合规的牧场采购的, 但将此归咎于巴西森林监察机构Ibama网站的错误。

全球见证对上述每种解释进行了评估, 发现其中任何一种都不能构成JBS各项声称内容的理由, 并坚持最初的指控。JBS提供的许多理由缺乏连贯性, 而且相互矛盾。如需了解关于JBS的各项理由以及全球见证对上述每一项的反诉的更详细分析, [请访问此链接](#)。

## 一步之遥

但这些仅仅是JBS进行直接采购的牧场。JBS还应对其他一些牧场进行监测, 在将牛卖给JBS的直接供应商之前, 是这些牧场在育种、饲养, 直接供应商再将牛育肥, 然后卖给JBS。在签署2009年绿色和平协议的两年内, JBS有义务证明<sup>80</sup> “其供应链中不存在含被毁林地的‘间接供应商’”。检察官协议还要求, JBS不得从有非法毁林行为的育种、饲养和育肥牧场采购牛。<sup>81</sup> 但正如DNV-GL对绿色和平协议遵守情况的审计报告所指出的, JBS未能对这些供应商进行监测, 无法证明他们没有毁林。<sup>82</sup> 全球见证替他们做了本应做的工作。

在2016年至2019年间向JBS的直接供应商出售牛的所有间接供应商中, 约有3,270家在2009年1月之后毁掉了据估9.8万公顷的森林(详见方法部分)。JBS本应对它们进行监测, 如果发现它们不遵守检察官协议, 则应将其从

供应链中剔除。JBS还应对自己2940个间接供应商遵守绿色和平协议的情况进行监测，因为这些牧场在2009年10月后的毁林面积超过了8万公顷。<sup>83</sup>但正如DNV-GL所述，这并没有发生。<sup>84</sup>这些调查结果让JBS声称的99%、100%遵守绿色和平协议、检察官协议显得可笑。

当向JBS提出这些指控时，他们表示，公司于2020年9月23日宣布了绿色平台(Green Platform)计划，并声称该计划在使用“区块链技术方面具有突破性意义，这一技术将能让社会环境监测扩展到生产链的其他环节”，包括间接供应商。然而，在审查了这项计划后，该公司声称监测工作要到2025年才能完成。鉴于JBS自2011年起<sup>85</sup>就应该对所有的间接供应商进行监测，这实际上是承认了长达14年的不监测。更糟糕的是，这一计划缺乏细节，也不清楚该公司是否会阻截它所发现的不遵守承诺的间接供应商。这项计划还缺乏透明度，因为没有邀请民间社团进入JBS将用来监测间接供应商的系统来查看它是否确实遵守了协议。最后，该公司希望其他人也为它承诺过的在该计划上投入的资金做出贡献，希望别人为十年前自身可以而且应该采取的行动买单。<sup>86</sup>

JBS还以供应链缺乏透明度为由，为自己没有监测间接供应商而辩护。2018年，DNV-GL重复了JBS的说法，称其无法监测间接供应商，因为“只有在完全获得所有(活牛运输许可证)的情况下才能做到这一点”。该公司还声称，这些文件“并非公开文件，仅供农业部使用”。<sup>87</sup>然而，全球见证委托进行的一项法律分析发现，活牛运输许可证是可以公开获取的(详见方法部分)。汇丰银行一份遭泄露的文件，详细说明了该行对JBS未能监测间接供应商的担忧，还援引了美国一个名为“国家野生动物联盟(National Wildlife Federation)”的保护组织委托出具的一份类似的法律意见。意见指出，活牛运输许可证“是公共信息系统，在使用这些信息系统帮助改善巴西牛业供应链的可追溯性和毁林情况监测方面没有任何限制。”<sup>88</sup>

因此，根据各种法律意见，只要JBS愿意，它可以获得和使用活牛运输许可证来监测其间接供应商的毁林情况，也可以要求直接供应商向它提供这些许可证，以此作为采购条件。像Imazon这样的巴西非政府组织也呼吁国家让第三方尽可能容易地获取这些文件，以便改进问责制。<sup>89</sup>当向JBS提出这些问题时，它否认这些许可证是可以公开获取的，称许可证“现在没有，也从来没有公开过”，并断言

JBS无法使用全球见证用于获取许可证以监测间接供应商的网站。JBS似乎在削弱活牛运输许可证作为一种公共数据来源的重要性，然而十年来却也没有提出任何替代方案来收集自己的数据并承诺供应链的完全透明。

这样做的结果是，JBS有效地掩盖了自己的有害行为，而无需对过去十年未能监测间接供应商的行为承担任何责任。

亚马逊雨林是世界上生物多样性最丰富的雨林之一，还有更多物种尚未被记录在案。©瓦尔德米尔·库尼亚(Valdemir Cunha) /绿色和平组织



## 亚马逊心脏的破碎

著名民族植物学家马克·J·普洛特金(Mark J. Plotkin)指出,亚马逊雨林是一个生物奇境,蕴藏着令人匪夷所思的奇妙生物。这里有吃树的猫鱼、吸血蝙蝠和吸血鱼、粉色河豚、四英尺长的蚯蚓、老鼠大小的猴子、吃鱼的猴子、在水上奔跑的蜥蜴、游泳的树懒、巨型无腿两栖动物、像被咬掉了一半的树叶的昆虫、扁平如煎饼的青蛙。<sup>90</sup>

然而,这种无与伦比的生物多样性现在正受到人造草场单一作物的威胁。帕拉州São Félix do Xingu市就是这样一个地方。这个地区比奥地利还大,并且<sup>91</sup>包含了被称为“亚马逊心脏”的密林地TerradoMeio<sup>92</sup>。<sup>93</sup>这里的保护区和河流交错,是许多原住民的家园,外界对这一地区的生态知之甚少。<sup>94</sup><sup>95</sup>然而,该地区也因毁林问题而臭名昭著,<sup>96</sup>这里拥有巴西最大的牛群之一,<sup>97</sup>保护区的边界上遍布着牧场。<sup>98</sup>

2017年至2019年间,JBS至少从São Félix do Xingu市109个有毁林行为的牧场进行了采购,根据Imazon的分析,所有这些毁林行为都是非法的。<sup>99</sup>其中包括靠近南部边界占地4,355公顷的Fazenda El Shadai(也拼作El Shaday)养牛场。

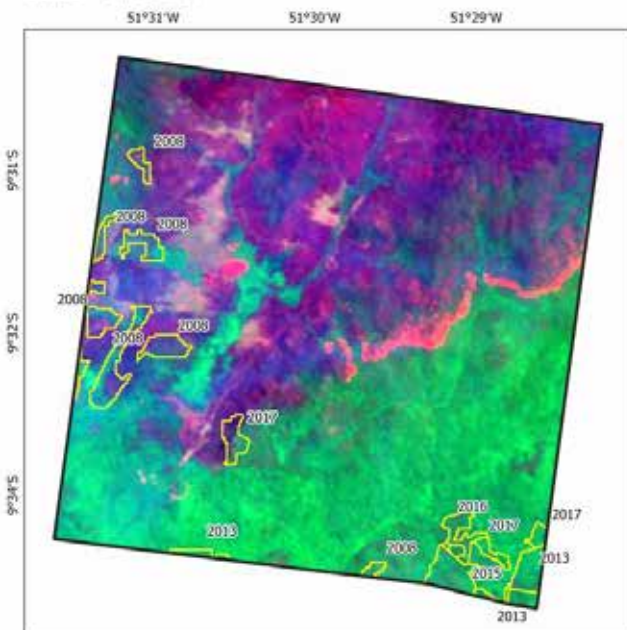


位于亚马逊地区帕拉州的Sao Felix do Xingu

JBS的一家屠宰场在2017年全年从这个牧场采购了398头牛。然而,巴西国家空间研究所(National Institute for Space Research, 以下简称INPE)<sup>100</sup>的卫星数据显示,该牧场内有两处在2015年和2016年发生过毁林行为的热点区域,面积约为44公顷,相当于52个足球场。据Imazon称,这些毁林行为都是非法的。更糟糕的是,在2017年年中,也就是5月份的时候,Fazenda El Shadai被列入了Ibama的禁止采购区地图<sup>101</sup>,因为该牧场有112公顷遭非法采伐的森林被保留下来进行保护。<sup>102</sup><sup>103</sup>在这些

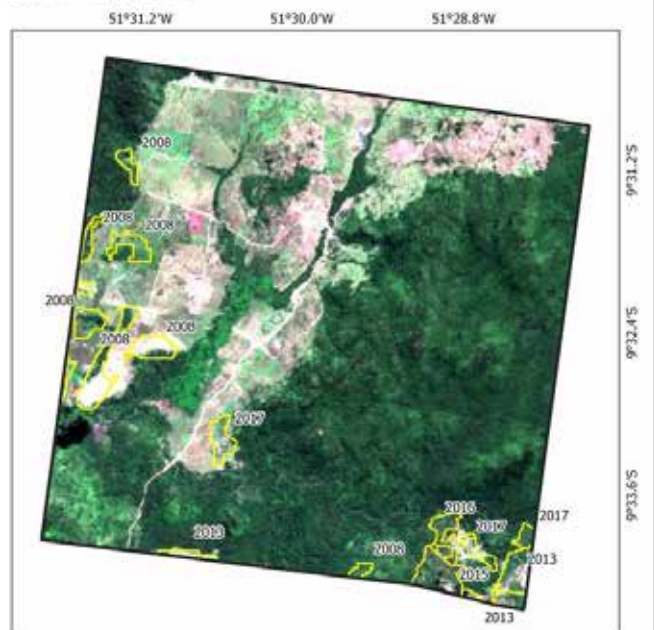
### 毁林前的Fazenda El Shadai

数据1 - 04/09/2007



### 毁林后的Fazenda El Shadai

数据2 - 07/05/2018



禁止采购区，巴西环境机构Ibama经检查发现了非法活动，并将这些活动列入了黑名单，JBS在从这些地区采购前应该进行核查。牧场主甚至对Ibama的调查结果提出上诉，但法官认为这毫无法律依据。<sup>104</sup> 然而，牛肉公司却没有注意到这一点，并在当年12月违背协议从牧场进行了采购。

2018年，JBS又从该牧场采购了366头牛，2019年又采购了762头牛，多年来屡屡违反协议，但都没有被DNV-GL的审计发现。<sup>105</sup> 2019年，JBS甚至为该牧场颁发了一个奖项，以表彰其所生产的牛的质量——不顾这是以牺牲亚马逊雨林为代价的。<sup>106</sup>

不仅如此，在Fazenda El Shadai向JBS出售肉牛期间，该牧场还从三家间接供应商那里收购了牛，这三家供应商的毁林面积总计达285公顷。<sup>107</sup> 这些牛可能最终进入JBS的供应链，JBS本应对这些牧场遵守协议的情况进行监测，但却没能做到。截至2018年6月，其中一家间接供应商被列入了Ibama的禁止采购名单。<sup>108</sup>

另一家间接供应商Fazenda Nova Alianca在2014年至2018年间一直是JBS的直接供应商，非法毁掉了121公顷森林，违反了JBS签订的协议。从2018年开始，JBS似乎停止了从这里采购。然而在2019年，这个牧场把牛送到了Fazenda El Shadai，JBS没能对其进行监测，无法确保来自Fazenda Nova Alianca的牛没有进入其供应链。因此，这家曾经直接将牛卖给JBS的不合规供应商，后来变成了间接供应商，它所产的牛可能又被送到JBS的屠宰场。

在回应这一案例时，JBS承认了Fazenda El Shadai在Ibama的网站上被列为禁止采购区，但表示该牧场没有被列入Ibama网页上可以获取的excel表中，而JBS是使用这一excel表来阻截这类牧场的。然而，这忽略了一个事实，即在Ibama检查之前，该牧场就已经发生了非法毁林行为，而且该公司本可以也本应该利用INPE的卫星数据检测到这一点，但却没有这么做。此外，该牧场实际上出现在了Ibama网站<sup>109</sup>上一份PDF文档的名单中，JBS本应该也可以进行查阅，但也没有查阅。

这些就是JBS在亚马逊的心脏地带本该去做却没有做到的事。

## DNV-GL ——行为规范问题

2016年和2017年，DNV-GL代表绿色和平组织和帕拉州检察官对JBS进行审计(费用最终都由JBS自己支付)。DNV-GL的行为准则规定，必须避免“担当和提供任何可能被视为对[其]服务的公正性和独立性构成威胁的多重角色和服务”。特别是，我们不会对自己的工作进行分类、认证或核实。”<sup>110</sup>

DNV-GL需要回答的问题是，在这些审计中，它是否遵守了自己的行为准则。

DNV-GL对绿色和平协议遵守情况的审计表明，2016年<sup>111</sup> JBS肉牛采购的合规率为99.97%，而同年对帕拉州检察官协议遵守情况的审计显示，JBS有近20%的肉牛采购不合规。<sup>112</sup> 因此，该公司在同一年对JBS供应链进行的两次审计是存在很大差异的。当时，JBS因未能遵守检察官协议而受到媒体的广泛批评。<sup>113</sup> 而JBS则声称，DNV-GL对什么构成不合规采取了“保守”的观点。<sup>114</sup>

2017年，DNV-GL再次对JBS进行审计，发现它当年也100%遵守了检察官协议。<sup>115</sup> 在一年的时间里，JBS似乎显著改善了自己的合规率。然而，全球见证发现，2017年的情况并非如此。

当向DNV-GL提出这一问题时，DNV-GL回应称，给它的审计方法可能是造成这些差异的原因。根据审计人员的说法，这种方法要求，DNV-GL只对2017年JBS最大肉牛供应商的前50%进行分析，而前一年则对100%的肉牛

审计机构在核实牛肉公司采购的牛不是来自有毁林行为的牧场方面发挥着至关重要的作用。©玛丽齐尔达·克鲁普 (Marizilda Cruppe) / EVE /绿色和平组织



采购进行了审计。然而，全球见证的调查显示，在被分析的非法毁林的牧场中，至少有17个位列2017年JBS最大供应商的前50%，占该牛肉公司当年被审计的采购总量的近20%，但这些牧场没有被DNV-GL的审计列为不合规。<sup>116</sup> 这一比例达到了该倡议分析的其他一些牛肉公司全部被审计的采购量。<sup>117</sup> 而且，在上一年即2016年审计之后，正是DNV-GL建议将审计样本量从牛肉公司肉牛采购的100%降到更低的比例。<sup>118</sup> 这一建议对JBS有利，因为许多不合规的案例在2017年没有被审计。当向DNV-GL反馈这些指控时，它没有做出回应。在对同一家公司是否遵守两项不同的协议进行审计时，DNV-GL是在担当和提供双重角色和服务，这也可能违反了其行为准则。

该审计机构也是消费品论坛(Consumer Goods Forum, 简称CGF)的成员，<sup>119</sup> CGF是由大型零售商、制造商和服务提供商发起的一项全球性倡议，旨在通过“负责任地采购”商品，在2020年实现零净毁林，从而不会“耗尽热带雨林”。<sup>120</sup> 无论从哪个角度看，DNV-GL对JBS的合规性审计都称不上支持了这一承诺。

在合同终止后，DNV-GL今年7月向JBS致函，与它保持了距离。信中写道：“我们已经注意到，JBS在使用(对绿色和平协议遵守情况的审计)报告来证明自己所有的肉牛采购均不涉及毁林问题。因此，DNV-GL认为有必要发布免责声明。”

DNV-GL解释说，JBS未能对其间接供应商进行监测，对其直接供应商的审计也仅限于其在亚马逊地区肉牛采购量的10%，JBS没有纳入对“洗牛”问题的检查，而DNV-GL则依赖JBS提供的信息进行审计。

DNV-GL总结道，这些评估“在任何情况下都不能作为JBS完全没有涉及毁林问题的证据”<sup>121</sup>。

这似乎与DNV-GL在其网站上转载的2017年12月关于JBS遵守绿色和平协议的声明相矛盾：“DNV-GL的报告证明，该公司[JBS]遵守了绿色和平协议，进行了负责任的原材料采购。”<sup>122</sup>

## 与JBS相关的金融业务

正如全球见证2019年9月的报告《毁林金主》(Money to Burn)所披露的，<sup>123</sup> 德意志银行、桑坦德银行和贝莱德(BlackRock)等标志性银行和投资机构参与了对JBS



银行为JBS等牛肉公司注入了巨额资金。摄影图片来自盖蒂图像：卢克·麦格雷戈(Luke MacGregor) / 彭博社；布德鲁·丘克鲁特(Budrul Chukrut) / SOPA图像 / LightRocket；亚历克斯·戈查克(Alex Gottschalk) / DeFodi图像；迪内德拉·哈里亚(Dinendra Haria) / SOPA图像 / LightRocket；埃里克·麦格雷戈(Erik McGregor) / LightRocket

的融资，而且没有对这家牛肉巨头的毁林风险进行充分的尽职调查。

德意志银行在推特上对报告做出了回应，坚称“不会为有明确和已知证据表明的清除原始森林、高保护价值区或泥炭地的活动、非法伐木活动或无节制地和/或非法使用火的活动提供资金”。<sup>124</sup>

今年1月<sup>125</sup>，贝莱德宣布，将把可持续性作为其管理的价值7万亿美元<sup>126</sup>资产的核心，还发布了一项与农业企业合作的投资战略，其中要求这些企业披露任何关于“无毁林供应链[.....]的承诺，并报告结果，结果最好经过一定程度的独立审查”。<sup>127</sup>

然而，截至2020年2月、3月和4月，贝莱德、德意志银行和桑坦德银行仍持有JBS的股份，<sup>128</sup> 总价值超过2.7亿美元。<sup>129</sup> 当被问及鉴于全球见证新的指控，德意志银行是否仍然认为其与JBS的财务往来是合理的时，该行回应称，对JBS的融资是代表其他方进行的，自身并不会选择投资该公司，并表示“可以确认，JBS没有资格投资德意志

资产管理公司(简称DWS)积极管理的零售共同基金,这些基金保持了最低环境、社会和治理(以下简称ESG)的投资标准”。

桑坦德表示,它已就这些问题与JBS接洽过,并正在监测该公司应对间接供应商的计划。它还补充道,“如果有任何非法行为被证实,桑坦德巴西分行根据合同有权利宣布债务提前到期,并要求还款。”

2020年早些时候,贝莱德的一位女发言人表示,该公司已“与JBS和其他公司接洽过,就在亚马逊盆地(Amazon Basin)运营的具体问题讨论了他们的政策和做法”。<sup>130</sup> 当被问及该基金是否就全球见证的指控再次与JBS进行了接洽时,一位女发言人回答道:“今年上半年,我们与JBS接洽了三次,每次都涉及运营可持续性。”贝莱德还表示,如果JBS在环境问题上没有取得进展,它将“通过投票反对那些对相关问题负有监督责任的董事连任”来表达不满。

同时,巴克莱银行也为JBS提供了金融服务,<sup>131</sup> 但却与德意志银行和桑坦德银行同为银行环境倡议(Banking Environment Initiative, 简称BEI)的成员之一,该倡议旨在“动员银行业将资本引导到……到2020年实现零净毁林的商业模式”。<sup>132</sup> 巴克莱的这一成员身份并没有妨碍它自2017年以来为JBS承销了总额达27.5亿美元的四笔海外债券。<sup>133</sup>

巴克莱银行和桑坦德银行还担任了2019年9月JBS逾1.2亿美元债券发行的簿记行。<sup>134</sup> 该交易的初步招股说明书称,JBS必须“遵守巴西境内主管机关发布的所有法律、法规、规章、法令和有效的司法判决,包括环境法规”。<sup>135</sup> 本报告中的调查结果对JBS是否遵守了其法律义务提出了质疑。巴克莱和桑坦德应该就毁林风险进行严格的尽职调查,再决定参与这项交易是否合适。

当向巴克莱银行提出这一问题时,该行表示“出于保密原因”,无法分享其尽职调查程序以及与JBS接洽的细节,并补充道,该行“致力于了解”其融资活动“所带来的环境和社会风险”,并采用“严格的环境和社会影响评估”。桑坦德表示,它已经“(通过印刷广告)向JBS和巴西公众传达,我们希望整个牛肉供应链实现零毁林”。

## “高度关注”

桑坦德银行在其软性大宗商品行业(Soft Commodities Sector)政策中表示,在向涉及牛业“高风险地域(High-Risk Geographies)”的客户提供金融服务时,将“特别注意”。<sup>136</sup> 同时,巴克莱银行也在其林业和棕榈油声明(Forestry and Palm Oil Statement)中声称,其客户将受到“强化的尽职调查”。<sup>137</sup> 而这些银行的行为完全违背了他们漂亮的说辞,在为减轻毁林风险而实际采取的措施方面可能会误导公众和银行股东。他们似乎将利润置于亚马逊雨林的保护之上,而自愿性的政策——往往并没有执行——则被用来“漂绿”他们的声誉。更糟糕的是,由于没有监管措施要求这些银行考虑或报告JBS的毁林风险,这意味着他们可以继续不去对其供应链和投资中的毁林风险进行有效的评估。

当向这些银行提出这一问题时,桑坦德回应称,他们“已制定了具体的行业政策,用于分析我们客户在敏感领域(包括软商品)活动中的社会和环境风险”。巴克莱表示,他们已于2020年8月更新了政策,并承诺帮助其“企业客户实现零净毁林”。更新后的政策没有提及牛肉这一商品,而该行表示,“其他商品的问题更显著、更严重”。

与上述金融机构不同的是,有些已经采取了行动,公开批评了JBS。2020年7月,北欧资产管理公司(Nordea Asset Management)将JBS从旗下所有基金中剔除,该公司隶属于北欧最大的金融服务集团<sup>138</sup>,管理着规模达2610亿美元的资产。该公司的环境责任人指出:“在与JBS接触一段时间后……我们认为,没有看到我们所期待的反应。”<sup>139</sup>

全球见证看到的一份被泄露的汇丰银行关于JBS给其带来的金融风险的文件也严厉批评了该公司,文件称:“我们已多次要求明确如何解决牛的原产地追溯问题,但JBS没有任何愿景、行动计划、时间表、技术或解决方案。”<sup>140</sup> 然而,在同一份文件中,汇丰随后建议投资者购买JBS的股票。目前JBS已经宣布对间接供应商采取一些行动,而汇丰会对JBS采取什么进一步的行动则还有待观察。

# 目无法纪者与足无寸土者

“帕拉州不是一个没有法律的地方，而是一个法律只为少数人服务的地方。”<sup>141</sup>

银行不仅面临着JBS供应链中的毁林风险，而且还面临着与该公司进行采购的牧场主有关的侵犯人权风险。

据报道，拉斐尔·萨尔达尼亚(Rafael Saldanha)是帕拉州南部最有影响力的<sup>142</sup>牧场主<sup>143</sup>之一，拥有多家耗资数百万美元建立的企业。<sup>144</sup> 然而，他却被告控犯有环境罪、<sup>145</sup> 掠夺土地罪<sup>146</sup>甚至谋杀罪。<sup>147</sup>

在一项正在进行的刑事案调查中，检察官指控他在1998年参与杀害了一个名为“无地农村工人运动”(Movimento dos Trabalhadores Rurais Sem Terra - MST)<sup>148</sup>的全国性组织的两名代表，该组织为土地权利而奔走。<sup>149</sup> 他声称这些指控是假的。<sup>150</sup> 据报道，2003年劳动部(Ministry of Work)对他的牧场Fazenda Vale Verde进行了检查，发现了奴隶劳工，释放了16人，并对萨尔达尼亚处以4500多美元的罚款<sup>151</sup>——萨尔达尼亚和他的律师仍在质疑这一决定。2005年，Ibama对该牧场进行了检查，发现了毁林行为，并将其列入黑名单。<sup>152</sup>

2009年，他收购了另一个牧场Fazenda Santa Tereza。<sup>153</sup> 2019年4月，帕拉州检察官指控他在这笔交易中非法收购公共土地，此案件仍在审理当中。<sup>154</sup> 他否认了指控，并称该牧场是依巴西法律收购的。

2008年，一个自称为无地者的社区也提出了同样的控诉，他们占领了该地区，迫使当局调查牧场主主张该地块产权的合法性。<sup>155</sup> 他们的目的是要表明这是公共土地，不能被牧场主买卖，应该重新分配给无地者的家庭。<sup>156</sup> 他们在保证法治得到维护后离开了该地区，但在2014年，他们怀疑萨尔达尼亚在收购该地块时存在不法行为，再次回到了这里。<sup>157</sup>

这些事件之后发生了暴力、威胁和恐吓。

2016年，当地一家新闻机构报道称，无地者遭到枪击，他们的种植园和棚屋被他们称之为牧场员工的人烧毁。<sup>158</sup> 全球见证获得了一份关于2016年事件的警方证人证词，证词称，牧场来的人放火烧毁了该证人的棚屋，当他们试图灭火时，牧场的员工朝着他们的定居点开枪。<sup>159</sup>



上图：Fazenda Santa Tereza内无地者定居点的一间棚屋。下图：无地者的房屋和定居点已经遭受了无数次火灾。Brasil de Fato

2017年，帕拉州议会人权委员会在另一起事件发生几天后，对占领该地区的无地者进行了调查。委员会记录了四名证人的证词，这些证人称他们遭到了枪击，自己的种植园再次被烧毁。<sup>160</sup>

一名证人向委员会讲述了在这些事件发生之前，Fazenda Santa Tereza的一名经理是如何出现，威胁要放火杀死他们的。其他证人也讲述了经理是如何恐吓和骚扰他们的。<sup>161</sup> 该经理公开否认引发火灾，并声称对他的指控是谎言。<sup>162</sup>

在警方的陪同下，该委员会在调查时拍摄了无地者居住区大门旁一栋建筑上的弹孔，记录了社区收集的弹壳，并拍摄了他们被烧毁的种植园和被烧毁的学校屋顶的照片。<sup>163</sup> 议员们在报告中建议检察官调查Fazenda Santa Tereza的经理被指控对无地者实施的行为。<sup>164</sup>

之后在2018年，地方和国家媒体又报道了7月的一个深夜，经过武装的人员是如何将无地者从棚屋中围捕起来，边围捕边开枪。<sup>165</sup> 一名证人回忆说，“他们把我们放倒在地，在我们脚边开枪。他们迫使我们逃跑，然后开始烧毁我们的汽车、摩托车和棚屋，甚至把狗活活扔进火里，然后在我们逃离现场时还朝我们开枪。”<sup>166</sup>

## 案例研究

全球见证采访了事发时在场无地者中的两名代表，他们再次印证了上述说法，即为牧场主工作的经过武装的人员于2018年7月28日夜间进入该地区，骚扰他们并焚烧他们的财物。<sup>167</sup> 据全球见证了解，警方尚未完成对这些事件的调查，也没有对任何人提出指控。

正是经过这一段艰难时期后，帕拉州检察官于2019年4月指控萨尔达尼亚非法收购Fazenda Santa Tereza牧场——这与无地者及其律师在一桩正在进行的案件中使用的控诉理由是一样的<sup>168</sup>。<sup>169</sup> 当所有这些指控通过萨尔达尼亚的律师向他本人提出时，他们回应称，事实恰恰相反，牧场才是“被入侵的地方，多头怀孕的牛遭到毒打和屠杀，牧场被入侵者烧毁，为保护森林而保留的林区遭毁，牧场员工受到威胁，不得进入牧场”。

全球见证经过调研发现，尽管萨尔达尼亚有被指控以及涉案案件被提交到法庭的记录，JBS还是多次向他进行了采购，违背了自己的承诺。绿色和平协议规定，如果任何牧场主被检察官指控有掠夺土地或发生土地冲突的行为，协议签署方一旦获悉这些问题，必须停止向其采购。<sup>170</sup> 如上所述，在正在进行的案件中，萨尔达尼亚被检察官指控犯有这两项罪行，所有这些都已在媒体上被报道多年，JBS可以而且本应知道。

2015年，JBS从萨尔达尼亚的Fazenda Santa Tereza进行了采购——有媒体报道，Ibama发现该牧场存在非法

毁林行为。<sup>171</sup> JBS随后停止了从该牧场采购，但在2015年至2019年间，JBS又继续从萨尔达尼亚的另一个牧场采购：Fazenda Primavera。<sup>172</sup>

全球见证的一份分析显示，Fazenda Santa Tereza已被列入Fazenda Primavera的肉牛供应商名单，在2015年至2019年期间向其供应了3066头牛。<sup>173</sup> 因此，Fazenda Santa Tereza牧场作为间接供应商仍在JBS的供应链中，而JBS却并未对该牧场进行监测，以确定它是否遵守了绿色和平协议。

更糟糕的是，根据2008年8月的政府卫星数据，Fazenda Primavera内有毁林迹象，据Imazon称，这是非法的，违反了JBS与检察官的协议。<sup>174</sup> 萨尔达尼亚否认发生过这一切。

据此可以知道，JBS向一名在正在进行的案件中被检察官指控犯有土地掠夺罪和谋杀两名无地工人运动代表罪的牧场主采购过，从非法毁林和奴役劳工的牧场采购过，所有这些都违反了自愿性的和有法律约束力的协议。然而，所有这些都未受到审计机构的监控。

当向JBS提出这些指控时，该公司回应道，“没有从检察院(Prosecution Office)或联邦或州土地局(Land Institutes)收到包含这些情况信息的通知或投诉”，因此，不可能“在其系统中执行阻截这些供应牧场的程序。”

Fazenda Santa Tereza内无地者定居点的儿童学校。图片：Brasil de Fato





# Marfrig：“漂绿”一家“毁绿”公司

Marfrig自称是世界第二大牛肉生产商，<sup>175</sup> 拥有3万多名员工<sup>176</sup>，2019年的毛利润超过10亿美元。<sup>177</sup> 与JBS一样，DNV-GL也对Marfrig遵守绿色和平协议的情况进行了审计。在2015年至2019年的连续五次审计中，DNV-GL发现Marfrig完全合规。<sup>178</sup> 2019年，该公司声称，它是在所有绿色和平协议遵守情况审计中“唯一一家经认证100%合规的公司”。<sup>179</sup> Marfrig利用这些审计结果向那些对审计的有效性没有提出足够质疑的金融支持机构宣传其绿色资质。<sup>180</sup>

在2019年7月一份鼓吹其纪录的新闻稿中，Marfrig宣布发行5亿美元的所谓“转型债券(Transition Bonds)”。<sup>181</sup> 债券收益将用于投资“从亚马逊生态区(Amazon Biome)采购牛，更具体地说，是从巴西马托格罗索州、帕拉州和朗多尼亚州(Rondônia)采购牛”。<sup>182</sup> 该公司还为这些债券发布了一份“可持续采购协议(Sustainable Sourcing Protocol)”，其中声称：“Marfrig连续第四年遵守对(绿色和平组织)的承诺，”并再次援引DNV-GL的审计作为证据。<sup>183</sup>

虽然有来自民间社团的压力，Marfrig在帕拉州并没有签订检察官协议，而在亚马逊地区的其他州则签订了。<sup>184</sup> 尽管如此，巴西法律要求Marfrig不得从非法造成环境退化的牧场采购，否则将面临被检察官提起民事或刑事诉讼的风险。<sup>185</sup> (详见方法部分)

为了查明Marfrig是否遵守了这些法律要求，全球见证获得了该公司2017年、2018年和2019年在帕拉州的活牛运输许可证，并对其进行了与JBS相同的分析。在此期间，Marfrig从89个毁林面积超过3,300公顷的牧场进行了采购，<sup>186</sup> 根据Imazon的说法，这些毁林行为都是非法的。<sup>187</sup> 在这些案例中，有39起与绿色和平协议所涵盖的时间段一致。然而，在2017年、2018年和2019年DNV-GL的审计报告中，这些案例都没有出现。<sup>188</sup> 没有进行适当检查的Marfrig从没有进行充分尽职调查的金融机构那里得到了奖赏，这些金融机构购买了该公司所谓的“可持续”转型债券。那些毁林的牧场也因此更加胆大妄为，敢再次毁林。如需了解每个牧场的情况，请使用[此链接](#)。



亚马逊地区运往屠宰场的牛。©里卡多·福纳里(Ricardo Funari) / Lineair /绿色和平组织

当我们向Marfrig提出这些指控时，它否认从上述牧场进行的任何采购违反了其协议。该公司声称，89个牧场中有42个牧场的毁林行为发生在绿色和平协议的截止日期(2009年10月)之前，但没有就全球见证发给他们的法律依据作出回应，这些依据表明了他们为什么不应该向2018年7月22日之后发生过非法毁林行为的牧场采购。该公司还声称，15起案例中的毁林行为发生在向其采购之后，11起案例中的毁林图斑属INPE的误报。该公司还声称，在14起案例中，毁林面积低于6.25公顷，在5起案例中，该公司无法在其内部数据库中找到这些牧场。全球见证评估了所有这些解释，发现每一个理由都是无效的，并坚持最初的指控。在两起案件中，该公司声称阻截了供应商，没有登记过屠宰记录，但未能提供信息说明是在我们通知他们之后还是在我们的调查期间(2017年至2019年)这样做的。如需了解Marfrig的各项理由以及全球见证对每项理由的反诉的详细分析，请访问[此链接](#)。

### 欺诈亚马逊

帕拉州的São Felix do Xingu市有一个著名的保护区,名为Triunfo do Xingu,占地100多万公顷。<sup>189</sup> 研究表明,与其他地区相比,它正面临着更高的毁林率,威胁到了这里重要物种的生存,<sup>190</sup> 其中包括罕见的斑点虎猫<sup>191</sup>和獾。这两种动物都被列入了国际自然保护联盟的濒危物种红色名录。<sup>192</sup> 但数以千计的养牛场正在向这里的森林逼近,威胁着这里独特的生物多样性。2017年至2019年,Marfrig从该市<sup>193</sup> 至少71个有毁林行为的牧场采购过。

Fazenda Espora de Ouro II就是其中之一。尽管有非法毁林行为,Marfrig还是连续几年从该牧场采购了牛。<sup>194</sup> 此外,该牧场在政府土地登记处被欺诈性地宣称属于一个不可能是其所有者的个人。该“所有者”随后似乎欺诈性地修改了牧场的边界,以消除非法毁林的证据。全球见证在下文列出了本案的细节:

2016年1月,这个长方形的牧场<sup>195</sup> 里有两片残存的亚马逊雨林,看上去就像两个孤独的肺:

#### (Fazenda Espora de Ouro II截至2016年的边界<sup>196</sup>)



数字地球(DigitalGlobe)

但到了当年7月,这些树木——相当于36个足球场的面积<sup>197</sup>——已经消失了:

#### (Fazenda Espora de Ouro II – 截至2016年的边界)



行星实验室(Planet Labs)

Marfrig在2016年10月从该牧场采购过,2017年<sup>198</sup> 又再次采购,违反了绿色和平协议,但这些都没有出现在DNV-GL的审计报告中。<sup>199</sup> 2018年,牧场主运用大胆的手腕修改了土地边界,不再包括非法毁林的区域<sup>200</sup>:

#### (Fazenda Espora de Ouro II在2018年被修改的边界)



行星实验室

2019年,Marfrig继续从修改了边界的牧场采购,这时候已经遵守了公司的承诺——至少在纸面上是遵守了。<sup>201</sup> 全球见证发现,Marfrig是该牧场2017年至2019年唯一的屠宰场客户,<sup>202</sup> 这让人怀疑,牧场主是为了绕过Marfrig与绿色和平组织的协议而修改边界的。巴西联邦环境检察官(Environmental Federal State Prosecutor)丹尼尔·阿泽

雷多(Daniel Azeredo)表示,在CAR数据库中修改牧场边界以排除毁林问题,是造成牛供应链欺诈问题的原因之一。<sup>203</sup>

但还存在更多的诡计。

所有农村不动产都必须在一个名为“农村地籍中心”(Cadastro Ambiental Rural,以下简称CAR)<sup>204</sup>的电子数据库中进行登记,详细记录了所有者、边界和森林覆盖情况。<sup>205</sup>所有者<sup>206</sup>若自行申报了虚假或不全的信息,将面临刑事或民事制裁。<sup>207</sup>然而,全球见证获悉,该牧场申报的所有权人不可能是其真正所有者。

该牧场与一个没有土地的家庭的大型定居点交叠,这些家庭正在申请土地。<sup>208</sup>这是由巴西国家殖民和土地改革研究所(National Institute of Colonization and Agrarian Reform,以下简称INCRA)管理的,<sup>209</sup>它可以分配小块土地给家庭<sup>210</sup>耕种。<sup>211</sup>然后,户主作为受益人会被列入一个公共数据库中。<sup>212</sup>但在获得正式的土地所有权之前,他们不得将土地出售、出租或捐赠给除其他定居者以外的任何人。<sup>213</sup>

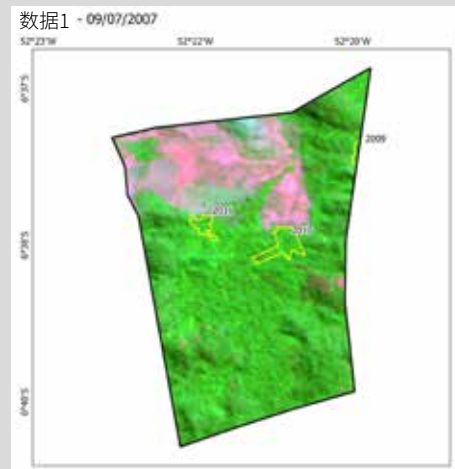
全球见证查阅了该项目的INCRA登记定居者数据库,但“Fazenda Espora de Ouro II”的所有者并不是受益人。<sup>214</sup>然而,向INCRA提出的信息自由(Freedom of Information)请求显示,附近没有任何土地被授予所有权,也没有进行过受益人登记。<sup>215</sup>这意味着声明中登记的所有者不是该土地合法持有人。

帕拉州的检察官曾警示过,犯罪分子欺诈性地利用无地者的定居区养牛。<sup>216</sup>审计报告却对这些情况只字未提。

当被问及所有这些指控时,据称的牧场主没有回应。当将这些指控传达给Marfrig时,它为采购进行了辩解,声称INPE发现的两处与该牧场重叠的毁林图斑面积低于6.25公顷。但一处为7公顷,另一处为13公顷,远远超过Marfrig所说的面积。该公司对有关欺诈的指控、对牧场土地边界进行的欺诈性修改都只字未提,而修改后的边界将两个非法毁林区从牧场内部移除了。

Marfrig还从一些被国家机构指控犯有环境罪的牧场采购过,这违反了绿色和平协议。同样位于Sao Felix do Xingu市的Fazenda MD,占地1247公顷,内含林地。然而在2011年和2017年,有23公顷<sup>217</sup>森林非法被毁,因为该牧场并没有获得许可证授权清除森林。<sup>218</sup>

### 毁林前的Fazenda MD



### 毁林后的Fazenda MD



因此,Marfrig应该阻止该牧场成为供应商,而它却从这里采购了216头牛。更糟糕的是,到2018年6月,Marfrig又向其采购了140头牛,尽管在检查发现该牧场存在非法毁林行为后,Ibama<sup>219</sup>已于同年5月将其列入了黑名单。Marfrig本应在Ibama的禁止采购区名单上查到这一点,但却没有这样做,而且由于审计存在缺陷,也没有发现这一情况,Marfrig可以免于承担任何责任。当向Marfrig提出这一问题时,该公司称INPE在该牧场内发现的两处2011年和2017年的毁林图斑为误报,且面积小于6.25公顷。然而INPE发现的这两个案例中的毁林图斑面积均超过了6.25公顷,而且是非法的,随后Ibama通过实地检查证实了这一点,导致该牧场被列入禁止采购区名单,而Marfrig却对此置之不理。

Marfrig是巴西最大的牛肉公司之一,它没有遵守自己的承诺,由于有缺陷的审计而没有被追究责任,结果却鼓励了欺诈和毁林行为。

## Marfrig和“可持续”债券

与JBS一样，尽管已向绿色和平组织做出了承诺，Marfrig也没有对间接供应商进行监测。DNV-GL在审计<sup>220</sup>中总结道：“还没有对间接供应商进行系统的核查。”<sup>221</sup>

全球见证的分析显示，在2016年至2019年间，该公司在帕拉州的1160家间接供应商的牧场内包含了面积超过3.4万公顷的被毁林地，这些毁林行为发生在2009年1月后。Marfrig没有对他们进行监测，检查他们是否遵守了其法律义务。它也没有检查1030个间接供应商是否遵守了绿色和平协议，这些牧场内包含2009年10月之后遭毁的2.7万多公顷林地。<sup>222</sup>

Marfrig告诉支持“可持续转型债券”的金融机构，它将与直接供应商发送一份信息征询表(Request for Information, 简称RFI)，要求他们提供向谁采购牛的信息，以检查毁林情况。<sup>223</sup> 主导Marfrig转型债券销售的三家银行是法国巴黎银行、荷兰国际集团银行和桑坦德银行。<sup>224</sup> Marfrig声称，其目标是到2025年用这些信息征询表覆盖所有间接供应商。但这些工具都是自愿性的，依靠直接供应商的善意反馈，并没有描述Marfrig将如何利用这些信息来确保有毁林行为的间接供应商被阻截。

在南美、欧洲、美国和亚洲设有办事处的环境研究机构<sup>225</sup> Vigeo Iris分析了Marfrig的“可持续转型债券”。该机构指出：“我们认为，对与毁林相关的风险的识别和管理是有限的……因为无法获得间接供应商所经营地块的登记文件。”<sup>226</sup>

其他一些大型投资机构怀疑Marfrig的债券能否被贴上可持续的标签。PGGM是一家荷兰投资集团，管理着价值2,520亿欧元的养老金资产。<sup>227</sup> 去年8月，他们公开表示，Marfrig所谓的可持续债券“不能算作可持续债券”，因为它并没有“为新的可持续活动提供资金，也没有为气候解决方案投资”。<sup>228</sup>

另一家负责管理超过6200亿英镑资产的全球性投资机构Insight Investments<sup>229</sup> 决定不投资这些债券，<sup>230</sup> 称这些债券没有用于“超出正常支出的业务”，而且“影响指标不会让我们真正了解这是如何带来改善的”。<sup>231</sup>

他们的担忧是有道理的。全球见证调查了Marfrig在亚马逊地区的帕拉州最大的直接供应商之一—— Sitio

Nacional。截至2019年7月，该牧场为Marfrig供应了3590多头牛。全球见证还分析了向Sitio Nacional供应牛的牧场的毁林情况。在所有的供应商中，至少有8家的毁林面积超过了6公顷。这些地区有300多公顷的森林被毁。<sup>232</sup> 然而，不知何故，购买这些债券和促成这些债券出售的金融机构却以“可持续的”标签奖赏了这些行动。

与JBS一样，Marfrig似乎也在背离其法律义务——即进行充分的检查，以确保通过间接供应商采购的牛符合法律规定。该公司辩称，“由于缺乏官方可追溯系统，很难”对间接供应商进行监测，<sup>233</sup> 从而试图为十年来的不作为寻找理由。这只会让涉及非法毁林问题的间接供应商更加胆大妄为。而且，如上所述，全球见证委托进行的法律分析显示，Marfrig可以利用公开可获得的数据来对间接供应商进行监测。

当向Marfrig提出这些说法时，该公司承认需要对间接供应商采取更多措施。一位发言人表示：“Marfrig知道有必要更进一步，自去年以来，它一直在与IDH合作制定一项很有抱负的计划——可持续贸易倡议(Sustainable Trade Initiative)，以履行其承诺。”

该公司补充道，“强调包容原则很重要，因为排斥策略并不能解决问题，因为被排斥的生产商会继续在不可持续的条件下生产，让生态区的保护面临风险”。该公司还表示，它正在“建立创新的金融机制，并与在巴西农产业开展业务的银行开展合作”，还概述了它的“信息征询工具”和“间接供应商降风险地图”(Indirect Suppliers Mitigation Risk Map)，它声称这将“降低与间接供应商相关的风险”。该公司没有解释为什么这些工作不能在十年前就开始，也没有回应全球见证所强调的关于RFI工具的问题，也没有说明为什么要花五年时间来完成它在十年前就承诺要做的事情。对于在全球见证所设定的调查期间内没有监测间接供应商或其牧场内的毁林行为的问题，它也没有进行辩解。

## Marfrig背后的银行

正如全球见证2019年9月的报告《毁林金主》所披露的，桑坦德银行和摩根士丹利等知名银行为Marfrig的活动提供了资金。<sup>234</sup> 当时，桑坦德银行的一位发言人表示：“在我们进行分析的时候，Marfrig遵守了这些协议，第三方还对牧场主遵守协议的情况进行了审计。”他援引了有问

题的DNV-GL审计作为证据。当被问及桑坦德是否会就其间接供应商问题向Marfrig施压时，该行回应称：“我们会在环境和社会风险评估中考虑这一点。”<sup>235</sup>



银行一直是Marfrig能在亚马逊发展业务的关键。菲利普·胡格恩(PHILIPPE HUGUEN) /法新社(AFP), 来自盖蒂图像; 布德鲁·丘克鲁特 /SOPA图像 / LightRocket; 马里奥·塔玛(Mario Tama) /盖蒂图像

然而，全球见证了解到，截至2020年3月，桑坦德银行仍持有超过300万美元的Marfrig股份，而截至2020年4月，法国巴黎银行则持有325万美元的Marfrig股份。<sup>236</sup>桑坦德银行、法国巴黎银行和荷兰国际集团也是Marfrig“转型债券”的牵头安排行。该债券是在媒体报道2019年亚马逊大火的高峰期宣布的。<sup>237</sup>

桑坦德银行和法国巴黎银行也是银行业环境倡议的创始成员，该倡议旨在到2020年实现零毁林。<sup>238</sup> 这些银行似乎没有对Marfrig带来的毁林风险进行充分的尽职调查，也没有仔细审查他们提供的融资是如何与其零毁林承诺相符的。

桑坦德银行还面临着其他指控，有指控称其为涉及毁林问题的公司提供资金。2016年，Ibama指控该行为不允许进行农业生产的自然保护区内的农业项目提供了资金，向该行开出了1500万美元的罚单。该行声称，桑坦德银行辩称，其融资活动与种子生产没有任何关系，如果Ibama不认同，他们可能会将此案告上法庭。<sup>239</sup>当向桑坦德银行提出所有这些问题时，该行回应称，“如果有任何违法行为得到证实，桑坦德巴西分行根据合同有权宣布债务提前到期，并要求还款”。该行还补充道：“必须加强保护亚马逊雨林的措施，协调银行与政府和公共倡议的行动。”尽管荷兰国际集团也被要求发表意见，但该行没有回应。

今年2月，法国巴黎银行向全球见证表示，它坚持自己参与Marfrig转型债券的决定，称“该债券的收益将严格用于减少Marfrig供应链中的毁林和土地权利问题”。这一回应并没有解决这样一个事实——Marfrig有十年的时间对有毁林行为的间接供应商进行监测，并将他们从自己的供应链中移除，但却没有做到。直到十年后，通过一种金融工具，它才开始考虑以信息征询表向供应商获得信息。而PGGM和Insight Investments等其他投资机构则拒绝接受这样的解决方案，认为信息征询表不够充分。当全球见证向法国巴黎银行提出新的指控时——Marfrig从89个非法毁林的牧场采购牛，这违反了该公司有法律约束力的和自愿性的协议，也没有在历次审计中被发现——该行没有对这些具体问题作出答复。不过，法国巴黎银行确实表示，如果一家公司违反了该行的承诺，该行“可以决定对其进行监测或终止关系”。该行还对Marfrig的转型债券进行了详细说明，称“债券框架遵循最佳原则”，并在发行前接受了Vigeo Eiris的“第三方审查”。

去年，摩根士丹利的一名女发言人承认，该行曾为Marfrig提供过资金，但指出该银行在2018年和2019年没有这样做。她坚称，对毁林风险进行过仔细分析。然而，截至2020年3月，该行仍持有价值超过4100万美元的Marfrig股份。<sup>240</sup> 这似乎又是一个没有对毁林风险进行充分尽职调查的实例。当向摩根士丹利提出这一问题时，该行回复称，其在Marfrig的股份是“代表客户持有的，或者可归因于在正常交易活动过程中与客户相关的其他活动，而不是代表摩根士丹利作为战略或自有投资持有的”。

与JBS一样，Marfrig似乎也在“漂绿”自己的形象，利用有缺陷的审计，从没有对毁林风险进行充分的尽职调查、没有提出任何质疑的金融行业获得了巨额所谓的“可持续”融资。

这些银行似乎没有要求获得关于Marfrig供应链的任何详细信息，以便评估该公司的毁林风险，这突显了它们在尽职调查做法中存在的缺陷。

# Marfrig、土地掠夺者与原住民土地

多项研究表明,保护原住民土地与改善森林保护密切相关,<sup>241</sup>能反映出原住民在环境管理方面的技能和领导能力。<sup>242</sup>然而,这两项保护行动都受到了怀有敌意的新总统的威胁。尽管巴西是《国际劳工组织关于土著和部落民族的第169号公约》(International Labour Convention 169 on Indigenous and Tribal Peoples)的签署国,本应保障原住民对其土地的人权。<sup>243</sup>

1998年,贾伊尔·博尔索纳罗(Jair Bolsonaro)称,与几乎消灭了原住民的美国骑兵相比,巴西骑兵是无能的。<sup>244</sup>2016年,他曾表示,“给”原住民土地是一个让农业综合企业无法生存的策略,他将减少这类地区,<sup>245</sup>还威胁要在亚马逊地区的一个州给牧场主配备枪支,那里的原住民正在划分自己的土地。<sup>246</sup>2017年,他表示,如果由他决定,他将让人们更容易携带枪支,而且他不会给原住民一厘米的土地。<sup>247</sup>这一言论给Apyterewa的土地暴力纠纷火上浇油。Apyterewa是亚马逊地区生物多样性最丰富的原住民地区之一。<sup>248</sup>Marfrig从卷入纠纷的牧场主那里采购过牛。

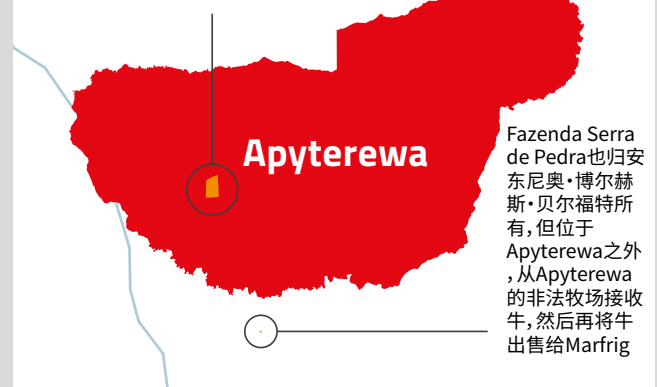
Apyterewa的面积是墨西哥城(Mexico City)的五倍多,<sup>249</sup>是Pará原住民的家园。<sup>250</sup>经过长期斗争,司法部(Ministry of Justice)终于在2007年承认这片土地是他们的领土。为了清理这里的非原住民,还成立了一个特别工作组,<sup>251</sup>从而也减少了森林砍伐。<sup>252</sup>但是养牛人并没有放弃。据全球见证看到的一份被泄漏的官方文件显示,2013年,巴西政府的土著研究所(FUNAI)指控农场主奥希玛·阿兰蒂斯·杜·普拉多(Orcimar Arantes do Prado)和其他牧场主在Apyterewa掠夺土地,并密谋轰炸该领土内的一片区域。

然而,2014年至2017年的活牛运输许可证显示,杜·普拉多先生向Marfrig运送了744头牛,<sup>253</sup>这违背了Marfrig与绿色和平组织签订的协议中关于不向所谓的土地掠夺者采购的承诺。

在Marfrig采购两年后,杜·普拉多被指控下令谋杀了著名的工会成员<sup>254</sup>卡洛斯·卡布拉尔·佩雷拉(Carlos Cabral Pereira),据称佩雷拉本人也被卷入了那里的土地



安东尼奥·博尔赫斯·贝尔福特在Apyterewa拥有的非法牧场Fazenda Sol Nascente,包含45公顷非法被毁林地



Fazenda Serra de Pedra也归安东尼奥·博尔赫斯·贝尔福特所有,但位于Apyterewa之外,从Apyterewa的非法牧场接收牛,然后再将牛出售给Marfrig

掠夺。<sup>255</sup>杜·普拉多先生的律师否认了这些指控,并推测其他人应对这起谋杀负责。<sup>256</sup>据报道,2018年,佩雷拉先生曾因博尔索纳罗的言论而支持了他的竞选,希望博尔索纳罗能将非原住民在Apyterewa的土地所有权合法化。<sup>257</sup>同年,支持农业综合企业的国会党团“农村主义者”(Ruralistas)游说特梅尔(Temer)政府推迟将土地掠夺者从Apyterewa驱逐出去。<sup>258</sup>博尔索纳罗胜选后,据报道,佩雷拉在原住民地区的



奥希玛·阿兰蒂斯·杜·普拉多被指控在Apyterewa的土地掠夺中策划了谋杀卡洛斯·卡布拉尔·佩雷拉的行动后,巴西警方所拍摄的杜·普拉多的面部照片。Agência Para

一些土地增值了两倍。<sup>259</sup> 在随后发生的争端之后，他被据称是职业杀手的人开枪击中头部。<sup>260</sup> 没有迹象表明Marfrig以任何方式参与了谋杀，也没有迹象表明Marfrig在杜·普拉多先生被指控后还向他采购了牛，但这表明了在本应受到保护的原住民地区经营的土地掠夺者的涉暴背景。

Marfrig与Apyterewa的联系并不止于此。另一个位于Parákanã的非法牧场<sup>261</sup> 是与该公司供应链相关的间接供应商。<sup>262</sup> 2016年至2019年，一位名叫安东尼奥·博尔赫斯·贝尔福特(Antonio Borges Belfort)的牧场主在Apyterewa的Fazenda Sol Nascente非法养牛，该牧场包含超过45公顷非法被毁的林地，他将这些牛送到他拥有的一个合法牧场Fazenda Serra de Pedra，然后牛肉巨头Marfrig在2018年至2019年间从该牧场采购了274头牛。新闻调查机构“巴西记者”(Reporter Brasil)挖掘出了该牧场被用作洗钱工具的进一步证据。这违背了Marfrig对绿色和平组织的承诺——即确保他们的供应链不侵犯原住民的土地。<sup>263</sup> 该公司还违反了对毁林的间接供应商进行监测的承诺，以确保这些供应商的牛不会进入其屠宰场。<sup>264</sup> 当“巴西记者”联系的中介机构将这些指控提交给安东尼奥·博尔赫斯·贝尔福特时，他表示不会发表意见。<sup>265</sup> 当向Marfrig提出这些指控时，该公司声称在采购时Serra de Pedra牧场是完全遵守其协议的。<sup>266</sup>

安东尼奥·博尔赫斯·贝尔福特是被控谋杀犯奥希玛·阿兰蒂斯·杜·普拉多的老相识，两人曾在2007年从法律上对创建Apyterewa的决定提出了质疑，并一直参与此案，直到2014年结案。<sup>267</sup>

没有一个土地掠夺者在DNV-GL的审计中被发现。<sup>268</sup> 同时，许多支持Marfrig的金融机构面临破坏原住民土地环境和侵犯原住民人权的风险。

2007年，Parakana原住民的土地得到了承认。

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Apyterewa为了养牛而毁林的区域。养牛业是巴西亚马逊地区毁林的主要驱动因素。©玛丽齐尔达·克鲁普 / EVE /绿色和平



# Minerva: 零毁林投资的“标兵”

Minerva是巴西第三大牛肉贸易商，<sup>269</sup> 每年能屠宰超过350万头牛，<sup>270</sup> 向100多个国家出口肉类产品。<sup>271</sup> 该公司聘请了美国会计巨头均富<sup>272</sup>监督其遵守绿色和平协议的情况。均富在140个国家开展业务<sup>273</sup>，全球营收为57.2亿美元<sup>274</sup>。2017年，均富发现Minerva 100%遵守了该协议。<sup>275</sup> 同年，帕拉州的联邦检察官对Minerva的肉牛采购进行了审计，发现只有0.26%的非常规采购无法被该公司证明是合理的。<sup>276</sup> 在当年的《年度可持续发展报告》(Annual Sustainability Report)中，Minerva声称其产品“不涉及不负责任的社会环境行为”，“在使用禁止采购地图和牧场边界信息后，受监管的采购比例从92%上升到99%”。<sup>277</sup>

好消息还不止这些。2018年，均富发现Minerva再次100%遵守了绿色和平协议。<sup>278</sup> 该公司声称，会对所有直接供应商进行100%的分析，以筛选出毁林行为。<sup>279</sup> Minerva 2019年的一份声明称，其运营保证了自己的产品与“亚马逊生态区的禁止采购区或毁林区”无关。<sup>280</sup> 这一系列令人印象深刻的审计工作将Minerva描绘成一个负责的典范。但这经得起仔细审查吗？

全球见证分析了Minerva 2017年、2018年和2019年在帕拉州的活牛采购，并对其进行了与JBS和Marfrig相同的分析。研究发现，至少有16家直接供应商的毁林面积超过680公顷，据Imazon称，这些都是非法的。<sup>281</sup> 均富对 2017年和2018年绿色和平协议遵守情况的审计并没有发现在此期间从不合规牧场采购牛的情况，<sup>282</sup> 尽管全球见证发现，在这几年有8个有毁林行为的牧场将牛送到了Minerva (2019年的审计结果尚未公布)。<sup>283</sup> 再次出现了一家由国际审计师组成的精英事务所没能发现违规行为的情况。<sup>284</sup> 不过，鉴于违规案例数量较少，很显然，Minerva在遵守协议方面遥遥领先于JBS和Marfrig。如需了解每个牧场的情况，请使用[此链接](#)。

当被问及对上述指控的意见时，Minerva声称，在16个牧场中，6个牧场在2008年7月22日前就有毁林行为，4个牧场此后被禁止作为供应商，2个牧场属INPE的误报。该公司表示，在剩下的4个牧场中，它没有登记过从其中



Minerva是巴西最大的牛肉公司之一。达杜·加尔迪耶里 (Dado Galdieri) / 彭博社，来自盖蒂图像

2个牧场进行的采购，另一个牧场的毁林面积低于6.25公顷，同时声称，最后一个牧场的土地边界存在交叠问题，难以监测其合规性。全球见证评估了所有理由，认为都是无效的，仍然坚持最初的指控。有关Minerva的声明和全球见证对各项声明的反驳的详细说明，请访问[此链接](#)。

当均富被问及为什么这16起案例没有被纳入其审计范围时，该事务所回应称，“我们的工作仅限于相关”协议“规定的范围”，而且“出于专业保密的原因”，不得“提供有关所做工作的详细信息”。均富没有提到的是，它就如何改革检察官协议提出了若干建议，而正是这些建议影响了它所进行的审计工作的范围。<sup>285</sup>

审计机构在核实Minerva的肉牛采购是否符合协议方面发挥着至关重要的作用。布鲁诺·凯利(Bruno Kelly) / 绿色和平组织





# 胜利变成悲剧

鸟类在清除森林废弃物、控制昆虫数量以及帮助授粉和传播种子方面起着至关重要的作用。<sup>286</sup> 犭狨也是一个“生态系统工程师”，<sup>287</sup> 它的洞穴为无数物种提供栖居之所和保护。<sup>288</sup> 但在Triunfo do Xingu(意为“净水的胜利”<sup>289</sup>)保护区,它们正面临威胁。这里一直是帕拉州毁林问题最严重的保护区之一,<sup>290</sup> 生活着多种濒危物种。<sup>291</sup> 去年的亚马逊大火严重影响了该地区。<sup>292</sup>

在这个地区有属于Agropecuaria Santa Barbara(简称AGROSB)的大片牧场。<sup>293</sup> 该公司成立于2005年,<sup>294</sup> 号称是拉丁美洲最大的牛业和农业公司之一。<sup>295</sup> AGROSB的所有者是一家公司,该公司的共同创立人之一是备受争议的巴西亿万富翁<sup>296</sup> 丹尼尔·丹塔斯(Daniel Dantas)。<sup>297</sup> 新闻调查机构“巴西记者”<sup>298</sup> 和非政府组织“敬畏地球”(Mighty Earth)<sup>299</sup>去年报告称,JBS、Marfrig和Minerva都从该公司采购了牛。

全球见证的补充研究表明,AGROSB将牛从所拥有的6个间接供应牧场<sup>300</sup>——毁林面积超过4400公顷<sup>301</sup>——<sup>302</sup>转移到自己的另一个牧场Fazenda Espirito Santo。然后,这个牧场在2018年和2019年把牛出售给了Minerva。<sup>303</sup> 然而,根据政府卫星数据,Fazenda Espirito Santo也包含了10公顷被毁林地,根据Imazon的说法,这似乎没有得到州或联邦政府的采伐许可。<sup>304</sup> 因此,毁林问题在Minerva供应链的多个牧场中根深蒂固。这些都没有出现在均富2018年的审计报告中。供应链尽职调查的表面胜利再一次掩盖了毁林的事实。

当向AGROSB提出这些指控被时,该公司回应道,INPE的毁林数据不应被当作该牧场清除过森林的证据,而应“作为环境机构的补充工具”。它还补充道,SEMAS对Fazenda Espirito Santo的土地边界进行的远程分析没有发现INPE所确认的区域有任何毁林迹象,因此确定该区域适合放牧。Minerva认同AGROSB的评估,并声称该农场所有毁林行为都发生在2008年7月22日前,因此从该牧场采购是适当的。全球见证反驳了这些说法。如需了解有关这些问题的更详细的评估,请访问[此链接](#)。



## 巨大的未知

Minerva面临的间接供应商带来的风险要大得多。均富在其审计报告中承认,Minerva“没有可以用来监测在亚马逊生态区<sup>305</sup>从间接供应商处采购肉牛总体情况的系统或控制措施”。仅此一项就违反了绿色和平协议。在2016年至2019年间,向Minerva的直接供应商运送牛的所有间接供应商中,约有1660家包含了被毁林地——总计达4.3万公顷的森林是在2009年1月之后遭毁的。共有1480家间接供应商本应受到监测,以遵守绿色和平协议,但却没有受到监测。<sup>306</sup> 这从根本上动摇了Minerva关于环境责任说法的可信度。

与JBS和Marfrig不同,Minerva并没有将未能监测其间接供应商是否符合法律规定的原因归咎于缺乏官方可追溯系统或缺乏透明度。而是认为,“缺乏政府补贴”意味着它无法追踪和监测其间接供应商。<sup>307</sup> 然而,这家公司在2019年的毛利润超过了8亿美元。<sup>308</sup>

当向Minerva提出所有这些指控时,一位发言人表示:“Minerva食品公司(Minerva Foods)通过与国家野生动物联盟和威斯康星-麦迪逊大学(Wisconsin-Madison University)的合作,已经率先对其间接供应商进行了监测。”

该公司表示,关于监测间接供应商进展的第一份报告“预计将于2020年12月下旬发布”。它没有解释为什么近十年前没有这样做。然而,与竞争对手JBS和Marfrig不同的是,Minerva至少承诺在2020年底而不是2025年报告进展情况。

### 寂静的森林

在臭名昭著的“毁林弧形带”(Arc of Deforestation)<sup>309</sup>中,Rondon是毁林问题最严重的十大城市之一<sup>310</sup>,该弧形带从亚马逊河口向西南延伸到帕拉州。<sup>311 312</sup>科学家称这些地区为“寂静的森林”,因为这里的物种已经被剥夺了。<sup>313</sup>在这个被破坏的地区,建在被毁的森林之上的牧场是Minerva一些活牛的来源地。

2017年至2019年,Minerva直接从Fazenda São Vicente<sup>314 315</sup>采购了牛,尽管该牧场包含170公顷非法被毁林地。<sup>316 317</sup>2016年至2019年,至少还有10个包含被毁林地的牧场向Fazenda Sao Vicente供应牛,其毁林面积总计达264公顷,几乎都位于Rondon。<sup>318</sup>其中两个牧场有区域已被Ibama列为禁止采购区。<sup>319</sup>Minerva声称,Fazenda São Vicente的毁林行为发生在2008年7月22日之前,因此遵守了检察官协议,但全球见证对此提出了异议——如需了解更多详情,请访问[此链接](#)。

Minerva从另一个不合规的牧场Fazenda Imperador<sup>320</sup>也采购过,该牧场包含70公顷非法被毁林地。<sup>321</sup>



Fazenda Imperador的10个供应商的牧场内包含超过300公顷被毁林地,这是Minerva没有监测到的。<sup>322</sup>Minerva声称已经拦截了该牧场。

这意味着,在直接或间接与该公司有关联的数千个牧场中,仅在两个供应链中,就有900多个足球场大小的森林遭毁。<sup>323</sup>

帕拉州Rondon市一片被烧毁的森林。©绿色和平组织/丹尼尔·贝尔特拉



## Minerva背后的金主



向Minerva提供融资或金融服务的银行。摄影图片来自盖蒂图像：卢克·麦格雷戈 / 彭博社；贝亚特·扎沃泽尔(Beata Zawrzel) / NurPhoto；尼古拉斯·埃克诺默(Nicolas Economou) / NurPhoto；亚历克斯·泰(Alex Tai) / SOPA图像 / LightRocket

2019年9月，全球见证曝光了美国银行(Bank of America)和世界银行(World Bank)为Minerva提供了资金。<sup>324</sup> 世界银行当时表示，Minerva的所有直接采购都来自零毁林地区。<sup>325</sup>

然而，本报告表明，事实并非如此。通过案例研究，世界银行似乎违反了其《森林行动计划》(Forest Action Plan)，该计划旨在“确保与森林相关的投资有助于森林和价值链的可持续管理”。<sup>326</sup> 关于Minerva的间接供应商，世界银行去年坚称，进一步的进展取决于巴西政府的立法和执法，<sup>327</sup> 暗示Minerva自身没有能力监测这些供应链。<sup>328</sup> 民间社团的工作现在表明，在Minerva声称缺乏政府补贴无法进行监测的整个时期内，对间接供应商进行监测都是可能做到的。对于全球见证声称Minerva从16个不符合其协议的牧场进行采购，世界银行表示，Minerva进行的地理空间分析已“澄清了牧场的状况”，因此该公司在对“其直接供应商实行严格的采购政策”。全球见证对这些说法提出了异议——如需了解对这些争议的更详细分析，请访问[此链接](#)。

其他银行也受到了Minerva行为的影响。在Minerva没有对其间接供应商进行监测的这段时间，汇丰为该公司承销了近10亿美元的债券。<sup>329</sup> 2016年，汇丰因其为这家牛肉公司提供的服务，获得了拉丁金融交易(Latin Finance Deals)的最佳企业高收益债券奖(Best Corporate High-Yield Bond award)。<sup>330</sup> 这与该行的森林政策

相矛盾，其政策规定，汇丰“不会在知情的情况下，向直接或通过供应链间接参与……将森林转变为非森林用途的客户提供金融服务”。<sup>331</sup> 当向汇丰提出全球见证的指控时，该行回应称，它欢迎“民间社团组织经过充分研究、提供内容丰富的信息”，但“出于为客户保密的原因，我们无法对特定公司发表意见”。在汇丰的《大宗农产品政策》(Agricultural Commodities Policy)中，在涉及棕榈油的章节，规定了“在提供金融服务之前，新客户必须同意，汇丰能够公开披露该客户是否是或曾经是该行的客户”。<sup>332</sup> 然而，在同一份文件中，它却没有对亚马逊地区的养牛业做出这样的承诺，尽管该行业与大规模毁林相关。

今年1月，摩根大通担任了Minerva价值近3亿美元的股票发行管理行。<sup>333</sup> 在其环境政策中，该行声称，它会对在“关键栖息地”运营的客户进行“强化审查”。<sup>334</sup> 如果进行了这样的审查，也是有缺陷的审查。该行还是“软商品契约”(Soft Commodities Compact)<sup>335</sup>的成员。这是一项由与涉及毁林问题的大宗商品相关的跨国公司发起的全球性倡议，旨在到2020年实现“零净毁林”。<sup>336</sup> 摩根大通似乎也没能实现这一目标。该行还面临着JBS带来的风险，截至2020年3月，还持有价值127万美元的JBS股份，同样。当被要求对此发表意见时，该行没有回应。

正如全球见证一再强调的那样，银行和投资机构似乎已经准备好随意打破他们的不毁林政策，而几乎没有证据表明他们对毁林风险进行了严格的尽职调查。

亚马逊地区无与伦比的生物多样性正受到养牛业的威胁。  
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## 信用评级机构的可信度如何？

一家公司的信用评级向投资者表明，它是一个安全的赌注。三家信用评级机构主导着这个行业：穆迪(Moody's)、标准普尔(Standard & Poor's, 简称标普)和惠誉(Fitch)。<sup>337</sup> 它们是如此重要，以至于当它们对价值3万亿美元的不良信贷给予最高评级时，它们帮助制造了2008年的全球经济崩溃。<sup>338</sup> 现在他们的评级可能导致另一场危机：热带森林的破坏。

随着亚马逊遭到的破坏不断升级，这三家机构尽管承诺过会考虑企业在环境方面的表现，但不仅没有因为JBS和Marfrig与毁林问题的关联而下调它们的评级，反而还给予了它们更有利的评级。<sup>339</sup> 截至2020年5月，标普上调了JBS的信用评级，但没有提及它与毁林的关系。<sup>340</sup> 在2020年的一份报告中，标普将Marfrig的信用评级描述为“稳定”。同样，也没有提到毁林问题。<sup>341</sup>

评级机构惠誉也在2020年6月上调了JBS的信用评级。<sup>342</sup> 然而，回顾惠誉过去三年对JBS评级的报告，可以发现毁林问题根本不在考虑范围内。<sup>343</sup> 惠誉最近还上调了Marfrig的信用评级。同样没有考虑毁林问题。<sup>344</sup> 穆迪最近对JBS和Marfrig的信用评级上调也没有将毁林列为风险。<sup>345</sup>

有些机构会将公司的环保表现与信用评级分开来评估。例如，标普就表示：“ESG评估和信用评级之间没有联系——它们是两种不同的意见。当将ESG评估分配给被评级实体时，我们不期望了解任何足以影响信用评级的新的ESG相关信息材料。”<sup>346</sup> 因此，标普认为，如果一家公司涉及环境破坏问题，这不应影响其信用评级。

即使强调ESG风险，这些风险也与环境问题关系不大，很少影响评级。例如，在穆迪上调JBS评级时，他们只强

调了对该公司的“司法程序”和“诉讼”是投资者面临的风险，但尽管如此，他们还是上调了评级。<sup>347</sup> 在标普对JBS的信用评级上调中，他们表示，投资者面临的唯一ESG风险与官方对该公司“大股东腐败问题”的调查有关<sup>348</sup>——但同样，这也未能阻止评级的上调。

因此，ESG问题被忽视了，或者仅仅被视为治理风险。同时，JBS和Marfrig没有采取本应采取的行动，却得到了投资机构的奖励，受到了信贷利率和信用评级机构的鼓励，这些投资机构没有进行充分的尽职调查，而这些银行和信用评级机构没有充分考虑这两家公司与亚马逊雨林遭破坏之间的关联。

当向信用评级机构提出这些指控时，穆迪回应称，其“信用评级反映了实体将按时足额履行其债务义务的可能性，并将ESG和气候风险纳入进来，提高到对信用构成重大影响的程度。除了信用评级，穆迪及其附属公司还提供各种工具，根据ESG和气候因素对公司进行评估。”

惠誉回应称，它已将我们的指控登记为“由惠誉评级的控制职能部门审查的投诉”。它补充道：“JBS在其ESG相关性评分的一个风险要素下得了5分，这意味着该ESG要素对其评级有显著影响，并对其投机级的评级构成制约。同样是投机级的Marfrig，在一个类似的ESG风险要素下的得分为4，也对其评级产生了影响。”当请求标普发表意见时，对方则没有回应。

# 没有法律, 就没有森林

不只是银行、投资机构和信用评级机构没有解决毁林问题。各国政府允许金融机构与牛肉巨头进行价值数十亿美元的交易, 而不要求对毁林风险或侵犯人权行为进行尽职调查。

2017年至2019年, 总部位于巴西、欧盟和美国的银行和投资机构为JBS、Marfrig和Minerva提供或促成了超过90亿美元的投资和贷款。<sup>349</sup>其中, 40亿美元(占总额的44%)来自总部位于欧盟和美国的支持机构。<sup>350</sup>然而, 在这些司法管辖区中, 只有法国有一项法律要求包括银行在内的企业识别并防止严重的环境破坏和人权侵害行为——其中包括需要对森林破坏采取行动。<sup>351</sup>




然后是信用评级机构。然而, 如前所述, 在过去两年里, 他们上调了JBS、Marfrig和Minerva的评级, 却没有充分考虑或提及这些公司与毁林问题之间的关联。这表明, 让企业打击森林破坏是不够的。政府没有将零毁林的供应链和金融作为市场规范, 实际上就是破坏亚马逊雨林的同谋。

随着亚马逊毁林面积的增加<sup>352</sup>——让自愿性承诺的失败变得更加明显——有越来越多的人在争论是否需要制定新的法律, 要求包括银行和投资机构在内的企业对毁林和

与森林有关的侵犯人权行为进行尽职调查。每年, 环保组织“全球树冠计划”(Global Canopy Project)都会评估各大公司和金融机构自愿做出的不毁林承诺。2019年, 其“森林500强”(Forest 500)名单总结道, “到2020年终结热带森林砍伐的自愿性承诺已经失败了”, <sup>353</sup> 声称金融业在“忽视这个问题”。<sup>354</sup>

由全球见证和环境法律专家Client Earth发布的联合简报详细介绍了英国和欧盟采取的措施, 这些措施将使英国和欧盟“通过引入强制性尽职调查来解决毁林、环境破坏和人权侵犯问题”。<sup>355</sup>

这些想法似乎越来越有吸引力。2020年3月, 英国政府的一个特别工作组——全球资源倡议(Global Resources Initiative)——建议政府“紧急”采取一项强制性尽职调查义务, 以便企业和金融机构分别在其供应链和投资组合中避免毁林风险。<sup>356</sup> 2020年9月, 英国政府就一项可能出台的法律进行了公开咨询, 以解决其在应对与进口相关的毁林风险中的角色问题。<sup>357</sup> 欧盟也在考虑通过新的法律来解决与欧盟进口和融资相关的毁林问题。2020年下半年, 欧洲议会(European Parliament)发布了一份具有里程碑意义的报告, <sup>358</sup> 指出需要出台包括金融法在内的新法律。超过100万人也向欧盟关于毁林问题的协商会议<sup>359</sup> 提交了意见书, 这也将制定新法律的可能性摆到了桌面上。<sup>360</sup> 雀巢(Nestle)<sup>361</sup>和乐购(Tesco)<sup>362</sup>这样的大公司也支持监管的要求。

2017年至2019年三家牛肉公司收到的投资和贷款		
牛肉贸易商	2017 - 2019年收到投资和贷款金额(美元)	按来源辖区划分的融资份额%(百分比) (按提供或促成融资的融资机构总部)
	48亿美元	巴西- 59% 美国- 34% 欧盟- 2%(不包括英国) 英国- 1% 其他国家- 1%(加拿大占50%)
	35亿美元	巴西- 45% 欧盟- 14%(不包括英国) 英国- 14% 美国- 12% 其他——14%(日本占65%)
	13亿美元	巴西- 45% 美国- 30% 英国- 14% 欧盟- 9%(不包括英国) 其他国家——1.5%(瑞士占33%)



知名零售商和品牌由于与牛肉公司的关系而受到牵涉毁林问题的牛的影响，而这些牛肉公司没有对毁林牧场进行筛选。  
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## 谁在购买这些牛？

远在千里之外的消费者也面临着牛肉公司供应链中的毁林风险。2019年，“敬畏地球”揭露了沃尔玛、家乐福、塞恩斯伯里(Sainsbury's)、马莎百货(Marks and Spencers)都是JBS产品的买家。<sup>363</sup> 然而，塞恩斯伯里最近签署了一封由40多家大企业签署的公开信，称如果巴西国会通过一项鼓励土地掠夺的法案，将抵制来自巴西的产品。他们警告称，这项法案将“鼓励进一步的土地掠夺和大规模毁林，这将危及亚马逊雨林的生存。”<sup>364</sup> 全球见证联系了塞恩斯伯里，询问他们是否还在销售JBS牛肉，看看他们对亚马逊的担忧是否延伸到了他们目前的产品上，但没有收到回复。

另一个非政府组织“连锁反应研究”(Chain Reaction Research)评估了大企业从涉及毁林问题的公司采购或为其融资所面临的风险。去年，该组织调查了家乐福。这家法国超市在欧洲、南美、非洲、中东和亚洲拥有1.2万多家门店。尽管家乐福承诺到2020年消除其产品的毁林风险，但该超市的部分牛肉产品仍来自JBS和Marfrig在亚马逊地区经营的屠宰场。“连锁反应”还报告称，家乐福的政策“没有应用于加工或冷冻牛肉产品”，它既没有发布进展报告，也没有公布牛肉供应商名单。<sup>365</sup>

“敬畏地球”还指控麦当劳、赛百味(Subway)和雀巢从Marfrig进行了采购，<sup>366</sup> 而新闻调查机构(Bureau of

Investigative Journalism, 以下简称BIJ)报告称汉堡王是Marfrig的主要客户。<sup>367</sup> BIJ还报告称，近年来，JBS、Marfrig和Minerva向英国出口了价值近10亿英镑的牛肉。<sup>368</sup> 全球见证获得的出口数据显示，仅在2020年3月，这三家公司就向包括欧盟、美国和中国进口商在内的全球市场运送了价值超过4400万美元的牛肉。

首龙供应链(大连)有限公司(Sunlon Supply Chain Service Dalian)和芜湖双汇进出口贸易有限责任公司(Wuhu Shuanghui Import & Export Trade)等中国企业是主要的进口方，合计占中国进口总额的50%。2017年，供应链数据专家TRASE发现，JBS、Marfrig和Minerva向400多个进口商出口的牛肉价值超过40亿美元。<sup>369</sup> 其中，中国、欧盟和美国占51%。<sup>370</sup>

JBS、Marfrig和Minerva牛肉产品的十大进口区(2017年TRASE数据)		总额(美元)	份额
1	中国	1,386,770,301	34.40%
2	伊朗	470,210,221	11.66%
3	欧盟(不包括英国)	442,811,235	10.98%
4	埃及	377,066,530	9.35%
5	俄罗斯联邦	268,056,830	6.65%
6	智利	263,220,292	6.53%
7	美国	141,484,576	3.51%
8	英国	116,362,948	2.89%
9	沙特阿拉伯	105,367,676	2.61%
10	阿拉伯联合酋长国	71,781,431	1.78%

### 太多的迹象, 太多的警告

多年来, 巴西的民间社团一再强调牛肉公司的毁林风险。

- > 2017年, Imazon警告称, JBS、Marfrig和Minerva拥有的位于亚马逊的屠宰场面临从有毁林行为的养牛场采购的风险。<sup>371</sup> 同年, 绿色和平组织巴西分部中止了与JBS的协议, 此前Ibama的一项调查指控该公司从非法毁林的牧场采购牛。<sup>372</sup> 这家非政府组织称这种“非法行为”是对检察官协议的“公然违反”, 并表示将暂停与该公司的谈判, 直到该公司能证明其供应链是无毁林的。<sup>373</sup> 几个月后, 绿色和平组织巴西分部也暂停了与Marfrig和Minerva的协议, 称: “没有屠宰场保证其生产与森林破坏无关。”<sup>374</sup>
- > 同样是在2017年, “巴西记者”报告, 巴西检察官指控JBS从一个据称参与非法土地掠夺牧场采购了牛, 检察官称该牧场有非法毁林行为。<sup>375</sup>
- > 2018年, 巴西非政府组织Oeco报告了JBS没有遵守其检察官协议的情况, 此前, 帕拉州联邦检察官办公室透露, 2016年JBS肉牛采购中有19%不合规。<sup>376</sup>
- > 2019年, “巴西记者”、《卫报》(the Guardian)和新闻调查机构的一项调查称, JBS从禁止采购区采购牛。<sup>377</sup> JBS否认了这一说法。

- > 同样是在2019年, 在公众对亚马逊大火的愤怒之后, “巴西记者”和新闻调查机构报告称, Marfrig“从一个农场采购了牛, 该农场使用的是亚马逊地区被森林大火摧毁的林地”。<sup>378</sup>
- > 2020年3月, “巴西记者”指控JBS和Marfrig从一些牧场采购了牛, 而这些牧场又从一名被控犯有屠杀罪的亚马逊牧场主那里采购了牛。<sup>379</sup> JBS否认该牧场主在他们的供应商名单上, 而Marfrig则声称他们正在与世界自然基金会(WWF)合作解决间接供应商的问题。<sup>380</sup>
- > 2020年6月, 绿色和平组织巴西分部指责JBS、Marfrig和Minerva购买了数千头与马托格罗索州毁林牧场有关的牛。<sup>381</sup>

今年7月, 大赦国际(Amnesty International)发布了一份报告, 声称在亚马逊非法放牧的牛最终进入了JBS的供应链。JBS表示, 它正在采取多项措施应对报告中提出的问题。

- > 9月, 可持续性风险分析机构“[连锁反应研究](#)”发布了一份报告, 揭露了2019年JBS如何从毁林面积达20296公顷的983个亚马逊牧场采购, 以及在其供应链中有1800多个毁林面积超过5万公顷的间接供应商。然而, 这些只是样本。利用这些案例, CRR估计, 在2019年, JBS可能从毁林面积达20万公顷的直接供应商那里采购过, 而与其供应链相关联的间接供应商则清除了超过150万公顷的森林。

绿色和平组织巴西分部声称一个牧场的森林被烧毁与JBS的供应链有关。©克里斯蒂安·布拉加(Christian Braga) /绿色和平组织



# 穿过阴霾

在2005年到2013年间，国家的干预帮助亚马逊的毁林量史无前例地下降了70%，<sup>382</sup> 让巴西在减少热带雨林破坏方面成为世界领头羊。<sup>383</sup> 绿色和平协议和检察官协议是这一努力中的重要进展。然而自协议签署以来，绿色和平组织巴西分部、“巴西记者”、Imazon、大赦国际、“连锁反应研究”等组织，以及现在全球见证的持续曝光，都在质疑JBS、Marfrig和Minerva在多大程度上愿意完全遵守他们的承诺。贾伊尔·博尔索纳罗当选总统让情况变得更糟，保护亚马逊的安全措施和机构遭到猛烈攻击。<sup>384</sup> 其结果是，地球上对气候最关键的森林的毁林率正在急剧上升，2005年到2013年期间取得的所有进展正在丧失。<sup>385</sup>

在这场危机中，牛肉公司仍在继续采购牛，但却没有采取有效措施确保遵守协议，同时也没有做到让供应链完全透明、可追踪和负责任。他们也在观望，因为在亚马逊地区的一些州，民间社会组织越来越难以获得独立的、公开的活牛运输许可证信息。更糟糕的是，这些公司甚至声称获取这些许可证信息是不合法的，这与全球见证和其他机构委托进行的各种法律分析相矛盾。这些法律分析表明，获取这些文件过去是可能的，现在也是可能的。他们采取行动的时候到了。然而，他们对指控的回应让人很难相信他们在完全遵守自己的承诺。

在我们看来，DNV-GL和均富进行的审计——在核实牛肉贸易商是否合规方面发挥着至关重要的作用——是有缺陷的。太多的牧场毁林的案例没有引起他们的注意。D-



欧盟需要加快步伐，确保境内企业的供应链和投资组合中不涉及毁林

NV-GL的情况还涉及行为规范问题。这两家事务所都必须对此次调查中暴露出来的失职作出解释。

JBS、Marfrig和Minerva都在炫耀这些有缺陷的审计报告，以向金融界保证他们的信贷和投资与毁林问题无关，而他们的银行和贷款方却没有对他们的失查进行审查和追责。更糟糕的是，当银行竞相在“绿色金融”这一利基市场中抢占一席之地，以炫耀自己的环保资质时，它们却没有在规模大得多的“非绿色”金融投资组合中解决毁林引发的担忧。尽管民间社团一再曝光巴西的毁林和人权侵犯问题——包括与牛肉巨头相关的——但银行和巴西国内的证券交易所并没有完全认识到，如果提供“绿色金融”产品的银行因在亚马逊等关键生态系统中面临的大规模环境破坏风险而登上头条新闻，那么人们对这些产品的信任度就会很低。与此同时，信用评级机构一直鼓励金融业继续向牛肉公司投资和放贷，而没有在其信用评分中充分优先考虑环境问题。

超市、快餐店和进口商则通过购买和销售这些“受污染”的牛肉而获利。除法国外，各国政府并没有要求这些公司在向牛肉巨头购买或投资前进行尽职调查，也没有法律追究其责任。结果是一场“完美风暴”。从养牛的牧场到巴西牛肉业的巨头，从国际审计机构到标志性的金融支持机构，从超市到进口商到快餐连锁店，每一个参与者要么直接破坏雨林，要么参与了对雨林的破坏。

企业和金融机构没有采取必要的行动，确保他们不会助长毁林行为。各国政府现在必须采取与形势的紧迫性相称的行动，引入监管措施，责成银行、投资机构、超市和进口商确保他们对毁林和与森林相关的侵犯人权行为进行严格检查。

金融机构和其他机构现在需要用行动证明自己，以确保没有参与破坏森林，并撤回对牛肉巨头的支持，如果这些巨头不能证实他们没有参与破坏巴西亚马逊雨林。

这片对气候至关重要的雨林、其生物多样性和当地社区的未来，现在都依赖于企业、金融机构和政府采取紧急行动，以确保他们不会参与这场不可逆转的破坏。

其他任何事情都只是“漂绿”。





抗议者呼吁制止亚马逊地区的毁林行为。霍拉西奥·比利亚洛沃斯(Horacio Villalobos)#Corbis/Corbis, 来自盖蒂图像

## 建议

### 有企业进口、投资森林风险商品或为其提供融资的国家政府应：

- > 制定法律，要求包括金融企业在内的企业识别、预防、减轻和报告毁林风险以及与森林相关的人权风险。
- > 确保与巴西的贸易谈判不会通过促进与亚马逊地区毁林问题相关的牛肉和其他商品的贸易而增加对巴西森林的压力。

### 受关联的金融机构、进口商和超市应：

- > 立即暂停与JBS、Marfrig和Minerva以及所有从亚马逊合法区域采购的肉类贸易商的任何服务、融资或合同，直到至少具备条件对这些公司进行基本的尽职调查，包括供应链完全透明。
- > 如果JBS、Marfrig和Minerva不承认本报告和其他民间社团揭露的事实——包括在其供应链中违反自身政策和法律要求的毁林和侵犯人权的证据，并据此采取行动，明确地向他们表明，将会对他们采取什么行动。
- > 调查并报告他们是否在尽职调查过程中在法律上误导了股东或客户，包括处理犯罪所得的任何潜在风险。

- > 对威胁、攻击环境和人权维护者的行为采取零容忍政策。

- > 呼吁巴西各州当局确保能够方便地获取跟踪牛生命周期的公开、独立数据，例如活牛运输许可证。

### 信用评级机构应：

- > 如果JBS、Marfrig和Minerva不能从方法上解决会有悖常理地鼓励毁林行为的问题，就立即暂停对它们的评级服务。

### JBS、Marfrig和Minerva应：

- > 确保关于供应链的数据完整、可获取和公开，以便让包括民间社团在内的机构能对整个供应链进行独立审查，并对发现的不合规供应商采取行动。
- > 制定一个更详细、有时限的计划，将所有不合规的间接供应商从供应链中剔除，以适应亚马逊毁林问题的紧迫形势。
- > 在采购时，要求供应商提供完整的文件，以在整个供应链中跟踪牛的生命周期和牛的所有者，并要求提供完全遵守了巴西《森林法》的证据。
- > 立即承诺执行强制性报告政策，该政策要求员工如果发现供应商有任何涉嫌违反巴西法律或侵犯人权的行为，必须向相关部门报告。

- > 将牧场必须遵守法律和公司政策作为与他们做生意的正式条件。如果牧场主违反了这些条件，就对他们采取法律行动。

### **DNV-GL, 均富和未来的审计机构应:**

- > DNV-GL和均富应该调查并公开报告,为什么他们对JBS、Marfrig和Minerva的审计没有发现全球见证揭露的案例。在此之前,以及在采取必要措施解决这些问题之前,不要再对这些公司进行任何审计。
- > 其他考虑未来接手这些审计工作的审计机构应该要求,这些审计要遵循一个方法上稳健的过程。这应该包括:分析要基于100%的肉牛采购进行,公司数据要与独立、公开的数据进行交叉核对,完整的公司澄清说明或意见要出现在审计报告的附件中。

### **联邦环境检察官应:**

- > 加强审计方法,以监测牛肉公司遵守不起诉协议的情况。这应包括要求对100%的肉牛采购进行审计,审计的初步结果要全部公开。

- > 确保公司向审计人员提供的用以澄清或解释向不合规的牧场主采购的意见在审计后完整地单独予以公布。

- > 审查是否应更新目前提供给牛肉公司用于监测牧场内毁林情况的误差范围,以检查他们是否遵守不起诉协议。这应考虑到卫星技术所取得的进展,这些技术现在可以查明面积低于6.25公顷的毁林行为。

- > 在不起诉协议中写入一项要求,要求牛肉公司暂停向正在接受检察官调查的牧场主,或因被指控有与土地相关的暴力和/或掠夺土地和/或侵犯人权行为而面临法律诉讼的牧场主采购牛。

### **巴西政府应:**

- > 扭转最近削减森林执法机构和保护机构经费的情况,全面实施巴西《森林法》。

- > 确保原住民社区和森林社区的权利得到满足。

- > 确保能方便地获取跟踪牛生命周期的公开、独立数据,例如活牛运输许可证。

亚马逊地区每年的碳排放量占全球的5%,据估计,这里有3900亿棵树。维尼修斯·门东萨(Vinícius Mendonca), Ibama



# 调研方法

本报告中任何一处提到的毁林面积、牛的数量, JBS、Marfrig和Minerva采购牛的牧场名称或牧场主, 都是通过以下方法获知的。本章阐明了能让全球见证提出前述主张的方法。

全球见证从帕拉州卫生局(Sanitary Agency of the State of Pará)<sup>386</sup>网站获得了2014年至2019年的活牛运输许可证(以下简称GTA), 以确定2017年至2019年期间JBS、Marfrig和Minerva的牛供应商。

联邦政府为了卫生控制, 要求在全国范围内运输牛时提供这些文件。它们展示了牛从出生到被宰杀的活动轨迹。<sup>387</sup> 全球见证委托的法律研究表明, 这些都是可以公开获取的文件(该分析可以在这里找到)。

这些数据是利用GTAs中的信息过滤出的, GTAs允许查看2017年至2019年间牛流向JBS、Marfrig和Minerva旗下屠宰场的目的地。在JBS和Marfrig的案例中, 只使用了标明牛的最终用途为“用于屠宰”的GTAs, 而在Minerva的案例中, 使用了过滤词“检疫”和“出口”, 因为该公司只从帕拉州出口牲畜, 在那里没有屠宰场。这样做的目的是确保在分析中只考虑这些牛, 而不考虑其他可能没有在/从牛肉公司处屠宰、检疫或出口的牛。此外, 全球见证只使用状态为“在途”和“抵达目的地”的GTAs, 不包括状态为“已取消”的GTAs。被取消的GTAs是指签发了GTA但随后又被取消, 从而表明牛从来没有去过屠宰场。

全球见证组织随后从帕拉州的一个公开网站——农村环境登记处(SICAR)上下载了所有的牧场边界。<sup>388</sup> SICAR是一个农村环境不动产登记处, 要求所有的牧场主上传以下信息: 牧场的大小、所有者和形状文件以及其他细节。<sup>389</sup>

然后将SICAR数据与GTA数据进行匹配。这是通过下列GTA和SICAR数据的自动匹配过程完成的:

- > GTA和SICAR上的牧场主/公司的CPF/CNPJ(针对巴西个人/公司的专属税收代码)
- > GTA和SICAR上的牧场名称
- > GTA和SICAR上的牧场主人的姓名

- > GTA上命名的设施代码与SICAR上被称为“numero de recibo”的农村不动产专属代码。这两个代码的一部分确定了牧场在市镇中的位置。

第一步选择的是名称在GTA和SICAR上没有区别的牧场。随后, 第二步选择的是名称在GTA和SICAR上不完全匹配的牧场。这样做是为了选出那些完全是由于以下原因造成差异的案例:

- > GTA和SICAR上一个是大写字母, 一个是小写字母
- > 一个名称中有变音符号而另一个名称中没有变音符号造成的差异(例如São和Sao)
- > 拼写上有轻微的变化, 但牧场主以及牧场所在市镇是一致的, 而且在所在市镇找不出该牧场主拥有的带有此名称拼写的其他牧场
- > 在GTA上, 所有者的姓名是写在紧挨着牧场名称后的括号里, 除此之外, 与SICAR上的牧场名称和所有者恰好一致

除了要匹配牧场名称外, 牧场主的CPF/CNPJ必须一致, 姓名必须一致, 以及GTA上的农村设施代码与CAR数据集集中的“numero de recibo”的第一位数字必须一致。

然后, 用一个叫做QGIS的软件工具对这些牧场的形状文件做可视化处理。全球见证随后从巴西政府的INPE (INPE-PRODES) 获得了关于亚马逊毁林情况的官方数据, 并将数据与这段时期为牛肉公司供应的牧场的土地边界叠加在一起。

一旦这个过程完成, 就可以检查毁林图斑, 看他们是否遵守了牛肉公司与绿色和平组织和与检察官的协议:

这个过程使用的标准是:

- > 在牧场内发现了2008年7月22日——检察官协议设定的日期——之后发生的毁林行为
- > 在牧场内发现了2009年10月——绿色和平协议设定的日期——之后发生的毁林行为
- > 牧场内的毁林面积超过6.25公顷
- > 在GTA所载采购日期之前发生了毁林行为

- > 官方毁林图斑上10%或以上的面积位于牧场内。这是根据非政府组织Imaflora最近制定的一项协议附件使用的附加标准,该协议附件旨在统一牛肉公司参加的绿色和平协议和检察官协议中使用的不同方法。该标准并不适用于我们的调查所设定的时间段——尽管如此,我们还是应用了这个过滤条件来减少案例数量。

全球见证对一些与毁林区重叠且边界内的毁林面积低于6.25公顷的牧场进行了分析和核验。之所以这样做,是因为绿色和平协议中没有对毁林规模设定最低要求,检察官协议对于我们所分析的时间段也没有这样的规定。

进行了这一分析之后,在巴西非政府组织Imazon的协调下,全球见证在用来可视化毁林情况的一家公司的平台上进一步核验了毁林情况:TERRAS<sup>390</sup>/BUSCAR<sup>391</sup>。

TERRAS使用的标准如下:

1. 2008年7月22日后发现的毁林图斑;
2. 2008年7月22日之后发现的废物类毁林图斑;
3. 2008年7月22日之后发现的在云层覆盖下的毁林图斑;
4. 毁林图斑的面积大于6.25公顷(非叠加);
5. 只考虑距离农场边界至少60米的毁林区域,这相当于陆地卫星图像上的两个陆地像素。

一旦应用了这些过滤条件,每个毁林图斑都将由TERRAS在1:50 000的比例尺上使用毁林前和毁林后的哨兵卫星图像和陆地卫星图像进行目视验证,以消除误报。

这一过程产生了两份牧场名单:

1. 第一份名单所列的是全球见证发现存在毁林行为,并已经核实验证的牧场
2. 第二份名单所列的是全球见证发现存在毁林行为,但毁林图斑不符合上述规定标准的牧场

对于每一个案例,都制作了一份附有毁林前后图像的PDF文件,并概述了方法。(查看[此链接](#)获取PDF文件)

全球见证随后复制了TERRAS对这些牧场进行的目视验证,验证使用了陆地卫星图像和哨兵卫星图像,并采

用了巴西政府的INPE对毁林区域进行目视验证的方法([INPE-PRODES - Metodologia PRODES - DETER \(Edição revisada\)](#)——第17页起)。

在此过程中,名单2中的一些牧场被重新纳入到名单1中,并使用QGIS图像为这些牧场制作了PDF文件。

最终名单制定完成后,全球见证从非政府组织Imaflora处获取了这些牧场2017年和2018年的历史土地边界,并从上述的农村环境登记处下载了2019年10月的牧场边界。Imaflora每年都会从各州的官方网站上下载亚马逊地区农村生产者的土地边界。他们这样做是因为这些网站没有保存农村生产者的历史土地边界数据集,但这些牧场确实在SICAR上改变了他们的边界。因此,重要的是要看这些修改是否影响了牧场遵守牛肉公司有法律约束力的和自愿性的协议。

在获得选定牧场的历史土地边界后,全球见证随后检查了所有这些牧场,查看2017年和2019年期间牧场边界是否有变化,以剔除为了完全排除毁林区域而修改边界的情况——除了一个案例研究,我们将其作为全球见证指控的欺诈行为的一个例子,放入了报告中(Espora de Ouro II牧场)。在所分析的所有牧场中,有68个牧场在此期间修改了边界,这种修改要么排除了毁林区域,要么包括了毁林区域。

通过这一过程,我们得出了一份包含379个牧场的最终综合名单,从这个名单中,可以发现17000公顷的森林是在2008年7月22日之后遭毁的。

## 得出379个牧场非法毁林的方法

全球见证从相关的帕拉州实体SEMAS (<https://www.semas.pa.gov.br/>)获取了公开的森林采伐许可证,并从相关的联邦森林检查机构Ibama (<http://www.ibama.gov.br/>)获取了联邦森林采伐许可证。这样做是为了了解在379个牧场中发现的采伐行为是否取得了法律要求的许可证。

根据巴西主要的森林法规——《森林法》第26条的规定,想要在自己的土地上采伐森林的农村生产者必须获得这一许可(称为Autorizacao de Supressao de Vegetacao)。该法第5章标题为“为土地的其他用途而抑制植被生长”,其中第26条规定:“在公共和私有土地上,为了土地的

其他用途而抑制原生植被的生长,取决于在第29条提及的农村环境登记处登记的不动产以及主管国家机关的事先授权。帕拉州经授权签发这种许可证的主管国家机关是特别环境秘书处(the Environmental Secretariat, 以下简称 SEMAS)。该法第1条第A1款将原生植被一词定义为“森林和其他形式的原生植被”。

此外,巴西还有一项关于与环境相关的违法行为的联邦法令,其中第43条规定,“未经主管当局授权,破坏、损害森林或其他形式的植被”属于行政违法行为。“因此,根据该法,如果没有获得采伐森林的授权,就被认为是一种违法行为[危害环境的刑事犯罪载于第9605号法律,从第38条起]。

可以从以下链接下载SEMAS签发的许可:<https://monitoramento.semas.pa.gov.br/simlam/index.htm>

点击“Licenciamento”,然后点击“Listar AUAS”,即可进入许可证界面。然后点击“Busca Avancada”,再点击“Filtrar Busca”,就会出现许可证列表。在查阅时(2020年3月),共有122份登记的许可证,可获取以下信息:

编号标题/程序/模式/市镇/行动

这些许可证包含以下信息,可以与之前确定的379个牧场进行交叉核对:

- > 将获准采伐森林的地理坐标叠加在379个牧场上,以查看这些坐标是否与牧场边界内的区域相吻合——但没有一个吻合。如果数据中有错误,如地理坐标中的经度与纬度弄反了,导致坐标不在帕拉州,全球见证会尽可能地予以纠正。
- > “Numero de recibo”——这是分配给农村不动产的专属代码,出现在一些许可证上。研究人员还将这些代码与379个牧场的代码进行了比对。——没有一个代码是一致的。
- > 将获准采伐森林的生产商/牧场/公司的名称与名单上379个牧场的名称进行了比对。——没有一个是一致的。
- > CPF-CNPJ是针对个人、公司和农村业主的专属税号,与379个牧场的税号相对比。——没有一个是一致的。

在进行上述比对的122份许可证中,有43份由于国家数据库的问题而无法下载,也无法进行分析。尽管如此,我们还是可以从数据库中看到进一步分析所需的信息。因此,我们对这43个牧场进行了如下分析:

- > 在43份许可证中,有31份的公司名称可以在SEMAS数据库中查到。利用这些公司的名称,可以通过巴西政府的官方网站(<http://receita.economia.gov.br/>)找到该公司的CNPJ(单独税收代码),并将其与我们名单上379个牧场的CNPJs进行比对——没有一个是一致的。
- > 其中8份许可证是为SEMAS数据库中的7个人颁发的。将这些人的姓名与379个牧场的不动产所有者姓名进行了比对——没有一个是一致的。
- > 其中2份许可证是为SEMAS数据库中的农村不动产颁发的。在SICAR数据库中使用SEMAS数据库中详细说明的牧场所在地的市镇进行搜索,找到牧场的申报所有者及其CPF。然后将这一数据与379个牧场进行比对——没有一个是一致的。
- > 其中2份许可证是无地家庭居住的定居点——没有一个与379个牧场是一致的。

为了预防起见,全球见证向帕拉州实体SEMAS提出关于森林采伐许可证的信息自由请求,并询问是否有任何许可证遗失,得到的答复是,所有许可证都在可公开查阅的数据库中。此外,全球见证还询问,是否有任何较小的市级国家实体能够提供这些许可证,得到的答复是,各市无法提供与放牧有关的森林采伐许可证。

根据这项分析,全球见证得出结论,379个牧场的森林采伐行为都没有获得法律要求的许可证,违反了《森林法》和联邦法令,因此是非法的。此外,该领域的一名巴西环境律师专家对法律分析进行了验证,并认同得出的结论。

我们从未声称379个牧场的所有者应该为非法采伐森林负责。唯一的说法是,非法采伐发生在相关牧场的边界内,正如报告中所提到的,这违反了牛肉公司的检察官协议。

对存储在联邦数据库中的相同许可证进行了重复分

析后,也得到了相同的结果。

因此,全球见证得出结论,在2017年至2019年间向牛肉公司出售肉牛的379个牧场的森林采伐行为没有获得此类许可证,因此是非法的,违反了该公司检察官协议中被引用的部分。

## 在牛肉公司的间接供应商中识别毁林的方法

GTA可以用来分析牛肉公司的所有直接供应商(有或没有毁林)从哪些牧场采购牛——所谓的间接供应商——以检查他们是否发生毁林行为。根据两项协议,牛肉贸易商应该监测这些牧场的毁林情况,并阻止牛从间接供应商流向直接供应商,然后再流向屠宰场。

全球见证采用与分析直接供应商相同的方法,量化了牛肉公司间接供应商的毁林量,但没有与

Imazon协调进行验证。由于牧场中较小面积的森林砍伐量很大,而且协议中没有对我们设定的调查期内规定最小的毁林面积,因此没有采用毁林图斑不低于6.25公顷的过滤条件。

对间接供应商中发现的毁林情况进行了以下分析:

- > 就检察官协议,分析了2009年1月之后的毁林行为。选择这个日期而不是检察官协议规定的2008年7月22日,是为了消除可能在2008年7月22日之前发生的任何可能的毁林行为,但这些情况只能通过对直接供应商进行目视验证来核实。由于毁林的间接供应商数量庞大,不可能对它们进行同样水平的额外验证。因此,没有运用这一额外的预防措施。
- > 根据绿色和平协议的要求,分析了2009年10月之后的毁林行为。
- > 分析了发生在GTA所载牛肉公司采购肉牛日期之前的毁林行为。
- > 只有从间接供应商那里收到牛,然后在牛到达后的15个月内将牛卖给牛肉公司的直接供应商才被考虑在内。这样做是为了避免间接供应商向直接供应商提供牛,直接供应商几年后才将牛卖给牛肉公司的情况,因为这超过了牛的平均育肥期。全球见证采用直接

供应商牧场的牛“育肥期”15个月来确定这个过滤条件。这一时长是基于米纳斯吉拉斯联邦大学(Federal University of Minas Gerais)的一项学术研究得出的,见[此处](#)(第35页,第3段)。

- > 10%以上的毁林图斑必须在牧场内与牧场重叠(我们使用了由巴西非政府组织Imaflora协调的协议附件来应用这个过滤条件——最近牛肉公司同意了该协议附件)。

本报告中任何一处提到的毁林面积、牛的数量,牧场名称或牧场主,都是通过这一方法获知的。如需了解更多信息,请联系全球见证。

获取相关数据和执行上述分析的更多文档和代码可在[此处](#)找到。

## Marfrig的法律责任之争

根据巴西法律,Marfrig不应采购涉及非法毁林问题的牛,这是联邦检察官在Marfrig与亚马逊地区其他州的[检察官协议](#)中规定的——法律适用于全国。

检察官援引[第6.938/81号法律](#)(《国家环境政策》(National Policy on the Environment)第2条第IV款,该款将污染者定义为“对造成环境退化的活动直接或间接负责的作为公共或私人法律实体的法人或自然人”,而[该法第14条和《联邦共和国宪法》\(Constitution of the Federal Republic\)](#)第225条规定,“根据对所有人规定的与环境有关的预防义务,即使是间接造成环境损害的肇事者,也要对该损害负责,而不必证明有罪”。第6.938/81号法律第14.1条还规定,污染者“有义务修复或赔偿因其活动对环境和第三方造成的损害,无论是否有罪。公共检察官(Public Prosecutor)办公室有合法权利对任何破坏环境的行为提出民事和刑事处罚”。

联邦检察官还通过《消费者保护法》(Law for Consumer Defence)第4.3条和第6.2条提出,“必须采取措施,对提供给消费者的所有产品的质量和合法性进行识别和证明”。

因此,当Marfrig从非法毁林的牧场(直接或间接)采购牛时,联邦检察官认为,它没有履行对环境的预防义务,因

此是一个造成环境退化的污染者(即使是间接的),没有确保其向消费者提供的产品的合法来源,使其可能因违反上述法律而受到民事和刑事诉讼。

全球见证将2008年7月22日作为Marfrig不应再从非法毁林的牧场采购的日期,因为2012年修订的《森林法》[第59条](#)规定,“农村不动产所有者不会因2008年7月22之前的违法行为而受到处罚”,但前提是他们必须遵守“环境规范化方案”。因此,我们在此次事件中遵循了《森林法》规定的日期。

## 委托法律专家整理的关于公开获取活牛运输许可证的法律依据摘录

### 1. GTAs 和 e-GTAs

动物过境证(Guia de Trânsito Animal,以下简称“GTA”)由农业、畜牧业和供应部(Ministry of Agriculture, Livestock and Supply) (以下简称“农业部”)颁布的第22/95号法令引入。它是巴西国家政府通过在联邦一些州的联邦代表处发布的正式公开文件,对于在巴西境内<sup>392</sup>运输牲畜、可育蛋和其他有关动物饲养的材料是强制性的。它带来了关于原产地、目的地、卫生条件(健康问题、疫苗接种)和迁移目的的信息。该证由联邦农业、畜牧业和供应监管局(Federal Superintendence of Agriculture, Livestock and Supply)认证的兽医签发,该监管局是农业部在各州的地方代表。

农业部发布的第18/06号规范性指示,为联邦各州提供了必须遵守的官方模式的GTA。根据该指示第4条,各州有责任通过农业部下属的官方动物卫生防疫部门发放GTA。

同样由农业部发布的第19/11号规范性指示,推出了电子格式的GTA,即所谓的e-GTA。该指示指出,e-GTA系统必须符合第8638/16号法令推出的巴西电子政务方案(Brazilian Electronic Government Program),该方案旨在向民间社团充分披露和提供在线公共信息,目的是促进社会控制和公民参与公共事务。如今,在巴西联邦的各个州,任何人都可以在线获取任何现行e-GTA的内容。

### 2. 关于GTA的公共性质。

由于GTA是由公职人员在履行其职责时填写、发放和

保存的,因此GTA可以被视为公共文件<sup>393</sup>。一部分非常相关的法律文献和法庭判例支持这一结论,如下所述。

只要是由任何公共实体和官员制作、保存或保管的信息,且具有明显的公共利益性,就应被视为公共信息,但经主管部门依法<sup>394</sup>说明理由后被归为限制性、秘密性或机密性的一小部分文件和信息除外。

巴西有一些法院先前的判例明确宣布GTA为公共文件,包括最高法院法官埃德森·法欣(Edson Fachin)<sup>395</sup>最近也有过一次这样的表态。

GTA是一份开放性文件,因为巴西法律没有具体规定或限制披露、获取和使用该GTA的理由和情况。尽管对动物过境的目的来说是强制性的,但法律并没有限制其用于这种目的,也没有明确禁止为其他目的进行查询和使用。

在巴西,《宪法》和行政法的一般法律原则是,公职人员和公共实体只能实施法律明确要求他们实施的行为,而公民个人和法律实体可以自由实施法律没有明确禁止的任何行为。《巴西联邦宪法》(Brazilian Federal Constitution)第5条第2款规定,“除非根据法律规定,否则任何人都没有义务做或不做某事”。

著名法学教授海利·洛佩斯·梅里尔斯(Hely Lopes Meirelles)先生将公共管理人员和私人管理人员的活动进行了如下比较:

“在公共管理中,既没有自由,也没有个人意志。在私人管理中,法律不禁止的一切都是允许的,而在公共管理中,只有法律明文允许的才被允许。”<sup>396</sup>

根据巴西法律,一切都必须始终符合我们的主要法律:《联邦宪法》。所有法律事务都源自《宪法》,必须与《宪法》保持一致。即使是我们的总统、部长、州长、国会议员、法官、检察官,甚至警察机关的行为都要服从《宪法》。此外,《宪法》之下的任何现行法律和条例(法律、法令、法令、规范性指示、条例等)必须符合《宪法》,反映和体现《宪法》所确立的原则。因此,任何法律、公共行为、命令或决定,包括法官所作的判决,都必须符合《宪法》的所有条款,特别是规定所谓个人基本权利和保障的条款。这些权利和保障如此相关,以至于它们被视为 *cláusulas pétreas*,意思是“永远不得压制、修订或修改的条款”。

所有提交给司法部门的问题最终可能都会提交给宪法法院(Supremo Tribunal Federal),即巴西法律体系的实际最高机构:最高法院(Supreme Court of Justice)。此外,由巴西国会两院或行政权力机构(总统府、部委、州政府)颁布的任何类型的法律也要经过最高法院的最终批准。

关于公共文件的公开,《巴西宪法》规定得非常明确:一般规则是公开任何涉及私人、集体和普遍利益的信息,但出于某些非常相关和合法的原因,如公民和国家安全,可能被认为必须保密的信息除外。但是,这些例外情况必须由法律明确规定,并由主管机关公开宣布。

《巴西宪法》第5条(确立个人基本权利)包含了公共信息的公开:

**第5条.** 法律面前人人平等,没有任何区别,巴西人和居住在巴西的外国人的生命、自由、平等、安全和财产权不受侵犯,条件如下:

(.....)

**XXXIII —所有人都有权从公共机构获得对这些人具有私人利益、集体利益或普遍利益的信息,这些信息应在法律规定的期限内提供,并承担相应的责任,但对社会和国家安全至关重要的保密信息除外;**

同时,《宪法》第37条提到了公共管理的指导原则中的公开原则:

**第37条.** 联邦、各州、联邦区和各市的任何权力机构中的政府实体和政府拥有的实体应遵守合法、非个人、道德、公开和效率的原则,并应遵守以下原则(.....)

(.....)

**第3款. 法律应规范用户参与政府实体和政府所拥有的实体的形式,特别是在以下方面:**

(.....)

**II -用户查阅行政记录和有关政府举措的信息,应充分考虑到第5条第X、e和 XXXIII项**

上文第II项最后部分所提到的第5条第X项提到,保护亲密关系、私人生活和个人形象是另一项具有类似宪法

地位的原则。但是,这一宪法规定不适用于具有不可否认的公共利益的信息,例如关于市场上交易的商品的任何信息,这些信息可能对公共健康、消费者权利、环境等产生影响。也不适用于商业活动或个人违反某些法律的情况。凡有犯罪或违法行为,应通知主管机关采取措施制止、调查和起诉。因此,对私人数据或图像的隐私权或保密权可能总是会与其他原则相权衡,而其他原则有时会上风。

《个人数据保护普通法》(General Law for Protection of Personal Data)(第13709/18号法律,将于明年全面生效)第7条规定了第三方使用其信息不需要所有者同意的一些情况,其中我们强调以下几点:在研究中心开展的研究和调查中,以及在司法、行政和仲裁程序中行使权利时,尽可能尊重匿名性。然后是上述法律的第3款,其中规定:“对公开获取的个人数据的处理必须考虑到公开的目的、诚信和公共利益”。<sup>397</sup>

因此,即使是保护个人和敏感信息的专门法律也承认在某些情况下公开原则的普遍性。

巴西著名的宪政主义者何塞·阿方索·达席尔瓦(José Afonso da Silva)先生提醒我们,公开原则是公共管理的根本指导原则之一,适用于由任何类型的公职人员保存、缔结或起草的任何文件,因此,应该让任何有兴趣研究这些文件的人都能随时查阅。<sup>398</sup>

另一位著名的巴西宪法学教授塞尔索·安东尼奥·班达拉·德·梅洛(Celso Antonio Bandeira de Melo)先生指出,保持行动和行为完全透明是行政责任,因为任何公民都可以了解公共事务。<sup>399</sup>

根据巴西宪法,第12527/11号法律(在巴西称为“LAI”,意思是“信息获取法”)建立了巴西信息自由制度,并规定了公民获取任何和所有公开的非机密信息的宪法权利。该法适用于联盟的三大权力机构<sup>400</sup>,而且它们必须遵守。它反映并加强了所有公共信息公开的宪法原则,但少数有权这样做的机关之一明确宣布保密的情况除外,而且只有在法律授权的情况下才能这样做。该法还规定了保护个人信息的宪法原则,但在披露任何涉及公共利益的信息的一般原则方面限制了其范围。

上述第12527 /11号法律第23条规定了可以宣布保密的假设情形。这份清单详尽地列出了例外情形:



第23条。它被认为是对社会和国家安全不可或缺的，因此，若将其归类为可自由披露和获取的信息，可能会

- I - 危害国防和国家主权或国家领土完整；
- II - 损害或危及该国谈判和国际关系的发展，或其他国家和国际机构秘密传递的信息；
- III - 危及人民的生命、安全或健康；
- IV - 给国家的金融、经济和货币稳定带来巨大风险；
- V - 危害或者危及武装部队的计划或者战略行动；
- VI - 损害或危及研究项目和科技发展，以及被认为具有国家战略意义的系统、货物、设施或领域；
- VII - 危及机构或国家或国际高级机关及其家庭成员的安全；或者
- VIII - 破坏情报活动，以及为防止和制止违法行为的调查和正在进行的检查。

根据上文第23条，显然，关于公开的一般规则的任何例外情形似乎都不适用于GTAs。如果有任何理由认为公众对GTAs的自由查阅和使用应该受到限制，因为它实际上会构成上述情况中的一部分，那么一些主管部门就必须明确对GTAs进行分类，并对其理由进行辩护和披露。有权这样做的主管机关很少，第12 527/11号法律<sup>401</sup>详细规定了分类所要遵循的程序。

《联邦宪法》和第12527 /11号法律中所表述的关于公开的一般规则意味着，任何公共机关制作和保存的所有信息都应是公开的，并向公众开放。如果某些公开信息没有被分类，但由于某些原因，还没有向公众开放，那么它就会受到所谓的信息自由请求的制约，这也是上述法律所预见和规定的。但这似乎不适用于GTAs，因为它们已经或曾经在适当遵守公开的一般原则的情况下，在适当的政府网站上开放供公众查询。

GAT存在的原因之一似乎是为了确保民间社团能够获得关于在巴西国内过境的动物的相关信息。任何民主制度的最基本原则之一都清楚地理解了这一点，即社会控制所有公共事务。很明显，甚至很直观，因此作为一项宪法原则(公开原则)而得到巩固的法律价值是，任何关于相关事项的信息，如在巴西国内过境的动物的健康状况、原产地

和目的地，都应始终向公众开放和提供。

从另一个角度看，国家的其他利益或理由，如人口的总体安全，或保护私人数据或图像，似乎都没有高于该文件所设想的公共利益类型。因此，似乎没有什么真正的理由可以证明需要对GTAs中所包含的信息进行任何类型的保密。事实上，情况恰恰相反：如果GTAs在任何时候都对所有公民完全开放，那么民众的安全会得到更好的保障。

巴西联邦透明、监督和审计部(Ministry of Transparency, Supervision and General Controller's Office of the Union)通过一份关于联邦公共管理部门信息普遍获取法的适用情况的出版物，规定：

“获取信息被理解为一项能加强民间社团对国家和集体事务的参与的权利，并有助于公民实现其他权利。第12527/11号法律第21条考虑到了获取信息对执行和捍卫权利的重要性，该条强调保障获取对基本权利的司法和行政保护所需的信息。”<sup>402</sup>

联邦主计长办公室(Controller's General Office of the Union)印发的《国家和市政信息获取手册》(Manual on Access to Information for States and Municipality)指出：

保障信息获取给社会和公共管理带来了好处。总的来说，获得公共信息是反腐败、改善公共管理、社会控制和公民意识的一项重要要求。获得公共信息让民间社团积极参与政府行动成为可能，从而带来许多好处，如基本权利的实现。”<sup>403</sup>

这是巴西许多法院在裁决涉及公共和行政行为公开问题的诉讼时所采用的理解：

“行政行为的公开原则尊重所有利益相关者和任何人对公共机构现存文件的控制和了解，这些文件证明了符合集体利益的行政行为的完成。”<sup>404</sup>

“除非有正当理由，在特殊情况下，为了维护第三方的荣誉、形象和隐私，或为保护公众利益而采取的措施是必要的，否则不应根据自由裁量的行为限制信息公开和知情权。”<sup>405</sup>

“从公共实体获得有关私人、普遍和集体利益的信息(但被认为是对社会和国家安全不可或缺的保密信息除外)

的权利受到《联邦宪法》(第5条第XXXIII项)的保障,违反这一规范将构成滥用权力,可通过本执行令予以纠正。”<sup>406</sup>

正如联邦透明、监督和审计部在一份关于“联邦公共管理部门信息普遍获取法的适用”的出版物中所指出的:

**“公共部门制作和保存的信息必须向社会公开,法律规定的例外情况除外。从这个意义上说,这是第12527/11号法律所确立的基本原则,即所谓的最大限度披露,其中公开是规则,保密是例外。公共管理部门主动披露数据的行为不仅意味着查阅次数减少,而且表明了这样一种观点,即政府只是有责任保有这些文件,民众才是公共信息的真正主人。”**<sup>407</sup>

因此,可以得出这样的结论:公众查阅和查询GTAs,以及随后对其中所包含的信息进行分析、系统化和谨慎披露,或根据其分析提出的任何意见,都符合巴西《联邦宪法》中规定的一系列非常相关的权利和保障,这些权利和保障反映在稍低级别的立法中,并得到巴西一些最著名的法律学者和法院的广泛承认。

从另一个角度来看,获取和使用GTAs信息背后的法律原因可能会加强其获取和使用的合法性,并使其完全符合宪法秩序。例如,如果个人、实体或组织出于保护环境的目的获取并随后披露GTAs中包含的一些数据,那么他们将会严格遵守《联邦宪法》第225条提到的公共机关、个人或组织的另一项义务:

**第225条。人人都有权享有生态平衡的环境,这是共同使用的资产,对健康的生活质量至关重要,政府和社区都有责任为后世后代保护和维护这一环境。**

此外,《联邦宪法》第5条第XXXII项和《消费者保护法》第6条、第2条和第3条以及第31条规定的消费者权利,确保所有巴西消费者能够充分了解有关他们可能购买的产品任何类型的信息。根据《宪法》,国家应促进消费者保护,这是个人基本权利和保障清单中的另一项原则。

显而易见,也很直观的是,关于在巴西国内过境的动物的原产地、卫生条件和目的地的任何信息,以及关于处理动物的设施状况的任何信息,最后是关于畜牧业活动对环境可能产生的任何影响的任何信息,不仅对可能的消费者,而且对全体民众来说,都将始终具有极高的公共利益。

此外,第7724/12号法令第57条允许在显然涉及公众或普遍利益的统计和科学研究中,以及在捍卫他人人权的情况下获取私人信息。人们越来越意识到,环境是一种现代类型的人权。这些规定和巴西的《信息自由法》(Brazilian FOI)当然可以被援引,并成为获取、使用甚至披露GTAs上的信息的众多法律依据之一。即使它们似乎不适用于获取GTA信息的情况,因为它们指的个人信息不对公众开放,可以通过FOI请求获取。在GTAs上发现的信息已经——或者应该——比喻地说,就在街道中间,完全开放,任何人在任何时候都可以在互联网上完全访问。

在这一点上,值得注意的是,FOI可以追溯到2011年,而第7724号法令则是2012年颁布的。显然,自那时以来,世界发生了很大的变化和发展,特别是在从互联网上获取信息的技术方面。从法律上讲,这意味着对这些法律的解释也应该考虑到这个新时代,有所变化。在这个时代,所有信息——无论是公共的还是私人的——对任何人来说,都比以前更加开放和容易获得。上面提到的一般宪法原则特别适合于帮助更新旧时代通过的所谓法律精神,这一更新过程很有必要。

因此,从宪法到消费者法,再到环境法和刑法,从各个角度来看,总是可以争辩和辩护说,任何人都都有权获得关于国内运输的动物的卫生条件的信息,这些动物可能会出现在他们的冰箱里和餐桌上。此外,他们有权知道他们的生产是否涉及任何类型的环境损害、毁林或其他违法行为,如欺诈和现代奴役。

至于之后在具有社会和政治重要性的报告中披露或公布GTAs上的信息,这显然属于《宪法》规定的言论自由,是《宪法》第五条所预见的另一项基本权利。特别是当披露的目的与人权或环境保护同样相关时,这些不仅相关,而且是受同一部宪法保护的法律价值。

### 3. 关于使用最新软件批量获取GTAs。

巴西《信息自由法》规定,我们的公共权力机构有义务以明确、透明和便于任何公民获取的方式向公众提供所有公共信息。第8条第2和第3款以及第II和第III项规定:

**第八条。公共实体有责任在其职责范围内,独立于任何请求,促进在一个在易于访问的网站上披露其所制作和保存的涉及集体和普遍利益的信息。**

(.....)

第2款. 为达到上述规定, 公共实体必须使用其所能达到的一切合法手段和工具, 在官方网站上强制披露。

第3款. 上述第2款所述的网站, 以本规例的形式, 必须遵守以下要求, 其中包括:

(.....)

II -能够记录报告, 包括公开的和不属于自己的报告, 例如电子表格和文本, 以便于分析信息;

III-使外部系统能够以开放格式、结构化和机器可读的方式自动访问;

对上述规定的综合解读可以清楚地看出: 公共实体有义务传播和披露其制作和保存的涉及普遍和集体利益的信息, 使外部系统能够以开放格式、结构化和机器可读的方式在官方网站上自动访问。

尽管已有前述规定, 第7724/12号法令第8条转载并加强了FOI的规定:

第8条. 根据规划、预算和管理部(Ministry of Planning, Budget and Management)制定的规范, 公共实体的网站必须满足以下要求, 其中包括:

(.....)

III -能够记录报告, 包括公开的和不属于自己的报告, 例如电子表格和文本, 以便于分析信息;

IV-使外部系统能够以开放格式、结构化和机器可读的方式自动访问;

此外, 第12965 /14号法律建立了所谓的互联网民事框架(Internet Civil Framework), 规定了在巴西国内使用互联网的原则、保障、权利和义务, 其中规定:

**第4条.** 巴西的互联网使用纪律旨在促进:

(.....)

III-创新和促进新技术及使用和获取模式的广泛传播; 以及

IV -遵循开放的技术标准, 允许应用程序和数据库之

间的通信、可访问性和互操作性。

**第24条.** 联邦、州、联邦区和市在巴西互联网发展中的行动方针是:

(.....)

III -促进联邦各部门和各级电子政务服务的合理化和技术互操作性, 以便交流信息和加快程序;

IV -促进不同系统和终端之间的互操作性, 包括联邦不同层级和社会各界之间的互操作性;

优先采用开放和免费的技术、标准和格式;

根据宪法规定的公共信息公开原则, 对上述立法进行综合分析, 可以清楚地看出, 整个公共法律体系对任何官方法律实体制作和保存的信息的收录、公开和获取进行规范, 都指向系统和终端的绝对开放、互通, 最好是公共机构采用开放和免费的技术、标准和格式。因此, 如果在获取GTAs的过程中不涉及黑客活动, 而仅仅是使用与巴西官方网站标准和格式相匹配的高科技仪器和设备, 那么似乎无法称之为非法。

根据巴西的法律, 事实上, 我们可以找到的每一项法律规定似乎都是为了实现任何和所有公共信息——任何公共实体、公务员、官员或工作人员所制作或保存的所有信息——的公开和透明的宪法原则

### 对与无地者和原住民建立的伙伴关系的披露

在本报告中, 全球见证在案例研究“目无法纪者与足无寸土者”中强调了无地者的困境, 并在案例研究“Marfrig、土地掠夺者与原住民土地”中强调了原住民的困境。在对这些案例进行研究和报告之后, 全球见证正与一个帮助无地者争取土地的民间社团组织和一个代表Parakanas的原住民组织建立伙伴关系。应当指出的是, 这些伙伴关系是在这些调查之后建立的, 并没有用于为本出版物所报告的案例研究交换信息, 而是将于报告拟发布后开始。

# 尾注

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- 131**Bloomberg, Barclays Steps In as JBS Scandal Drives Away Wall Street Banks, 28 February 2019 <https://www.bloomberg.com/news/articles/2019-02-28/barclays-steps-in-as-jbs-scandal-drives-away-wall-street-banks>
- 132**Banking Environment Initiative, <https://www.cisl.cam.ac.uk/business-action/sustainable-finance/banking-environment-initiative>
- 133**Bloomberg, Barclays Steps In as JBS Scandal Drives Away Wall Street Banks, 28 February 2019 <https://www.bloomberg.com/news/articles/2019-02-28/barclays-steps-in-as-jbs-scandal-drives-away-wall-street-banks>
- 134**PROSPECTO PRELIMINAR DA OFERTA PÚBLICA DE DISTRIBUIÇÃO DOS CERTIFICADOS DE RECEBÍVEIS DO AGRONEGÓCIO DA 1ª (PRIMEIRA) E 2ª (SEGUNDA) SÉRIES DA 5ª (QUINTA) EMISSÃO DA, A data deste Prospecto Preliminar é 18 de setembro de 2019, (currency conversion was used <https://www.poundsterlinglive.com/best-exchange-rates/us-dollar-to-brazilian-real-exchange-rate-on-2019-09-30> by simply writing: "convert 500,000,000.00 Brazilian Reais to USD" coming up with 121951219 USD, which is over 120 million dollars, [https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=13&ved=2ahUKEwi-h6GJl7IAhUMEVAKHXuQBwkQFJAMegQIABAE&url=https%3A%2F%2Fwww.planner.com.br%2F-wp-content%2Fuploads%2F2019%2F09%2F20190918\\_CRA\\_JBS\\_PROSP\\_PRELIMINAR.pdf&usq=AOvVaw27uBaBnUyt6c36PLTd\\_Ovi](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=13&ved=2ahUKEwi-h6GJl7IAhUMEVAKHXuQBwkQFJAMegQIABAE&url=https%3A%2F%2Fwww.planner.com.br%2F-wp-content%2Fuploads%2F2019%2F09%2F20190918_CRA_JBS_PROSP_PRELIMINAR.pdf&usq=AOvVaw27uBaBnUyt6c36PLTd_Ovi)
- 135**PROSPECTO PRELIMINAR DA OFERTA PÚBLICA DE DISTRIBUIÇÃO DOS CERTIFICADOS DE RECEBÍVEIS DO AGRONEGÓCIO DA 1ª (PRIMEIRA) E 2ª (SEGUNDA) SÉRIES DA 5ª (QUINTA) EMISSÃO DA, A data deste Prospecto Preliminar é 18 de setembro de 2019, (currency conversion was used by simply writing: "convert 5000000000 Brazilian Reais to USD" on google, coming up with 84,273,050 USD, which is almost ninety million dollars, [https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=13&ved=2ahUKEwi-h6GJl7IAhUMEVAKHXuQBwkQFJAMegQIABAE&url=https%3A%2F%2Fwww.planner.com.br%2F-wp-content%2Fuploads%2F2019%2F09%2F20190918\\_CRA\\_JBS\\_PROSP\\_PRELIMINAR.pdf&usq=AOvVaw27uBaBnUyt6c36PLTd\\_Ovi](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=13&ved=2ahUKEwi-h6GJl7IAhUMEVAKHXuQBwkQFJAMegQIABAE&url=https%3A%2F%2Fwww.planner.com.br%2F-wp-content%2Fuploads%2F2019%2F09%2F20190918_CRA_JBS_PROSP_PRELIMINAR.pdf&usq=AOvVaw27uBaBnUyt6c36PLTd_Ovi)
- 136**SANTANDER GROUP, General policy Soft Commodities Sector, December 2018, <https://www.santander.com/content/dam/santander-com/en/contenido-paginas/nuestro-compromiso/pol%C3%ADticas/do-Soft%20commodities%20sector%20policy-en.pdf>
- 137**Barclays Forestry and Palm Oil Statement, February 2019, [https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=2ahUKEwiz\\_NLzlv7IAhUOUcAKHc\\_MA\\_cQFJAegQIARAC&url=https%3A%2F%2Fhome.barclays%2Fcontent%2Fdam%2Fhome-barclays%2Fdocuments%2Fcitizenship%2Four-reporting-and-policy-positions%2Fpolicy-positions%2FBarclays-Forestry-and-Palm-Oil-Statement.pdf&usq=AOvVaw115duXHFgR0iGxbmQnPvi4](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=2ahUKEwiz_NLzlv7IAhUOUcAKHc_MA_cQFJAegQIARAC&url=https%3A%2F%2Fhome.barclays%2Fcontent%2Fdam%2Fhome-barclays%2Fdocuments%2Fcitizenship%2Four-reporting-and-policy-positions%2Fpolicy-positions%2FBarclays-Forestry-and-Palm-Oil-Statement.pdf&usq=AOvVaw115duXHFgR0iGxbmQnPvi4)
- 138**Nordea, <https://www.nordea.com/en/about-nordea/who-we-are/nordea-at-a-glance>
- 139**Nordea AM Drops JBS Over Deforestation, Corruption, Worker Health, 28/7/2020, <https://uk.advfn.com/stock-market/USOTC/JBSAY/share-news/Nordea-AM-Drops-JBS-Over-Deforestation-Corruption/82939193>
- 140**HSBC Global Research, JBS (JBSSÉ BZ), Buy: Catalysts abound, page 1 (please ask Global Witness for the document). The same document was referred to in a recent Guardian article: HSBC sounds alarm over investment in meat giant due to deforestation inaction, August 2020, <https://www.theguardian.com/environment/2020/aug/12/hsbc-sounds-alarm-over-investment-in-meat-giant-jbs-due-to-deforestation-inaction>
- 141**Comissao Pastoral da Terra, "O Pará não é uma terra sem lei; é uma terra onde a lei impera para poucos", diz coordenador do CPT, 2016, <https://racismoambiental.net.br/2016/03/10/o-para-nao-e-uma-terra-sem-lei-e-uma-terra-onde-a-lei-impera-para-poucos-diz-coordenador-do-cpt/>
- 142**Movimento Sem Terra, 2014, , <https://mst.org.br/2014/06/11/novos-e-velhos-conhecidos-se-encontram-na-luta-de-classes-amazonica/> "Dono de metade de Parauapebas" como costuma dizer o senso comum local, é um dos principais empresários da região (English translation: "Owner of half of Parauapebas"; as the local saying goes, and is one of the most important entrepreneurs of the region).
- 143**GW analysed judicial processes n° 0000153-72.1998.8.14.0040, and in the last document GW accessed dated April 2018, Rafael Saldanha de Camargo was one of the parties to court and he was presented as rancher and businessman, <https://consultas.tjpa.jus.br/consultaprocessportal/consulta/principal#>
- 144**CNPJ.BIZ, Informações de Registro, CNPJ: 09.393.549/0001-68 – 09393549000168, Razão Social: Nova Carajas - Construcoes & Incorporacoes LTDA, Data da Abertura: 03/03/2008, Capital Social: R\$ 6.000.000,00, <https://cnpj.biz/09393549000168>, Santa Helena Iii Empreendimentos e Participacoes Ltda, Endereço: Av Do Sossego, S/N, Quadra: 442; Lote: 01 A 34; Loteamento Nova Carajas, Parauapebas, PA, CEP 68515-000, Brasil, Capital social: R\$ 12.500.000,00 (Doze milhões, quinhentos mil reais). <http://www.sociosbrasil.com/nome/darlen-damaso-de-carvalho?page=1>, CNPJconsultas.com, Razão social (nome empresarial), Nova Carajas Empreendimentos Imobiliarios Ltda, Endereço Av Nova Carajas, S/N, Quadra117 Lote 27 Sala 01 Nova Carajas, Parauapebas, PA, CEP 68515000, Brasil, Capital social R\$1.000.000,00 (Hum milhão de reais), <http://www.cnpjconsultas.com/empresa/nova-carajas-empreendimentos-imobiliarios-ltda/18764007000145>, Global Witness added up the total social capital of the companies where Rafael Saldanha is registered as an owner, reaching a total of R\$19,500,000, which was then converted to USD on currency converter on the 8th of May 2020, reaching the amount of 3,393,340.85 US Dollars, thus justifying the referenced phrase, <https://www.xe.com/currencyconverter/convert/?Amount=19%2C500%2C000&From=BRL&To=USD>
- 145**Global Witness analysed Ibama's public database, consulting embargoed areas and finding an embargo (TAD n° 353571) for illegal deforestation in the name of Rafael Saldanha de Camargo related to Fazenda Vale Verde II located in São Felix do Xingu/Pará <https://servicos.ibama.gov.br/ctf/publico/areasembargadas/ConsultaPublicaAr-easEmbargadas.php>
- 146**Ministério da Justiça e Cidadania Secretaria de Assuntos Legislativos, REGISTROS PÚBLICOS E RECUPERAÇÃO

DE TERRAS PÚBLICAS, Relatório Final, page 153 (Levantamento realizado pelo Ministério Público Federal revela que escritórios do Ibama nas cidades de Xinguará e Conceição do Araguaia estão agindo e interagindo com fazendeiros e agentes da criminalidade envolvidos com a exploração e comercialização ilegal de madeira. O fazendeiro Rafael Saldanha- envolvido com grilagem de terra, trabalho escravo e desmatamento ilegal- subornou o agente do Ibama de prenome Pereira com R\$ 30 mil para não multá-lo – English translation: “The rancher Rafael Saldanha – involved in land grabbing, slave labour and illegal deforestation – bribed an agent of Ibama named Pereira with 30 thousand Reais to not fine him.”) [https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=7&ved=2ahUKewjHPPDM4J\\_pAhX4aRUIHYzhDf4QFjAGegQIAhAB&url=http%3A%2F%2Fwww.consultaesic.cgu.gov.br%2Fbusca%2Fdados%2FLists%2FPedido%2FAttachments%2F511309%2FRESPOSTA\\_PEDIDO\\_resposta%2520sic%2520-%252008850003082201611.pdf&usq=AOvWaw2yPrO4MGq1\\_6Uvo\\_h9pFg](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=7&ved=2ahUKewjHPPDM4J_pAhX4aRUIHYzhDf4QFjAGegQIAhAB&url=http%3A%2F%2Fwww.consultaesic.cgu.gov.br%2Fbusca%2Fdados%2FLists%2FPedido%2FAttachments%2F511309%2FRESPOSTA_PEDIDO_resposta%2520sic%2520-%252008850003082201611.pdf&usq=AOvWaw2yPrO4MGq1_6Uvo_h9pFg)

**147** Judicial Process status consulted on 04/05/2020, State Court of Pará, site for public consultation, process number 0000153-72.1998.8.14.0040, <https://consultas.tjpa.jus.br/consultaprocessoportal/consulta/principal#>

**148** State Court of Pará, site for public consultation, process n° 0000153-72.1998.8.14.0040, <https://consultas.tjpa.jus.br/consultaprocessoportal/consulta/principal#>

**149** Judicial Process status consulted on 04/05/2020, State Court of Pará, site for public consultation, process number 0000153-72.1998.8.14.0040, <https://consultas.tjpa.jus.br/consultaprocessoportal/consulta/principal#>

**150** Judicial Process status consulted on 04/05/2020, State Court of Pará, site for public consultation, process number 0000153-72.1998.8.14.0040, <https://consultas.tjpa.jus.br/consultaprocessoportal/consulta/principal#>

**151** Relatório da Rede Social de Justiça e Direitos Humanos, DIREITOS HUMANOS NO BRASIL, 2004, pages 61 and 86 [https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=10&ved=2ahUKewje6uzh36HpAhUATxUIHdAZDUwQFJA-JegQICB&url=http%3A%2F%2Fwww.dhnet.org.br%2Fdados%2Frelatorios%2Fa\\_pdf%2Fr\\_redesocial\\_dh\\_br\\_2004.pdf&usq=AOvWaw0zL-rvfUVHL22JlcpXDOCA](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=10&ved=2ahUKewje6uzh36HpAhUATxUIHdAZDUwQFJA-JegQICB&url=http%3A%2F%2Fwww.dhnet.org.br%2Fdados%2Frelatorios%2Fa_pdf%2Fr_redesocial_dh_br_2004.pdf&usq=AOvWaw0zL-rvfUVHL22JlcpXDOCA) – for proof he was the owner see page 33 of this report: <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&cad=rja&uact=8&ved=2ahUKew-jogL384qHpAhVFTBUIHT83BRgQFjAGegQIAhAB&url=http%3A%2F%2Fwww.gptec.cfch.ufrj.br%2Fpdfs%2FRelatorio-versao-03-abril.pdf&usq=AOvWaw3-1UaLrYFgz-MAU-k1X5xKe>,

**152** For currency conversion we used 2003 USD to Real conversion rates to reach the stated amount, using the following source: <https://www.xe.com/currencytables/?from=BRL&date=2003-07-01>  
Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais Renováveis (Ibama), Consulta de Autuações Ambientais e Embargos, consulted as of 7/5/2020: <https://servicos.ibama.gov.br/ctf/publico/areasembargadas/ConsultaPublicaAreasEmbargadas.php>

**153** Assembleia Legislativa do Estado Pará Comissão de Direitos Humanos e Defesa do Consumidor, RELATÓRIO DE DILIGÊNCIA DOS DEPUTADOS MEMBROS TITULARES DA COMISSÃO DE DIREITOS HUMANOS E DEFESA DO CONSUMIDOR - CDHEDC DA ASSEMBLEIA



LEGISLATIVA DO ESTADO DO PARÁ AOS ACAMPAMENTOS DO MOVIMENTO SEM TERRA - MST “HUGO CHAVES” NA FAZENDA “SANTA TEREZA” E “FREI HENRY” FAZENDA “FAZENDINHA”, NOS MUNICÍPIOS DE MARABÁ E CURIONÓPOLIS RESPECTIVAMENTE, page 9.

**154** Tribuna de Justiça do Estado de Pará, Processo Judicial Eletrônico, page 6, para d, <https://documentcloud.adobe.com/link/review?uri=urn:aa-id:scds:US:46eff939-9570-43c6-afc2-e4506b66d7c>

Número: 0802823-96.2019.8.14.0028, <https://pje-consultas.tjpa.jus.br/pje-1g-consultas/ConsultaPublica/listView.seam>:



12ª PROMOTORIA DE JUSTIÇA DE MARABÁ  
Promotoria de Justiça da Região Agrária de Marabá/PA

**5.2.4) A condenação do réu RAFAEL SALDANHA DE CAMARGOS por dano moral coletivo causado à sociedade paraense em decorrência da prática de grilagem de terras públicas, tendo em vista os graves prejuízos econômicos, sociais e ambientais que tal prática ocasiona, no valor de 10 % (dez) por cento do valor da causa.**

**155** Assembleia Legislativa do Estado Pará Comissão de Direitos Humanos e Defesa do Consumidor, RELATÓRIO DE DILIGÊNCIA DOS DEPUTADOS MEMBROS TITULARES DA COMISSÃO DE DIREITOS HUMANOS E DEFESA DO CONSUMIDOR - CDHEDC DA ASSEMBLEIA LEGISLATIVA DO ESTADO DO PARÁ AOS ACAMPAMENTOS DO MOVIMENTO SEM TERRA - MST “HUGO CHAVES” NA FAZENDA “SANTA TEREZA” E “FREI HENRY” FAZENDA “FAZENDINHA”, NOS MUNICÍPIOS DE MARABÁ E CURIONÓPOLIS RESPECTIVAMENTE, page 7: “Há que se ressaltar a legitimidade dos acampados, pois mostraram-se firmes de propósito, mas cientes de que a colaboração com a justiça lhes beneficiaria, ao ponto de decidirem retirar-se da fazenda, deslocando o acampamento para as imediações da mesma, a fim de permitir a vistoria do INCRA fixada pelo juízo em audiência de justificação realizada em 15 de dezembro de 2008, permanecendo fora da área até 2014, quando indevidamente toma posse da fazenda, depois convertida em propriedade pelo ITERPA, o SR. RAFAEL SALDANHA DE CAMARGOS.” DOCUMENT SEEN BY GLOBAL WITNESS

**156** Assembleia Legislativa do Estado Pará Comissão de Direitos Humanos e Defesa do Consumidor, RELATÓRIO DE DILIGÊNCIA DOS DEPUTADOS MEMBROS TITULARES DA COMISSÃO DE DIREITOS HUMANOS E DEFESA DO CONSUMIDOR - CDHEDC DA ASSEMBLEIA LEGISLATIVA DO ESTADO DO PARÁ AOS ACAMPAMENTOS DO MOVIMENTO SEM TERRA - MST “HUGO CHAVES” NA FAZENDA “SANTA TEREZA” E “FREI HENRY” FAZENDA “FAZENDINHA”, NOS MUNICÍPIOS DE MARABÁ E CURIONÓPOLIS RESPECTIVAMENTE, page 7: “Há que se ressaltar a legitimidade dos acampados, pois mostraram-se firmes de propósito, mas cientes de que a colaboração com a justiça lhes beneficiaria, ao ponto de decidirem retirar-se da fazenda, deslocando o acampamento para as imediações da mesma, a fim de permitir a vistoria do INCRA fixada pelo juízo em audiência de justificação realizada em 15 de dezembro de 2008, permanecendo fora da área até 2014, quando indevidamente toma posse da fazenda, depois convertida em propriedade pelo ITERPA, o SR. RAFAEL SALDANHA DE CAMARGOS.” DOCUMENT SEEN BY GLOBAL WITNESS

**157** Assembleia Legislativa do Estado Pará Comissão de Direitos Humanos e Defesa do Consumidor, RELATÓRIO DE DILIGÊNCIA DOS DEPUTADOS MEMBROS TITULARES DA COMISSÃO DE DIREITOS HUMANOS E DEFESA DO CONSUMIDOR - CDHEDC DA ASSEMBLEIA LEGISLATIVA DO ESTADO DO PARÁ AOS ACAMPAMENTOS DO MOVIMENTO SEM TERRA - MST “HUGO CHAVES” NA FAZENDA “SANTA TEREZA” E “FREI HENRY” FAZENDA “FAZENDINHA”, NOS MUNICÍPIOS DE MARABÁ E CURIONÓPOLIS RESPECTIVAMENTE, page 7: “Há que se ressaltar a legitimidade dos acampados, pois mostraram-se firmes de propósito, mas cientes de que a colaboração com a justiça lhes beneficiaria, ao ponto de decidirem retirar-se da fazenda, deslocando o acampamento para as imediações da mesma, a fim de permitir a vistoria do INCRA fixada pelo juízo em audiência de justificação realizada em 15 de dezembro de 2008, permanecendo fora da área até 2014, quando indevidamente toma posse da fazenda, depois convertida em propriedade pelo ITERPA, o SR. RAFAEL SALDANHA DE CAMARGOS.” DOCUMENT SEEN BY GLOBAL WITNESS

**158** Brasil de Fato, November 2016, “Por dois dias seguidos, 320 famílias foram vítimas de tiros e tiveram roças destruídas e barracas queimadas, <https://www.brasildefato.com.br/2016/11/03/pistoleiros-atacam-o-acampamento-hugo-chaves-em-maraba-pa/>

159 Governo do Estado do Para, Policia Civil do Estado do Para, Numero 00201/2016/000185-7:

A relatora juntamente com o nacional FRANCISCO PEREIRA DO NASCIMENTO vieram até essa delegacia especializada para comunicar; QUE, estão acampados na Fazenda Santa Tereza há dois anos e quatro meses; QUE, existe um acordo entre o proprietário da fazenda, o INCRA e os acampados que prevê uma boa convivência entre as partes até o final do processo de desapropriação da fazenda para fins de reforma agrária; QUE, segundo a relatora todos os anos o proprietário da fazenda põem fogo no pasto, mas até o dia 10/09/2016 esse fogo ainda não teria atingido os barracos dos acampados; QUE, no dia 10/09/2016 por volta das 11:00hs iniciou-se um foco de incêndio a certa distancia do acampamento; QUE, esse incêndio teria sido provocado por funcionários da Fazenda Santa Tereza; QUE, por volta das 17:00hs, devido a aproximação do incêndio ao acampamento os trabalhadores sem-terras se mobilizaram para combater-lo, porém foram impedidos por nos acampados caso os mesmos tomassem a iniciativa de combater o fogo; QUE, os funcionários da Fazenda Santa Tereza ameaçaram atirar saíram daquele local, pois ficaram com medo das ameaças; QUE, até então o fogo não estava direcionando-se ao acampamento; QUE, o fogo estava apenas queimando o pasto da fazenda; QUE, segundo a relatora como essa pratica de queimar o pasto todos os anos é utilizada pelo proprietário da fazenda os acampados não se preocuparam até que por volta das 01:00 da madrugada do dia 11/09/2016 o fogo atingiu o barraco da relatora e volta das 04:30hs do dia 11/09/2016 o fogo foi controlado; QUE, segundo a relatora enquanto os trabalhadores sem-terras estavam tentando controlar o fogo, foi possível ouvir vários disparos de arma de fogo supostamente realizados pelos funcionários da Fazenda Santa Tereza, informando ainda que esses disparos foram direcionados para o acampamento. Registra-se para fins de direito.

160 Assembleia Legislativa do Estado Pará Comissão de Direitos Humanos e Defesa do Consumidor, RELATÓRIO DE DILIGÊNCIA DOS DEPUTADOS MEMBROS TITULARES DA COMISSÃO DE DIREITOS HUMANOS E DEFESA DO CONSUMIDOR - CDHEDC DA ASSEMBLEIA LEGISLATIVA DO ESTADO DO PARÁ AOS ACAMPAMENTOS DO MOVIMENTO SEM TERRA - MST "HUGO CHAVES" NA FAZENDA "SANTA TEREZA" E "FREI HENRY" FAZENDA "FAZENDINHA", NOS MUNICÍPIOS DE MARABÁ E CURIONÓPOLIS RESPECTIVAMENTE, DOCUMENT OBTAINED BY GLOBAL WITNESS FROM THE PARLIAMENTARY COMMITTEE

161 Assembleia Legislativa do Estado Pará Comissão de Direitos Humanos e Defesa do Consumidor, RELATÓRIO DE DILIGÊNCIA DOS DEPUTADOS MEMBROS TITULARES DA COMISSÃO DE DIREITOS HUMANOS E DEFESA DO CONSUMIDOR - CDHEDC DA ASSEMBLEIA LEGISLATIVA DO ESTADO DO PARÁ AOS ACAMPAMENTOS DO MOVIMENTO SEM TERRA - MST "HUGO CHAVES" NA FAZENDA "SANTA TEREZA" E "FREI HENRY" FAZENDA "FAZENDINHA", NOS MUNICÍPIOS DE MARABÁ E CURIONÓPOLIS RESPECTIVAMENTE, DOCUMENT SEEN BY GLOBAL WITNESS

162 Globo, Gerente da Fazenda Santa Tereza nega envolvimento com incêndio no acampamento do MST

<http://g1.globo.com/pa/para/jornal-liberal-2edicao/videos/vj/gerente-da-fazenda-santa-tereza-nega-envolvimento-com-incendio-no-acampamento-do-mst/6016360/>

163 Assembleia Legislativa do Estado Pará Comissão de Direitos Humanos e Defesa do Consumidor, RELATÓRIO DE DILIGÊNCIA DOS DEPUTADOS MEMBROS TITULARES DA COMISSÃO DE DIREITOS HUMANOS E DEFESA DO CONSUMIDOR - CDHEDC DA ASSEMBLEIA LEGISLATIVA DO ESTADO DO PARÁ AOS ACAMPAMENTOS DO MOVIMENTO SEM TERRA - MST "HUGO CHAVES" NA FAZENDA "SANTA TEREZA" E "FREI HENRY" FAZENDA "FAZENDINHA", NOS MUNICÍPIOS DE MARABÁ E CURIONÓPOLIS RESPECTIVAMENTE, page 15:

Ouvidas as testemunhas e encerrada a audiência pública, os deputados constatarem a presença de perfurações nas paredes da casa ao lado da guarita na entrada do acampamento, viram a cobertura de palha da escola queimado, presenciaram a apresentação dos cartuchos recolhidos pelos acampados que afirmam terem sido disparados contra o acampamento, registraram em fotos imagens da pastagem queimada no entorno do acampamento, finalizando a diligência e seguindo rumo ao município de Curionópolis a fim de realizar a segunda diligência no acampamento "Frei Henry", também coordenado pelo MST

164 Assembleia Legislativa do Estado Pará Comissão de Direitos Humanos e Defesa do Consumidor, RELATÓRIO DE DILIGÊNCIA DOS DEPUTADOS MEMBROS TITULARES DA COMISSÃO DE DIREITOS HUMANOS E DEFESA DO CONSUMIDOR - CDHEDC DA ASSEMBLEIA LEGISLATIVA DO ESTADO DO PARÁ AOS ACAMPAMENTOS DO MOVIMENTO SEM TERRA - MST "HUGO CHAVES" NA FAZENDA "SANTA TEREZA" E "FREI HENRY" FAZENDA "FAZENDINHA", NOS MUNICÍPIOS DE MARABÁ E CURIONÓPOLIS RESPECTIVAMENTE, DOCUMENT SEEN BY GLOBAL WITNESS

165 Brasil de Fato, Pará: Sem terra relatam noite do atentado contra o acampamento Hugo Chávez, 2018, <https://www.brasildefato.com.br/2018/08/16/para-sem-terra-relatam-noite-do-atentado-contra-o-acampamento-hugo-chavez>

AND

Globo, Polícia investiga suposto ataque em fazenda reocupada por trabalhadores rurais em Marabá, <https://g1.globo.com/pa/para/noticia/2018/07/28/policia-investiga-suposto-ataque-em-fazenda-reocupada-por-trabalhadores-rurais-em-maraba.ghtml>

166 Brasil de Fato, Pará: Sem terra relatam noite do atentado contra o acampamento Hugo Chávez, 2018, <https://www.brasildefato.com.br/2018/08/16/para-sem-ter>

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167 Interviews done by Global Witness – for the safety of the sources their identities are not being revealed.

168 Assembleia Legislativa do Estado Pará Comissão de Direitos Humanos e Defesa do Consumidor, RELATÓRIO DE DILIGÊNCIA DOS DEPUTADOS MEMBROS TITULARES DA COMISSÃO DE DIREITOS HUMANOS E DEFESA DO CONSUMIDOR - CDHEDC DA ASSEMBLEIA LEGISLATIVA DO ESTADO DO PARÁ AOS ACAMPAMENTOS DO MOVIMENTO SEM TERRA - MST "HUGO CHAVES" NA FAZENDA "SANTA TEREZA" E "FREI HENRY" FAZENDA "FAZENDINHA", NOS MUNICÍPIOS DE MARABÁ E CURIONÓPOLIS RESPECTIVAMENTE, DOCUMENT SEEN BY GLOBAL WITNESS

169 Tribuna de Justiça do Estado de Para, Processo Judicial Eletrônico, Número: 0802823-96.2019.8.14.0028, <https://pje-consultas.tjpa.jus.br/pje-1g-consultas/Con>



12ª PROMOTORIA DE JUSTIÇA DE MARABÁ  
Promotoria de Justiça da Região Agrária de Marabá/PA

### 5.2.4) A condenação do réu RAFAEL SALDANHA DE CAMARGOS por dano moral coletivo causado à sociedade paraense em decorrência da prática de grilagem de terras públicas, tendo em vista os graves prejuízos econômicos, sociais e ambientais que tal prática ocasiona, no valor de 10 % (dez) por cento do valor da causa.

sultaPublica/listView.seam:

170 Greenpeace Cattle Agreement, Clause 4, <https://www.greenpeace.org/usa/wp-content/uploads/legacy/Global/usa/report/2010/1/minimum-criteria-for-i.pdf>

171 SEE METHODOLOGY for JBS's cattle purchases from Santa Tereza in 2015, and for the Ibama fine see: Assembleia Legislativa do Estado Pará Comissão de Direitos Humanos e Defesa do Consumidor, RELATÓRIO DE DILIGÊNCIA DOS DEPUTADOS MEMBROS TITULARES DA COMISSÃO DE DIREITOS HUMANOS E DEFESA DO CONSUMIDOR - CDHEDC DA ASSEMBLEIA LEGISLATIVA DO ESTADO DO PARÁ AOS ACAMPAMENTOS DO MOVIMENTO SEM TERRA - MST "HUGO CHAVES" NA FAZENDA "SANTA TEREZA" E "FREI HENRY" FAZENDA "FAZENDINHA", NOS MUNICÍPIOS DE MARABÁ E CURIONÓPOLIS RESPECTIVAMENTE, (page 10, para 2 states: "Parte desse desmatamento (308,47ha) ocorreu no período de 13.07.2008 a 05.09.2010, em floresta primária e secundária em estágio de regeneração conforme noticiado pelo IBAMA, fl. 364", PUBLIC OFFICIAL DOCUMENT SEEN BY GLOBAL WITNESS

172 See methodology for how we arrived at these conclusions. Data extracted from Global Witness' analysis of Rafael Saldanha cattle transport permits

173 See methodology for how we arrived at these conclusions. Data extracted from Global Witness' analysis of Rafael Saldanha cattle transport permits

174 See methodology for how we arrived at these conclusions. Data extracted from Global Witness' analysis of Rafael Saldanha's cattle ranch Fazenda Primavera, overlaying official government satellite imagery of the shapefile for Saldanha's ranch on the SICAR website and consulting deforestation permit data.

175 Marfrig, Corporate Profile and History, <https://ir.marfrig.com.br/en/marfrig-group/corporate-profile-and-history>

176 Marfrig, Corporate Profile and History, <https://ir.marfrig.com.br/en/marfrig-group/corporate-profile-and-history>

177 Statista, Gross profit of Marfrig Global Foods from 2012 to 2019, "6.5 billion Reais Gross profit in 2019 converted to USD in August 2020 amounts to 1,158,277,315.00 USD, <https://www.statista.com/statistics/809460/gross-profit-marfrig/>

178 DNV-GL, Compliance Assessment of Public Commitment on Amazon Cattle Ranching, MARFRIG GLOBAL FOODS S.A., 2015, 2016, 2017, 2018, 2019: 2015: [2018: <https://www.google.com/url?sa=t&rc=j&q=&esrc=s&source=web&cd=19&ved=2ahUKEwis49Sg1NnAhXPPsAKhZOSCsAQFJASegQICBA-J&url=http%3A%2F%2Fwww.marfrigbeef.com%2Fuploads%2FArquivos%2FCompro-misso-em-relacao-ao-Bioma-Amazonia.pdf&usq=A0vVaw3nTfP2eaPX8BxqnXyVsMLl>](https://www.google.com/url?sa=t&rc=j&q=&esrc=s&source=web&cd=3&ved=2ahUKEwidhuC89crjAhV0ShUIHQcdBtYQFjABegQIABAB&url=http%3A%2F%2Fwww.marfrig.com.br%2FArquivos%2FCompliance_Assessment_of_Public_Commitment_on_Amazon_Cattle_Ranching_en.pdf&usq=A0vVaw2wYjquDpdGXs9q_MQcj35q,</a></p></div><div data-bbox=)

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**179** MARFRIG, For the seventh straight year, audit confirms MARFRIG's compliance with Amazon conservation practices, 2019 <http://www.marfrig.com.br/en/documentos?id=833>

**180** 2019: [https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwiHn57E\\_K7qAhVKTsAKHQImB-VoQFjAJegQICRAB&url=https%3A%2F%2Fwww.marfrig.com.br%2Fuploads%2Farquivos%2FAvaliacao\\_ao\\_Atendimento\\_do\\_Compromisso\\_Publico\\_da\\_Pecuaria\\_na\\_Amazonia\\_EN.pdf&usg=AOvVaw0ccE-K1ZHuiNn-ZfVeereg9](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwiHn57E_K7qAhVKTsAKHQImB-VoQFjAJegQICRAB&url=https%3A%2F%2Fwww.marfrig.com.br%2Fuploads%2Farquivos%2FAvaliacao_ao_Atendimento_do_Compromisso_Publico_da_Pecuaria_na_Amazonia_EN.pdf&usg=AOvVaw0ccE-K1ZHuiNn-ZfVeereg9)

Marfrig Global Foods, Marfrig issues sustainability bonds, **July 30, 2019** <https://www.marfrig.com.br/en/documentos?id=839>

**181** Bloomberg, Barclays Steps In as JBS Scandal Drives Away Wall Street Banks, February 2019, <http://webcache.googleusercontent.com/search?q=cache:BRgF2Jde9cJ:https://www.bloomberg.com/news/articles/2019-02-28/barclays-steps-in-as-jbs-scandal-drives-away-wall-street-banks&client=firefox-b-d&hl=en&gl=uk&strip=1&vwsrc=0>

**182** Marfrig issues sustainability bonds, July 30th 2019, <https://www.marfrig.com.br/en/documentos?id=839>

**183** MARFRIG SUSTAINABLE TRANSITION BOND, FRAMEWORK OVERVIEW JULY 2019, [https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=2ahUKEwiW17ihmP7IAhWl-Y8AKHSN\\_AVkQFJAegQIABAC&url=http%3A%2F%2Fwww.marfrig.com.br%2Fuploads%2Farquivos%2FMarfrig\\_Sustainable\\_Transition\\_Bond\\_Framework.pdf&usg=AOvVaw1fGln22K5FLz0SBvpUdvbo](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=2ahUKEwiW17ihmP7IAhWl-Y8AKHSN_AVkQFJAegQIABAC&url=http%3A%2F%2Fwww.marfrig.com.br%2Fuploads%2Farquivos%2FMarfrig_Sustainable_Transition_Bond_Framework.pdf&usg=AOvVaw1fGln22K5FLz0SBvpUdvbo)

**184** Oeco, TAC da Carne no Pará: MPF diz que ninguém está livre do desmatamento, Nov 2019, <https://www.oeco.org.br/reportagens/tac-da-carne-no-para-mpf-diz-que-ninguem-esta-livre-do-desmatamento/>, "Do outro lado, a Marfrig segue sem assinar o TAC da Carne no Pará, e por isso não entregou sua auditoria ao MPF"

**185** Ministério Público Federal, Termos de Ajuste de Conduta, pages 2 and 3 set out the legal arguments. **LEI Nº 6.938, DE 31 DE AGOSTO DE 1981**, Art 14, Para 1, § 1º. "Sem obstar a aplicação das penalidades previstas neste artigo, é o poluidor obrigado, independentemente da existência de culpa, a indenizar ou reparar os danos causados ao meio ambiente e a terceiros, afetados por sua atividade. O Ministério Público da União e dos Estados terá legitimidade para propor ação de responsabilidade civil e criminal, por danos causados ao meio ambiente. [http://www.planalto.gov.br/ccivil\\_03/LEIS/L6938.htm](http://www.planalto.gov.br/ccivil_03/LEIS/L6938.htm)

**186** Global Witness analysis of Marfrig's 2017, 2018 and 2019 Para based cattle purchases cross checked with SICAR and then PRODES, where the CAR and PRODES areas overlapped by at least 10 hectares and where deforestation occurred after 2010 but before the date of purchase on the cattle transport permit.

**187** Please see Global Witness' methodology for how we arrived at these claims

**188** DNV-GL, Compliance Assessment of Public Commitment on Amazon Cattle Ranching, MARFRIG GLOBAL FOODS S.A., 2015, 2016, 2017, 2018, 2019: <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&ved=2ahUKEwidhuC89crjAhV0ShUIHQcDbtYQFjABeg-QIAXAC&url=http%3A%2F%2Fwww.marfrig.com.br%2Fuploads%2Farquivos%2FReport-Audit-Marfrig-Greepace-Format-Greenpeace.pdf&usg=AOvVaw0EaSnkmd84AxfTfcuKpQu0>, 2016: [https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=2ahUKEwidhuC89crjAhV0ShUIHQcDbtYQFjAAegQIABAB&url=http%3A%2F%2Fwww.marfrig.com.br%2Fuploads%2FCompliance\\_Assessment\\_Public\\_Commitment\\_onAmazon\\_Cattle\\_Ranching.pdf&usg=AOvVaw3Wo1slmvGZB2v9lhmNeDvg](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=2ahUKEwidhuC89crjAhV0ShUIHQcDbtYQFjAAegQIABAB&url=http%3A%2F%2Fwww.marfrig.com.br%2Fuploads%2FCompliance_Assessment_Public_Commitment_onAmazon_Cattle_Ranching.pdf&usg=AOvVaw3Wo1slmvGZB2v9lhmNeDvg), 2017: [https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&ved=2ahUKEwidhuC89crjAhV0ShUIHQcDbtYQFjACegQIAHAC&url=http%3A%2F%2Fwww.marfrig.com.br%2Fuploads%2FCompliance\\_Assessment\\_of\\_Public\\_Commitment\\_on\\_Amazon\\_Cattle\\_Ranching\\_en.pdf&usg=AOvVaw2wVjqUdpdGxs9q\\_MQcj35q](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&ved=2ahUKEwidhuC89crjAhV0ShUIHQcDbtYQFjACegQIAHAC&url=http%3A%2F%2Fwww.marfrig.com.br%2Fuploads%2FCompliance_Assessment_of_Public_Commitment_on_Amazon_Cattle_Ranching_en.pdf&usg=AOvVaw2wVjqUdpdGxs9q_MQcj35q)

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**189** Área de Proteção Ambiental Triunfo do Xingu (APA) Triunfo do Xingu internet site, <https://ideflorbio.pa.gov.br/unidades-de-conservacao/regiao-administrativa-do-xingu/apa-triunfo-do-xingu/>

**190** André Luis Sousa da Costa and Laura Ribeiro Reis, Amazonia Journal of Agriculture and Environmental Science, The contribution of APA Triunfo do Xingu for land planning in the Terra do Meio region, State of Pará, <http://ajaes.ufra.edu.br/index.php/ajaes/article/view/2692/914>, page 97, AND ISA, Na Amazônia, a floresta está à venda, "Na porção paraense da Bacia do Rio Xingu, está a UC com a mais alta taxa de desmatamento no período: a Área de Proteção Ambiental (APA) Triunfo do Xingu, <https://www.socioambiental.org/pt-br/noticias-socioambientais/na-amazonia-a-floresta-esta-a-venda>

**191** <https://news.mongabay.com/2019/10/witnessing-extinction-in-the-flames-as-the-amazon-burns-for-agribusiness/>

**192** International Union for Conservation of Nature's Red List of Threatened Species, *Leopardus tigrinus*, *Vulnerable*, <https://www.iucnredlist.org/species/54012637/50653881> AND, *Tapirus terrestris*, *Vulnerable*, <https://www.iucnredlist.org/species/21474/45174127>

**193** SEE METHODOLOGY FOR HOW WE ARRIVED AT THESE CONCLUSIONS

**194** According to article 26 of the Forest Code (<https://www.cpt.com.br/codigo-florestal/codigo-florestal-brasileiro-da-supressao-de-vegetacao-para-uso-alternativo-do-solo>) a permit is required to deforest within a public or private property. Through a partnership with the Brazilian CSO IMAZON, Global Witness checked whether the property Fazenda de Espouro II had this authorization, using a data set that IMAZON use in a partner program they have with the Federal State Prosecutor's Office of Para called Amazonia Protégé (<http://www.amazoniaprotege.mp.br/>), and found it did not.

Global Witness, through partner organisation IMAZON, checked a database

**195** See methodology for how we arrived at these conclusions. Global Witness analysis of Marfrig's 2017, 2018 and 2019 Cattle Transport Permits for Para, cross-checked for individual tax code and name of ranch alignment with the Rural Land Registry for Para: SICAR (<http://car.semas.pa.gov.br/>), to identify ranches that are Marfrig suppliers.

**196** Image is from the 2016 Rural Land Registry database (SICAR: <http://car.semas.pa.gov.br/>) for the property Fazenda Espora de Ouro II, located in São Félix do Xingu / Pará, with Numero de Recibo: PA-1507300-DF013010BC1648B6902E51E-B22EFDB1 and Numero de Protocolo: PA-1507300-C8917757509D2D55137AC-9596CDD9550, provided by the Brazilian civil society organisation Imaflores and their Department for Geospatial monitoring Analysis, that download these rural property boundaries year on year to check on any boundary changes. Please ask Global Witness for the specific documents, which are also available on our website.

**197** Global Witness analysis of Marfrig's 2016, 2017, 2018 and 2019 Cattle Transport Permits, cross-checked with the Rural SICAR database (<http://car.semas.pa.gov.br/>) to ensure the property owners individual tax code (CPF) and ranch name and location coincided on both data sets. The property boundaries were then downloaded from the SICAR database in October 2019 and visualised on a GIS platform and then overlaid with downloaded official Brazilian government deforestation data from the National Institute for Space Research (INPE, PRODES: <http://www.obt.inpe.br/OBT/assuntos/programas/amazonia/prodes>). This provided the date of deforestation shown on the PRODES data set, ensuring the deforestation occurred after August 2008 (to ensure the deforestation occurred within the time period the beef traders agreed not to purchase cattle from ranches with deforestation).

**198** Please see our methodology to understand how we arrived at these figures

**199** DNV-GL, **Compliance Assessment of Public Commitment on Amazon Cattle Ranching, Marfrig, 2016 and 2017** 2015: <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&ved=2ahUKEwidhuC89crjAhV0ShUIHQcDbtYQFjABeg-QIAXAC&url=http%3A%2F%2Fwww.marfrig.com.br%2Fuploads%2Farquivos%2FReport-Audit-Marfrig-Greepace-Format-Greenpeace.pdf&usg=AOvVaw0EaSnkmd84AxfTfcuKpQu0>, 2016: [https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=2ahUKEwidhuC89crjAhV0ShUIHQcDbtYQFjAAegQIABAB&url=http%3A%2F%2Fwww.marfrig.com.br%2Fuploads%2FCompliance\\_Assessment\\_Public\\_Commitment\\_onAmazon\\_Cattle\\_Ranching.pdf&usg=AOvVaw3Wo1slmvGZB2v9lhmNeDvg](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=2ahUKEwidhuC89crjAhV0ShUIHQcDbtYQFjAAegQIABAB&url=http%3A%2F%2Fwww.marfrig.com.br%2Fuploads%2FCompliance_Assessment_Public_Commitment_onAmazon_Cattle_Ranching.pdf&usg=AOvVaw3Wo1slmvGZB2v9lhmNeDvg), 2017: [https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&ved=2ahUKEwidhuC89crjAhV0ShUIHQcDbtYQFjACegQIAHAC&url=http%3A%2F%2Fwww.marfrig.com.br%2Fuploads%2FCompliance\\_Assessment\\_of\\_Public\\_Commitment\\_on\\_Amazon\\_Cattle\\_Ranching\\_en.pdf&usg=AOvVaw2wVjqUdpdGxs9q\\_MQcj35q](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&ved=2ahUKEwidhuC89crjAhV0ShUIHQcDbtYQFjACegQIAHAC&url=http%3A%2F%2Fwww.marfrig.com.br%2Fuploads%2FCompliance_Assessment_of_Public_Commitment_on_Amazon_Cattle_Ranching_en.pdf&usg=AOvVaw2wVjqUdpdGxs9q_MQcj35q)

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FRIG'S LEGAL OBLIGATIONS SEE REFERENCE FOR LEGAL ARGUMENT SET OUT IN THE DIRECT SUPPLIERS SECTION

**223** MARFRIG SUSTAINABLE TRANSITION BOND, [https://www.google.com/url?sa=t&rc=j&q=&esrc=s&source=web&cd=1&ved=2ahUKEwukPSzwYrIAhUQE-cAKHcEsCH0QFjAAegQIAhAC&url=http%3A%2F%2Fwww.marfrig.com.br%2FARquivos%2FMarfrig\\_Sustainable\\_Transition\\_Bond\\_Framework.pdf&usg=AOvVaw1f-GIN2K5FLz0SBvpUdvbo](https://www.google.com/url?sa=t&rc=j&q=&esrc=s&source=web&cd=1&ved=2ahUKEwukPSzwYrIAhUQE-cAKHcEsCH0QFjAAegQIAhAC&url=http%3A%2F%2Fwww.marfrig.com.br%2FARquivos%2FMarfrig_Sustainable_Transition_Bond_Framework.pdf&usg=AOvVaw1f-GIN2K5FLz0SBvpUdvbo)

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**225** Vigeo Iris, <http://vigeo-eiris.com/about-us/>

**226** Vigeo Eiris, SECOND PARTY OPINION ON THE SUSTAINABILITY OF MARFRIG GLOBAL FOOD'S SUSTAINABLE TRANSITION BOND, page 10, column 3, 2019, [https://www.google.com/url?sa=t&rc=j&q=&esrc=s&source=web&cd=2&ved=2ahUKEwjsOm\\_ixYrIAhUeHEKHSIJdJgQFjABegQIBhAC&url=http%3A%2F%2Fwww.marfrig.com.br%2FARquivos%2FSecond\\_Party\\_Opinion\\_\\_Sustainable\\_Transition\\_Bond\\_Marfrig.pdf&usg=AOvVaw3ocL9QDe\\_3LwbkrVx9qh69](https://www.google.com/url?sa=t&rc=j&q=&esrc=s&source=web&cd=2&ved=2ahUKEwjsOm_ixYrIAhUeHEKHSIJdJgQFjABegQIBhAC&url=http%3A%2F%2Fwww.marfrig.com.br%2FARquivos%2FSecond_Party_Opinion__Sustainable_Transition_Bond_Marfrig.pdf&usg=AOvVaw3ocL9QDe_3LwbkrVx9qh69)

**227** PGGM, Who we are, On 31 December 2019, we managed pension assets worth EUR 252 billion.,

<https://www.pggm.nl/en/about-us/about-pggm/>

**228** Responsible Investor, Analysis: IPCC warning on meat consumption adds to scrutiny of beef producer Marfrig's \$500m 'transition bond'

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**229** Insight Investments, Who we are, <https://www.insightinvestment.com/uk/>

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defense on November 9, 2016, stating that we had not financed production in a protected area, given that the financing agreement with the property owner had no connection with the production of seeds. As a consequence of the filing of the administrative defense, the enforceability of the fine is suspended. Although we believe we have presented valid arguments, we believe that the chance of loss in the administrative proceedings is possible. If we were to lose the administrative proceedings, we may seek a review of the administrative finding by a court.) <https://sec.report/Document/0000950103-20-004861/>

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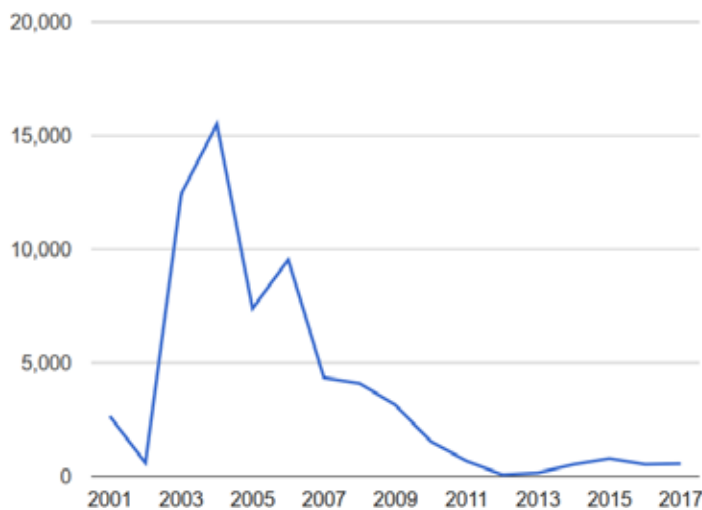
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- Then on the right side access last option: "Publico Geral"
- Then, enter in first option of menu "Consulta"
- then access first option of menu "e-GTA"

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**398** "Abrange toda atuação estatal, não só sob o aspecto de divulgação oficial de seus atos como também de propiciação de conhecimento da conduta interna de seus agentes. Essa publicidade atinge assim, atos concluídos e em formação, os processos em andamento, os pareceres dos órgãos técnicos e jurídicos, os despachos intermediários e finais, as atas de julgamento das licitações e contratos com quaisquer interessados, bem como os comprovantes de despesas e as prestações de contas submetidas aos órgãos competentes. Tudo isto é papel ou documento público que pode ser examinado na repartição por qualquer interessado e dele obter certidão ou fotocópia autenticada para fins constitucionais." SILVA, José Afonso da. Curso de Direitos Constitucional Positivo. 24ª edição. São Paulo: Malheiros Editores, 2005. p. 670.

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**400 Art. 1º Esta Lei dispõe sobre os procedimentos a serem observados pela União, Estados, Distrito Federal e Municípios, com o fim de garantir o acesso a informações previsto no inciso XXXIII do art.5º, no inciso II do § 3º do art. 37º e no § 2º do art. 216 da Constituição Federal.**

Parágrafo único. Subordinam-se ao regime desta Lei:

I - os órgãos públicos integrantes da administração direta dos Poderes Executivo, Legislativo, incluindo as Cortes de Contas, e Judiciário e do Ministério Público;

II - as autarquias, as fundações públicas, as empresas públicas, as sociedades de economia mista e demais entidades controladas direta ou indiretamente pela União, Estados, Distrito Federal e Municípios.

**401 Art. 27.** A classificação do sigilo de informações no âmbito da administração pública federal é de competência:

I - no grau de ultrassecreto, das seguintes autoridades:

- Presidente da República;
- Vice-Presidente da República;
- Ministros de Estado e autoridades com as mesmas prerrogativas;
- Comandantes da Marinha, do Exército e da Aeronáutica; e
- Chefes de Missões Diplomáticas e Consulares permanentes no exterior;

II - no grau de secreto, das autoridades referidas no inciso I, dos titulares de autarquias, fundações ou empresas públicas e sociedades de economia mista; e

III - no grau de reservado, das autoridades referidas nos incisos I e II e das que exerçam funções de direção, comando ou chefia, nível DAS 101.5, ou superior, do Grupo-Direção e Assessoramento Superiores, ou de hierarquia equivalente, de acordo com regulamentação específica de cada órgão ou entidade, observado o disposto nesta Lei.

§ 1º A competência prevista nos incisos I e II, no que se refere à classificação como ultrassecreta e secreta, poderá ser delegada pela autoridade responsável a agente público, inclusive em missão no exterior, vedada a subdelegação.

§ 2º A classificação de informação no grau de sigilo ultrassecreto pelas autoridades previstas nas alíneas "d" e "e" do inciso I deverá ser ratificada pelos respectivos Ministros de Estado, no prazo previsto em regulamento.

§ 3º A autoridade ou outro agente público que classificar informação como ultrassecreta deverá encaminhar a decisão de que trata o art. 28 à Comissão Mista de Reavaliação de Informações, a que se refere o art. 35, no prazo previsto em regulamento.

Art. 28. A classificação de informação em qualquer grau de sigilo deverá ser formalizada em decisão que conterá, no mínimo, os seguintes elementos:

- assunto sobre o qual versa a informação;
- fundamento da classificação, observados os critérios estabelecidos no art. 24;
- indicação do prazo de sigilo, contado em anos, meses ou dias, ou do evento que defina o seu termo final, conforme limites previstos no art. 24; e
- identificação da autoridade que a classificou.

Parágrafo único. A decisão referida no caput será mantida no mesmo grau de sigilo da informação classificada.

Art. 30. A autoridade máxima de cada órgão ou entidade publicará, anualmente, em sítio à disposição na internet e destinado à veiculação de dados e informações administrativas, nos termos de regulamento:

- rol das informações que tenham sido desclassificadas nos últimos 12 (doze) meses;
- rol de documentos classificados em cada grau de sigilo, com identificação para referência futura;
- relatório estatístico contendo a quantidade de pedidos de informação recebidos, atendidos e indeferidos, bem como informações genéricas sobre os solicitantes.

§ 1º Os órgãos e entidades deverão manter exemplar da publicação prevista no caput para consulta pública em suas sedes.

§ 2º Os órgãos e entidades manterão extrato com a lista de informações classificadas, acompanhadas da data, do grau de sigilo e dos fundamentos da classificação.

**402** Ministério da Transparência, Fiscalização e Controladoria-Geral da União. Aplicação da lei de acesso à informação na Administração Pública Federal. 2ª Edição Revista, Atualizada e Ampliada. Brasília, 2016. p. 48.

**403 CONTROLADORIA-GERAL DA UNIÃO Secretaria de Prevenção da Corrupção e Informações Estratégicas. MANUAL da Lei de Acesso à Informação para Estados e Municípios. 1ª edição. Brasília, 2013. p. 06.**

**404** “O princípio da publicidade dos atos administrativos prestigia o controle e o conhecimento por todos os interessados, e por qualquer do povo, dos documentos existentes nas repartições públicas que demonstram o desenvolvimento dos atos administrativos de interesse da coletividade.” **TJ-SP. APL 00332373420098260576. Relatora: Teresa Ramos Marques. Data de julgamento: 06/03/2015. 10ª Câmara de Direito Público. Data de publicação: 06/03/2015.**

**405** “A publicidade e o direito à informação não podem ser restringidos com base em atos de natureza discricionária, salvo quando justificados, em casos excepcionais, para a defesa da honra, da imagem e da intimidade de terceiros ou quando a medida for essencial para a proteção do interesse público.” **STJ. RMS 23036. Relator: Ministro Maurício Corrêa. Data de julgamento: 28/03/2006. Segunda Turma. Data de publicação: 25/08/2006.**

**406** “O direito de receber dos órgãos públicos informações de interesse particular, geral ou coletivo, ressalvadas aquelas cujo sigilo seja imprescindível a segurança da sociedade e do Estado, encontra-se assegurado na Constituição Federal (art. 5º, XXXIII), constituindo-se abuso de poder a violação de tal dispositivo, passível de correção pelo mandamus.” **TJ-MG. AC 10657150009055001. Relator: Elias Camilo. Data de julgamento: 02/02/2017. 3ª Câmara Cível. Data de publicação: 21/02/2017.**

**407** “A informação produzida e custodiada pelo setor público deve estar disponível à sociedade, ressalvadas as exceções previstas em lei. Sob esse prisma, é princípio básico da Lei nº 12.527/11 a chamada máxima divulgação, em que a publicidade é a regra e o sigilo a exceção. O comportamento de divulgar dados a partir de uma iniciativa da própria administração pública não apenas implica a redução do número de pedidos de acesso, mas também sugere a perspectiva de que cabe ao governo somente a posse de tais documentos, sendo o povo o titular do direito de propriedade da informação pública.” Ministério da Transparência, Fiscalização e Controladoria-Geral da União. Aplicação da lei de acesso à informação na Administração Pública Federal. 2ª Edição Revista, Atualizada e Ampliada. Brasília, 2016. p. 52

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