



HANSEN ADVOCATES

ONE VISION. ONE FIRM

# “OUR TAKE”

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**HARNESSING CARBON CREDITS**

**“A LEGAL GUIDE FOR KENYAN BUSINESSES”**

**PART I**

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## INTRODUCTION

The voice in the climate change landscape has been elevated in the last 5-10 years, with dynamic initiatives such as carbon credits being widely adopted to address the increasing concern of climate change worldwide. Kenya has been at the forefront of making changes in relation to the issue through legislative efforts, financing, educating and promoting renewable energy and low-carbon development.

Trading carbon credits in Kenya has further enhanced accountability towards climate action and the collective United Nations Sustainable Development Goals (UNSDGs). Internally, strategies such as the National Climate Change Action Plan (NCCAP) have provided the nation with a blueprint towards adapting to climate change and further reduce Green House Gas emissions. Through this article, we seek to highlight various fronts through which our clients will need assistance in regards to carbon market compliance within the Kenyan market.

### **Background of the Carbon Market in Kenya**

In recent years, Kenya has been a front-liner in Africa, in terms of carbon credit generation. The optimization of the agricultural opportunities in the country and conservation of mangrove forests has been experienced in carbon credit generation. The government of the country also offers tax incentives, loans, and grants to sustainable projects and public-private partnerships (PPPs) to further encourage climate mitigation initiatives and economic growth for its people.

Encouraging organizations within the private sector to participate in sustainability initiatives has been experienced through policies such as;



**I. National Climate Change Action Plan (NCCAP).** This five-year plan seeks to cement the country's strategic approach to attaining climate-resilient development while simultaneously raising developmental projects that are low in carbon emission.

**II. Environmental Management and Coordination Act (EMCA).** This act has provided a comprehensive framework that environmental management in Kenya should exist in. Through its regulatory initiatives, the collective negative impact on the environment is mitigated. EMCA has established institutions such as; the National Environment Management Authority (NEMA) and the Public Complaints Committee which enforce environmental protection via initiating impact assessments, auditing and monitoring and restoration orders.

The climate change regulations, 2024 have laid ground for both regulatory and technical oversight that have established guidelines for the carbon market within the nation. The creation of a carbon credit market in the nation has further supported the mitigation of the climate crisis through the reduction and elimination where possible, of Greenhouse Gases. Corporations have been motivated and supported into accounting for their contribution towards climate change and mitigating their own emissions.

Despite some of these policies being in the early stages of implementation, Kenya has shown immense promise in working towards an equilibrium state with the rest of the world in the fight against climate change.



## 2. Carbon Credits Regulations in Kenya

Despite the ever-changing regulations within the domestic and international landscape on carbon credits, Kenya's preparedness is evident through its active participation in summits such as the Africa Climate Summit 2024 which sought to express Kenya's voice in climate issues. This has been further supported Climate Change Amendment Act, 2023. Through this, Kenya as a nation has displayed transparency and accountability towards its obligations under the Paris Agreement.

As a result of these conventions, a call to action towards initiatives that are in support of climate action has been evident in carbon credits trading regulations. Despite the support carbon credit trading has garnered, its regulation in Kenya under the Climate Change Act (Cap.387A) has been established. It ensures;

- i. **Monitoring, reporting and regulation** of emissions that have been linked with carbon credits, further encouraging a culture of transparency and accountability.
- ii. **Legal framework** which is instrumental in providing a structure for order in operations of carbon credit trading and even dispute resolutions which may arise.
- iii. **Environmental integrity** where the reports on carbon credits are not part of a green-washing scheme. In the act, the proper documentation of each offset scheme is recommended.

Regulations of 2024. Through this, oversight has been provided over participation in carbon markets within the country, and the issue of climate change is continuously addressed



### 3. Our Role as Hansen Advocates

As a firm, we not only support you in exploring innovative solutions, but also in integrating the international organization practices to the standard operations procedure of one's organization. We understand the commitment level it takes for an organization to flourish in the successful trading of carbon credits. We;

- i. **Assist in navigating** through the complex carbon credit trading regulations on international and national bodies. We ascertain that our clients act in line with the domestic and international regulation stipulated in carbon markets. This will be instrumental in ensuring an efficient glide through the establishment of both national and international businesses within Kenya.
- ii. **Draft and negotiate** contracts for the carbon credit trading process. Through this, we ensure that our clients are protected from litigation issues by ascertaining the clarity and enforceability of the contract.
- iii. **Provide legal representation** to our clients in the case of disputes that erupt from carbon credit trading. This is done by negotiating and mediating on behalf of our clients

Our team provides support in the smooth integration of international businesses into the Kenyan business community and vice versa



## CONCLUSION

We acknowledge the business landscape is ever-changing, and our job is centered on doing our due diligence to ensure that our clients are supported in the dynamic business environment. Carbon credit trading is one of the contemporary issues that businesses are grappling with, and we are equipped to help you navigate.

Kenya has been one of the nations that have embarked on the bandwagon in support of the UNSDGs. This has further created a conducive business environment that we strongly believe in as an organization. We strive to comprehend the unique needs of our clients, and continuously assist them in navigating the field of carbon market through eliminating the uncertainty of legal compliance.





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*This content is for informational purposes only and does not constitute legal advice. For specific legal guidance tailored to your situation, please feel free to reach out.*

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