

The Biodiversity Conservation Mechanism and compensation resources in the state of Rio de Janeiro

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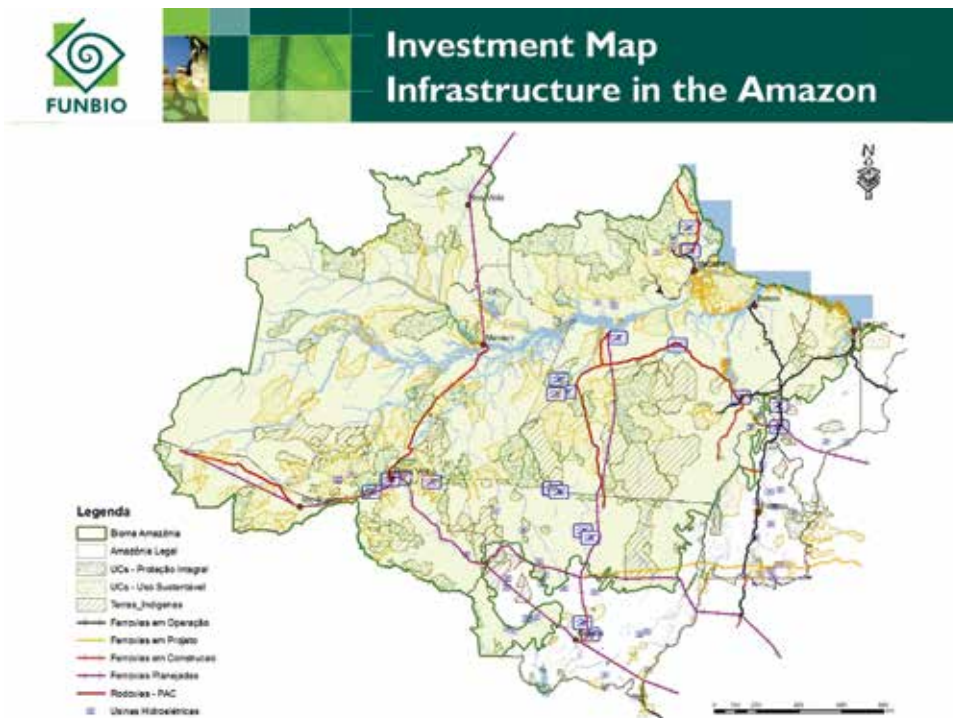
Case Studies

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Context

In Brazil, environmental compensation is a major source of extra-budgetary resources that are available for financing protected areas (PAs).

In contrast to other countries, compensations in Brazil are meant to “compensate” environmental damages caused by implementing development projects that could not be prevented or mitigated, although the approval process requires using the best methodologies available. Mitigation measures, required to obtain the license to install or operate a project, are 10 times greater in terms of volume and resources than compensation measures. Nevertheless, compensation amounts, including both federal and state resources, reached R\$ 2 billion (about 1,187 billion US dollars). Execution has faced significant challenges from the start, however, ranging from legal issues between the private and public entities, to limited capacity to meet the demands and absorb the resources of PA management organizations.



According to the originally proposed model, developers were responsible for executing compensation resources. This generated “diseconomies”, as they usually involved very different activities from the purposes sought by these companies and their scales of action.

Legal Context

Environmental Compensations, provided in Article 36 of Law 9.985/00,¹ are demanded when implementing projects that may generate significant environmental impacts. This is determined based on the environmental impact assessment and its respective report (EIA/RIMA), and obliges developers to help implement and maintain the protected areas (PAs) of the Integrated Protection group.

Certain activities, even having unavoidable negative impacts on the environment, have to be carried out in the name of public interest. In these cases, once all preventative or mitigation measures have been taken, environmental compensation² will be invoked to compensate for those collateral effects. In Brazil, the federation, its states and their municipalities can issue licenses for economic activities.

¹ “In cases of environmental licenses for projects with significant environmental impacts, identified as such by the competent environmental agency based on an environmental impact assessment and its respective report (EIA/RIMA), **developers are obliged to support the implementation and maintenance of the conservation unit of the Integrated Protection Group**, in accordance with what is set forth in this article and in the regulations of this Law.” (Art. 36 of Law 9.985/00)

² “When a project affects a specific conservation unit or its buffer zone, the license referred to above in this article may only be granted through authorization by the body that is responsible for its administration, and even if the affected unit does not belong to the Integrated Protection Group, it should be one of the beneficiaries of the compensation referred to herein.” (§ Art. 36 of Law 9.985/00)

The competent environmental agency will define which PAs may benefit from the compensation, granting priority to the PAs of the Integrated Protection Group. However, in exceptional cases, if projects directly affect of buffer zones of group units for sustainable use, they will also benefit. As a rule, each impacted PA should benefit.

Apparently, from a normative viewpoint, certain concepts still need to be clarified regarding the nature of the resources, whether they are deemed public or private, and the method used to calculate compensation amounts.

Background

Seeking to solve the difficulties reported by businesses and maximize the scope of positive outcomes, in December 2007 the *Secretaria de Estado do Ambiente for Rio de Janeiro (SEA/RJ)* hired the *Fundo Brasileiro para Biodiversidade (Funbio)* to design a mechanism that would make it viable to manage and execute the State's environmental compensation resources in a speedy, transparent fashion.

This Biodiversity Conservation Mechanism for the State of Rio de Janeiro, hereinafter called FMA/RJ, makes it possible to manage and execute resources from various sources, such as environmental compensation, donations and new economic instruments.

In December 2008, the experimental (pilot) phase of the FMA/RJ began, specifically with resources from environmental compensations and donations. Funds were executed from the environmental compensation of Thyssenkrupp CSA's *Siderúrgica do Atlântico* project for a total of R\$ 3.1 million and a donation from the German bank KfW for approximately R\$ 500 thousand.

In December 2009, following satisfactory conclusion of the pilot phase, an agreement was signed between SEA and FUNBIO for operation, maintenance and control of FMA/RJ.

The next steps in this initiative include setting up an Endowment Fund, to cover the recurring costs of state PAs on the long term, and developing a plan to implement these resources.



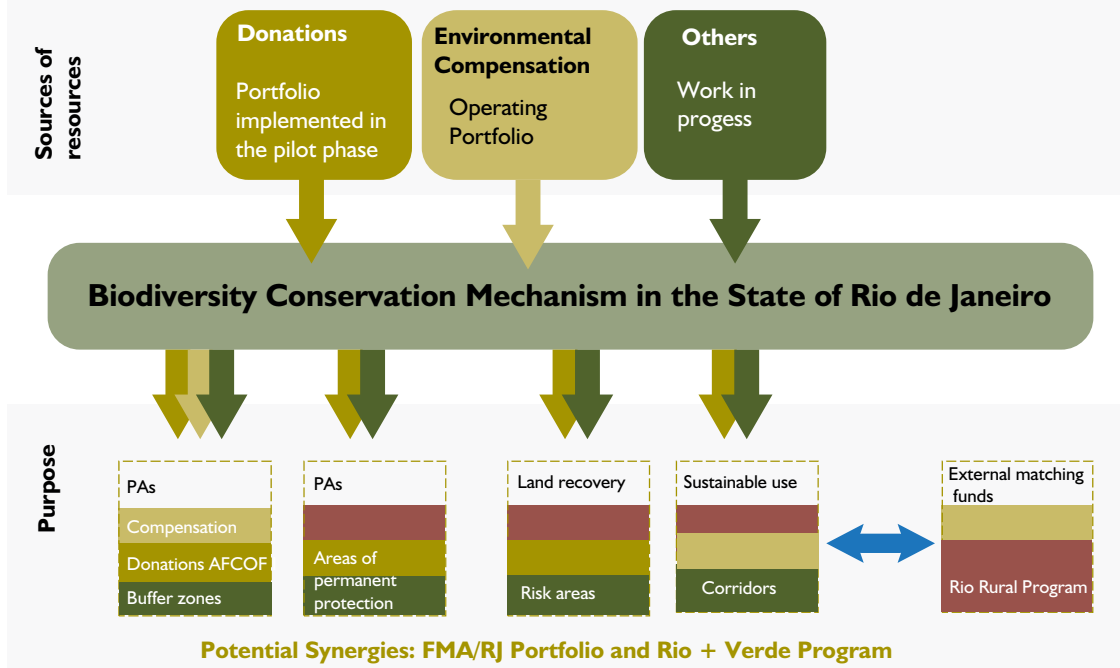
Governance Structure

FMA/RJ's primary governance actors are:

- The Secretaria de Estado do Ambiente (SEA/RJ) is in charge of coordinating the operation, maintenance and control of the mechanism and signing the Agreement.
- The Câmara de Compensação Ambiental (CCA/RJ), related to the Secretaria de Estado do Ambiente (SEA/RJ), is responsible for approving projects to be funded and for the use of resources from environmental compensations.
- The Instituto Estadual do Ambiente (INEA/RJ), the governing body of the state PAs, is one of the beneficiaries of the resources from environmental compensations deposited in the FMA/RJ. Other beneficiaries are ICMBio, which manages federal PAs, and the municipal environmental agencies that manage municipal PAs.
- The FMA/RJ manager, currently Funbio, is in charge of the technical and financial monitoring of projects approved by the Chamber of Environmental Compensation, providing procurement services (purchases and contracts), financial resource management (includes proposing and implementing an assets management policy), coordinating with environmental bodies, presenting physical-financial monitoring and accountability reports, and developing / implementing a computer system for project implementation, follow-up and accountability.

Overview of the FMA/RJ

The characteristics of a portfolio's sources of resources define the viable actions to be financed.





Mechanism execution is assessed yearly via independent audits, and Funbio's operating costs are reimbursed, with SEA/RJ authorization, through yields on environmental compensation funds managed by FMA/RJ.

Rules and procedures

In the environmental licensing process, INEA/RJ presents developers with available options for executing the environmental compensation: direct execution, execution by contracting third parties under its responsibility, or working through the FMA/RJ. The chosen alternative results in the developer and INEA/RJ formalizing the Environmental Compensation Pledge.

In the specific case of choosing the option of working through the FMA/RJ, in addition to formalizing the Pledge, developers need to sign a letter of intent that the Licensing Department of the INEA/RJ will provide for SEA/RJ and FUNBIO. Developers will make the deposits, under the conditions established in this Pledge, in a specific bank account indicated by Funbio.

Beneficiaries may access these resources through projects that have been approved by CCA/RJ, in accordance with the procedures set forth in the SEA/RJ resolutions. SEA/RJ will deliver these projects to Funbio, which will establish a direct link with the beneficiaries to implement the agreement.

Advantages of Working Through the FMA/RJ

From a private-sector viewpoint, the primary advantage is that it frees developers from their responsibility for implementing the environmental compensation, resulting in more speedy, efficient execution of these resources. Another aspect is the low risk involved in this operation provided by the public governance of the FMA/RJ, which inspires trust in developers, since resource allocation is decided on and overseen by the competent environmental authorities.

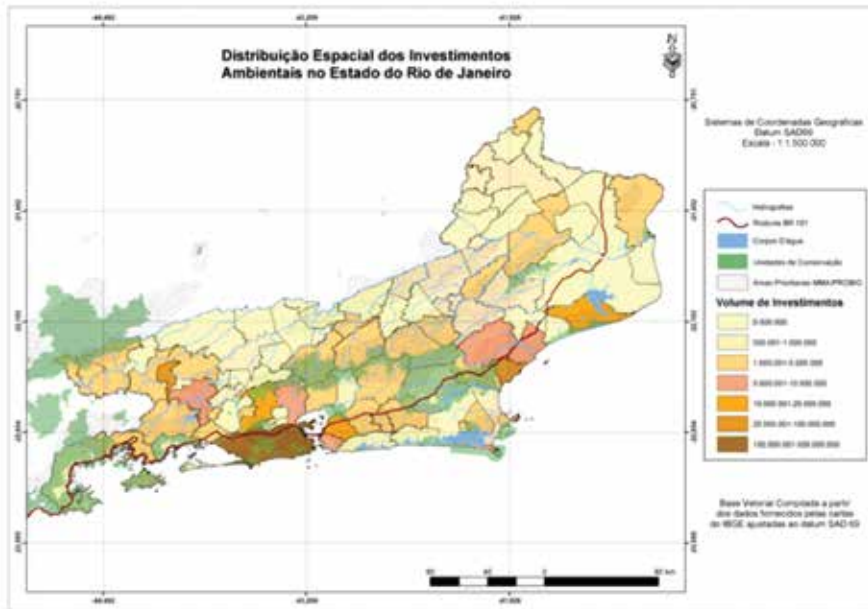
From a public sector perspective, creating the FMA/RJ helps solve conflicts that arise from implementing PAs. For example, it expedites the process of legalizing land title deeds, which minimizes the "Tiebout effect" (population mobility) and "rent seeking" behavior (negative reaction of economic agents).

PAs are usually deemed burdensome. In addition to opportunity costs, resulting from an area whose customary economic activities are limited, PAs demand resources in order to perform the function for which they were created. These costs are normally seen and valued by society. On the other hand, PAs play an important role in the economy, whether by generating various environmental goods and services, or by injecting resources directly into the local, regional or national economy. PAs can often expand or diversify the economic activities of municipalities through small businesses, thereby enabling managers of environmental organizations to change their positions vis-à-vis other

public administration sectors and with regard to the private sector. However, society is hard put to see these positive externalities, some of which do not even have a market value.

The following map shows the convergence between the existence of PAs and investments of “environmental origin,” which may reach a total of R\$ 1 billion (about US\$ 594 million) over the next few years, making it the twelfth largest economy in the state of Rio de Janeiro.

Geographical distribution of environmental investments in the state of Rio de Janeiro



From a civil society viewpoint, the resources contributed by FMA/RJ increase PA investment capacity, with direct impacts on the quality and quantity of environmental services provided by these units, especially parks being opened to public use, which in turn generates new resources, thus putting into motion a virtuous cycle.

Outcomes

The Biodiversity Conservation Mechanism now has a portfolio of around R\$ 227 million (about US\$ 135 million) and is already benefitting 15 PAs, including state, federal and municipal units.