LEGAL & POLICY INTELLIGENCE

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Post 2020 climate change framework becomes a little clearer

On the 27th of July, Agbiz attended a public consultation forum hosted by the Department of Environmental Affairs (DEA) on the recommended framework to combat climate change post 2020. The Department has recently published a plethora of draft policies, Bills and regulations all related to climate change, but just how the proposed carbon tax, carbon budgets, Sector Emission Targets or Desired Emission Reduction Target, Green House Gas (GHG) Emissions Regulations and a GHG inventory speak to one another is something of a puzzle that is still being rewritten as we progress. In this consultation, the DEA presented a document recently published in the Gazette that sets out a possible framework to coordinate these instruments post 2020. Although the document is only a draft at this stage, it does paint a better picture of where the DEA is headed.

As a point of departure, South Africa made a commitment at the Copenhagen Conference of Parties (CoP) to the United Nations Framework Convention on Climate Change (UNFCCC) to reduce its emissions by between 34 and 42% of the ‘business as usual’ trajectory. In order to balance this with development imperatives in the short term, we committed to a ‘peak, plateau, decline’ trajectory whereby our emissions will peak by 2025, then remain constant until 2035, after which we undertake to reduce emissions in real terms.

To achieve the above, the document recommends a parallel process of carbon budgeting and Sector Emission Targeting (SETs), constituting a hardline and a softer approach simultaneously.

The concept of a carbon budget entails the DEA allocating a unique ‘allowable’ emission budget on specific entities that will be identified as large emitters. It is important to note that budgets are allocated to specific companies or entities, and not to a sector as a whole. The budgets will be informed by the emissions data supplied to DEA via the recently enacted GHG Emissions Reporting Regulations made in terms of the National Environmental Management; Air Quality Act. In terms of the regulations, companies that emit more than the prescribed threshold (this differs from sector to sector) will be required to report their actual emissions once a year. This will in turn be used to set the budget per entity on a 5-year cycle basis. The combined total budgets for all reporting entities will be set with the view to ‘peaking’ in 2025, then remaining constant for 10 years, and finally reducing per 5-year cycle to achieve our desired ‘peak, plateau, decline’ trajectory. Since the thresholds for reporting in the regulations are quite high, only those required to report are likely to be faced with a budget.

To achieve compliance with the budgets, the idea was mooted to use an adapted form of the proposed carbon tax as an enforcement mechanism. In other words, one could either exempt an entity from carbon tax if they remain within their budget or tax them at a higher rate if their budget is exceeded. Both of these concepts differ from the Carbon Tax Bill as it was published but it is still in a draft form, so amendments can still be made. To provide entities with flexibility, carbon offsets and carbon trading can be used to artificially increase an entity's budget by up to 10%. This can cushion against undesired socio-economic impacts such as job losses or a decline in key industries' output in the short-term without increasing the country's overall emissions, as emissions will be reduced through offsets or a reduction in emissions by the purchaser of credits. The agricultural and agribusiness sector could well benefit from the value attached to carbon offsets and carbon trading.

A parallel, 'softer' approach that was mooted in the discussion paper is the concept of Sector Emission Targets (SETs). As explained above, carbon budgets would only apply to entities that are required to report their emissions in terms of the GHG Reporting Regulations as their emissions are likely to exceed the threshold for reporting. To capture the remainder of the entities within a sector that are not required to report, specific line departments that are responsible for specific sectors will need to set realistic SETs based on 2010 data estimates in the National GHG Inventory, taking into consideration a sector's inherent ability to apply mitigation measures. It will be the responsibility of each relevant department to develop unique incentives to promote mitigation – this could include any number of incentives such as incentivizing conservation agriculture, investing in rail infrastructure to reduce emissions from road transport etc.

The framework clearly highlights that substantial policy work will still need to be done to give effect to the proposed framework. Be that as it may, this discussion document provides good insight into the direction that the DEA is headed in relation to climate change and some creative thinking is being applied to the role of instruments such as the proposed carbon tax. Agbiz will continue to be involved in these debates and provide inputs at every step through BUSA's environmental sub-committee.

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