

Prayas (Energy Group) comments on the Draft Procedure for Compliance Mechanism under CCTS

As part of the rollout plan for India's carbon market of Carbon Credit Trading Scheme (CCTS), the Bureau of Energy Efficiency published a draft detailed procedure for compliance mechanism under CCTS, and sought comments on the same. The following comments from Prayas (Energy Group) on the published draft are aimed at making the procedure clearer and less litigious, and enabling the CCTS to help attain the country's carbon reduction targets.

1. Establishing ambitious but achievable GHG emission intensity targets is the most critical part of an effective CCTS. As evident from the current PAT scheme, lax targets lead to very low demand for certificates and lead to poor price signals. Therefore, the document should clearly lay out the procedure by which these targets would be determined for different entities. The document should also stipulate that the targets of the various entities would be published on the ICM website, along with its rationale. This aspect is missing in the current draft.
2. The target setting process given in the draft document appears quite onerous – it begins with the technical committee, which makes a recommendation to BEE, which in turn makes a recommendation to the NSCICM, which makes a recommendation to MoP, which makes a recommendation to MoEFCC, which finally notifies the targets. It would be desirable to make this process simpler and more transparent, with well-defined roles and responsibilities, particularly if the recommendations are not accepted at some step along the chain.
3. The current draft document does not state the process that will be followed if an obligated entity does not purchase the CCCs that it is obliged to purchase in any compliance cycle. The experience from the PAT scheme is that under-achievement is rarely penalised. This is a critical part of the mechanism to ensure accountability of obligated entities to meet their emission intensity targets. There should be clear articulation of the penal provisions that will be applicable if obligated entities do not purchase the expected CCCs, and the mechanism by which such penal provisions will be enforced. Moreover, details about entities that do not purchase CCCs, the shortfall in their purchase, the penalties levied and penalties recovered should all be made publicly available to ensure that the ICM achieves its objectives of finding a cost-optimal way to reduce India's emission intensity.
4. It would also be good to clarify under which Act would those entities who neither achieve the target nor purchase the required number of CCCs be penalized. It appears that the notification of the targets is being done under the Environment Protection Act, but will the penalties be applied under the Environment Protection Act or under the Energy Conservation Act?
5. Obligated entities that are unable to meet their targets are required to purchase CCCs to make up the shortfall, and should not have a choice in the matter. However, the terminology used through the draft (e.g. paragraphs 2.6, 2.7, 2.8, 2.9 and 7.1.a) uses terms such as "entitled" and "can", which indicate that the purchase of CCCs is optional. Instead, it is advisable to use terms such as "obliged" and "shall" in all such cases.
6. GHG emissions intensity targets represent the ceiling of what the obligated entity should achieve, i.e. they can achieve lower intensity than the target to meet their obligation. However, the wording in Section 2 (Compliance Mechanism) often refers to "exceeding the target" (2.5) and achieving an intensity "greater than the target" (2.8). Such phrasing is confusing and could lead to unnecessary litigation, and should be carefully reworded on the lines of "GHG emissions intensity being lower than the target GHG emissions intensity" etc.

7. Currently, the draft specifies that a three-year trajectory would be specified (paragraphs 2.3 and 3.3.3). Given that entities may have to invest in newer technologies to achieve their targets, a visibility of five years may give them better clarity. So, the Bureau should consider specifying five-year trajectories for emissions intensity rather than three years.
8. Paragraph 3.1 seems to deal with energy efficiency and PAT rather than GHG emissions intensity reduction. This needs to be corrected to define Designated Consumers appropriately in the context of CCTS.
9. The definition of indirect GHG emissions (3.4.1.iii) should also include emissions from refineries corresponding to the petroleum products consumed by the entity. Its calculations can be done similar to the grid electricity purchased by the entity – based on a national average emission factor for refinery emissions, for each petroleum product.
10. Paragraphs 3.4.3.i and 3.4.3.vi exclude emissions from biomass, biogenic sources and alternate fuels from waste. A similar point is made in paragraph 4.4.v. However, this is very contentious, since the biomass, biogenic sources or waste may not be renewable. Indeed, such a clause may lead to increased deforestation as entities may prefer to procure biomass to lower their emissions under this clause. In addition, black carbon emission from incomplete combustion of biomass has large GHG warming potential. Therefore, these clauses need to be either removed or worded more carefully to ensure that only emissions from sustainable, renewable use of such resources is exempted.
11. In paragraph 3.4.3.ii, it would be desirable to define “renewable energy sources” to avoid litigation.
12. In paragraph 3.4.3.iii, since these technologies are very nascent and yet to be established, it may be desirable to add a proviso that such capture or utilisation is subject to verification by the accredited agency.
13. In paragraph 3.4.3.viii, entities should be mandated to provide disaggregated figures at least for electricity and petroleum products that are consumed by them, since these are metered or purchased in bulk with appropriate accounting. If this is done, the bulk of sources of emissions would be accounted for in a disaggregated fashion.
14. In paragraph 4.4.vii, it should be clarified that the grid average emission factors including REs and including imports published by CEA would be considered. Otherwise, it could further lead to litigation and contestation, since CEA publishes various emission factors.
15. There seems to be an error in paragraph 4.5.ii, since calculating the activity data (quantity of fuel consumed) should not require subtracting the quantity of fuel consumed. It seems that the point should read “The activity data shall be calculated as quantity of fuel or material in stock at the beginning period, plus fuel or material purchased in the reporting period minus the ~~fuel or material consumed~~ and closing quantity of fuel or material in the compliance cycle.”
16. Paragraph 4.5.iv requires using data of quantities in stock from previous years to estimate current stock. However, this requires validated or audited data from previous years.
17. Paragraph 5.2 should ensure that there is no conflict of interest or affiliate relationship between the obligated entity and the accredited carbon verification agency (ACVA) appointed by it.
18. Paragraph 5.8: It is desirable that the ACVA’s result assessment report should be made public, similar to how EIA reports are made public. Similarly, the summary of the review process mentioned in paragraph 6.6.i should be made public.
19. Section 6:
 - a. The Bureau should have a minimum threshold percentage of verifications that it shall subject to a check-verification process, whether or not any complaints are received. Moreover, it should publish statistics annually about the number of such check-verifications done, the number successful and so on.

- b. If the check-verification process results in an ACVA's assessment report receiving a negative opinion, then details of the ACVA, the obligated entity, and the assessment receiving the negative opinion should be made public, as a measure of accountability of both the obligated entity and the ACVA.
20. Paragraph 7:
- a. Sub-para 1.b: It is not clear if certificates would only be issued to those who achieve their targets or whether those who do not achieve targets will also be issued 'negative' certificates. This should be clarified.
 - b. Assuming that certificates are issued to only those who achieve their targets, there needs to be a mechanism or procedure by which those who are obliged to purchase CCCs are informed of their obligation.
 - c. At the end of every cycle or period, the ICM website should be refreshed with details of the certificates issued, obligations to purchase and obligations met and obligations not met, including the names of the corresponding entities. This will help improve accountability of the process.
21. Paragraph 8.7 should also clearly state the deadline by which the trading should come to an end and obligations should be met. After that date, penalties would be applicable on those who fail to meet their obligations. These timelines should be strictly adhered to, and multiple extensions, as granted in the case of PAT¹, should not be given. It might be useful to publish one unified calendar year for a given cycle – beginning with day 0 when the notification is issued to subsequent milestones that must be met, including for submission of status of compliance and issuance of penalties, if any, after that.
22. Annexure V, section 5.2 lists thermal power stations as a designated consumer. However, it is not clear whether they will be considered as one, since they convert one form of energy into another. Considering them as designated consumers could give rise to double counting of emissions (and emission intensity) reductions. For example, emission intensity reduction achieved by thermal power plants would also be counted as reduced emission intensity in all the other designated consumers / obligated entities who use the electricity generated from that thermal power plant. Therefore, it is perhaps best not to include them in the document. Similarly for refineries, who also convert one form of energy into another for use by others.
23. There is no clarity in the document about how the existing PAT scheme would be gradually migrated to the ICM. Moreover, it is not clear how it will be ensured that the energy efficiency targets under the PAT scheme, renewable purchase targets under the EC Act and the proposed GHG emission intensity targets are all mutually consistent. Having inconsistent targets could lead to further litigation and confusion. Since the GHG emission intensity target encompasses both efficiency improvements and switching to renewables, it could perhaps override the others.
24. Some minor points and potential typographical errors are listed below:
- a. Paragraph 2.3 should read "Obligated entity will be notified as ..."
 - b. Paragraph 2.7 appears to be relevant only for entities that have not met their intensity targets. In which case, it is perhaps best merged with paragraph 2.6.
 - c. In the figure on page 5, it is not clear what "SE" is, and it is not clear why there two colours to indicate the under-achievement by entity B.
 - d. Paragraph 4.2 should read "submit the monitoring plan to the Bureau ..."
 - e. Should the figures in paragraph 4.6.iv be 95% for solid and liquid fuels and 10% for gaseous fuel, instead of 5% and 10% respectively?

¹ [https://energy.prayaspune.org/power-perspectives/not-a-pat-on-the-back-yet?filter_tag\[0\]=2](https://energy.prayaspune.org/power-perspectives/not-a-pat-on-the-back-yet?filter_tag[0]=2)

- f. Paragraphs 4.10.ii and 4.10.iii are not clear, and should be reworded clearly, perhaps with an example.
- g. In paragraph 4.13.ii, it should be “permanence” and not “permeance”
- h. There should be an “OR” at the end of paragraph 6.2.ii.a
- i. In the conversion formula for total GHG emission intensity (point B) in Annexure II, it is not clear why the denominator may be in MWh. It should just be t(ons).
- j. Under combustion emissions calculation (point D) in Annexure II, the calculation of AD seems to be dimensionally incorrect, as AD and FQ have more or less the same dimensions – so it is not possible to get AD by multiplying something of the same dimension with NCV (kcal/kg or kcal/Nm³)
- k. In Annexure V (Form I), it is not clear what entry 5.1.b.x for total normalized energy consumption is, and why it is required. It would be good to define such terms clearly.

We hope the Bureau finds these suggestions useful. We are happy to provide any more clarifications on the same, and engage with the issue further.

Regards

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