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## The World Environment Day and the Brazilian PTO's Green Patent Program

**Brazil** | June 4 2021

Almost fifty years ago, the United Nations chose June 5<sup>th</sup> to celebrate the World Environment Day. Each year, a theme is chosen to be discussed by various global entities connected to this subject, aiming to generate positive initiatives for the environment. This year, the theme "REIMAGINE. RECREATE. RESTORE." aims to encourage reflections and actions on the revitalization and protection of natural ecosystems.

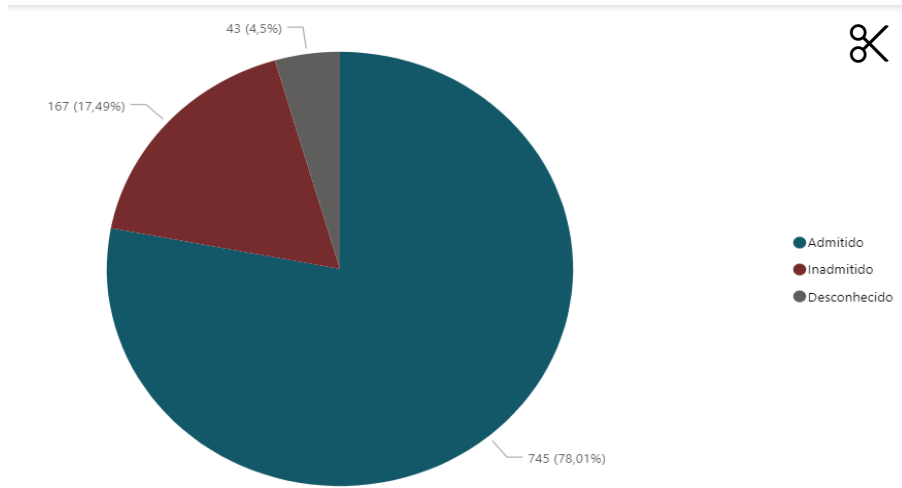
In Brazil, a country that has the largest biodiversity in the world, there is a growing concern about deforestation, a subject recently heated by debates in the National Congress on amnesty for invaders of public lands that were previously occupied by forests. On the other hand, in March, the country took an important step regarding biodiversity issues, as the Nagoya Protocol was finally ratified. One of the most relevant aspects of this international agreement is the establishment of rules related to the fair and equitable sharing of benefits obtained from the use of genetic resources of the signatory countries. Due to the rich and abundant Brazilian biodiversity, one can imagine that Brazil receives special attention in this subject, especially from foreign companies and research centers. Therefore, ratifying the Protocol was essential to guarantee legal certainty for the parties involved in negotiations arising from research involving access to species belonging to originally Brazilian biomes. In addition, the agreement guarantees the rights to receive benefits to local communities whose associated traditional knowledge (ATK) is used for seeking profit.

According to specialists on the subject, ratifying the Nagoya Protocol should have an impact on environmental issues, since the agreement encourages the actors in this process to direct part of the profits originating from access to genetic heritage resources and ATK to the preservation of biodiversity. Additionally, the agreement is expected to have a positive social and economic impact, as the sharing of benefits with local communities and indigenous people generates income and new jobs. Last but not least, the ratification of the Protocol once again gives Brazil the opportunity to encourage national research for the development of new technologies in several areas, such as agribusiness and the pharmaceutical and cosmetic industries.

In view of the promising scenario discussed above, it is essential to perform an adequate protection of new technologies, adding even more value to the obtained results. It is well known that the number of patents in the environmental area, which protect the so-called "green technologies", has increased in recent years worldwide. However, many scientists and inventors, whether Brazilian or foreigners, are still unaware that the Brazilian Patent and Trademark Office (BPTO) encourages the filing of patent applications in the environmental field through a program to fast-track the examination of these inventions.

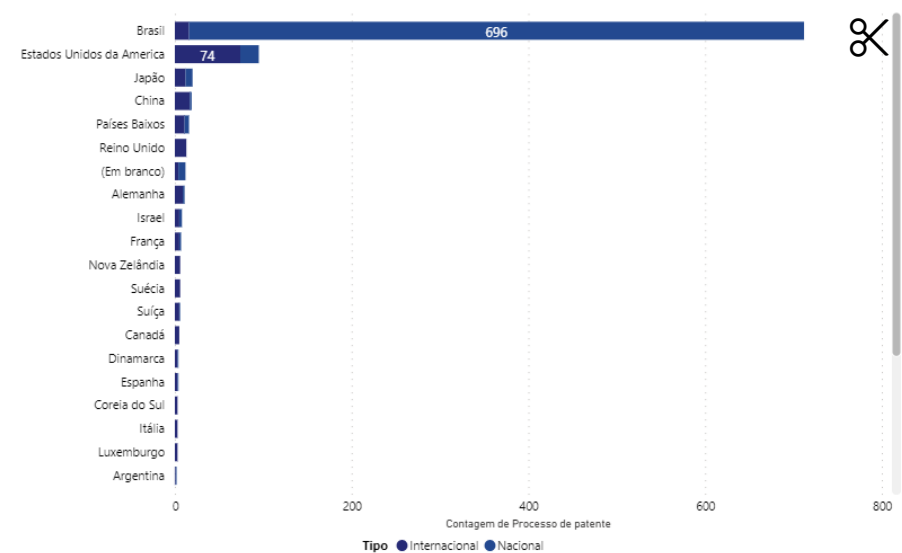
Initially launched by the BPTO as a pilot project in 2012, since 2016 the Green Patent Program has become a permanent service due to its success. Through this Program, applicants can request an accelerated examination of their patent application before the BPTO if it is related to one of the following areas: alternative energies, transport, energy conservation, waste management or sustainable agriculture. These five categories were inspired by the *IPC Green Inventory* of the World Intellectual Property Organization (WIPO) created with the objective of facilitating research on patent information related to Environmentally Sound Technologies (ESTs) listed by the United Nations Framework Convention on Climate Change (UNFCCC).

According to the data available in the BPTO's website, since the beginning of the program in 2012, 977 requests for priority examination based on green technologies have been requested. Among these requests, 954 have already been examined, with 745 being accepted and 167 being rejected, as it can be seen in the following chart:

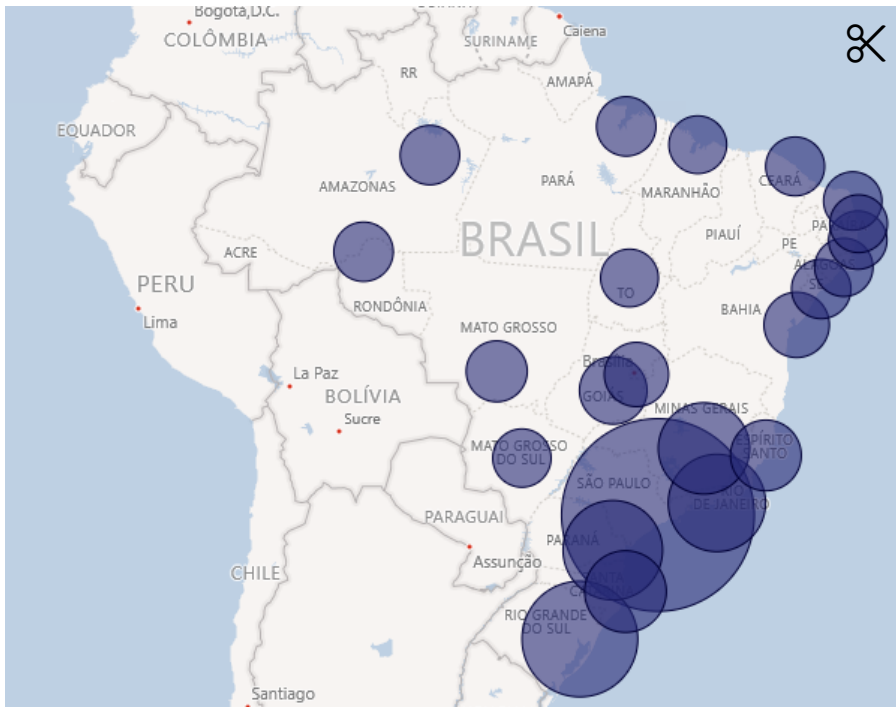


As can be seen, 78% of requests for fast tracking examination of patent applications related to green technologies were accepted by the BPTO. After requesting the fast-track examination, the BPTO takes an average time of 619 days to issue a decision on the technology's patentability, namely, approximately 1 year and eight months. In this regard, the fast-track examination based on green technology is undeniably an excellent option to speed up the granting of green patents in Brazil, since the examination timeframe for these applications is much lower than the average timeframe for a regular patent application, which can be over 10 years depending on the technological field.

Although the numbers show that the BPTO's Green Patent Program has been very efficient – 78% of the requests were accepted and the prosecution timeframe was drastically reduced by more than 80% compared to a regular examination – it appears that this type of fast-track examination is not well known by foreigners: by a large margin, Brazil is the country with the highest number of requests, 712, followed by the United States with 95 cases, as shown in the chart below:



Additionally, it appears that among the requests for green patents in Brazil, the majority of applicants are concentrated in the Southeast region, as shown in the following chart:



Therefore, the next step is to disseminate the Green Patent Program in other Brazilian regions and abroad, so that more companies can use this procedure to expedite the granting of patents related to green technologies in Brazil, thus enabling the efficient and profitable negotiation of these technologies in a shorter period of time.

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