

Back to the Roots

of emissions trading and
pollution rights

ET - A new Instrument?

- Development of the Theoretical Framework
 - Pigou 1924: The Economics of Welfare
 - Coase 1960: The Problem of Social Cost
 - Dales 1968: Pollution, Property and Prices
 - Baumol/Oates 1972: The Use of Standards and Prices for Protection of the Environment

Neoliberal interpretation

- Turning Commons into Pollution Rights as a Property of the Waste Producer – a desirable judicial Innovation?
- First Time in Human History, Air and Atmosphere get privatized, almost like another land parcels
- Natural Ressources as Commodities: What is sold next?

Legal Basis for the Trading of Air-Pollutants in the USA

- Emission Trading Program (ETS):
A Flexibilisation of the US Clean Air Act (CAA) enabled 1976 ET for the first time
- Acid Rain Program: Titel 4 of the CAA-Amendment – Foundation of nationwide SO₂-Allowance-Trading in 1990
- Regional Clean Air Incentives Markt (RECLAIM):
Smog Trading (SO₂ and NO_x) in 1993 in California

Legal Basis of the International Trading Regime for Greenhouse Gas Emissions

- UNFCCC 1992: Article 3 Principles (3): „Measures ... at the lowest possible Costs“
- Kyoto Protocol 1997: Article 17: „The Parties included in Annex B may participate in Emission Trading for the Purposes of fulfilling their Commitments under Article 3.“

Legal Basis of the EU-ETS

- Emission Trading Directive 2003/85/EC: Background for national Allocation Plans; Almost the half of European Industry und Energy facilities are covered
- Linking Directive 2004/101/EC: Connects the EU-ETS with the international ET, Opens the Market for JI- and CDM-Credits (flexible Kyoto-Mechanisms)

Various Aspects of Pollution Rights (PR)

- PR and Democracy (no more political Discussion about Quantity of Pollution?)
- PR and State Authority (Need for Monitoring of Pollution and Pollution Markets?)
- PR and Ethics (Exploitation of Mother Nature or even a Licence to kill?)
- PR and the Law (Human Rights vs. PR?)
- PR and Economy (is it better to sell Certificates, than to give them away for free?)
- PR and Ecology (were there ever enough Capacities for polluting Nature and are there still left any at all?)