



## Cutting Greenhouse Gases: a Changing Policy Climate in Taiwan

by Po-Hsiang OU

The outcome of the 2015 Paris Climate Conference (COP21) in Paris last year marked the beginning of a new era for global climate law. At the international level, the conference's Paris Agreement established a solid programme to implement and monitor climate action in all major economies, based on Intended Nationally Determined Contributions (INDCs) among countries and a five-year review mechanism (the "global stocktake") to gradually increase ambitions. At the national level, Taiwan also passed its Greenhouse Gas Reduction and Management Act in 2015, which provides a legal framework for concrete climate action, including greenhouse gas (GHG) reduction targets and emission trading schemes. It seems that the Taiwan government is determined to actively contribute to the global climate regime and fully implement its national climate policies.

It is therefore important for businesses in Taiwan to understand the risks and opportunities associated with climate change regulation. One overarching concept is the general need to depart from "business-as-usual" (BAU) scenarios in climate action, which will lead to new opportunities while endangering old practices. This is particularly true for



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energy-intensive industries. Eiger has previously introduced [renewable energy policy in Taiwan](#). In this article, we will discuss the 2015 Greenhouse Gas Reduction and Management Act (hereinafter "the Act"), in particular its reduction target, regulatory authorities and carbon-pricing mechanism.

### **Target: 50-percent GHG reduction by 2050**

The Act forms the legal basis of Taiwan's unilateral contribution to the UN Framework Convention on Climate Change (UNFCCC), despite the island not being a formal member. This purpose is explicitly mentioned in the lawmaking process and in the first article of the Act. Moreover, the Act specifically defines Taiwan's climate

mitigation target of reducing GHG emissions to less than 50 percent of 2005 levels by 2050.

This is undoubtedly an ambitious target. In fact, Taiwan's formal INDC to the UNFCCC made a further mid-term promise, stating that the country will reduce GHG emissions by 50 percent from current BAU levels by the year 2030. This is equal to cutting 214 million tonnes of CO<sub>2</sub> equivalent (MtCO<sub>2</sub>eq) from the projected BAU, or around a 23 percent reduction from 2015 levels (277.2 MtCO<sub>2</sub>eq). Moreover, the Act includes a five-year review mechanism for the overarching Action Guideline, which will lead to short-term action plans as well as concrete action programs and regulatory goals. This reflects the current international obligations under the Paris Agreement regarding global stocktake and transparency mechanisms.

There was an intensive debate in the Legislative Yuan about whether the long-term GHG reduction target should be formally included into the Act. While the result was generally lauded, there are also worries about potential backlash if the target is not met. Indeed, the government needs to fully implement the Act and ensure good collaboration and communication between different central and local authorities to achieve the target.

### **Authorities: the EPA and the art of coordination**

One main challenge for climate policy is its inherently cross-sectoral nature. The Act seeks to address this by creating a better institutional structure that maximizes coordination across different government

agencies. To this goal, the Act dedicated an entire chapter with eight articles on the relations between and obligations of various public authorities.

The central competent authority of the Act is the Environment Protection Administration (EPA). The Act specifies how the EPA can coordinate with other industrial/local authorities regarding the enforcement of its overarching "Action Guidelines" policy framework. It follows a "top-down" plus "cross-sectoral" method: it is top-down because the Action Guidelines and action plans need to be centrally authorized by the Executive Yuan, and also cross-sectoral because any regulations will ultimately be implemented by sector-specific action plans from industrial authorities. The Act also establishes an advisory committee to set detailed regulatory goals for five-year reviews.

While coordinating different authorities seems to ensure an effective regulatory structure, it does not always lead to efficient regulatory regimes and legal certainty. An important question is about how such coordination will be done. At the top level, the Action Guidelines are set by the EPA "in consultation with" other authorities, and then authorized by the Executive Yuan. This means that although the EPA needs to "consult" other authorities, the guidelines can still be set if there is enough political support. At a more detailed level, however, many regulatory measures and goals require the EPA to act "in conjunction with" other authorities, which means detailed actions need to be supported by both the EPA and the individual industrial authorities involved. The nuance between "consultation" and

“conjunction” creates uncertainty as well as room for the industry to shape further detailed climate regulations.

### **Carbon-pricing: the cap-and-trade scheme**

The Act provides a legal basis for setting a GHG emission cap and establishing a carbon trading market. This “cap-and-trade” system is modeled after the European Union’s Emission Trading Scheme (ETS). The EPA has also updated the previous GHG verification, registration and reduction award schemes promulgated before the Act into the new framework, and there will be further regulations detailing how GHG reduction registration can be transferred into the new cap-and-trade system.

However, the most essential part of the system, i.e. detailed regulations on the allocation and trading of emission quotas, has not yet been specified. It remains to be seen when and how the carbon trading system will operate in Taiwan, and these specific rules, as mentioned, require direction from the EPA in conjunction with other authorities. Moreover, although lessons learned from the EU ETS suggest that auctioning can better maintain a reasonable carbon price than free allocation of emission quotas<sup>1</sup>, the EPA has nonetheless announced that the future system will begin with free allocation and gradually move to an auction system. In addition, the Act also mentioned the possibility of controlling GHG emissions through tax. This tax, however, will need

further legislative review, and it is unclear how this carbon tax, if any, will operate in parallel with the carbon trading system.

Despite the uncertainty about the details of the cap-and-trade system, the general direction of carbon pricing is clear, and there are already rules regarding emission registration and monitoring in place. On the one hand, the EPA encourages early compliance through awarding reduction quotas that can be used in the future trading system; on the other hand, specific regulations have already required certain industries to register and monitor their GHG emissions, which include electricity generation, steel-making, oil refining, wafers and LCD screen manufacturing, as well as any business that directly emits over 25,000 tonnes of CO<sub>2</sub>eq of GHG per year. Therefore, early compliance not only provides some financial incentive, but also ensures a swift adaptation once the carbon trading market begins to operate.

### **Conclusion**

In short, there is a strong political will in Taiwan and around the world to strengthen climate law, but clearly there is also a lot of room for improvement to make the Act and the cap-and-trade scheme fully operational. Facing such regulatory uncertainty, it is crucial for businesses to be prepared for a departure from “business-as-usual”, and take the risks and opportunities created by climate law into account for any long-term, sustainable business plan.

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<sup>1</sup> For criticisms of EU ETS, see for example the joint briefing from Carbon Trade Watch and Corporate Europe: <http://corporateeurope.org/news/eu-ets-failing-third-attempt>

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**Author:**



**Po-Hsiang OU, Associate**  
ph.ou@eigerlaw.com

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