university of groningen
faculty of law
groningen centre of energy law

Climate Law

- Climate Law is a course which is part of the LLM programme in Energy and Climate Law at the University of Groningen, the Netherlands. More information on this Master programme can be found at: http://www.rug.nl/masters/energy-and-climate-law/#int
- Dr. E. Woerdman is the coordinator of Climate Law (6 ECTS). This course is taught by lecturers from the University of Groningen as well as from legal practice: Prof. Dr. M. Brus, R. Giljam LL.M, mr. M. Leenders (Dutch Emissions Authority), Prof. Dr. M. Roggenkamp, S. Roy LL.M, Prof. Dr. H. Vedder, Dr. S. Weishaar and Dr. E. Woerdman.
- First semester (Block 1, University of Groningen, The Netherlands)
- Thursdays 10 September – 22 October 2015, 15:00 – 18:00 (room T07, Turftorenstraat), except the second lecture which is on a Monday (14 September).

Course keywords

International climate framework, European climate and energy package, market-based climate instruments, enforcement of climate law, climate litigation

Course objectives

After completing the course, the student should be able to:

- Explain the objectives, principles and development of international climate law;
- Clarify the design, implementation problems and enforcement issues of emissions trading in various jurisdictions, including the EU, in particular for the energy sector;
- Discuss the regulation of carbon capture and storage (CCS), also in terms of legal and economic barriers to its development;
- Explain the purpose and design of renewable energy and energy-efficiency regulation, including cross-border cooperation mechanisms to facilitate compliance;
- Describe the (im)possibilities and most important cases of climate litigation in a global setting;
- Understand the prospects of a professional career in the field of climate law.

Course description

This course aims at familiarizing students with the laws and regulations that intend to combat climate change, in particular those applying to the energy sector. The energy sector is a major emitter of greenhouse gases. Various laws and regulations have been designed to reduce greenhouse gases and stimulate climate-friendly energy sources. The course first pays attention to international climate law and then moves on to discuss European climate law and its implementation in the Member States. The international legal framework and negotiations are discussed first, including the Kyoto Protocol and the post-2012 Accords and Agreements. Thereafter the flexible instruments will be examined that allow governments and companies to achieve their emission reduction targets cost-effectively. This requires a study of, for instance, International Emissions Trading and the Clean Development Mechanism, but also the Regional Greenhouse Gas Initiative in the USA, the EU Emissions Trading Scheme as well as carbon trading schemes in Asian countries, such as China and South Korea. The course will then zoom in on climate law in the EU, focusing on the EU Emissions Trading Scheme as well as the regulation of renewables and energy-efficiency in the EU. The legal design of carbon capture and storage (CCS) will also be treated, discussing issues like financial incentives, safety norms and liabilities for potential damage. Finally, developments in the field of climate change litigation will be highlighted for different jurisdictions. The course is taught by lecturers of the University of Groningen as well as by lecturers from legal practice which provides students with enhanced knowledge of their professional prospects.

Only accessible to master students and for students that have been conditionally admitted to the master programme. This course is not open to non-law exchange students. It is recommended to follow the introductory course Energy Law before taking Climate Law.

Teaching method

Lectures plus in-class discussions.

Recommended

Climate change science is lucidly explained in the following video on YouTube:
https://www.youtube.com/watch?v=OWXoRSIxyIU

EU climate regulation is briefly explained in the following video on YouTube:
https://www.youtube.com/watch?v=yFq5p2l0Q2o#t=91

A concise overview of EU climate change legislation can be found in the following document:
http://www.lse.ac.uk/GranthamInstitute/wp-content/uploads/2015/05/EU1.pdf

Course Outline

Lecture	Subjects
Lecture 1 **September 10, 2015** International and European Climate Law *Marcel Brus*	<u>The UNFCCC and the Kyoto Protocol</u> *Objectives and principles (e.g. differentiated responsibilities)* *General and differentiated commitments (QUELRO's)* *Annex I and non-Annex I Parties / Annex A and B* *Institutional structure (e.g. COP, SBI, Secretariat)* *Non-compliance regime under the Kyoto Protocol* *Flexible mechanisms (CDM, JI, IET) in the Kyoto Protocol* <u>Post-2012 Regime</u> *Climate change negotiations: e.g. Bali Road Map (2007), Copenhagen Accord (2009), Cancun Agreements (2010), Durban Outcomes (2011), Doha Climate Gateway (2012), Warsaw Conference (2013), Lima Conference (2014) & the way forward (e.g. Paris 2015)* <u>EU Climate Policy</u> *20 20 20 commitments* *Emissions Trading Directive, EU ETS Sectors* *Non-ETS sectors, Effort Sharing Decision* *Renewable Energy and Energy Efficiency Directive* *Interactions between climate policy instruments* ***PREPARE** by reading chapters 1 and 2 of the Woerdman et al. book*
Lecture 2 **September 14, 2015** Design of the EU Emissions Trading Scheme *Edwin Woerdman*	<u>Emissions Trading as the 'Flagship' of EU Climate Policy</u> *EU ETS trading phases (1, 2, 3 and beyond 2020)* *From free allocation to auctioning allowances* *Competitiveness and industry protection* *Implementation problems of the EU ETS* <u>EU ETS Reform</u> *Structural reform of the EU ETS* *Backloading and the Market Stability Reserve* ***PREPARE** by reading chapters 3 and 9 of the Woerdman et al. book*

Lecture 3 **September 24, 2015** Enforcement of the EU Emissions Trading Scheme *Marc Leenders*	<u>Emissions Trading Enforcement Elements</u> *Emissions report* *Surrendering of allowances* *Inclusion of aviation and opt-out provisions* <u>Developments and Issues in Emissions Trading Enforcement</u> *Towards maximum harmonisation* *Enforcement differences between EU Member States* *Changing role of the emission authorities* *Case law* ***PREPARE** by reading chapter 3 of the Woerdman et al. book*
Lecture 4 **October 1, 2015** Carbon Capture and Storage (CCS) and International Emissions Trading *Martha Roggenkamp & Stefan Weishaar*	<u>Regulation of Carbon Capture and Storage</u> *Role of CCS in energy and climate policy, incl. EU ETS* *The CCS 'chain': capture, transport, storage* *Directive on the geological storage of CO_2* *International regulation of CCS* *Legal barriers to CCS (e.g. liability)* *Economic barriers to CCS (e.g. financial security)* <u>Emissions Trading Schemes around the World</u> *E.g. USA (RGGI and WCI), Canada (Québec Cap-and-Trade System), China (pilots and national scheme), South Korea (Korea ETS) and New Zealand (NZ ETS)* *Linking the EU ETS to similar schemes around the world* *Potential legal problems in case of linking (e.g. related to sector coverage, competitiveness and enforcement)* ***PREPARE** by reading chapter 3 and 8 of the Woerdman et al. book*

Lecture 5 **October 8, 2015** Renewable Energy *Renske Giljam*	Renewable Energy Directive *Support schemes* *Cooperation mechanisms* *Overcoming barriers to renewable energy production* Biomass and biofuels *Sustainability criteria biofuels* *Biomass regulation* *Fuel quality Directive* ***PREPARE*** *by reading chapters 6 and 10 of the Woerdman et al. book*
Lecture 6 **October 15, 2015** Energy Efficiency *Hans Vedder*	Energy Efficiency to Combat Climate Change *Energy Efficiency Directive* *Energy Performance Buildings Directive* *Labelling Directive and Tyre Labelling Regulation* *Cogeneration* *Energy Star Package* *Energy efficiency of transmission and distribution* ***PREPARE*** *by reading chapters 4, 5, 7 and 11 of the Woerdman et al. book*
Lecture 7 **October 22, 2015** Climate Litigation *Surya Roy*	Climate Change Litigation *ECJ/CFI rulings on EU climate legislation* *EU ETS litigation* *Litigation in front of US and some other courts* ***PREPARE*** *by reading chapter 12 of the Woerdman et al. book*

Compulsory literature

1. Woerdman, E., M.M. Roggenkamp and J.M. Holwerda (eds.) (2015), *Essential EU Climate Law*, Cheltenham: Edward Elgar (forthcoming August 2015)

2. For some of the lectures, additional compulsory reading material will be made available via Nestor (!).

Important note for students:

Students that are not familiar with European law are advised to read a general introduction to EU law (e.g. on institutions, decision-making procedures and legal instruments). A good but lengthy example of such a book is: Craig, P. and G. de Búrca (2011), *EU Law: Text, Cases, and Materials*, 5th Edition, Oxford University Press. What may also help is http://en.wikipedia.org/wiki/European_Union_law

Final examination

- Individual, written exam (essay questions).

Exam dates: first chance 00-00-2015 and second chance 00-00-2015 [information not yet available, please check Nestor]

Important note for teachers:

Each teacher prepares 2 essay questions for the final written exam – 1 for the exam, 1 for the re-sit.