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Beatriz Garcia

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THE AMAZON FROM AN INTERNATIONAL LAW PERSPECTIVE

With a vast river network and rain forests extending over eight South American countries, the Amazon plays a vital role in maintaining biodiversity, regional hydrology, and terrestrial carbon storage. Due to its ecological characteristics, this region benefits not only the Amazon States, but also the international community at large. The rapid clearing of the Amazon forests, in particular, affects the balance of the global environment, exacerbating global warming trends and contributing to biodiversity loss. This book examines whether international law has an impact on the preservation of the Amazon and to what extent international cooperation can help protect this region. It examines both how the Amazon countries cooperate with each other, as well as how they cooperate with the broader international community. The book also explores whether the Amazon should be granted a special legal status and the possible implications in terms of international cooperation.

Beatriz Garcia is a Research Fellow at the Australian Centre for Climate and Environmental Law at Sydney Law School. She completed her PhD at the Graduate Institute of International and Development Studies in Geneva, Switzerland. She has worked at the Biodiversity and Climate Change Section of the United Nations Conference on Trade and Development, particularly on projects related to the Amazon. She has held positions at government agencies in Brazil and provided advice to institutions such as the Amazon Cooperation Treaty Organization.

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Preface

This book covers international treaties adopted by the Amazon States *inter se* since the end of the nineteenth century, when most of them attained independence from European colonial powers, until the present. It also includes nonbinding instruments, such as decisions, declarations, and plans of action, adopted under the aegis of subregional and regional organizations in which one or more Amazon States participate.

Most of the primary information related to the 1978 Amazon Cooperation Treaty (ACT) (for example, amendments, regulations, resolutions, presidential and ministerial declarations, minutes of meetings, etc.) can be found in successive publications of a document published by the Pro Tempore Secretariats of the ACT entitled “The Legal Basis of the Amazon Cooperation Treaty.” Judicial decisions on matters related to the environment or indigenous communities, issued by tribunals established under subregional and regional organizations (i.e. the Court of Justice of the Andean Community, Mercosur’s Permanent Court of Appeal and Ad Hoc Tribunals, and the Inter-American Court of Human Rights) are also examined here.

Apart from the information gathered at the library resources in Geneva, particularly at the United Nations library, other sources such as early bilateral treaties on boundaries and fluvial navigation among the Amazon States, or speeches delivered at the time of the adoption of the ACT, were collected at the Brazilian Ministry of Foreign Affairs and Federal Council of Justice (Conselho da Justiça Federal) in Brasília. Information was also collected during the author’s short stay at the Amazon Cooperation Treaty Organization (January 2007) and at the Núcleo de Altos Estudos Amazônicos at the Federal University of Pará in Belém (December 2006). On both these occasions, interviews were conducted with various organizations and government agencies.

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Abbreviations and Acronyms

AAPAD	Andes Amazon Protected Areas Database
ACC	Amazon Cooperation Council
ACT	Amazon Cooperation Treaty
ACTO	Amazon Cooperation Treaty Organization
AEPS	Arctic Environmental Protection Strategy
ALFA	Application of Forest Legislation in the Amazon
AMAP	Arctic Monitoring and Assessment Program
ANEC	Associação Nacional dos Exportadores de Cereais
ASEAN	Association of Southeast Asian Nations
AWG-KP	Ad Hoc Working Group on Further Commitments for Annex 1 Parties under the Kyoto Protocol
AWG-LCA	Ad Hoc Working Group on Long-Term Cooperative Action under the Convention
BJ	Legal Basis of the Amazon Cooperation Treaty
BNDES	Brazilian National Economic and Social Development Bank
CAF	Andean Development Corporation
CAN	Andean Community
Caricom	Caribbean Community
CBD	Convention on Biological Diversity
CCBA	Climate Community and Biodiversity Alliance
CCJ	Caribbean Court of Justice
CCM	Mercosur's Council of the Common Market
CCOOR	Coordination Commission of the Amazon Cooperation Council
CDM	Clean Development Mechanism
CER	certified emission reduction
CERFLOR	Programa Brasileiro de Certificação Florestal
CIC	Intergovernmental Coordinating Committee of La Plata Basin Countries

CIF	Climate Investment Fund
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CJAC	Court of Justice of the Andean Community
CMG	Mercosur's Common Market Group
CO ₂	carbon dioxide
CO ₂ e	CO ₂ equivalent
COFO	Committee on Forestry
COP	Conference of the Parties
DRC	Democratic Republic of Congo
EC	European Community
ECJ	European Court of Justice
ECLAC/CEPAL	Economic Commission for Latin America and the Caribbean
ECOSOC	United Nations Economic and Social Council
FAO	Food and Agriculture Organization of the United Nations
FCPF	Forest Carbon Partnership Facility
FIP	Forest Investment Programme
FSC	Forest Stewardship Council
FTAA	Free Trade Area of the Americas
FUNAI	Brazilian National Foundation of Indigenous People
G ₇	Group of Seven
GATT	General Agreement on Tariffs and Trade
GDP	gross domestic product
GEF	Global Environment Facility
GEO-Amazonia	Global Environmental Outlook
GHG	greenhouse gas
GPG	Good Practice Guidance
GTS	Grupo de Trabalho da Soja
GTZ	German Technical Cooperation
IABIN	Inter-American Biodiversity Information Network
IACHR	Inter-American Commission on Human Rights
IBAMA	Brazilian Institute of Environment and Renewable Natural Resources
IBGE	Brazilian Institute of Geography and Statistics
IBRD	International Bank for Reconstruction and Development
ICJ	International Court of Justice
IDB	Inter-American Development Bank
IDESAM	The Institute for Conservation and Sustainable Development of Amazonas

IFC	International Finance Corporation
IFOAM	International Federation of Organic Agriculture Movements
IIED	International Institute for Environment and Development
ILA	International Law Association
ILC	International Law Commission
ILM	International Legal Materials
ILO	International Labour Organization
INPE	Brazilian National Institute for Space Research (Instituto Nacional de Pesquisas Espaciais)
IPAM	Instituto de Pesquisa da Amazonia
IPCC	Intergovernmental Panel on Climate Change
IPEA	Brazilian Institute for Economic Research (Instituto de Pesquisas Econômicas Aplicadas)
ISA	Instituto Socioambiental
ITTA	International Tropical Timber Agreement
ITTO	International Tropical Timber Organization
IUCN	International Union for Conservation of Nature
J. Air L. & Com	Journal of Air Law and Commerce
JI	Joint Implementation
JRC	Joint Research Centre
LBA	Large Scale Biosphere-Atmosphere Experiment in Amazonia
MDG	Millennium Declaration Goals
MEA	multilateral environmental agreement
Mercosur	Common Market of the South
MIGA	Multilateral Investment Guarantee Agency
MMA	Brazilian Ministry of Environment
MMFA	Meeting of Ministers of Foreign Affairs
MOP	Meeting of the Parties
MOU	memorandum of understanding
MRV	monitoring, reporting, and verification
MTC	Mercosur's Trade Commission
NGO	nongovernmental organization
NKCAP	Noel Kempff Climate Action Project
OAS	Organization of American States
ODA	official development assistance
OECD	Organization for Economic Cooperation and Development
OTC	“over-the-counter” offset market
PAC	Growth Acceleration Program
PAS	Sustainable Amazon Plan (Plano Amazônia Sustentável)
PES	payment for environmental services

PNC	Permanent National Commissions
POP	Protocol of Ouro Preto
PPCR	Pilot Program for Climate Resilience
PPG7	Pilot Program to Conserve the Brazilian Rain Forest
ppm	parts per million
PPTAL	Protection of Indigenous Peoples and Land in the Amazon
Proambiente	Program for the Socio-Environmental Development of Rural Family Production
PSA	Pagos por Servicios Ambientales
REDD	Reducing Emissions from Deforestation and Forest Degradation in Developing Countries
REMA	Reunión Especializada de Medio Ambiente
RESEX	Extractive Reserves Project
RFA	Rainforest Alliance
RTC	Revised Treaty of Chaguaramas Establishing the Caribbean Community
SAN	Sustainable Agriculture Network
SBSTA	Subsidiary Body for Scientific and Technological Advice
SC	Special Commissions
SECCI	Sustainable Energy and Climate Change Initiative
Sinmetro	National System of Metrology, Standardization, and Industrial Quality
Sipam	Amazonian Protection System (Sistema de Proteção da Amazônia)
SIS	Species Information Service
SIVAM	System for the Vigilance of the Amazon (Sistema de Vigilância da Amazônia)
Stan. Env'tl. L.J.	Stanford Environmental Law Journal
TCCJ	Treaty Creating the Court of Justice of the Andean Community
TCO	Indigenous Ancestral Territory
TNC	Nature Conservancy
TRIPS	Trade-Related Aspects of Intellectual Property Rights
UN	United Nations
UNASUR	Union of South American Nations
UNCED	United Nations Conference on Environment and Development
UNCLOS	United Nations Convention on the Law of the Sea
UNCTAD	United Nations Conference on Trade and Development

Abbreviations and Acronyms

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UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFCCC	United Nations Framework Convention on Climate Change
UNFF	United Nations Forum on Forests
UNGA	United Nations General Assembly
UNTS	United Nations Treaty Series
v.	versus
VERs	verified emission reductions
WCED	World Commission on Environment and Development
WCMC	World Conservation Monitoring Centre
WHC	World Heritage Committee
WHO	World Health Organization
WRI	World Resources Institute
WTO	World Trade Organization
WWF	World Wildlife Fund for Nature