

Gleiss Lutz

The EU Emissions Trading System

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The EU Emissions Trading System (1)

Objective & Mechanism

- helps EU Member States (MS) to achieve compliance with their commitments undertaken under the Kyoto-Protocol
- allows to reduce emissions in the economically most efficient manner
- CO₂ emissions shall be limited by creating scarcity through the allocation of allowances (1 allowance = right to emit 1 t of CO₂)
- MS draw up National Allocation Plans (NAPs) showing total quantity of CO₂ emission allowances to be distributed in a trading period and the exact allocation among the installations
- 3 trading periods (2005-2007 / 2008-2012 / 2013 onwards)

The EU Emissions Trading System (2)

Mechanism

- NAPs need approval by EU Commission; once approved NAPs generally cannot be amended
- total quantity of allowances foreseen in NAPs must be in line with MS's Kyoto target
- MS can increase total quantity of CO₂ emission allowances by purchasing additional emission credits through international emissions trading or through Kyoto Protocol's project-based instruments: Clean Development Mechanism (CDM) and Joint Implementation (JI)
- after approval by Commission MS can allocate allowances among their companies

The EU Emissions Trading System (3)

Implementation

- each company covered by the ETS is allocated its allowances in the national electronic registry
- companies must keep track of their emissions
- at the end of each year companies must produce a report on their annual CO₂ emissions and surrender an equivalent number of allowances to their MS; these allowances are then cancelled from the register of the company
- companies expecting to exceed their CO₂ emission limits can either purchase the lacking allowances within the ETS or try to reduce their emissions – whichever is economically more efficient for the company
- failure to surrender sufficient allowances results in fines

Application of EU ETS on the aviation sector (1)

General

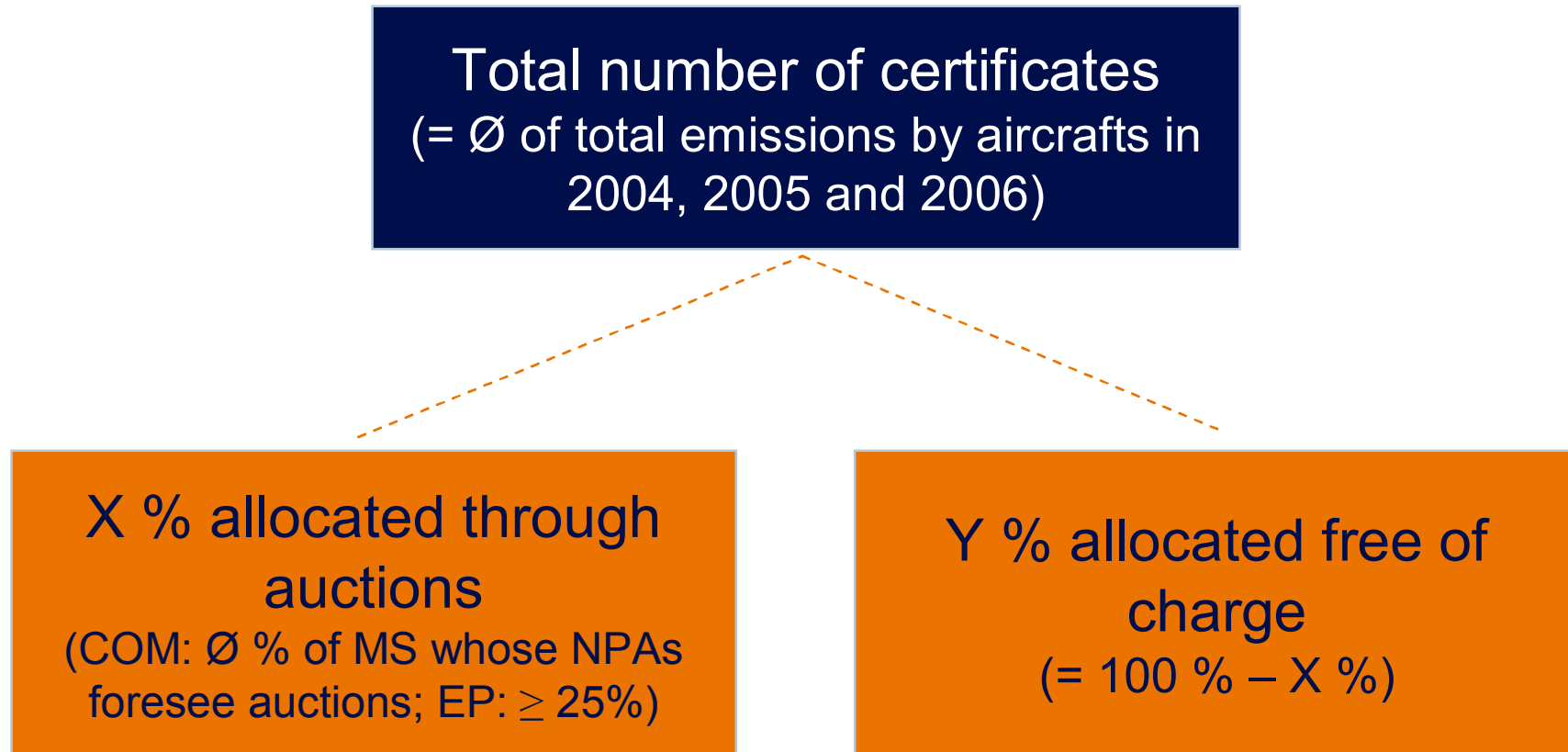
- Draft Regulation 2006/0304 (COD) of December 20, 2006
- international aviation not subject to Kyoto Protocol
- ETS shall be still applicable from 2011 on EU internal routes, from 2012 (Europ. Parliament: 2011) on all routes into and out of the EU
- responsibility under ETS will lie with air operators
- air operators from third countries will be administered by the MS that they most frequently fly to
- ETS will not apply to flights from countries that introduce measures for the reduction of the climate impact resulting from flights which are equivalent to the requirements foreseen under the EU ETS
- total number of allowances to be assigned to the whole aviation sector per year will be determined based on the average yearly emissions in the period 2004-2006 (EP: 90% of average emissions)

Application of EU ETS on the aviation sector (2)

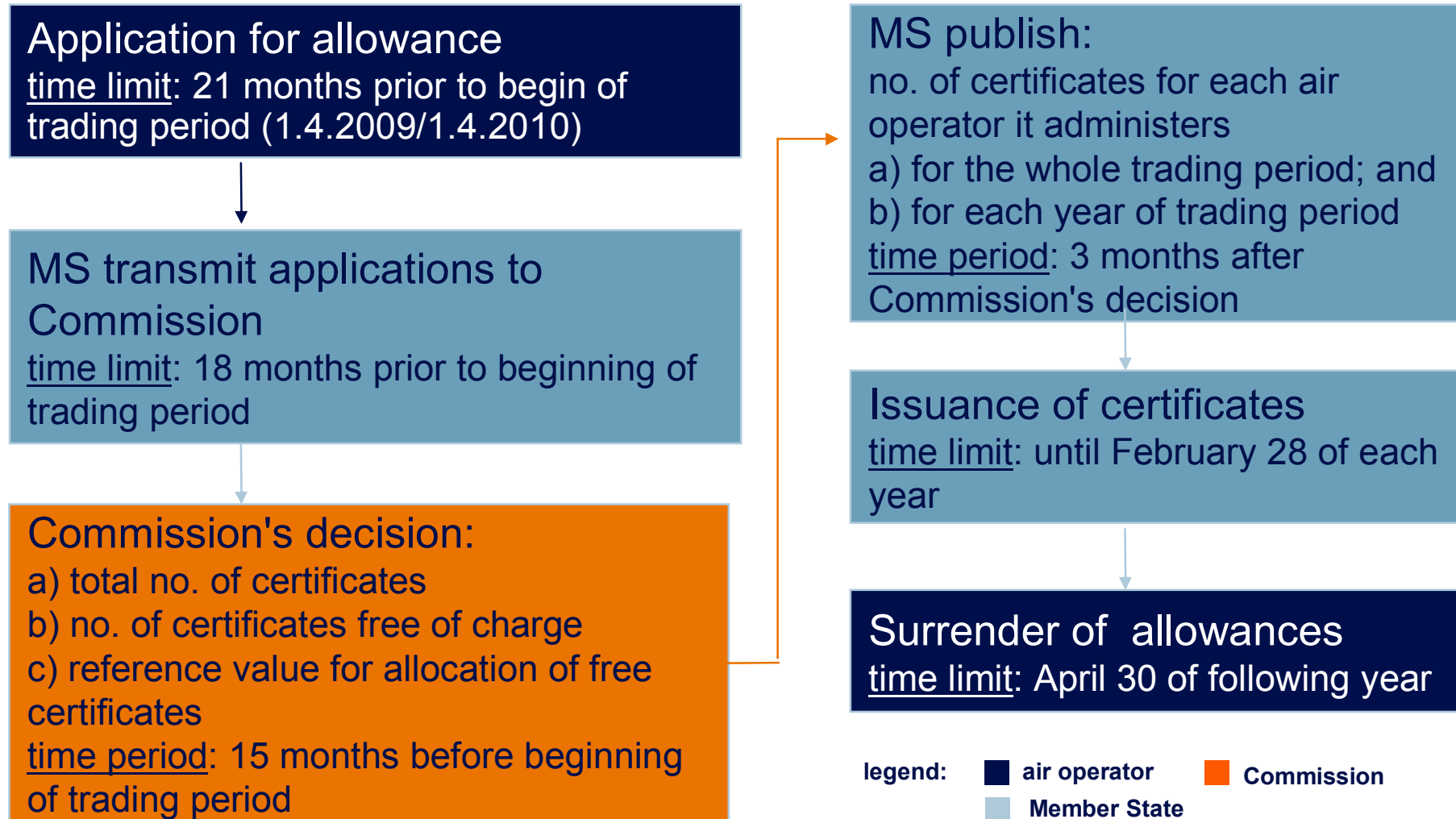
Implementation

- based on a reference value each air operator will be assigned a certain percentage of allowances free of charge upon application
- application must include the Load-Tonne-Kilometer (= flight distance x payload) of the air operator for services into and out of the EU for the calendar year ending 24 months prior to the following trading period and be filed in 21 months prior to the beginning of the trading period
- in order to allow new market entrance a certain percentage of allowances shall be auctioned (EP: 25% of all allowances)
- possibility for air operators to obtain allowances from companies from other industry sectors already participating in the ETS as well as by transferring credits from participations in CDMs and JI
- challenge: administrative burden on air carriers will increase significantly due to monitoring and reporting requirements

Allocation of allowances (1)



Allocation of allowances (2)



Opportunities (1)

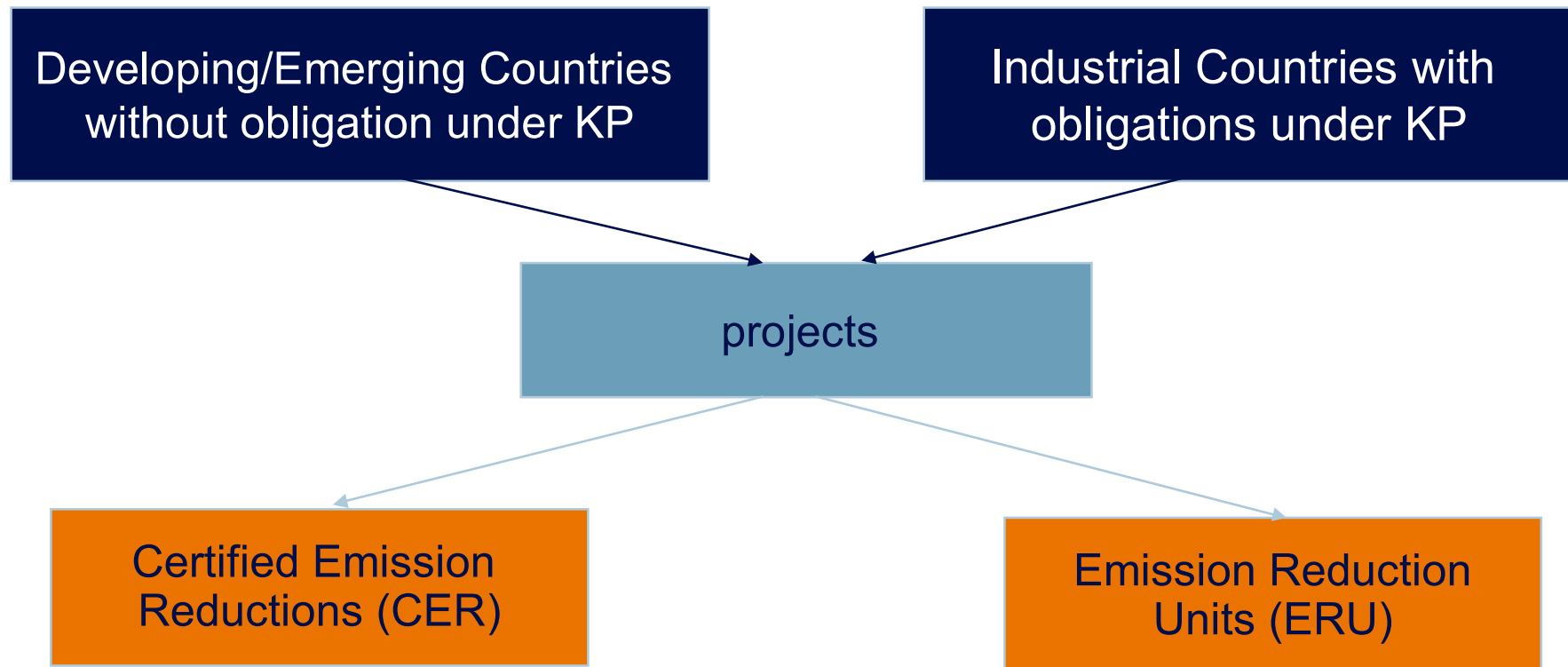
CDM and JI

- Member States and their companies can obtain credits for their Kyoto targets through CDMs and JI
- cost-effective means for EU-based industries to cut their emissions
- MS' governments plan to purchase 550 million t of CO₂ credits for 2nd trading period (2008 – 2012) (budget: € 2,9 bill.; 500-1,000 projects required)
- channeling of business investments into advanced, environmentally sound technologies and transfer of such technologies to other countries (win-win situation)
- investments in infrastructure projects (airports!)
 - power plants, wastewater treatment, renewable energy, etc.

Opportunities (2)

Clean Development Mechanism (CDM)

Joint Implementation (JI)



Opportunities (3)

Airlines

- EU carriers may be forced to restructure their fleets
- evolution of an attractive market for used aircrafts
- additional source of income for unused allowances to be achieved through environmentally-effective code-sharing
- air operators will be entitled to obtain additional allowances from participating in CDMs and JI (1 allowance = 1 ERU = 1 CER)

Outlook

- experiences made during first trading period indicate that allowances to be distributed within the aviation industry may not be sufficient
- new technologies necessary
 - new planes A380, A350 XWB, Boeing 787
 - testing of engines using alternative fuels (under ETS alternative fuels will be considered to cause no emissions)
 - improvements to ATMs necessary
- IATA:
 - fuel efficiency more than offset by growing travel demand
 - growth rate 5.1 % p.a. (2007-2011) (to/from EU: approx. 6 %)
- JI and CDM as cheap alternatives to obtain additional allowances (but: COM indicated to impose restrictions to possible use of JIs and CDMs)
(further information: cdm.unfccc.int, ji.unfccc.int, www.cdmbazaar.net)

Thank you for your attention!

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Publications

The „Open-Skies“ Decision of the European Court of Justice: The Advent of a New Era? (Annals of Air and Space Law 2003)

The Impact of EU Law on the Regulation of International Air Transportation (Ashgate 2007)

Languages

german, english, french, polish

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