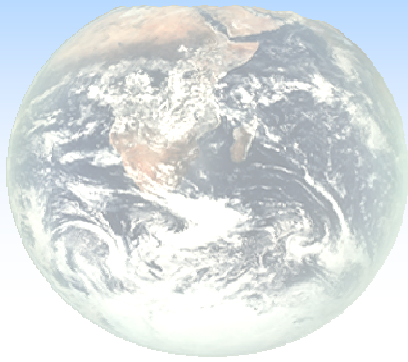


Considerations for PES National Policies

Luiz Fernando de Moura
Plant Inteligência Ambiental

São Paulo, 4th June 2008

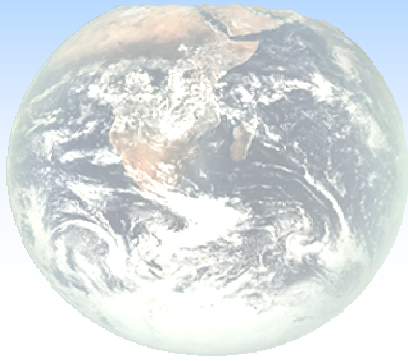
12th International Congress on Environmental Law



Legal Barriers to PES Schemes
Facilitating PES Schemes
Examples of Brazilian PES Schemes
Difficulties in Carbon Projects
Final Considerations

São Paulo, 4th June 2008

12th International Congress on Environmental Law



Legal Barriers to PES Schemes



Legal and Institutional Aspects

Legal Barriers to PES Schemes



Lack of a knowledgeable and easily accessible legal system for law enforcement

Critical policies or legal constraints that restrict PES implementation

Need to refine concepts on property rights, legal nature of ecosystem/environmental services and parties to a PES agreement

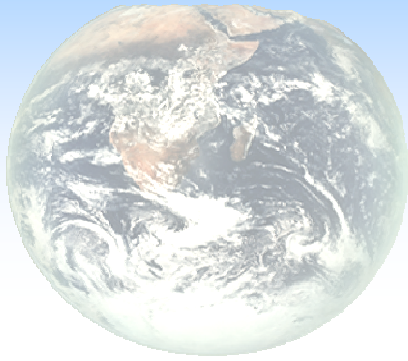
Legal and Institutional Aspects

Legal Barriers to PES Schemes



5 categories of Land Tenure / Property Rights issues

- 1) Violent conflict and post-conflict instability
- 2) Unsustainable NRM and biodiversity loss
- 3) Insecure tenure and property rights
- 4) Inequitable access to land and natural resources
- 5) Poorly performing land markets



Facilitating PES Schemes



Legal and Institutional Aspects

Facilitating PES Schemes



Standardization for valuation, contracting and monitoring in PES schemes

Establishment of governmental/private PES funds

- Taxation of pollution sources (polluter/payer)
- Tax reductions for environmental friendly companies (protector/receiver)

(and many others... not necessarily in cash!)

Legal and Institutional Aspects

Facilitating PES Schemes

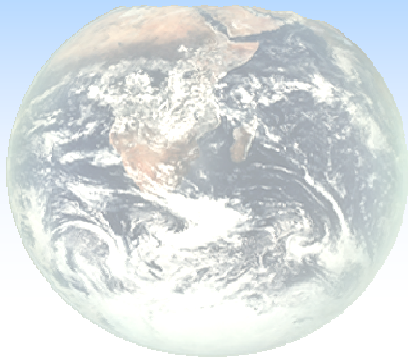


Creation of governmental/private PES offices

- Valuation - Mobilization/Negotiation - Contracting
- Implementation - Monitoring - Enforcement

Property rights should be clear in order to convince buyers that service commitments can be honored

Strengthen rights of local people to use and manage ecosystem services



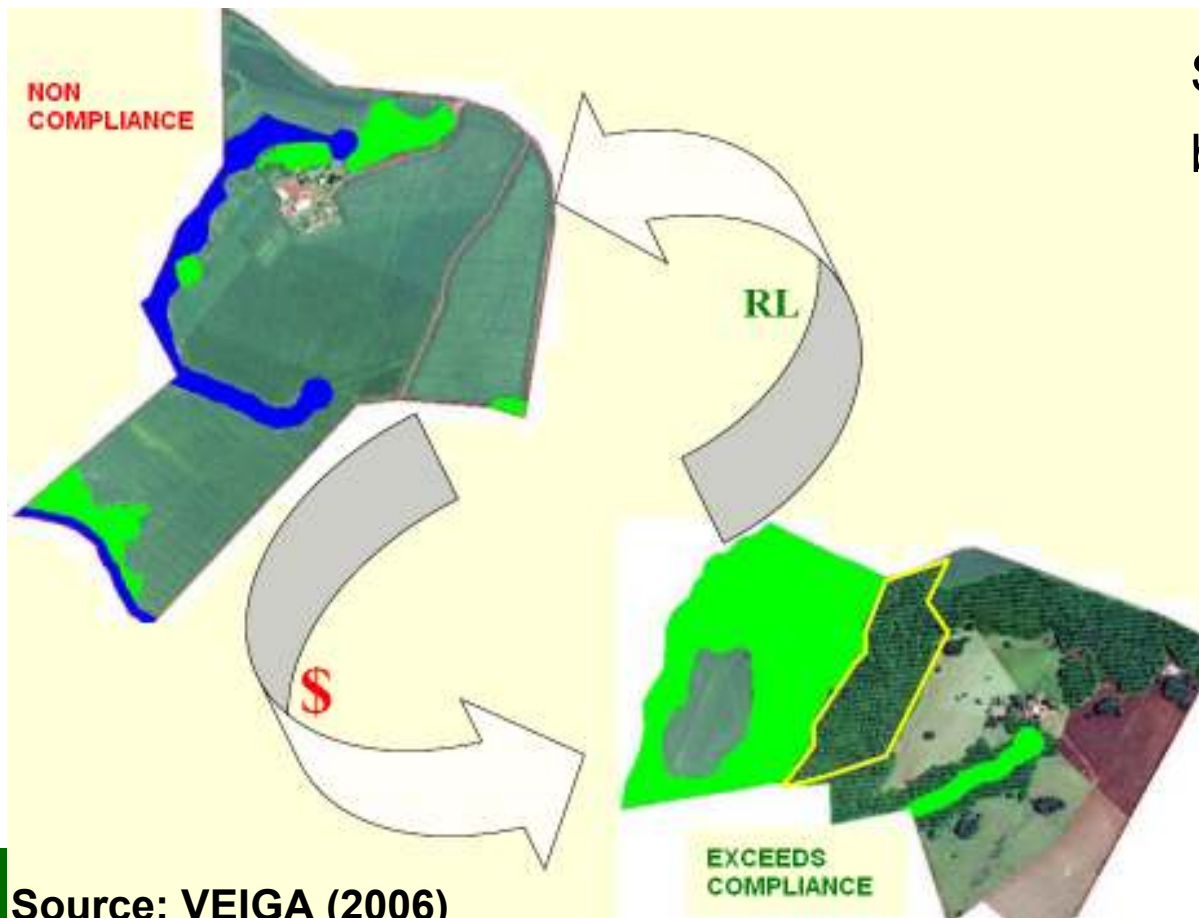
Examples of Brazilian PES Schemes



Legal and Institutional Aspects

Examples of Brazilian PES Schemes

In Brazil ==> Legal Reserve (*Reserva Legal*)



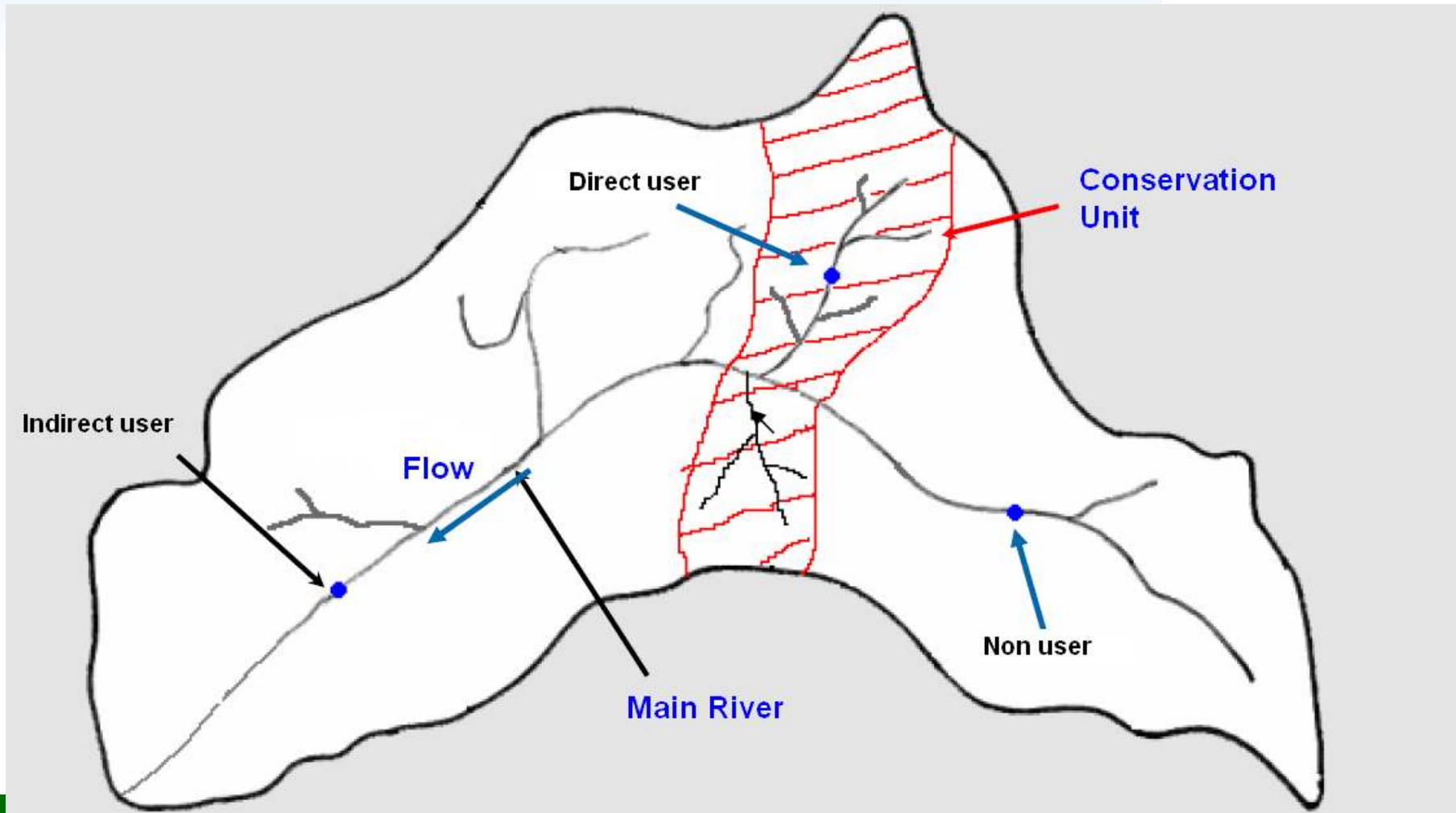
Since 2001, lack of LR can be compensated:

- In the same biome
- In the same basin
- **In municipalities in the same region**
(more opportunities for agreements!)

State of Paraná

Legal and Institutional Aspects

Examples of Brazilian PES Schemes



Source: May et al. (2006)

Legal and Institutional Aspects

Examples of Brazilian PES Schemes



Barriers for Indirect Users

- Imprecise taxes values, due to imprecise monitoring and quantification.
- Possibility of double counting in taxation by SNUC and SNGRH

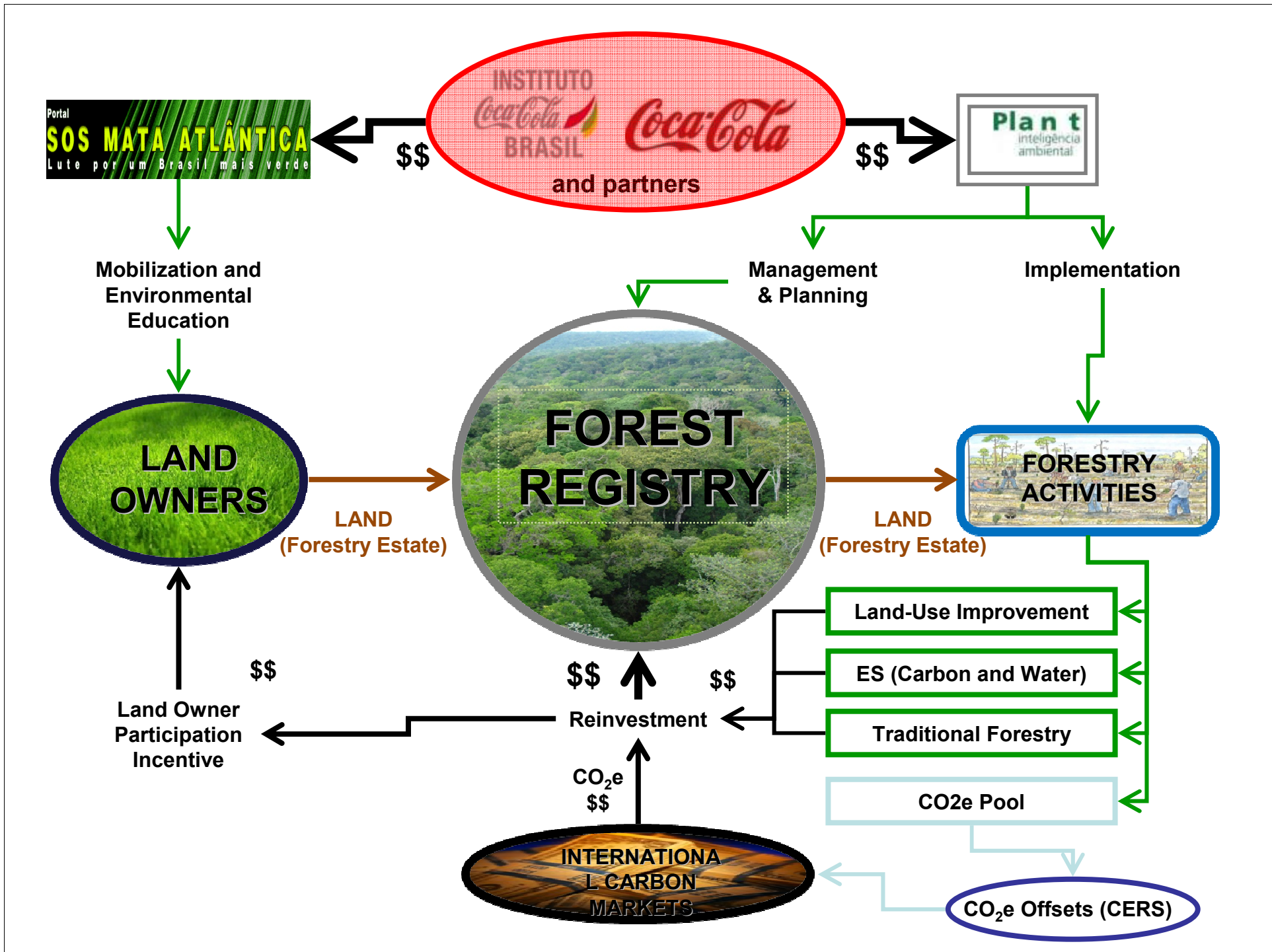
Legal and Institutional Aspects

Examples of Brazilian PES Schemes



Rainforest Water Program





Legal and Institutional Aspects

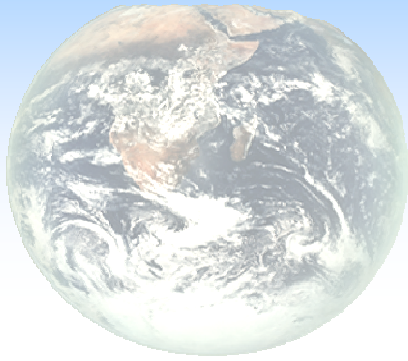
Examples of Brazilian PES Schemes



Barriers for RFW Program

Carbon

- Land property documentation
- Large number of small landowners (contracting)
- Risks inherent to A/R projects (non-permanence)
- Validation and registration are very difficult
 - (only 1 project registered in the World...)
 - (Brazilian DNA does “second audit”...)
- Low value of CERs for paying landowners



Difficulties in Carbon Projects



Legal and Institutional Aspects

Difficulties in Carbon Projects



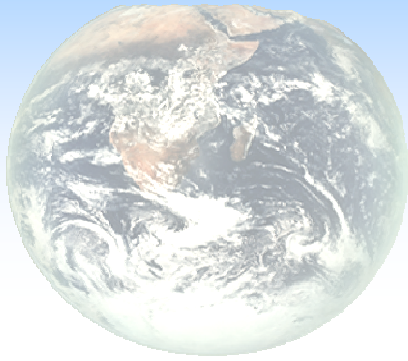
Delay in issuing environmental licenses

Additionality: go beyond law requirements
ex. Charcoal in São Paulo; Biodiesel; LRs

Financial Additionality: below 15% IRR

Lack of approved methodologies in some sectors

Non eligibility of retroactive emission reductions



Final Considerations



Legal and Institutional Aspects

Final Considerations

