2.5. Applicable Legal Instruments

2.5.1. Methodology

This study took place in two stages. The first consisted in an evaluation involving the hierarchy of laws in chronological terms, and the second appraised the legislation by thematic areas with greatest relevance for agriculture and ranching activities.

2.5.2. – The Hierarchical Aspect of Juridical Standards

The Contitution of the Federal Republic of Brazil is the highest law in the land and sets out standards and guidelines of a general nature, and thus all other legislation is subordinate to it. Following this principle, the hierarchical scale is composed of Laws, Decree-Laws and Resolutions.

Decree-Laws are those which have not been incorporated into the Federal Constitution, but once issued they remain in force throughout their period of validity unless they are expressly repealed.

In relation to the legislation on environmental matters, this exists concurrently on a number of levels and thus most legal dispositions encompass federal, state and municipal levels.

2.5.3 – General Legal Standards Pertaining to the Environment

2.5.3.1 – Federal Legislation

2.5.3.1.1 – The Constitution

The authors of the Brazilian Constitutional, being fully aware of environmental issues, devoted a whole chapter of the Constitution to the environment. The chapter is contained under Article 225 which states as follows: *All citizens have the right to an ecologically balanced environment, the use of which is shared by all and is essential to a healthy quality of life. The authorities and the collective therefore have a duty to safeguard it and to preserve it for present and future generations.*

It can be seen that in keeping with its role of setting the legislative foundations, the Federal Constitution restricted itself to giving a broad outline for legislative guidance, the pursuance of which is left to other subordinate types of legislation.

2.5.3.1.2 – Federal Laws

- Law nº 4.504, dated 30 November, 1964. Deals with matters relating to the Land Statute.
- Law nº 4.771, dated 15 September, 1965 (with the alterations to Law N° 7,803, dated 18/07/89). This institutes the New Forest Code.
- Law nº 5.197, dated 03 January, 1967. Deals with the Protection of Fauna.
- Law nº 6.662, dated 25 June, 1979. Sets out the National Irrigation Policy.
- Law nº 6.902, dated 27 April, 1981. Deals with the establishment of Ecological Stations and Environmental Protection Areas (APAs).
- Law nº 6.938, dated 31 August, 1981. Deals with National Environmental Policy.
- Law nº 7.653, dated 12 August, 1988. This alters the wording of Articles 18,27,33 and 34 of Law N° 5,197, dated 03/01/67, which deals with the protection of fauna
- Lei nº 7.754, dated 14 April, 1989. Establishes measures for the protection of existing forests at the headwaters of rivers.
- Law nº 7.802, dated 11 July, 1989. Deals with the research, experimentation, production, packaging, labelling, transportation, storage, sale, advertising, utilisation, importation, exportation, disposal of residues and packaging, registration, classification, control, inspection and fiscalisation of agrochemicals, their components and related matters.
- Law nº 7.803, dated 18 July, 1989. Alters the drafting of Law N° 4,771, dated 15/09/65 and revokes Laws N° 6,535, dated 15/06/78 and N° 7,511, dated 07/07/86.
- Law nº 7.804, dated 18 July, 1989. Alters Law N° 6,938, dated 31/08/81, dealing with the National Environmental Policy, its aims and the mechanisms for its formulation and implementation, Law N° 7,735, dated22/02/89, Law N° 6,803, dated 02/06/80, and Law N° 6,902, dated 21/04/81.
- Law nº 8.171, dated 17 January, 1991. Deals with Agricultural Policy.
- Law nº 9.605, dated 12 February, 1998. Deals with penal and administrative sanctions relating to conduct and activities that are harmful to the environment.

- Law nº 9.433, dated 08 January, 1997. Institutes the National Policy for Water Reources, establishes the National System for Management of Water Reources, regulates item XIX of Article 21 of the Federal Constitution and alters Article 1 of Law nº 8.001, dated 13 March, 1990, which modifies Law nº 7.990, and 278 of December 1989.
- Law nº 9.985, dated 18 July, 2000. Regulates Article 225, § 1º, items I, II, III and VII of the Federal Constitution, institutes the System of Nature Conservation Units.

2.5.3.1.3 – Federal Decrees

- Decree N° 24,643, dated 10/07/34. Establishes the Water Code.
- Decree-Law N° 852, dated 11/11/38. Upholds with modifications Decree N° 24,463, dated 10/07/34.
- Decree N°88,821, dated 06/01/83. Approves the regulations governing the transportation by road of dangerous cargoes or products.
- Decree N° 89,496, dated 29/03/84. Regulates Law N° 6,662, dated 25/06/79, which deals with National Irrigation Policy.
- Decree N°95,733, dated 12/02/88. Deals with budgeting procedures for federal projects and constructions. It stipulates the allocation of earmarked resources to prevent, mitigate or compensate for the negative environmental, cultural and social impacts arising from the implementation of these same projects and constructions.
- Decree N° 97,635, dated 10/04/89. Regulates Article 27 of the Forest Code dealing with the prevention and combat of forest fires.
- Decree N° 98,816, dated 11/01/90. Deals with the research, experimentation, production, packaging, labelling, transportation, storage, sale, advertising, utilisation, importation, exportation, disposal of residues and packaging, registration, classification, control, inspection and fiscalisation of agrochemicals, their components and related matters.
- Decree N° 99,724, dated 06/06/90. Regulates Law N° 6,902, dated 27/04/81, and Law N° 6,938, dated 31/08/91.
- Decree nº 3.179, dated 21 September, 1999. Deals with the specification of sanctions applicable to conduct and activities which are harmful to the environment.
- Decree nº 1.282, dated 19 October, 1994. Regulates Articles 15, 19, 20 and 21 of Law nº 4.771/65.

2.5.3.1.4 – Federal Directives (*Portarias*)

- Directive/IBDF N° 3,481, dated 31/05/73. Sets out the list of Brazilian species in danger of extinction.
- Directive/GM N° 13, dated 15/01/75. Establishes the classification of the inland waters in national territory.
- Directive SUDENE N° 0001, dated 04/01/77. Deals with the observance of measures to protect the aquatic fauna in dam construction projects.
- Directive/MINTER N° 124, dated 20/08/80. Presents a series of standards designed to prevent the occurrence of accidental water pollution, including accidents involving agrochemicals.
- Directive SNDA N° 009, dated 23/03/83. Deals with the aerial application of agrochemicals, setting down the technical-operational standards designed to guarantee the safety of the crew, and of people and goods on the ground, by reducing the risks arising from such applications.
- Directive IBDF N° 302-P/84. Regulates the exploitation of all types of forest.

2.5.3.1.5 – Federal Resolutions

- CONAMA Resolution N° 001/86, dated 23/01/86. Establishes basic criteria and general guidelines for Environmental Impact Statements.
- CONAMA Resolution N° 006/86, dated 24/01/86. Institutes and approves models for the publication of licensing applications.
- CONAMA Resolution N° 020/86, dated 18/06/86. Classifies the fresh, briny and saline waters in the national territory.
- CONAMA Resolution N° 009/87, dated 03/12/87. Deals with the matter of public inquiries.
- CONAMA Resolution N° 010/87, dated 03/12/87. Deals with compensation for environmental damages caused by large-scale projects.
- Resolution Nº 002116, dated 19/10/94, of the Central Bank of Brazil. Institutes the third phase of the Japanese-Brazilian Cooperation Programme for the Development of the Cerrados - Prodecer III – Rural Segment.
- Resolution Nº 002117, dated 19/10/94, of the Central Bank of Brazil. Institutes the third phase of the Japanese-Brazilian Cooperation Programme for the Development of the Cerrados - Prodecer III – Agro-Industrial Segment.

2.5.3.2 – State Legislation

2.5.3.2.1 – The Constitution of Tocantins State

The legislators who drew up the Tocantins State Constitution showed the same level of concern for the environment as those working on the Federal Constitution. They also set aside an entire chapter to outline the basic framework for environmental protection and conservation. This chapter is inserted under Title X, Articles 110-113.

Article 112 establishes the mandatory obligation for *"the preservation of areas of natural vegetation and native fruit production especially the 'babaçu' and 'buriti' palms, 'pequi' and 'jatobá' trees, 'araticum' bushes, and other species that are indispensable to the survival of the native fauna and the human populations that make use of them."*

2.5.3.2.2 – State Laws

- Law N° 224, dated 26/12/90. Deals with agrochemicals.
- Law N° 261/91. Deals with Tocantins State Environmental Policy.
- Law N° 771, dated 07/07/95. Deals with the Forest Policy of Tocantins State.

2.5.3.2.3 – State Decrees

- Decree N° 4,793, dated 05/11/91. Regulates Law N° 224/90.
- Decree N° 10,459, dated 08/06/94. Regulates Law N° 261/91.
- Decree Nº 838 dated 13/10/99. Regulates Law Nº 771/95

2.5.3.3 – Municipal Legislation

2.5.3.3.1 – Laws of the Municipality of Araguaína

- Law nº 1.169, dated 22/06/92. Establishes the Council for the Defence of the Environment (Codema).
- Law nº 1.227, dated 15/04/93. Transforms the banks of the Jacuba river into an Environmental Protection Area.
- Law nº 1.659, dated 30/12/96. Deals with the Environmental Policy of the Municipality of Araguaína.
- Law nº 1.677, dated 23/04/97. Establishes the Environmental Conservation Fund.
- Law nº 1.826, dated 25/06/98. Deals with the utilisation of the banks and courses of the streams and riverlets in the Lontra river microbasin..
- Law nº 1.842, dated 09/12/98. Alters Articles 29, 30 and 31, of Law nº 1.778/97.

2.5.3.3.1 – Decrees of the Municipality of Araguaína

- Decree nº 225, dated 01/07/97. Regulates Law nº 1.677/97.

2.5.4. – Specific Environmental Legislation

2.5.4. 1- Areas of Permanent Preservation

As the term suggests, the preservation of these areas is prolonged over time. Areas of Permanent Preservation can be established by Federal, State and Municipal governments.

At the Federal level they are regulated by the Forest Code - Law N° 4,771/65, Articles 1, 2, and 3, as well as Decree N° 89,336/84 and CONAMA Resolution N° 004/85, as outlined below.

Law N° 4,771, dated 15/09/65 –The Forest Code.

States in Article 1 that: "The forests and other vegetation types extant in national territory are recognised as being advantageous to the lands that they cover and are goods of common interest to all inhabitants of the country, with due regard for property rights within the limits of the general legislation and the additional limits established by this law."

Areas of permanent preservation feature in Articles 2 and 3 as: forests and other forms of natural vegetation situated:

a) along the banks of rivers or other watercourses in a zone beginning at the high-water mark whose minimum width is:
   1) 30 metres for watercourses less than 10 metres wide;
   2) 50 metres for watercourses between 10 and 50 metres wide;
   3) 100 metres for watercourses between 50 and 200 metres wide;
   4) 200 metres for watercourses between 200 and 600 metres wide;
   5) 500 metres for watercourses whose width exceeds 600 metres.
b) around lagoons, lakes and natural or man-made reservoirs;
c) around springs, and water holes, even intermittent ones, whatever their topographical situation, within a radius of at least 50 metres;
d) on the tops of hillocks, hills, mountains and mountain ranges;
e) on slopes or on parts of slopes where the gradient exceeds 45°;

f) in the strip of land bordering the ocean where the vegetation serves to hold dunes in place, and stabilise marshes;
g) on the edges of tablelands and on plateau borders from the point where the relief breaks, in a strip never less than 100 metres across measured horizontally;
h) at altitudes in excess of 1,800 metres, whatever the vegetation type.

Article 3 - Forests and other forms of vegetation required for the purposes listed below are considered areas of permanent preservation once they have been thus declared by the relevant government authorities:
a) to reduce erosion;
b) to fix sand dunes;
c) to form protective strips along roadways or railways;
d) to assist in the defence of natural territory, as determined by the military authorities;
e) to protect sites of outstanding beauty or of scientific or historic value;
f) to protect species of flora and fauna threatened with extinction;
g) to maintain the environment needed for the support of indigenous populations:
h) to ensure conditions conducive to public welfare."

Paragraph 1 – "The total or partial suppression of the permanently preserved status of forests can only occur with the prior authorisation of the Federal executive authority once it is deemed that the carrying out of construction work, plans, activities or projects is necessary for public benefit or social interest."

At the State level, Areas Of Permanent Preservation are dealt with in Article 8 of Law nº 771/95 and in Article 6 of Decree 838/99, which regulates them. These laws maintained the parameters established in the Federal legislation.

2.5.4.2 – Legal Reserves

Legal Reserves occur only on private property, and are thus distinguished from the other forms of designation applied to vegetation under Articles 2 and 3 of the Forest Code, since the latter occur in both public and private lands.

Unlike Areas of Permanent Preservation, Legal Reserves are privately-owned areas that are subject to legal restrictions on property rights through the prohibition of clear-cutting and the inalterability of the Reserve designation. They are regulated at the Federal level by the legislation set out below.

Law N° 4,771/95 (The Forest Code) with drafting given in Law N° 7,803/89 and Provisory Measure N° 1,511-7/97. Regulates material relating to the Legal Reserves in the Northern and Central Western Regions in Article 44.

The Legal Reserves covered by old-growth forests in the Amazon basin have their dimensions determined by Article 44 of the Forest Code which states:

Article 44 - In the Northern region and the northern part of the Central Western region, logging and clear-cutting will only be permitted if at least 50% of the tree cover on each property is left standing.

Paragraph 1 - The extent of the "legal reserve", being the area of at least 50% of each property wherein clear-cutting is forbidden, will be duly noted in the property registration document, held at the competent property registrar's office. Any alteration of its boundaries, for whatever reason, in the processes of transferral or division of the property, is prohibited.
Paragraph 2 – On properties where the tree cover is of forest type, at least 80% of the property thus covered must be exempted from clear-cutting.
Paragraph 3 – With reference to the heading of this Article, the Northern region and the northern part of the Central Western region are taken to include the states of Acre, Pará, Amazonas, Roraima, Rondônia, Amapá and Mato Grosso, as well as the regions situated north of latitude 13°S in the states of Tocantins and Goiás, and to the west of longitude 44°W in the state of Maranhão.

According to the quality of the vegetation cover, there are two types of Legal Reserve:
a) those in cerrado areas, regulated by §3 of the Forest Code, and
b) those in old-growth forest areas, regulated by Articles 44 and 16 (items a,b,c,e,d, §1 and §2) of the same Code.

Decree N° 1,282/94. Regulates Articles 15, 19, 20 and 21 of the Forest Code, in accordance with the requirements set out in Article 15.

2.0. Article 1 - The logging of old-growth forests in the Amazon basin dealt with under article 15 of the Forest Code, and of other forms of natural arboreal vegetation, will only be permitted under a sustainable forest management regime, following the general principles and technical basis set out in this Decree.

Paragraph 1 For the purposes of this Decree, the term "Amazon basin" refers to the area that includes the states of Acre, Pará, Amazonas, Roraima, Rondônia, Amapá and Mato Grosso, as well as the regions situated north of latitude 13°S in the states of Tocantins and Goiás, and to the west of longitude 44°W in the state of Maranhão.

Article 7 - The logging and clear-cutting of forests and other forms of arboreal vegetation in the Amazon basin will only be allowed in the areas selected for alternative land use by the Agro-Ecological Zoning programme.

By "alternative land use" is meant uses relating to the establishment of colonisation projects for population settlement, and projects for cattle ranching, industrial development, forestry, the generation and transmission of energy, mineral extraction, and transportation.

Article 8 - The provisions relating to logging and clear-cutting, set out in Article 7 of this Decree, oblige landowners to maintain at least 50% of his/her property as a Legal Reserve.

Paragraph 2 The mandatory area of the Legal Reserve mentioned in the previous paragraph can be fixed above 50% at IBAMA's discretion, being based on the results of the Agro-Ecological Zoning programme.

Paragraph 3 Logging and clear-cutting will only be permitted if, on completing a preliminary survey, the competent authority issues the relevant authorisation.

The area of the Legal Reserve is designed to have tree cover (Article 16, a). The fact that such cover does not exist does not exempt the landowner from the duty of setting up the Legal reserve. The law on Agricultural Policy (N° 8,171/91) establishes the obligation of the landowner to re-establish the Legal Reserve on his/her property by planting each year at least one thirtieth of the total required Reserve area (Article 19). In such reforestation projects, the utilisation of native species should be given priority.

At the State level the Legal Reserves are dealt with in Law 771/95 and its regulatory Decree nº 838/99.

Law N° 771, dated 07/07/95. Deals with the Forest Policy of Tocantins State.
This law recognises the forests and other vegetation types extant in the State of Tocantins as being advantageous to the environment and to the lands that they cover. As such, they are of common interest to all inhabitants of the State, with due regard for property rights within the limits of the legislation.
It also establishes the criteria governing protected areas, legal reserves and conservation areas. It then gives guidelines on the exploitation of the native forests, land clearance, reforestation, etc.

Decree nº 838 dated 13 October, 1999. Regulates Law nº 771/95
This decree outlines rules and procedures which make viable the application of the forest policy law of the State of Tocantins and it deals specifically with Legal Reserves in Article 7 stipulating that "at least 50% of the property, preferably on one continuous plot of land and with localised tree cover as determined by Naturatins, should be protected from clear cutting, alteration of soils and other forms of exploitation."

2.5.4.3 - The Legal Amazon Region
With the passing of Law N° 55,173, dated 27/10/66 which revoked Law N° 1,806, dated 06/01/53, the limits of the region known as Legal Amazon are defined, and they take in the area covered by the States of Acre, Pará, Amazonas, the ex-territories of Amapá and Roraima, and the areas of Mato Grosso north of latitude 16°, Goiás north of latitude 13°, and the State of Maranhão west of longitude 44°. Currently, the Legal Amazon region includes the States of Rondônia and Tocantins, this latter arising from the division of the State of Goiás.

2.5.4.4 – Agrochemicals
At the Federal level, the laws on agrochemicals are set out in the following legislation.

Law N° 7,802/89. Details the statutory norms for the manufacture, use and fiscalisation of agrochemicals, and other rules, among which the following are particularly significant.

Article 1 - The research, experimentation, production, packaging, labelling, transportation, storage, trade, advertising, utilisation, import, export, disposal of residues and packaging, registration, classification, control, inspection and fiscalisation of agrochemicals, their components and related matters will be governed by this Law.

Article 2 - For the purposes of this Law, consideration is given to:
I – agrochemicals and similar materials, defined as:
a) the products and agents of physical, chemical or biological processes that are designed for use in the production, the storage and processing of agricultural produce, on pastures, in the protection of native and planted forests and other ecosystems, and also in urban, water and industrial environments with the objective of altering the composition of the flora or fauna so as to safeguard them from the action of living organisms that are considered harmful;
b) substances and products used as defoliants, drying agents, and growth promoters or regulators.
II – agrochemical components: the active agents, technical products, their raw materials, the inert ingredients and additives used in the manufacture of agrochemicals and similar materials.

Article 3 - Agrochemicals, their components and related materials as defined under Article 2 of this law, can only be produced, exported, imported, traded and utilised if they have been previously registered with the appropriate Federal agency, according to the guidelines and requirements of the Federal agencies responsible for health, environment and agricultural matters.

Article 4 - Individuals or firms that provide services involving the application of agrochemicals, their components and related matters, or those who produce import, export or trade in them, are obliged to ensure their registration with the competent Federal agencies that are active in the health, environment and agricultural sectors.
Individuals or firms are said to provide the above-mentioned services when they carry out work involving the prevention, destruction and control of living organisms that are considered harmful, by applying agrochemicals, their components and related materials.

Article 13 - The sale of agrochemicals and related materials will be effected by means of a proper and fully informative dispensing system, overseen by legally trained professionals, apart from the exceptional cases that have been provided for elsewhere in this Law.

Decree N° 98,816/90. Regulates Law N° 7,802/89 and establishes some definitions relating to agrochemicals as follows:
This Decree determines that the registration of firms and service providers, which enables the establishment or the company providing services to operate, is the exclusive privilege of the competent authorities at State and municipal levels, and those of the Federal District.
The registration of firms and service providers is governed by Articles 29 and 32, respectively.
The Decree also deals with the concept of agrochemical and classifies agrochemicals into 4 distinct classes according to their utilisation, action and ecotoxological properties for humans, living things and the environment.
It prohibits the re-use of agrochemical packaging and other similar items by the end-user, the seller, the distributor, cooperatives and service providers; it does, however, authorise re-use by the manufacturer and determines the means for the disposal of agrochemical packaging.
It also defines procedures to deal with infractions of this legislation.

The State of Tocantins regulates the use of agrochemicals by means of the following laws which differ only very slightly from the Federal legislation.

Law N° 224, dated 26/12/90. Deals with agrochemicals.
This State law accords with the determination given in Article 10 of Law N° 7,802/89 (the Federal law on agrochemicals), which follows the dispositions of Articles 23 and 24 of the Federal Constitution that attribute competence in legislating on these matters to the States. The Law establishes the legal standards, given in Articles 1-7, governing the production, packaging, transportation, storage, inspection, trade fiscalisation, use and final disposal of the residues and packaging of agrochemicals, their components and related materials.

Decree N° 4,793, dated 05/11/91. Regulates Law N° 224/90 which deals with agrochemicals.

Issued almost one year after the publication of the law that it regulates, Decree N° 4,793/91 regulates Law 224/90 (State law on agrochemicals), establishing guidelines for the applicability and implementation of the dispositions made in this same Law.

2.5.4.5 – Irrigation Programmes in Brasil

Irrigation Programmes in Brazil have their foundations, objectives and basic rules set out in Law N° 6,662, dated 25/06/79, which deals with the National Irrigation Policy.

Among its objectives is "the rational use of water and soil resources for the implantation and development of irrigated agriculture, bearing in mind the following basic postulates:
"I – the pre-eminence of the social function and public utility of water use and irrigated soils;
II –the promotion of agricultural and livestock activities, with priority being given to regions that are subject to adverse climatic conditions;
III – the promotion of conditions which may increase agricultural yields and productivity;
IV – action by the public authorities to direct or support the elaboration, financing, execution, operation, fiscalisation and monitoring of irrigation projects."

The use of waters and soils for irrigation purposes, is governed by the following principles:
I – the rational use of waters and irrigable soils, with priority being given to utilisation that affords the greatest socio-economic benefit;
II – plans are to be drawn up for the utilisation of water resources and the soils of each hydrographic unit, allowing for integration with other sectoral plans, so as to ensure the multiple use of these resources and adequate distribution;
III – the adoption of special standards to establish priorities of water use, so as to attend to areas subject to peculiar climatic phenomena;
IV – the definition of the duties of concessionaires and water users, so as to ensure the rational use of irrigation in accordance with the public and social interest;
V – observance of the safeguards against endemic rural diseases, and the salinisation of soils, as well as of those to protect the environment and good water quality.

Also related to Irrigation Policy in Brazil are Decrees nº 90.309/84 and 90.991/85, which redrafted Articles 14 and 16, Paragraph 3, respectively, of Decree nº 89.496/84. And subsequently Decree nº 93.484/86, which again alters the aforementioned Articles.

Decree N° 92,395/86. This institutes the National Irrigation Programme - PRONI – and attributes its execution to the Minister of State Extraordinaire.
It was created so as to cover the remainder of the country, with an expected duration of 3 years from the date of publication. Prior to this, coordination was the responsibility of the Minister of State Extraordinaire for Irrigation Matters.

2.5.4.8 – Environmental Licensing

Environmental licensing is an administrative procedure whereby the environmental agency licenses the localisation, installation, expansion and operation of enterprises and activities which make use of environmental resources and which may be considered effective or potential polluters, in addition to those which may in any way cause environmental degradation.

Environmental licensing is effected by environmental agencies at Federal, State or Municipal levles, depending on the regional or local scope of the impact.

It comprises three distinct phases and environmental licences are issued in the following order: Preliminary Licence, awarded in the preliminary planning phase of the enterprise; Installation Licence, which authorises the installation of the enterprise; and Operation Licence which authorises the operation of the enterprise.
For each licence there are certain requirements which in turn condition the issuance of any subsequent licence.

In Tocantins State, environmental licensing is concentrated at the level of the Federal and State environmental agencies since the process has not yet been taken up by Municipal government.

With regard to environmental licences for enterprises in the agricultural sector, the State environment agency – Naturatins – sets the following requirements:

Table 48. Environmental Licensing Procedures

TYPE OF LICENCE	DOCUMENTS REQUIRED
Preliminary Licence	- Application form - Descriptive petition (*Memorial de caracterização*) - Public announcement form (*Edital de Comunicação*) - Fee payment form (*Guia de recolhimento*) - Documents of the entrepreneur - Property Registration Certificate and/or the renting or leasing contract - Municipal authorisation for the proposed land use - Map showing the location of the area - Water rights document (*Outorga da água*) - EIA/EIS or other appropriate document
Installation Licence	Application form Public announcement form Fee payment form Environmental Control Plan - PCA (according to the Terms of Reference).
Operation Licence	Application form Public announcement form Fee payment form

Among the instruments inherent to the Environmental Licensing procedure, the most important are Environmental Impact Assessments (EIAs), Environmental Impact Statements (RIMA) and Public Enquiries.

2.5.4.8.1 – Environmental Impact Assessment – EIA and Environmental Impact Statement - RIMA

The performance of an Environmental Impact Assessment (EIA) and the submission of the Environmental Impact Statement (RIMA) are essential requirements for the realisation of projects that can cause significant environmental impacts. EIAs and RIMAs are conducted in order to minimise damage done to the environment. They have the additional purposes of analysing and proposing mitigatory measures, with the participation of the society affected by the project, and of studying the viability of the project and the way it is to be carried out; that is, to arrive at a value judgement on the project which can be favourable or unfavourable.

At the Federal level, there are the requirements set out in Resolutions by the National Environment Council (Conama), as follows:

CONAMA Resolution N° 001, dated 23/01/86

This resolution establishes the definitions, responsibilities, basic criteria and general guidelines for the use and implementation of an Environmental Impact Assessment and it also defines the enterprise that require an EIA/RIMA, including among these "the commercial exploitation of timber or firewood in areas of more than 100 ha, and also in smaller areas when such activities may cause significant impacts because of the extent or the environmental importance of the area they affect" and "livestock projects that will involve more than 1,000 ha, and also in smaller areas when such projects may cause significant impacts because of the extent or the environmental importance of the area they affect, especially in environmental conservation areas."

Conama Resolution N° 010, dated 02/12/87.

In order to preserve and protect the environment that is directly affected by the estalishment of projects which in any way damage the environment, the Conama Resolution N° 010, dated 02/12/87 was issued. This sets as a pre-requisite, the establishment of an Ecological Station by the firm or organisation responsible for the project. The financial outlay required for such measures must necessarily be recorded in the EIA/EIS, and cannot be less than 0.5% of the total cost of the project as a whole. The maintenance of this Ecological Station is also the responsibility of the project's proponent.

Conama Resolution nº 237, dated 19/12/97

This resolution revises the procedures and criteria used for environmental licensing with the objective of systematising licensing as an instrument for environmental management.
It determines the competent authorities at Federal, State and Municipal levels, stipulates the validity period and criteria for the concession of environmental licenses, establishes the parameters for Public Enquiries, establishes the concepts of Environmental Licensing, Environmental Licence, Environmental Studies and Regional Environmental Impact, and lists the enterprises and activities that are subject to environmental licensing.

At the State level, provisions for environmental licensing are set out in Article 14 of Law nº 261, dated 20/02091, - the Law of the Environmental Policy of Tocantins State, and in Article 17 of Decree nº 10.459, dated 08/06/94 which regulates the aforementioned Law.

2.5.4.8.2 - Public Enquiry

The Public Enquiry is the formal means for society at large to participate in the environmental impact evaluation process, and its purpose is to set out for interested parties the project that is proposed and its environmental impacts, and to discuss the EIS. In the meeting, the community is informed in detail of the contents of the EIS, and is led to understand the positive and negative aspects of the proposed project, and the reaction of the affected community to the proposals is gauged.

In some States Public Enquiries are obligatory, examples being the States of Tocantins, Goiás, Mato Grosso, Mato Grosso do Sul, Pernambuco and São Paulo. In other States of the Federation, the holding of a Public Enquiry will depend on the reaction of interested parties, but if requested, an Enquiry must be held.
The legal provision that governs Public Enquiries is included, firstly, in the Federal Constitution, Article 225, §1, IV.

Other provisions, also at the Federal level, are set out in Conama Resolutions nº 001/86, nº 009/87, e nº 237/97.

These resolutions define the procedure for the realisation of a Public Enquiry, and mandates that Enquiries be held whenever the environment agency deems it necessary, or when requested by a civil institution, by the Public Attorney or by 50 or more citizens. Public Enquiries are promoted by the environment agency that is responsible for issuing the environmental licence that is being applied for.

At the State level, the requirement for the realisation of a Public Enquiry is set out in Article 14 of Law nº 261/91 - the Law of the Environmental Policy of Tocantins State - and in Articles 17, 24 and 30 of Decree nº 10.459/94, which regulates the aforementioned Law.