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An Overview of Carbon Trading In India and Its Legal Aspect

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1 Introduction:

Companies in the developed world are required to meet certain carbon emission target set by their respective government. However if these companies are not able to meet their emission targets, they have an alternative of purchasing these carbon credits from the market i.e. from someone who is successful in meeting these targets and who has a surplus of these credits. This process is known as carbon trading. Carbon trading is also very advantageous for the companies of the developing world as it provides monetary gains in exchange of carbon credits which help these companies to purchase or change their technology. This change in technology eventually helps the companies to reduce carbon emission.

2 Need for Carbon Trading and Clean Development Mechanism:

Need for carbon trading was felt when it was realized that the industries have been the biggest polluter of greenhouse gases which has resulted in global warming. A lot of effort was put in by the NGOs and other institutions to bring the attention of the world towards the problem of global warming. But this issue was not taken very seriously as a result of which nothing much was done in this regard. Thus it was realized that the only way to get the attention of the world towards these problems was by attaching some financial incentive to it. As a result the concept of Carbon trading was introduced.

3 Clean Development Mechanisms:

Clean Development Mechanism (CDM), defined in Article 12 of the Protocol, allows a country with an emission-reduction or emission-limitation commitment under the Kyoto Protocol (Annex B Party) to implement an emission-reduction project in developing countries.

4 Carbon Trading in India:

Indian industries were able to cash in on the sudden boom in the carbon market making it a preferred location for carbon credit buyers. It is expected that India will gain at least $5 billion to $10 billion from carbon trading (Rs 22,500 crore to Rs 45,000 crore) over a period of time. Also India is one of the largest beneficiaries of the total world carbon trade through the Clean Development Mechanism claiming about 31 per cent (CDM).

India's carbon market is one of the fastest growing markets in the world and has already generated approximately 30 million carbon credits, the second highest transacted volumes in the world. The carbon trading market in India is growing faster than even information technology, bio technology and BPO sectors. Nearly 850 projects with an investment of Rs 650,000 million are in the pipeline. Carbon is also now being traded on India's Multi Commodity Exchange. It is the first exchange in Asia to trade carbon credits.

5 Examples of Carbon trading in India:

Jindal Vijaynagar Steel has recently declared that by the next ten years it will be ready to sell $225 million worth of saved carbon. This was made possible since their steel plant uses the Corex furnace technology which prevents 15 million tonnes of carbon from being discharged into the atmosphere. The village in Andhra Pradesh Powerguda was selling 147 tonnes equivalent of saved carbon dioxide credits. The company has made a claim of having saved 147

MT of CO2. This was done by extracting bio-diesel from 4500 Pongamia trees in their village. In Madhya Pradesh, *Handia Forest* it is estimated that 95 very poor rural villages would jointly earn at least US$300,000 every year from carbon payments by restoring 10,000 hectares of degraded community forests.

6 Legal aspect of Carbon Trading in India:

Multi Commodity exchange started future trading on January 2008 after Government of India recognized carbon credit as commodities on 4th January. The National Commodity and Derivative Exchange by a notification and with due approval from Forward Market Commision (FMC) launched Carbon Credit future contact whose aim was to provide transparency to markets and help the producers to earn remuneration out of the enviourment projects.

Carbon credit in India is traded on NCDEX only as a future contract. Futures contract is a standardized contract between two parties to buy or sell a specified asset of standardized quantity and quality at a specified future date at a price agreed today (the futures price). The contracts are traded on a future exchange. These types of contracts are only applicable to goods which are in the form of movable property other than actionable claims, money and securities. . Forward contracts in India are governed by the Indian Contract Act, 1872.

Under the present provision of the Forward Contracts Regulation Act, the trading of forward contracts will be considered as void as no physical delivery is issued against these contracts. To rectify this The Forward Contracts (Regulation) Amendment Bill 2006 was introduced in the Indian Parliament. The Union Cabinet on January 25, 2008 approved the ordinance for amending the Forward Contracts (Regulation) Act, 1952. This ordinance has to be passed by the Parliament and is expected to come up for consideration this year. This Bill also amends the definition of ‘forward contract’ to include ‘commodity derivatives’. Currently the definition only covers ‘goods’ that are physically deliverable. However a government notification on January 4th paved the way for future trading in CER by bringing carbon credit under the tradable commodities.

7 Value Added Tax:

Government of Delhi in a recent notification has declared that the Certified Emission Reductions (or 'Carbon Credits' as we know) are to be considered as goods and thus their sale is liable to value added tax in the State. The Commissioner of Trade and Taxes has declared that the nature and aspects of Carbon credits have to be examined and tested against the definition of goods to arrive at the conclusion that carbon credit are no different from ordinary commodities bought and sold in the market and thus a sale transaction of carbon credit would attract value added tax on sale.

8 Conclusion

Even though India is the largest beneficiary of carbon trading and carbon credits are traded on the MCX, it still does not have a proper policy for trading of carbons in the market. As a result the Centre has been asked by The National Commodity and Derivatives Exchange Limited (NCDEX) to put in place a proper policy framework for allowing trading of certified emission reductions (CERs), carbon credit, in the market. Also, India has huge number of carbon credits sellers but under the present Indian law, the buyers based in European market are not permitted to enter the market. To increase the market for carbon trading Forward Contracts (Regulation) Amendment Bill has been introduced in the Parliament. This amendment would also help the traders and farmers to utilize NCDEX as a platform for trading of carbon credits. However, to unleash the true potential of carbon trading in India, it is important that a special statue be created for this purpose as the Indian Contracts Act is not enough to govern the contractual issues relating to carbon credits.

9 References:

1 Sumita Nair, Preeti NandKumar "'Environmental carbon trading scenario in India: A Global issue of 21 st Century: A Review"International Journal of Advancements in Research & Technology, Volume 2, Issue 9, September-2013 110 ISSN 2278-7763.

2 Vivek Birla, Gunjan Singhal, Rashi Birla, Vaishali Gauri Gupta "CARBON TRADING– THE FUTURE MONEY VENTURE FOR INDIA"International Journal of Scientific Research Engineering &Technology (IJSRET)Volume 1 Issue1 pp 019-029 March 2012.

3 MAHANKALI ARUNA KUMARI, KAPULANENI DIVYA,MANDALI REVANTH, L.SWETHA "AN ANALYSIS ON CARBON CREDITS (INDIA)" Asia Pacific Journal of Marketing & Management Review ISSN 2319-2836 Vol.2 (8), August (2013).

4 Dr. Bhawana Bhardwaj "FUTURE OF CARBON TRADING: A BUSINESS THAT WORKS FOR GLOBAL ENVIRONMENT" International Journal of Science, Environment and Technology, Vol. 2, No 1, 2013, 115 – 121.

5 Dr. Namita Rajput, Ms. Parul ChopraCarbon Credit Market in India: Economic and Ecological Viability Global Journal of Finance and Management.ISSN 0975-6477 Volume 6, Number 9 (2014), pp. 945-950