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Brazil Energy Journal

OFFSHORE POWER GENERATION

Legal Framework for Offshore Energy

The Brazilian government issued its first legislation regarding offshore power generation projects on January 25, 2022, through the Federal Decree No. 10,946/2022 (known as the Legal Framework for Offshore Energy).

This long-awaited law intends to boost investment in this industry, especially offshore wind, considering Brazil's enormous offshore potential. The Brazilian Institute of the Environment and Renewable Natural Resources ("IBAMA") disclosed early this year that there were 36 offshore wind projects under environmental licensing proceedings in Brazil, totaling around 80 GW of capacity,

which corresponds to approximately 10 percent of the country's potential.

Offshore generation projects not only contribute to the diversification of the Brazilian power generation matrix but also optimize power consumption arising from offshore power's synergy with oil and gas exploration and production activities, which is attracting the attention of major energy players.

The federal decree will take effect on June 15, and the Ministry of Mines and Energy ("MME") must issue complementary regulations by December 2022 pursuant to the federal decree.



Attractive Factors

There are key attractive factors in Brazil for the development of the offshore power generation industry that are supported by the Legal Framework for Offshore Energy. These include:

Wide Coastline: The Brazilian territory has more than 7,300 kilometers of coastline. Brazil officially has jurisdiction over a maritime space of 3.6 million km².

High Offshore Potential: According to a study from the Brazilian Energy Research Company ("EPE"), the Brazilian offshore wind power generation potential is around 700 GW.

Self-Generation: Brazil's new federal decree on offshore energy generation provides the assignment of areas for self-generation purposes, which can be used to supply oil platforms and other offshore infrastructures.

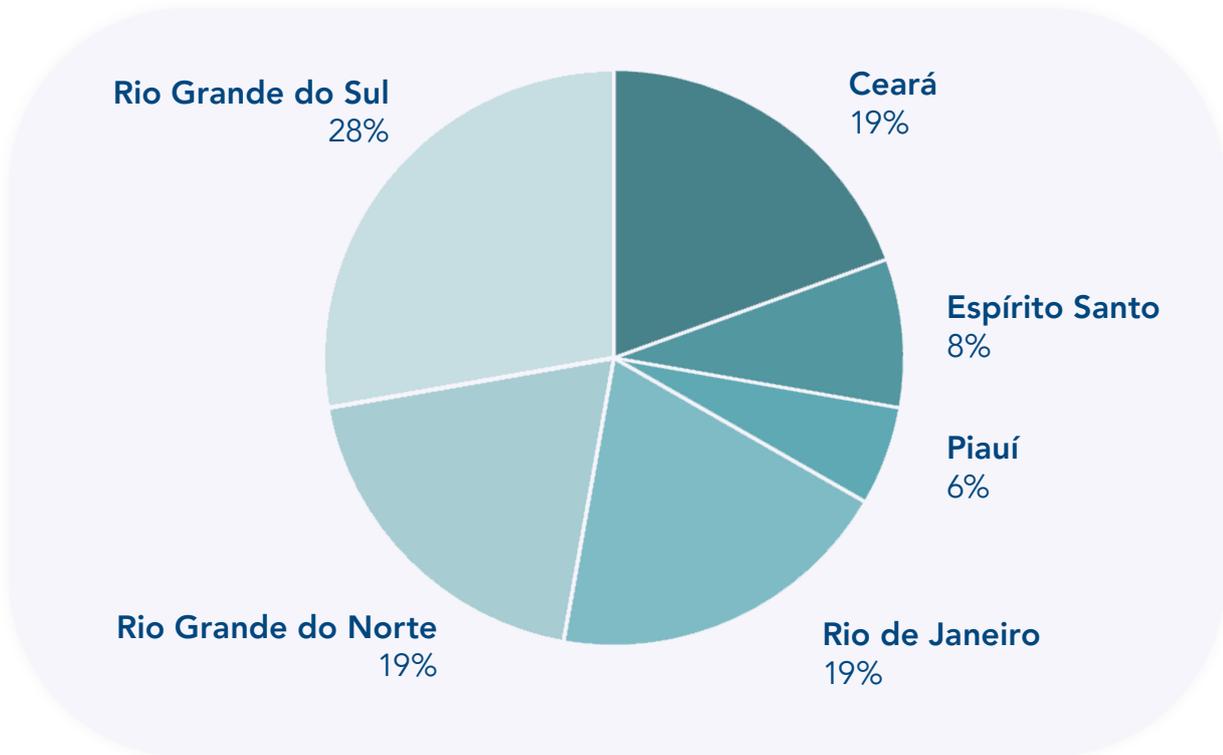
Green Hydrogen Potential: Wind offshore energy generation can be used to supply the production of competitive green hydrogen in Brazil.

Specific Power Auctions: The federal decree provides that MME will promote specific offshore power generation auctions. Pursuant to recent announcements by the Brazilian government, the first offshore wind power auction may occur in October 2022.

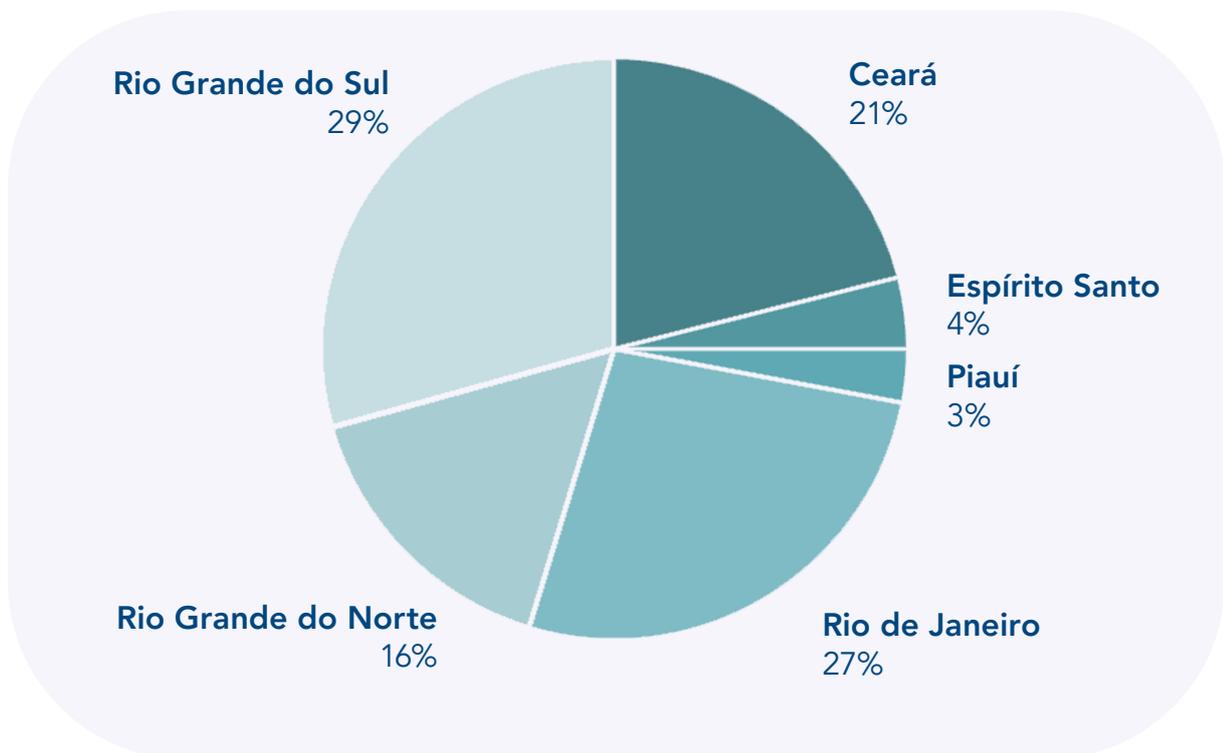


Projects under Environmental Licensing

Projects per State



MW per State



Inside the Decree

One of the bottlenecks for the offshore energy development in Brazil was the legal and regulatory uncertainty on the applicable rules and proceedings for the implementation and operation of offshore power generation projects, areas under the domain of the federal government. The federal decree resolved such uncertainty by instituting a public bidding process, where the winning bidder will execute a use assignment agreement related to the project's area with MME followed by the issuance of an authorization by the Brazilian National Electric Energy Agency ("ANEEL") for the winning bidder to act as an independent power producer or self-producer. The criteria for selecting the winning bidder will be based on technical, operational, financial and legal requirements combined with the "highest economic return" for the use assignment of the project's area.

The assignment of use to be granted by MME will encompass both the maritime area (called the "prism") and onshore areas under the domain of the federal government required for logistic support, operation and maintenance of the project as well as for its connection to grid. The assignment shall be free of charge if intended for research and development activities, but it shall entail a charge if intended for power generation purposes.

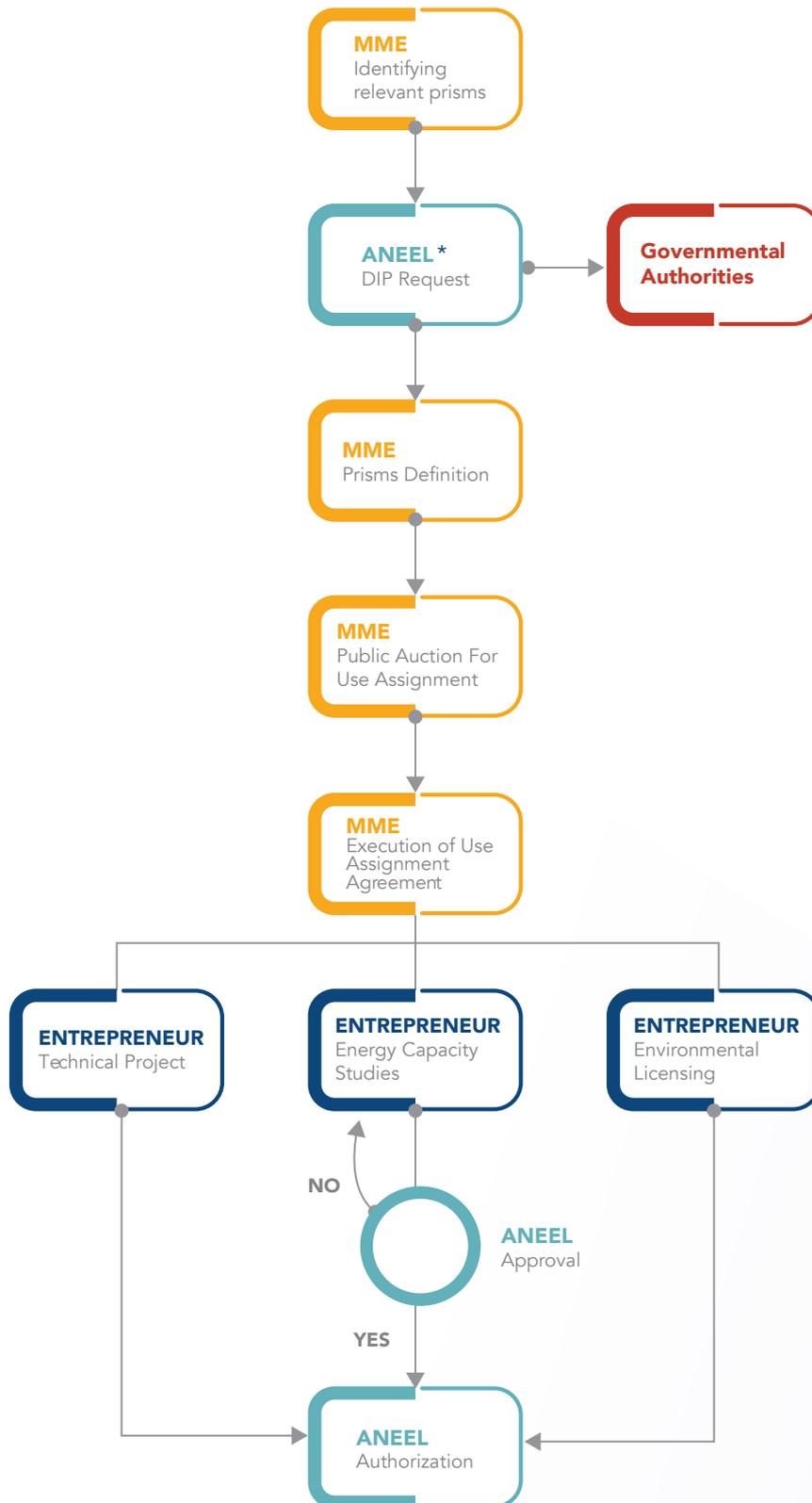
There are two possible paths for the execution of the use assignment agreement with MME: (i) the planned use assignment, in which the prism is defined by MME and auctioned to the bidders; and (ii) the independent use assignment, in which the prism is indicated by an interested party and then auctioned to bidders.

Regardless of the chosen modality, all assignment of use agreements shall:

- Be preceded by the issuance of a Prior Interference Declaration ("DIP") by each of the following governmental authorities to confirm that the prisms do not interfere with other facilities or activities: Navy and Aeronautics Command, IBAMA, Chico Mendes Institute ("ICMbio"), Brazilian Agency for Petroleum, Natural Gas and Biofuels ("ANP"), Ministries of Agriculture, Tourism and Infrastructure (Ministérios da Agricultura, Turismo e Infraestrutura), and Brazilian Telecommunications Agency ("ANATEL");
- Establish that studies to identify the offshore energy capacity of the assigned area must be performed pursuant to criteria and deadlines to be defined by MME, and such studies will be subject to ANEEL's approval;
- Be executed through a public bidding process (offshore energy auction).

Step by Step – Planned Assignment

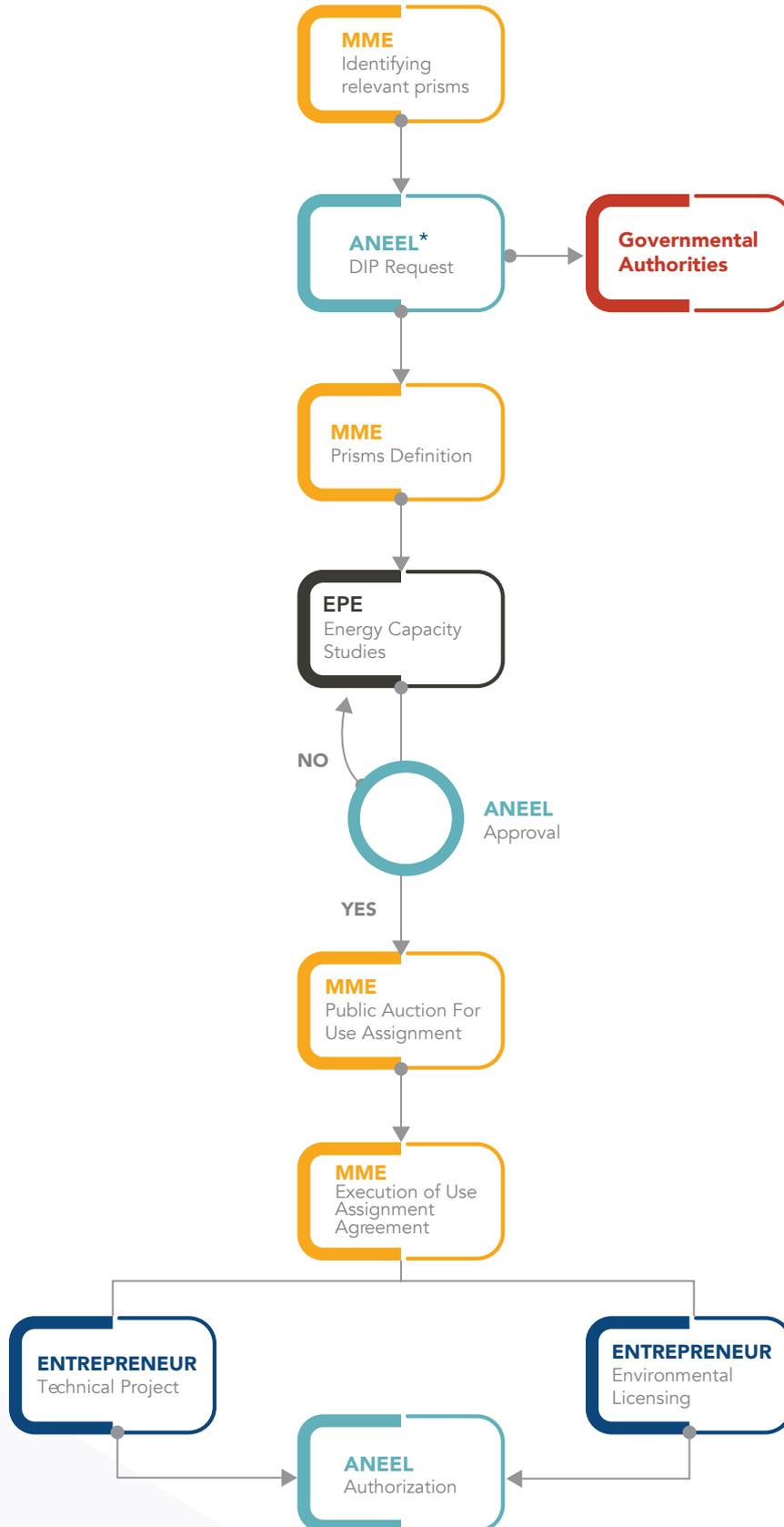
First Scenario



*Subject to potential delegation to ANEEL | Source: Ministry of Mines and Energy - Free Translation

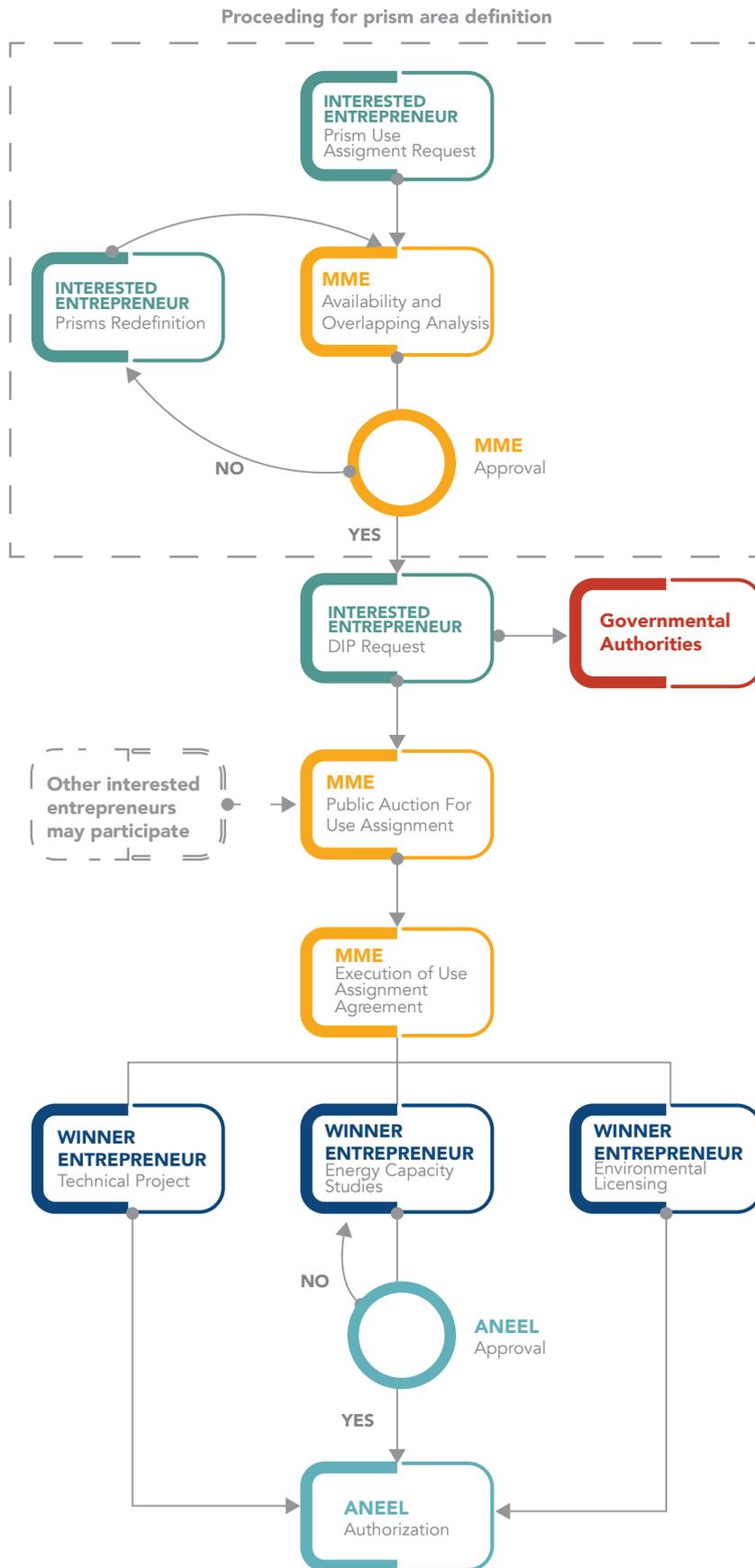
Step by Step – Planned Assignment

Second Scenario



*Subject to potential delegation to ANEEL | Source: Ministry of Mines and Energy - Free Translation

Step by Step – Independent Assignment



Source: Ministry of Mines and Energy - Free Translation

Next steps

MME's complementary regulations are expected to address detail the following aspects:

- > Parameters of the "economic return" for use assignment and guidelines on its payment terms and conditions;
- > Use assignment agreement terms and conditions, including the term of the agreement;
- > Rules of the offshore energy auctions and schedule of upcoming auctions;
- > Procedures and requirements for issuance of the DIPs (potentially delegating to ANEEL the authority to coordinate issuance of DIPs).

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