

Regulated carbon markets

09.11.2021 3 min read

Authors

Márcio Pereira

Related areas

Environmental, Climate and
Mining

Topics

Carbon Environmental, Climate
and Mining Climate change

There are two ways to control and price carbon emissions: (i) taxing greenhouse gas (GHG) emissions, by setting a price that must be paid for each ton of GHG emitted (a carbon tax), and (ii) adopting a cap-and-trade system, where emissions permits compatible with the cap are issued and can be traded on the market.

One of the objectives of Brazil's National Climate Change Policy, which was created by Law 12.187/2009, is to create the Brazilian Emissions Reduction Market or MBRE (*Mercado Brasileiro de Redução de Emissões*), which has not yet been established. This gap should be filled by Bill PL 528/2021, which was designed to regulate the MBRE. The model proposed under the Bill combines a cap-and-trade mechanism with emissions offsets negotiable on the voluntary market.

At present, trading is possible only in the voluntary carbon market, which allows free trading between organizations which, as a matter of business or reputational strategy (for example, consumer or investor demands) assume commitments to reduce emissions (offsets). In general, offsets in the voluntary market are generated by projects that sequester, avoid or reduce emissions. Most offsets come from the renewable energy, agriculture and forestry sectors.

The 26th Conference of the Parties on Climate Change (COP26) carries with it the expectation that rules will be established under article 6 of the Paris Agreement, which provides for the creation of an international regulated carbon market. Regulating a global market by means of consensus among the Conference of Parties is not a trivial task, especially considering the different regional interests at stake. For example, one of the points for discussion is the adjustment in accounts required whenever a host country transfers credits to another country, in order to show that the host has not used the transferred credits to meet its own emissions reduction target ("corresponding adjustments"). These adjustments are intended to avoid double counting of emissions reductions in the countries involved in the transaction.

Regulating the international market will certainly influence new regulations in Brazil. Currently there is a certain stability around the world in the choice of instruments for control and pricing of carbon emissions, although some jurisdictions have adopted hybrid systems, which combine aspects of both cap-and-trade and carbon taxes. For example, the European Union, California and China^[1] have chosen a cap-and-trade system, while the United Kingdom has adopted a tax system for some sectors^[2] and cap-and-trade for others.^[3] Similarly, some Latin American countries, like Chile, Colombia and Mexico are currently implemented combined tax and cap-and-trade systems, looking to make the most of the advantages of each system.

Although Brazil is still waiting for regulations on its own carbon market, Decree 10.846, issued this year, has created the National Green Growth

Program, aimed at reducing GHGs. The Program provides for the creation of market instruments and financial mechanisms for mitigation initiatives among its general directives.

Brazil has the potential of generating up to USD 100 billion in revenue from carbon credits up to 2030,^[4] and some industry sectors are already feeling international pressure to adopt sustainable practices. Structuring a national carbon market can also be attractive to business from at least two perspectives: first, by making it possible to abate companies' carbon emissions, so as to reinforce their sustainability practices and increase their market competitiveness; and second, by making it possible to prove that their emissions are lawful and aligned with sector and national targets, thus minimizing the risk of litigation seeking to compel companies to reduce their emissions and to pay reparation for climate-related harm.

NOTES:

[1] The EU Emissions Trading System, California's Cap-and-Trade Program, and the Shanghai Environment and Energy Exchange.

[2] Electricity, natural gas and other fossil fuels.

[3] Aviation and certain industrial sources.

[4] ICC Brasil; Way Carbon. Opportunities for Brazil in Carbon Markets. Available at https://iccbrasil.org/media/uploads/2021/10/18/fact_sheet_iccbr_in_vf.pdf

› PROFESSIONALS

Professionals who combine legal insight and market perspective



Márcio Pereira