ECCP Meeting "Robust Compliance & Enforcement"

Policy Options on Enforcement

Brussels, 27 April 2007

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PRICEWATERHOUSECOOPERS

Outline

Introduction

Selected key issues

Policy options

Outlook

Proposed Definitions

Compliance system: All processes, structures, standards and enabling technologies to ensure compliance.

Compliance: Conformity of an operator with the legal requirements of the Directive and pursuant EU and national legislation

Enforcement: All actions towards ensuring compliance of individual installations taken by competent authorities, including sanctions, inspections, and the control of the other elements in the compliance system.

Status Quo and COM(2006)676

|	Legal Instrument(s)	Member States	COM(2006)676
Enforcement	**Directive 2003/87:** Article 16	Fairly consistent in respect to penalties for non-compliance; Other parts are open to MS implementation	Specific consideration of inspections, harmonisation of compliance provisions
Transparency	**Directive 2003/87:** Articles 17 & 21	Limited experience on public access to information; reporting by MS has provided reasonable transparency	Not mentioned

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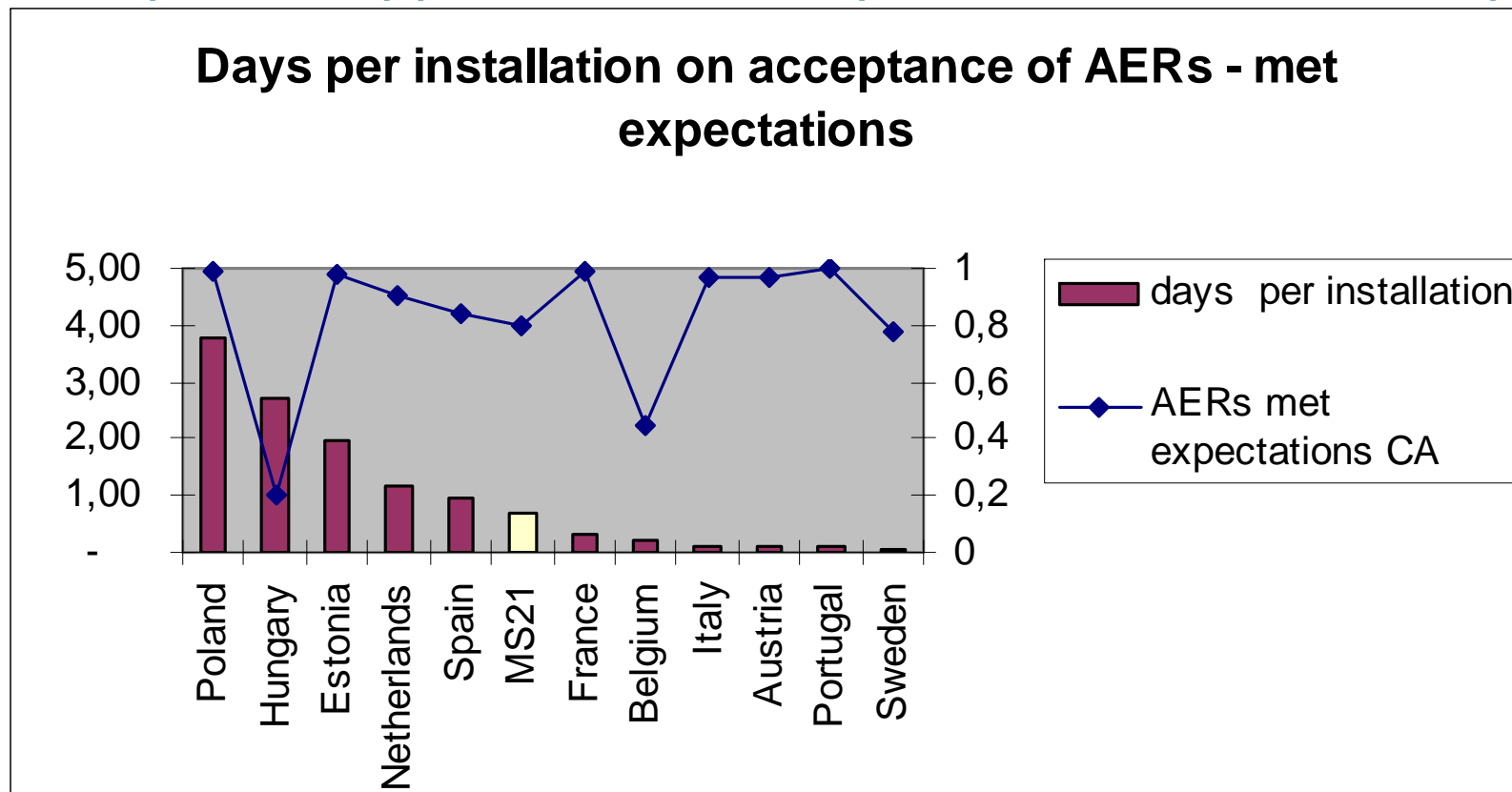# Total average time spent by CAs per installation ranges from 2 - 15 (in 2006)

The actual activities also vary

Average Mandays spent by CAs per process per installation
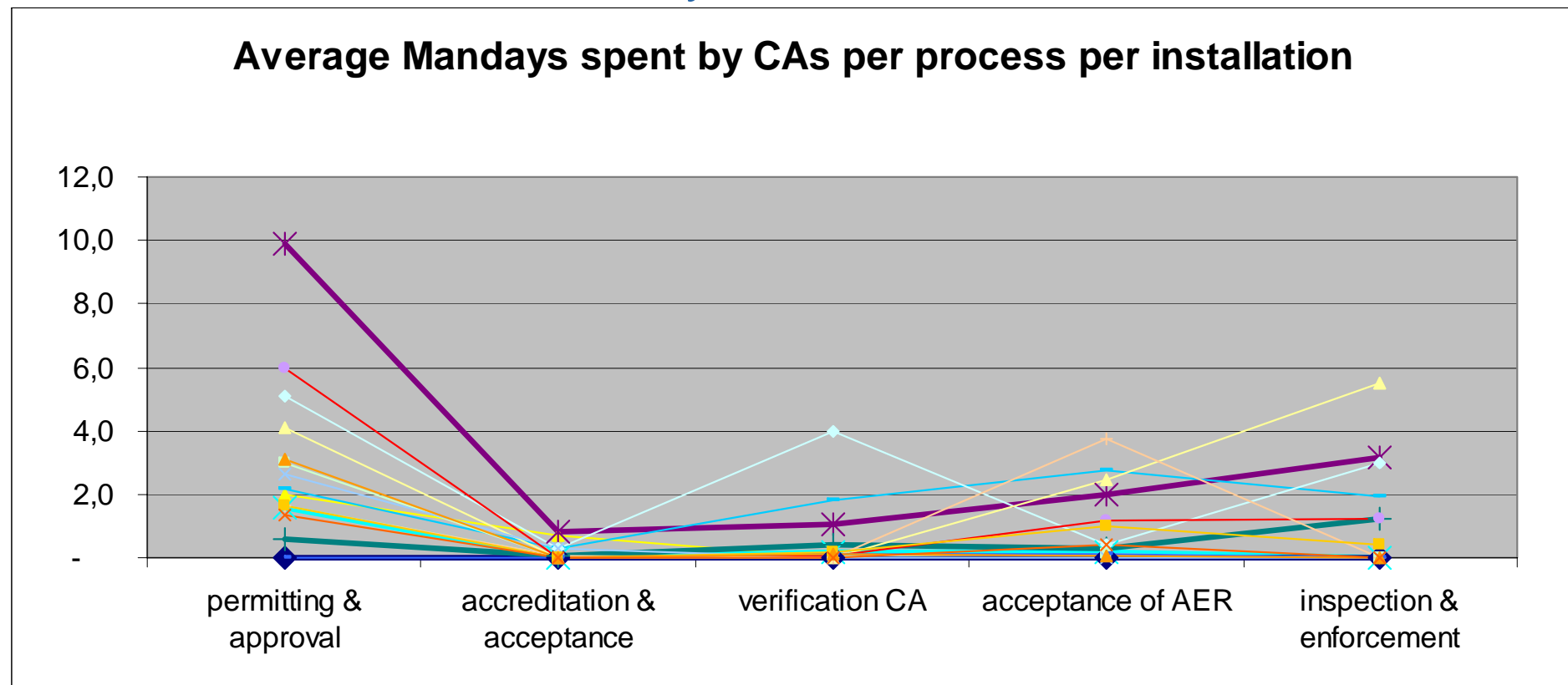
* Source: Verification Evaluation project for DG Environment, Helsinki October 2, 2006

Accepting Emission Reports: different efforts and results

A similar picture applies to the acceptance of verification reports

Days per installation on acceptance of AERs - met expectations

Legend:
- days per installation
- AERs met expectations CA

X-axis: Poland, Hungary, Estonia, Netherlands, Spain, MS21, France, Belgium, Italy, Austria, Portugal, Sweden

Left Y-axis: 5,00 / 4,00 / 3,00 / 2,00 / 1,00 / -
Right Y-axis: 1 / 0,8 / 0,6 / 0,4 / 0,2 / 0

* Source: Verification Evaluation project for DG Environment, Helsinki October 2, 2006

Inspection Process not operational in all Member States

Percentage of installations inspected

Member States (y-axis): 0, 0,25, 0,5, 0,75, 1

x-axis: 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, EU20
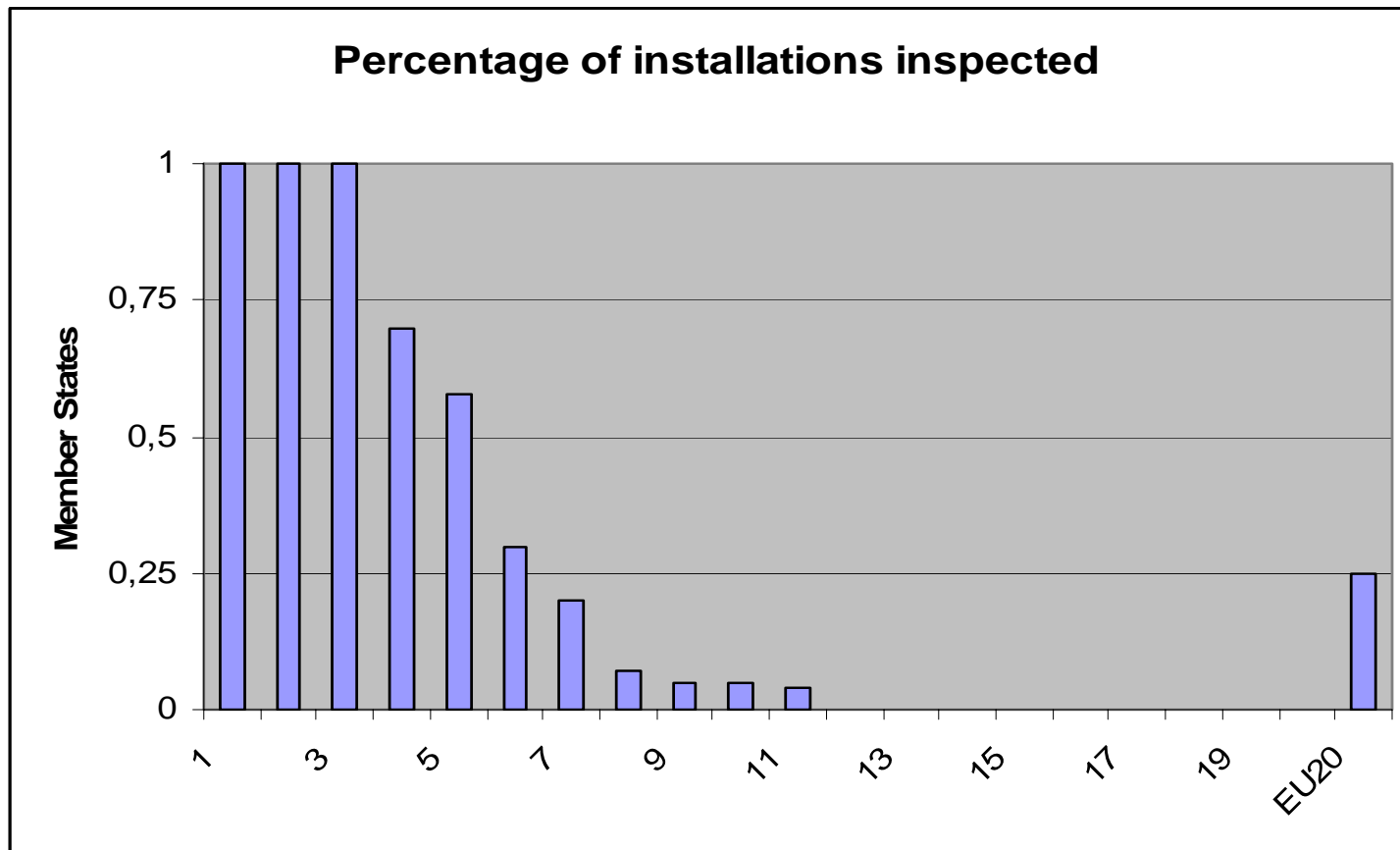
* Source: Verification Evaluation project for DG Environment, Helsinki October 2, 2006

Enforcement*: Key Problems
*Acceptance, Inspections, Sanctions, Enabling IT

Broad variance of approaches on acceptance of emissions and verification reports

Limited and yet diverse approaches on inspection

Almost no information on sanctions, sanctions only on operators

Little CA involvement in accreditation, weak accreditation

Immature information system on quality of compliance processes

→ Unclear added value of enforcement, if any

→ Therefore, limited information on quality of reports

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Outlook

Governance in the EU ETS Compliance System

→ Need for solution: how do compliance activities relate and who's responsible for what?

How far have we got:

To ensure reliable emissions reporting, we have accredited verification. For all three levels, standards exist, but different

This 'governance structure' is designed by every MS in a certain way, with common elements and many variance

MS control this governance structure, but in different ways and effort

With article 21, MS report on this, but without a feedback loop

Compliance and
the Emission Reporting Supply Chain

Trust:
- Spirit of Transparency
- Culture of Accountability
- People of Integrity

- Processes (roles & responsibilities)
- Standards
- Structures (market regulation)
- Enabling Technologies

The Emission Reporting Supply Chain

Monitoring Plan → Monitoring → Reporting → Verification → Publication → Investors, Traders and Other Stakeholders

Standards (MRG, EA6/03, ISO)

Market Regulators (EC, CA, AB)

Enabling Technologies (XETL, ETSWAP)

Proposal for an EU ETS private Governance Structure and the public oversight of it

European Commission

Standard Setters
Example: EA, ISO

check & act

Member States

design & train

private market

Governance Structure

Reference Standards*

Alignment between ABs
(eg Peer Review)

Procedure for peer review
Reporting on AB quality

Accreditation
Bodies/Providers

Requirements for
accreditation

Verifiers

Requirements for
accreditation

Operators

Requirements for monitoring
(Monitoring Plan)

ECCP Status of Verification and Policy ... 2007
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Organisation, Processes and Competences de 13

A EU ETS Governance Structure and Institutions

→ Need for solution: how do current institutions relate and how to harmonize approaches?

How far have we got:

Verifiers and Operators united in IETA

MS compliance network IMPEL

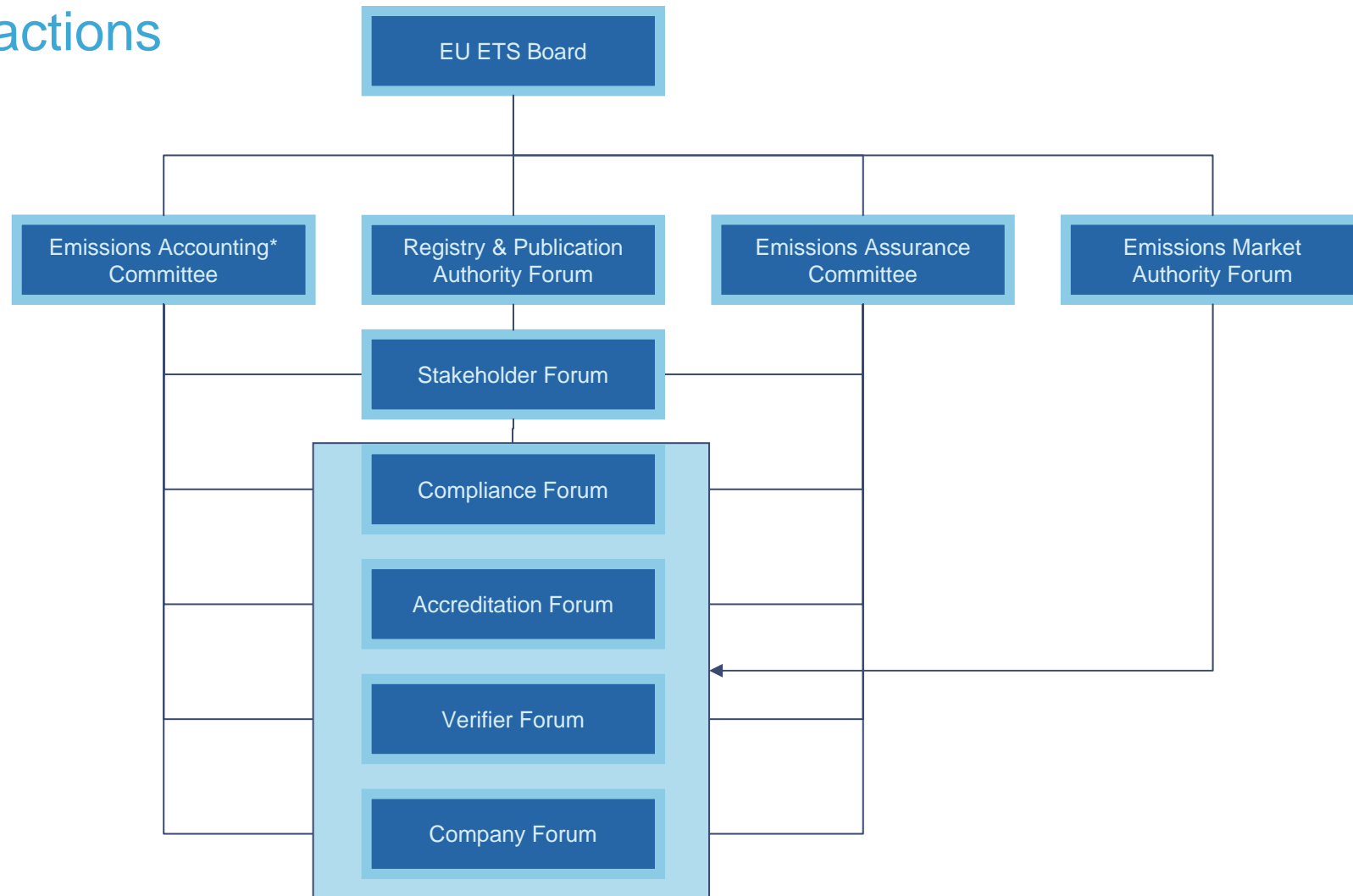European Organization for Accreditation (EA)

International Organization for Standardization (ISO 14065)

International Assurance Standards Board (ISAE 3000)

European Environmental Agency (article 21, IPPC)

(and many other knowledgeable parties, also related to Commission requirements)

Proposal for an EU ETS Governance System and Institutions:
formalize necessary and acceptable institutions and define interactions

EU ETS Board

Emissions Accounting* Committee

Registry & Publication Authority Forum

Emissions Assurance Committee

Emissions Market Authority Forum

Stakeholder Forum

Compliance Forum

Accreditation Forum

Verifier Forum

Company Forum

*accounting relates to both financial accounting of allowances and emissions monitoring and reporting
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Further develop Enabling Technologies

→Need for a solution to have transparent and efficient processes for accurate, timely information

We did not get that far on:

Workflow management between all actors

Advanced data acquisition software

Link data from multiple sources by competent authorities

Advanced auditing and inspection tools

Integrate reporting schemes

For effective and efficient data exchange in all of this, we need a standard, an eXtensible Emissions Reporting Language (XETL)*

*this would be an XML dialect, like XBRL for financial reporting. See www.xbrl.org

Enforcement: Policy Options
## to cover the elements outlined

Harmonise scope and level of detail of enforcement measures via a new annex of the Directive on enforcement

Add and improve relevant definitions on enforcement in Article 3 of the Directive

Change title of Article 16 into "Enforcement and Penalties" and mandate the Commission to adopt "Enforcement Guidelines" in analogy to Article 14(1) or an "Enforcement Regulation" in analogy to Article 19(3) to include inspection processes and a sanctioning structure for each of the parties involved

Integration of workflow of key compliance processes into the EU Registry e.g. via a revised registry regulation based on a broadened scope of Article 19

Enforcement: Elements for the Architecture of an EU ETS Compliance System
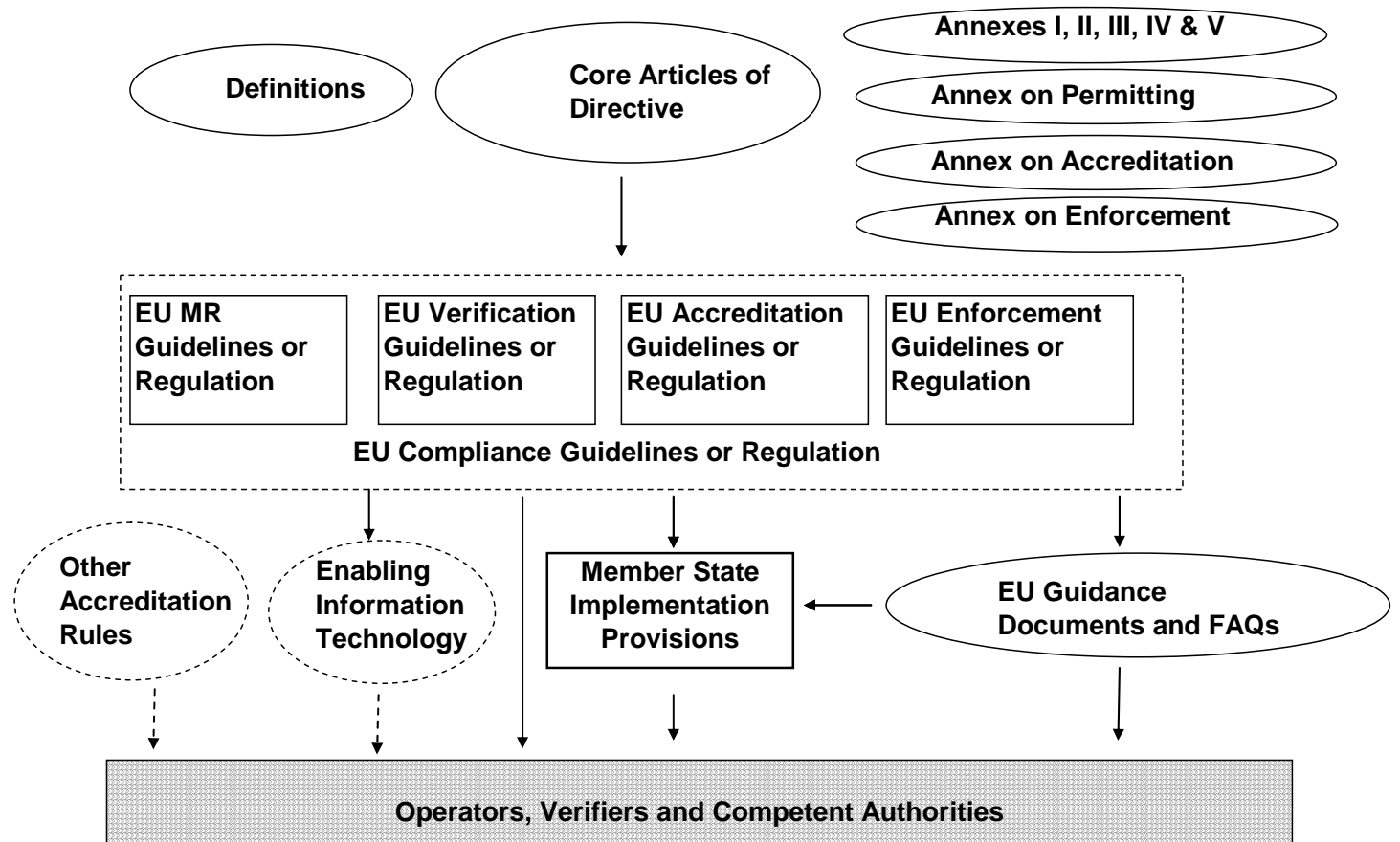
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Outlook

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EU ETS needs proper legal instruments for enforcement

International linking requires further harmonisation of enforcement

A compliance system can be assembled from a limited number of cooperating standard elements:

- standards
- structures
- enabling technologies
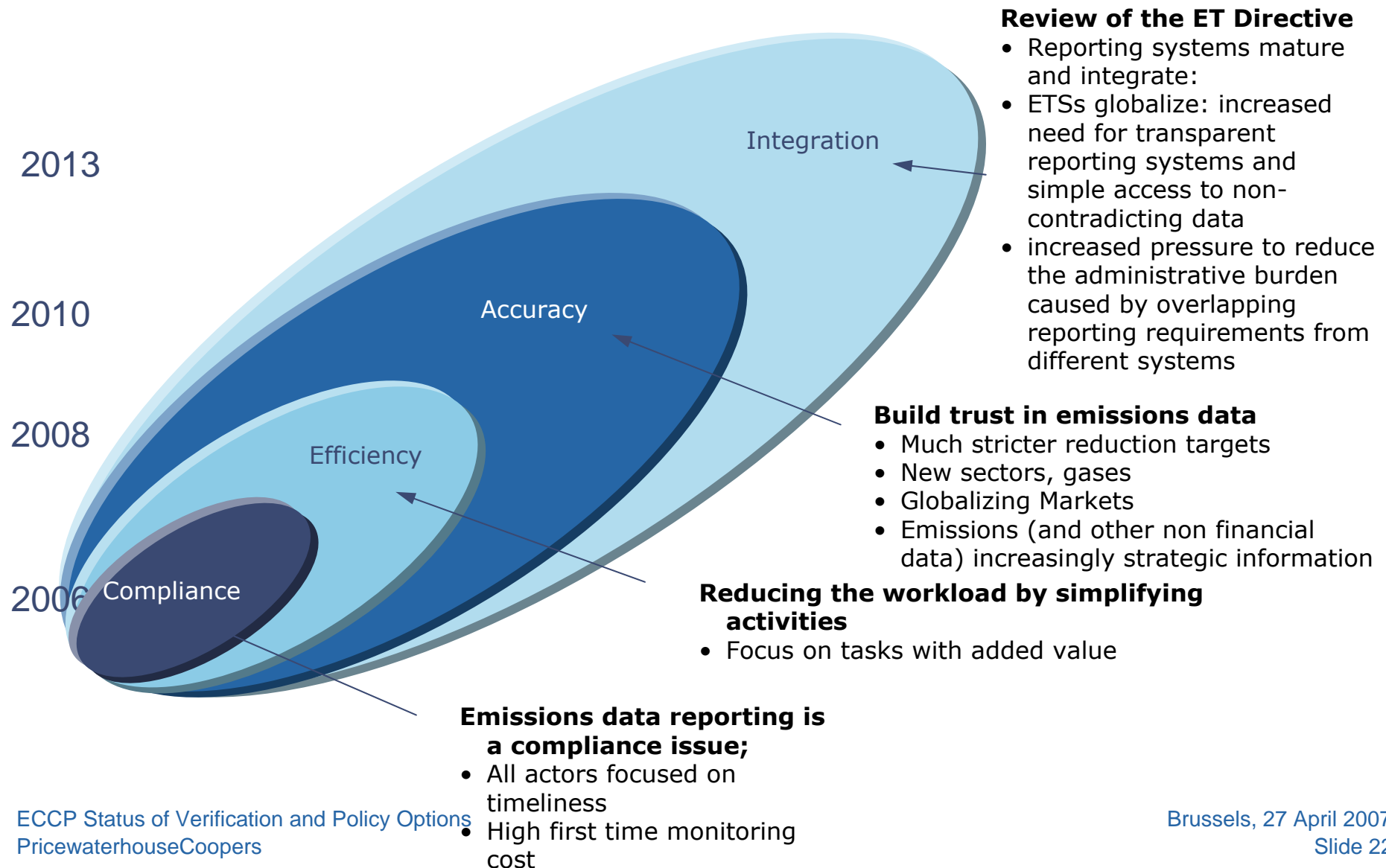
Building Trust in Emissions Reporting

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A likely Maturity Model: how developments define phases

2013

2010

2008

2006

Integration

Accuracy

Efficiency

Compliance

Review of the ET Directive
- Reporting systems mature and integrate:
- ETSs globalize: increased need for transparent reporting systems and simple access to non-contradicting data
- increased pressure to reduce the administrative burden caused by overlapping reporting requirements from different systems

Build trust in emissions data
- Much stricter reduction targets
- New sectors, gases
- Globalizing Markets
- Emissions (and other non financial data) increasingly strategic information

Reducing the workload by simplifying activities
- Focus on tasks with added value

Emissions data reporting is a compliance issue;
- All actors focused on timeliness
- High first time monitoring cost

Maturity Model ET SWAP

Fully Automated
- Integrated with E-PRTR, other (EEA) reporting
- INSPIRE link
- links between schemes
- XETL accomplished
- Automatic data transfer from installations

Generation Three

MUD No. 3

Workflow Automated
- Cross Checks with other sources
- SME solution
- Advanced Checks on <u>all</u> Compliance Processes

Generation Two

MUD No.2

MUD No.1

Generation One

Workflow Automated
- Communication Processes
- Harmonized reporting templates
- Simple Checks on Verifiers and Installation data
- Article 21

Fragmented Automation:
- CRM
- Reporting templates

Generation Nil

No Automation