

## **Prof. Dr. iur Jens Lowitzsch**

Kelso Professorship of Comparative Law, East European Business Law and European Legal Policy, Faculty of Business Administration and Economics

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### **Transforming energy consumers into energy producers – The German Renewable Energy CSOP**

- Financing decentralized energy production through the Consumer Stock Ownership Plan (CSOP)
- Historical pilot project „Valley Nitrogen Producers Inc.“ 1958 in the Central Valley, California
- Implementation of pilot projects in the renewable energy sector in Germany and Poland

Compact course / Blockseminar:

MES modules: ZB Wirtschaft, ZB Politik, ZB Recht, WPM 1, WPM 6

IBA modules: S-Modul, E-Modul

*Dates / Termine:*

Introduction Tue. 21. October, 14-16h, AM k12

1<sup>st</sup> part Fri./Sat. 7 & 8 Nov., 11h00-13h30 & 14h30-17h30, Room PG 271

2<sup>nd</sup> part Fri./Sat. 21 & 22 Nov., 11h00-13h30 & 14h30-17h30, Room PG 271;

3<sup>rd</sup> part (Presentation of results) Fri. 5 Dec., 11h00-13h30 & 14h30-17h30, Room PG 271.

This course is held in English language; an introductory session at the beginning of the semester will give an overview to the topic.

#### **Background: Sustainability and the tragedy of the commons**

A society based on a paradigm that tends to overload the capacity of its ecosystem must inevitably change in time or perish. The history of the mythical Easter Island Rapa Nui illustrates the doom that awaits a people who destroys its own habitat. In the year 800, when Polynesian settlers arrived, Rapa Nui was entirely wooded with palms. The islanders began to cut down the trees, at first for farmland and firewood, then to build canoes and houses, and finally to manufacture sledges for transporting their enormous stone statues to the coast. At some point a fierce competition broke out between clans to build statues even more monumental. Some 850 years later the last tree fell. Erosion set in, bringing agriculture to a stop. Materials needed for making canoes to hunt tunas were no longer to be had. Hunger set in; then war, and an ancient once-thriving civilization came to its end.

A sustainable economy can most probably be achieved only by measures that make more efficient use of resources, doing more with less, and – while ceasing to depend on growth – at the same time downsize production. The changes required must also repair the damage that has been done. Climate change illustrates the problem. If energy consumption were arrested at the current level, global warming and resource depletion would only be slowed down, not stopped.

#### **Ecologic sustainability through energy autonomy**

Sustainable growth? This paradoxical term is sometimes used to suggest that sustainability is a logical consequence of steady economic growth. Former U.S. president George W. Bush justified his refusal to sign the Kyoto Protocol in 2002 with the words: “Our refusal is based on common sense, which tells us that continuous economic growth is the key to environmental progress”. The implicit premise of this belief turns means into end; in fact, Bush was very likely concerned about the growth of industrial production rather than sustainable economic development. Contemporary discussions of sustainable energy production tend to centre around growth. Sustainability, however, is not taken to mean steady growth, but, in worst-case scenarios, shrinkage, and, in best case, intelligently planned growth.

We propose a new approach to reconciling sustainability with growth, calibrated to satisfy the world's ever-soaring need for energy: decentralization of renewable energy production by turning consumers into producers through co-ownership of utilities.

## **Consumer Stock Ownership Plans (CSOPs)**

Against this background, the implementation of CSOPs in the Energy sector with a focus on renewable energies is simulated for different scenarios (in Germany, Poland & North African transition countries). A Consumer Stock Ownership Plan (CSOP) is for consumers of public utilities what an Employee Stock Ownership Plan (ESOP) is for corporate employees. Both are forms of a leveraged buyout, which enables employees/consumers to acquire productive capital. The CSOP was designed to make consumers the co-owners of utility-producing companies. As the CSOP was designed for regulated markets with guaranteed prices, regulated market access and long-term relationships between producer and consumer, the energy market is predestined. A CSOP trust can be built for a renewable energy plant, e.g. a biogas reactor, a solar panel plant, a windmill or a geothermic drill. Unique characteristics of the Energy-CSOP are:

- Promotion: (1) decentralized energy production; (2) energy self-sufficiency; (3) wealth creation;
- Change of shareholders unproblematic (-> use of a Trust); deferred taxation of the shares;
- Flexible low-threshold concept without personal liability (-> use of a Holding);
- Small investment risk-> mains connection & feed-in-tariffs guarantee sale of the electricity;
- Combination with KfW-Programs to support renewable energy with a low interest rate;
- Scalable investment with a short amortization period (e.g. for wind turbines 6-7 years)

## **Literature**

Lowitzsch, J. „The Property Question in the North African Transition Countries“ Outline of Conceptual Frame for Future Cooperation;

Lowitzsch, J. / Goebel, K. „Vom Verbraucher zum Energieproduzenten. Finanzierung dezentraler Energieproduktion unter Beteiligung von Bürgern als Konsumenten mittels Consumer Stock Ownership Plans (CSOPs)“, ZNER 3/2013

Goebel, K. „CSOPs in the energy sector of North Africa- a proposal for the European Union’s aid initiative for transition states“, Masterthesis 2012

**Registration until 10 October 2014** at [kelso-professorship@europa-uni.de](mailto:kelso-professorship@europa-uni.de).

**Performance test and credits:** ECTS: 6/9. Regular attendance; term paper; oral presentation; first draft of the term paper by 1 December 2014, finalized term paper by the end of the semester.