

RCF Cerrado Programme 1 Eligibility Criteria

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1. Background

One of the **main objectives of the RCF Cerrado Programme is to include areas of native vegetation under the protection status of the RCF**, thereby **preventing legal and/or illegal conversion** in areas controlled by the soy sector. With respect to illegal conversion, while the Forest Code is supposed to convey some degree of protection to native vegetation in areas of legal reserve or areas of permanent protection (APPs), compliance with the code is low and it is often the case that the obligations of the code are not enforced. According to a study by ICV, 79% of deforestation in the state of Mato Grosso is not legal¹, and MapBiomas shows that only 2.2% of deforestation alerts detected by the platform were checked in the field by the government in the last three years².

In this context, therefore, it is important to recognise that **most areas of native vegetation are potentially at risk of deforestation or conversion, irrespective of whether or not they are under the formal protection of the Forest Code**. Indeed, this is the rationale of different initiatives designed to increase the level of protection of native vegetation in Brazil, such as REDD+ projects, RTRS certification, APAs, and RPPNs.

It is also important to note that **more than 75% of rural properties in Brazil do not fully comply with the requirements of the Forest Code**³. According to the law, these **farmers need to adhere to a PRA** (Programme of Environmental Regularization established by the state environmental agency) **and have up to 20 years to fulfil its obligations** with relation to areas of deficit of legal reserves or APPs.

In this context, the **RCF aims to emulate the environmental impact of full compliance with the Forest Code** in terms of placing areas of native vegetation under protection. The RCF requires farmers to protect areas of native vegetation in excess of the requirements of the Forest Code for the region where their farms are located, irrespective of whether these areas are in the same or in separate farms from the areas of production included in the programme (as long as in the same biome). But, **unlike the Forest Code, the RCF requires farmers to put areas of native vegetation under its protection status from day one**, as opposed to the allowing them 20 years to fulfil their obligations.

In essence, the main environmental impact of the RCF Cerrado Programme is to create additional areas of effective conservation of native vegetation in relation to its baseline, with effect immediately, anticipating the environmental impacts that would be created by implementation of the Forest Code.

While the RCF does not restrict its requirements to the definitions of the law, **the RCF does not allow illegal farms to participate in the programme** (see next section).

¹ See <https://www.icv.org.br/2023/02/ilegalidade-no-desmatamento-do-cerrado-em-mt-e-de-quase-80/>

² <https://mapbiomas.org/dados-sobre-fiscalizacao-mostram-que-impunidade-ainda-predomina-no-combate-ao-desmatamento>

³ See Britaldo Soares Filho et al., 2014: "Cracking Brazil's Forest Code", Science 344, 363; and Gerd Sparovek et al., 2011: "A revisão do Código Florestal Brasileiro, Novos Estudos 89", and "Código Florestal, Aplicação e cumprimento na prática" presented in the conference 'Código Florestal, Estratégias para implantação e cumprimento, 2013'.

2. Determination of compliance with the Forest Code

The Forest Code defines the requirements of native vegetation to be preserved in each rural area, which includes the Legal Reserve (which may be 20%, 35% or 80% of the farm area, depending on the area and type of vegetation involved, as per article 12 of the Forest Code) and the APPs (Areas of Permanent Protection). Under certain conditions the APP may be considered in the computation of the Legal Reserve area (as per article 15 of the Forest Code). However, in case this aggregation results in a total area in excess of the Legal Reserve required, this excess of vegetation cannot be converted.

In case a farm has a deficit of native vegetation, the farmer will need to take corrective actions that may involve the regeneration of the vegetation in the same farm or, under certain conditions, the off-setting of the deficit with areas located in other farms (article 66 of the Forest Code). However, the first requirement for the farmer to regularize its farm is to enrol the area in the CAR (Environmental Rural Registry) and to adhere to the PRA (a Programme of Environmental Regularization established by the state environmental agency). Following the request to adhere to the PRA, the state environmental agency must notify the farmer to sign a term of commitment with the correction actions to be taken.

It is important to clarify that **the RCF does not aim at substituting the public authorities in the enforcement of the Law** and it is not supposed to validate the official regularization process in substitution of the public authorities. Therefore, in case the farm does not contain enough vegetation as required by the Forest Code, the RCF considers a farm “compliant with the Forest Code” if the farming group is formally engaged in a process of regularization of the farm, having enrolled the farm in the CAR and, whenever appropriate, having adhered to a formal process of regularization (PRA). However, for the objectives of the RCF, this farming group can only participate in the programme if it brings sufficient areas to, in aggregate, satisfy the requirement of having native vegetation exceeding the requirements of the Forest Code.

In this sense, the objective to promote the protection of native vegetation and production of DCF soy is satisfied by the contractual engagement of the farmer towards the RCF Cerrado Programme to bring a sufficient area of native vegetation under the protective status of the RCF (as described in section 3 below).

3. RCF metrics and targets of environmental protection

Given that the objective of the RCF Cerrado Programme is to bring more areas under protection, the RCF selects farming groups with significant areas of native vegetation in relation to their areas of soy cultivation. In the first phase of the RCF, this was expressed as a requirement that farms have “at least 5% of excess legal reserve to be protected.” But, considering the potential problems of referring to the legal definitions of the Forest Code, RCF will now adopt metrics that better reflect its environmental objective as opposed to focusing on enforcement of Forest Code provisions – an attribution of governmental environmental agencies, not the private sector.

In this context, the **RCF adopts as a metric the Protection/Production Ratio (PPR) of its portfolio.**

The PPR is the proportion of areas of protection in relation to total areas of the farms financed by the RCF (i.e., total area of native vegetation divided by total area of CARs included in the RCF Cerrado Programme).

The targets of the RCF Cerrado Programme reflect the PPR of its portfolio, and, targets will be defined using the Forest Code as a proxy. The Forest Code requires that farms in the Cerrado biome keep 35% of legal reserve if located in the Legal Amazon and 20% elsewhere. The RCF portfolio aims to include soy farms that in aggregate protect at least 5% more area of native vegetation than required by the Forest Code for the region where farms are located.

So, the **PPR targets of the RCF portfolio** for the next crop cycles are:

- In Cerrado areas **inside the Legal Amazon: a minimum of 40% PPR;**
- In Cerrado areas **outside the Legal Amazon: a minimum of 25% PPR.**

In some cases, the aimed proportion of production and protection areas of a farmer can be achieved in a single farm (defined as the area covered by a CAR). In other cases, **the farmer may bundle groups of individual CARs that, in combination, result in the desired area of native vegetation** put under the protective status of the RCF.

This bundling should not be understood as a means of compliance with the Forest Code requirements and is not intended to release the farmer of the regularization process committed under the Forest Code rules (enrolment in the CAR, engagement in a PRA, etc. - see section 3 above).

In order to differentiate its metrics from those of the Forest Code, **the RCF refers to areas of Excess Native Vegetation (ENV) as opposed to Excess Legal Reserve**, to avoid confusion with areas legally categorised under the Forest Code.

An area of ENV is the area of native vegetation that exceeds the proportion of Legal Reserve required by the Forest Code (35% or 20%, as the case may be), placed under protection by farmers in land owned or controlled by a farmer. For the purposes of calculation ENV, the RCF aggregates any area of native vegetation, including areas that could be labelled as legal reserve or APP under the definitions of the Forest Code.

If a farm contains sufficient area of native vegetation to include both legal reserves and APPs, compliance with these two categories is considered satisfied and any remaining native vegetation is considered ENV. If a farm does not contain sufficient native vegetation to include both legal reserves and APPs, the APPs are considered for the calculation of the legal reserves, as per Article 15 of the Forest Code; in this case there will be no ENV.

Eligibility criteria

Environmental Eligibility Criteria required for producers to participate in the RCF Cerrado Programme 1 (phase 2)

a) Criteria related to the area of cultivation

a.1. Land use

The area of cultivation must comply with the following conditions:

- i) Deforestation and conversion: the cultivation area to be financed must have been cleared of native vegetation before 1 Jan 2020;
- ii) Preference to be given to areas restored from abandoned pastureland to soy cultivation;
- iii) No conversion of additional areas of native vegetation is allowed (in the farm in which the cultivation area is located) during the term of the Facility; and
- iv) The Protection:Production Ratio (PPR) of the portfolio of farms financed must be at least:
 - 40% in Cerrado areas **inside the Legal Amazon; and**
 - 25% in Cerrado areas **outside the Legal Amazon;**

and the areas of native vegetation must be conserved for at least the duration of the Programme.

Clarification Notes to the criteria above:

1. For the assessment of conditions above, the RCF adopts the concept of Minimal level (of deforestation or conversion) as defined by the Accountability Framework Initiative (Afi)⁴.
2. For the determination of what constitutes “deforestation and conversion of native vegetation”, the RCF adopts the definition of “fallow areas” established in the Brazilian Forest Code (article 3, item XXIV), according to which an area can remain fallow for a maximum period of 5 years. So, if a fallow area is left without productive use (e.g., agriculture, pasture land) for more than 5 years, it will be considered to be under natural regeneration and to have reached ‘native vegetation’ status. On the other hand, any further clearance of fallow areas within the 5 years period (i.e., prior to having reached ‘native vegetation status’), are not considered “deforestation or conversion of native vegetation” for the purposes of this criterion.

⁴ “Minor level (of deforestation or conversion): A small amount of deforestation or conversion that is negligible in the context of a given site because of its small area and because it does not significantly affect the conservation values of natural ecosystems or the services and values they provide to people. Minimal levels of deforestation or conversion at the site scale do not necessarily violate no-deforestation or no-conversion commitments. However, this provision does not sanction substantial conversion of forests or natural ecosystems to enlarge commodity production areas. To be considered consistent with no-deforestation or no-conversion commitments, minimal levels must generally meet the following conditions: Not exceed cumulative thresholds that are small both in absolute terms (e.g., no more than a few hectares) and relative to the area in question (e.g., no more than a small proportion of the site). Levels of conversion or deforestation should be assessed cumulatively over space and time; multiple small instances of conversion may lead to a producer being considered non-compliant with commitments. (...)” (“Accountability Framework, Terms and Definitions, June 2019, page 15).

3. The Protection/Production Ratio (PPR) is the proportion of areas of protection in relation to total areas of the farms financed by the RCF (i.e., total area of native divided by total area of CARs included in the Cerrado Programme) and, the targets above were defined using the Forest Code as a proxy. The Forest Code requires that farms in the Cerrado biome keep 35% of legal reserve if located in the Legal Amazon and 20% elsewhere.

The RCF portfolio aims to include soy farms that in aggregate protect at least 5% more area of native vegetation than required by the Forest Code for the region where farms are located. I.e., the targets aim at Excess Native Vegetation (ENV) of 5% in relation to the legal reserve requirements of the Forest Code.

The PPR requirements can be met in individual farms or by aggregating bundles of areas of native vegetation located in areas inside and outside the financed farms. It is important to clarify that this bundling is not a means of compliance with the Forest Code requirements and it does not release the farmer of the regularization process committed under the Forest Code rules (see section below).

A.2. Compliance with the Forest Code

- i) Farmland must be registered with the Cadastro Ambiental Rural (CAR);
- ii) The farm area must not overlap with conservation units, indigenous reservations, and community lands (including quilombos);
- iii) The farm must contain and maintain the required areas of Legal Reserve and Areas of Permanent Protection (APPs) determined by the Forest code or have formally adhered to a Programme of Environmental Regularization (PRA) established by the state environmental agency.

Clarification Notes to the criteria above:

1. Determination of compliance with the Forest Code is a particularly challenging task, given that there is no official confirmation provided by government authorities and the data reported in the CAR is self-declared and not validated by the relevant environmental agencies. For this reason, RCF conducts its own analyses to determine likelihood of compliance, based on the amount of native vegetation observed in the CARs and whether this satisfies the theoretical requirements of the law. All this analyses are conducted using satellite imagery (Landsat) and ArcGIS. The RCF does not carry out on-site audits.
2. RCF's analyses take into account the data self-declared in SICAR. However, the quality of declarations is highly varied, and it is often the case that the numbers declared do not match the areas in the polygons drawn in SICAR, or the boundaries and locations of legal reserves and APPs are incorrect or inappropriate, requiring case-by-case interpretation.
3. For the calculation of APPs, RCF uses the data self-declared in the CARs, both in terms of area declared and by calculating the area of the polygons drawn by the landowner in the CARs. The area declared and the area drawn in the map are often different. In case of discrepancies, if the GIS analysis provides a clear delineation of the APP area, the area calculated in the polygons are used. Otherwise, the highest figures are adopted.

4. If the analysis conducted by RCF according with the procedures described above suggests that a farm contains sufficient area of native vegetation to include both legal reserves and APPs, compliance with these two categories is considered satisfied and any remaining native vegetation is considered “excess native vegetation”. If such analysis suggests that a farm does not contain sufficient native vegetation to include both legal reserves and APPs, the APPs are considered part of the legal reserves, as per Article 15 of the Forest Code.
5. In case the farm does not contain sufficient native vegetation to meet the requirements of the Forest Code in respect to its Legal Reserve and APP, the Forest Code requires the farmer to adhere to the relevant Programme of Environmental Regularization (PRA). The adherence to the PRA is the first step of the regularization process. To the extent that farmers are engaged with the regularization process, they are considered as complying with the Forest Code requirements.
6. The RCF analysis is not intended to replace the responsibilities of the public authorities, nor to validate or scrutinize the official regularization process. Therefore, for the purposes of the RCF eligibility criteria, the requirement of “compliance with the Forest Code” should be considered met (i) if RCF’s analysis suggests that the farm does not have a deficit of Legal Reserve and APP, or (ii) in case RCF’s analysis suggests that the farm has a deficit of Legal Reserve and/or APP, if the farmer is formally engaged in a process of regularization of the farm, having enrolled the farm in the CAR and, whenever appropriate, having adhered to a formal process of regularization (PRA), even if the farm does not contain enough vegetation as required by the Forest Code.
7. For the purposes of the RCF, the protection of native vegetation and the production of DCF soy occurs not from the requirement of “compliance with the Forest Code” but rather from the contractual engagement of the farmer towards the RCF (as described above).

b) Criteria related to the Farmer

Land title: Farmers must have unquestionable right to use the land, be it as land title, land lease agreement or another legally recognised form of land tenure (e.g., ‘*posse*’).

Legal compliance: Farmers must demonstrate that they and their farms do not contravene any environmental or legal requirements, such as:

- i) environmental embargoes,
- ii) labour legislation (including slave and child labour),
- iii) Soy Moratorium (if applicable), and
- iv) internationally accepted rules for the use of agrochemicals (at the RCF farm level).

Clarification Notes to the criteria above:

1. By adopting strict environmental criteria, the Programme aims to minimise its exposure to financing the production from recently deforested areas. The Programme will conduct an initial screening of each farm applying to participate in the Programme, using an internal producer enrolment and due diligence system. This system uses advanced analytics on a combination of real time production data, consultation to external databases (SICAR, IBAMA,

state environmental agencies, Ministry of Labour, etc.), documental and satellite imagery analyses. The Programme does not carry out on-site audits.

2. The assessment of the conditions above will be made through the consultation of official databases (SICAR, IBAMA, state environmental agencies, Ministry of Labour, etc.) and, with respect to the requirement (iv) above, through a declaration signed by both the farmer and the Agronomic Engineer officially responsible for the approvals required for the use of agrochemicals in the farm.

c) Environmental & Social Framework

The Responsible Commodities Facility adopts an Environmental & Social Framework developed in partnership with UNEP Finance.

The E&S Framework was developed to ensure that it supports the objectives of the Facility, and also contribute to a number of the Sustainable Development Goals (SDGs), Brazil's National Biodiversity Strategy and Action Plan (NBSAP), Brazil's National Determined Contribution (NDC) to Paris Agreement of the United Nations Framework Convention on Climate Change (UNFCCC), as well as several relevant industry initiatives, i.e.:

- Soy Working Group (Grupo de Trabalho da Soja – GTS)
- Cerrado Working Group (Grupo de Trabalho do Cerrado – GTC)
- Cerrado Manifesto (including the Statement of Support)
- Collaboration for Forests and Agriculture (CFA)
- Tropical Forest Alliance 2020 (TFA 2020)
- Consumer Goods Forum (CGF)
- Amsterdam Declaration Partnership
- Good Growth Partnership