

## PORTUGAL

### VOLUNTARY CARBON MARKET —PORTUGAL OPEN FOR BUSINESS

☞ Carbon offsetting; Climate change; Emissions trading; Portugal

#### Abstract

*Since setting the goal of achieving carbon neutrality by 2050, Portugal enacted different legal instruments aimed at enhancing carbon sinks and increasing carbon sequestration capacity. Recently, the Voluntary Carbon Market Regime—which establishes the legal framework for validation and implementation of carbon offsetting projects—was enacted. Further regulations still need to be put in place, but the approval of this new statute*

*seems to evidence that Portugal is open for business in the carbon market and is in a good position to attract climate finance, through carbon offsetting and carbon trading schemes.*

### **Vulnerability to climate change impacts**

The Intergovernmental Panel on Climate Change (IPCC) Sixth Assessment Report<sup>1</sup> (AR6) confirmed that there has been a substantial increase in the impacts of climate change in Europe since the issuance of the Fifth Assessment Report (AR5) in 2014,<sup>2</sup> notably significant losses and damages to ecosystems, food systems, infrastructure, energy and water availability, the economy and public health. Temperatures in Europe are expected to continue to rise and, even though impacts thereof shall vary across the continent, the European Environment Agency (EEA) estimates that, if further measures are not implemented, by 2050, climate change impacts are expected to cause additional 120,000 deaths a year in the European Union (EU) and represent an economic cost of €150 billion.

The Mediterranean and Southern Europe regions are particularly vulnerable to the adverse effects of climate change, and projections indicate severe negative impacts in the Iberian Peninsula. The IPCC further concludes that, by 2050, this region will be plagued by a combination of phenomena with a high climatic impact, such as extreme temperatures, increased droughts and aridity, decreased precipitation, increased fire-prone weather, changes in sea levels, and reduction in snow cover and wind speed.

When compared to other European countries, Portugal is particularly vulnerable to climate change impacts, notably catastrophic heatwaves, droughts and forest wildfires. The most severe climate scenarios assessed by the IPCC predict that, in a business-as-usual scenario, domestic temperatures could rise by up to 5°C by 2100 and the average annual rainfall reduction could reach 20% to 40%, with the country's southern regions being most affected and with direct impact on critical economic sectors such as agriculture, fishing and tourism.

### **Commitment to carbon neutrality**

The foregoing dire projections are certainly one of the reasons why Portugal shows a strong commitment towards climate action and reduction of greenhouse gas (GHG) emissions. As an example, in 2016, at the Conference of the Parties to the United Nations Framework Convention on Climate Change (UNFCCC), Portugal set the goal of achieving carbon neutrality by 2050. This commitment was made well ahead of the publication of the European Climate Law,<sup>3</sup> which set out a binding objective of climate neutrality in the EU by 2050, at the latest.

Since then, Portugal enacted different legal instruments aimed at accomplishing the carbon neutrality pledge. Most of these statutes expressly refer the importance of enhancing carbon sinks and increasing carbon sequestration capacity, and their key role in reducing and/or offsetting GHG emissions and notably, include the following.

#### ***Roadmap to Carbon Neutrality 2050***

The Roadmap to Carbon Neutrality 2050<sup>4</sup> (RCN 2050) was approved in 2019. Under the RCN 2050, Portugal set the goal of reducing GHG emissions between 85 and 90% by 2050 (with reference to 2005) and offsetting the remaining emissions by sequestering carbon through land use and forestry

<sup>1</sup> IPCC, "Climate Change 2022: Impacts, Adaptation and Vulnerability Report" (28 February 2022) at <https://www.ipcc.ch/report/ar6/wg2/>.

<sup>2</sup> IPCC, "The Fifth Assessment Report of the IPCC2", 2014 at <https://www.ipcc.ch/report/ar5/syr/>.

<sup>3</sup> Regulation 2021/1119 establishing the framework for achieving climate neutrality and amending Regulations 401/2009 and 2018/1999 (European Climate Law) [2021] OJ L243/1.

<sup>4</sup> Resolution of the Council of Ministers No.107/2019, of 1 July 2019.

management. The RCN 2050 estimates that, to achieve these objectives, it will be necessary to reduce burnt areas by 60% by 2050 and increase the reforestation rate to 8,000 ha/year.

### *National Energy and Climate Plan 2021–2030*

In 2020, the National Energy and Climate Plan 2021–2030<sup>5</sup> (PNEC 2030) was enacted. This is the main national energy and climate policy instrument towards carbon neutrality and sets out the policies and measures for effective implementation of the RNC 2050. Amongst others, the PNEC 2030 sets out as key objectives the promotion of sustainable agriculture and forestry and boosting carbon sequestration.

### *General Climate Law*

The most anticipated General Climate Law<sup>6</sup> was finally enacted in 2021. This statute includes certain rules on the reinforcement of existing carbon sinks and related carbon sequestration services and stresses the key role that both forests and oceans may have in what concerns carbon sequestration.

Ancillary legal instruments have also been approved, aimed at promoting decarbonisation of transportation, housing, public services and industry.

### **Voluntary Carbon Market Regime**

Aware of the need to increase carbon sequestration capacity and offset residual emissions under the scope of the climate transition process detailed in the PNEC 2030 and the RNC 2050, and of the key role that voluntary carbon markets may play in the overall climate finance structure, the Government recently enacted the Voluntary Carbon Market Regime,<sup>7</sup> which establishes the legal framework for validation and implementation of carbon offsetting projects, for individual and/or corporate climate finance contributions and for carbon trading.

Some of the key features of the new regime follow.

### *Carbon projects and carbon methodologies*

Each type of carbon project shall be subject to the methodology approved, which shall establish a set of criteria and rules for approval of the relevant project and of the carbon credits generated by the same. For such purpose, national, European or international existing methodologies may be considered. Amongst others, the methodologies shall detail: (i) eligibility criteria; (ii) quantification methods; (iii) duration of the project; (iv) identified risks, including emissions reversal and mitigation thereof; (v) monitoring, report and verification requirements; and (vi) potential externalities. The methodologies acceptable shall be approved and published by the relevant authorities.

### *Priority carbon projects*

Forestry carbon sequestration projects, particularly those to be implemented in vulnerable areas and areas affected by wildfires, are a priority. Carbon projects implemented in vulnerable and/or burnt areas shall be exempt from fees payable in connection with (i) the opening and maintenance of an account with the Registration Platform; (ii) registration thereof; (iii) carbon credits trading; and (iv) approval of methodologies proposed by market agents.

<sup>5</sup> Prepared and approved under the scope of the Regulation 2018/1999 on the Governance of the Energy Union and Climate Action [2018] OJ L328/1.

<sup>6</sup> Law No.98/2021 of 31 December 2021.

<sup>7</sup> Decree-Law No.4/2024 of 5 January 2024.

### *Application and Implementation*

Carbon projects' proponents shall (i) prepare a project report detailing, amongst others, the methodology to be adopted; (ii) obtain initial validation of the project by an independent surveyor; (iii) proceed with registration of, notably, the project the credits generated, with the Registration Platform; (iv) implement the project; and (vi) comply with the monitoring, report and verification obligations applicable.

### *Carbon credits*

Reduction of GHG emissions and/or carbon sequestration through projects implemented under the scope of the Voluntary Carbon Market Regime generate carbon credits, each of which corresponding to 1 tone CO<sub>2</sub>. Carbon credits can qualify as either Verified Carbon Credits or Future Carbon Credits. Carbon credits may be used either to offset emissions or contributions toward climate action. In this latter scenario, carbon credits shall be cancelled. Carbon credits ownership lays with the project proponent until the carbon credits are either canceled or transferred to third parties.

### *Registration platform*

Carbon projects, carbon credits and transactions in connection thereto are subject to registration with the Registration Platform, so as to enhance transparency and minimise double counting.

### *Emissions reversal and Guarantee Fund (Bolsa de Garantia)*

Project promoters shall procure to minimise the risk of emissions' reversal. The statute also governs the creation of a Guarantee Fund to address situations where unintentional emissions' reversal occurs.

## **Open for business**

Pursuant to the Land Use and Occupation Charter 2018, forestry areas in continental Portugal cover 39% of the overall territory, corresponding to circa 3 million ha. Hence, the country offers good opportunities for forest-based sequestration projects. While, in recent years, many industry giants have recognised Portugal's forestry potential and expressed their intent to participate in the investment of the voluntary carbon market through carbon offsetting projects, a key development was made in April 2023, with the Portuguese Government entering into a landmark reforestation protocol with Repsol Portugal (Green Engine + Forest Project)—which aims at reforesting between 5,000 and 10,000 hectares and represents a total investment of around €40 million, with the possibility of reaching up to 100,000 hectares (with around 90 million trees and capturing 25 MtCO<sub>2</sub>), a total investment of €400 million and the creation of up to 20,000 new jobs. This project is not only expected to contribute for Portugal to reach its carbon neutrality goal in 2050, but also to help attracting domestic and international investment of companies interested in offsetting GHG emissions.

As mentioned, priority and specific benefits shall be given to forestry projects to be implemented in vulnerable and burnt areas as per the Landscape Transformation Program.<sup>8</sup> Through the creation and implementation of the voluntary carbon market in-country, the Portuguese Government aims at attracting investments expected to impact at least 500,000 ha in forestry areas.

Notwithstanding, the Portuguese coastline is also a potential target for carbon sequestration projects. On this matter, one must note that, in 2022, the Calouste Gulbenkian Foundation launched a pioneering project aimed

<sup>8</sup> Resolution of the Council of Ministers No.49/2020 of 24 June 2020.

at mapping all marine and coastal ecosystems in-country with the potential to remove CO<sub>2</sub> from the atmosphere and promote conservation and restoration investment.<sup>9</sup> This project aims to locate the different types of habitats, identify the protection statutes in which they are included, calculate estimates of carbon sequestration rates, assess the threats to which they are exposed and analyse past, ongoing and future conservation interventions. Making this information available is expected help to encourage investment in the conservation and ecological restoration of the Portuguese marine and coastal habitats, which are vital for reducing GHG emissions and fight against the climate crisis.

While further regulations still need to be implemented and institutional frameworks to be put in place, notably for the creation and operation of the Registration Platform, the enactment of the Voluntary Carbon Market Regime shows that Portugal is open for business in the carbon market and is in a good position to attract climate finance, through carbon offsetting and carbon trading schemes.

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<sup>9</sup>“Gulbenkian Blue Carbon” (updated 10 february 2023) at <https://gulbenkian.pt/en/projects/gulbenkian-blue-carbon/>.