

PORTS AND ENVIRONMENTAL LICENSING IN THE AMAZON:

IRREGULARITIES AND VIOLATION OF RIGHTS IN THE TAPAJÓS REGION



The study *“Ports and Environmental Licensing in Tapajós: irregularities and violation of rights”* was crafted by Terra de Direitos with the goal of comprehensively understanding and analyzing the intricate dynamics surrounding the installation of port projects in the Tapajós region in Brazil (State of Pará), along with the associated violations of rights.

The analysis of environmental licensing documents made it possible to demonstrate how this process had a series of gaps and irregularities, such as the failure to carry out environmental impact studies, and the lack of prior consultation with the peoples and communities affected by these projects, among several others.

The study is part of the *“Portos no Tapajós”* online platform, which gathers information on the **41 ports planned, under construction, or in operation identified in the Pará cities of Santarém, Itaituba (in the district of Miritituba), and Rurópolis.**

These cities are key locations in the agribusiness logistics network and serve as the final hub for transporting grain production to the international market. The platform also includes annual data on forest fires and deforestation to show the progression of the environmental damage that is directly linked to the logistics corridor.

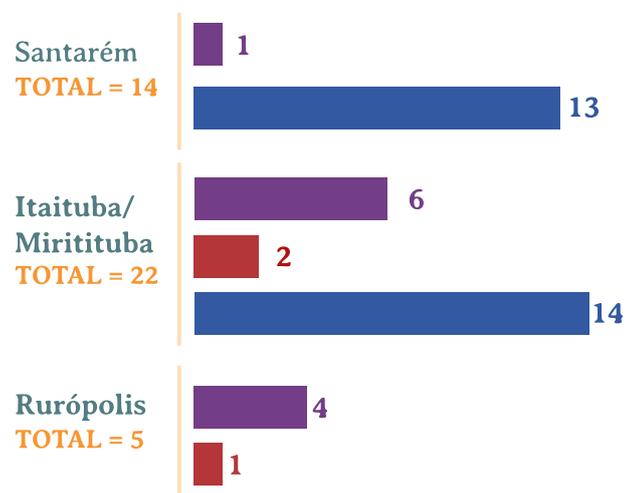
Indigenous peoples, quilombola, and other traditional communities, along with their consultation protocols, are also present on the map of the territory.

What is environmental licensing?

Environmental licensing is an administrative procedure that requires prior studies for the installation of activities or implementation of projects with the potential to cause environmental harm. Beyond issuing and granting licenses, the procedure is also responsible for establishing conditions to mitigate the identified impacts, as well as evaluating and monitoring the conditions and constraints.



Number of ports in each analyzed municipality:



Planned
 Under construction
 In operation

Accelerated progress in the installation of ports

After the enactment of the Ports Law (Federal Law No. 12,815) in 2013, there was a rapid surge in the number of ports in the three analyzed municipalities, entailed by a disregard for environmental licensing rules. By 2013 – before the Ports Law – the Tapajós region had 20 ports planned, under construction, or in operation.

Itaituba: a key city for grain export trade

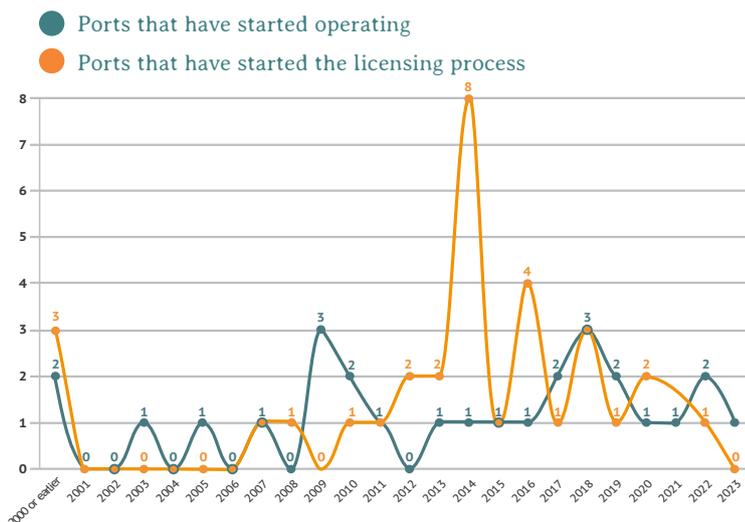
Itaituba has been considered a key municipality in the process of setting up port facilities to transport grain production from the Central-West region. This pivotal role is attributed to the town's strategic location, facilitating reduced transportation costs to the international market. Itaituba benefits from the favorable navigability of the Tapajós River, as well as from its proximity to the BR 163 federal highway, a major north-south highway in Brazil. Additionally, the Miritituba district in Itaituba is slated to serve as the end point of the EF-170 railroad, known as the *Ferrogrão* railway. The project, which is currently in the planning stage, aims to connect the municipality to Sinop (in the state of Mato Grosso).

Out of the 41 identified ports, 27 are currently operational, but only 5 have complete documentation of the environmental licensing process

The ports identified in the study are among the activities for which environmental licensing is mandatory. However, the licensing process for these projects has not followed the necessary steps: preparation and approval of the Environmental Impact Study and Report (EIA/RIMA); granting of the Preliminary License; granting of the Installation License; and granting of the Operating License.

The granting of a license is contingent upon the existence of a preliminary license and completion of environmental studies (the first step in the licensing process).

Ports that have started the licensing process and operations, categorized by year



Source: Terra de Direitos, based on the data made available in the environmental licensing process.



Port of the US transnational company Cargill in the district of Miritituba, Itaituba.

Transnationals have set up operations in the region

At least five ports identified in the study are owned by transnational companies. **Cargill** (USA), for instance, operates a port in Santarém and another one in Itaituba. **Bunge** (Netherlands) also has a port in Itaituba, and there are plans for a **Cevital** (Algeria) port as well. The **Louis Dreyfus Company** (France) is also planning to build a port in Rurópolis, in an area close to an archaeological site and Indigenous cemetery.

Operating irregularly through "corrective licensing"

Establishing a port without completing any stages of the environmental licensing process is possible, albeit irregular. In order to regularize it and rectify this situation, the company must carry out the corrective licensing and obtain an Operating License from the licensing body. Additionally, it may face fines from the environmental regulatory body for having set up without the necessary preliminary licenses, as exemplified by the Cargill port case, in the city of Santarém.

This type of license represents a vulnerability in the environmental agency's enforcement measures, potentially leading to irregular practices becoming commonplace among such enterprises and ventures. **For some companies, paying the fine for corrective licensing may appear more financially advantageous than following the standard procedures of the licensing process.**



The concern is that the absence of previous measurement and assessment of environmental and community impacts in such cases, which hinders a comprehensive environmental analysis, poses risks to the territory, and may cause irreversible impacts and transformations that cannot be repaired.

Dangerous cargo

No environmental studies or reports were found for the 14 ports that indicated the transportation of fuels or dangerous cargo

There are signs that the **13 ports in operation** with this identification **did not carry out the studies**, even with the risk of high environmental impact.

Expired licenses

Out of the 27 ports in operation in the Tapajós, at least 10 had expired operating licenses at the time this study was finished

According to Decree No. 1,120/2008 from the state of Pará, if companies request the renewal of an environmental license at least 120 days before the expiry date, the license is extended until the licensing body gives its decision. In other words, even when operating licenses have expired, companies that have applied for renewal within the time limit set by the aforementioned decree can continue to operate irregularly. This situation exposes the vulnerability of the environmental agency's supervision, which does not set a deadline for the new license to be issued.

Out of 41 portos, only 11 had Environmental Impact Studies

Provided for in Resolution No. 1/1986 of the National Environment Council (*Conselho Nacional do Meio Ambiente - CONAMA*), **the Environmental Impact Study (*Estudo de Impacto Ambiental - EIA*) and the Environmental Impact Report (*Relatório de Impacto Ambiental - RIMA*) are indispensable prerequisites for the granting of a Preliminary License for the installation of a port** (the first license to be issued in the environmental licensing process for a project or venture). These studies and reports must assess environmental, physical, biological, and socio-economic aspects.

Free, prior and informed consultation

None of the 41 identified ports carried out the prior consultation process with the Indigenous people, quilombolas, and other affected traditional peoples and communities.

Ten prior consultation protocols were identified for the different traditional peoples directly affected by the ports. Through these protocols, the peoples establish the rules for the procedure of prior, free, and informed consultation, which must be carried out in good faith, thus upholding their right to their own self organization. However, it is important to remember that the right to consultation does not depend on the prior existence of a protocol.

Some **important victories in emblematic cases** have been identified, stemming from the resistance of groups impacted by several projects and ventures. These cases exemplify the ongoing struggle to guarantee the right to prior, free, and informed consultation for traditional peoples and communities:

- **Suspension of the environmental licensing process for the port of Rio Tapajós Logística - RTL**, in Itaituba (Pará, Brazil) in 2022, until the Munduruku people of Tapajós are consulted.
- **Suspension of the environmental licensing process for the port of Empresa Brasileira de Portos de Santarém - Embraps**, in Santarém (Pará, Brazil) in 2016, until prior consultation is carried out and the environmental studies be rectified to take into account the traditional peoples and communities of *Lago do Maicá* (Maicá Lake).

Data and lack of environmental transparency

A series of environmental documents, studies, and licenses that should be public were not found. This raises doubts as to whether these documents really exist or whether the bodies are not transparent, which hinders participation and social control.

Recommendations

Some measures must be taken to ensure that port ventures and projects follow the rules of environmental licensing and that traditional peoples and communities have their rights guaranteed or safeguarded. We therefore recommend the following:

- That prior consultation and consent procedures along the lines set out in Convention 169 of the International Labour Organization be guaranteed for traditional peoples and communities, including Indigenous peoples, *quilombolas*, riverside communities, fishermen, and any other communities that collectively self-identify as such;
- That the Federal and State Public Prosecutors' Offices monitor and investigate the environmental licensing processes for port ventures and projects (in operation, planned, or under construction) in the Tapajós, in order to ascertain the regularity of these facilities and to guarantee compliance with requirements;
- That the National Congress does not approve Draft Bill No. 2,159/2021 (also known as "the Environmental Licensing Draft Bill"), which makes the process more flexible and further weakens the guarantee of environmental protection and the rights of ethnic groups;
- That the National Congress approves the Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean (known as the Escazú Agreement) – which ensures public participation in environmental decision-making, access to justice, and the safety of activists – a fundamental instrument for guaranteeing transparent and democratic environmental and climate governance, as well as for guaranteeing the rights of environmental human rights defenders;
- That the environmental agencies and Antaq (Brazil's National Agency for Waterway Transportation) update their websites to make the issued licenses fully available, as well as improve their search systems to guarantee full and easy access to all the documents;
- That environmental regulatory and inspection bodies be strengthened, with adequate financial and human resources, in order to guarantee conditions for the effectiveness of active and passive transparency processes;
- That Draft Bill No. 572/2022, which establishes Brazil's National Framework on Human Rights and Business, be approved, in order to hold companies accountable for violations of the rights of affected communities.

Access the interactive
online platform

Portos no Tapajós
(Ports in Tapajós),
learn about the data,
and get involved in
the struggle in
defense of Tapajós



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Available in Portuguese

