

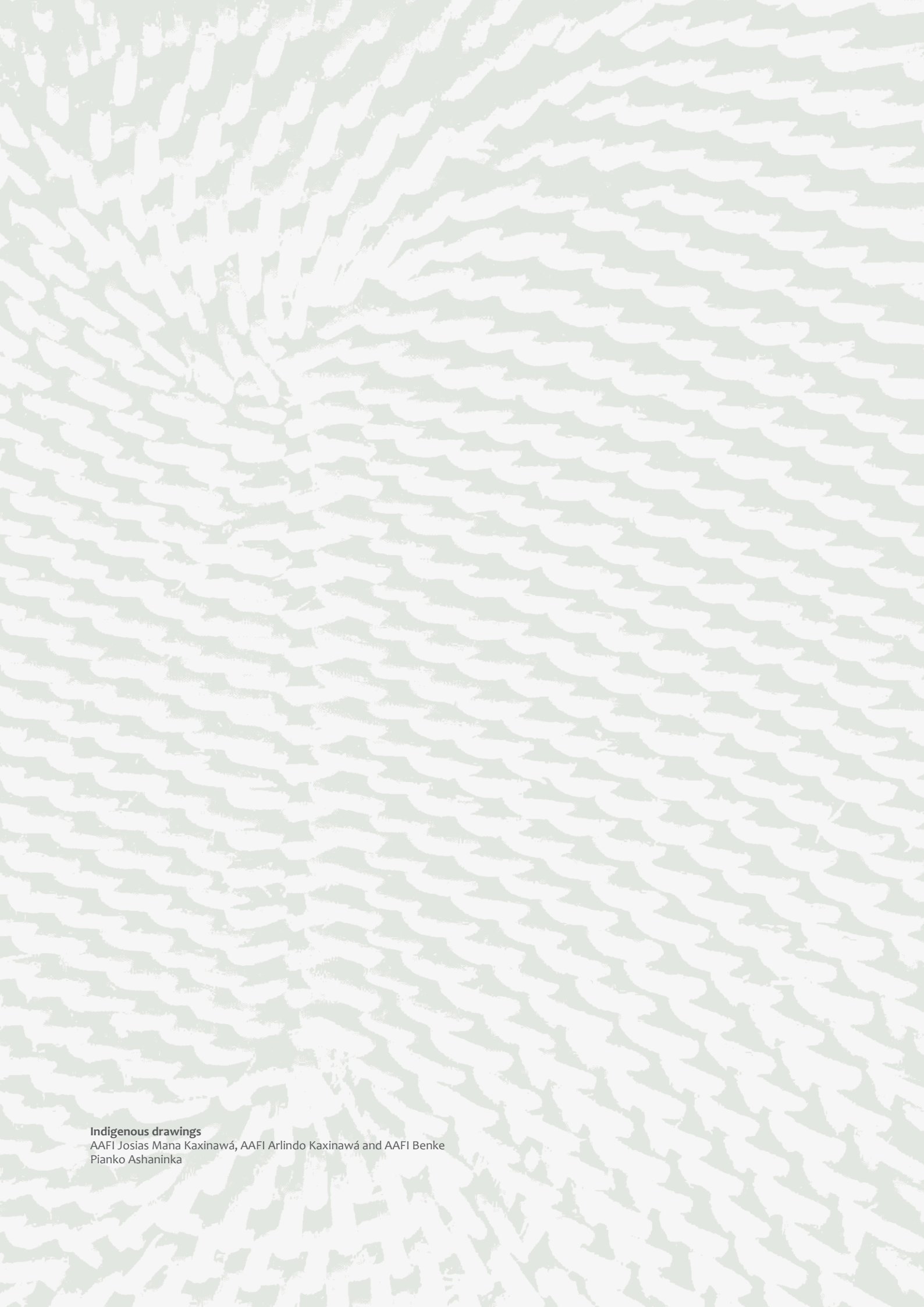


PRESIDENCY OF THE REPUBLIC
PRESIDENTIAL STAFF OFFICE
DEPUTY HEAD OFFICE OF LEGAL AFFAIRS

DECREE No 7,747, FROM 5 JUNE 2012

*Establishes the Brazilian Policy for
Territorial and Environmental Management
of Indigenous Lands – PNGATI, in the
Portuguese acronym – and provides
other measures.*





Indigenous drawings
AAFI Josias Mana Kaxinawá, AAFI Arlindo Kaxinawá and AAFI Benke
Pianko Ashaninka



Presidency of the Republic Presidential Staff Office Deputy Head Office of Legal Affairs

DECREE No 7,747, FROM 5 JUNE 2012

Establishes the Brazilian Policy for Territorial and Environmental Management of Indigenous Lands – PNGATI, in the Portuguese acronym – and provides other measures.

The PRESIDENT OF THE REPUBLIC, in the use of the powers allocated to her by article 84, **main section**, items IV and VI, paragraph “a” of the Constitution, based on the International Labour Organization (ILO) Convention number 169, approved by Decree No 5,051, from 19 April 2004,

DECREES:

Chapter I

PRELIMINARY MEASURES

Article 1. The Brazilian Policy for Territorial and Environmental Management of Indigenous Lands - PNGATI, in the Portuguese acronym - is thus established with the objective of ensuring and promoting the protection, recovery, conservation and sustainable use of natural resources in indigenous territories and lands. It also aims to ensure the integrity of indigenous assets, improve quality of life and guarantee that the current and future generations of indigenous peoples are fully capable of physical and cultural reproduction, respecting their socio-cultural autonomy, in the terms of the legislation in force.

Article 2. Ethno-mapping and ethno-zoning are tools for the territorial and environmental management of indigenous lands.

Sole paragraph: For the purposes of this Decree, the following are considered as:

I – Ethno-mapping: participatory mapping in areas of environmental, socio-cultural and productive relevance for indigenous peoples, based on their knowledge; and

II – Ethno-zoning: participatory planning instrument aimed at categorising areas of environmental, socio-cultural and productive relevance for indigenous peoples, developed from ethno-mapping.

Chapter II

GUIDELINES AND OBJECTIVES

Article 3. The following are PNGATI guidelines:

I – acknowledging and respecting beliefs, uses, customs, languages, traditions and specificities of each indigenous people;

II – acknowledging and appreciating indigenous peoples' social and political organizations, as well as ensuring their expressions, on and off indigenous lands;

III – socio-cultural autonomy and protagonism of indigenous peoples, including through the strengthening of their organizations, ensuring indigenous participation in PNGATI's governance, respected by levels of indigenous representation and gender and generational perspectives;

IV – acknowledging and appreciating indigenous women's contribution and use of their knowledge and practices for the protection, conservation, recovery and sustainable use of natural resources, essential for the well-being, and physical and cultural reproduction of indigenous peoples;

V – contributing to keeping ecosystems on indigenous lands' biomes, through the protection, conservation and recovery of natural resources, essential for the physical and cultural reproduction of the current and future generation of indigenous peoples;

VI - territorial and environmental protection and improving the quality of life in areas set aside for indigenous peoples and indigenous lands;

VII – territorial and environmental protection of lands occupied by isolated indigenous peoples and those who have been contacted recently;

VIII – implementing PNGATI for indigenous peoples and communities, whose lands are located in urban areas, in a compatible manner, and according to their local specificities and realities;

IX – protecting and strengthening indigenous peoples' knowledge and practices, as well as their natural resources' management and conservation systems;

X – acknowledging, appreciating and developing environmental management as a protection instrument for territories and environmental conditions necessary for the physical and cultural reproduction of indigenous peoples and communities, as well as their well-being;

XI – ensuring the right to consultation of indigenous peoples, in the terms of the International Labour Organization (ILO) Convention No 169, approved by **Decree No 5,051, from 19 April 2004;**

XII – acknowledging the rights of indigenous peoples related to environmental services resulting from the protection, conservation, recovery and sustainable use of natural resources that promote their lands, in the terms of the legislation in force; and

XIII – promoting partnerships with state, district and municipal governments to make regional and local public policies, and PNGATI compatible.

Article 4. PNGATI's specific objectives, structured in areas are:

I – area 1 – territorial and natural resources protection:

- a) promote the environmental protection, inspection, surveillance and monitoring of indigenous lands and their limits;
- b) promote the participation of indigenous peoples, communities and organizations in environmental and territorial protection actions of their lands, respecting the police power of responsible public bodies and organizations;
- c) contribute to the protection of natural resources on indigenous lands in a delimitation process, through environmental prevention and defence actions by responsible public bodies and organizations, together with indigenous peoples, communities and organizations;
- d) promote the drafting, systematisation and dissemination of information on the environmental situation of indigenous lands, with the participation of indigenous peoples;





- e) support the signing of agreements and other instruments that enable the access of indigenous peoples to natural resources, which they traditionally use out of the limits of their lands;
- f) promote protection and recovery actions of springs, water courses and fountainheads essential to indigenous people;
- g) support the monitoring of transformations in the ecosystems on indigenous lands and adopt environmental recovery measures;
- h) ensure, whenever possible, that goods seized as a result of illegal environmental actions conducted on indigenous lands may be reverted in benefit to the affected indigenous peoples and communities, as per terms of the legislation in force;
- i) promote ethno-zoning of indigenous lands as a territorial planning and environmental management instrument, with participation of indigenous peoples; and
- j) promote and ensure the environmental and territorial integrity of indigenous lands located in border areas, through internal actions and binational and multilateral agreements, with the aim of fighting and controlling transboundary illegal activities, with particular attention paid to the life of indigenous men and women, from all generations;

II – area 2 – indigenous governance and participation:

- a) promote the participation of indigenous men and women in PNGATI's governance, decision making process and implementation;
- b) promote indigenous peoples and FUNAI's participation in ecological-economic zoning processes that affect indigenous lands directly;
- c) promote water quality monitoring on indigenous lands, ensuring the participation of indigenous peoples and their access to information related to the monitoring results;
- d) support indigenous participation in water basin committees and subcommittees, and promote the creation of new committees in hydrographic regions, essential to indigenous peoples;
- e) promote the participation of indigenous peoples in discussion forums on climate change; and
- f) conduct consultation with indigenous peoples in the environmental permit process for activities and endeavours that affect them and their land directly, in the terms of the joint act of the Ministry of Justice and Ministry of the Environment;



III - area 3 - protected areas, conservation units and indigenous lands:

- a) conduct previous, free and informed consultation with indigenous peoples in the conservation unit creation process in areas that affect them directly;
- b) draft and implement, with the participation of indigenous peoples and FUNAI, joint administration plans for areas that overlap indigenous lands with conservation units, ensuring management by environmental body and respecting indigenous peoples' uses, customs and traditions;
- c) promote indigenous participation in conservation units management councils, located in areas adjacent to indigenous lands; and
- d) ensure FUNAI's participation in management councils of conservation units adjacent to lands where isolated indigenous people or groups who have been recently contacted may be found;

IV - area 4 – environmental damage prevention and recovery:

- a) promote actions with a view to recovering and restoring degraded areas in indigenous lands;
- b) promote prevention and control actions for disasters, damages, catastrophes and environmental emergencies in indigenous lands and surrounding areas;
- c) promote prevention and control actions for contamination by pollution and solid waste, and for other types of natural resources degradation on indigenous lands;
- d) identify native species of socio-cultural importance on indigenous lands and prioritise their use in agroforest systems and in recovering landscape in degraded areas;
- e) promote the recovery and conservation of agrobiodiversity and other natural resources, essential to the food and nutritional security of indigenous peoples, with a view to appreciating and recovering each people's traditional seeds and crops;
- f) promote recovery actions for degraded areas, as well as for restoring environmental conditions of indigenous lands, particularly for preventing and fighting against desertification;
- g) promote environmental compliance for activities and projects set up on indigenous lands, incentivising the adoption of compensation and mitigation measures; and
- h) promote repair measures for socio-environmental liabilities caused by inactive projects and activities on indigenous lands, in compliance with specific legislation;

V - area 5 – sustainable use of natural resources and indigenous productive initiatives:

- a) ensure to indigenous peoples the exclusive use of the wealth in the soil, rivers and lakes on indigenous lands;
- b) strengthen and promote indigenous productive initiatives, supporting the use and development of new sustainable technologies;
- c) promote and support the sustainable use and conservation of natural resources used in indigenous culture, including handcrafts for commercial purposes;
- d) support the replacement of non-sustainable productive activities on indigenous land for sustainable activities;
- e) support socio-environmental impact studies of non-traditional economic and productive activities conducted by indigenous communities;
- f) discourage the use of pesticides on indigenous lands and verify whether **Law No 11,460, from 21 March 2007**, which prohibits the cultivation of genetically modified organism on indigenous lands, is being complied with;
- g) support indigenous sustainable ethno-tourism and ecotourism initiatives, respecting the community's decision and the diversity of indigenous peoples. In addition, when possible, previous studies, socio-environmental diagnosis and capacity-building of indigenous communities for the management of these activities should be conducted;
- h) promote the environmental sustainability of indigenous initiatives for medium and big sized animal husbandry;
- i) promote certifying standards for indigenous peoples and communities products, identifying their ethnic and territorial origin, its condition as an organic product, in compliance with environmental legislation; and
- j) promote quality continuous technical assistance, appropriate to the specificities of indigenous peoples and different regions and biomes;

VI - area 6 – intellectual property and genetic heritage:

- a) acknowledge, protect and promote the rights of indigenous peoples in relation to knowledge, practices, traditional uses, customs, beliefs and traditions associated to biodiversity and genetic heritage on their lands, so as to preserve their right in the distribution of the benefits, in compliance with the legislation in force; and
- b) support and appreciate indigenous research development initiatives, as well as their ethno-scientific and technological creation and production, in order to enable economic, social and environmental strengthening and innovation; and



VII - area 7 – qualification, training, exchange and environmental education:

- a) promote the training of technical staff, structuring and strengthening of public bodies and partners delivering the PNGATI;
- b) train, educate and promote continuous training of indigenous communities and organizations on PNGATI related issues;
- c) strengthen and train indigenous communities and organizations to take part in PNGATI's governance;
- d) promote environmental and indigenous education actions in the areas surrounding indigenous lands;
- e) promote actions aimed at professional acknowledgment, capacity-building and training of indigenous people in territorial and environmental management in upper secondary, higher, vocational and continuous education;
- f) train, equip and raise the awareness of indigenous people on the prevention and control of forest fires and burnings; and
- g) promote and encourage national and international exchange between indigenous peoples, for the exchange of experience on territorial and environmental management, agrobiodiversity protection and other issues relevant to PNGATI.

Chapter III

PNGATI GOVERNANCE

Article 5. The following are PNGATI governance bodies:

- I – PNGATI Management Committee;
- II – FUNAI Regional Committees; and
- III – National Indigenous Policy Commission – CNPI.

Article 6. The PNGATI Management Committee is in charge of coordinating the policy's delivery. It is made up of government and indigenous representatives, as provided for by joint act of the Ministry of Justice and Ministry of the Environment, edited in the terms of article 8.

Sole paragraph: in addition to the responsibilities provided for in the main section, the Management Committee shall:

- I – promote liaison efforts for implementing the PNGATI;
- II - follow up and monitor PNGATI actions: and

III - propose actions, programmes and resources necessary for PNGATI's implementation at the level of the multi-year plan, budget guidelines and the current budget.

Article 7. The coordination position of the PNGATI Management Committee will be filled alternately between representatives from the Ministry of Justice, Ministry of the Environment and indigenous peoples.

Sole paragraph: FUNAI will hold the Executive Secretariat of the PNGATI Management Council.

Article 8. The State Ministers of Justice and of the Environment will draft a joint act to:

I – define the PNGATI Management Committee structure, composition and operation;

II – establish local committees, according to indigenous peoples and communities demands and specificities; and

III – stage a PNGATI national conference.

Sole paragraph: the participation of representatives from indigenous peoples is secured in the process to draft the act provided for in the main section.

Article 9. At the level of its responsibilities, CNPI will follow PNGATI's implementation, with the aim of promoting its coordination with other public policies of interest to indigenous peoples.

Article 10. Participating in the PNGATI governance bodies will be considered the rendering of relevant public, non-paid service.

Chapter IV

FINAL PROVISIONS

Article 11. In what it is compatible, PNGATI applies to areas occupied by indigenous peoples, whose full report identifying and delimiting them has been approved by a FUNAI ordinance, published in the Federal Official Gazette, or areas that have been the object of a ban ordinance issued by FUNAI due to the locating of isolated indigenous people.

Article 12. The PNGATI will be implemented through programmes and actions provided for in the multi-year plan, budget guidelines and annual budgets, as well as other initiatives and partnerships.

Article 13. Expenses incurred delivering PNGATI actions will be paid for with budget allocations earmarked annually to bodies and organizations in charge of its implementation, complying with movement, payment committed and payment limits of the annual financial and budget plan.

Article 14. This Decree comes into force on the date it is published.

Article 15. The following are revoked:

I – Decree No 1,141, from 5 May 1994;

II - Decree No 1,479, from 2 May 1995;

III – article 6 of Decree No 3,156, from 27 August 1999; and

IV – Decree No 3,799, from 19 April 2001.

Brasília, 5 June 2012; 191st of the Independence and 124th of the Republic.

DILMA ROUSSEFF

José Eduardo Cardozo

Izabella Mônica Vieira Teixeira

This document does not replace the one published in the Federal Official Gazette on 6.6.2012.



MINISTÉRIO DA
JUSTIÇA E CIDADANIA

