

Foreword

This book is based on the doctoral dissertation brilliantly written and defended by Dr Stefano Clò within the framework of the European Doctorate of Law and Economics (EDLE) at the Erasmus School of Law (Rotterdam). The book provides a law and economics analysis of the important and topical issue of how countries could move to a low-carbon economy. In Europe, the Kyoto Protocol that aims to reach that goal has been implemented via the European Emissions Trading Scheme (ETS).

Dr Clò provides in this book first an overview of the institutional setting within which climate change legislation and more particularly emissions trading has emerged. Next, he sketches how emissions trading is only one of the potentially many solutions that could be followed in internalizing the externality caused by climate change. His most important contribution is probably the excellent analysis of the effectiveness of the EU ETS by assessing the stringency of the ETS cap. Dr Clò shows an important over-allocation by Member States, given their tendency to support national industry. Dr Clò also concludes that the ETS may not be sufficient to insure compliance with the targets laid down in the Kyoto Protocol. These are undoubtedly very important conclusions, not only for scholars interested in environmental law and economics, but also for policy-makers. For the first time, a detailed scientific assessment of the stringency of the cap is provided.

Building on earlier work with other colleagues, Dr Clò also addresses whether the grandfathering of emission rights (under the ETS) violates the polluter-pays principle. He argues, criticising earlier literature that held that there was a violation of this principle, that this should not necessarily be the case since the opportunity costs of free assigned allowances have to be taken into account. However, even though grandfathering can be consistent with the efficiency interpretation of the polluter principle, it can still be inconsistent with an equity interpretation of the same principle.

Finally, this book also addresses the important issue of so-called carbon leakage, being the risk that as a consequence of stringent legislation in one country carbon-producing industries will simply move to other legal systems. Again, Dr Clò shows that the ETS has had many

inefficiencies in this respect, but that the new ETS Directive improves efficiency at different fronts.

In sum, this important book has the great achievement of addressing a complicated and socially highly debated issue of how society could be given optimal incentives for emission reductions from a legal and economic perspective. Moreover, it not only addresses the various issues from a theoretical perspective, but provides important empirical evidence on the working of emissions trading as well. The book will undoubtedly have important lessons not only at the theoretical level, but also for policy-makers interested in improving the effectiveness of emissions trading schemes.

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