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## **INDIA'S STRATEGIC RESPONSE TO CBAM - THE CCTS**

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India is not merely a passive observer. To protect its exporters, India launched the **(CCTS) in 2023**.

### **The "Pay at Home" Strategy**

The most critical legal provision in the EU's CBAM is that if a company has already paid a Carbon price<sup>3</sup> in its home country, that amount can be **deducted** from the EU tax. By creating the CCTS (Carbon Credit Trading Scheme), India is ensuring that the "Carbon tax" paid by Tata Steel or JSW Steel for example stays in India to fund Indian green energy, rather than going into the EU's treasury.

### **Legal Conflicts and the WTO**

The ultimate success of these taxes depends on their legality at the **World Trade Organization (WTO)**.

- **The Indian Argument** - India argues that CBAM (Carbon Border Adjustment Mechanism) is a "disguised barrier to trade" and violates the **National Treatment** rule because the EU still gives some of its own factories "free permits," while charging Indian factories the full price. India's CCTS (Carbon Credit Trading Scheme) is designed to align with Article 6 of the Paris Agreement<sup>4</sup>, which allows for the cross - border crediting of emissions reductions. The "Indian Carbon Market Portal" serves as the digital backbone for these transactions, including provisions for interacting with international markets.

### **Primary Legislation Governing Carbon Regulation in India**

India has significantly accelerated in line with creation of domestic regulatory for environment, capable of handling/ mitigating the impact of international Carbon taxes. This way we can look upto the transition from energy-efficiency -based regulation to a formal, credit -based Carbon market.

### **The Energy Conservation (Amendment) Act, 2022**

The Act provides with a legal definition to - "Carbon credit certificate" as a certificate issued by

the government or an authorized agency representing a specific amount of Carbon dioxide (CO<sub>2</sub>) reduced or removed from the atmosphere.

The act provides with -

**Mandatory Non -Fossil Fuel Consumption** - The Act gives authority to the government to set - minimum share of energy consumption from non -fossil sources for "designated consumers" in certain sectors such as -

- mining,
- steel,
- cement, and
- transport.

**Sustainability Building Codes** - the definition of building codes has been extended in order to incorporate large residential buildings with a connected load of 100 kilowatts or more.

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<sup>3</sup> Ana Beatriz Gemelgo Teixeira Leite, "Carbon Border Adjustment Mechanism as a Guarantee of Fairness in Energy Projects" (Master's Dissertation, Universidade do Porto, 2025)

<sup>4</sup> Mritiunjoy Mohanty and Runa Sarkar (eds.), Financing Climate Action (Routledge, London, 1st edn., 2025)

**Vehicle and Vessel Standards** - The Act further extends the regulatory mandate to include fuel consumption standards for **-motor vehicles and ships**, incorporating Carbon efficiency into the transportation sector.

### **The Carbon Credit Trading Scheme (CCTS), 2023**

The Carbon Credit Trading Scheme (CCTS) was notified by the Union Government on **June 28, 2023**, under the notification S.O. 2825(E), to establish the Indian Carbon Market (ICM)<sup>5</sup>. The CCTS (Carbon Credit Trading Scheme), uses an "**intensity -based baseline -and -credit**" model, distinct from traditional cap -and -trade systems. It is designed specifically for India's developmental needs, as it is based on a measure of emissions per unit of output rather than imposing an absolute limit or strict limit on production.

### **CCTS (Carbon Credit Trading Scheme) Design Elements and Specifications Baseline Metric**

- **Technical Specification** - Tonnes of CO<sub>2</sub> (Carbon dioxide)<sup>6</sup> per unit of output (FY2024 baseline).
- **Regulatory Significance** - Aligns with OECD trends for developing economies.

### **Gases Covered**

- **Technical Specification** - CO<sub>2</sub> (Carbon dioxide) and PerfluoroCarbon (C)s (PFCs).
- **Regulatory Significance** - Targets the most prevalent industrial process gases.

### **Monitoring Approach**

- **Technical Specification** - "Gate -to -Gate" (Scope 1 and 2 emissions).
- **Regulatory Significance** - Ensures accuracy for industrial value chains.

### **Penalty Mechanism**

- **Technical Specification** - Twice the average trading price of CCCs (Carbon Credit Certificates) for shortfalls.
- **Regulatory Significance** - Creates a strong financial deterrent for non -compliance.

### **The Environment (Protection) Act, 1986 - The Umbrella Authority<sup>7</sup>**

While the Energy Conservation Act provides the trading mechanism, the Environment (Protection) Act, 1986, remains the constitutional and statutory "umbrella" for all climate -related regulation.

Key aspects of the EPA -

- **Constitutional Basis** - Enacted under Articles 48A and 51A of the Indian Constitution<sup>8</sup>, strengthening the mandate to protect natural resources.
- **Regulatory Power** - Section 3 empowers the central government to set emission/discharge standards for industries and regulate environmental quality.

<sup>5</sup> Singh, Rahul Kumar and Nayak, Nirlipta P.. "Comprehensive assessment of carbon market potential in India: a case study of prominent energy and power majors" International Journal of Chemical Reactor Engineering, vol. 23, no. 8, 2025

<sup>6</sup> Parveen Arora, Suruchi Kotoky, et.al., "Compliance Mechanism Under India's Carbon Credit Trading Scheme" BTG Advaya, Sep. 25, 2024.

<sup>7</sup> Basharat Mushtaq, Suhaib A. Bandh and Sana Shafi, Environmental Management: Environmental Issues, Awareness and Abatement (Springer Singapore, 1st edn., 2020)

<sup>8</sup> Normawati Hashim, "Constitutional Recognition of Right to Healthy Environment: The way Forward," 105 Procedia - Social and Behavioral Sciences 204 (2013)



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- **Integration with CCTS (Carbon Credit Trading Scheme)** - While the Energy Conservation Act<sup>9</sup> provides technical trading mechanisms, the EPA offers the necessary legal backing to notify Carbon emission targets and designate "covered entities" under the Carbon Credit Trading Scheme (CCTS)<sup>10</sup>, integrating it into India's environmental laws.
- **Stringent Enforcement**<sup>11</sup> - Section 5 provides with the power to issue directions , that includes power of closure or prohibition of industries which are not able to meet their pollution control standards
- India as a response to the CBAM (Carbon Border Adjustment Mechanism) - came up with The Energy Conservation (Amendment) Act 2022 and the subsequent Carbon Credit Trading Scheme (CCTS) Also India has its own targets to meet such as - domestic Net - Zero Carbon emission by 2070. In order to make sure sectors are ready, the Act expressly came up with the idea of the establishment of a domestic Carbon market.
- Indian official taking a strong stand on this. stated that India will counter with taxes of its own. In case if the EU proceeds with CBAM (Carbon Border Adjustment Mechanism). It is also to be noted on part of EU it is an unfair tax burden as it is violative of the **CBDR (Common But Differentiated Responsibilities)**, as climate law acknowledges the data that developed countries caused or produced majority emissions and CBAM (Carbon Border Adjustment Mechanism) also ignores the developmental differences. And the Taxation could harm Indian steel, aluminum, and cement trade with the EU. If under CBAM (Carbon Border Adjustment Mechanism) rules<sup>12</sup>, a "Carbon price" has already been paid in the country of origin, the exporter can ask for a deduction to prevent double taxation.
- **The Export Ban Decision**
- The then Union Power and New & Renewable Energy Minister told Parliament that India would not allow the export of Carbon credits until the nation met its own climate commitments. The statement, "Carbon credits are not going to be exported. No question," was reported during the debate on the Energy Conservation (Amendment) Bill, which establishes a domestic Carbon market.

### **State -Level Legislation and Subnational Green Taxes**

In addition to central legislation, Indian states have enacted specific acts and rules to levy

environmental cesses and green taxes. These measures often target localized pollution but increasingly serve the broader goal of funding state

-level renewable energy transitions. **Goa - The Green Cess Act, 2013 Enacted in - July 2013**<sup>13</sup>

Goa Cess on Products and Substances Causing Pollution (Green Cess) Act, 2013 (Act 15 of 2013) allows the Goa government to impose taxes on hazardous products, with a maximum of 2% of market value. It targets materials like coal and uses the "polluter pays" principle to prevent environmental harm/destruction.

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<sup>9</sup> Parveen Arora, Suruchi Kotoky, et.al., "Compliance Mechanism Under India's Carbon Credit Trading Scheme" BTG Advaya, Sep. 25, 2024.

<sup>10</sup> International Carbon Action Partnership (ICAP), "Emissions Trading Worldwide: Status Report 2025" (Berlin, 2025)

<sup>11</sup> Abhinav Jindal, Shivam Puri and Gireesh Shrimali, "Designing a prospective carbon trading market in India: Key properties, enabling features and linkages," 386 Applied Energy 125595 (2025)

<sup>12</sup> Z. Wu and Q. Li, "Evaluating multidimensional barriers to green certification adoption in the textile industry: a TOE-based Delphi-AHP-FAHP framework," 8 Discovery Applied Sciences 462 (2026)

<sup>13</sup> "Govt fails to use green cess to protect environment," The Times of India, Mar. 4, 2015



- **Purpose** - the purpose of the act is - mitigating environmental damage and reducing the state's Carbon footprint.
- **Target Goods** - Primarily targets goods that contribute significantly to pollution, such as coal and specific chemicals as stated.

“Goa Rural Improvement and Welfare Cess Act, 2000,” by the Goa State Government to address environmental harm arising from the transportation of hazardous materials was also enacted in 2000. Which became effective in 2006.

**The aim of the act was to raise revenue for improving infrastructure and health in rural areas impacted by environment related issues.** Such as the use of plastic, garbage dumping, etc.

**Key aspects of the act are -**

- Imposition of cess on carriers of material such as coal, sand, and mineral ore in Goa.
- The act relates to entry no. 6 (public health) and 66 (sanitation) of the State List; it provides for a financial charge for public use.
- The Act treats imports and locally made products equally in taxation and does not impose restrictions on internal trade in Goa.
- Sec 4 says that cess is advantageous for people who suffer from environmental problems due to transportation.
- The Act authorizes the executive to set the cess rates.
- The Act distinguishes between different cess rates for carriers and transport of ore from other states.

**Sikkim - Ecology Fund and Environment Cess Act, 2005**

Sikkim has implemented one of the most stable state -level environmental tax regimes through the Sikkim Ecology Fund and Environment Cess Act, 2005.

- **Purpose** - To generate funds specifically for ecological conservation, management, and offsetting environmental damage.
- **Applicability** - Extends to the entire state of Sikkim.
- Section 6.(1)<sup>14</sup> - The cess to be paid by a dealer or an individual under this act shall be levied at the following rates - -

(a) in respect of goods specified in Schedule II (49 in no.),

(b) in respect of hotels, resorts, lodges or motels at the rate of 5% of total turnover.

**State -Level Environmental Taxation and Mechanism - Goa**

- **Primary Legislation** - Green Cess Act, 2013.

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<sup>14</sup> The Sikkim Ecology Fund and Environment Cess Act, 2005, India



- **Key Tax/Cess Mechanism** - maximum -2% levy on coal/petroleum handling; Bombay High Court has upheld<sup>15</sup> the constitutional validity of the Goa Green Cess Act, 2013

### Sikkim

- **Primary Legislation - Ecology Fund and Environment Cess Act, 2005.**
- **Key Tax/Cess Mechanism** - 1% on non -biodegradable; 5% on hotel turnover.

### Related Legislations -

#### **E -waste Management Rules, 2022**

- Every manufacturer/producer, refurbished is required to register with CPCB.
- The targets for EPR are 60 per cent up to 2024 -25.
- 70 percent up to 2026 -27.
- 80 percent beyond that.
- Introduction of **EPR certificates**, provision for those who have achieved more than the prescribed targets.

What are **EPR certificates - Extended Producer Responsibility (EPR) certificates** are official documents issued by a regulatory body (in India, typically the **Central Pollution Control Board - CPCB**) that certify a producer, importer, or brand owner has fulfilled their legal obligation to manage the end -of -life waste of their products.

The EC regime is governed by the "**Polluter Pays Principle**" and is distinct from criminal fines. It is a civil monetary penalty designed to remove the economic benefit of non -compliance.

#### Also India is a signatory to the Kyoto Protocol<sup>16</sup> - Kyoto Protocol -

- It was agreed upon in 1997.
- It entered into force in 2005 and the target period was between 2008 to 2012.
- The second commitment period was from 2012 to 2020.
- It aims to reduce global warming through targeted emission reduction.
- It targeted to reduce the emission of six greenhouse gases - CO<sub>2</sub> (Carbon dioxide), CH<sub>4</sub>, N<sub>2</sub>O, HFC, PFC, and SF<sub>6</sub>.
- Incorporated the principle of CBDR.

- Annex 1 countries were given specific targets and deadlines.
- For Non -Annex -1 and LDCs there were no fixed targets.

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<sup>16</sup> Toshi H. Arimura and Akira Hibiki, Introduction to Environmental Economics and Policy in Japan (Springer Nature Singapore, 1st edn., 2024)



- **Mechanisms under Kyoto Protocol -**
- **Joint Implementation -**
- Through this, an Annex 1 country can invest in emission reduction projects in another Annex 1 country.
- **Clean Development Mechanism -**
- When Annex 1 countries can implement emission reduction projects in non -annex 1 countries and meet their targets.
- **Carbon Credit and Emission Trading -**
- It allows the parties to buy Kyoto Units which are Carbon credits from other countries to meet their domestic reduction targets.

### **What is Carbon Credit and Emission Trading under Kyoto protocol?**

The Kyoto Protocol, introduced market -based methods to help industrialized countries meet their greenhouse gas (GHG) emissions targets. These turned "Carbon (C)" into a tradable commodity.

### **Emissions Trading ("The Carbon Market")**

The "Indian Carbon Market Portal" serves as the digital backbone for these transactions, including provisions for interacting with international markets.

### **How it Works -**

- **The Cap -** Each participating industrialized country (Annex I parties) is assigned a specific limit on emissions, known as **Assigned Amount Units (AAUs)**.
- **The Trade -** If Country A reduces its emissions more than required, it can sell its surplus AAUs to Country B, which might be struggling to stay under its limit.
- **The Result -** This ensures that emissions are reduced where it is most cost -effective to do so, while the overall environmental goal is still met.