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ASSOCIAÇÃO BRASILEIRA DOS MEMBROS DO MINISTÉRIO PÚBLICO DE MEIO AMBIENTE

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ENVIRONMENTAL DUE DILIGENCE GUIDELINES FOR PURCHASES OF BRAZILIAN PRODUCTS BY THE EUROPEAN UNION

ACCORDING TO REGULATION (EU) Nº. 1115/2023[1,2]

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The **BRAZILIAN ASSOCIATION OF MEMBERS OF THE PUBLIC PROSECUTOR'S OFFICE OF THE ENVIRONMENT (ABRAMPA**), a civil entity that brings together members of the Brazilian Public Prosecution Service working in the legal defense of the environment and urban planning, registered under the Corporate Taxpayer's Registry (CNPJ) No. 02.322.438/0001-11, with headquarters at Rua Araguari, 1795, Santo Agostinho, Belo Horizonte/MG - CEP 30.190-111, and **the COMMITTEE ON THE ENVIRONMENT (CMA), a body of the NATIONAL COUNCIL OF THE BRAZILIAN PUBLIC PROSECUTOR'S OFFICE (CNMP)**, established by the Resolution No. 145/2016 and made permanent by Amendment to the Rules of Procedure No. 20/2019, in the exercise of the powers provided for in Article 130-A, paragraph 2, item I, of the Federal Constitution and in Article 30, *caput*, of the Internal Regulations of the National Council of the Brazilian Public Prosecutor's Office, in compliance with its institutional objectives, through this document, present its contributions regarding the environmental due diligence measures that must be employed in the purchase of Brazilian products by the European Union (EU) for full adherence to the Regulation (EU) No. 2023/1115, in particular with regard to non-compliance with Brazilian legislation concerning the protection of native vegetation.

Whereas, in May 2023, the European Union issued the Regulation (EU) No. 2023/1115, known as the *European Union Deforestation Regulation* (EUDR), the objective of which is to prevent the import and regional marketing of products from areas deforested after December 31, 2020 or produced in non-compliance with the legislation of the country of production and, thus, contribute to the reduction of deforestation and forest degradation and to the containment of biodiversity loss and greenhouse gas emissions (LOPES, CHIAVARI, SEGOVIA, 2023; EUROPEAN UNION, 2023);

Whereas the due diligence processes aim, based on the analysis of the production chain and corporate practices, to identify, prevent, and mitigate potential impacts caused by companies on Human Rights, with a view to promoting effective actions to combat them, which must be duly monitored and communicated (UNITED NATIONS HUMAN RIGHTS, 2011; UNITED NATIONS HUMAN RIGHTS, 2012);

Whereas Regulation (EU) No. 2023/1115 provides that products from production chains highly associated with deforestation and environmental degradation, such as soybeans, wood, and cattle, may only be made available on the market and exported when: (i) they are not associated with deforestation; (ii) they have been produced in accordance with applicable legislation in the country of production; and (iii) they are covered by a due diligence declaration (art. 3) (EUROPEAN UNION, 2023);

Whereas operators[3] and traders[4] will be responsible for carrying out due diligence measures before making their products available, demonstrating that they meet the requirements of the Regulation, and SME traders (small and medium-sized enterprises), although they do not need to carry out due diligence measures, should have access to information proving compliance with the requirements mentioned in the previous paragraph (arts. 4 and 5) (EUROPEAN UNION, 2023);

Whereas, in the case of foreign products marketed on the European Union market, the first natural or legal person established in the EU to introduce them onto the market should be considered an operator (Art. 7) (EUROPEAN UNION, 2023);

Whereas due diligence processes should include the provision of information, risk assessment, and risk mitigation measures (Art. 8) (EUROPEAN UNION, 2023);

Whereas operators must collect as basic information the description of the products; the quantity; the country and region of production; the geolocation of all plots of land where the products were manufactured; the date or period of production; the name, address, and email of any person or company that has supplied the products; the name, address, and email of any company, operator, or commercial to whom the products have been supplied; and conclusive and verifiable elements demonstrating that the products are not associated with deforestation and that they were produced in accordance with the legislation of the country of origin (art. 9) (EUROPEAN UNION, 2023);

3 Regulation (EU) No 2023/1115, Article 2: "15) 'operator' means any natural or legal person who, in the course of a commercial activity, places relevant products on the market or exports them."

4 Regulation (EU) No 2023/1115, Article 2: "'trader' means any person in the supply chain other than the operator who, in the course of a commercial activity, makes relevant products available on the market."

Whereas operators must analyze the information collected and carry out a risk assessment regarding criteria related to the country of production, which includes the risk associated with the country; the presence of forests and indigenous peoples; the practice of consultation and cooperation in good faith with indigenous peoples; the rates of deforestation or forest degradation; the prevalence of cases of corruption and falsification of documents and data; the efficiency of monitoring of the legislation in force; the occurrence of human rights violations; the existence of armed conflicts and the possible imposition of sanctions by the United Nations Security Council or the Council of the European Union (art. 10) (EUROPEAN UNION, 2023);

Whereas such risk assessment must also take into account elements related to the production of the items marketed, which includes the existence of claims by indigenous peoples regarding the production area; the origin, reliability, and validity of the information provided; the complexity of the production chain; and the traceability of the products (art. 10) (EUROPEAN UNION, 2023);

Whereas, in order to mitigate risks, additional information, data, and documents may be requested, independent inquiries and audits may be carried out, and other measures relating to the required information may be adopted (art. 11) (EUROPEAN UNION, 2023);

Whereas Brazil and the European Union maintain an important trade partnership, with the European Union being Brazil's second-largest trading partner and Brazil being the European Union's twelfth-largest trading partner, responsible for the bloc's second-largest volume of agricultural exports (THE UNION..., 2021);

Whereas a serious scenario of deforestation and forest degradation persists in Brazil, primarily linked to agricultural activities, and that the change in land use related to these activities is the biggest cause of Brazilian greenhouse gas emissions (Tsai *et al*., 2023; Lama *et al*., 2024);

Whereas Brazil is home to the Amazon, Caatinga, Cerrado, Atlantic Forest, Pantanal, and Pampa, six diverse biomes, which have their own vegetative formations and distinct deforestation dynamics (OCF, 2022; LAMA *et al*., 2024);

Whereas agricultural activities have increased deforestation pressure, primarily in the Amazon and Cerrado biomes, with particular emphasis on the states of Amazonas, Acre, and Rondônia (AMACRO) in the Amazon, and Maranhão, Tocantins, Piauí, and Bahia (MATOPIBA) in the Cerrado (Lama *et al*., 2024);

Whereas deforestation in the Amazon, in addition to being strongly driven by agriculture and livestock farming, benefits from the lack of land regularization in the region, which perpetuates uncertainty regarding possession and ownership of certain areas, encouraging the criminal practice of land grabbing, through which so-called land grabbers attempt to appropriate preserved forest areas that do not belong to them, including areas overlapping Non-Designated Public Forests, Indigenous and Quilombola Lands and Conservation Units (HISSA, 2022a; ABRAMPA, IPAM, 2023; BRAZIL, 2023a);

Whereas several factors contribute to land fragility in the Amazon region, which includes the fact that the demarcation processes of Indigenous Lands are slow and conflicting, being recurrently subject to long legal proceedings; the lack of regularization of Conservation Units, even years after their creation; and the fact that Non-Designated Public Forests remain awaiting a legal destination (ABRAMPA, IPAM, 2023; PRIZIBISCZKI, 2023; SOARES *et a*l., 2024);

Whereas deforestation in the Cerrado region increased significantly in 2023, representing the largest share of national vegetation loss that year, driven not only by the expansion of agricultural activities but also by insufficient control over deforestation authorization processes (Hissa, 2022b; Brasil, 2023b; ABRAMPA, 2024; Lama *et al*., 2024);

Whereas in the Caatinga and Pantanal, which also experienced an increase in the deforestation rate in 2023, the challenges are different, with strong human pressure resulting from territorial occupation, which increases the risk of desertification in the Caatinga; and the advancement of agricultural activities and deforestation in the Pantanal plateau and in the local Permanent Preservation Areas (APP), which threaten the maintenance of the Pantanal as the wetland we know (MARCUZZO, 2022b; RANDO, 2022; LAMA *et a*l., 2024);

Whereas the Atlantic Forest has been extensively devastated throughout Brazilian history and contains important remnants of native vegetation whose protection is essential for preserving critical ecological processes (HISSA, 2022c; SOS MATA ATLÂNTICA, 2023);

Whereas the Pampa is already deeply degraded and altered, requiring protective measures primarily against the encroachment of grain crops and forestry (Marcuzzo, 2022a);

Whereas Regulation (EU) No 2023/1115 should be implemented in cooperation with organizations and other stakeholders (EUROPEAN UNION, 2023);

Considering the institutional role and expertise of the signatory entities regarding Brazilian environmental standards and instruments;

Guidelines are now presented to ensure the proper implementation of Regulation (EU) No. 2023/1115 concerning the environmental compliance of products of Brazilian origin, particularly regarding the prevention of illegal removal of native vegetation in accordance with Brazilian legislation. To this end, contributions are provided on: (i) applicable national environmental legislation and instruments that can and should be used to verify the environmental compliance of products; (ii) challenges in implementing and utilizing such instruments; and (iii) recommendations for due diligence to mitigate the risks of purchasing goods produced in violation of national environmental legislation, especially concerning deforestation and forest degradation.

The strategic set of guidelines outlined below fundamentally aim at strengthening the position of Brazilian rural producers who comply with the environmental legislation, offering them a secure path to operate in the international market. By meticulously detailing Brazil's robust legal-environmental framework, from constitutional provisions to specific monitoring legal instruments, the present document reveals the soundness of Brazilian environmental protection system, whichserves the dual purpose of assuring international buyers of the existence of reliable mechanisms for verifying environmental compliance in Brazil while simultaneously opening new market opportunities for Brazilian products that strictly follow national environmental regulations.Thus, it helps builda bridge between Brazilian rural producers committed to legality and increasingly demanding international markets in terms of environmental compliance, especially the European market, consolidating an international trade route based on legal certainty and sustainability.

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1. Regulation (EU) No. 2023/1115 and environmental protection in the Brazilian legal system[5]

Regulation (EU) No. 2023/1115 expressly prohibits the export and placing on the European market of products associated with deforestation, understood as those originating from areas that have been deforested, legally or illegally, after December 31, 2020. Specifically with regard to wood products, the regulation prohibits the marketing of wood (or derivatives) that was extracted in an unsustainable manner after December 31, 2020, that is, from structural changes in forest cover, with the conversion of primary or regenerating forests into planted forests or other types of wooded land.

The regulation identifies "deforestation" as the removal of vegetation on land larger than 0.5 hectares, with trees over five meters high and a degree of tree cover of more than 10% (art. 2, 4). In the Brazilian scenario, this includes most of the country's biomes and their phytophysiognomies, and applies broadly to the country's territory. The removal of such vegetation can be verified relatively easily using satellite images, which are already reliably produced (Appendix 3).

In addition to cases of recent deforestation, the Regulation also prohibits the export and placing on the European market of products produced in non-compliance with the applicable legislation of the country of production. Considering that the Brazilian legal system is abundant in rules aimed at regulating human intervention in the environment, verifying such cases requires a broader understanding of the legislation in force. From the Brazilian Federal Constitution to more specific sectoral regulations, the rules for protecting an ecologically balanced environment include a complex institutional framework aimed at environmental preservation, as well as public policies for managing the country's environmental heritage and preventing environmental impacts resulting from economic activities.

[5] Appendix 2 contains a summary of the main Brazilian environmental standards relevant to the implementation of the Regulation.

Hereinafter, the main environmental regulations in force in Brazil and the general guidelines of public policies to control deforestation and ensure the environmental compliance of private properties and economic activities are presented. The aim is to highlight situations in which agricultural production is carried out in accordance with Brazilian legislation, predominantly respecting the rules related to the suppression of native vegetation, and to differentiate these from situations of illegality, thus reducing environmental risks in economic relations between Brazil and the European Union.

It is important to highlight that Brazilian environmental protection laws use a broader concept of deforestation than that used by Regulation (EU) No. 2023/1115, protecting not only forest formations but also grassland, shrubland, and other formations that are part of the different biomes and are essential for the protection of biodiversity, climate, and environmental and ecosystem services (ALMEIDA *et al.*, 2024; CPDG, 2024).

In short, when establishing commercial relations with Brazilian producers, one must consider not only the absence of deforestation on the property after December 31, 2020, but also ensure the legality of production under Brazilian legislation, which includes verifying the absence of illegal deforestation of all types of vegetation and the resolution of any and all environmental liabilities, as detailed below.

1.1. THE BRAZILIAN CONSTITUTIONAL SYSTEM OF ENVIRONMENTAL PROTECTION

The Brazilian Federal Constitution, the foundation of the entire national legal system, expressly addresses the right to the environment in a separate chapter. In Article 225, it provides that "everyone has the right to an ecologically balanced environment, a common good for the people and essential to a healthy quality of life, imposing upon the Government and the community the duty to defend and preserve it for present and future generations."

As an essential right to human life and dignity, the right to the environment is part of the Brazilian Federal Constitution as a fundamental right, imposing a series of du-

ties not only on the Government, but also on the community (SARLET, FENSTERSEIFER, 2023). Among these duties, it is up to the Government to make environmental protection compatible with the exercise of economic activities through economic regulation and the formulation and implementation of public policies aimed at sustainable economic development. In turn, it is the duty of all those who carry out economic activities to comply with the environmental legislation in force, being objectively responsible for any environmental damage that arises from their activities (art. 170, VI, and 225, §3, Brazilian Federal Constitution).

State action in the defense and protection of the environment is organized based on a system of division of legislative and administrative powers established in the Federal Constitution, which defines the responsibilities of the different federative entities that make up the vast Brazilian territory—the Union, the states, and the municipalities.[6]

With regard to legislative power, general environmental standards are generally issued by the Union and are supplemented by state legislation, and additional details relevant to local dynamics may be added through the enactment of municipal legislation (arts. 24, VI, and 30, I and II, Federal Constitution).[7] The rules issued by the Union are general in nature and define the basic regimes of environmental protection in the country, applying to the entire national territory, which is why they require special attention and will be highlighted later.

The drafting of environmental legislation is the responsibility of the Legislative Branch, and the Executive Branch is responsible for implementing it through administrative activity, ensuring its application and effectiveness. In this regard, the Union, states, and municipalities, each through their respective Executive Branch, must act cooperatively to protect the environment, implementing public policies, environmental quality control activities, and appropriate inspection practices to curb polluting activities[8]. To avoid

6 Besides the Federal District, which has a hybrid nature between state and municipality.

7 According to Article 24, Section VI, of the Brazilian Federal Constitution, "it is the responsibility of the Union, the states, and the Federal District to legislate concurrently on [...] forests, hunting, fishing, wildlife, nature conservation, defense of soil and natural resources, environmental protection, and pollution control." Thus, it is up to the Union to issue general rules (art. 24, §1), with the states and the Federal District exercising supplementary authority, through which they may legislate with attention to specific aspects of the region (art. 24, §2). Municipalities may only legislate on matters of local interest, supplementing federal and state legislation where applicable (art. 30, I and II).

8 According to Article 23, Section VI, of the Federal Constitution, "it is a common responsibility of the Union, the states, the Federal District, and the municipalities [...] to protect the environment and combat pollution in any of its forms."

overlapping of these actions, Complementary Law No. 140/2011 establishes cooperation rules, which will be further delved into in due course.

These are, in general terms, the constitutional premises for environmental preservation throughout the national territory and the foundations of the laws that specifically address the subject, which will be explored below.

CONSTITUTIONAL PROTECTION OF INDIGENOUS AND QUILOMBO COMMUNITIES

Although this document does not intend to delve into due diligence measures related to the protection of indigenous and traditional peoples, it is important to emphasize that the Brazilian Constitution expressly protects the land rights of indigenous and Quilombola communities. Article 231 of the Federal Constitution provides, among other rights, for the original rights of indigenous peoples over the lands they traditionally occupy, while Article 68 of the Act of Transitional Constitutional Provisions—part of the Constitutional Text responsible for regulating the constitutional transition process—recognizes the definitive ownership of the lands occupied by the remaining Quilombola communities[9]. Given that the dynamics of deforestation in Brazil often lead to land disputes with such groups whose rights have historically been violated, it is of fundamental importance to adopt due diligence measures to prevent the commercialization of products originating from these locations.

9 According to Article 2 of Federal Decree No. 4.887/2003: "For the purposes of this Decree, remnants of quilombo communities are considered to be ethnic-racial groups, according to self-attribution criteria, with their own historical trajectory, endowed with specific territorial relations, with a presumption of black ancestry related to resistance to historical oppression suffered."

INTERNATIONAL LAW TREATIES AND CONVENTIONS ON HUMAN RIGHTS IN THE BRAZILIAN LEGAL SYSTEM

The Federal Constitution provides that treaties and conventions on Human Rights become part of the national legal system with the status of constitutional amendments—that is, as if they were part of the Constitutional Text—when approved by both houses of the National Congress, in two rounds, by three-fifths of the votes of their respective members (art. 5, §3). However, even when approved by a simple majority, such treaties assume a distinct space in the legal system: that of a supralegal norm. This interpretation is settled by the Brazilian Federal Supreme Court, which has also recognized that documents that deal with environmental protection are Human Rights norms. Thus, international treaties and conventions signed and ratified by Brazil with Human Rights content may sometimes assume constitutional status, while in other cases they assume a supralegal form, depending on the approval quorum. The Paris Agreement and Convention No. 169 of the International Labour Organization (ILO), which require free, prior, and informed consultation with indigenous peoples and quilombolas when legislative or administrative measures may affect them, for example, are part of the Brazilian legal system as supralegal norms.

1.2. THE BRAZILIAN LEGAL SYSTEM FOR ENVIRONMENTAL PROTECTION

The main environmental standards for confirming the environmental regularity of Brazilian properties, producers, and products are highlighted below.

Firstly, the National Environmental Policy (PNMA), established by Federal Law No. 6.938/1981, can be considered the cornerstone of Brazilian environmental legislation. The law created the National Environmental System (SISNAMA) and established the bases for the main instruments for preserving, improving, and restoring the quality of

the environment, such as environmental licensing (Articles 9, IV, and 10). As part of this system, the National Environmental Council (CONAMA) is a collegiate body composed of representatives of the State, civil society, and the business sector, with advisory and regulatory capacity, responsible for preparing guidelines for government policies for the environment and natural resources (Article 6, II).

The implementation of environmental policy actions at the national level is the responsibility of the Brazilian Institute of the Environment and Renewable Natural Resources (IBAMA), a federal agency linked to the Ministry of the Environment and Climate Change (MMA) (Federal Law No. 7.735/1989). This includes environmental licensing, environmental quality control, authorizations for the use of natural resources, policies to prevent and control deforestation, burning, and forest fires, environmental inspection, and the imposition of administrative penalties. IBAMA is also responsible for proposing and issuing environmental quality standards and norms. In the states and municipalities, there are also agencies responsible for these functions at the regional and local levels, respectively.

Some of the most important instruments for controlling deforestation are regulated by the Native Vegetation Law[10] (Federal Law No. 12.651/2012). The law establishes general rules on the protection of vegetation (art. 1°-A, *caput*), presenting rules applicable to native vegetation located within private properties and establishing limitations on its use (art. 2°, *caput*). To this end, it regulates specially protected spaces, such as Permanent Preservation Areas (APPs) and Legal Reserve areas (RL), in addition to regulating the exploitation and control of the origin of forest products and mechanisms for controlling and preventing forest fires.

The law also establishes that all vegetation removal and conversion of land use in new areas requires express authorization from the competent environmental agency. Areas occupied by humans prior to July 22, 2008 are now considered consolidated rural areas, with special rules for environmental regularization, allowing, in some cases, the continuation of agroforestry activities or facilitating the conditions for restoring vegetation or compensating for its absence.

10 The Native Vegetation Law is also known by some as the Forest Code. However, it was decided to call it the Native Vegetation Law in this document since it is not limited to creating the protective regime for forests but rather for all national vegetative formations, with the exception of the Atlantic Forest biome, which is governed by its own legislation.

While the Native Vegetation Law provides for general rules for vegetation protection, other laws are responsible for establishing special protective regimes. One such case is the Atlantic Forest biome, whose vegetation has been profoundly destroyed due to the history of occupation of Brazilian territory and intensive exploitation of the forest (HISSA, 2022c).

The Atlantic Forest has had specific regulations since 1990, when Federal Decree No. 99.547/1990 was issued, prohibiting the cutting of native vegetation in the biome and establishing rules for its exploitation. Other subsequent regulations—Federal Decree No. 750/1993, CONAMA Resolution No. 10/1993, Federal Law No. 11.428/2006, and Federal Decree No. 6.660/2008—outlined the legal regime that conditions the use of the biome on compliance with more restrictive conditions that ensure its preservation. These standards do not apply retroactively to harm or undo historical occupations carried out before the advent of special standards for the protection of the biome, but they specifically protect the remnants of the Atlantic Forest that existed when the first of these specific protective standards was enacted, that is, in September 1990 (GAIO, 2018)—a circumstance that requires special attention for the purposes of verifying environmental regularity.

In this biome, the criteria for allowing the cutting and removal of vegetation are related to whether the vegetation has previously been subjected to total or partial removal by human actions or natural causes—that is, whether it is primary or secondary vegetation—and the successional degree (advanced, medium, or initial stage of regeneration). The more preserved and ecologically relevant the forest remnant, the greater the normative protection conferred upon it. In all cases, however, the cutting will depend on prior authorization from the competent environmental agency.[11] [12]

11 Under Federal Law No. 11.428/2006, the cutting and removal of primary vegetation and secondary vegetation in an advanced stage of regeneration are only authorized on an exceptional basis in cases of public utility (Articles 14, 20, and 21). Secondary vegetation in an intermediate stage of regeneration, on the other hand, may be cut, removed, and exploited in cases of public utility and social interest, that is, for the exercise of agricultural, livestock, or forestry activities for the subsistence of small rural producers and traditional populations, ensuring the preservation of APPs (Articles 14 and 23). It also allows the selective exploitation of pioneer tree species in forest fragments where their presence is abundant (Article 28). In all these cases, deforestation is prohibited if it poses a threat to endangered species or extends into areas that are used to protect water sources or prevent and control erosion, around Conservation Units, in ecological corridors between remnants of preserved vegetation, or in areas whose exceptional landscape value has been formally recognized and declared (art. 11). Even in areas of the Atlantic Forest biome where there is secondary vegetation in the initial stage of regeneration, the cutting and removal of vegetation and the exploitation of the area will depend on authorization from the competent state agency (art. 25).

12 To find out whether a given property is located within the scope of the Atlantic Forest Law, consult the official maps of the areas covered by Federal Law No. 11.428/2006: <https://tinyurl.com/ywvt2vey> (PDF) and <https://tinyurl.com/37994z3n> (shapefile). Information collected at: <https://tinyurl.com/2r8cejuk>. Access on: October 8, 2024.

Another relevant normative document for presenting a differentiated environmental protection regime is Federal Law No. 9.985/2000, which instituted the Brazilian System of Protected Areas (SNUC). The law governs the creation, implementation, and management of Conservation Units (UC), which are areas specially protected by their natural characteristics, under a special administration regime. It provides for the existence of twelve categories of Conservation Units, of which five are of Full Protection and have a more restrictive regime of occupation and use, while another seven are of Sustainable Use and allow the exploration of some activities, as long as attention is paid to ecological processes, biodiversity, and social justice. In many cases, the expropriation of any private properties located within the boundaries of Conservation Units is imposed as an essential measure to ensure that the purposes of these spaces are met.[13]

The management and monitoring of federal conservation areas are the responsibility of the Chico Mendes Institute for Biodiversity Conservation (ICMBio), a federal agency created by Federal Law No. 11.516/2007, linked to the MMA. In the states and municipalities, there are also agencies that are responsible for these functions at the regional and local levels, respectively.

In order to shape the Brazilian state's role in protecting the environment, the aforementioned Complementary Law No. 140/2011 is also relevant, as it establishes the cooperation regime between the Union, states, and municipalities in the exercise of environmental administrative activities.

In addition to the federal laws discussed above, several sublegal regulations are also relevant to understanding some essential instruments for controlling deforestation and ensuring the environmental regularity of properties and productive activities. Particular mention should be made of the resolutions issued by CONAMA and the decrees, ordinances, and normative instructions issued by the Executive Branch and its specialized agencies.

13 The general rules on expropriation in UC can be found in Appendix 4.

1.3. LEGAL INSTRUMENTS FOR PRIOR CONTROL OF DEFORESTATION AND ENSURING ENVIRONMENTAL REGULARITY OF PROPERTIES AND PRODUCTIVE ACTIVITIES IN BRAZIL

The Brazilian legal system has several legal instruments to attest to the environmental regularity of properties and promote prior control of activities with potential environmental impacts. Three of them stand out as essential for the proper implementation of Regulation (EU) No. 2023/1115: the Rural Environmental Registry (CAR), environmental licensing, and authorizations related to the removal of vegetation.

The Rural Environmental Registry (CAR) was created by Federal Law No. 12.651/2012 (Native Vegetation Law) and is a nationwide electronic public registry that integrates environmental information on rural properties and possessions (art. 29). It is a mandatory registry that aims to monitor and track the environmental regularity of properties (LIMA, 2022; ABRAMPA, 2023).

Since this is a registry that gathers environmental information about properties, it must contain some basic data, such as the identification of the rural owner or possessor, proof of ownership or possession, and identification of the property by means of a plan and descriptive report that contains an indication of the remaining native vegetation, Permanent Preservation Areas (APP), Restricted Use Areas, consolidated areas, and Legal Reserves (RL) (art. 29, §1). For the analysis of the environmental regularity of these properties, information on APPs and RLs is especially relevant, since these are areas in which, as a rule, it is mandatory to maintain native vegetation, either because of its essential environmental functions, in the case of APPs, or because it involves maintaining a minimum of native vegetation on the rural property, in the case of RLs (arts. 3, II, and III, 7 and 12).

This information is self-declared, meaning it is registered by the owner or possessor of the property in the National Rural Environmental Registry System (SICAR). It is up to the Public Authorities to subsequently analyze the veracity and adequacy of the information provided, which has not yet occurred satisfactorily on a national scale. However, once the registration is completed, the information is immediately included in the system, with four possible statuses: active, pending, suspended, or canceled.

Chart 1: Registration Status in SICAR

Article of MAPA Ordinance Nº. 121/2021	CAR Status	Hypotheses
7º, I	Active	After completing the registration with the CAR and as long as the obligations to update information and respond to notifications are met.
7º, II	Pending	In case of non-compliance with the deadlines established in the notifications and/or overlap of the rural property with Indigenous Lands (TI), Conservation Units (UC), Federal Lands, areas considered prohibitive by the competent bodies, and embargoed areas.
7º, III	Suspended	In the event of a court order or duly justified administrative decision by the competent body.
7º, IV	Canceled	In the event of finding partially or totally false information; by court order; by administrative decision of the competent body in an administrative proceeding with due legal process and full defense; or by request of the owner/possessor, with the consent of the environmental body.

Source: Own elaboration, 2024

Therefore, the CAR becomes active immediately after the information is registered in the system, regardless of the environmental agency's prior assessment of its veracity and, therefore, without any guarantee of the property's effective environmental regularity. The registration status may change after the environmental agency's analysis or due to judicial or administrative decisions. This dynamic hinders the confirmation of the environmental regularity of properties whose CAR has not yet been analyzed by the environmental agency and requires additional due diligence measures.

In order to verify the environmental regularity of Brazilian products sold, in addition to the environmental regularity of the properties from which they originate, it is also important to verify compliance with the standards for controlling economic activities with potential environmental impact, such as environmental licensing, and for controlling deforestation, such as authorizations for vegetation removal.

Activities that use environmental resources, are actually or potentially polluting, or are capable of causing environmental degradation in any way, are subject to prior environmental licensing, as per Article 10 of Federal Law No. 6.938/1981 (National Environmental Policy). To find out what these activities are and the minimum requirements for the licensing process, you must consult Annex VIII of Federal Law No. 6.938/1981, Article 2 of CONAMA Resolution No. 001/1986, and Annex I of CONAMA Resolution No. 237/1997. In any case, they include: the economic exploitation of wood or firewood and native forest by-products; the manufacture of furniture and agglomerated, pressed, and plywood boards; the drying and tanning of leather; the production of cocoa and animal fats for food; the processing, grinding, roasting, and manufacturing of food products; and slaughterhouses, abattoirs, and cold storage facilities.

Due to the division of environmental administrative powers in Brazil (art. 23, VI, Federal Constitution), environmental licensing can be exercised by the Union, the states, or the municipalities, depending on the particularities of the activity or enterprise. This definition is made by Complementary Law No. 140/2011.

The environmental licensing process is usually three-phased, depending on the prior issuance of three licenses so that it is then possible to proceed with the production and marketing of goods: the Preliminary License (LP), granted in the preliminary planning phase of the enterprise or activity, upon approval of its location and design, confirmation of its environmental viability and the establishment of basic requirements and conditions; the Installation License (LI), which authorizes the installation of the enterprise or activity and includes environmental control measures and conditions; and the Operating License (LO), which allows the activity or enterprise to begin operations, after confirmation of compliance with the requirements and conditions of the previous licenses (art. 8, CONAMA Resolution No. 237/1997). However, there are cases of exemption from environmental licensing or simplified processes, in which cases the Brazilian producer must prove the legal basis and its classification.

Regarding licensing processes, it is important to highlight that, in cases of large-scale environmentally modifying activities, the Environmental Impact Study (EIA) and the Environmental Impact Report (RIMA) are also required during the environmental licensing process. In the case of activities covered by Regulation (EU) No. 2023/1115, the need for EIA-RIMA is highlighted for projects involving the economic exploitation of timber or firewood over 100 (one hundred) hectares and for agricultural

projects that cover areas over 1,000 (one thousand) hectares (CONAMA Resolution No. 001/1986, art. 2, XIV and XVII).

Unlike the CAR, there is no unified platform for consulting processes for environmental licensing, which is why confirmation of such information depends on prior analysis of the federative entity responsible for licensing and the respective database.

In addition, whether in cases of alternative land use for agricultural activities or in cases of projects that require the removal of vegetation, the owner or possessor of the rural property is always obliged to request authorization from the Government to carry out the deforestation. In all Brazilian biomes, such a request must meet a series of legal requirements, according to Article 26, paragraph 4 of Federal Law No. 12.651/2012. In the case of the Atlantic Forest, such authorizations must also comply with the provisions of Federal Law No. 11.428/2006, paying attention to whether the vegetation is primary or secondary and, in the latter case, taking into account the stage of regeneration. Therefore, for activities and projects involving vegetation removal to be legally developed, environmental licensing is not enough; there must be a specific authorization for deforestation.

Just like environmental licenses, vegetation removal authorizations can also be issued by different federative entities (federal, state, or municipal) under the terms of Complementary Law No. 140/2011. In cases of licensed activities or projects that require vegetation removal, the authorization for removal should be linked to the entity responsible for environmental licensing (arts. 7, XV, 'b'; 8, XVI, 'c'; 9, XV, 'b'). However, in cases of deforestation not linked to activities and projects subject to licensing, the state environmental agency will be responsible for issuing the authorization (art. 8, XVI, 'b').

These authorizations may be designated with different nomenclatures in federal and state laws that regulate the subject, but they share the common purpose of allowing a certain area to have its vegetation removed so that another use can be assigned to that location (ABRAMPA, 2024). They must necessarily be registered, as soon as requested, in the National System for Control of the Origin of Forestry Products (SINAFLOR), which is responsible for unifying all this data as of 2018. However, as will be seen in greater detail below, there are a series of challenges related to such procedures and the public availability of this information.

1.4. LEGAL INSTRUMENTS FOR TRACEABILITY OF BRAZILIAN PRODUCTION CHAINS

In addition to mechanisms for controlling deforestation and verifying the environmental compliance of private properties where agricultural activities are carried out, there are state initiatives to control the production chains of specific products, aimed at ensuring their traceability and legality.

THE SELO VERDE BRASIL PROGRAM AS AN INSTRUMENT FOR VERIFYING THE SUSTAINABILITY OF PRODUCTS

In June 2024, Federal Decree No. 12.063/2024 was issued, establishing the Selo Verde Brasil Program. This is an initiative created within the scope of the Ministry of Development, Industry, Trade, and Services (MDIC), whose objective is to "develop national guidelines for the standardization and certification of products and services that demonstrably meet predefined sustainability requirements" (art. 2, caput). Participation by individuals in the initiative is voluntary (art. 2, §2).

More recently, in August 2024, the MDIC published Ordinances No. 264/2024 and 266/2024, which are responsible for establishing, respectively, the Steering Committee and the Advisory Committee of the Selo Verde Brasil Program. The committees are responsible for the construction and operation of the Program, but they have limited non-governmental participation in their ranks, giving a lot of space to federations with economic interests and none to social and environmental organizations that focus on the sustainability of national products and services.

Although the Program may represent advances in the sustainability of Brazilian production chains, it is, for now, an embryonic initiative whose positive and negative aspects cannot yet be analyzed in depth. Some points of attention are already highlighted, such as the voluntary nature of the Program and the lack of participation of civil society in the Committees responsible for its implementation.

For these reasons, in the current scenario, the Selo Verde Brasil Program is not yet suitable for use as a safe instrument for verifying the sustainability of Brazilian products, although it may come to occupy this space in the future.

The production chains of some of the products covered by Regulation (EU) No. 2023/1115 present specific challenges and legal instruments for traceability and legality control. Considering the expertise and previous work of the entities that signed this document, the traceability mechanisms for the timber and cattle production chains are now outlined in more detail.

1.4.1. The wood production chain

Wood extraction supplies different industries (civil construction, furniture, shipbuilding, decorative, charcoal, paper, and cellulose industries, among others) and serves as raw material for a wide range of products (BRASIL, 2007). Native timber[14] extracted in Brazil[15] can go through different flows in the production chain: it can pass through sawmills that transform the wood into sawn timber and can then be industrially processed, or it can be exported in the initial stages, still without adding value (INÁCIO, SENA, 2014; SANTOS; JÚNIOR, 2021).

Products related to native timber can originate from activities to open fields for alternative land use as well as from exploitation aimed at commercializing the timber. Part of the wood exploitation, related to the first hypothesis, comes from forest areas converted to other land uses and, in these cases, will depend on an authorization to remove vegetation under the terms outlined above. In the second case, the extraction of native wood in forest areas depends on the authorization of the competent environmental agency through the preparation and approval of a Sustainable Forest Management Plan (PMFS), in accordance with Article 31 of the Native Vegetation Law.

14 The contribution of this Technical Note on the timber production chain is limited to the extraction of native timber in forest areas, such as species typically found in the Amazon (ypê, maçaranduba, jatobá, among many others). In other words, it does not intend to delve into the guidelines for the exploitation of planted forests, an activity that has specific regulations.

15 In the Amazon, in particular, there are serious environmental issues surrounding timber extraction, the main one being the advance of deforestation and degradation of the biome. According to data from the System for Monitoring Timber Harvesting (SIMEX), 72% of the area logged without authorization in the Amazon between August 2020 and July 2021 is within rural properties registered in the CAR (IMAZON; IDESAM; IMAFLORA; ICV, 2021). It is therefore important to emphasize that it is not enough for a property to be registered in the CAR to be considered regular and, therefore, eligible to export to the EU.

The preparation of the PMFS must comply with a series of legal requirements, such as the determination of the existing stock in the area where exploration is planned and the forecast of an intensity of exploration compatible with the carrying capacity of the forest (art. 31, §1º, Native Vegetation Law). It is the responsibility of state environmental agencies to approve the PMFS, with the exception of the PMFS applicable to public forests under the domain of the Union (art. 31, §7º, Native Vegetation Law). In this sense, each state of the Federation has its own regulations on the preparation and procedures for approval and monitoring of forest management.

As in the case of authorizations related to the removal of vegetation, the PMFS protocol and the analysis of these requests occur through the National System for Control of the Origin of Forestry Products (SINAFLOR), a system for controlling the origin of wood coordinated by IBAMA and established by Normative Instruction No. 21/2014 of IBAMA (IBAMA, 2024).

Another relevant instrument for verifying the origin of wood is the Forest Origin Document (DOF), initially established by Ordinance No. 253/2006 of the Ministry of the Environment. The DOF is the document that covers the transportation and storage of wood or other forest products or byproducts originating from native species forests (Article 36, Native Vegetation Law). It must contain the specification of the material (species, volume) and data on the place of origin and destination (art. 36, §4º, Native Vegetation Law).

The DOF is issued electronically by the individual in the DOF + Traceability System, established by IBAMA Normative Instruction No. 16/2022. Its issuance is directly related to the granting of the authorization or the approval of the PMFS, since it presupposes the state's agreement with the exploitation of the wood. In other words, depending on the case, the granting of the authorization or approval of the PMFS by the environmental agency functions as a type of legal credit and serves as collateral for the issuance of the DOF.

The new DOF + System functions as a "checking account," in which each user of the system moves the input and output of timber, considering as "currency" the credit of forest products obtained from a valid authorization in SINAFLOR. Each time a DOF is issued, a transfer of credits is made between the users' checking accounts. For the system to function properly, it is essential that the user constantly monitors and updates their stocks in the system by entering all transactions carried out. The balance of final

products entered into the system must necessarily correspond to the physical balance at the storage location.

Recently, the applicable standards also introduced an important innovation for timber traceability: the creation of the tracking code, which consists of the unique number that accompanies each product from its origin to its final destination (IBAMA Normative Instruction No. 16/2022). The code is composed of numbers that indicate the code of the Federation unit, the year, the authorization number that supports the forest extraction, and the log number. Thus, the buyer can obtain information about the entire procedure that supported the extraction of the timber from the tracking code.

Specifically in cases of timber export, the individual must issue the DOF in the DOF Exportation format. In addition, the individual must submit the documents listed in IBAMA Normative Instruction No. 8/2022 to obtain the export authorization from the IBAMA unit that has jurisdiction over the customs warehouse. For specific products, such as the export of timber in rounds, additional documents must be submitted, such as the indication of the PMFS and transport documents that allow all stages of the production chain to be identified.

Therefore, the certainty regarding the legal origin of wood products from Brazil depends on the assessment of the vegetation removal authorization, the PMFS, and the DOF, with attention to federal regulations and the specific regulations of the states of origin of the product.

1.4.2. The cattle production chain

The cattle production chain in Brazil is fragmented into several links, which poses a particular challenge for the traceability of this product. Cattle purchased by slaughterhouses often travel through different properties throughout their lives (CEZAR *et al.*, 2005; MALAFAIA *et a*l., 2021)[16], or each commercial transaction involving cattle, Brazilian law requires that the transportation of animals be covered by the Animal Transport Guide (GTA), an official document that contains information on origin, destination,

16 According to trends already highlighted by scientific research, the initial stages focus on smaller, and sometimes irregular, properties, while the final stages focus on larger properties (NAKAGAWA *et al.*, 2023).

purpose, vaccinations, and transportation route, among others[17] (art. 4, II, Federal Law No. 12,097/2009) (MAPA, 2023). In most cases, the GTA is issued at the state level by agricultural defense agencies, which traditionally exercise responsibilities related to animal health.

Each GTA issued includes the set of animals involved in a transaction, allowing the identification of the origin of the batches of animals that are transacted and whose data is recorded in the document (collective traceability). Individual traceability of animals has been debated in Brazil as an essential measure for effective control of the chain.

In this sense, the government of the state of Pará, for example, began distributing ear tags for animals in the state[18]. The Brazilian Cattle and Buffalo Identification and Certification System (SISBOV), established by MAPA Normative Instruction No. 51/2018, is an official system for identifying cattle in Brazil that performs individual traceability. Adherence to the system is voluntary, which prevents it from being consulted in all transactions. In addition, the system does not incorporate the environmental dimension into its indicators, with the primary objective of attesting to the health of the herds[19].

Current controls on the cattle production chain are not yet carried out with the express objective of combating deforestation but were designed for health control purposes. In any case, the GTA provides data on the places of origin and destination of the animals, and is used to control the environmental compliance of their production by cross-referencing these data with public environmental information banks (such as SICAR, the IBAMA environmental embargo and fines database, FUNAI data on Indigenous Lands, and ICMBio data on Conservation Units, among others), which can reveal possible irregularities in the properties involved in the chain.

Specifically in the case of products originating from the state of Pará, another source of relevant data on the environmental regularity of properties is the Selo verde Platform[20], developed by the state government in partnership with the Federal University of Minas Gerais (UFMG). The Platform allows anyone, using the property's CAR number, to access data on: occurrence of deforestation; possible overlap with Indigenous Lands (TIs) and

17 An example of GTA can be found on the Ministry of Agriculture website at the link: <https://tinyurl.com/4zcnm79t>. Accessed on September 23, 2024.

18 Decree No. 3.533/2023 of the State of Pará instituted the Program for Integrity and Development of the Cattle Production Chain in Pará and created the Official Individual Cattle Traceability System of Pará (SRBIPA). In September 2024, the Government of Pará released news announcing the beginning of the process of applying ear tags to the State's herd. Available at: <https://tinyurl.com/5vk6w7vx>. Accessed on September 23, 2024

19 To learn more about SISBOV, visit: <https://tinyurl.com/yeyd3mru>. Accessed on April 12, 2024.

20 The Platform can be accessed via the link: <https://seloverde.info/>. Accessed on May 8, 2024.

Conservation Units (UCs); occurrence of environmental embargo; existence of Legal Reserve areas and Permanent Preservation Areas; and possible registration on the "Black List" of Slave Labor, among others. The Platform also has a specific field on "livestock traceability," which contains information on records of cattle movement within the property. Since the Platform's information is based on data from the Rural Environmental Registry, which can contain fraudulent or false information as well as be altered by the landowners, especially before analysis by the competent environmental agency, combined use with other official systems of information, updated in real time, is highly recommended.

THE PERFORMANCE OF THE FEDERAL PUBLIC PROSECUTOR'S OFFICE IN THE CATTLE SUPPLY CHAIN

The Carne Legal Program aims to promote the regularization of the cattle supply chain in the Legal Amazon, establishing minimum criteria to be observed by meatpacking plants that purchase beef cattle in the region. In the Program, the MPF proposes the signing of Conduct Adjustment Terms (TACs), which provide, in general terms, obligations for the regularization of meatpacking plants' purchasing practices.

In addition to the TAC, the Monitoring Protocol for Cattle Suppliers in the Amazon was prepared in partnership with Imaflora[21]. The Protocol indicates which specific criteria[22] must be observed to satisfy the broader obligations established in the TAC, listing, for example, the documents and databases that must be consulted to consider a supplier as suitable or not. These criteria can be considered basic precautions when purchasing products from Brazilian meatpacking plants.

21 The document can be accessed on the Boi na Linha website: < https://www.boinalinha.org/ >. Accessed on: April 12, 2024.

22 Some of the criteria set out in the Protocol are: the absence of illegal deforestation on the properties; the absence of overlapping farms with TIs and UCs; the absence of environmental embargoes linked to the property and its owners; regular registration in the CAR; the non-registration of the owner in the Black List of Slave Labor; regular environmental licensing; GTA requirements; and analysis of the property's productivity. The productivity analysis aims to uncover possible means of circumventing monitoring systems. Based on Imaflora's estimate that the maximum productivity rate is 3 heads/ha/year, it is possible to compare whether the property in question has higher rates, which could mean that the property is being used to "launder" cattle from irregular farms.

1.5. ADMINISTRATIVE AND JUDICIAL RESPONSES TO ENVIRONMENTAL CRIMES

Both the CAR and environmental licensing and vegetation removal authorizations are legal control instruments aimed at ensuring that economic production is carried out responsibly, meeting conditions, and mitigating and compensatory measures for its environmental impacts. The PMFS, DOF, and GTA, in turn, are also mechanisms that assist in verifying the environmental regularity of the different links in the timber and cattle production chains. However, confirmation of the environmental regularity of properties, projects, and vegetation removals is not complete without checking the databases that indicate the existence of judicial or administrative proceedings for disrespecting current environmental legislation. In this sense, it is essential to research whether there are infraction notices, environmental embargoes, and legal actions that indicate the existence of risks.

Environmental infraction reports are administrative sanctioning acts, drawn up by the environmental authority linked to the Executive Branch whenever any action or omission is verified that violates the legal rules of use, enjoyment, promotion, protection, and recovery of the environment (arts. 24 and 70, Federal Law No. 9.605/1998, and art. 96, Federal Decree No. 6,514/2008). The drawing up of an infraction report presupposes the commission of an environmental offense, which is why it is essential information to understand whether a given property or owner/possessor complies with environmental legislation.

Embargoes, in turn, are administrative acts of a precautionary nature that seek to prevent the continuation of environmental damage and allow the regeneration of the environment in cases of illegal deforestation or other environmental infractions (art. 51, Federal Law No. 12.651/2012, and arts. 3, VII; 101, II; and 108, Federal Decree No. 6.514/2008) (ABRAMPA, 2022). Thus, if a property has been embargoed, it is known that environmental offenses have been committed there, and, therefore, it is confirmed that it is not suitable for marketing its products under the terms of Regulation (EU) No. 2023/1115.

According to federal legislation, environmental infraction reports may be issued by any employee of the environmental agencies that are part of the National Environmental System (SISNAMA) (art. 70, §1, Federal Law No. 9.605/1998), which once again includes actors from all federal entities. Embargoes may be imposed by any enforcement

agents (art. 101, II, Federal Decree No. 6.514/2008) and may also result from the actions of the environmental agency of any federal entity. As a result, any fines or embargoes against the property or owner/possessor may be recorded not only in the database of the Union but also in the database of the state(s) and municipality(ies) where the property(ies) is(are) located.

The occurrence of environmental offenses and infractions may also give rise to legal action, especially lawsuits related to liability for environmental damages or crimes. Therefore, another important piece of information to support the analysis of environmental compliance of owners/possessors and their properties is the existence of environmental lawsuits, whether civil or criminal. Currently, there is no unified system responsible for gathering this information, and individual consultation with the State Courts of Justice and Federal Regional Courts is required.

TECHNOLOGY TO VERIFY DEFORESTATION

Regulation (EU) No. 2023/1115, in addition to requiring that products internalized by the European market comply with Brazilian legislation, also requires that they must not come from areas deforested, legally or illegally, after December 31, 2020.

In Brazil, several information systems allow for the secure verification of whether there was deforestation in a given area in a given period, enabling the implementation of the regulation in a simple and secure manner (CNJ, 2023; CPDG, 2024). In fact, the National Council of Justice (CNJ) itself recommends the use of remote sensing data and information obtained by satellite for the evidentiary instruction of environmental actions and has a Protocol for this purpose, established through CNJ Recommendation No. 145/2023 (CNJ, 2023).EU

The remote sensing systems that are indicated in the Protocol and can also be used by European Union agents to monitor deforestation are PRODES, DETER-B, MapBiomas Alerta, Brasil MAIS, SAD Imazon, GLAD, JJ-FAST, and SIPAMSAR. In Appendix 3, you can find more information about each of them and the criteria that make one or another system more advantageous in each specific situation.

2. Challenges to the effectiveness of legal controls on environmental regularity and traceability of production chains

Although several instruments have been created to enable environmental control of properties, activities, and enterprises implemented therein, as well as the products resulting from them, the fact is that many of these mechanisms have limitations and flaws that need to be highlighted and overcome so that Regulation (EU) No. 2023/1115 can be properly implemented.

Firstly, regarding the CAR, there was a large adherence of owners and possessors to the registration phase in the system, but there is still a significant delay in validating the registrations, either due to the delay and lack of structure of the environmental agencies or due to the provision of incorrect information by those responsible for the registration (LIMA, 2022; LOPES, SEGOVIA, CHIAVARI, 2023).

Since the information is included in SICAR immediately after its registration, before any analysis by the environmental agency, there are several registrations in the system with the status of "active" even with obvious irregularities, including areas overlapping with public lands or without APPs and RLs preserved under national legislation (ABRAMPA, IPAM, 2023). The overlap with public lands, in particular, is a source of great concern because, although CAR is an exclusively environmental instrument, there are several cases in which land grabbers try to use the instrument to recognize land possession or ownership, illegally advancing on protected forest areas. This is most acute in the Amazon region, due to the land insecurity that persists in the region (LIMA, 2022; ABRAMPA, IPAM, 2023).

Therefore, it is not enough for the property to be registered in CAR, nor for the CAR to be listed as "active" in the system, to confirm the environmental regularity of the property. The system must also include information that has already been analyzed by

the environmental agency. Otherwise, additional due diligence measures will need to be adopted, including confirmation of the absence of territorial overlap with Indigenous and Quilombola Lands, Conservation Units, Public Land Plots, and Non-Designated Public Forests and the adequate preservation of Permanent Preservation Areas and Legal Reserves.

Regarding the confirmation of the absence of territorial overlap with Conservation Units, it is worth highlighting a difficulty faced in the implementation of the SNUC with regard to the land regularization of the UCs. There are still several challenges faced in ensuring that properties located within the UCs are properly expropriated, which is why there are still legitimate occupations within UCs that legally require expropriation within their boundaries. Therefore, any analysis of the overlap of the property with a UC requires additional information, and its recognition is not enough to configure an illegality capable of giving rise to the suspension of the purchase of products.

Regarding environmental licensing, some points require attention when analyzing the environmental compliance of products that result from activities and projects that undergo these procedures. One aspect that stands out is the recurring practice of splitting activities and projects carried out by the same individual or legal entity, with the aim of circumventing stricter licensing processes related to the size of the project and avoiding linking products to properties that do not necessarily comply with all environmental requirements. In view of this, it is necessary to assess infraction notices, embargoes, and legal actions not focused solely on the property indicated as the producer but also linked to the producer, enabling the analysis of possible irregularities in other properties that indicate potential fraud in the production chain.

Vegetation removal authorizations are also marked by several challenges, explored in detail by ABRAMPA in its own publication (ABRAMPA, 2024). Here, it is important to highlight mainly the repeated irregular granting of authorizations by bodies that do not have the authority to do so and without due analysis of the minimum requirements, as well as the difficulty of public access to the authorization processes, which are repeatedly not registered in SINAFLOR or are registered in an incomplete and outdated manner (BRASIL, 2023b; ABRAMPA, 2024).

The irregular granting of authorizations occurs mainly at municipalities, which often do not have the administrative structure required by Complementary Law No. 140/2011 to carry out such activities. To have greater certainty about the regularity of authorizations, it

is necessary to verify, in the case of activities subject to environmental licensing, whether the authorization was granted by the same entity that issued the licenses. In the case of products originating from activities and enterprises not subject to licensing, only the state can issue them according to the aforementioned Complementary Law No. 140/2011, meaning it will only be possible to proceed with the transaction with this confirmation.

The second structural problem with authorizations concerns the lack of publicity on the platform where they are made available, SINAFLOR, as well as incomplete registration and lack of updated information (BRASIL, 2023b; ABRAMPA, 2024). It is therefore necessary to find other ways to confirm the information provided by the Brazilian trader, such as through the IBAMA Open Data platform or by consulting the issuing environmental agency. Furthermore, since SINAFLOR became the mandatory data system only after 2018, it is necessary to find other ways to access the authorizations issued before its implementation.

As for the specific difficulties of the production chains detailed in this document, the wood production chain in Brazil faces the challenge of the widespread practice of users entering false data into IBAMA systems in order to give the appearance of legality to illegally extracted timber. Often, the entry of false data into the system occurs through the erroneous declaration of the number of species existing in a given management area and/or the geographic coordinates of the location, with the omission of endangered species, among others[23]. Furthermore, fraud is rather prevalent in the Amazon: companies that exist only on paper issue and pass on authorizations to cover up illegal logging (ABREU, TOLEDO, 2022). The proper operation of the systems for controlling the origin and movement of forest products depends on the release of correct information by both sellers and buyers of timber, which can only be verified by environmental agencies in practice through field inspections.

The challenge does not prevent the commercialization of timber in a sustainable manner in Brazil, but it does make it necessary for buyers to adopt additional due diligence measures beyond the DOF requirements. Such measures include, for example, verifying, through satellite images, the geographic coordinates of the area indicated in the PMFS in order to know whether the area is, in fact, being exploited or whether it is an intact area that is possibly serving as a means for "laundering" wood from protected areas.

23 Scientific research has already found irregularities in forest inventories approved in the State of Pará. In 2018, a study published in the journal Science Advances identified disparities in the volume of valuable species declared in flora inventories and the average quantity of species found in the eastern Amazon, indicating that the volume licensed for these species is greater than expected (BRANCALION *et al*., 2018).

Traceability in the cattle supply chain faces different challenges. First, most monitoring and transparency systems currently used by slaughterhouses only analyze the regularity of direct suppliers and do not cover the activities of indirect suppliers (IMAZON, O MUNDO QUE QUEREMOS, 2023; VIEIRA, 2024). Furthermore, regulations on the cattle supply chain in Brazil have not yet incorporated the environmental variable into a unified system for animal traceability at the federal level. Thus, existing systems for cattle traceability do not necessarily imply socio-environmental monitoring (FROEHLICH, 2022). In the vast majority of cases, the Agricultural Defense Agencies in Brazil fail to perform this analysis.

In addition, the slaughterhouses that signed the agreement with the MPF have their own traceability systems, but their data is not public or accessible. As a result, traceability arrangements are scattered throughout the sector, and different companies may adopt different criteria, tools, and technologies[24]. Furthermore, public access to and monitoring of the data is impaired, making it impossible to compare metrics between different providers. The lack of transparency is also a problem in the case of data managed by the Government, since data related to GTAs and State Registries of Agricultural Establishments are restricted to state agricultural protection agencies. In this regard, there are already Brazilian court decisions[25] that require state agencies to open and share GTA data with oversight agencies, such as the Public Prosecutor's Office. However, such decisions still apply to few states and do not extend publicity to society in general.

It is also worth noting that the Selo Verde Platform, although it is a relevant transparency initiative regarding the regularity of properties located in the state of Pará, should be combined with additional data, since its information is mainly dependent on the Rural Environmental Registry, which cannot be used alone to assess environmental compliance.[26]

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24 There are studies and initiatives that list the private traceability arrangements that exist in the cattle production chain in Brazil. In this regard, we can mention the study "Traceability Initiatives in the Beef and Leather Value Chains in Brazil" by the AMAZONIAN ENVIRONMENTAL RESEARCH INSTITUTE (IPAM), available here. In addition, there is the GTFI Tool Map, available here, and the MBPS Sustainable Livestock Initiatives Map, available here.

25 For example, we can cite ACP No. 1025464-41.2023.4.01.3200, proposed by the MPF against the Amazonas Agricultural and Forestry Defense Agency (ADAF), the Rondônia Agrosilvopastoral Health Defense Agency (IDARON), and the Acre Agricultural and Forestry Defense Institute (IDAF).

26 During the writing of this document, using public data from 2023, the authors identified an overlap of Rural Environmental Registry PA-1507300-F92690550BA34DBB963D18D7DCCEB7BC with the Indiginous Territory Apyterewa TI in São Félix do Xingu, in Pará. After publication of the document, researchers from the Federal University of Minas Gerais noted that this overlap no longer exists. This is possibly due to the fact that the landowner can change the information registered in the Rural Environmental Registry at any time, especially when it has not yet been analysed and validated by the competent environmental agency. This reinforces the need to compare the information provided by the Platform with other sources of public information, mainly with the properties registries.

Finally, the systematic difficulty in accessing consolidated and centralized data also applies to infraction notices, embargoes, and lawsuits. There is still no platform responsible for unifying the data of all federal entities, making it necessary to individually consult each of the systems. In the case of infraction notices and embargoes, which can be issued not only by the Union and states but also by municipalities, consulting all existing systems is unfeasible, given that there are currently more than 5,500 municipal federative entities in Brazil, making it necessary to make a selection that is appropriate to the intended purposes.

3. Due diligence recommendations for compliance with Regulation (EU) No. 2023/1115 in trade relations with Brazil

In order to comply with the terms of Regulation (EU) No. 2023/1115, it is necessary, first of all, to rule out the association of Brazilian products with any deforestation, legal or illegal, after December 31, 2020. Such situations must be verified through remote sensing systems and information obtained by satellite, such as PRODES, DETER-B, MapBiomas Alerta, Brasil MAIS, SAD Imazon, GLAD, JJ-FAST, and SIPAMSAR (see Appendix 3).

In addition to the cases of recent deforestation, the Regulation also prohibits the export and placement on the European market of products produced in non-compliance with the applicable legislation of the country of origin. Verification of compliance with Brazilian legislation depends, among other relevant issues, on verifying the occurrence of deforestation prior to December 31, 2020, that generated unresolved environmental liabilities.

Considering the environmental legislation in force and the current panorama of deforestation in Brazil, it is important to pay special attention to the following **hypotheses of deforestation on rural properties, which may indicate the existence of illegalities:**

Chart 2: Hypotheses of deforestation on rural properties most associated with illegalities

1	Properties in which there are infraction notices, embargo terms, and legal actions without proof of resolution of the environmental liability.
2	Deforestation after September 25, 1990, in the Atlantic Forest biome without proof of authorization from the competent environmental agency.
3	Deforestation after July 22, 2008, in the Amazon, Cerrado, Pantanal, Caatinga and Pampa biomes without proof of authorization from the competent environmental agency • Especially in the Amazon, it is important to verify whether the property overlaps with public lands. • Especially in the Cerrado, it is important to verify the competence of the body issuing the authorization to remove vegetation.
4	CAR overlapping Indigenous and quilombola territories.
5	Properties with more than 1,500 hectares with a CAR after January 2012 superimposed on public lands.[27]
6	CAR superimposed on Conservation Units with a date after the creation of the protected area[28]
7	Authorization for vegetation removal issued by a Municipality without a qualified environmental agency[29].

Source: Own elaboration, 2024

27 Federal Law No. 11.952/2009 deals with land regularization in cases of occupation of public lands, allowing the obtaining of property titles in cases of occupation and economic exploitation up to July 22, 2008 (art. 5, IV). The law also provides for a special hypothesis of regularization through payment for occupations that occurred up to December 2011. Thus, the greatest risk of illegality is found in cases of CAR overlapping with public areas after January 2012. This is a particularly serious issue in the Amazon region. Furthermore, approximately 44% of the cases of CAR overlapping with public lands refer to areas of more than 1,500 hectares, which allows us to conclude that these are not occupations for family or subsistence farming, but rather by groups that have capital, financing, and organization (ABRAMPA, IPAM 2023).

28 Once created, the UCs need to be implemented, and it is possible that there may be legitimate occupations within their territorial limits, awaiting expropriation. Therefore, it is recommended to proceed with greater caution in cases where the CAR is after the date of creation of the UC.

29 There has been decentralization and delegation of powers regarding environmental licensing—and, consequently, the granting of ASV—from states to municipalities without respecting the minimum legal requirements imposed by Complementary Law No. 140/2011, namely: the existence of an environmental agency capable of executing the administrative actions to be delegated and of an environmental council (arts. 5, sole paragraph, and 15, II), in addition to the limitation of the transfer of competence only in relation to activities and projects with local impacts, according to the definition of the State Environmental Council, in the case of decentralization (art. 9, XIV, 'a'). The capacity of municipalities to lead the authorization processes (art. 15, II) depends, among other issues, on the existence of a sufficient number of civil servants with the necessary technical qualifications to carry out the assessments required by law, which include inventories of fauna and flora (forestry engineers, agricultural engineers, and/or biologists) and the existence and functioning of a Municipal Environmental Council (ABRAMPA, 2024).

Based on the overview presented of Brazilian national legislation and the legal instruments created by it to control deforestation and the environmental regularity of properties and productive activities in Brazil, as well as the difficulties faced in the implementation stage of these mechanisms and the main situations that may indicate the existence of illegalities, it is possible to understand and map the existing environmental risks that need to be addressed when purchasing Brazilian products within the scope of Regulation (EU) No. 2023/1115. Such risks can be mitigated, as long as effective measures are adopted to this end. This includes the requirement for additional documents, obtaining information from public systems, and checking satellite images of areas of interest.

Below is a table that includes the main points of attention that, if recognized, should serve as indicators of the need to adopt additional due diligence measures to mitigate the risk of environmental illegality. These possible illegalities are accompanied by different degrees of risk, namely:

- **Low risk of illegality:** Cases in which existing legal and institutional mechanisms tend to be sufficient to prevent illegalities, requiring only the adoption of the simplest standardized practices;
- **Medium risk of illegality:** Cases in which illegalities may occur, requiring caution and the adoption of additional due diligence measures;
- **High risk of illegality:** Cases in which the occurrence of illegality is practically certain, necessitating confirmation of whether the environmental irregularity persists or has already been remedied;
- **Very high risk of illegality (insurmountable or "non-negligible" risk, under Regulation (EU) No. 2023/1115):** Cases in which there is non-compliance with basic requirements of Brazilian legislation, rendering the purchase of products under Regulation (EU) No. 2023/1115 impossible.

It should be noted that low, medium, and high-level risks of illegality cannot be ignored and must be adequately managed and mitigated. In contrast, a non-negligible risk indicates the complete impossibility of marketing the products under the terms of Regulation (EU) No. 2023/1115.

ENVIRONMENTAL ILLEGALITY RISK SCALE IN THE BRAZILIAN AGRICULTURAL PRODUCTS

Chart 3: Scale of risk of environmental illegality in the production chain of Brazilian agricultural products

HYPOTHESES	RISK DEGREE
Property registration and CAR with discrepant geolocation data	Very high risk of illegality
CAR, environmental licenses and authorizations, DOF, and GTA with discrepant geolocation data	Very high risk of illegality
Notice of violation, embargo or legal action relating to the property(ies) indicated as the origin of the product	High risk of illegality
Notice of violation, embargo or legal action relating to other property(ies) in the name of the owner/possessor of the property(ies) indicated as the origin of the product	Medium risk of illegality
Property(ies) indicated as the origin of the product with analyzed and active CAR	Low risk of illegality
Property(ies) indicated as origin of product with pending, suspended or canceled CAR(s)	Very high risk of illegality
Property(ies) indicated as origin of the product with unanalyzed and active CAR	Medium risk of illegality
Property(ies) indicated as the origin of the product with CAR not analyzed, active and overlapping Conservation Units	High risk of illegality
Property(ies) indicated as the origin of the product with CAR not analyzed, active and overlapping Indigenous or Quilombola Lands, Public Land Plots and Non-Designated Public Forests	Very high risk of illegality
Property(ies) indicated as origin of the product with CAR not analyzed, active and without maintenance of RL and APP	Very high risk of illegality
Activity or venture with environmental licensing	Low risk of illegality
Activity or venture without environmental licensing	Medium risk of illegality
Deforestation with authorization to remove vegetation	Medium risk of illegality
Deforestation with authorization to remove vegetation	Very high risk of illegality
Timber transactions without DOF	Very high risk of illegality
Location indicated as the origin of the wood by the DOF with no signs of exploitation	Very high risk of illegality
History of timber movements with signs of irregularity	Very high risk of illegality

Livestock transactions without GTA	Very high risk of illegality
Location(s) indicated as a site for breeding, rearing, and fattening of cattle by GTA without signs of agricultural activity	Very high risk of illegality
Slaughterhouses in default of environmental commitments made to regulatory bodies	Very high risk of illegality

Source: Own elaboration, 2024

Risk management and mitigation depend on a number of processes that are listed below **in a non-exhaustive manner.** These are **suggestions for minimum due diligence** to increase the certainty that Brazilian standards for protecting native vegetation are observed by all those who participate in trade relations with the European Union.

The step-by-step process suggested here also includes the actions necessary to confirm that there has been no deforestation after December 31, 2020, in the area where the goods being traded are produced. To carry out these actions, it is suggested that specialized and multidisciplinary consulting be hired, familiar with national legislation and information systems.

RISK MITIGATION MEASURES APPLICABLE TO BRAZILIAN AGRICULTURAL PRODUCTS

1. Request for essential information

a. Request the personal data of the owner(s)/holder(s) and legal entity(ies) responsible for the property(ies) where the product was produced, including the Individual Taxpayer Registry (CPF) and the General Taxpayers' Registry (CNPJ), in order to collect the data necessary to carry out the suggested procedures.

b. Request the data of the property(ies) where the production took place, including the property registry number(s) and the name(s) of the property(ies), in order to collect the data necessary to carry out the suggested procedures.

c. Request the CAR number of all properties through which the product passed.

d. Request the Preliminary License (LP), Installation License (LI), and Operation License (LO) and the opinions that accompany them. In cases of exemption from environmental licensing or simplified environmental licensing process, require the Brazilian producer to present the legal basis for the exemption or simplification and a description of the classification of the situation in the case.

e. Request all authorizations related to the removal of vegetation, regardless of the name used, necessary for the execution of the activity or implementation and operation of the enterprise that made the production of the marketed goods possible.

FOR THE WOOD SUPPLY CHAIN

f. Require presentation of the export authorization issued by IBAMA, as referred to in IBAMA Normative Instruction No. 8/2022.

g. Require the presentation of the PMFS, the Export DOF, and the common DOFs that support **all** previous transactions of wood or forest products and byproducts sold.

FOR THE CATTLE SUPPLY CHAIN

h. Require that supplying slaughterhouses present the GTAs that support **all** cattle transactions in the supply chain – that is, not only the GTA from the last seller to the slaughterhouse but also the reconstruction of the GTAs that accompanied all herd movements.

2. Confirmation of geographical identity between the indicated property(ies) and the information provided

a. Confirm the geographic identity between the property registration(s) and the indicated CAR(s).

b. Confirm the geographic identity between the indicated CAR(s), the area(s) covered by the environmental licenses, and the authorizations. Proceed with the transaction only after proof of geographic identity.

FOR THE WOOD CHAIN

a. Confirm the geographic identity between the indicated CAR(s), the PMFS, the DOF(s), and the authorization that supported the timber harvesting. Proceed with the transaction only with proof of geographic identity.

FOR THE CATTLE CHAIN

b. Confirm the geographic identity between the indicated CAR(s) and the GTA(s). Proceed with the transaction only with proof of geographic identity.

3. Verification of the occurrence of deforestation after December 31, 2020

a. Consult satellite images of the property(ies) where production occurred before and after December 31, 2020, using the most appropriate remote sensing system, in accordance with the particularities of the tools listed in Appendix 3, in order to meet the requirement of Article 3, 'a', of Regulation (EU) No. 2023/1115. Proceed with the transaction only if no deforestation is verified after December 31, 2020.

4. Verification of possible irregularities already identified by Brazilian authorities

a. Check whether there are any infraction notices in the name and CPF of the owner/holder in the IBAMA system (access here) and in the systems of the respective state and municipality where the property(ies) is located, in order to meet the requirement of article 3, 'b', of Regulation (EU) No. 2023/1115. Proceed with the transaction only: (i) if there are no infraction notices related to the property(ies) where production took place; (ii) if there are infraction notices, if official documents are presented proving that the environmental liability has already been regularized; and (iii) proceed with caution if there are infraction notices in properties other than those linked to the product(s).

b. Check whether there are any embargoes on the name and CPF of the owner/holder, on the company's corporate name and CNPJ and on the name of the property(ies), if applicable, in the IBAMA system (access here) and in the systems

of the respective state and municipality where the property(ies) is/are located, in order to meet the requirement of article 3, 'b', of the Regulation. Proceed with the transaction only: (i) if there are no embargoes related to the property(ies) where production took place; and (ii) proceed **with caution** if there are embargoes on properties other than those linked to the product(s).

c. Request the presentation of certificates of first and second degree civil and criminal lawsuits from all Courts of Justice (state) and Brazilian Federal Regional Courts of the owner/possessor and the company, as well as the presentation of a certificate of the subject matter and basis of all lawsuits involving environmental crimes and illicit acts, in order to meet the requirement of article 3, 'b', of Regulation (EU) No. 2023/1115. Proceed with the transaction only: (i) if there are no environmental lawsuits involving the property(ies) where production took place; (ii) if there are lawsuits, if official documents are presented proving that the environmental liabilities have already been regularized; and (iii) proceed **with caution** if there are lawsuits related to properties other than those linked to the product(s).

5. Analysis of the Rural Environmental Registry

a. Consult the registration form(s) in SICAR (access here), checking whether the CAR of each property involved in production is active and has already been analyzed by the environmental agency in the fields "Registration Status" and "External Condition" in order to meet the requirement of Article 3, 'b', of the Regulation. If the CAR(s) has already been analyzed by the environmental agency and is listed as active, proceed with the transaction. Do not proceed with the transaction if any of the CARs is listed as pending, suspended, or canceled.

b. Perform additional due diligence measures if the CAR(s) has not yet been analyzed by the environmental agency and is listed as active, including the analysis of: (i) any overlap with Indigenous or Quilombola Lands, Conservation Units, Public Land Plots, and Non-Designated Public Forests; (ii) maintenance of Legal Reserves within legal limits; and (iii) maintenance of Permanent Preservation Areas established by law. In the event of overlap with Conservation Units, the following must be confirmed: (i) whether the law requires the expropriation of any private properties located within their limits; (ii) whether the property under

analysis already existed at the time the Conservation Unit was created; and (iii) whether it has not yet been expropriated. Additionally, request periodic consultation of SICAR in order to verify whether all CARs have already been validated by the environmental agency and whether they are active.

6. Analysis of environmental licensing (when applicable)

a. Confirm whether the environmental licensing was carried out by the competent body, in accordance with Complementary Law No. 140/2011, in order to meet the requirements of Article 3, 'b', of the Regulation.

b. Confirm the information on the IBAMA platform, in the case of federal licensing (verify here), or on the respective state or municipal platform, in the case of licensing by such entities.

7. Analysis of authorizations associated to vegetation removal[30]

a. Confirm whether, in the case of an activity or undertaking subject to environmental licensing, the authorizations were granted by the same environmental agency that issued the Licenses, in order to meet the requirement of Article 3, 'b', of Regulation (EU) No. 2023/1115.

b. Confirm the information on authorizations issued from 2018 onwards on the IBAMA open data platform, consulting the data on Vegetation Removal Authorizations (ASV) (access here) and on Alternative Land Use Authorizations (AUAS) (access here). As there are still challenges in integrating data from all units of the Federation and authorizations granted before 2018 are not included in the System, confirm any information not found in the Open Data spreadsheets with the environmental agency indicated as responsible for issuing the authorization.

30 It should be noted that, although the Regulation already prohibits the purchase of products from areas deforested after December 31, 2020, it is important to consult the vegetation removal authorizations for: (i) cases of products from areas deforested before December 31, 2020; and (ii) cases of products from areas with vegetative formations other than forests deforested after December 31, 2020. In both situations, it is necessary to confirm whether the rules of national legislation have been observed in order to proceed with the purchase.

ADDITIONAL MEASURES FOR THE WOOD SUPPLY CHAIN

8. Analysis of the Sustainable Forest Management Plan and Forest Origin Documents

a. Perform geolocation identification of the property of origin in order to detect whether the location is actually being managed or harvested. Do not proceed with the transaction if it is found that the property does not show signs of exploitation[31].

b. Using the DOFs obtained from suppliers, check the history of movements of the wood sold, from the origin to the moment of export, paying attention to possible signs of irregularities (for example, excessive transfers of wood without any type of processing between transactions or the transfer of large volumes of wood between users in short intervals of time)[32].

c. Use the Timber Flow Platform (access here) to check whether the supplying company's supply chain has records of violations, embargoes, or suspensions. To do so, access the "Chain Flow" tab and search for the DOF or CNPJ number of the selling company and fill in the information about the wood species and the date on which you wish to consult. Do not proceed with the transaction if there are pending violations, embargoes, or suspensions, especially if related to falsifications in IBAMA systems.

31 The lack of evidence of exploitation may indicate that the property is being used for "wood washing".

32 In the analysis of the DOF+ System, certain types of transactions may indicate non-negligible risks, constituting true red alerts for the buyer. In this regard, it is important to mention that Article 29 of IBAMA's Normative Instruction No. 1/2017 provides for hypotheses of movements considered suspicious, such as indications of unavailable transportation modes.

ADDITIONAL MEASURES FOR THE CATTLE SUPPLY CHAIN

9. Analysis of Animal Transport Guides

a. Perform geolocation identification of the properties through which the cattle have passed in order to detect whether the properties are, in fact, subject to livestock farming activity. Do not proceed with the transaction if it is found that the properties listed in the GTAs do not show signs of exploitation.[33].

10. Verification of compliance with environmental commitments already adopted by supplier slaughterhouses

a. Check the name of the supplier slaughterhouse on the Conduct Adjustment Terms Monitor Platform (access here), to verify whether the slaughterhouse is complying with environmental commitments already made to the regulatory agencies. Do not proceed with the transaction if the commitments are being disregarded.

11. Verification of the adoption of good practices by supplier slaughterhouses

a. Prioritize purchases from slaughterhouses that are implementing the criteria set out in the Boi na Linha Protocol to monitor their purchases, as well as carrying out periodic audits of these systems.

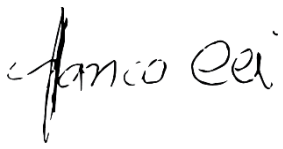
33 The lack of evidence of exploitation may indicate that the property is being used for "cattle laundering".

Although not exhaustive, the measures suggested here seek to allow Regulation (EU) No. 2023/1115 to be adequately implemented in purchases of Brazilian products, considering current legislation and the current scenario of implementation of Brazilian environmental policies. The aim is to contribute to the preservation of a balanced environment and a stable climate by promoting sustainable development in Brazil, with the appreciation of national producers who comply with environmental legislation.

Belo Horizonte/Brasília, October 24, 2024

Alexandre Gaio

President of the Brazilian Association of Members of the Public Ministry of the Environment



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Appendix 1 - List of acronyms used

AMACRO	Amazon, Acre and Rondônia (Amazônia, Acre e Rondônia)
APP	Permanent Preservation Area (Área de Preservação Permanente)
ASV	Vegetation Removal Authorization (Autorização de Supressão de Vegetação)
AUAS	Alternative Land Use Authorization (Autorização de Uso Alternativo do Solo)
CAR	Rural Environmental Registry (Cadastro Ambiental Rural)
CNJ	National Council of Justice (Conselho Nacional de Justiça)
CONAMA	National Environmental Council (Conselho Nacional do Meio Ambiente)
DOF	Document of Forest Origin (Documento de Origem Florestal)
EIA	Environmental Impact Study (Estudo de Impacto Ambiental)
FUNAI	National Indian Foundation (Fundação Nacional dos Povos Indígenas)
GTA	Animal Transport Guide (Guia de Trânsito Animal)
ICMBio	Chico Mendes Institute for Biodiversity Conservation (Instituto Chico Mendes de Conservação da Biodiversidade)
IBAMA	Brazilian Institute of Environment and Renewable Natural Resources (Instituto Brasileiro do Meio Ambiente e dos Recursos Renováveis)
LC	Complementary Law (Lei Complementar)
LI	Installation License (Licença de Instalação)
LO	Operating License (Licença de Operação)
LP	Preliminary License (Licença Prévia)
MAPA	Ministry of Agriculture, Livestock and Food Supply (Ministério da Agricultura e Pecuária)
MATOPIBA	Maranhão, Tocantins, Piauí and Bahia
MDIC	Ministry of Development, Industry, Trade and Services (Ministério do Desenvolvimento, Indústria, Comércio e Serviços)
MMA	Ministry of Environment and Climate Change (Ministério do Meio Ambiente e Mudança do Clima)
MONITAC	Monitor of Conduct Adjustment Terms (Monitor de Termos de Ajustamento de Conduta)
MPF	Brazilian Federal Public Ministry (Ministério Público Federal)
PMFS	Sustainable Forest Management Plan (Plano de Manejo Florestal Sustentável)
PNMA	National Environmental Policy (Política Nacional de Meio Ambiente)
PRA	Environmental Regularization Program (Programa de Regularização Ambiental)
RIMA	Environmental Impact Report (Relatório de Impacto Ambiental)
RL	Legal Reserve (Reserva Legal)
SNUC	National System of Conservation Units (Sistema Nacional de Unidades de Conservação)
SICAR	National System of Rural Environmental Registratry (Sistema Nacional de Cadastro Ambiental Rural)
SIMEX	Logging Monitoring System (Sistema de Monitoramento da Exploração Madeireira)
SINAFLOR	National System for Control of the Origin of Forest Products (Sistema Nacional de Controle da Origem dos Produtos Florestais)
SISBOV	Brazilian Cattle and Buffalo Identification and Certification System (Sistema Brasileiro de Identificação Individual de Bovinos e Búfalos)
SISNAMA	National Environmental System (Sistema Nacional do Meio Ambiente)
TAC	Conduct Adjustment Terms (Termo de Ajustamento de Conduta)
TI	Indigenous Lands (Terras Indígenas)
UC	Conservation Unit (Unidade de Conservação)
EU	European Union

*Translator's Note: To facilitate access to information, acronyms originating from Brazilian Portuguese in the body of the text were maintained as per the original text.

Appendix 2 - Main Brazilian environmental instruments and their regulatory standards

Instrument	Standard number	Object	Main obligations
CAR	Federal Law No. 12.651/2012 (Native Vegetation Law or Forest Code)	Provides for the protection of native vegetation and other measures.	It provides that all rural properties must be registered in the CAR, which must also include their APPs and RLs. It also states that private properties with environmental liabilities may register in the PRA, by signing a commitment term.
	Federal Decree No. 7.830/2012	Provides for the Rural Environmental Registry System, the Rural Environmental Registry, establishes general rules for Environmental Regularization Programs, as set forth in Law No. 12,651 of May 25, 2012, and contains other provisions.	It provides that all rural properties must be registered in the CAR, which must also include their APPs and RLs. It also states that private properties with environmental liabilities may register in the PRA by signing a commitment term.
	MAPA Ordinance No. 121/2021	It establishes, within the scope of the Ministry of Agriculture, Livestock, and Food Supply, complementary general procedures for the analysis of data from the Rural Environmental Registry (CAR) and for the integration of the results of the analysis into the Rural Environmental Registry System (SICAR) and provides other measures.	It provides that CARs may appear in SICAR as active, pending, suspended or canceled.

Environmental licensing	Federal Law No. 6.938/1981 (National Environmental Policy)	Provides for the National Environmental Policy, its purposes and mechanisms for formulation and application, and other measures.	It provides that the construction, installation, expansion, and operation of establishments and activities that use environmental resources and are actually or potentially polluting or capable of causing environmental degradation must undergo a prior environmental licensing process. It presents in its Annex VIII a list of potentially polluting activities and users of environmental resources.
	CONAMA Resolution No. 001/1986	Provides basic criteria and general guidelines for environmental impact assessment.	It foresees that an EIA-RIMA must be carried out in the case of projects for the economic exploitation of wood or firewood above 100 (one hundred) hectares or smaller when it involves significant areas in terms of percentage or importance from an environmental point of view, and of agricultural projects that include areas above 1,000 (one thousand) hectares or smaller when it involves significant areas in terms of percentage or importance from an environmental point of view, including in areas of environmental protection.
	CONAMA Resolution No. 237/1997	Provides for the review and completion of procedures and criteria used for environmental licensing.	It provides that the location, construction, installation, expansion, modification, and operation of enterprises and activities using environmental resources considered to be effectively or potentially polluting or capable of causing environmental degradation in any form will depend on prior environmental licensing.
	Complementary Law No. 140/2011	It establishes rules, in accordance with items III, VI, and VII of the caput and the sole paragraph of Art. 23 of the Federal Constitution, for cooperation between the Union, the States, the Federal District, and the Municipalities in administrative actions arising from the exercise of common competence relating to the protection of notable natural landscapes, the protection of the environment, the fight against pollution in any of its forms, and the preservation of forests, fauna, and flora.	It provides for which federative entities will be responsible for the environmental licensing of different activities and projects.

Vegetation removal authorization	Federal Law No. 12.651/2012 (Native Vegetation Law or Forest Code)	Provides for the protection of native vegetation and other measures.	It provides that prior authorization is required for the removal of native vegetation for alternative land use.
	Complementary Law No. 140/2011	It establishes rules, in accordance with items III, VI, and VII of the caput and the sole paragraph of Art. 23 of the Federal Constitution, for cooperation between the Union, the States, the Federal District, and the Municipalities in administrative actions arising from the exercise of common competence relating to the protection of notable natural landscapes, the protection of the environment, the fight against pollution in any of its forms, and the preservation of forests, fauna, and flora.	It provides for which federative entities will be responsible for issuing authorizations related to the suppression of vegetation in different situations.
Infraction notice	Federal Law No. 9.605/1998 (Environmental Crimes Law)	Provides for criminal and administrative sanctions arising from conduct and activities that are harmful to the environment and contains other provisions.	It provides that a notice of violation will be drawn up when an action or omission is verified that violates the legal rules of use, enjoyment, promotion, protection, and recovery of the environment.
	Federal Decree No. 6.514/2008	Provides for environmental infractions and administrative sanctions, establishes the federal administrative process for investigating these infractions, and provides other measures.	It provides that an environmental infraction report will be drawn up when an environmental administrative infraction is found to have occurred.
Embargoes	Federal Law No. 12.651/2012 (Native Vegetation Law or Forest Code)	Provides for the protection of native vegetation and other measures.	It provides that the competent environmental body must suspend the work or activity that gave rise to the alternative use of the land in the event of deforestation carried out in disagreement with the legislation.
	Federal Decree No. 6.514/2008	Provides for environmental infractions and administrative sanctions, establishes the federal administrative process for investigating these infractions, and provides other measures.	It provides for the embargo of works or activities as a sanction and precautionary administrative measure.

GTA	Law No. 12.097/2009	Provides for the concept and application of traceability in the beef and buffalo meat production chain.	It provides for the Animal Transport Guide as an instrument for the traceability of the beef and buffalo meat production chain.
	MAPA Normative Instruction No. 9/2021	Approves the printed model of the Animal Transport Guide (GTA) for the transit of live animals, fertile eggs, and other animal multiplication materials and establishes the electronic format of the Animal Transport Guide (GTA), in the form of the e-GTA model, for the movement, throughout the national territory, of live animals, fertile eggs, and other animal multiplication materials.	It provides rules and technical specifications for issuing the GTA in printed and digital formats throughout the national territory.
SISBOV	MAPA Normative Instruction No. 51/2018	Institutes the Brazilian Cattle and Buffalo Identification and Certification System (SISBOV).	It provides for the method of adherence to the System and the ways of individually identifying animals, such as by means of ear tags. Each animal is identified by a code consisting of 15 digits.
PMFS	Lei Federal nº 12.651/2012 (Native Vegetation Law or Forest Code)	Provides for the protection of native vegetation and other measures.	It provides that the exploitation of native forests will depend on the prior approval of the Sustainable Forest Management Plan (PMFS) by the competent environmental agency. The PMFS must include exploration, replacement, and management techniques compatible with the preservation of ecosystems.

DOF	MMA Ordinance No. 253/2006	Establishes, as of September 1, 2006, within the scope of the Brazilian Institute of the Environment and Renewable Natural Resources (IBAMA), the Forest Origin Document (DOF) replacing the Authorization for Transportation of Forest Products (ATPF).	It provides for the establishment of the Forest Origin Document as "the mandatory license for the transportation and storage of forest products and by-products of native origin, containing information on the origin of these products, generated by the electronic system called Sistema-DOF."
	Federal Law No. 12.651/2012 (Native Vegetation Law or Forest Code)	Provides for the protection of native vegetation and other measures.	It provides that the transportation and storage of wood and other forest products or by-products requires a license from the competent environmental agency, namely, the Forest Origin Document (DOF). The DOF must accompany the material until final processing.
	IBAMA Normative Instruction No. 8/2022	Establishes the procedures for authorizing the export of timber products and by-products of native species originating from natural or planted forests, aiming to complement the control of export of native timber cargo within the scope of Ibama, Normative Instruction No. 21, of December 24, 2014, Normative Instruction No. 17, of December 1, 2021, and Ordinance No. 8, of January 3, 2022.	It provides for the documents required to obtain export authorization, including the DOF Export. In addition, for specific products, such as roundwood and sawn timber with a thickness above 250 mm, additional documents are required, such as the indication of the PMFS and all transport documents throughout the chain.
	IBAMA Normative Instruction No. 16/2022 IBAMA n° 16/2022	Establishes the Forest Origin Traceability Document (DOF+) system as a tool for issuing, managing, and monitoring mandatory licenses for the transportation and storage of forest products from native species in Brazil.	It foresees that the traceability of forestry products will be carried out using the tracking code, automatically generated by the DOF+ System and linked to the origin of the forestry product credit.

Source: Own Elaboration, 2024

Appendix 3 - Remote sensing systems in Brazil[34]

	PRODES	DETER-B	MapBiomas Alerta	Brasil MAIS[35]	SAD Imazon	GLAD	JJ-FAST	SIPAMSAR[36]
Responsible	INPE	INPE	MapBiomas	MJSP	Imazon	Maryland University (USA)	JICA-JAXA (Japan)	Censipam/ Defesa
Start of operation	1988	2015	2019	2020	2008	2016	2016	2018
Main purpose	Statistical/ Scientific	Alerts	Validation, refinement of alerts	Operational alerts	Alerts	Alerts	Statistical/ Scientific	Operational alerts
Satellite/actual sensors used in detection	Landsat 5/7/8	Cbers 4/4A	DETER, GLAD, SAD e SIRAD-X	Planet	Landsat 7/8 Sentinet 1/2	Landsat 7/8	Alos-2	Iceye
Technology	Optical	Optical	Optical	Optical	Optical	Optical	SAR	SAR
Best spatial resolution	30m	55m	3.7m	3.7m	10m	30m	100m	3m/15m
Theoretical temporality	Yearly	5 days	5 days	1 day	5 days	8 days	14 days	1 day
Real average temporality	Yearly	10 days	10 days	2 days	10 days	15 days	45 days	-
Minimum alert/ polygon size	6.25 ha	6.25 ha	0.3 ha	0.3 ha	1 ha	0.1 ha	2 ha	0.5 ha
Change Detection Alert Classes	Clearcutting	Clearcutting, degradation and selective cutting	Agriculture, urban expansion, mining, prospecting, roads, renewable energy project, reservoir/ pond, natural causes	Clearcutting, degradation, selective logging, burn focus, burn scar, access, landing strip, mineral exploration/ mining, illicit crops and suppression by natural causes	Clearcutting, degradation and selective cutting	Deforestation	Deforestation	Clearcutting, degradation and selective cutting
Object Detection Alert Classes	Not available	Not available	Not available	Vessels, buildings and roads	Not available	Not available	Not available	Landing strips
Does it provide images?	No	No	Only before and after the deforested polygon	Yes	No	No	No	Yes
Start of the image collection	-	-	-	2017	-	-	-	-

Source: Adapted from CNJ, 2023

34 Mais informações sobre os sistemas PRODES, DETER-B e MapBiomas Alerta podem ser consultadas em CPDG, 2024.

35 Access to the platform is exclusive to public bodies, and the body must request the registration of a specific user in order to access the images and alerts.

36 This is an internal system of the Brazilian government, with no public access to results or alerts. The indicated link provides more information about the project.

Apêndice 4 - Categorias de Unidades de Conservação que exigem desapropriação

Group	Category	Prevision on SNUC	Property	Desapropriação
Integral Protection	Ecological Station	Art. 9º	Public possession and domain	Mandatory
	Biological Reserve	Art. 10	Public possession and domain	Mandatory
	Parque Nacional	Art. 11	Public possession and domain	Mandatory
	Natural Monument	Art. 12	It can be made up of private areas, in case of compatibility	Mandatory in case of incompatibility
	Wildlife Refuge	Art. 13	It can be made up of private areas, in case of compatibility	Mandatory in case of incompatibility
Sustainable Use	Environmental Protection Area	Art. 15	Public or private areas	Not applicable, but restrictions may be established
	Area of Relevant Ecological Interest	Art. 16	Public or private areas	Not applicable, but restrictions may be established
	National Forest**	Art. 17	Public possession and domain	Mandatory
	Extractive Reserve**	Art. 18	Public domain, with use granted to traditional extractive populations	Mandatory
	Wildlife Reserve	Art. 19	Public possession and domain	Mandatory
	Sustainable Development Reserve**	Art. 20	Public domain	Mandatory in case of incompatibility
	Private Natural Heritage Reserve	Art. 21	Private area	Not applicable
** Cases in which the permanence and use by traditional populations that already inhabited the area at the time of the creation of the UC is permitted				

Source: Own Elaboration, 2024

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ASSOCIAÇÃO BRASILEIRA DOS MEMBROS DO MINISTÉRIO PÚBLICO DE MEIO AMBIENTE

CNMP
CONSELHO NACIONAL DO MINISTÉRIO PÚBLICO

SUPPORT:

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SOS MATA ATLÂNTICA

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