

**REGIONAL CAPACITY DEVELOPMENT TECHNICAL ASSISTANCE
STRENGTHENING CAPACITY FOR ENVIRONMENTAL LAW IN THE ASIA-PACIFIC:
DEVELOPING ENVIRONMENTAL LAW CHAMPIONS**

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Legislations on Carbon Emission Trading in China: Progress and Challenge

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1. Background and Progress for Legislations

- The Standing Committee of the National People's Congress (SCNPC) in China passed the decision to join the *Paris Agreement on Climate Change* on September 3, 2016
- General Office of National Development and Reform Commission (NDRC) issued the *Notice on Launch of Pilot Work for Carbon Emissions Permit Trading* in October 2011
 - In Beijing, Tianjin, Shanghai, Chongqing, Hubei, Guangdong Provinces and Shenzhen City



- NDRC issued the *Interim Procedures on Carbon Emissions Trading Management* on December 10, 2014
 - In order to strengthen the control and management over GHG emissions, regulating the construction and operation of markets for carbon emission permits trade, and promoting the establishment of the national market for carbon emission permits trade



- China plans to initiate national carbon emission permits trade system in 2017, according to the *Sino-US Joint Statement on Climate Change* signed by China's President Xi Jinping and US President Obama in September 2015
 - *Law on Response to Climate Change* is under drafting since 2010
 - Legal Affairs Office of the State Council (LAOSC) organized the drafting of a proposal for the *Regulations on National Carbon Emission Permits Trade Management* and sought for opinions from the public in 2015
 - Due to complicated interest relationship and inconsistent understanding related to carbon trade, LAOSC considered it was immature to stipulate administrative regulations
 - After Trump assumed power, all social circles in China began to wait and see whether the policies on GHG maybe change or not in U.S.A.



2. Challenge for Legislations on Carbon Emission Permits Trade

- 2.1 Choice for legislation hierarchy
 - Departmental Rules or Administrative Regulations? Or Laws?
 - Departmental rules are the most desired by Chinese Government at present
 - But a *Regulations on Carbon Emission Trade Management* is practicable according to academic circle



- 2.2 Defining the Object of Carbon Emission Trade (Quotas for Carbon Emission)
 - There are two kinds of viewpoints in China:
 - The one is theory of private right or quasi-real right
 - The other is the theory of public right or tradable permits
 - It does more harm than good to define quotas for carbon emission as private right and emphasize the freedom and self-governance of enterprises on carbon emission under such severe circumstances of environmental concerns in China



- 2.3 Total Carbon Emission and Distribution

- Current method for determining total carbon emission is too dependent on historical emission load of key emission units to satisfy scientific foundations and legitimacy
- Reasonable ways to determine initial distribution in quotas for carbon emission
 - How to determine total carbon emission in every province and city?
 - How to determine emission load for every enterprise?
 - How to determine the power between the central and local authorities in initial distribution in quotas for carbon emission?



- 2.4 Improving Monitoring, Reporting and Verification (MRV) for Carbon Emission
 - An important premise for carbon emission permits trade is accurately measuring carbon emission load, and a general method is MRV
 - There have been seven pilots in China since 2011, and some experience has been achieved. An all-round implementation around the nation began in 2017. But MRV still needs further improvement
 - Making public the results of MRV in enterprises
 - Making clear the relationship between monitoring of carbon emission and environmental monitoring stipulated by *Environmental Protection Law*
 - Designing the system for impartial verification by third parties



Thank You!

