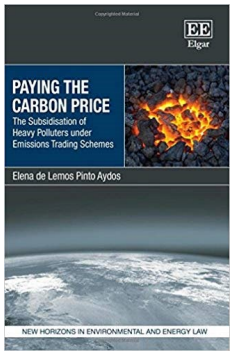

PAYING THE CARBON PRICE[1]

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Climate change is now unprecedented and undeniable - the present concentrations of greenhouse gases in ice cores are the highest recorded in 800,000 years. Contentions in academic and political circles have expressed the issue as ultimately questioning: who should pay the carbon price?

In her book, Aydos suggests that heavy polluters, even under emissions trade schemes (ETSs), are not paying their fair share or reducing emissions. Aydos examines this key issue through the lens of three ETS case studies: New Zealand, Europe and Australia. Aydos hones in on carbon leakage, free allocation of permits, eligibility thresholds, as well as unpacking the political context surrounding such issues. The author takes an interdisciplinary approach, grounded not only in law, but extending to economic analysis and to some extent sociological underpinnings of ETSs.

Various international agreements have failed to make a serious impact on climate change or introduce widespread carbon pricing, including the United Nations Framework Convention for Climate Change and the Kyoto Protocol. Aydos notes the Paris Agreement in 2015 was a concerted push, however supports fragmented nation-specific action on carbon pricing. The author espouses that both market and non-market instruments are necessary to mitigate climate change. The ideal instruments are carbon taxes or ETSs. However, their effectiveness is inherently linked to their design. The case studies that Aydos explores show the possibilities for variation in carbon pricing schemes.

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[1] Elena de Lemos Pinto Aydos, *Paying the Carbon Price: The Subsidisation of Heavy Polluters under Emissions Trading Schemes*' (Cheltenham, Edward Elgar Publishers Limited, 2017).

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An ETS is a tradable permit scheme under a governing authority that sets an upper limit on greenhouse gas (GHG) emissions by specified polluters. They are not naturally forming, but highly regulated by governments. Supply and demand are determined by the governing authority. Mitigation of greenhouse gases is the aim of carbon taxation or pricing. However, it affects profits of companies. The author notes that concerns regarding international competition (the increased costs to companies liable under ETSs versus those who do not have the extra cost burden) have dominated climate policy discourse.

A flow-on concern is that companies will offshore their production, leaving emissions either unchanged or amplified. This is what has been described as 'carbon leakage'. Through using the lens of three different ETSs, the author unpacks the theory and practice of carbon leakage, demonstrating that the aforementioned threat of leakage is not as high as anticipated by policymakers. Overall, the threat of carbon leakage resulting from implementing an ETS seems to be more fear and hype generated by legislators than the actual outcome. However, the author notes that some sectors are more prone to carbon leakage and should receive targeted assistance to attempt to offset the leakage.

So, how are ETS permits allocated to polluters? As indicated in Chapter 3, although free allocation and auctioning are common methods of issuing permits, the former is more common. Aydos suggests this is likely due to political pressures and carbon leakage that, in the early stages of an ETS, permit allocation is free. Permits can be traded once allocated and operate like any other commodity market. Polluters can reduce emissions up to the point of the cost of the permit price, or they can purchase a permit. This is theorised to incentivise polluters to adopt cleaner methods.

This book expresses that New Zealand's ETS appears to be the most distinct of the three model schemes. New Zealand was the first country in the Australasian region to implement a national ETS. However, Aydos notes that New Zealand has a unique economic context that does not involve heavy emitters like the Australian coal and iron ore mining sectors, which may make it more viable. The ETS was originally linked to the global carbon market. However, this had a negative impact, causing the offshoring of money. In 2012, it was decided that New Zealand would unlink from the global market. This made the system more effective and increased cost-efficiency. Overall a number of key features defined the New Zealand ETS system, including a lack of a carbon cap in the first years of the ETS. To the extent to which it has been open for linking with the global carbon market and the coverage of the forestry and transport sectors.

In comparison to New Zealand, the EU ETS is the longest surviving carbon pricing scheme in the world. However, it was described by Aydos in Chapter 3 as a "roller coaster", with free allocation of permits causing surplus permits and subsequent major issues. Aydos emphasises that surplus permits otherwise known as European Union Allowances have been an ongoing problem. In 2012, the EU had the largest gap between supply and demand in history. Consequently, the EU postponed auctioning 900 million EUAs from 2013-2015 until 2019-20. Aydos presents the more comprehensive proposal by the European Commission to amend the ETS directive post-2020 and ultimately supports the proposed reduction of the annual emissions cap at a rate of 2.2% from 2021 onwards to ensure a reduction of the existing surplus. Since the date of publication, Phase 4 of the EU ETS introduced amendments in line with some of the recommendations made by Aydos, including increasing the reduction of surplus of emission allowances in the carbon market.

Between each scheme addressed by the author, there were large discrepancies regarding the grounds upon which free permits were allocated, uneven product benchmarks and allocation based on output levels (Australia) or historical emissions data (EU). This has the effect of potentially distorting trade and competition between the countries. It is suggested by Aydos that independent ETSs could minimise trade and competition distortion by harmonising via a linking agreement. It is contended that free permits should be allocated on a narrower basis, not simply because a sector is exposed to potential carbon leakage. The criteria must be a lot stronger in order to rein in the negative effects of free allocation of permits. Aydos suggests these criteria to be an accumulation of high emission-intensity and high trade-exposure.

To properly confront the issue of climate change, Aydos suggests that we need global unification to establish an international price for carbon. However, the implementation of a catchall blanket scheme could prove ineffective. It is imperative that an individualised and scaled approach to carbon pricing be adopted, one that is conscious of the different predominant industries that operate in countries across the globe. For example, we note the marked differences between Australia's multi-billion-dollar mining sector and New Zealand's complete lack thereof.

In conclusion, Aydos strongly rejects the notion that free allocation of ETS permits is necessary to prevent carbon leakage and we tend to agree. By allowing a large emitter to have a free permit, you are not incentivising them to clean up their act, *per se*. You are allowing them to continue their current practices without the possibility of sanctions or higher costs to pay. Additionally, free permits create discrepancies between different countries. The solution to this? It logically follows that we must have a global carbon price and charge large emitters for

permits. At the time of publication, there were only 11 national carbon taxes implemented out of 195 countries globally. There are now 20 emissions trading schemes covering 27 jurisdictions worldwide.[3] The time is now for global action - we need worldwide implementation of nation-specific carbon pricing schemes. It will be interesting to see whether other jurisdictions implement emissions trading schemes in the coming years. Polluters need to pay the carbon price.

[3] International Carbon Action Partnership (ICAP), *Emissions Trading Worldwide: Status Report 2019* (Berlin: ICAP Report, 2019) 4.