



Bill No. 182/2024

Brazilian Greenhouse Gas
Emissions Trading System

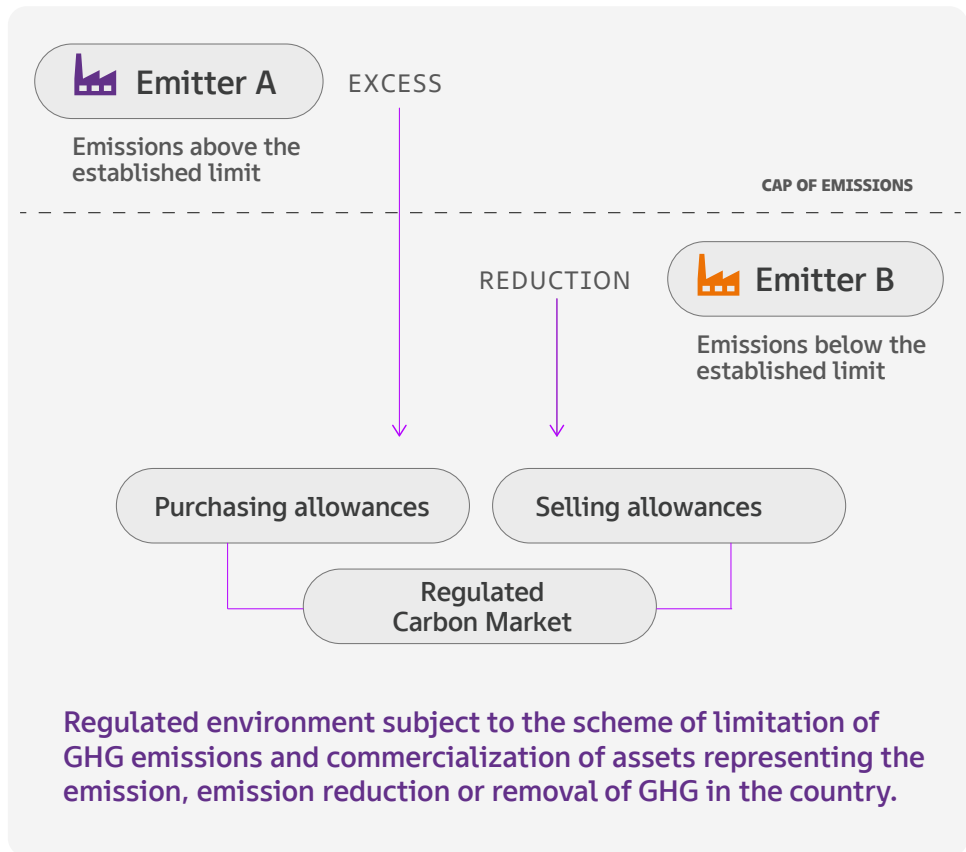
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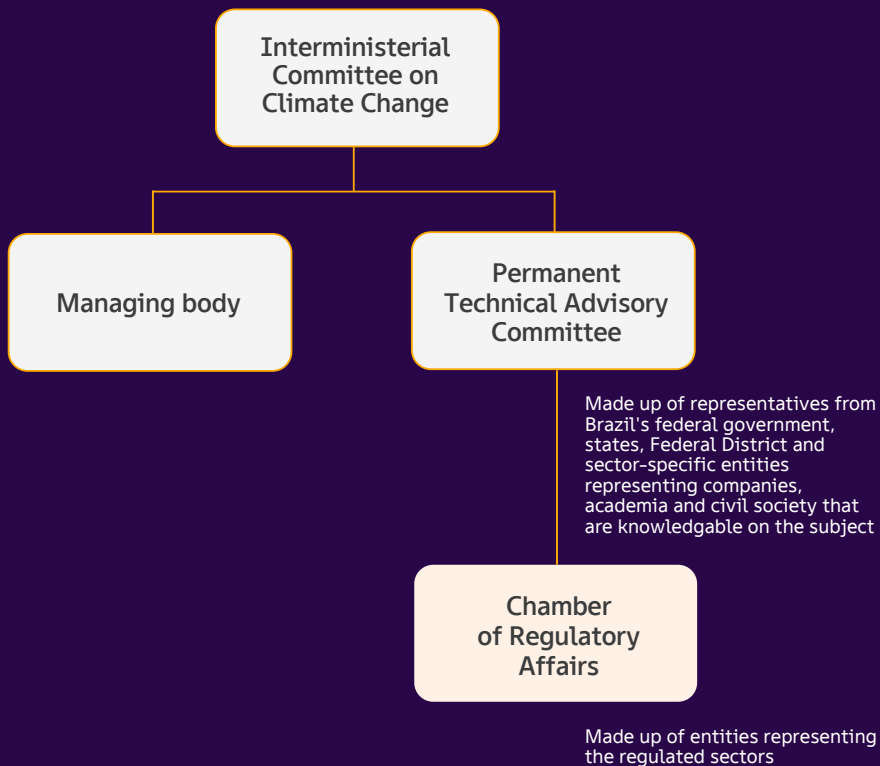
After years of debates on different legislative bills for a regulated carbon market, Brazil's House of Representatives approved Bill No. 182/2024 this past Tuesday, November 19. The bill is set to establish the Brazilian Greenhouse Gas Emissions Trading System (SBCE) and also contains important provisions for the voluntary carbon market. With the Senate having already approved the bill last week, it now only awaits presidential assent to become law.

In order to facilitate understanding of the approved bill, Mattos Filho has prepared a publication outlining key aspects of the SBCE and the voluntary carbon market. For more information on this subject, please contact Mattos Filho's Environmental Law & Climate Change practice area.

Structure of the Brazilian Greenhouse Gas Emissions Trading System (SBCE)



SBCE Governance



SBCE Implementation

Date of law's publication

- **Law creating SBCE takes effect**

1 year (extendable for 12 months)

- **Phase I:**

Regulation of the Law

1 year

- **Phase II:**

Operators implement emission reporting instruments

2 years

- **Phase III**

Operators required to submit monitoring and reporting plan for GHG emissions and removals to SBCE management body

- **Phase IV**

First National Allocation Plan, with the non-onerous distribution of Brazilian Emission Quotas (CBE) and the implementation of the SBCE asset market

- **Phase V:**

SBCE fully implemented at the end of the term of the first National Allocation Plan

Subjects and obligations

Operators will be subject to SBCE regulation if responsible for facilities and sources that emit:

- Above **10,000 tCO₂e per year**:
 - i. obligation to submit a monitoring plan to the SBCE management body; and
 - ii. obligation to submit a GHG emissions and removals report in line with the approved monitoring plan.
- Above **25,000 tCO₂e per year**: items (i) and (ii) above, as well as a report demonstrating periodic reconciliation of the operator's compliance with obligations concerning environmental commitments within the scope of the SBCE, via the ownership of assets that are part of the SBCE in an amount equal to its net emissions.

Applicable to all activities in all sectors of the economy for which there is a consolidated measurement, reporting and verification methodology

Except:

- (I) primary agricultural production, as well as the goods, improvements and infrastructure within rural properties directly associated with it; and
- (II) Waste and effluents disposal facilities, when demonstrably adopting systems and technologies for the neutralization of their emissions.

Infractions and penalties

Penalties are established for non-compliance with the rules of the SBCE, such as, for example, i) warning; (ii) fine; (iii) suspension of registration, license, or authorization. The fine penalty will be:

- a. in an amount no less than the cost of the unfulfilled obligations, in the case of a legal entity, provided that it does not exceed the limit of 3% (three percent) of the gross revenue of the legal entity, group or conglomerate obtained in the year prior to the initiation of the administrative proceeding, adjusted by the rate of the Special Settlement and Custody System (Selic), published by the Central Bank of Brazil, and may, in case of recurrence, be progressively higher than this percentage limit, up to the limit of 4% (four percent); and
- b. from R\$ 50,000.00 (fifty thousand reais) to R\$ 20,000,000.00 (twenty million reais), in the case of other individuals, as well as other entities or persons constituted in fact or in law, even temporarily, with or without legal personality, which do not have revenues, and the criterion of gross revenues is not possible.

SBCE assets and carbon credits

SBCE

Brazilian Emissions Quota (CBE)

a fungible, tradable asset representing the right to emit 1 tCO₂e (one ton of carbon dioxide equivalent) via regulated facilities or sources. It is granted by the SBCE management body, either free of charge or for a fee

Certificates of Verified Emission Reduction or Removal (CRVE)

a fungible, tradable asset, representative of the effective reduction of emissions or GHG removal of 1 tCO₂e (one ton of carbon dioxide equivalent), following an accredited methodology and registered within the scope of the SBCE, under the terms of a specific act of the SBCE management body

Voluntary carbon market

Carbon credits

a tradable, autonomous asset, with the legal nature of civil fruit in the case of forest carbon credits for preservation or reforestation – except those generated from jurisdictional programs, provided that all the limitations imposed on such programs by this Law are respected – representing effective retention, reduction of emissions or removal, under the terms of items XXX and XXXI of this article, 1 tCO₂e (one ton of carbon dioxide equivalent), obtained from projects or programs for the retention, reduction or removal of GHG, carried out by a public or private entity, submitted to national or international methodologies that adopt criteria and rules for measurement, reporting and verification of emissions, external to SBCE

- Carbon credits generated in the voluntary market may be recognized as CRVE and, therefore, will be integral assets of the SBCE, if they originate from methodologies accredited by the managing body, measured and reported by those responsible for the development or implementation of the project or program and verified by an independent entity, under the terms of the methodology accredited by the SBCE; and registered in the Central Registry.
- **The maximum percentage of CRVE admitted in the periodic conciliation will be defined in the National Allocation Plan**

Legal nature of carbon credits

When traded on the financial or capital markets

No distinction of credit type

Securities

When traded outside the financial or capital markets

Forest credits

except those from jurisdictional programs)

Civil fruit

Other types of credit

No clear definition

SBCE and voluntary carbon market actors

SBCE

Operator



an agent regulated by the SBCE, individual or legal entity, Brazilian or constituted in accordance with the laws of the country, direct holder, or through any legal instrument, of an installation or source associated with any GHG emitting activity

MERCADO VOLUNTÁRIO DE CARBONO

Generator



individuals or legal entities, indigenous peoples or traditional peoples and communities that have the concession, ownership or legitimate usufruct of an asset or activity that constitutes the basis for projects to reduce emissions or remove GHG

Developer



a legal entity, admitting plurality, which implements, based on a methodology, through costing, provision of technical assistance or otherwise, a carbon credit generation project or CRVE, in association with its generator in cases where the developer and the generator are different

Certificator



an entity that holds carbon credit certification methodologies that verifies the application of these methodologies, having monitoring, reporting and verification criteria for projects or programs to reduce emissions or GHG removal

The original ownership of carbon credits is the responsibility of the generator of the carbon credit or CRVE project, and the contractual provision for sharing or assignment of these credits in projects carried out through a partnership with developers of carbon credit or CRVE projects is valid as a form of exercising this ownership.

REDD+ | Highlights

State programs "REDD+ non-market approach"

- Positive policies and incentives for activities related to the reduction of emissions from deforestation and forest degradation and increase of carbon stocks by natural regeneration in native vegetation, at a national or state scale, widely publicized, subject to receiving payments for past results through a non-market approach, safeguarding the right of owners, legitimate usufructuaries and private concessionaires to request, at any time and unconditionally, the exclusion of their areas from such programs to avoid double counting in the generation of project-based carbon credits.

Jurisdictional carbon credit programs "REDD+ market approach"

- Positive policies and incentives for activities related to the reduction of emissions from deforestation and forest degradation and increase of carbon stocks by natural regeneration of native vegetation, on a national or state scale, widely disseminated, subject to payment through a market approach, including fundraising in the voluntary market, safeguarding the rights of landowners, legitimate usufructuaries and concessionaires to request, at any time and unconditionally, the exclusion of their areas from such programs to avoid double counting in the generation of project-based carbon credits.
- An express prohibition was established on the advance sale of carbon credits from jurisdictional programs.

Private carbon credit projects

- GHG reduction or removal projects, with a market approach and the purpose of generating carbon credits, including REDD+ activities, developed by private entities, directly by a generator or in partnership with a developer, carried out in areas where the generator is a concessionaire or has legitimate ownership or usufruct.

Public carbon credit projects

- These are GHG reduction or removal projects, with a market approach and the purpose of generating carbon credits, including REDD+ activities, developed by public entities in areas where they cumulatively have ownership and usufruct, provided that there is no overlap with the area of legitimate ownership or usufruct of third parties.

Social aspects

- **Indigenous Peoples and Traditional Peoples and Communities:** culturally distinct groups that recognize themselves as such, have a form of social organization and occupy and use territories and natural resources as a condition for their cultural, social, religious, ancestral and economic reproduction, with the use of knowledge, innovations and practices generated and transmitted by tradition;

It will be possible to develop carbon projects in indigenous lands, quilombola territories and other traditionally occupied areas and establishes the obligation to obtain free, prior and informed consultation and the inclusion of a contractual clause that guarantees fair and equitable reparation and participatory management of the monetary benefits derived from the commercialization of carbon credits and CRVEs from the development of projects on the lands that traditionally occupy at least 50% of carbon credits or CRVEs arising from GHG removal projects and the right to at least 70% of the carbon credits or CRVEs arising from REDD projects.

Insurers, open supplementary pension entities, capitalization companies and local reinsurers

It establishes the obligation for insurance companies, open supplementary pension entities, capitalization companies and legal reinsurers to acquire at least 1% of the resources of their technical reserves and provisions per year in environmental assets provided for in the bill (Brazilian Emission Quota, Certificate of Reduction or Verified Removal of Emissions and carbon credits) or in investment funds in environmental assets.

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