Jurisdictional REDD+ and the Advance Sale Controversy: Lessons from the Pará Carbon Credit Deal

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The Reduction of Emissions from Deforestation and Degradation (REDD+) mechanism is a carbon market approach designed to reduce greenhouse gas emissions by preventing deforestation and forest degradation. In the market-based jurisdictional model—made part of Brazilian law by Law 15.042/2024, which established the Brazilian Greenhouse Gas Emissions Trading System, the SBCE—public authorities play a direct role in issuing and marketing carbon credits, shaping integrated policies, overseeing compliance, and sharing benefits with local communities.

In September 2024, the State of Pará, through its Environmental Assets and Equity Holdings Company, CAAP, put the jurisdictional REDD+ model into practice in an Emissions Reduction Purchase Agreement (ERPA) made with Emergent Forest Finance Accelerator Inc. Emergent is the non-profit organization that acts as coordinator of the Lowering Emissions by Accelerating Forest Finance – LEAF Coalition, a major public-private initiative formed by global businesses and governments such as the U.S., the U.K., South Korea, and Norway. The Pará ERPA is the LEAF Coalition's largest agreement to date.

The ERPA, which provides for the sale of carbon credits at USD 15 per ton, for a projected total value under the contract of approximately BRL 1 billion, quickly drew scrutiny from both the Federal Public Prosecutor Office (MPF) and the Pará State Public Prosecutor Office (MPPA).

In a joint recommendation (Recommendation 07/2025), they called for the ERPA to be set aside, citing concerns that the agreement constituted an advance sale of carbon credits—a practice prohibited by Law 15.042/2024. In June 2025, the MPF filed a public civil action seeking an immediate suspension of the agreement and a subsequent declaration of its invalidity. The MPPA decided not to join the MPF in the action, as it had doubts as to whether the ERPA effectively constituted an advance sale or was simply a pre-contract.

The legal dispute over the ERPA has sparked broader debate about the challenges facing pioneering carbon credit projects in Brazil. At the heart of the controversy is the concept of an advance sale—a firm commitment to deliver a future asset that does not yet exist, at a set or determinable price. This structure is common in agribusiness and commodity trading, but Law 15.042/2024 expressly prohibits advance sales of credits or future results within jurisdictional programs. These programs often rely on third-party land for credit generation, and since third parties can later opt out of the program, the legislation aims to prevent double counting and safeguard the legal and environmental integrity of preservation projects by prohibiting advance sales.

On the other hand, Law 15.042/2024 does allow contracts that set commercial terms for the sale of carbon credits generated from verified results. This distinction has led to uncertainty and debate about what constitutes a permissible transaction.

In the Pará case, the MPF argues that setting a fixed price for credits—even if they are still subject to verification—amounts to an advance sale. The State of Pará, however, disputes this interpretation. While the ERPA does specify a fixed price, it is subject to a condition precedent: credits can only be sold after independent verification under the ART-TREES standard, a technical standard developed by the Architecture for REDD+ Transactions (ART) to quantify, monitor, report, and independently verify greenhouse gas emission reductions and removals from jurisdictional REDD+ programs.

From this perspective, the ERPA is not a firm commitment to deliver a future asset that does not yet exist, but rather a conditional promise—permitted under the SBCE—since no enforceable obligation to deliver or pay arises until independent verification is complete.

The Pará case highlights the need for clearer rules and deeper debate as Brazil's carbon credit market matures. Some best practices are already emerging: contracts for market-based REDD+ jurisdictional programs should include explicit conditions precedent and require that credits are only delivered after independent verification, with no advance payment. These safeguards can help ensure transactions are not classified as advance sales and reduce the chance that the legal integrity of contracts made by government entities will be challenged.

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