

BRAZILIAN CARBON CREDITS MARKET

MAIN ASPECTS

Federal Law No. 15,042/2024

THE SBCE

In December/2024, the **Federal Law No. 15.042/2024** was published, establishing the Brazilian Greenhouse Gas Emissions Trading System ("SBCE"). Long awaited, the law sanctioned by the President of the Republic was the subject of extensive debate in the Chamber of Deputies and the Federal Senate.

Here are the main provisions of the law and the next steps:

SBCE'S OBLIGATIONS

Operators responsible for the installations and sources they emit are subject to regulation and compliance obligations:



Above 10,000 tCO₂e per year

Obligation to submit a monitoring plan to the SBCE management body and to report GHG emissions and removals, in addition to the need to comply with the obligations laid down in a specific act of the SBCE management body.



Above 25,000 tCO₂e per year

In addition to the obligations set out above, they must send a report on the periodic reconciliation of obligations.

The SBCE will apply:



To all sectors of the economy.



Except for primary agricultural production, as well as the goods, improvements and infrastructure inside rural properties directly associated with it, and the units that treat and dispose of waste liquid effluents in an environmentally appropriate manner, if they can prove that they have adopted systems and technologies to neutralize emissions.

SUMMARY STRUCTURE OF THE SBCE

REGULATED CARBON MARKET

Operator A



Emissions **above** the established limit

EMISSIONS CEILING ACCORDING TO
NATIONAL ALLOCATION PLAN

Operator B



Emissions **below** the established limit

BUYING CBEs OR CVREs

SALE OF CBEs

Interoperability

VOLUNTARY CARBON MARKET

National Allocation Plan:

It will establish, for each commitment period:

- (i) the maximum emissions limit;
- (ii) the number of CBEs to be allocated among the operators;
- (iii) the ways in which CBEs are allocated, free of charge or onerous, to regulated facilities and sources; and
- (iv) the maximum percentage of CRVEs allowed in the periodic reconciliation of obligations.

SBCE'S MAIN PLAYERS



Operator

An individual or legal entity that owns, directly or through legal instruments, an installation or source associated with a GHG emitting activity.



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 is the basis for GHG emission reduction or removal projects.



Developer

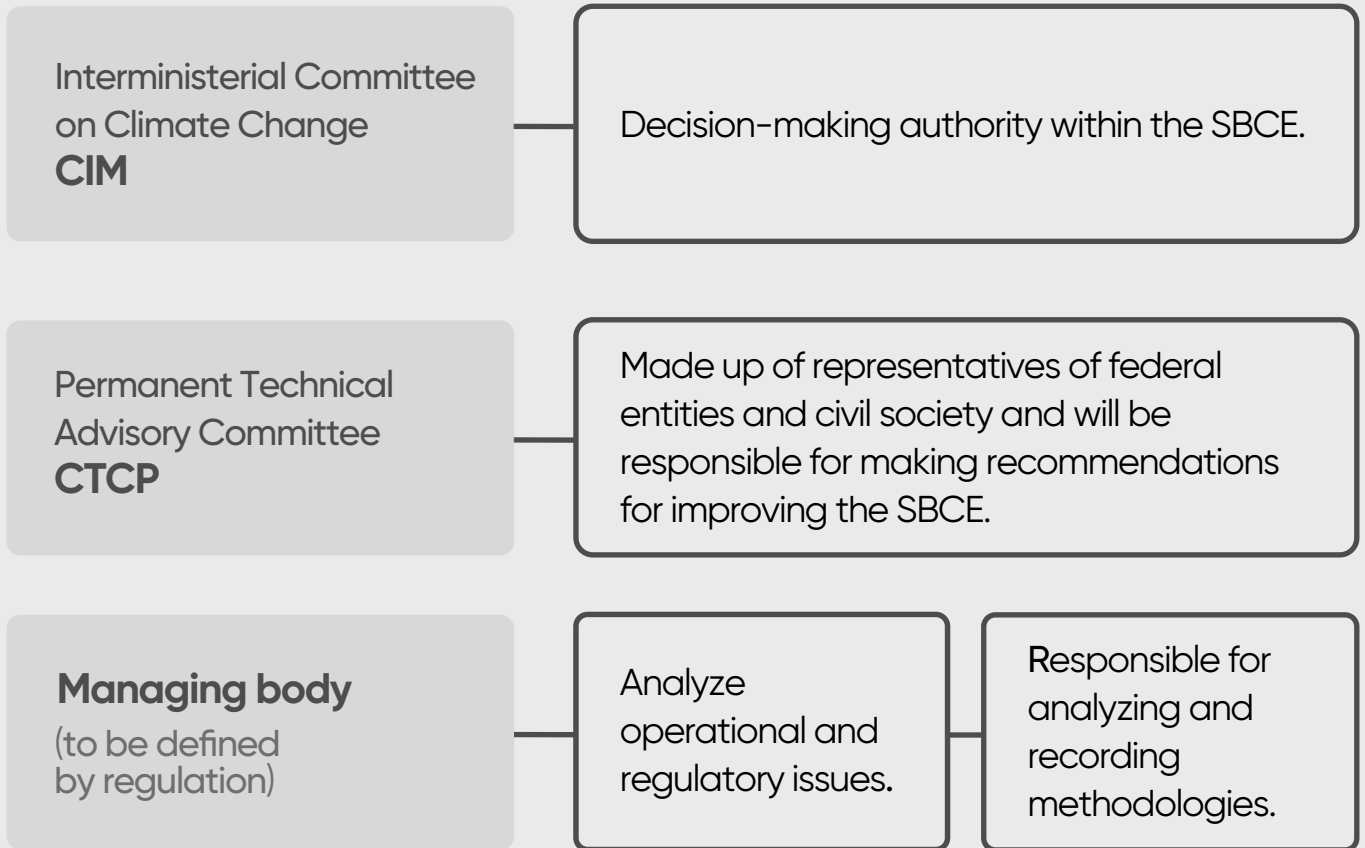
Legal entity, plurality admitted, that implements, based on a methodology, by means of funding provision of technical assistance or otherwise, a carbon credit generation project or CRVE, in association with its generator in cases where the developer and generator are different.



Certifier

Entity with carbon credit certification methodologies that verifies the application of these methodologies, with monitoring, reporting and verification criteria for projects or programs to reduce emissions or remove GHGs.

SBCE'S GOVERNANCE



SANCTIONS

Penalties are provided for in the event of non-compliance with the regulations provided for within the SBCE. The penalties include:



Imposition of a **fine** of up to 3% of the gross turnover of the legal entity, group or conglomerate, considering the year prior to the issuance of the Infraction Notice.



Embargo of the activity, source or installation.



Partial or total **suspension** of activity, source or installation.



Restriction of rights.

ASSETS THAT MAKE UP THE SBCE



Brazilian Quota of Emissions ("CBE")

Fungible, tradable asset representing the right to emit 1 tCO₂e, free of charge or for a fee, for installations or regulated sources.



Certificate of Verified Emission Reduction or Removal ("CRVE")

Fungible, tradable asset, representing the effective reduction of emissions or removal of greenhouse gases of 1 tCO₂e, following an accredited methodology and registered with the SBCE.

Carbon Credits

Possibility of being recognized as CRVEs if they originate from methodologies accredited by the management body.

When traded on the financial market, CBEs, CRVEs and Carbon Credits will be regulated by the Securities and Exchange Commission.

DEFINITION AND NATURE OF CARBON CREDITS

Carbon Credits

A tradable, autonomous asset representing effective retention, emission reduction or removal of 1 tCO₂e, obtained from GHG retention, reduction or removal projects or programs carried out by a public or private entity.

Nature of civil fruit

Except for those originating from jurisdictional programs, forest carbon credits for preservation or reforestation will have the legal nature of civil fruit.



The purchasers of carbon credits in the nature of a civil claim **may not be held legally liable for defects** in the real estate on which the projects generating these credits were developed, unless bad faith or fraud is proven.

VOLUNTARY MARKET

Carbon credits can be **offered** on the voluntary market, by **any generator or developer of a carbon credit project**, or by a public entity that develops jurisdictional programs and public carbon credit projects, **provided that the conditions laid down in the legislation are respected.**

HOLDER

Ownership of carbon credits or CRVEs **will lie with the generator of the project**, although **the contractual provision for sharing or transferring these assets** in projects carried out in partnership with developers is valid, in which case they also become owners.



Particularities related to projects developed in sensitive areas, such as conservation units and indigenous lands:

As a rule, **ownership will lie with the federal entities**, as long as there is **no overlap** with areas owned or enjoyed by third parties, or with demarcated indigenous lands.

In the case of projects **impacting indigenous peoples and/or traditional communities**, **Free Prior Consultation must be carried out**. Informed, as well as the **provision of minimum percentages** to be allocated to such communities.



Depending on the characteristics of the project, 50% to 70% of the carbon credits or CVREs must be guaranteed to indigenous peoples and traditional communities.

STATE REDD+ PROGRAMS AND JURISDICTIONAL PROGRAMS

State programs

(REDD+ non-market approach)

Policies and incentives for activities related to reducing emissions from deforestation and forest degradation and increasing carbon stocks through natural regeneration in native vegetation, which are widely publicized and **can be paid for through a past results approach of the non-market**, such as those resulting from the Marco de Warsaw, safeguarding the right of owners, legitimate usufructuaries and private concessionaires to request, at any time and in an unconditional manner, **the exclusion of their areas from such programs in order to avoid double counting in the generation of project-based carbon credits.**

Jurisdictional REDD+ programs

(market approach)

Positive policies and incentives for activities related reducing emissions from deforestation and forest degradation and increasing carbon stocks through the natural regeneration of native vegetation, which are widely publicized and **can be paid for using the market, including voluntary market funding**, subject to the right of owners, legitimate usufructuaries and concessionaires to request, at any time and in an unconditional manner, **exclusion of their areas from such programs in order to avoid double counting in the generation of project-based carbon credits.** To avoid double counting, any kind of **advance sale** for a future period is **prohibited.**

Owners and legitimate usufructuaries of properties where the program is being developed **will be entitled to receive revenue proportional to the remaining vegetation in the area**, including Permanent Preservation Areas and Legal Reserves.

PUBLIC OR PRIVATE PROJECTS

Public carbon credit projects



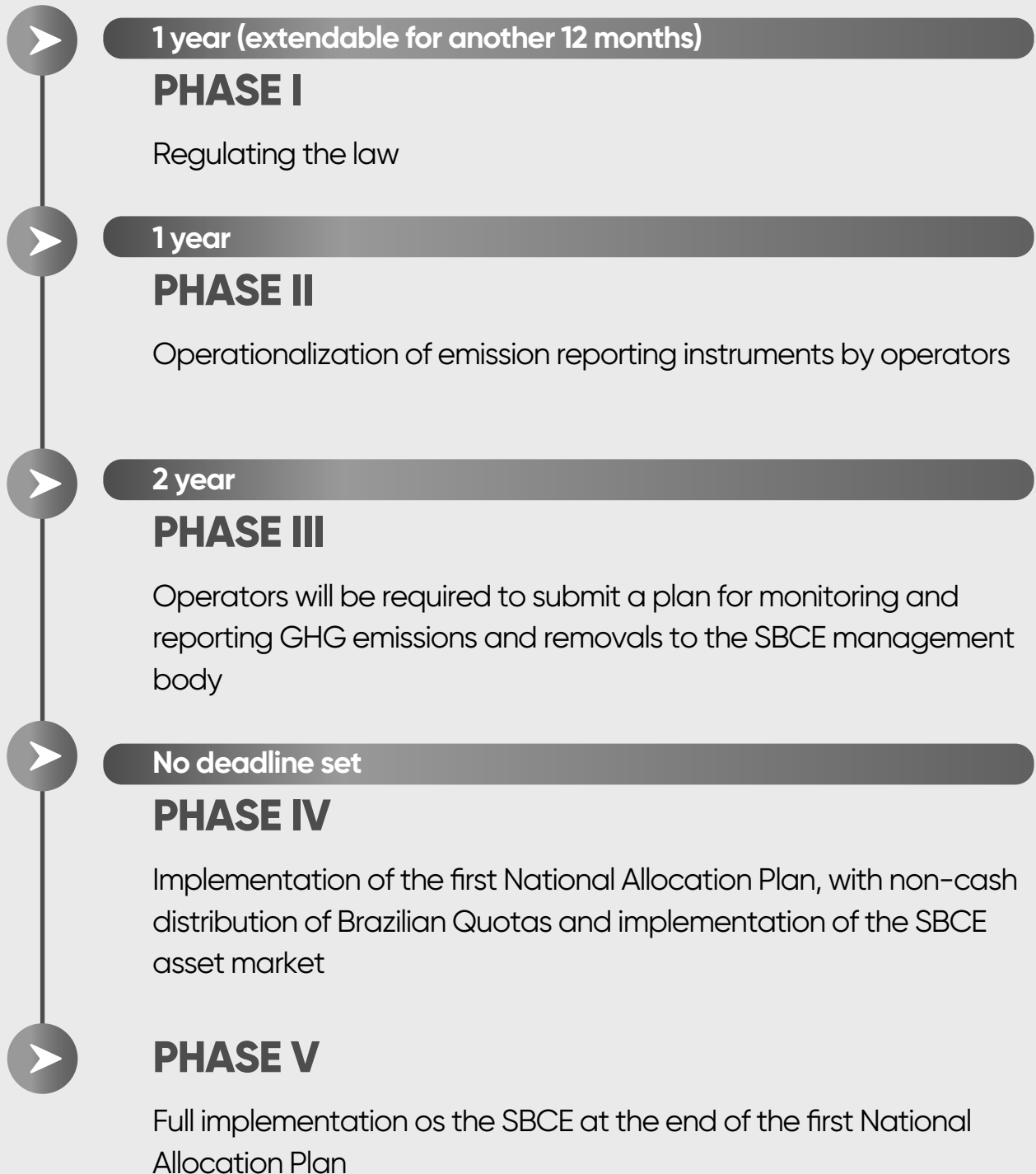
GHG reduction or removal projects, with a market approach and the aim of generating carbon credits, including REDD+ activities, developed by **public entities** in areas where they cumulatively **hold ownership and usufruct**, provided that there is no overlap with areas legitimately owned or usufructed by third parties.

Private carbon credit projects



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

IMPLEMENTATION PHASES



HOT TOPICS

- 1 Procedure for obtaining prior consent and informed (FPIC) of indigenous peoples and traditional communities and details on the sharing of benefits arising from carbon projects that indirectly impact communities.
- 2 Concern about Carbon Border Adjustment Mechanism (CBAM) and other mechanisms border adjustment.
- 3 Discussion on methodologies applicable to Brazil.
- 4 Interconnection with matters of biodiversity.
- 5 Relevance of the financial sector as a pressure agent.
- 6 Alignment between governments federal and state.

POINTS OF ATTENTION

- Implementation or improvement of emission control and measurement systems;
- Evaluation of costs and opportunities arising from the new scenario (regulated market and its interaction with the voluntary market);
- Evaluation of practices adopted by the company itself in other countries (as a way of avoiding double standards) and other companies in the sector (benchmarking);
- Active participation in industry associations and advocacy, given that many issues will remain open to future regulation;
- Training and engagement of the leadership and teams involved;
- Evaluation of reports published by the company and promotional materials to adapt to the new regulatory scenario.

Our **Environment, Climate Change and Sustainability** team is on hand to help you with a detailed analysis of the new obligations and opportunities for your business.



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