Overview Climate Law 2012

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Dear students,

These are the compiled materials for the class on "Climate Law".

When using this compendium, please note:

1. The assigned materials under “Literature” you are supposed to read extensively or even intensively for each class and for the exam. Literature will be split up in “extensive reading” and “intensive reading”. If the reference contains “extensive reading” behind brackets, this means you have to read it and understand the overall message of the literature. This reading I have included for you to get a better understanding of the overall issue at hand or get more background information. If the reference contains “intensive reading”, you are expected not only to know the overall content, but read it more in-depth and comprehend the issues at hand, supplemented with details. If nothing is indicated you will be informed about the intensity of reading during class.

2. The assigned materials under “Legislation” you are allowed to bring to the exam. Please do bring the assigned legislation with you to each class as we will work with the materials.

3. If the compendium includes “Cases”, you cannot bring them to the exam. Although you are not expected to memorize cases for the exam, you have to know the main issue at hand and how the issue is solved. We will discuss this in class.

4. During the last session before the exam we will once more go through the assigned materials in the compendium and guide you on what to read intensively and what to read extensively.

The use of this compendium will also be explained during the first class.

Finally, this is a compendium containing literature and not a student handbook. It is important that you attend classes to understand the content of the materials and select the relevant issues at hand. Note that what is intensive and extensive reading might change during the course.

The materials are assigned per Session of four hours each, so you can prepare before class. In particular, please read the materials for the Session 1 before the first class.
Part I – International Climate Law (prof. Sanford Gaines)

1. Climate change and energy: overview

1.1 The science of climate change

Literature:
- John Holdren, “Meeting the Climate-Change Challenge”, Chaffee Memorial Lecture, 2009 (extensive reading)  
- Intergovernmental Panel on Climate Change (IPCC), 4th Assessment (AR4), 2007, Synthesis Report, part 2 (all sections) and section 3.1 (extensive reading)  

1.2 The climate-energy connection

Literature:
- IPCC, AR4 Synthesis Report, sections 5.3 – 5.5 [extensive]  
- International Energy Agency, World Energy Outlook 2010, Executive Summary, pages 3-6, 8-10, 11-14 (extensive)  
  [link](http://www.iea.org/Textbase/npsum/weo2010sum.pdf)
- IPCC, Special Report: Renewable Energy Sources, Summary for Policymakers, sections 2, 3, 4, and 5 (extensive)  
  [link](http://www.ipcc.ch/news_and_events/docs/ipcc33/SRREN_FD_SPM_final.pdf)

2. Climate change governance (part I)

2.1 An introduction to public international law

Literature:
- Lecture notes on public international law  
  [link](Aarhus--International Law.ppsx)

2.2 The United Nations Framework Convention on Climate Change (UNFCCC)

Legislation:
- The full text of the UNFCCC (Articles 1-4 and Annex I (intensive); other articles (extensive)  
  [link](http://unfccc.int/resource/docs/convkp/conveng.pdf)

2.3 International climate change governance: Institutions and practices

Literature: (A page or two will be prepared and posted to the course site showing the major organizations involved with climate change.)

Session 1

Session 2
2.4 The Kyoto Protocol to the UNFCCC

Legislation:
- The text of the Kyoto Protocol Articles 1 – 7 and Art. 12 (intensive reading)
  http://unfccc.int/resource/docs/convkp/kpeng.pdf

3. Climate change governance (part II)

3.1 The theory of emissions trading

Literature:
- Robert N. Stavins, ‘A Meaningful U.S. Cap-and-Trade System to Address Climate Change’ (2008), sections 1.1, 1.2, 1.3.2, 1.4, section 2 beginning and 2.1 - 2.2, 2.5.1 - 2.5.2, 2.7.2 - 2.7.3, and 3.1 (extensive reading)

3.2 The Clean Development Mechanism

Legislation: Kyoto Protocol, article 10.

3.3 Emissions trading in practice

Literature:

4. What comes after the Kyoto Protocol?

4.1 Principles, problems, and approaches

Literature:
- Ellen Margrethe Basse and Sanford Gaines, “Common but Differentiated Responsibilities and Respective Capabilities” as Part of the Post-2012 Climate Regime, Nordic Environmental Law Journal 2010 (2), 189 – 203. Read 189-199 (sections 1-5) (extensive reading)
Part II – European Climate Law (Associate Professor Ulla Steen)

1. EU Policy and Legal Framework

1.1 The EU and its international obligations and commitments

1.2 Important provisions the Lisbon Treaty

1.3 EU Climate and Energy Package

Literature:

European Commission, *Analysis of options to move beyond 20% greenhouse gas emission reductions and assessing the risk of carbon leakage*, COM (2010) 265 final. [extensive reading]

Second ECCP Progress Report (Executive Summary) [extensive reading]

Chapter 10: Creating a sustainable energy sector in Europe. How ambitious is the new EU energy and climate policy.
Antwerpen: Intersentia

EU Leadership in International Climate Policy: Achievements and Challenges.
In: The International Spectator, Vol. 43, Iss. 3, pp. 35-50.

Chapter 6: A climate of change: An analysis of progress in EU and international climate change policy.
In: Scott, Joanne.: Environmental protection: European law and governance, pp. 171-189.
Oxford: Oxford University Press

Legislation:

- Article 4, 170, 191, 194 TFEU; Preamble TEU, Article 2, 6 TEU

Make yourself familiar with the Climate change and energy package on the following link:

For use throughout the climate law course: Overview of EU climate change related legislation
Bring the following legislation to class:

2. Key elements of the EU legal framework (Part I)

2.1 Introduction to the key elements of the EU legal framework

Literature:


2.2 Greenhouse gas monitoring and reporting of the EU (under UNFCC and Kyoto)

Literature:
- Climatefocus (Authors: M. von Unger, D. Conway and J. Hoogzaad, Carbon Offsetting in Europe Post 2012, Kyoto Protocol, EU ETS and Effort Sharing, 4 April 2011, 43p. [extensive reading]
2.3 The EU emission trading scheme (EU ETS)

Legislation:

- Commission Decision of 14 December 2006 determining the respective emission levels allocated to the Community and each of its Member States under the Kyoto Protocol pursuant to Council Decision 2002/358/EC.

Literature:


Legislation:


2.4 The effort sharing decision (annual binding greenhouse gas emission targets for the Member States)

Literature:
- *Questions and Answers on the Decision on effort sharing*, MEMO/08/797  (intensive reading)


Legislation:
- Decision No 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on the effort of Member States to reduce their greenhouse gas emissions to meet the Community’s greenhouse gas emission reduction commitments up to 2020


3. Key elements of the EU legal framework (Part II)

Literature:


3.1 Reducing emissions in the transport sector

Literature:
- I. Laborde, “EU Regulation of Aviation CO₂ Emissions”, 24 *Nat. Resources & Env’t* 54 2009-2010, 54-56. (intensive reading)
The Business of Global Warming, pp. 12-.

Legislation:
- Draft decision of the EEA Joint Committee No 87/2011 of 1 July 2011
  [Link]
  [Link]

3.2 Carbon capture and storage as a low carbon technology

Literature:
  Carbon Capture and Storage: Developments under European Union and International Law.
  [Link]

Legislation:
  [Link]

3.3 Energy Efficiency – instruments and mechanisms

Legislation:

4. Implementation of climate law in the Member States: Denmark

4.1 The Danish Policy and Legal Framework

Literature:
Energy strategy 2050

Summary of “Energy strategy 2050”


- Danish strategy for adaptation to a changing climate, Danish Government, March 2008
  http://www.kemin.dk/Documents/Klima-20%20og%20Energipolitik/klimatilpasningsstrategi_UK_web.pdf
- Danish Energy Agency, The Danish JI and CDM Program Seven years of experience with climate projects around the world
  http://www.ens.dk/da-DK/KlimaOgCO2/forside/Documents/The%20Danish%20JI%20and%20CDM%20Program.pdf
- The Danish JI and CDM program:

4.2 Danish Installations covered by the ETS – from Second to Third Phase of the EU ETS Scheme

Literature:
- National Allocation Plan, 2008-2012 Denmark
- The Danish Trading Registry – the annual EUA cycle

4.3 JI and CDM – the Danish Experience

Literature:
- Danish Energy Agency, The Danish JI and CDM Program Seven years experience with climate projects around the world
- The Danish JI and CDM program:
  http://www.ens.dk/da-DK/KlimaOgCO2/forside/Documents/The%20Danish%20JI%20and%20CDM%20Program.pdf
5. Renewable Energy (Part I - session 8)

5.1 A short introduction to EU renewable energy law

5.2 Directive 2009/28/EC on the promotion of the use of Energy from Renewable Energy Sources

5.3 Binding national targets for renewable energy and national action plans

Literature:

- European Commission, DG Energy, *Renewables make the difference*, 2010. (extensive reading)
- Have a look at the following link and focus on the Member States’ progress in reaching various renewable energy targets:
  http://ec.europa.eu/energy/renewables/reports/reports_en.htm
- European Commission, Commission Communication on renewable energy, MEMO/11/54, Brussels, 31 January 2011. (intensive reading)
  Austin: Aspen Publishers
Legislation:

  


6. Course round-up and exam-preparation (Part II – Session 8)