Atlantic Rainforest Law: Environmental Regression

ROBERTO VARJABEDIAN

Originally the Atlantic Rainforest occupied 1,290,000 km2, in other words, somewhere around 12% of the Brazilian territory. Even presently reduced to around 7% of its original extent and very fragmented, the Atlantic Rainforest has enormous social and environmental importance. For the nearly 70% of the Brazilian population that live in its domain, it regulates the flow of water resources, assures fertility of the soil, controls the climate and protects slopes and ascents of the mountains, besides preserving the immense natural and cultural heritage. Various rivers originate In the Atlantic Rainforest that supply Brazilian cities and metropolitan areas.1

The Atlantic Rainforest is considered National Patrimony by the Federal Constitution (art. 225). There are innumerable national as well as international publications that refer to its importance and the necessity for its protection. Unequivocally it is a Brazilian biome threatened with extinction, which is among the most important and threatened biomes in the world.

Brazil is considered one of the twelve countries containing what is known as megadiversity and is a signer of the Biodiversity Convention. In this context, the Atlantic Rainforest is considered one of the largest repositories of biodiversity on the planet and holds the record of ligneous (angiosperm) plants per hectare (450 species in the south of Bahia), and nearly 20 thousand vegetation species, with 8 thousand of them endemic, besides records for quantity of endemic species among various other groups of plants.

In relation to wild fauna, according to data from the Ministry of the Environment, the Atlantic Rainforest shelters nearly 250 species of mammals (55 of them endemic), 340 amphibians (87 endemic), 197 reptiles (60 endemic), 1.023 birds (188 endemic), besides an approximate 350 species of fish (133 endemic).2 This is without speaking about insects and the many invertebrates and the species which are still undiscovered by science.

According to the Brazilian Institute of the Environment and Natural Renewable Resources (IBAMA) the Atlantic Rainforest today is home to 383 of the 633 animals threatened with extinction in Brazil. Within this context, according to studies by International Conservation[3] and a new list published by the Ministry of the Environment, the greater part of the species inhabiting the Atlantic Rainforest, from among the total of 265 species of threatened

vertebrates, 185 occur in this biome (69%), with 100 (37.7%) of them endemic. From the 160 birds on the list, 118 (73.7%) are found within this biome, with 49 of them endemic. Among amphibians, the sixteen species indicated as threatened are considered endemic to the Atlantic Rainforest. Of the 69 threatened species of mammal, 38 are found in this biome (55%), with 25 endemic. Among the 20 reptile species, thirteen are found in the Atlantic Rainforest (65%), and ten are endemic, the majority restricted to well-defined areas.

As with other Brazilian biomes, knowledge about the Atlantic Rainforest biodiversity and its associated habitats is still limited, which can be seen by the accelerated evolution of numbers of new classifications described for groups of fauna in the last 20 years (Lewinsohn & Prado, 2002). In such a situation, the first step toward preservation of the biodiversity consists in knowing what species exist, where they live, and what are the critical elements for their survival in their natural environment (Wilson, 1994). However, Brazil is far from having a complete inventory of its animal and vegetation species. To give an idea, in just the group of studies led by botanist Harri Lorenzi, from the Instituto Plantarum, in Nova Odessa (SP), it was revealed in 2006 that six new vegetation species are discovered annually in the Atlantic Rainforest environment. Such a situation is repeated in relation to species of fauna, with innumerable examples of discovery of new species involving birds, insects, amphibians, reptiles and many other organisms (Rocha et al., 2003; Rocha et al., 2004).

In turn, studies developed in São Paulo State by the Biotic/FAPESP Program (Rodrigues & Bononi, 2008), provided an enormous contribution to knowledge of the biodiversity. In addition, they reaffirm the gravity of the threats that weigh on the remains of the natural ecosystems of the State. There are remains of native vegetation potentially rich in species, but which are not taken into consideration in the present system of Conservation Units, and natural formations from São Paulo State which have not yet reached the recommended percentage for areas to receive integral protection. These concerns are extensive with regard to the biome of the Atlantic Rainforest.

The conclusions to the studies cited, among other highly relevant aspects, demonstrate that the remaining fragments have a fundamental role in biodiversity conservation and, as a result of the historical degradation of São Paulo State, all of the natural fragments should be protected from disturbances connected with the landscape, by means of restoring Permanent Areas of Preservation or riparian vegetation, which could act as ecological corridors or centers of seed dispersal. They emphasize that even the remaining fragments can exert greater importance in biodiversity conservation, in terms of studies and actions minimizing the degradation, of correcting the direction, connecting the landscape, controlling invasive or over-abundant species, of reintroducing (enriching) the biodiversity, and others by being provided incentive and financial support.

Similarly, there are many studies generated by the scientific community that not only corroborate the guidelines for protecting the natural remaining areas and

connecting them to the landscape, providing evidence that the causes and effects of fragmentation of the ecosystems should be fought by well-founded public policy (Rambaldi & Suárez de Oliveira, 2003). In this context, it is always necessary to emphasize the great dependency between the balance of aquatic ecosystems and preservation of the terrestrial ecosystems that are present alongside or in nearby areas, a fact which implies the survival of many organisms, such as amphibians and fish which are increasingly threatened by changes imposed by human activities in the Atlantic Rainforest's biome (Menezes et al., 2007).

The scenario, however, is pessimistic. The standards and their wide-ranging repercussions, such as the Forest Code, as well as various others that are related to the orientation of environmental licensing, have been subject to important changes, revealing serious technical and legal flaws, as well as permissiveness and flexibility that is in contrast to the present level of threat that hovers over the ecological balance.

The recent Law of the Atlantic Rainforest (Law n.11.428/064 and Decree n.6.660/08,[5] which governs it) is no exception to these tendencies and, in this context, one of the central objectives of this work is to document some of the negative aspects and threats that derive from this version of such rules.

Law n.11.428 of December 22, 2006

Since 1988, the Federal Constitution declared the Atlantic Rainforest a National Patrimony and, in 1993, by means of Federal Decree n.750/93[6], legally defined the terms of protection for the ecosystems inherent within this domain. Federal Decree n.750/93 was in force until its repeal in 2008, by Decree n.6.660, in other words, for fifteen years, during which practices were defined that guided activities toward its protection for all of SISNAMA (Lei n.6938/81).

On 22 December 2006, Law n.11.428 (The Atlantic Rainforest Law) was passed.

However, the text of this legal instrument, as well as that of Federal Decree n.6660/08, represents an evident retreat from the protection and flexibility of the elements contained in Federal Decree n.750/93, without any major change having occurred in the negative picture of continued and aggravated threats hovering over this biome.

In the following commentary and highlights we will present examples that demonstrate some of the changes that occurred, primarily by means of comparisons between Federal Decree n.750/93 and Law n.11.428/08, with some brief references to Federal Decree n.6.660/08, without intending to exhaust the subject.

Deforestation or Suppression

Article 1o of Federal Decree n.750/93 established the prohibition of deforestation, exploitation and suppression of young, advanced or apex stage

vegetation regenerating in the Atlantic Rainforest, without distinction between those categories of vegetation in reference to imposed restrictions (see also articles 5 and 7 of the above mentioned Decree).

In the only paragraph of Article 1, without distinction, suppression of Atlantic Rainforest vegetation in first stage as well as advanced or middle stages of regeneration could be authorized by the relevant state agency with previous consent from the Brazilian Institute of the Environment and Natural Resources (IBAMA) and, when necessary, through notification of the National Council of the Environment (CONAMA), of the execution of works, plans, activities or projects with public utility or social interest by means of its approval of the study and report on the environmental impact.

Law n.11.428/06 regarding the aspects underlined here deserves extended evaluation, primarily in relation to articles 14, 15, 20, 21, 22, and 23.

Considering these guidelines, it is shocking that there has been a differentiated approach to the treatment of first stage vegetative regeneration and advanced and apex stage regeneration, when there has also been expansion of the roster of exceptional correlative interventions.

In this context, it should be noted that new definitions were incorporated within the text of the above mentioned Law (see article 3), that also seek to rescue laws related to the small rural producer, public utility activities and social interest inserted, with certain alterations, from Provisional Measure n.2166-67/01 (Forest Code). One of the alterations enlarges the size of the small rural producer's land to 50 hectares (with the reservation from article 47), from the dimension of 30 hectares which is established within the Provisional Measure (MP 2166-67/01, article 1, paragraph 2, section I, line c).

Articles 14, 20, 21 and 22 define whether deforestation and suppression of new vegetation and that in advanced stage of regeneration of the Atlantic Rainforest biome (exempting from the article 30 section I rule: urban areas, allocated for purposes of subdivision or building) will be will be allowed in exceptional cases, when necessary for fulfillment of works, projects or activities of public utility, scientific research and preservation practices (the two latter situations should be regulated by CONAMA according to article 19); in all cases duly characterized and motivated by its own administrative process, when no alternative technique exists for the proposed development and undertaking location.

In turn, regarding the middle stage regeneration, exempted from the rule of paragraphs 1 and 2 of art. 31 (urban areas, parceled for subdivision or building purposes), articles 14 and 23 establish that secondary vegetation in a apex stage of regeneration could be suppressed in cases of public utility and social interest, in all cases duly characterized and motivated by its own administrative process, when techniques and site alternatives are absent; and even in cases involving scientific research, conservationist practices (see article 3 and article 19), as well as attending to the needs of small rural producers (50 hectares) and traditional

populations, for exercise of traditional agricultural, fishing or forestry uses required for the individual and family's subsistence (article 23, section III).

In this latter case, according to article 24's only paragraph, authorization is granted by the governing state agency, IBAMA being informed, without further need or prior approval of the agency.

An aggravation involves the hypothesis concerning regeneration of the apex stage vegetation within an urban area, suppression of which depends on authorization of the appropriate municipal agency, through determinations (Municipal Environment Council, in a deliberative Planning Director role) and consent provided by the appropriate state agency based on technical counsel (article 14, paragraph 2).

Another reckless permission involves article 28. In this article a competent state agency is empowered to authorize deforestation, the possibility of suppression, and handling based on generic qualification corresponding to "pioneer native tree species in forest fragments in apex stage growth regeneration in which its presence will be greater than 60%," thereby providing ample opportunity for environmental degradation of these environments.

Still referring to the apex stage, even if the exemption established in article 15 is considered, avoidance of the EIA/RIMA requirement, which maintains criteria for authorizing agencies (with exception in the case of mining activity, see article 32), becomes possible.

In a general way, note that the apex stage was unjustifiably neglected and from a technical point of view unwarranted in favor of distinct treatment in relation to first and advanced stage regeneration, including the possibility of technically exempting more effective licensing evaluations, expansion of intervention possibilities and even the hypothesis of municipal level licensing (article 14, paragraph 2) which represents removal of its protection.

Thus Law n.11.428/06 introduces flagrant permissiveness in relation to deforestation and suppression of the middle stage vegetation (also middle stage regeneration of native forest), ignoring its value, functions and environmental services, that will represent obvious loss to the ecologically balanced environment, besides representing loss to the future of this vegetation in terms of more advanced stages of regeneration.

This stance can become even more exacerbated by future instances of the licensing processes in which equivocal classification of vegetation may be viewed without even the prompt and reductive evaluation of vegetative formations, lacking proper analysis of its environmental context in terms of insertion, within the ecosystem, whether from incompetence, insufficient environmental studies, or bad faith (example: advanced stage being classified as apex stage).

In what is referred to as the initial stage of regeneration, the sense previously established by the only paragraph of article 4 of Federal Decree n.750/93 was sharply altered. By comparison to the only paragraph of article 25 in the new Law, it may be seen that it dismantles all of the of the protection

provided this category of vegetation, as previously emphasized, with respect to the perspective of applicable judicial treatment to apex stage regeneration, in the defining example (a State with less than 5% of first and second stage vegetation of the remaining biome of the Atlantic Rainforest).

Within the sphere of protection of the Atlantic Rainforest in urban areas and metropolitan regions, articles 30 and 31 associated with articles 11, 12 and 17 of the new Law deserve strong emphasis, since these explicitly reveal loss of the previous underlying environmental protection conferred in Federal Decree n.750/93, dealing in practice with the possibility of new advanced-stage forest suppression (article 30: preservation guarantee of 50% of the total area covered by this vegetation) and apex stage regeneration (article 31: guarantee of 30% preservation of the total area covered by this vegetation), without considering even that, in setting percentages in this manner, especially in the case of areas with wide range Atlantic Rainforest vegetation coverage, suppression of vegetation will also occur widely.

Besides the directly negative effects in themselves related to the suppression of vegetation, the mandate does not take into account the effects of such hypotheses as the loss to the nearby remaining areas of vegetation, which could suffer such impacts as overloading in terms of the demands for resources for maintenance of fauna populations (competition), micro-climatic changes, adjacent effect, among other aspects.

First, with reference to articles 30 and 31, it should be underlined that article 12, cited in both articles as an exemption, establishes that new undertakings should be started in areas that are already substantially altered or degraded, while using the term "preferentially," which in fact precludes its effectiveness.

In turn, article 17, referring to environmental compensation, incorporates a technically equivocal stance based on the understanding that suppression of a native forest (which also represents a subtraction of multiple ecosystems functions and services essential for the maintenance of environmental quality) can be compensated by the remaining native forests. Well, if areas are subtracted from the native forest, this should not be compensated by reference to an existing forest since, this way, the environmental loss remains lost, permanently. In this universe the accounts don't close, and the area of the Atlantic Rainforest will continue to be reduced. This type of approach allows a wide margin of distortion and introduces equivocations, including that with reference to the scope of environmental licensing.

The exemptions contained in article 30, section II, and in paragraph 2 of article 31 (urban perimeters delimited after the beginning date of the law going into effect), also cannot be considered extenuating, since many Brazilian municipalities, according to the example of what occurred extensively in the coastal regions of São Paulo State, have already incorporated into their urban zones broad surrounding areas from this category, in particular, but not alone,

threatening native vegetation of the coastal lowlands. In paragraph 2 article 31, unequal and prejudicial treatment to the apex stage of regeneration can once again be observed, since, even considering urban perimeters defined after the law having taken effect, suppression of 50% of the total area covered by this vegetation is allowed.

With regard to article 11, a more detailed analysis of section I (a) and its only paragraph is necessary, since it incorporates highly prejudicial gaps that could damage preparation of processes within the scope of environmental licensing, with highly damaging effect to protected environmental assets due to equivocal interpretations.

Article 11 establishes that deforestation and suppression of vegetation in first growth or in advanced and apex stage regeneration of the Atlantic Rainforest biome is forbidden when vegetation "sheltering species of flora and wild fauna threatened by extinction, in the national territory or within the scope of the state, thus declared by the Union or by the States, and the intervention or subdividing could put at risk survival of these species." The only paragraph of that article even establishes that

> verifying the occurrence of what is foreseen in the subheading of section I of this article, authorized agencies from the Executive Government will adopt the necessary measures to protect the species of flora and wild fauna threatened by extinction in the event there will be factors requiring it, and will promote and support the activities and owners of areas that able to maintain or sustain the survival of these species.

In the first place, it is necessary to emphasize that studies, surveys and verifications imposed by section I of article 11, as well as by its only paragraph, primarily require effective verification of the occurrence, or not, of the flora and fauna species threatened with extinction, as derived from article 5, in the passage from Federal Decree n.750/93.

Regarding the occurrence of species of flora threatened by extinction, it is obligatory to explicitly clarify within the scope of licensing, whether within the species of plants cited in official lists in the different levels of authorization some of them occur within the environmental context under analysis, bearing in mind that there should be studies of the different natures of the plants (epiphytes, bushes, etc.) and not only species of trees.

In the same way, with reference to fauna species threatened with extinction, the scope of licensing should be explicitly clarified as to whether some of the fauna species included on official lists from different levels of authorization are among those within the environmental context being analyzed.

In this context, the characteristics of vegetation in the area subject to analysis should be considered, requiring that a broad study of the field be undertaken concerning the wild fauna within the total area of its extension and its surroundings. The analysis should not be finely limited, but comprehensive and

appropriate to the ecosystem. Also to be considered is the occurrence of situations that reveal the breadth of ecological functions relevant to the area under analysis in order to provide example of the paths between remnants, as well as the proximity of Units of Conservation (Lei n.9.985/2000).

In the sense of examining aspects and repercussions with reference to the occurrence of threatened and legally protected species of fauna, always considering the context of the analysis, the cited studies should not be restricted to birds and ground mammals as is common, but include also migratory birds, birds typical of aquatic environments, flying mammals (bats), insects (such as butterflies), fish, amphibians and reptiles, which should be evaluated with clarification of the methodologies used in a specific and detailed manner for surveying fauna, as much in terrestrial environments as aquatic, with reference to the different groups of studied animals, while taking seasonal effects into consideration for the surveys.

Lamentably, these evaluations, such as those cited here, and including those that refer to the evaluation of the nonexistence of technological and site alternatives for the proposed interventions, are rarely conducted properly within the scope of environmental licensing. In addition, in practice, the studies of fauna and often also of vegetation, are usually extremely lacking from a methodological point of view within the scope of environmental licensing. There are serious deficiencies in conceptual approach and in establishment of minimum necessary and indispensable requirements for adequate definition and application of methodologies (dimensions of the campaign field, comprehending taxonomical adjacencies, frequency of studies, representativeness and sufficiency of samples involving temporal and spatial factors, among other aspects).

Following this first step, after observance of the species of flora and fauna threatened by extinction, assuming that this investigation will be properly conducted has been considered in terms of the text in article 5 of Federal Decree n.750/93, this would already be sufficient to overrule suppression of vegetation in primary, advanced and apex stage regeneration. It happens that the new Law adds new elements which compromise effective evaluation.

For example, if the species is threatened with extinction, this is already a strong indication of risk for its survival. The survival risk of the species is strongly associated with levels of destruction of the habitat in which it lives. There is no technical basis to justify suppression of the remains of a biome threatened with extinction, notably in situations in which various endangered species depend in their struggle for survival. Even if it is claimed that specific suppression of vegetation in a given case does not represent survival threat of extinction to the species, the cumulative whole of the interventions could become highly damaging.

It could be arbitrarily alleged, as an example, that specific suppression of vegetation in areas where endangered species occur have been observed, in a given case, that do not represent a threat to their survival because in theory there are populations in other locations that are protected. However, even within the

conception itself this verges on absurdity, considering that as a biome the Atlantic Rainforest, besides comprising an extensive area with differentiated conditions within it, is, as a whole, threatened.

Such equivocal understandings could lead to the summary condemnation of forest fragments unforeseen by the overall protection considered (based, for example, on the supposition that the Units of Overall Conservation Protection would be sufficient to guarantee survival of threatened species), without the underlying need, nor considering aspects such as possibilities of local extinction, interruption of genetic flow by means of ecological pathways, the effect of impoverishment (since the populations are not genetically identical in different areas where they occur), the magnitude of spatial distribution, among others, bringing consideration of the specifics of different groups. This is without speaking of the need to take into account the role of the totality of these interventions, cumulatively, and their effects on a local, regional, and wider scale.

To provide grounding for such analyses, relevant data includes, for example, the populations of each species threatened in different areas, data about the reach of its spatial distribution, its genetic diversity, dynamic aspects such as those with reference to its genetic flow (paths), aspects of its biology and reproduction, among other ecological aspects, which are not available for the vast majority of wild species in Brazil, including those threatened with extinction, nor harbored in the areas of Full Protection Conservation Units.

Study of biological populations of wild fauna frequently involves monitoring their size. The size of a population is a dynamically balanced number between two sets of factors: the increase (births and immigrations) and the loss (deaths and emigrations) of individuals. When the increases exceed the losses, the population grows; when the losses are greater, the population diminishes.

In this context, considering the aspects previously highlighted, it can be emphasized that suppression of forest formations of the Atlantic Rainforest (mid- and advanced stage) in areas where species of flora and fauna have been observed to be threatened by extinction, by means of dubious methodological strategies, should promptly be seen as a threat to the survival of these species, and considered highly prejudicial from an environmental point of view, since, in synthesis, they represent a gradual reduction of habitats indispensable for these organisms. There is no scientific data that proves the contrary.

It should also be remembered that not even surveys of species of flora and fauna have been done in a manner adequate and sufficient within the scope of processes of instruction from environmental licensing. As exacerbation, there are many unknown species and ecological interactions. These factors are more than sufficient to demonstrate the potential for distortion, equivocation and of environmental damage (especially through concession of unwarranted authorization) from these legal devices, as well as to sustain the unequivocal technical conclusion by which the witnessing of an instance of a species threatened with extinction, effected by means of the due methodological

processes (that have yet to be followed), should involve denial of the suppression of vegetation, as anticipated in article 5 of Federal Decree n.750/93.

Thus, the only paragraph of article 11 establishes a gap that opens the way to concession of unfounded authorizations for suppression of native vegetation. In addition, it also opens the way to propositions that are also unfounded or insufficiently conceived, related as much to "fauna management" as to "mitigating measures," sustaining unwarranted damaging authorization for suppression of native vegetation, without consistent scientific basis and proof of technical efficacy, in the sense of "protecting" the threatened species or "guaranteeing their survival." Thus its shocking rhetoric is designed to sidestep biological knowledge, and can be the object of multiple distortions and manipulations within the scope of instruction of environmental licensing.

Therefore the theme of maximum caution is still recommended in the face of future stances (from environmental agencies and/or interested parties) that, in theory, consider the possibility of legitimizing interventions which imply suppression of forest formations in mid and advanced stages of regeneration of the Atlantic Rainforest, through the offer of implanting, in the area of interest, plans or projects for management and conservation of wild fauna concerned with protection of the threatened species.

Exploitation of Rainforest Products

Article 2 of Federal Decree n.750/93 established that selective exploitation of specific native species covered by primary vegetation or in advanced or apex stage regeneration in the Atlantic Rainforest could occur as long as the requirement of avoiding suppression of distinct species was observed by those authorized for practices of clearing land or wooded and similar terrain; of being based on elaboration of projects grounded, among other factors, in previous technical-scientific studies of stocks and from guarantee of the capacity for maintenance of the species; in the establishment of the area and maximum annual removal; and from previous authorization by an authorizing state agency, according to the directives and technical criteria established by it.

In the only paragraph of the cited article 2, a present level is established for exploitation of species of flora which can be used for consumption on the properties or by traditional populations, being subject to authorization by the appropriate state agency. It may be observed that in the only referenced paragraph neither rural proprietors nor small rural producers are spoken of, but instead only properties or ownership by traditional populations or small rural producers independent of authorization by appropriate agencies. The only paragraph of the referenced article shows contradiction and inefficacy, since it speaks of the obligation of assistance, after having set aside the need for authorization.

In this context, it is strange that Federal Decree n.6.660/06 makes changes in relation to article 9 of Law of the Atlantic Rainforest opening the

possibility for eventual exploitation, without direct or indirect commercial intent, whether effected for consumption also on rural properties in general, besides those of traditional populations or small rural producers.

It is worth emphasizing, in this scenario, that the criteria that characterize eventual direct or indirect non-commercial intent cannot be considered harmless, especially considering that this could occur without the consent of authorizing agencies, thus providing an open invitation for clandestine exploitative activities, as well as the most varied irregularities and frauds.

Among established criteria, there are situations referred to such as use of firewood for domestic use, the withdrawal of which can not be greater than 15 cubic meters per year per property or owner. There is also the stipulation for exploitation of lumber for construction of improvements and utensils in ownership of rural property, and in this case the amount withdrawn can not be greater than 20 cubic meters per property or ownership, in every three year period. A serious problem is the absence of control.

Generally it may be noticed that clauses such as articles 2, 3, 5, 8, 10, 11 and 13, among others of Federal Decree n.6.660/08, promote varied possibilities for exploitation of forest products, such as lumber, firewood, among others (as much via eventual exploitation as commercial, with differing levels of control by the appropriate agencies, including non-existent) in the biome of the Atlantic Rainforest, going beyond what is proposed in the law itself, Lei n.11.428/06, and in a manner much more permissive than Federal Decree n.750/93 and, in general, with insufficient requirements for a necessary basis in technical-scientific studies, and with frustration from witnessing pointed relaxation of the mechanisms for control and inspection.

Bringing a halt to any intervention in the Atlantic Rainforest with the intent to exploit forest products should be the aim of technical evaluations anticipated and grounded in the environmental agency, as well as permanent monitoring, and such aspects left unconsidered in Decree n.6.660/08.

It is always good to remember that any proposals for rational management of natural ecosystems should be technically proven in relation to their efficacy, and to clearly define their anticipated objectives, besides counting on control, monitoring and inspection, making clear, among other aspects, what are the results for this management in terms of conservation of biodiversity. To maintain a predominantly forest physiognomy is not to say that the characteristic structural complexity of the well-preserved areas of this biome are maintained with reference to aspects of their composition, structure, dynamic and functionality.

The feasibility of putting into practice the concept of sustainable exploitation established in article 3, item V, of Law n.11.428/06 is quite debatable and remains an assumption, especially in the face of permissive devices from Federal Decree n.6.660/0, even more with reference to the biome of the Atlantic Rainforest.

There are significant limitations in what is referred to as availability of scientific elements and of technical support that guarantees extraction of forest products notably native lumber, which owes a debt of sustainability and guarantee of maintenance of ecological processes, biodiversity and so many ecological attributes (Câmara, 2006).

The concept of sustainable exploitation can be recklessly distorted and manipulated in practice, once, in the majority of cases, there is a lack of scientific data and elements for the duty of evaluation and proof. It can be used in an unfounded manner, inducing equivocation to society, as may frequently be observed.

Final Considerations

The Atlantic Rainforest has not received the treatment deserved by a biome threatened by extinction in the text of Law n.11.428/06 and in Decree n.6.660/08. These legal instruments remove protection from this biome and expand the risks hanging over it. The publication of those norms creates sharp distortions and flexibility in relation to the provisions of Federal Decree n.750/93.

In general, in the text of the new Law, it may be seen that apex stage regeneration was strongly omitted. The unfounded disregard in relation to apex stage regeneration compromises the future, in other words, prejudices hope that the areas in this condition might reach an advanced stage of regeneration.

Articles 30 and 31, associated with articles 11, 12 and 17 of the new Law, deserve strong emphasis, since they explicitly reveal the diminished protection provided by Federal Decree n.750/93, which in practice means opening possibilities for effecting further suppression of advanced or apex stage regeneration forests in a manner extremely damaging for the remains of the Atlantic Rainforest.

In relation to Federal Decree n.6.660/08, in may be noted, generally, that various of its clauses promote varied possibilities for exploitations of rainforest products, such as lumber, firewood, among others (as much from eventual exploitation as commercial) with differing levels of control from authorizing agencies, including their absence) in the biome of the Atlantic Rainforest, going beyond even what is much more permissively allowed by Law n.11.428/06 than Federal Decree n.750/93.

Notes

1 Portal SOS Atlantic Rainforest. Available at: <http://www.sosmatatlantica.org.br>.

2 Source: Relatórios Técnicos Temáticos de Biodiversidade do Subprojeto "Avaliação e Ações Prioritárias para Conservação dos Biomas Floresta Atlântica e Campos Sulinos", Probio/Pronabio/MMA.

3 Conservation International. Available at: <http://www.conservation.org.br>.

4 Lei n.11.428/2006. Available at: <http://www.planalto.gov.br/ccivil_03/_Ato2004-2006/2006/Lei/L11428.htm>.

5 Federal Decree n.6.660/2008. Available at: <http://www.planalto.gov.br/ccivil_03/_ato2007-2010/2008/decreto/d6660.htm>.

6 Federal Decree n.750/93. Available at: <http://www.planalto.gov.br/ccivil_03/decreto/1990-1994/D750.htm>.

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ABSTRACT – Federal Law n.11.428/06 and Federal Decree n.6.660/08, compared to Federal Decree n.750/9,3 contain some environmentally harmful flexibilities and changes, configuring a setback for Atlantic Rainforest protection. In Law n.11.428 it has been verified, for example, that the different treatment for the Rainforest in intermediate stage of regeneration in relation to advanced and apex stage, and Articles 30 and 31, in association with Articles 11, 12 and 17, open new possibilities for deforestation for the forest in an advanced stage, as well as in intermediate stage of regeneration. Decree n.6.660 allows, for example, eventual exploitation of timber and firewood on rural properties without control by the competent agencies.

KEYWORDS: Atlantic Rainforest, Deforestation, Environmental Legislation, Environmental Protection.

Roberto Varjabedian is a biology graduate from UNESP-Rio Claro, Master of Science from the General Department of Ecology of USP, member of the Team of Conserved Natural Areas (Condephaat 1988-1995) and has worked since 1999 as Technical Assistant for the Public Ministry of São Paulo State. @ – varjaba@uol.com.br

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