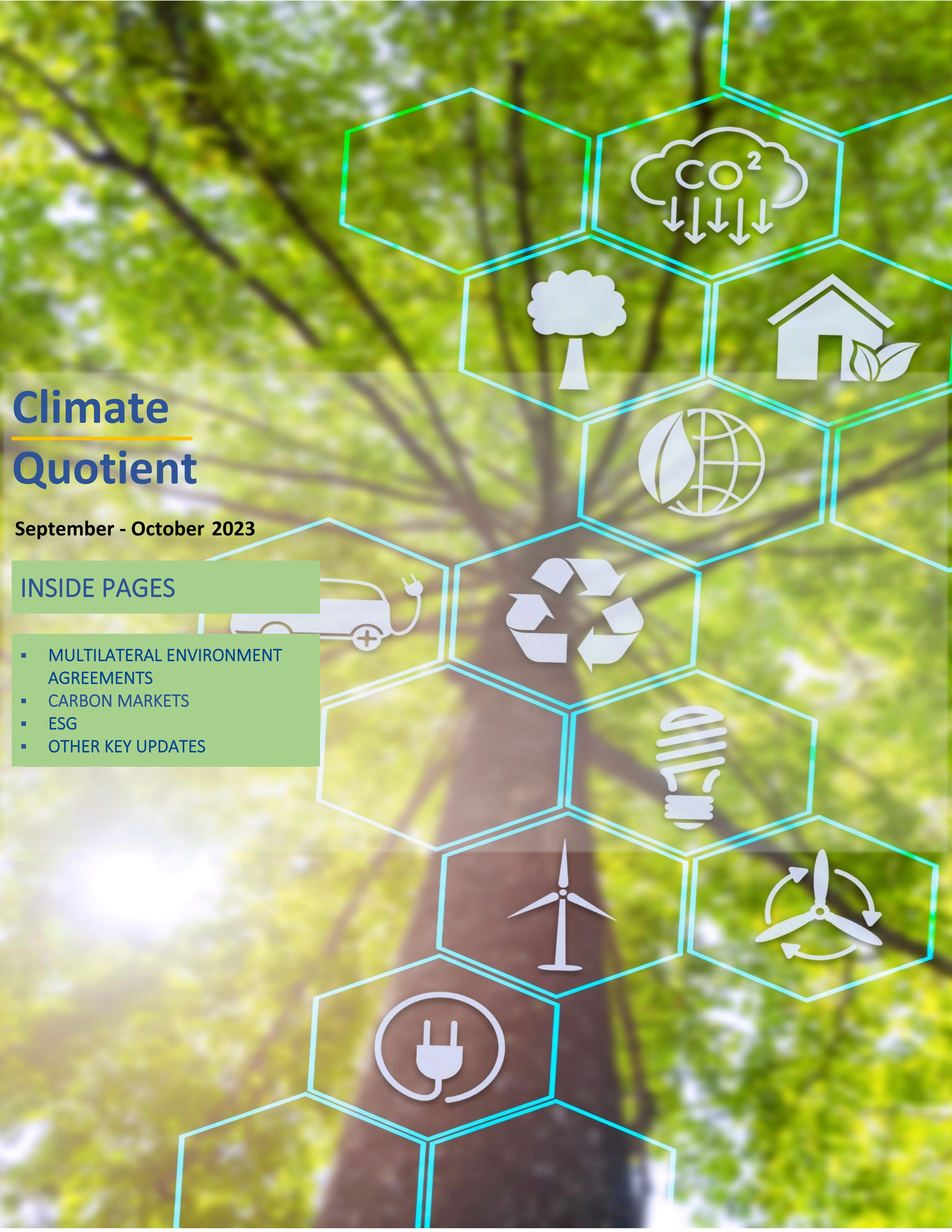

Climate Quotient

September - October 2023

INSIDE PAGES

Multilateral Environment Agreements

Paris Agreement "Global Stocktake" to Begin Soon; UN Issues Report on Paris Agreement Implementation

COP28, the annual conference of UN members for climate change negotiations, will witness the conclusion of the first ever "global stocktake" on the Paris Agreement. The global stocktake is a two-year long process wherein UN members report and analyze their implementation of the Paris Agreement, which began with COP26 in 2021. The first leg of the global stocktake, relating to data collection and analysis, culminated in the UN's synthesis report on the technical dialogue of the first global stocktake (**report**).

The report concluded that despite the heightened global focus on climate change and sustainability, the world is not on track to implement the goals envisioned in the Paris Agreement, such as limiting global warming to a maximum of 2°C (even assuming perfect implementation of all individual commitments by countries). It noted that there is a significant gap between the trajectory the world is currently on against the trajectory needed to ensure climate change does not reach irreversible levels, which would require emission reductions of 43% by 2030 and 65% by 2035 (against 2019 levels).

The report is to be followed by the second leg of the global stocktake, i.e. COP28 beginning on November 30, 2023. COP28 represents the political phase of the global stocktake, wherein UN members are expected to conduct further climate negotiations on the basis of the findings contained in the synthesis report.[1]

Key Takeaway for Businesses

The findings of the previous stocktake will provide much fuel for political discussions at COP28. COP28 is slated to focus primarily on the implementation of the Paris Agreement, and the findings of inadequacy in the report will likely see UN members demanding immediate and better climate commitments from other members.

Amongst other issues, this would also facilitate discussions on financial flows from developed to developing nations. As a result, developing countries like India are actively pursuing climate financing from developed nations. Securing climate financing, such as subsidies for green goods, would provide lucrative commercial opportunities to businesses operating in the sustainability sector, especially those dealing with green goods and services.

UNFCC Negotiators Agree on Details for Loss and Damage Fund for Developing Countries

At the fifth meeting of the United Nations' Framework on Climate Change's transitional committee, members agreed on a blueprint for the "Loss and Damage Fund" (**LDF**) meant to provide financial relief to developing countries damaged by climate disasters (**agreement/blueprint**).

The LDF was agreed in-principle by UN members in 2022 at COP27, but negotiations on the modalities of the LDF have remained slow-moving since then. The present agreement represents the biggest development towards operationalizing the fund and is

[1] *Will the first global stocktake be the spur for getting us on track to reach the Paris Agreement's goals?*, OECD, available at https://oecd-environment-focus.blog/2023/10/30/will-the-first-global-stocktake-be-the-spur-for-getting-us-on-track-to-reach-the-paris-agreements-goals/.

an unexpectedly positive outcome considering the contentious negotiations at the meeting.[2]

The LDF will be hosted at the World Bank for a four-year period, with the creation of a "Board" to administer the functioning of the LDF and approve funding in line with the fund's eligibility criteria. The LDF will be funded from contributions by UN members, with developed countries being "urged" to contribute.

The language of the blueprint however does not clarify whether contributions would be voluntary or mandatory. On one hand, this must be seen in the context the US failing to include language that would make contributions voluntary and on the other hand, developing countries arguing for language making contributions mandatory.[3]

Key Takeaway for Businesses

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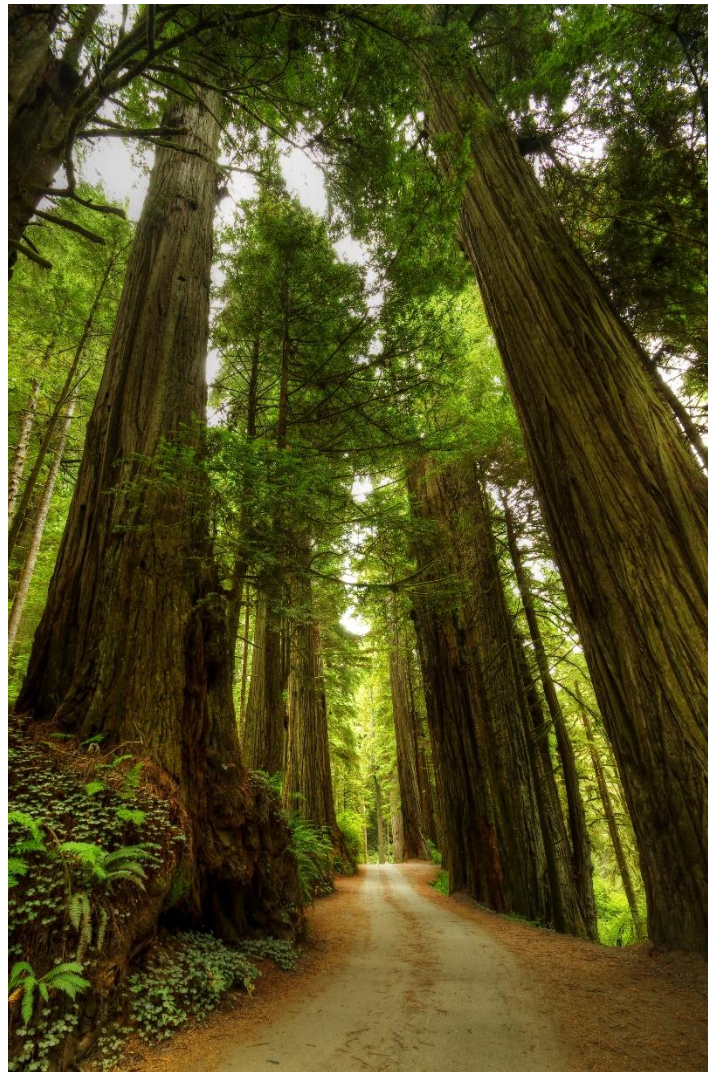

[2] *'Loss and damage' deal struck to help countries worst hit by climate crisis,* The Guardian, available at https://www.theguardian.com/environment/2023/nov/05/countries-agree-key-measures-to-fund-most-vulnerable-to-climate-breakdown.

[3] *World Bank poised to host climate loss and damage fund, despite concerns*, Reuters, available at https://www.reuters.com/sustainability/sustainable-finance-reporting/world-bank-poised-host-climate-loss-damage-fund-despite-concerns-2023-11-04/.

Carbon Markets

Bureau of Energy Efficiency to Hold Stakeholder Consultations for Draft Rules for the Indian Carbon Market

In June 2023, the Ministry of Power notified India's highly awaited Carbon Credit Trading Scheme **(CCTS)**. The CCTS notification laid down the broad contours of the scheme, such as its covered emissions, the administering authorities, the baseline-and-credit model sought to be adopted and the trading mechanism. However, a number of aspects of the CCTS were left for future rulemaking, such as monitoring, reporting and verification procedures, procedures for accrediting of carbon verification agencies, trading procedures, etc.

In light of the same, the Bureau of Energy Efficiency **(BEE)** will be conducting stakeholder consultations for the draft "Accreditation Procedure and Eligibility Criteria for Accredited Carbon Verification Agency" and draft "Detailed Procedure for Compliance Mechanism under Carbon Credit Trading Scheme" through October & November, 2023.

Key Takeaway for Businesses

The Indian Carbon Market is an inevitability, and while there may be time until its implementation, businesses should give adequate consideration to the impact carbon credit trading can have on their long-term business.

Considering that various modalities regarding the CCTS are currently undecided, these stakeholder consultations are a valuable tool for businesses to gain insights into upcoming rules for administering the CCTS. Considering that issues such as monitoring, reporting and verification of emissions would likely incur substantial costs (as well as require changes in internal processes) for businesses, early insight can allow businesses to prepare and mitigate last-minute risks.

Additionally, these consultations also offer businesses a chance to collaborate in rulemaking processes, ensuring that the government is aware of the potential practical and commercial difficulties in fulfilling the requirements of the CCTS.

China Adopts Key Policies for Revamping its National Carbon Market

China has recently adopted the "Measures for the Administration of Greenhouse Gas Voluntary Emission Reduction Trading" (**Measures**), jointly released by China's Ministry of Ecology and Environment, and the State Administration for Market Regulation. The Measures create a regulatory framework for the revamped Certified Emission Reduction (**CCER**) (which was originally notified in 2012 and then suspended in 2017) and after being passed in principle in September 2023, have now been finalized and adopted on October 19, 2023.

As per the Measures, the CCER will now adopt a unified trading platform for the entirety of the market, as opposed to the previous model of multiple fragmented trading platforms. This unified system would also be implemented for registry-related functions such as registration of products, tracking transactions, holding of credits, etc. It is also expected that the revamped CCER would involve stricter monitoring, reporting and verification processes, including third-party verification of projects and disclosure requirements.

Key Takeaway for Businesses

The recent adoption of the aforesaid Measures (as well as the preceding consultations) by China, signals its commitment to revamp the CCER. As China's carbon market evolves and expands to more industries, demand for CCER is expected to rise, presenting opportunities for businesses to engage in sustainable projects and offset carbon emissions.

This is further helped by China's intention to tighten monitoring, reporting and verification processes to match them with global standards, which can open up offset projects to buyers around the world.

Environmental Societal and Governance

US Treasury Releases Principles for Net-Zero Financing & Investment

Recognizing the importance of private finance to adopt climate-positive investment practices, the U.S. Treasury (**Treasury**) has recently released nine voluntary principles to guide net-zero financing and investment practices by private financial institutions.

Broadly, the nine principles are based on extensive research and stakeholder consultations by the Treasury to identify global best practices in reducing global warming caused by private financial institutions (such as by investing in heavily polluting sectors). According to the principles, entities adopting net-zero commitments must align them to the goal of limiting global warming to 1.5°C and create a "net-zero transition plan". This transition plan would act as a framework to implement net-zero practices into the operations of the entity and should cover operations starting from the entity's overall climate commitments and ending with governance changes made to implement said commitments.

In terms of ways to effect net-zero financing and investments, the Treasury suggests practices like transition finance, managed phaseout investments and financing, as well as assisting the development of innovative solutions to climate change, as ways to engage in net-zero finance. In doing so, the entity should analyze existing and potential client & company portfolios in line with its stated commitments.

Additional best practices involve ways to alter internal processes such as establishing policies and conditions for dealing with sectors "highly relevant" to the net-zero transition, as well as incorporating net-zero related considerations for internal decision-making, administrative processes and resource allocation/business planning.

Finally, the Treasury highlights that any credible commitment towards net-zero finance and investment must also involve appropriate transparency. Entities should consider more comprehensive and voluntary disclosures than those already required by law. They should also consider disclosing "quantitative information" that allows an evaluation of the progress made by the entity towards achieving its commitments, as well as to allow comparisons against other institutions.

Key Takeaway for Businesses:

Primarily, the principles do not create any additional compliance obligations due to their voluntary nature. However, the formulation of these principles by the Treasury can serve as valuable guidance as to what the U.S. government considers as best practices for implementing net-zero commitments by the private sector. Additionally, considering the definite shift of the private sector towards a healthier planet,[4] the adoption of these principles can allow financial institutions to mitigate various climate-related financial risks such as overexposure to highly-polluting sectors leading to stranded assets,[5] as well as missed investments in opportunities presented by the global green transition.[6]

[4] *ESG Global Study 2022*, Harvard Law School Forum on Corporate Governance, available at https://corpgov.law.harvard.edu/2022/06/17/esg-global-study-2022/.

[5] *What are stranded assets*?, Grantham Research Institute on Climate Change and the Environment, available at https://www.lse.ac.uk/granthaminstitute/explainers/what-are-stranded-assets/.

[6] *Green Growth Opportunities*, IMF, available at https://www.imf.org/en/Publications/fandd/issues/2022/12/green-growth-opportunities-ricardo-hausmann.

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Other Updates

Draft Ecomark Certification Rules, 2023

Revamping 1991's pre-existing Ecomark scheme, the Ministry of Environment, Forest and Climate Change has recently notified the draft Ecomark Certification Rules, 2023 (**Ecomark Rules**) for public inputs.

The Ecomark Rules seek to provide special labelling of products that have lesser adverse impacts on the environment with the objective of promoting consumer adoption of such products. Ecomarks are proposed to be applied to products upon an application to the Central Pollution Control Board (**CPCB**), subject to the fulfilment of the specific environmental criteria applicable to said product/product class. This also includes fulfillment of any Quality Control Orders or national/international quality and safety standards applicable to the product.

To enforce the Rules, market surveillance is envisioned covering sample-based inspections, investigating misuses of Ecomarks, conducting surprise searches, etc. This can be done by either the CPCB or authorities empaneled by it for this purpose. Conversely, "Designated Ecomark verifiers" are proposed to be established as third-party verifiers (under the aegis of the CPCB) to assess conformity with the Ecomark criteria for products, including factory visits, sample collections, audits, etc.

Lastly, the Ecomark Rules propose the creation of an "Ecomark Portal", which shall serve as a central database and registry for registered entities, Designated Ecomark verifiers, and other entities created under the Rules. The portal would also track the number of applications made for grant of Ecomarks, as well as the sales effected for each product under the Ecomark scheme.

Key Takeaway for Businesses:

The Ecomark Rules are a significant development towards promoting sustainable consumption in India. A comprehensive Ecomark regime can allow businesses with environmentally friendly products to differentiate themselves from competitors and benefit from growing awareness among consumers regarding sustainability. However, the efficacy and integrity of the Ecomark scheme in the eyes of consumers is subject to the environmental criteria established for products at a later stage.

R&D Roadmap for Green Hydrogen Ecosystem in India

In October 2023, the Ministry of New and Renewable Energy unveiled its "R&D roadmap for green hydrogen ecosystem in India" (**Roadmap**). This roadmap is part of the larger National Green Hydrogen mission and boasts a budget of INR 400 crores for an initial period of 2-3 years.

The roadmap covers activities related to green hydrogen production, storage, transport, end-use applications, and safety. The roadmap seeks to promote short term (0-5 years), medium term (0-8 years) and long term (0-15 years) projects for the above activities.

Additionally, the roadmap also envisions a public-private partnership framework for R&D in green hydrogen, with a dedicated R&D fund and inputs from government and industry. To promote a green hydrogen ecosystem, it recommends an industry-academia-government network to ensure seamless transfer and commercialisation of new technology in this sector.

Key Takeaway for Businesses

The roadmap is a valuable addition to India's green hydrogen policy framework and identifies key areas of opportunity in the growing green hydrogen sector. This also presents businesses and academia further clarity on focus areas of policy support by the government. Also, the R&D fund coupled with the promise of inviting venture capital can serve to alleviate cost-related risks for businesses seeking to enter this uncharted space.

Ministry of Environment and Forests Notifies Green Credit Rules, 2023

In addition to India's CCTS, the central government had previously also notified draft implementation rules for the upcoming voluntary Green Credit Programme (**Program**). These rules have now been crystallized into the Green Credit Rules, 2023 (**Rules**) and have entered into force from October, 2023. The Program as envisioned by these rules comes at the heels of a policy initiative termed as "Mission LiFE - Lifestyle for Environment", which aims at cultivating environmental-friendly lifestyle changes within the Indian populace.

The Program envisions 8 types of green credits with each type of credit representing an environment-positive activity, such as a "Tree Plantation-Based Green Credit" for afforestation related activities, or a "Waste Management based Green Credit" for sustainable & improved waste management practices. These activities can be undertaken by any person or entity for receiving green credits.

However, the rules are ambiguous on a number of modalities relating to green credits. Primarily, the rules are ambiguous on the stage of the covered activity at which the credits will be issued. Additionally, the rules imply that different types of credits under the Program would be fungible with respect to other types of credits. The rules however require that the thresholds of generating credits would need to have equivalency in terms of the effort and resources taken to generate each type of credit - it therefore remains unclear as to how this parity would be achieved. Furthermore, it's important to recognize the need for parity between thresholds to prevent credits with lower requirements from overshadowing demand for other credit types. However, this consideration raises broader questions about the inherent value and practical use of each credit category.

Similar to the Indian Carbon Market, the Program would also consist of a trading platform for trading between credits, administered by service providers and supplemented by a green credit registry to track transactions and issuances. Guidelines for trading of green credits, as well as criteria for selection and functions of trading service providers would be fleshed out in future guidelines. Notably, the rules also envision that activities registered under the Program generating green credits may also simultaneously generate carbon credits under other schemes. However, further clarity is needed on how the Program would interact with the Carbon Credit Trading Scheme.

The Program would mainly be monitored and administered by the Indian Council of Forestry Research and Education (**ICFRE**). The ICFRE is tasked with recommending guidelines related to the implementation of the Program, monitoring, reporting & verification of activities, modalities of credit generation and disbursement, and the functioning of the trading platform. The implementation of said guidelines would be subject to the approval of the central government.

Key Takeaway for Businesses

The Program presents novel revenue generation avenues for businesses. Assuming a healthy price for green credits, businesses are encouraged to establish environmentally positive activities to receive credits, which can generate revenue by being sold on trading platforms. While it remains unclear as to how demand would be generated for a completely voluntary programme such as this, experiences from offset mechanisms around the world suggest that demand for credits can exist even in voluntary programs.

However, as things stand, the substantial ambiguity contained in the rules make it harder for businesses to commit resources towards these activities. Amongst other factors, the lack of clarity regarding the value of credits as well as the modalities of credit generation vis-à-vis each activity are important considerations guiding the choice of activities to be undertaken. Regardless of the same, businesses who have already implemented environmentally positive activities as part of their corporate social responsibility initiatives would be well placed to benefit from the Program.

State of Gujarat Notifies Renewable Energy Policy

The State of Gujarat notified its new Renewable Energy Policy (**Policy**) in early October, with an aim to facilitate investments in renewable energy (**RE**) worth INR 5 lac crores in the state. It replaces separate policies previously issued by the state, i.e. the Gujarat Wind Power Policy 2016, the Gujarat Wind Solar Hybrid Power Policy 2018, and the Gujarat Solar Power Policy 2021, and is meant to act as a broad framework for rulemaking by the Gujarat Electricity Regulatory Commission.

The Policy, which is expected to operate till September, 2028, provides a framework for the establishment of RE projects for either captive consumption of electricity or sale to third parties, regardless of scale or minimum capacity. The covered RE projects are all ground mounted solar, roof top solar, floating solar, canal top solar, wind, rooftop wind and wind-solar hybrid projects, except those used to supply power to units producing green hydrogen or green ammonia.[7] In addition to these projects, it also envisages the promotion of RE parks with a minimum capacity of 50MW.

To be covered by the Policy, the solar and wind equipment used by projects must be covered by the "Revised List of Models and Manufacturers" of wind turbines, or the "List of Approved Models and Manufacturers of Solar Photovoltaic Modules". However, prototype wind turbines can also be established on approval by the state nodal agency. The components imported for manufacturing such prototype wind turbines would be exempt from customs and excise duties. Notably, RE projects would also be eligible for receiving carbon credits under various voluntary national and international standards.[8]

The benefits/incentives formulated under the Policy would be applicable to RE projects for either 25 years or for the lifespan of the project, whichever is earlier.

Key Takeaway for Businesses

Gujarat's new RE Policy's inclusion of RE projects, regardless of their scale or capacity makes it easier for businesses to establish RE projects (such as rooftop solar) as a means to generate captive electricity. This not only allows businesses to offset electricity costs by generating their own electricity, but also opens up avenues for revenue generation by sale of electricity to third parties.

The Policy also ensures that projects established under the Policy continue to receive long-term benefits, providing reliability which in-turn softens apprehensions against incurring the initial capital expenditure to establish these projects.

ELP Explainer: Common-But-Differentiated-Responsibilities

"Common-But-Differentiated-Responsibilities" (**CBDR**) is a principle of international environmental law which recognizes that while addressing climate change is the common responsibility of all countries, all countries cannot equally combat climate change. It requires richer, developed nations to commit more funds towards fighting climate change than poorer, developing nations, due to higher past emissions by developed nations facilitating their economic prosperity.

The importance of CBDR stems from the fact that not only do developing countries have lesser resources to implement climate-positive technologies (such as moving away from fossil fuels), they are also faced with additional considerations such as prioritizing poverty elimination and infrastructure development. Thus, CBDR balances the need for spurring all countries for tackling climate change against the costs (financial and otherwise) of doing so.

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[7] The policy states that RE projects for supply of electricity to green hydrogen or green ammonia production will be overed by a subsequent policy.

[8] It is unclear whether the generation of carbon credits would also extend to the upcoming carbon credit trading scheme.

For a more in-depth and nuanced perspective on any of the topics please email us at: insights@elp-in.com

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