

A photograph of an offshore wind farm with several white wind turbines in a row on a blue sea under a clear sky. The image is split vertically: the left side shows the turbines and water, while the right side is a solid teal gradient.

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BRAZIL ENERGY JOURNAL

Offshore Power Generation Law

OVERVIEW

On January 10, 2025, Brazil enacted Law No. 15,097/2025, which regulates the exploitation of offshore electrical energy potential and is known as the “Offshore Windpower Law”.

The Offshore Windpower Law establishes guidelines for granting concessions and authorizations for the construction and operation of windpower infrastructures within Brazilian jurisdictional waters, as well as in Brazil’s economic zone and continental shelf.

Offshore energy projects not only contribute to the diversification of the Brazil’s electric matrix but also optimize energy consumption through synergy between offshore energy and oil and gas exploration and production activities, attracting the attention of major players.

Offshore power plants can also be utilized to expand Brazil’s clean energy supply, aiming to attract large energy consumers, especially ammonia or hydrogen producers, as well as data center owners, among others.

This increase in energy availability, combined with production structures as self-production and self-production-by-equivalence, could play a crucial role in consolidating energy transition technologies as competitive, while also attracting more investment into Brazil.

This Journal aims to provide a comprehensive understanding of the new legal framework, its guiding principles, and its implications for the energy sector in Brazil.



ATTRACTIVE FACTORS

EXTENSIVE COASTLINE

Brazil's territory comprises more than 7,300 kilometers of coastline, granting the country the right to economically explore a maritime area exceeding 3.6 million km².

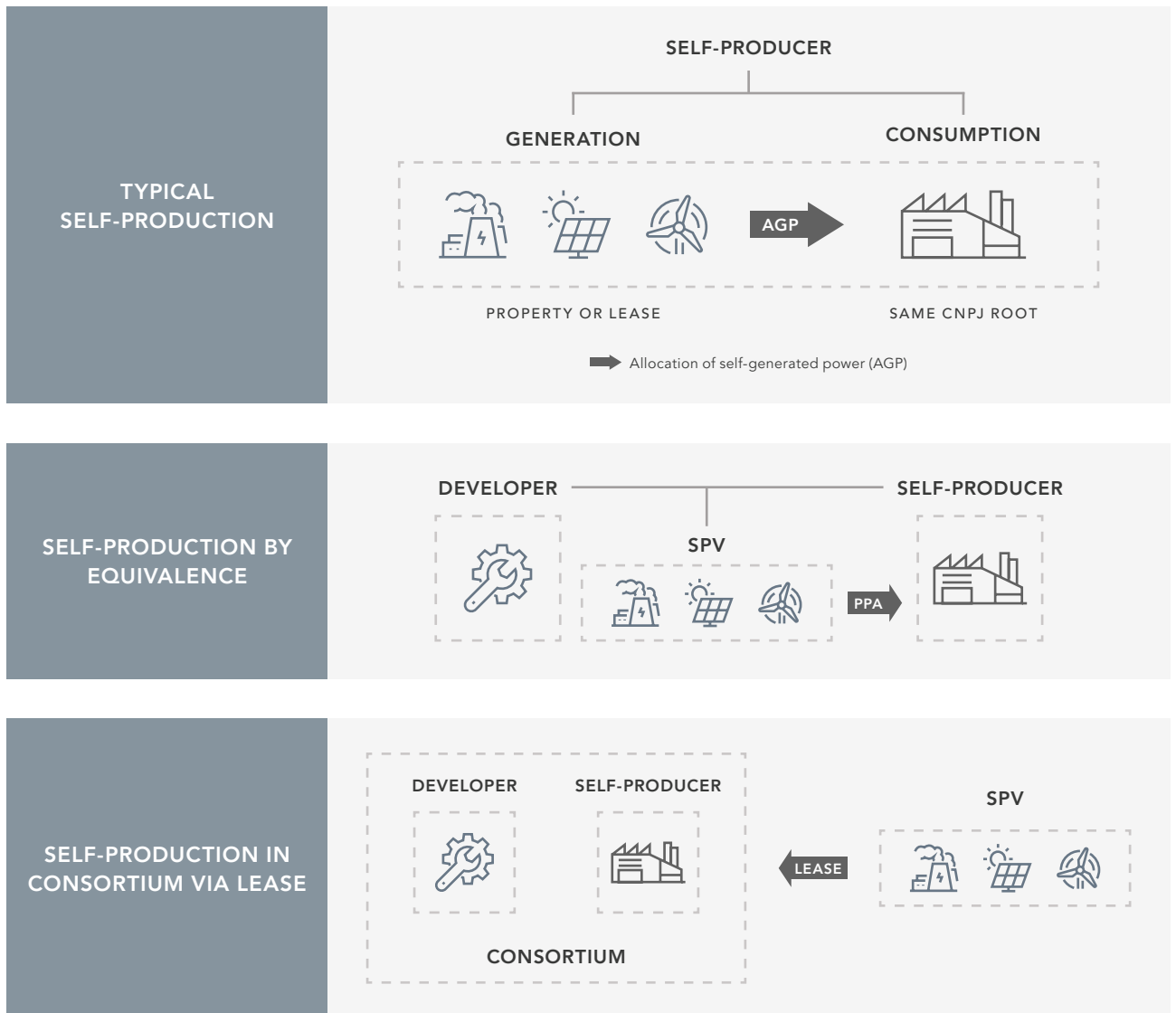


HIGH OFFSHORE POTENTIAL

According to a study by the Brazilian Energy Research Company (*Empresa de Pesquisa Energética* - "EPE"), Brazil's potential for offshore wind power generation is estimated at approximately 700 GW. Brazil's favorable geographical location and wind capacity make it an ideal environment for offshore windpower projects. Energy players have shown substantial interest, with more than 100 offshore wind power projects for environmental licensing even before the Offshore Windpower Law was enacted.

ENERGY SELF-PRODUCTION

Law No. 15,097/2025 provides for specific rules for energy self-production projects, which can be used to supply oil and gas platforms and other offshore infrastructure. Self-producers benefit from exemptions from sectoral fees on energy costs, which can result in savings of up to 30%. Examples of Self Productive Structures:



GREEN AMONIA OR HYDROGEN AND DATA CENTER POTENTIAL

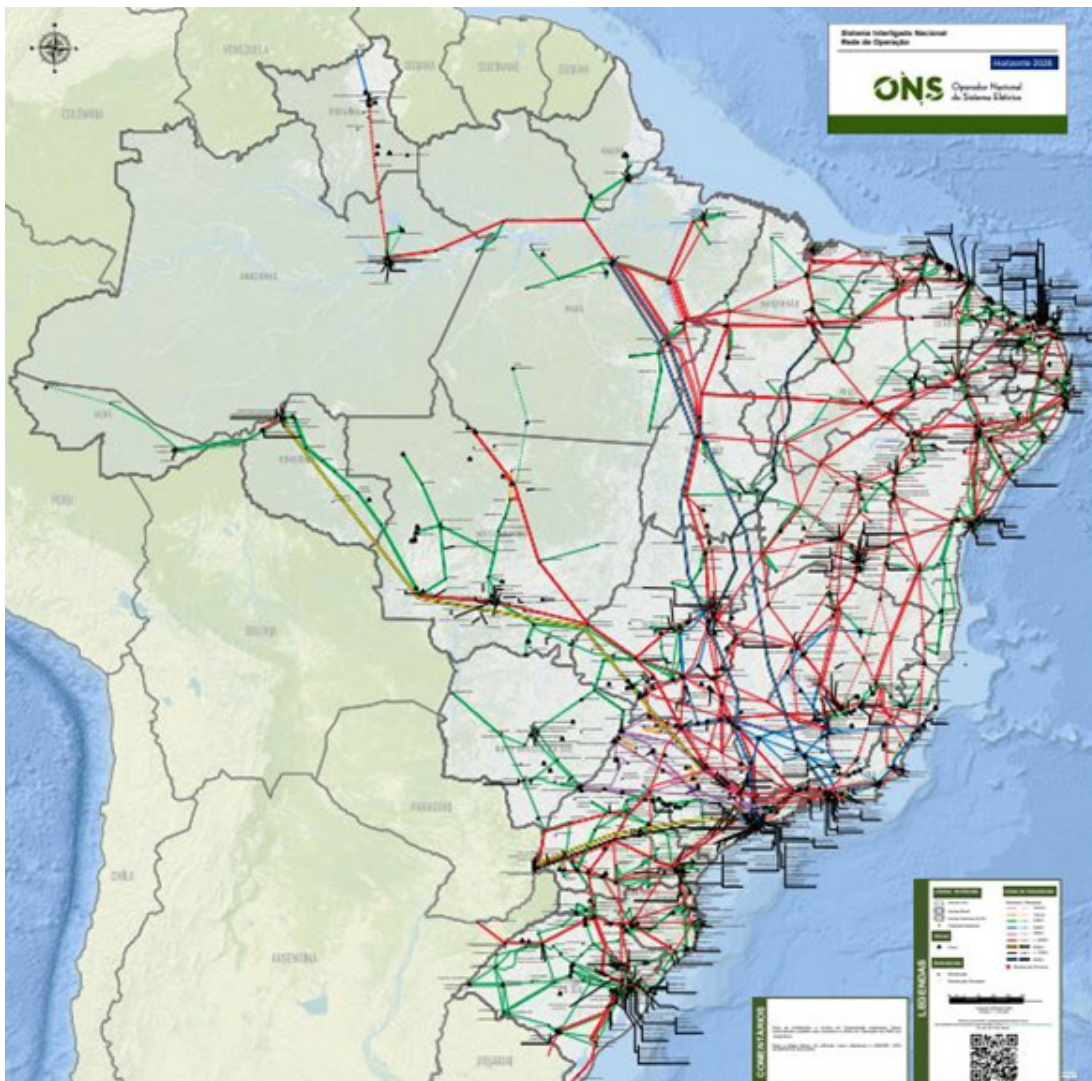
Offshore wind energy generation in Brazil can be leveraged to produce competitive green ammonia or hydrogen. This production can cater to both small local demand and exportation to countries that lack the capacity to develop their own green energy.

Additionally, considering the high energy consumption of data centers used to develop and run artificial intelligence (AI) applications, and the rapid and widespread adoption of AI globally, there is an anticipated spike in energy demand for large-scale projects.

Offshore wind power generation offers a viable solution to meet this demand, providing clean and renewable energy to support the development of green data centers.

GENERATION AND TRANSMISSION AUCTIONS

Law No. 15,097/2025 establishes specific auctions aimed at promoting offshore energy projects. These auctions are divided into two main categories: (i) Specific Auctions; and (ii) Transmission Auctions (to connect offshore power plants to the National Interconnected System (*Sistema Interligado Nacional – “SIN”*)).



Source: ONS

In relation to the rights to use the offshore areas, the Offshore Windpower Law provides for permanent offer and public auctions. This means that the government may open public auctions for specific areas, following a model similar to the process applied for the exploration of oil and gas reserves. However, any interested party that identify a suitable area can independently submit a request to use such specific area, as further detailed below.

INSIDE THE LAW

PRINCIPLES AND FOUNDATIONS OF LAW NO. 15,097/2025



KEY DEFINITIONS

OFFSHORE

Government's inland waters, territorial sea, exclusive economic zone, and continental shelf.

PRISM

A vertical prism defined by geographic coordinates and extending to the depth of the underwater seabed where energy production activities are permitted.

DECOMMISSIONING

Actions taken to return a site to its original condition at the end of the project's life cycle.

DECLARATION OF PRIOR INTERFERENCE (DIP)

Declaration to identify an interference of a Prism with other facilities or activities protected by the applicable law.

ASSIGNMENT OF USE

Agreement between the government and the party interested in the rights of use of the offshore areas for energy production ("Interested Party").

PRISMS CONSTITUTION

The constitution of Prisms will not be permitted in areas that coincide with existing oil and gas blocks, shipping routes, protected areas, cultural sites, military training areas, and sustainable use areas to be determined by the Government.

Prisms constitution shall also respect and comply with the guidelines of the Marine Spatial Planning (*Planejamento Espacial Marinho* - "PEM").

Prisms may be permitted in areas coinciding with oil and gas blocks tendered under the concession, production sharing or transfer of rights regime, provided that the activities are deemed compatible in accordance with the applicable regulation.

Prisms may also be granted for other activities, as long as the intended uses do not conflict with the exploitation of the energy potential and meet the technical, safety and environmental requirements.



ASSIGNMENT OF USE

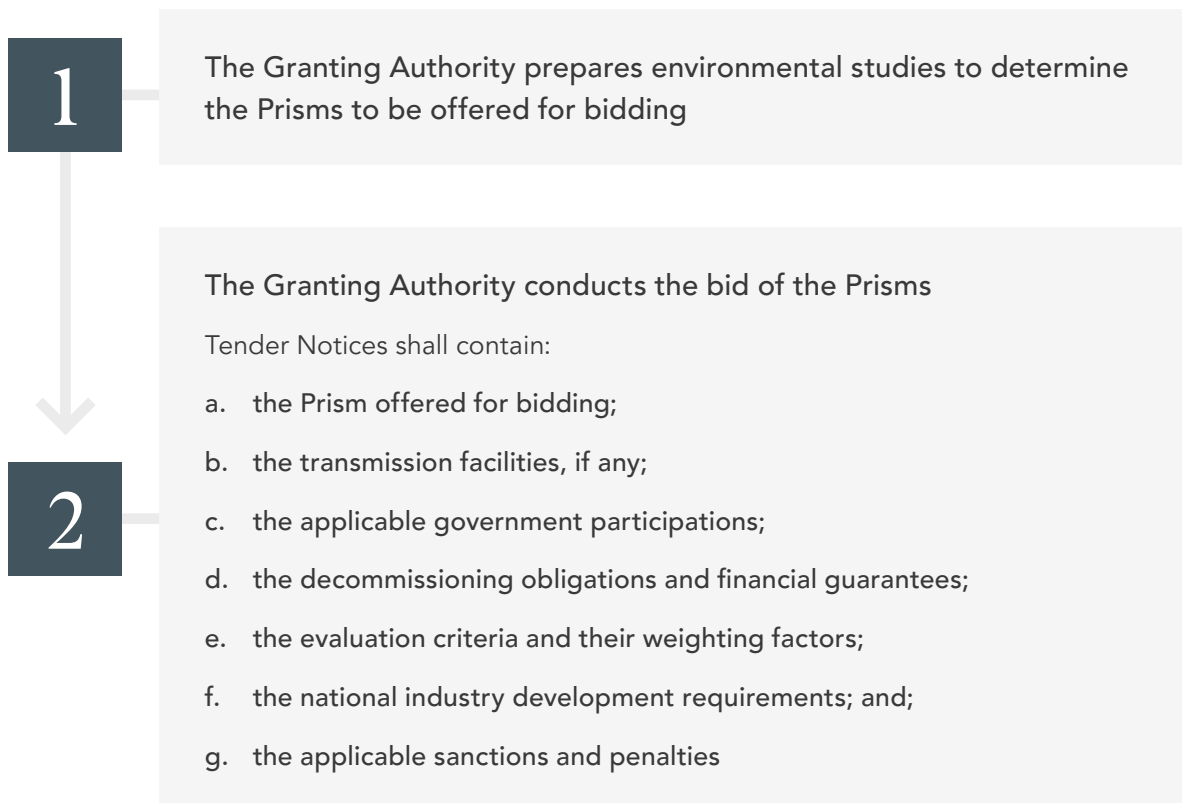
The Assignment of Use can be granted under two regimes

PERMANENT OFFER	PLANNED OFFER
<p>Constitution of Prisms upon request of interested parties. The Assignment of Use in this regime is granted by means of an authorization.</p>	<p>Predefined Prisms offered through a spatial planning process. The Assignment of Use in this regime is granted by means of a concession.</p>

PERMANENT OFFER - STEP BY STEP



PLANNED OFFER - STEP BY STEP



WINNING BIDDERS CRITERIA





Notwithstanding additional criteria to be set by the tender notice, the bid criteria to the concession of the Prism will be the highest value offered as government participation (as explained in the next section).

- The Assignment of Use does not include the authorization to develop energy activities, which shall be granted by Brazilian Electric Energy Agency (*Agência Nacional de Energia Elétrica - "ANEEL"*).
- Further regulations will establish the mandatory requirements to be met by the Interested Party in the Prism resulting from Permanent and Planned Offer, regarding the following aspects: (i) technical; (ii) economic-financial; (iii) legal; and (iv) promotion of national industry.
- The Assignment of Use must have the prior and express consent from the Granting Authority, provided that the Interested Party meets the technical, economic-financial, and legal requirements.

PHASES OF THE TRANSFER OF RIGHTS

- **Evaluation Phase:** The phase in which the feasibility of a project is analyzed. For this purpose, the following studies shall be carried out:
 - I. Technical and economic feasibility analysis;
 - II. Preliminary environmental impact study, to be conducted for the analysis of the environmental viability of the project in the environmental licensing procedure;
 - III. Assessment of the externalities of the projects, as well as their compatibility and integration with other local activities, including maritime, river, lake, and aviation safety;
 - IV. Geo-referenced information on the energy potential of the Prism, including data on wind speed, wave amplitude, ocean currents, and other climatic and geological information, as per the regulation.
- **Execution Phase:** Implementation and operation of the offshore energy project.

GOVERNMENT PARTICIPATIONS

	<p>SIGNING BONUS</p> <p>Established in the auction notice and in the respective grant term, corresponding to the payment offered in the proposal for obtaining the authorization/concession.</p>
	<p>PAYMENT FOR THE OCCUPATION OF THE AREA</p> <p>Annual fee paid for use of the area to be calculated in reais per square kilometer (R\$/km²) and paid annually.</p>
	<p>PROPORTIONAL PARTICIPATION</p> <p>Paid monthly from the commercial operation date (COD), corresponding to a percentage (to be established in the notice) of the value of the energy generated by the developer, calculated according to the regulation.</p>
	<p>PENALTIES</p> <p>The regulation will provide for the penalties for defaulting or delays related to the government participations owed by the Interested Parties.</p>

The destination of collected amounts is as follows:

Signature Bonus and Payment for the Occupation of the Area:

- 100% allocated to the Government.
- The area occupation fee will be invested primarily in research, development, and innovation in the energy and industry sectors.

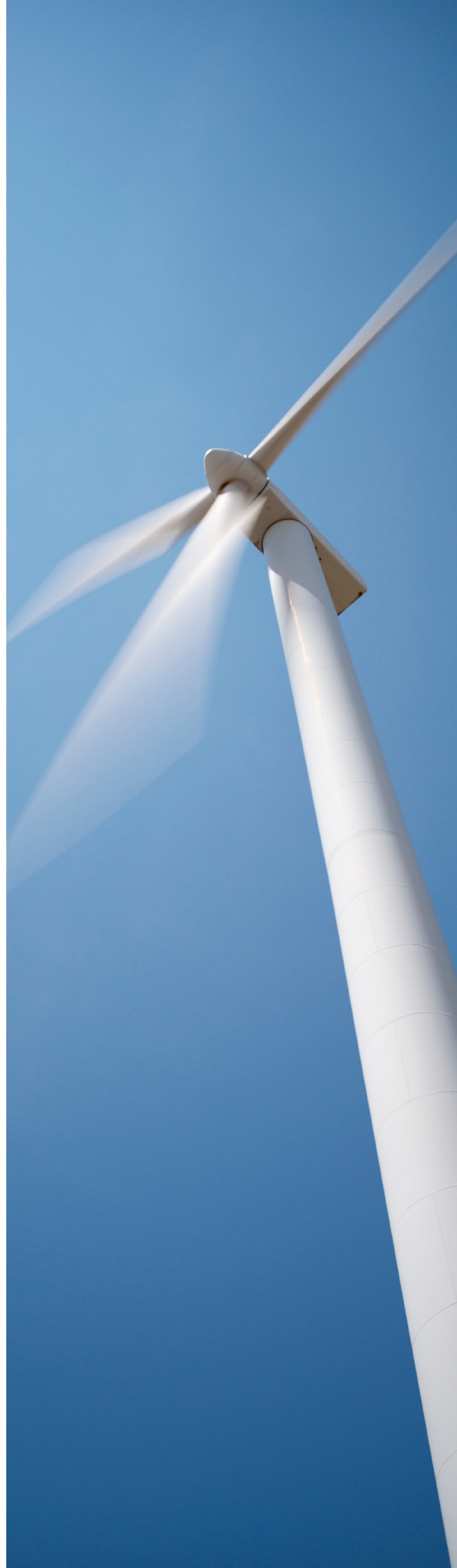
Proportional Participation:

- 50% to the Government.
- 12.5% to states with connection areas to the SIN and reinforcements required for energy outflow.
- 12.5% to municipalities with connection areas to the SIN and reinforcements required for energy outflow.
- 10% to states and the Federal District, distributed according to the State Participation Fund (FPE).
- 10% to municipalities, distributed according to the Municipal Participation Fund (FPM).
- 5% for sustainable and economic development projects approved by the Federal Executive Power, distributed equitably among the affected communities in the contiguous municipalities.

DECOMMISSIONING

The abandonment or early termination does not relieve the grantee from fully decommissioning, or from paying the amounts due as government participation.

Removal of the project's structures shall take into account the environmental impact on the formation and maintenance of artificial reefs, in accordance with regulations.



NEXT STEPS

While Law No. 15,097/2025 provides a comprehensive framework for offshore energy exploitation, several aspects still require further regulation:

- **Definition of Prism Locations:** The specific locations for Prism delimitation based on suggestions from interested parties or planned offers need to be regulated.
- **Procedures for Issuing DIPs:** Detailed procedures for the issuance of Declaration of Prior Interference, including fees and timelines, are yet to be established.
- **Definition of DIP Authority:** The authority responsible for centralizing the requirements and procedures necessary to obtain the DIP has yet to be defined.
- **Sanctions and Penalties:** Specific sanctions and penalties for failure to comply with the obligations arising from the Use Assignment Authorization/Concession need to be defined.
- **Environmental Monitoring:** Detailed requirements for the environmental monitoring project throughout all phases of the offshore energy project.
- **Carbon Credits:** Regulations regarding the trade of carbon credits or similar assets from offshore energy generation projects.
- **Integration with SIN:** Procedures for integrating offshore energy projects into the SIN for economic viability purposes.
- **Promotion of National Industry:** Parameters for the promotion of national industry, as proposed by the Ministry of Development, Industry, Trade, and Services, in consultation with the Ministry of Mines and Energy.

Tauil & Chequer in association with Mayer Brown will continue to monitor any updates related to the energy transition in Brazil and will keep you informed.



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