CARBON CREDITS- AN EMERGING TRADE

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INTRODUCTION

Population is increasing at a vast rate and so is pollution. Pollution can cause a wide range of adverse effects on the environment, ecosystems, and human health. Air pollution is one of the major problems as the presence of harmful substances in the Earth's atmosphere can lead to health issues like respiratory diseases, allergies, cardiovascular issues, and even cancer. Industrial activities are a significant contributor to air pollution, releasing various pollutants into the atmosphere and this emission has increased over time. According to surveys, industries are responsible for 23% of the total air pollution[1]. Taking all these into consideration the World Health Organisation (WHO) and the Governments of different countries took measures and made relevant laws to control the emission of poisonous gases.

When countries burn fossil fuels and produce CO2 or other gases, they don't pay for the implications of using them directly. They incur some expenditures, such as the cost of the gasoline itself, but additional expenses are not covered by the fuel's cost. These are known as externalities. When it comes to the use of fossil fuels, these externalities are frequently unfavourable ones, which means that third parties suffer because of the use of the item. These externalities include health costs and environmental costs. Therefore, the idea is that a country should pay for these negative externalities if it is going to consume fossil fuels and create them. The 1997 Kyoto Protocol, which aimed to cut carbon emissions and lessen climate change and future global warming, gave rise to the carbon market. This policy was put in place at the time to lower overall carbon dioxide emissions between 2008 and 2012 by around 5% compared to 1990 levels.

WHAT IS CARBON CREDIT AND CARBON MARKET

Carbon Credits are permits that allow the owner to emit a specific quantity of carbon dioxide or other greenhouse gases. It is commonly referred to as carbon offsets. They are a market-based approach used to reduce greenhouse gas emissions and combat climate change. The

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[1] United States Environmental Protection Agency Report

concept behind carbon credits is to assign a monetary value to the reduction, avoidance, or removal of greenhouse gas emissions, particularly carbon dioxide (CO2). These credits can then be bought, sold, or traded in various markets. The fundamental idea is that certain activities, such as industrial processes, power generation, or deforestation, release significant amounts of greenhouse gases into the atmosphere. To counterbalance these emissions, projects or initiatives that reduce or remove greenhouse gases can earn carbon credits. They are typically measured in metric tons of carbon dioxide equivalent (CO2e), which considers the global warming potential of different greenhouse gases. For instance, methane has a higher global warming potential than CO2, so its emissions are converted to an equivalent amount of CO2 for the purposes of carbon credits.

Carbon credit markets, also known as emissions trading or carbon trading markets, are platforms where carbon credits are bought, sold, and traded. These markets facilitate the exchange of emissions allowances or carbon offsets, allowing entities to meet their emission reduction obligations or voluntarily offset their carbon footprint. There are two types of carbon markets: Compliance and Voluntary-

While voluntary carbon markets, both national and international, relate to the issuance, purchasing, and selling of carbon credits on a voluntary basis, compliance markets are developed in response to any national, regional, and/or worldwide policy or regulatory obligation. The majority of the present supply of voluntary carbon credits originates from businesses that create carbon projects or from governments that create policies that are approved by carbon standards and result in emission removals or reductions. Demand is generated by businesses with sustainability goals, private people looking to offset their carbon footprints, and other parties looking to profit by trading credits for a higher price.

STATISTICS OF CARBON TRADING IN INDIA

India has one of the fastest-growing carbon markets in the world, with the second-highest number of transactions globally. More swiftly than India's biotechnology, computer technology, and BPO industries combined, the country's carbon trading market is growing. More than 850 projects worth more than Rs. 650,000,000,000 are now in development. The Multi Commodity Exchange (MCE) in India, the first in Asia to trade carbon credits, is now also utilised for this purpose.[2] India has already made investments in the production of carbon

[2] https://www.legalservicesindia.com/article/264/Carbon-Trading-In-India.html

credits and the sale of them to international corporations. Between 2010 and June 2022, India issued 35.94 million carbon credits or about 17% of all voluntary carbon market credits issued globally. The global market for carbon credits expanded by 164% in 2021.[3]

DEVELOPING INDIAN LAWS ON CARBON CREDITS

The law governing carbon credits is continuously changing both in India and around the world. The Energy Conservation Act of 2001 was amended by the Indian government, creating the framework for the country's carbon market. This Act has given the Ministry of Power, and Central Government the authority to design, oversee, and implement a carbon trading system as well as to issue Carbon Credit Certificates. These carbon credit certificates can subsequently be sold to organizations that-

- emit more carbon than is permitted,
- the government of India to complete its obligations,
- foreign countries who require assistance to fulfill their obligations.

The Act is cutting-edge and will be essential to fulfilling India's climatic objectives and commercializing carbon credits. However, it is still in its infancy and must be refined before it can be put into use. The Indian government still has a crucial role to play in finding solutions to the problems this raises, including the regulation of the trading market, pricing of carbon credits, and a carbon trading plan that includes farmers.

With the intention of encouraging measures for emission reduction, the amendment offers a legal basis for a carbon market. As "Registered Entities" for the carbon credit trading scheme, entities can register on the Indian carbon credit market. The federal government, or any organization it has authorized, shall be the one to issue the certificate for carbon credits. The voluntary purchase of carbon credit certificates is open to any other individual or organization. The Bureau of Energy Efficiency (BEE) has not yet provided details on the technical and operational specifics of the carbon markets. Various carbon market types, other market-based instruments in India unrelated to carbon dioxide emissions, and stakeholder concerns around the launch of the Indian carbon credit market are briefly discussed in this article.

[3] https://www.deccanherald.com/science-and-environment/carbon-credits-and-india-s-carbon-market-1163828.html

LEGAL PROVISIONS

A carbon credit certificate is one that has been granted by the Central Government or any agency that has been authorised by it under Section 14AA, according to Section 2(da). The term "carbon credit trading scheme" is defined in Section 2(db), which refers to the plan for reducing carbon emissions announced by the Central Government under Section 14's Clause (w). According to Section 2(qa) of the Act, a registered entity is any entity that has registered for the carbon credit trading mechanism described in Section 14's Clause (W), including designated consumers.[4]

The many types of carbon markets and their main features are introduced in Section 2. A brief history of carbon markets under the United Nations is provided in Section 3. In the proposed modification to the Energy Conservation Act 2001, Section 4 explains the market-based emission mitigation mechanisms now in use in India as well as the specifics of the carbon credit market. The main conclusions from a stakeholder consultation meeting with business leaders at the Council on Energy, Environment, and Water (CEEW) are outlined in Section 5, along with the suggested suggestions. The direction we advocate is in Section 6. The authority to issue Carbon Credit Certificates to registered organizations that abide by the Carbon Credit Trading Schemes has been granted to the Central Government under Section 14AA of the Act.

CONCLUSION

Despite being the nation that gains the most from carbon trading and where carbon credits are traded on the MCX, India still lacks a sound legislative framework for trading carbon in the market. Since certified emission reductions (CERs), also known as carbon credits, may be traded on the market, the National Commodity and Derivatives Exchange Limited (NCDEX) has asked the Centre to provide an adequate legal framework. Additionally, there are many carbon credit vendors in India, but under current Indian law, customers situated in the European market are prohibited from entering the market. Forward Contracts (Regulation) Amendment Bill has been proposed in Parliament to expand the market for carbon trading. The Indian Contracts Act is insufficient to regulate the contractual difficulties related to carbon credits, hence it is crucial that a unique statute be drafted for this purpose in order to realize the full potential of carbon trading in India.

[4] The Energy Conservation (Amendment) Bill, 2022