



# Assessing compliance with the Forest Code: **A practical guide**



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## Assessing compliance with the Forest Code: A practical guide

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Editorial Information:

Editorial Information: The Forest Code Observatory (OCF, Observatório do Código Florestal in Portuguese) was created in May 2013 as a mechanism to promote social control over the implementation of Law 12651/2012 (the Brazilian Forest Code) and to ensure the environmental, social and economic integrity of forests on private property. The Observatory's network is made up of 23 independent organizations united by the common goal of promoting the effective implementation of the Forest Code. The Forest Code Observatory's Executive Office is Conservation International Brazil (CI-Brazil).

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To learn more about the work of the Forest Code Observatory, visit:

[www.observatoriodoflorestal.org.br](http://www.observatoriodoflorestal.org.br)

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## Who is the target audience for this guide?

The goal of this guide is to help **buyers of Brazilian forestry and agricultural commodities** to verify compliance with the Brazilian Forest Code in their supply chain.

By demanding that commodity producing companies in Brazil comply with the law, buyers will be able to offer evidence that their products derive from sustainable agricultural sources, and that they do not contribute, for example, to illegal deforestation in Brazil.

This guide presents a range of available and evolving tools to ensure compliance with the Forest Code in the supply chain. The tools described here are credible and practical instruments that buyers can use without the need for legal or environmental specialists.

In this way, the private sector can support the transition to legal compliance in Brazil's rural environment, also with the benefit of promoting commodities produced in Brazil in the domestic and international markets.

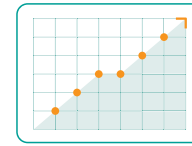
## How to use this guide

This guide aims to help **direct buyers of commodities** to encourage and demand compliance with the Forest Code. It presents:

- › Available and evolving tools to assess and foster compliance
- › Actions that buyers and suppliers can take jointly to comply with the norms

The rules of the Forest Code are presented here as preliminary information. For further in-depth technical information, we recommend reading the bibliographical references mentioned in the endnotes.

## A quick outline of this guide



- 1 Risks and opportunities associated with the implementation of the Forest Code  
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## Section 1 | Risks and opportunities associated with the implementation of the Forest Code



- There are several initiatives by the private sector, investors, public authorities and civil society organizations to promote sustainability in commodity supply chains. The commitments cover a broad range of elements, including halting deforestation, conserving biodiversity, respecting human rights and fighting climate change. Implementation occurs in multiple ways. These include developing legislation, implementing initiatives by the producing sector and civil society organizations, and voluntary certification. These mechanisms seek to ensure that minimum sustainability criteria are met in forestry and agricultural production. Legal compliance is not only an obligation, but also supports meeting, to a greater or lesser extent, many of the voluntary sustainability criteria.



- The Brazilian Forest Code (Law 12651/2012) is an essential tool for ensuring a high standard agribusiness and for achieving sustainable development in Brazil. It establishes criteria for land use and conservation of native vegetation in rural properties. Moreover, full compliance with the Forest Code helps foster sustainability in forestry and agricultural production at the national level. At the same time, non-compliance with the Forest Code poses financial, regulatory, reputational or competitive risks to procuring companies.





## ▲ Risks and opportunities for companies buying agricultural commodities

Forests and other natural ecosystems play an important role in maintaining ecosystem services, water cycles, biodiversity, and carbon stocks.

The Forest Code regulates how native vegetation should coexist with forestry and agricultural activities in rural properties in Brazil. Non-compliance with the Code and the resulting reduction in vegetation cover beyond levels permitted by the law may adversely affect companies' business dealings.

Companies risk penalties, supply shortages, increased commodity costs, and reputational damage (through constant scrutiny by NGOs, the media and the public), among other risks. These all have potential to increase operating costs and reduce revenues and profit margins. These risks may therefore represent a material impact on a company's operations and corporate strategy.

For all these reasons, companies need to manage risks in their supply chains. This includes knowing the origins of the commodities they purchase (soy, meat, sugar, palm oil, timber, cellulose pulp and coffee, among others) and confirming they are produced in compliance with existing laws, with new rules that have not yet been effected, and even with additional sustainability criteria.



Failure to manage these risks may cause procuring companies to sustain various losses. The business case for managing social and environmental risks in supply chains of forestry and agricultural products includes generating value through:

- › Environmental and social corporate responsibility
- › Reputational risk management and brand protection
- › Access to capital and financial services
- › Reputation enhancement and competitive advantages
- › Supply chain security and loyalty
- › Cost savings with efficiency and productivity gains<sup>1</sup>

**MPF**  
Ministério Público Federal

By signing Compliance Agreements (Termos de Ajustamento de Conduta - TACs, in portuguese) enforced by the Federal Public Prosecutor's Office, meat packing plants, tanneries, shoe manufacturers and other companies trading in products sourced from livestock are obliged to implement a set of obligations towards suppliers, who need to comply with a series of environmental and social requirements, including the Forest Code. The TACs have very specific timelines that are monitored by Public Prosecutors and the Brazilian Institute of Environment and Renewable Natural Resources (IBAMA)<sup>2</sup>.

Positioning themselves at the forefront of compliance may benefit companies as they protect their reputation, attract investors (by providing safeguards against financial and reputational risks) and generate shared value along the supply chain. In stable markets, increased efficiency, cost reduction, and buyer–seller loyalty should also be emphasized<sup>1</sup>.

If properly implemented, the Forest Code can be a major competitive advantage for the Brazilian cattle and agricultural crop industries in domestic and international markets.

Regulatory agencies such as the Federal and State Public Prosecutor's Offices continuously strive to ensure compliance with environmental regulations. They hold financial institutions and large retailers jointly responsible for environmental damage arising from activities either financed by them or by their suppliers. Under Brazilian legislation, these institutions are liable if they fail to verify commodity suppliers' compliance with environmental laws and regulations when providing credit or entering into contracts.



The regulatory basis for holding procuring companies and financial institutions jointly responsible for non-compliance with the Forest Code in their supply chain and financed activities is derived from:

Federal Constitution of 1988 - Articles 192 and 225

National Environmental Policy - Law 6938/1981 - Articles 3, Item IV (definition of a polluter); 12 (liability of financial institutions); 14, Item I (civil, criminal and administrative liability of polluters)

Environmental Crimes Law - Law 9605/1998 - Article 2, Environmental liability for monitoring and joint responsibility

Federal Decree 6514/2008 - Administrative breaches and sanctions related to the environment

There are a number of initiatives that promote compliance with the Forest Code in the supply chain. These include:



The **Consumer Goods Forum** is a global network that includes representatives of the world's largest companies, collectively generating more than €2.5 trillion in sales. The Forum recommends, for example, a purchase ban on soy sourced from illegally deforested land, and that companies should only procure certified soy that **ensures production in compliance with the Forest Code**<sup>3</sup>.



**CDP** is an international platform for public disclosure of corporate information. CDP's forest initiative is supported by 365 investors who together represent US\$22 trillion in assets. Its goal is to better understand deforestation-related risks. CDP's investors questionnaire for companies includes questions on regulatory risks related to the production of commodities. The latest version of the questionnaire for supply chains (Supply Chain Program - Forest) specifically asks companies whether they **monitor Forest Code compliance** in their own and in their suppliers' operations, and which compliance indicators are monitored<sup>4</sup>.



The **Tropical Forest Alliance 2020 (TFA 2020)** is a global partnership among governments, private sector, and civil society organizations, which aims to eliminate deforestation from soy, beef, cellulose pulp, paper and palm oil supply chains<sup>5</sup>. TFA's actions in Brazil are based on the principle that companies must work on two simultaneous and integrated fronts: **full implementation of the Forest Code** and elimination of deforestation from supply chains by 2020<sup>6</sup>.



**Coalizão Brasil Clima, Floresta e Agricultura** is a multisector movement comprising more than 150 companies, business associations, research centers and civil society organizations. It provides recommendations to curb deforestation and, at the same time, promote a low-carbon economy in the country. These include **implementing the Forest Code** – without further postponing implementation deadlines, to allow for the development of sustainable cattle, crop raising, and forestry activities, leading the country to adopt a competitive, participatory low-carbon economy that conserves the existing natural resources<sup>7</sup>.

## Section 2 | Forest Code requirements for producers

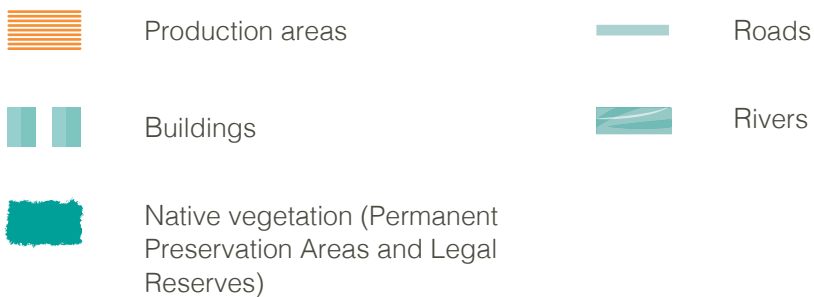
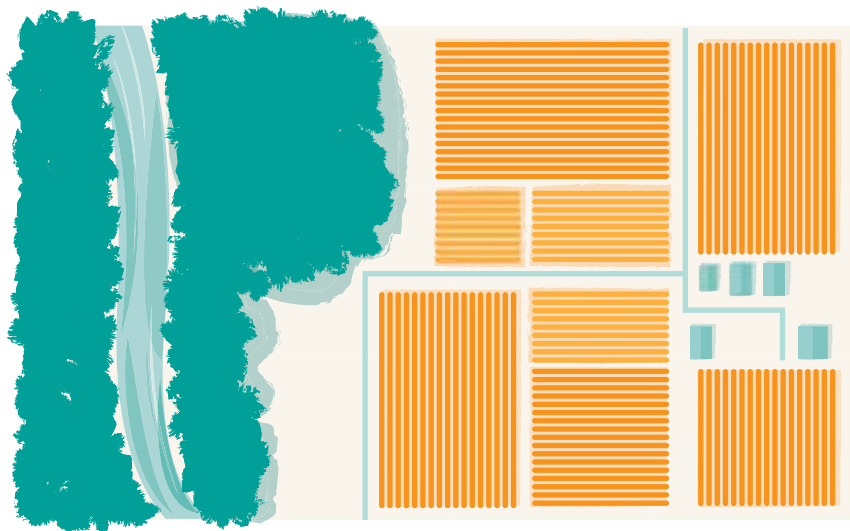


Figure 1: Forest Code requirements

The main obligations established by the Forest Code are:

### Rural Environmental Registry (CAR, Cadastro Ambiental Rural in Portuguese)<sup>8</sup>

An electronic register of georeferenced information about a rural property, including property perimeters, location of Permanent Preservation Areas, Legal Reserves, Restricted Use Areas, and areas of agricultural production.

### Permanent Preservation Areas (APPs, Áreas de Preservação Permanente in Portuguese)<sup>9</sup>

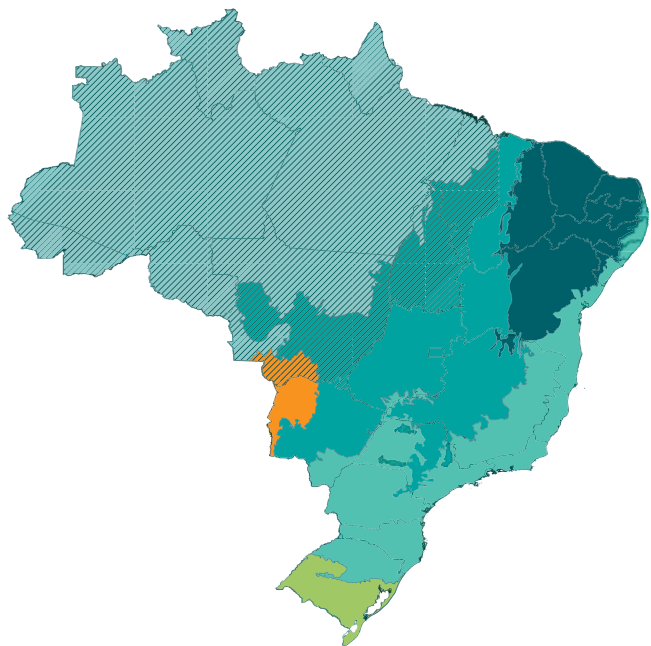
Protected areas, covered or not by native vegetation, with the environmental role of preserving water resources, landscapes, geological stability, biodiversity, genetic flows for fauna and flora, protecting soil and safeguarding the wellbeing of human populations. Examples of APPs are riparian zones, springs, hilltops, steep slopes and mangroves.

### Legal Reserves (LRs)<sup>10</sup>

Areas located in a rural property to protect vegetation and ensure the sustainable economic use of the property's natural resources, support the conservation and rehabilitation of ecological processes, promote biodiversity conservation, and provide shelter and protection to wildlife and native flora. The size of a Legal Reserve varies according to the biome in which the property is located, as well as its Ecological-Economic Zoning (ZEE), if the property is located within the Legal Amazon.

## Percentage of Legal Reserve required by the Forest Code<sup>11</sup>

| Type of vegetation | Legal Amazon |         |            | Rest of Brazil |
|--------------------|--------------|---------|------------|----------------|
|                    | Forest       | Cerrado | Grasslands |                |
| Legal reserve      | 80%          | 35%     | 20%        | 20%            |



### Biomes

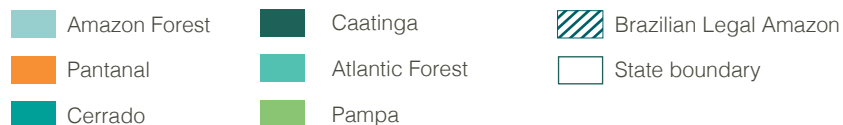


Figure 2: Legal Reserve requirements by region

## How rural landholdings can comply with the obligations of the Forest Code

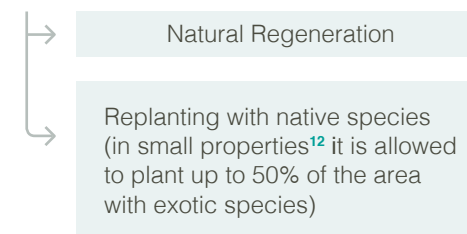
The Forest Code includes transitional rules for landholdings that do not comply with the Permanent Preservation Areas, Restricted Use Areas or Legal Reserves, if they were cleared for production before July 22, 2008. These rules allow for rural landholdings to start a process of compliance by implementing an Environmental Regularization Program.

### Environmental Regularization Program (PRA, Programa de Regularização Ambiental in Portuguese)

Program to be developed by the public sector to be followed by farmers with liabilities in order to comply with the Legal Reserve or Permanent Preservation Areas obligations of the Code, taking into account the environmental conditions specific to each state. The rules to comply with each Forest Code obligations are described as follows.

#### Permanent Preservation Area (APP)

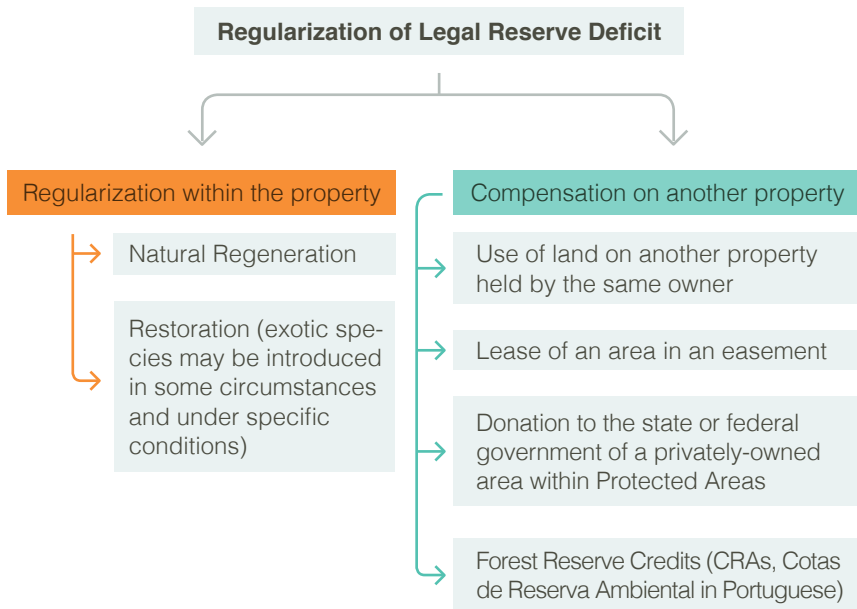
##### Options for restoration of Permanent Preservation Areas





### Legal Reserve (LR)<sup>13</sup>

Rural properties that do not comply with the Legal Reserve obligation required by the Forest Code have different options for meeting the Law:



Landowners who choose to comply through Legal Reserve Compensation on other properties must meet the following requirements:

- › The conversion (deforestation) of the areas to be compensated must have occurred before 22 July 2008 – in other words, recently deforested Legal Reserves cannot benefit from the compensation mechanisms of the Forest Code;
- › The areas used for Legal Reserve compensation must be located in the same biome; and
- › In the same state or in other states, provided that the areas used for compensation are identified as priority areas by the government.

### Legal Reserve Compensation

The main mechanisms for Legal Reserve Compensation on other properties are Forest Reserve Credits and donation of areas within a Protected Area. These are described below.

#### Forest Reserve Credits (CRAs)

Forest Reserve Credits (CRAs, Cotas de Reserva Ambiental in Portuguese) are instruments created by the Brazilian Forest Code to allow for Legal Reserve offsetting between rural properties. Each Forest Reserve Credit represents one hectare (1 ha) of forest Legal Reserve, that is surplus to the amount required by law to be maintained in any given rural property.

Forest Reserve Credits can be used to compensate for the lack of Legal Reserve in another rural property, provided the latter meets certain legal conditions.

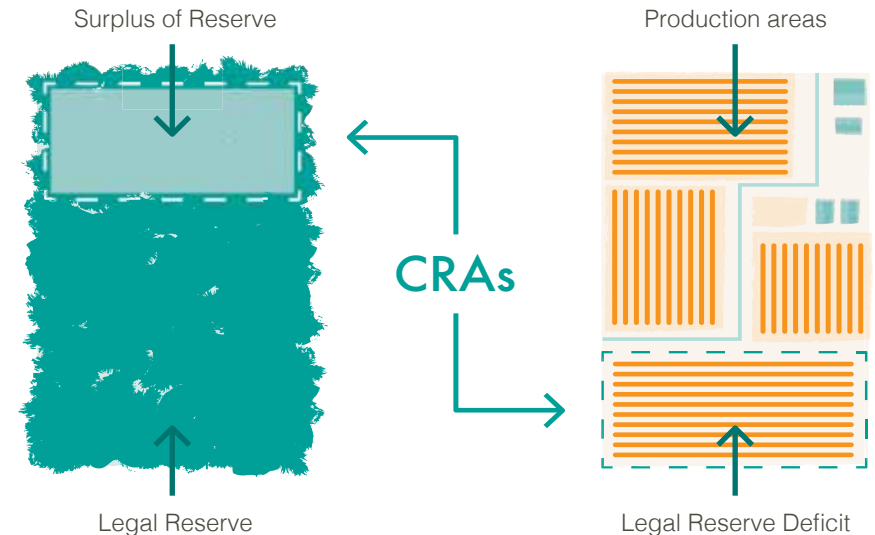


Figure 3: Forest Reserve Credits Mechanism

## ▲ Donation to the state or federal government of a property within Protected Areas

A set of Protected Areas created over the past years by the Brazilian government overlay with private lands. In that process, there was no financial compensation for several landowners due to lack of financial resources from the federal government. The Forest Code allows landowners with Legal Reserve liabilities to offset those by paying to landowners who had productive areas set aside for conservation as Protected Areas. The latter would then transfer the land ownership to the federal or state government environmental agencies.



BVRio Environmental Exchange has a mission to create and promote the use of market mechanisms to facilitate compliance with environmental laws and public policies. BVRio's Legal Reserve Credits platform has been operating since the inception of the Forest Code, and offers Legal Reserve Credits and properties within Protected Areas in all the states and biomes of the country for those that need to use compensation mechanisms to comply with the Forest Code

[www.bvr.io](http://www.bvr.io)

## ▲ Compliance process through transitional rules

The Forest Code established transitional rules setting phases for rural producers' obligations. The regularization deadlines are shown below. It is worth noting however that each state is responsible for defining the implementation rules applicable to their jurisdictions.

By December 31, 2017<sup>14</sup>

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All rural properties must be registered in the CAR. Properties with liabilities must commit to the Environmental Regularization Program (PRA)



Specific date defined by each Brazilian State for signing the Term of Commitment<sup>15</sup>

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Properties with unresolved compliance issues must develop a plan to restore degraded and altered areas, define the compliance mechanism and sign the Term of Commitment<sup>16</sup>

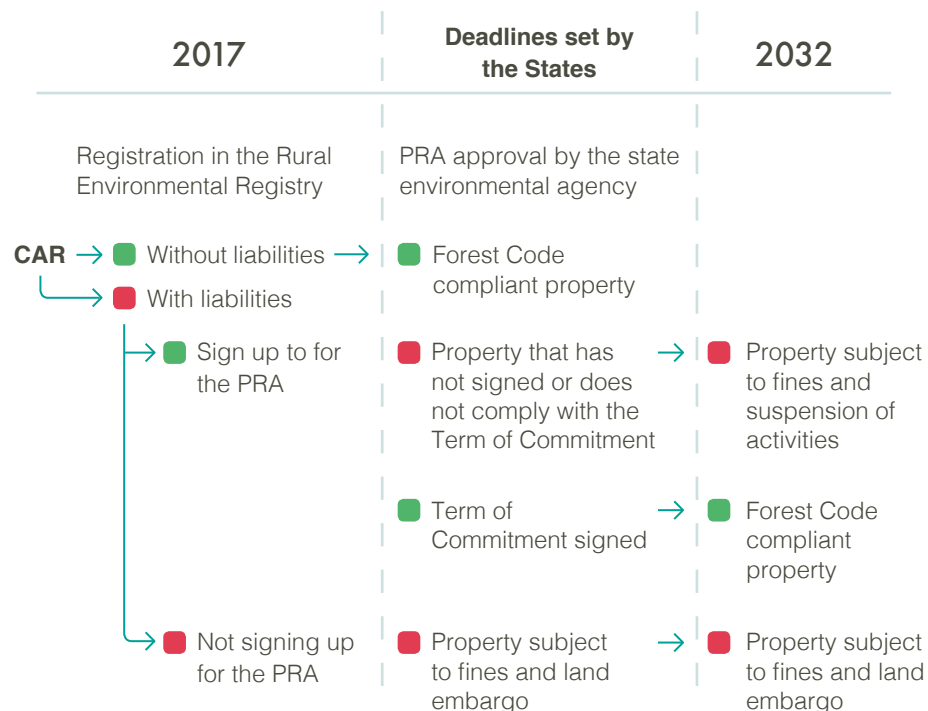


By May 28, 2032<sup>17</sup>

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Achieve full compliance with Forest Code requirements

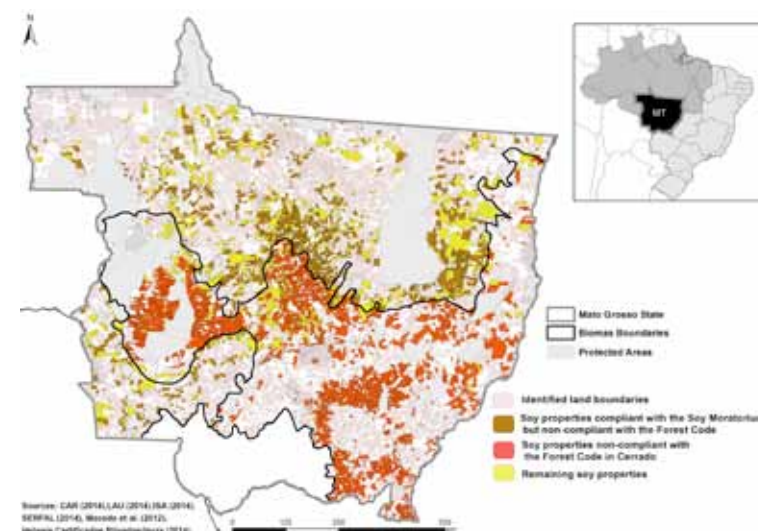
## Timeline for rural property compliance with the Forest Code



Learn more about how producers can offset their environmental liabilities at:

Guide for Application of The New Forest Law to Rural Properties, Imaflora: [http://www.ipef.br/publicacoes/Guia\\_Aplicao\\_Nova\\_Lei\\_Florestal\\_2a\\_edicao-Eng.pdf](http://www.ipef.br/publicacoes/Guia_Aplicao_Nova_Lei_Florestal_2a_edicao-Eng.pdf)

Despite high levels of registration in the CAR<sup>18</sup>, full compliance with the Forest Code is slow. Research indicates that a large number of farms do not comply with the Code. Figure 4 shows a map of soy producing properties in the state of Mato Grosso. **82% of the sampled properties had zero deforestation after July 2008.** However, of these properties, **62% did not comply with Forest Code Legal Reserve requirements**<sup>19</sup>.



**Figure 4:** Compliance of soy producing properties in Mato Grosso with zero deforestation and Forest Code requirements.

**A large proportion of national agricultural, cattle and forest commodity production probably occurs on properties that do not fully comply with the Forest Code.** Despite the official deadlines for registration in the CAR and for environmental regularization, the regularization process will not occur quickly. The sooner efforts are initiated to register properties in the CAR, and the sooner their Legal Reserves and Permanent Preservation Areas come into compliance with the law, the better the chance that these properties will comply with the law within the defined deadline.

To this end, several companies have already made public commitments to ensure the legal origin of the commodities they purchase by introducing environmental requirements for procurement and monitoring compliance with them.

## Section 3 | Official mechanisms available to demand environmental compliance from suppliers

### Individual inquiry by property

The Forest Code is being implemented in phases. Until the end of 2017, it is recommended that **companies that procure commodities directly from suppliers request their CAR registration number and confirm the Active status of the registration in officially available systems.**

Using the CAR registration number, the buyer can verify the environmental status of the property in the Public Inquiry Module of the **Rural Environmental Registry System (SiCAR, Sistema Nacional de Cadastro Ambiental Rural in Portuguese):** <http://www.car.gov.br/publico/imoveis/index>.

For security reasons, some of the capabilities of the Rural Environmental Registry System can only be accessed from Brazilian Internet Protocol (IP) numbers. Users outside Brazil will only have partial access to the system.



This following step-by-step process can be used:

1. Enter the CAR registration number in the field shown on the SiCAR platform.



2. Search results will show the property image and indicate **status, type, municipality** and **area** of the property.



- Click on 'demonstrativo' (statement) to view a summary of the property status and level of compliance with the Forest Code criteria.

### Demonstrativo

Situação cadastro: Ativo  
 Condição cadastro: Aguardando análise

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**Dados do Imóvel**

|   |                                       |
|---|---------------------------------------|
| Área do imóvel: 420,70 ha   | Data de registro no SICAR: 22/10/2014 |
| Módulos fiscais: 4,67   | Data de análise do CAR: -             |
| Município / UF: Sorriso (MT)                                      | Data da última retificação: -         |
| Coordenadas centrais: Lat: 12°30'04,06" S<br>Long: 55°42'32,58" O |                                       |

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**Cobertura do Solo**

|   |          |
|---|----------|
| Área total de remanescentes de vegetação nativa | 93,47 ha |
| Área total de uso consolidado                   | -        |
| Área total de serviço administrativa            | -        |

---

**Reserva Legal**

Situação da reserva legal: Não Análise

|  |          |
|--|----------|
| Área de reserva legal averbada vetorizada                    | -        |
| Área de reserva legal aprovada não averbada vetorizada       | -        |
| Área de reserva legal proposta vetorizada                    | 93,47 ha |
| Total de reserva legal declarada pelo proprietário/possuidor | 93,47 ha |

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**Área de Preservação Permanente (APP)**

|                                 |          |
|---------------------------------|----------|
| Áreas de preservação permanente | 34,01 ha |
|---------------------------------|----------|

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**Uso Restrito**

|                      |   |
|----------------------|---|
| Área de uso restrito | - |
|----------------------|---|

---

**Restrições do IR**

| Origem                        | Descrição | Processamento | Área de conflito (ha) | Percentual (%) |
|-------------------------------|-----------|---------------|-----------------------|----------------|
| Nenhuma restrição encontrada. |           |               |                       |                |

Launched on November 29, 2016, this SiCAR module enables online access to data about rural properties registered all over the country. The system shows the status of a property's CAR registration (**Active**, **Pending**, **Canceled**), implementation of the Environmental Regularization Program, and area overlaps with Protected Areas and Indigenous Lands. Of about 3.2 million registrations prior to February 2017, approximately 1.5 million declared interest to sign up for the Environmental Regularization Program. This demonstrates that producers are interested in bringing their properties into compliance with the law.



**Active:** Rural property registration is shown as Active once registration in the CAR is complete and all necessary data is up to date. After the validated process, property will be shown as active if Permanent Preservation Areas, Restricted Use Areas, Legal Reserves and native vegetation remnants comply with the Forest Code. The status remains Active as long as mandatory data updates are carried out.



**Pending:** Rural property registration is shown as Pending when incorrect information has been detected, or when property boundaries overlap with indigenous territories, conservation units, federal or state lands, prohibited areas, embargoed areas or other rural properties. A Pending status also appears when there is a notice of irregularity related to Permanent Preservation Areas, Legal Reserves, areas of consolidated use, restricted use, and remnants of native vegetation. In addition, a Pending status shows when registrants have not met due diligence requirements within the defined deadlines, or when mandatory data updates have not been made.



**Canceled:** The rural property registration will be shown as Canceled when the declared information has been found to be, in whole or in part, false, misleading, or missing; or when the deadlines have not been met. Canceled status may also result from a fully justified court decision or an administrative decision by the responsible agency<sup>20</sup>.



Using this simple search, the user can verify whether a supplier meets the deadlines for the implementation of the Forest Code.

Registrations are validated in a dynamic manner. Self-declared information is analyzed using automatic systems developed by the Brazilian Forest Service (SFB, Serviço Florestal Brasileiro in Portuguese). As the system develops and registrations are validated, it will be possible to verify whether the property meets the minimum requirements for Legal Reserves and Permanent Preservation Areas.

The Brazilian Forest Service has developed an analysis module which overlays self-declared Legal Reserves and Permanent Preservation Areas information with satellite or sensor images from Landsat, RapidEye and Sentinel. Images are classified according to land-use classes and cross-referencing is therefore simple and fast. Thus, deforestation that occurred after 2008 and inconsistent self-declared information will be easily detected.



## ▲ Inquiry by property groups

Some companies source commodities from a large and diverse number of suppliers. This makes the inquiry by individual property slow and dependent on human resource availability. There is **so far** no system which allows for the simultaneous analysis of multiple properties. Nevertheless, SiCAR provides data that can be used by procuring companies to facilitate the analysis process.

Using existing information and **with the help of information technology experts**, procuring companies can facilitate the analysis of data from a large group of producers. The following steps outline the process:

1. On the SiCAR's website, click on **base de downloads (Downloads)** and choose the state to be analyzed in **alterar UF (Change state)**



2. Download **CSV files** for the municipalities of interest



| 1  | numero_car                                  | area      | uf | municipio  | modulos_fiscais | situacao |
|----|---|-----------|----|------------|-----------------|----------|
| 2  |   |           |    |            |                 |          |
| 3  | AC-1200013-8F8E417340D84EE1AF9BC0A05F82C93E | 833,743   | AC | Acrelândia | 0.8337          | Ativo    |
| 4  | AC-1200013-8144F32050544474B2785545094FAC3D | 773,553   | AC | Acrelândia | 0.7736          | Ativo    |
| 5  | AC-1200013-AB6A15E4DE454AEEB78461A6EA35BAC2 | 740,225   | AC | Acrelândia | 0.7402          | Ativo    |
| 6  | AC-1200013-8F989C28D454421697C7A8D6690118AD | 723,800   | AC | Acrelândia | 0.7238          | Ativo    |
| 7  | AC-1200013-1165F51656AE4E61958EB7B94249B652 | 824,025   | AC | Acrelândia | 0.8240          | Ativo    |
| 8  | AC-1200013-7F9077EED34645F382BE848DACF66206 | 1,400,281 | AC | Acrelândia | 14,003          | Ativo    |
| 9  | AC-1200013-A2AE1ADE33EE4799994D3D8BE1634976 | 863,920   | AC | Acrelândia | 0.8639          | Ativo    |
| 10 | AC-1200013-69EB1DD7437A4C9898678F78836B9CB3 | 627,844   | AC | Acrelândia | 0.6278          | Ativo    |
| 11 | AC-1200013-05699190CD264F89AD46CA7F8F3EED4  | 683,301   | AC | Acrelândia | 0.6833          | Ativo    |
| 12 | AC-1200013-8AEADC68676D48B6949167E639290B7B | 677,589   | AC | Acrelândia | 0.6776          | Ativo    |
| 13 | AC-1200013-EAE4B507424C4C80A6714A25F047E949 | 726,489   | AC | Acrelândia | 0.7265          | Ativo    |
| 14 | AC-1200013-F44698989F16407190093F59A1C7DF18 | 701,516   | AC | Acrelândia | 0.7015          | Ativo    |
| 15 | AC-1200013-FD89A198857148COA116E9027EACE62B | 763,844   | AC | Acrelândia | 0.7638          | Ativo    |
| 16 | AC-1200013-3DE92899787D4E8DBC66C6EA84938007 | 659,247   | AC | Acrelândia | 0.6592          | Ativo    |
| 17 | AC-1200013-7154FC09901A4D0E8BD16B484029D7E6 | 826,573   | AC | Acrelândia | 0.8266          | Ativo    |
| 18 | AC-1200013-8CDF11C09E984C688C64A50F468E0957 | 753,223   | AC | Acrelândia | 0.7532          | Ativo    |
| 19 | AC-1200013-1FEDC25F012340C1B0016904BD69CAC1 | 668,695   | AC | Acrelândia | 0.6687          | Ativo    |
| 20 | AC-1200013-58310D3880524F10914788C329C05813 | 730,810   | AC | Acrelândia | 0.7308          | Ativo    |

3. In collaboration with the company's information technology team, assess the information obtained

This stage requires the creation of a full list of suppliers, which can be cross-referenced against the information obtained from SiCAR. To speed up the process, solutions can be devised to analyze a large number of properties.



The Brazilian Forest Service's online tool will be improved in the future to include new functionalities. It is recommended that SiCAR enables a direct connection to be made with commodity procuring companies' information systems. This will allow companies to stay up to date and enable them to analyze a large number of their suppliers' CAR's registrations.

SiCAR may also be able to indicate areas that were deforested after July 2008. The legality of this deforestation must be verified by cross-referencing licensing data or by requesting licenses directly from producers.

The results may help procuring companies in several ways:

1. Understanding company exposure to the risk of non-compliance with the Forest Code by suppliers
2. Deciding how to engage with suppliers in a more effective manner
3. Prioritizing efforts to monitor compliance with the Forest Code and reduce exposure to the risks of illegality in the supply chain

#### How often should the supply chain be analyzed?

This depends on many variables such as the commodity procured, relationship with suppliers, procurement frequency, market demands, the company's influence on the supplier, and the usefulness of the information. For suppliers with long-term contracts, the analysis may take place annually or at the time of contract renewal. For suppliers with short-term contracts, the analysis might take place at the time of procurement. The company should take into account how often it will communicate its progress to the interested parties, both internally and externally.

## How to request suppliers to comply with the Forest Code

Companies commonly add specific compliance clauses into contracts to request information and documents from their suppliers, including those related to sustainability. The text below can be used in commodity procurement agreements:

[Company XXXX – the commodity producer/seller] agrees to present proof of registration and statement of status with the Rural Environmental Registry (CAR) to [Company YYYYY – the direct commodity buyer]. Should there be environmental liabilities, e.g. in case Legal Reserves or Permanent Preservation Areas need to be restored, [Company XXXX – the commodity producer/seller] undertakes to comply with the requirements and deadlines established by the responsible agency.

In some supply chains, contracts may be in effect for several years. Therefore, it is important to add Forest Code related clauses into contracts at the time of renewal so that by the end of 2017 (final deadline for producers to register with the CAR) producers are committed to presenting their registration to procuring companies.

## Section 4 | Monitoring: Performance Indicators

The use of Key Performance Indicators (KPIs) is recommended to assess the level of compliance with the Forest Code by direct suppliers. KPIs are useful collaboration tools for communicating (internally or externally) the company's progress in managing illegality risks in the supply chain. They also help the company to define its plan of action and supply chain engagement according to the level of compliance with the Forest Code.

|  | 2017 | 2018 | 2019 | ... |
|--|------|------|------|-----|
| Suppliers who disclose the origin of their products (% , number and volume procured)   | X    | X    | X    | X   |
| Suppliers with CAR registrations (% , number and volume procured)  | X    | X    | X    | X   |
| Suppliers with validated CAR registrations (% , number and volume procured)  |      | X    | X    | X   |
| Suppliers with pending issues who have signed the Environmental Regularization Program's Term of Commitment (% , number and volume procured) |      | X    | X    | X   |



## Explaining the KPIs

Indicators of compliance with the Forest Code:

### Why is it important to know the origin of products?

To understand producer compliance with the Forest Code, it is necessary to know first who the producer is.

### Why is it important to monitor how many suppliers are registered in the CAR?

This is the first requirement of the Forest Code, which will be mandatory by the end of 2017. Suppliers who have not registered in the CAR will be in violation of the law. Waiting until close to the deadline to find out whether suppliers have registered with the CAR is risky for procuring companies as they might have contracts with suppliers who do not meet the legal deadline for compliance with the Code.

### Why is it important to monitor validated CAR registrations?

A validated CAR registration constitutes approval by the environmental agency of the property's compliance with the law, or identifies whether any action is needed to address liabilities. Waiting until close to the deadline is risky for procuring companies as their suppliers might fail to comply with the requirements within the legal deadlines.

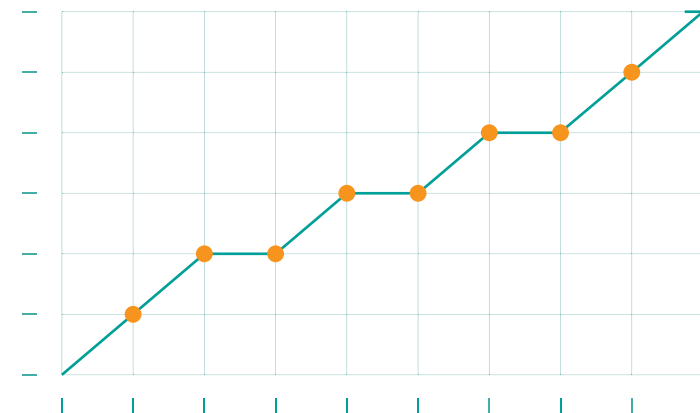
Apart from the indicators above, companies can also monitor the deforestation that occurred after July 2008.

### Why monitor deforestation since July 2008?

Some studies show that most recent deforestation has violated Forest Code rules<sup>21</sup>. Therefore, it is possible that post-2008 deforestation was illegal, which may be an indicator of the risk of legal non-compliances.

It is recommended that KPIs are updated periodically. Each company should define how often KPIs will be updated, according to the commodity supply chain in which they are active. Companies are encouraged to publicly disclose the results (at least annually) to demonstrate to the many interested parties that they are committed to ensuring the legal origin of the raw material they procure.

You can't manage what you don't measure



## What can be used as a proxy today

A proxy is a variable used in the place of another difficult-to-measure variable, and with which it is assumed to be correlated. A producer's participation in an initiative to foster Forest Code compliance may be an indicator that their risk of non-compliance with the Code is reduced.

Although time is pressing for properties to comply with environmental requirements and demonstrate that Brazilian commodity production meets stringent environmental criteria, neither SiCAR nor the Environmental Regularization Programs are yet fully operational.

In the absence of official references to support supplier assessment, other mechanisms are already in use by the private sector to ensure and promote production sustainability. There are initiatives that either require CAR registration or help producers to register. There are initiatives that help restore Permanent Preservation Areas, and initiatives that certify properties where Permanent Preservation Areas and Legal Reserves comply with the law. A broad array of initiatives exists to promote or provide evidence of sustainable livestock and agriculture production, entailing some form of property compliance verification. The private sector can and should use such initiatives to manage risks in the supply chain.

It has become increasingly common practice for companies to assess supply chain risks in order to prioritize their supplier engagement efforts. It is not in the scope of this guide to discuss how this assessment should be carried out, but to suggest that existing tools are used in that matter.

Thus, the buyer may conclude that suppliers who are not registered in the CAR but who participate in Forest Code compliance initiatives might pose a lower risk than those who do not present any evidence of compliance.



BusCAR is a private, electronic property search tool. It enables users to search for rural properties in Brazil and verify property compliance with the criteria established in the Livestock Production Term of Commitment (TAC) and in the Protocol on Social and Environmental Responsibility for the grain supply chain, among other assessment criteria. The tool offers the following services:

- › Registration and mapping of suppliers and customers
- › Assessment of CAR registrations
- › Analysis of patterns of social and environmental compliance for production and rural financing
- › Recording inquiries and transactions
- › Creation of internal audit reports and social and environmental reports

<http://terras.agr.br/buscar/>



Do Campo à Mesa (From the field to the table)

This initiative aims to promote efficiency in the beef supply chain and reduce environmental impacts, stimulating social and economic development in accordance with environmental legislation. It offers technical support to producers by monitoring production and tracking products until they reach the end consumer. Producers who want to participate must be registered in the CAR. They receive recommendations for environmental regularization of Permanent Preservation Areas and Legal Reserves, based on an environmental assessment of their properties.

<http://www.tnc.org.br/nossas-iniciativas/do-campo-a-mesa/index.htm>



Certification can also be used as a proxy in the verification of compliance with some elements of the Forest Code, because a fundamental principle of certification standards is compliance with the national legislation. The Forest Code is still being implemented at the national level and it is therefore recommended that the company confirm with the certifying body which elements of the Code (CAR, Permanent Preservation Areas, Legal Reserves) have been verified and whether there are any further requirements.

Companies should be responsible for assessing the extent to which each initiative may help reduce supply chain risks.



## Section 5 | Engaging with suppliers: alternatives for promoting environmental regularization in the supply chain

The commodity market is highly competitive and encounters difficulties in paying premiums for specific products. In many supply chains, experience shows that it is not always possible to restrict procurement to specific producers or to make too many demands in relation to production.

By being aware of these challenges, **direct buyers** can engage their suppliers so they do not exclude them from their supply chain immediately, but work together to achieve full compliance with the Forest Code. **Positive engagement** can take many different forms, from 'subtle touches' (e.g. by communicating the market's new demands) to long-term leadership in a program (for example to help producers comply with the Code).



Through their Legal Supplier Program, JBS established a partnership with environmental consultancy firms to help producers register in the CAR at a lower cost. The consultancy firms also provide recommendations for the environmental regularization of Permanent Preservation Areas and Legal Reserves in rural properties.

<http://jbs.com.br/sustentabilidade/>



Soja Plus is a Continuous Improvement Program offered at no cost by the Brazilian Soybean Producers Association (Aprosoja) to associated producers. One of the program's goals is to foster a gradual and continuous improvement of soybean production's social, economic and environmental aspects through better management. Support for environmental regularization occurs through capacity building workshops and producer training.

<http://www.sojaplus.com.br/>



The Produzindo Certo Platform (Doing it right) allows rural producers to disclose details of their properties' environmental, social and production profiles based on an analysis by Aliança da Terra. This socio-environmental diagnosis assesses the property and offers a series of recommendations for improvement, including environmental regularization. The approximate location of properties can be seen at:

<https://get.aliancadaterra.org/index/pt>

As a last resort, a supplier might be delisted if they make no effort to regularize the environmental liabilities of the property.

The following steps are suggested for the supplier engagement process. Each company should define a strategy taking into account risk exposure, partners and existing initiatives, available resources, and others.



1. The direct buyer requests CAR registration from producer

2. Forest Code Compliance Analysis

- a. Identification of suppliers who do not comply with the Forest Code in terms of:
  - i. Current requirements
  - ii. Future requirements
- b. Prioritization of suppliers for engagement activities
- c. Development of procedures to address supplier non-compliance with the Forest Code in order to encourage compliance and adoption of good practices



3. Supplier engagement

- a. Communicating the need to meet the requirements of the Forest Code. It is important to communicate both current and future requirements, as suppliers may not know of any requirements other than CAR registration

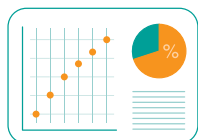
#### What are producers' main concerns?

Producers who are required or encouraged to comply with the Forest Code may ask several legitimate questions, such as:

- › Where can I get technical guidance on the actions that I need to take?
- › How can I get help to achieve environmental regularization of my farm?
- › Are there any organizations that can help me pay for the actions?
- › I am investing time, energy and resources to achieve environmental regularization of my property but what advantages do I have compared to my neighbor?
- › What will differentiate me from other producers? Will they all also have to adapt to the rules?

Procuring companies should consider these questions and identify ways to respond to them to maximize positive engagement.

- b. Establishing a formal commitment on the part of the supplier to comply with the Forest Code
- c. Defining a Continuous Improvement Plan with deadlines and commitments
- d. Where possible, existing local or regional programs should be considered. It is important to determine which organizations are active in the producer's region and make use of both existing trust relationships and local technical capacity



4. Progress Monitoring and Reporting
- a. Planning and execution of actions where goals are not achieved

#### Legal Compliance and Elimination of Deforestation from Commodity Production in Brazil

This study documents a series of initiatives that seek to support implementation of the Forest Code and zero deforestation commitments.

More information at [www.proforest.net/cumprimentolegal](http://www.proforest.net/cumprimentolegal)



#### TFA 2020 Digital Collaboration Platform

Mapping of initiatives that support zero deforestation commitments. A map of initiatives will be available via the Global Forest Watch site: a launch is planned for March 2017. The map will enable updates by organizations that promote the initiatives.

For more information on the Global Forest Watch, visit: [www.globalforestwatch.org](http://www.globalforestwatch.org)



## Notes and references

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- 7 Coalizão Brasil Clima e Florestas. Available at: [coalizaobr.com.br](http://coalizaobr.com.br); Newsletter sent on December 2, 2016.
- 8 Article 29 of Law 12651/2012.
- 9 Item II of Article 3 of Law 12651/2012.
- 10 Item III of Article 3 of Law 12651/2012.
- 11 Law 12651 of May 25, 2012. Available at: [www.planalto.gov.br/ccivil\\_03/\\_ato2011-2014/2012/lei/l12651.htm](http://www.planalto.gov.br/ccivil_03/_ato2011-2014/2012/lei/l12651.htm).
- 12 The size of a "small property" is defined by region, ranging from 20 to 440 hectares.
- 13 The Legal Reserve area percentage can be modified in accordance with Articles 12 and 13 of the Forest Code. These articles address the Ecological-Economic Zoning and the size of the territory occupied by public domain conservation units and indigenous lands licensed in the state or municipality.

- 14** Item III of Article 29 and Item II of Article 59 of Law 12651/2012 – The deadline may be extended to December 31, 2018 by an act of the Chief of Executive.
- 15** Item III of Article 59 of Law 12651/2012.
- 16** The Term of Commitment (TC) is the contract between the landowner or landholder and the state in which the property is located. In the contract the parties agree to execute environmental regularization actions within the deadlines and under the terms described in the Project for Recovery of Degraded and Altered Land (PRADA, Plano de Recuperação de Áreas Degradadas ou Alteradas in Portuguese).
- 17** The maximum deadline of 20 years for the regularization of the rural property is defined in Item II of Article 66 of Law 12651/2012 for the exceptional case of adopting ‘restoration’ as a means of achieving Legal Reserve regularization. As the Law entered into force on the date of its publication, i.e. May 28, 2012, and under the terms of the Law of Introduction to the Brazilian Civil Code, a deadline of 20 years is counted from the date of publication onwards. May 28, 2032 is therefore the final deadline date for compliance with the Law.
- 18** Brazilian Forest Service, 2017. Rural Environmental Registry - Newsletter of January 31, 2017.
- 19** Azevedo, A.A., Stabile, M.C.C., Reis, T.N.P. 2015. Commodity production in Brazil: Combining zero deforestation and zero illegality. *Elem Sci Anth* 3: 000076.
- 20** Brazilian Forest Service, 2016. Rural Environmental Registry - Newsletter of October 31, 2016.
- 21** Nolte, C. et al. 2017. Conditions influencing the adoption of effective anti-deforestation policies in South America’s commodity frontiers. *Global Environmental Change*.

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