

EU Emissions Trading Directive

Compliance and Enforcement

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CHG emissions trading

Compliance and enforcement

- EU ETS is a compliance tool that allows the EU to achieve KP targets in a cost-effective manner
- 25+ national GHG trading schemes with harmonised elements
- Harmonisation of compliance and enforcement: subsidiarity!

Questions

This is not an exam, just a means to trigger discussion

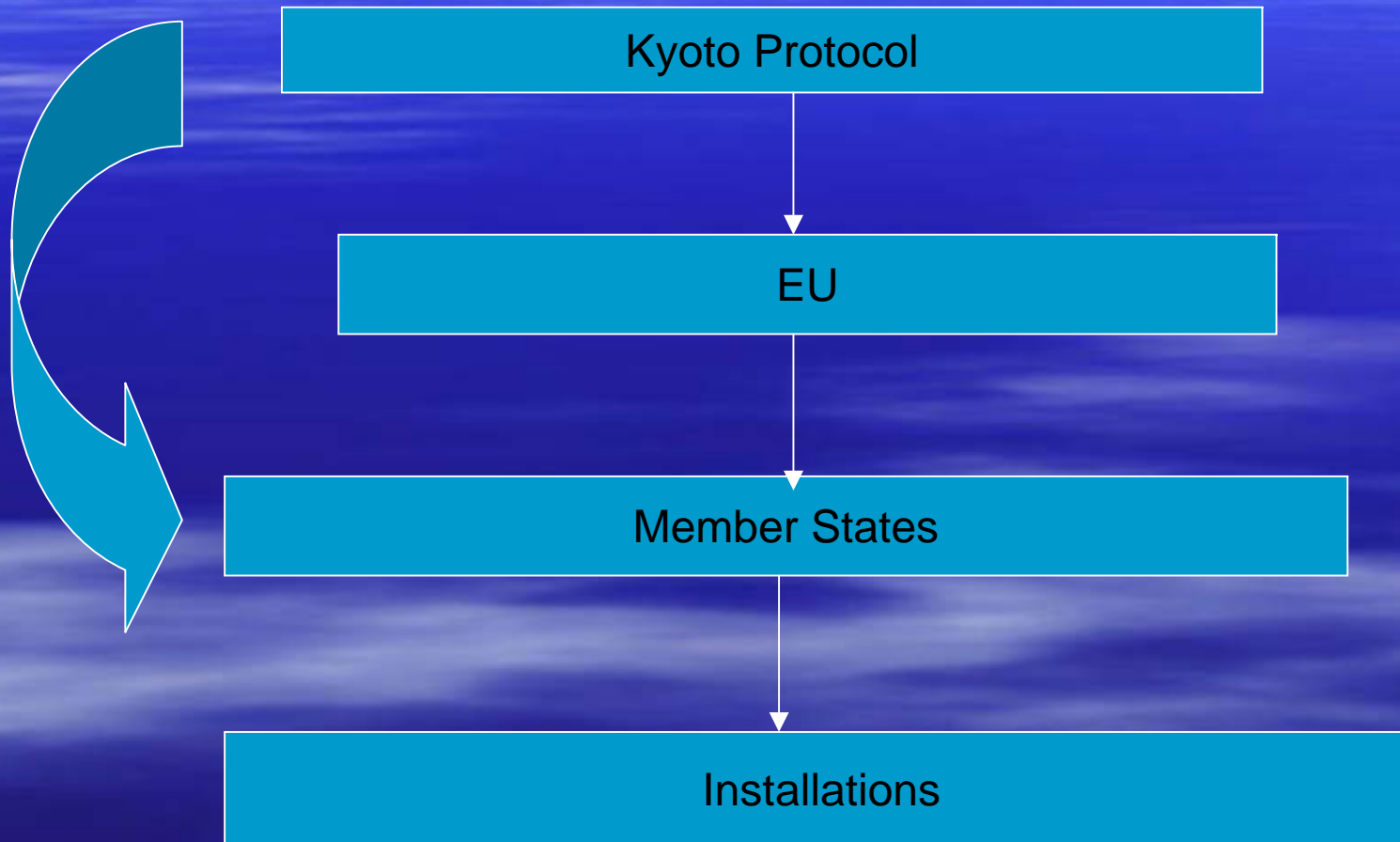
Questions

- Is the regulatory architecture clear?
- Harmonised elements versus non-harmonised elements. Is it clear what is obligatory and what should be done on Member State level?

Key terminology

- Member States: 25 current EU Members + EEA?
- Installations: Unit where one or more Annex I activities take place
- Operators: Person who operates or controls installation (legally responsible)
- Permits: Conditions for participation
- Allowances: Right to emit one tonne of CO₂ equivalent (“currency”)

ETS: Regulatory architecture



ETS: Regulatory Architecture

Kyoto Protocol

Marakech Accords

Ratification Decision

Monitoring and Implementing Decision

Emissions Trading Directive

Linking Directive

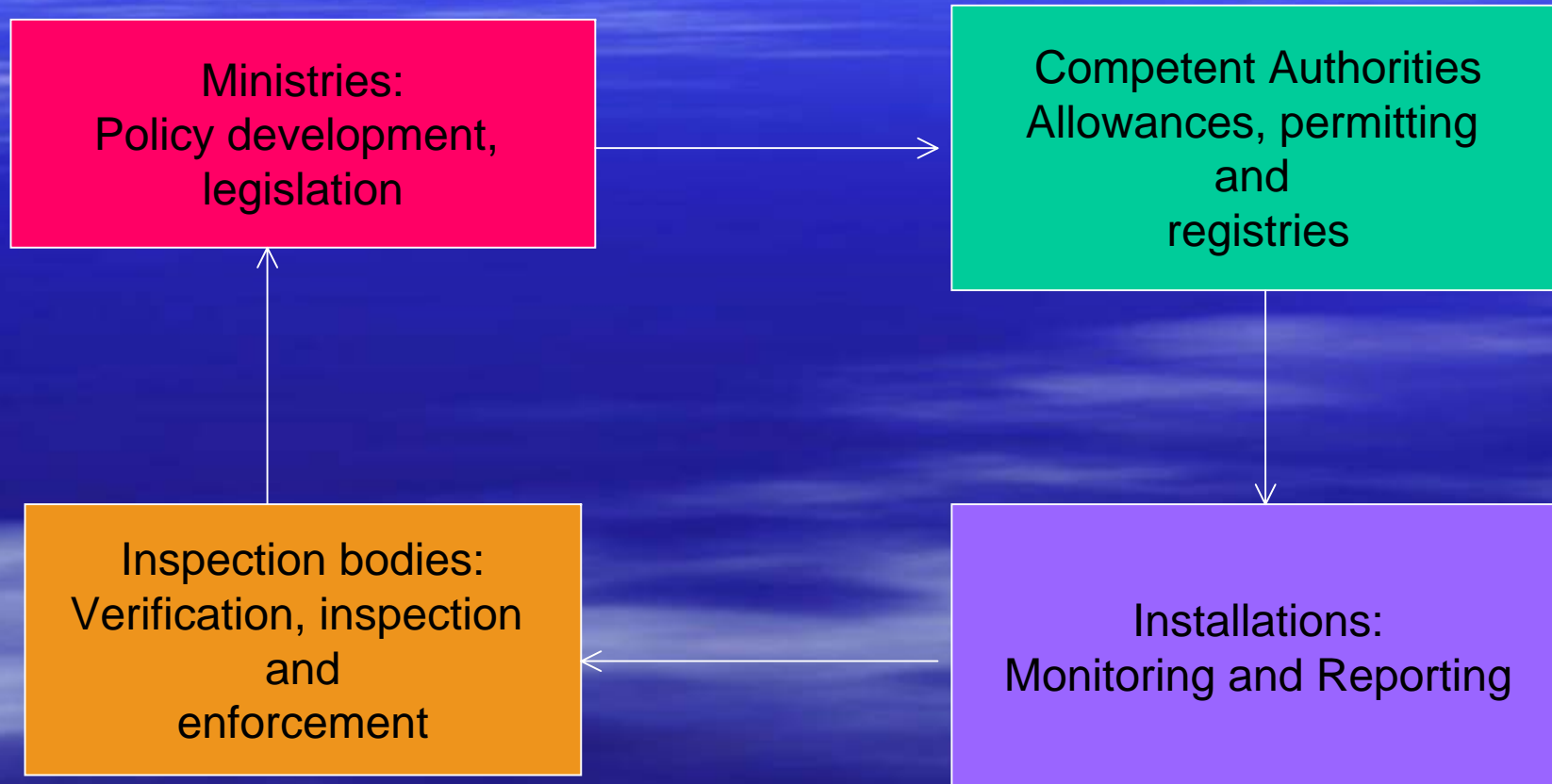
Allocation Guideline

Monitoring and Reporting
guidelines

Registries Regulation

Member States Legislation

Member States – Regulatory Architecture



Compliance elements

Harmonised and non-harmonised compliance
elements

Harmonised Compliance and Enforcement Elements

- Monitoring and Reporting:
 - Article 14 & Annex IV ETD
- Verification:
 - Article 15 & Annex V ETD
 - M & R Guidelines
- Penalties
 - Article 16 ETD

Monitoring and Reporting

- **Annex IV ETD: Principles for monitoring and reporting**
- **Article 14 ETD:**
 - Commission to adopt guidelines for the monitoring and reporting of emissions from Annex I activities, based on Annex IV principles
 - Member States ensure that emissions are monitored and reported annually in accordance with these guidelines
- **Guidelines approved by Regulatory Committee in November 2003—adopted by Commission on 29 January 2004**

Monitoring and Reporting

- **Key M&R principles from the Directive:**
 - “Guidelines” are mandatory
 - Core monitoring and reporting requirements must be included in the installation’s permit
 - Biomass has an emission factor of zero
 - Calculation or measurement (supported by calculation)

Monitoring and Reporting

- **The guidelines:**
 - **11 Annexes: General guidelines (Annex I), guidelines on combustion emissions (Annex II), guidelines on specific activity sectors (Annex III-XI)**
 - **Focus on calculation (measurement allowed): (total emissions = activity data * emission factor * oxidation factor)**
 - **Tier-based approach**

Monitoring and Reporting

Tier-based approach:

- **Concept: Introduction of flexibility for monitoring for different types, sizes and ages of installations**
- **Highest tier = most accurate monitoring**
- **Use highest tier unless unreasonable costs or technically not feasible**
- **Provides a structured and transparent approach to characterize & improve monitoring methodologies**

Monitoring and Reporting

- The specific methodologies/approaches for determining the variables
 - (1) activity data,
 - (2) emission factors,
 - (3) oxidation or
 - (4) conversion factorsare referred to as tiers (see Annex II to XI of the MRG)

Verification

- **Submission of annual verified emission reports**
- **If verified report not submitted by 31 March each year: operator transfers blocked**
- **Criteria for verification Annex V**

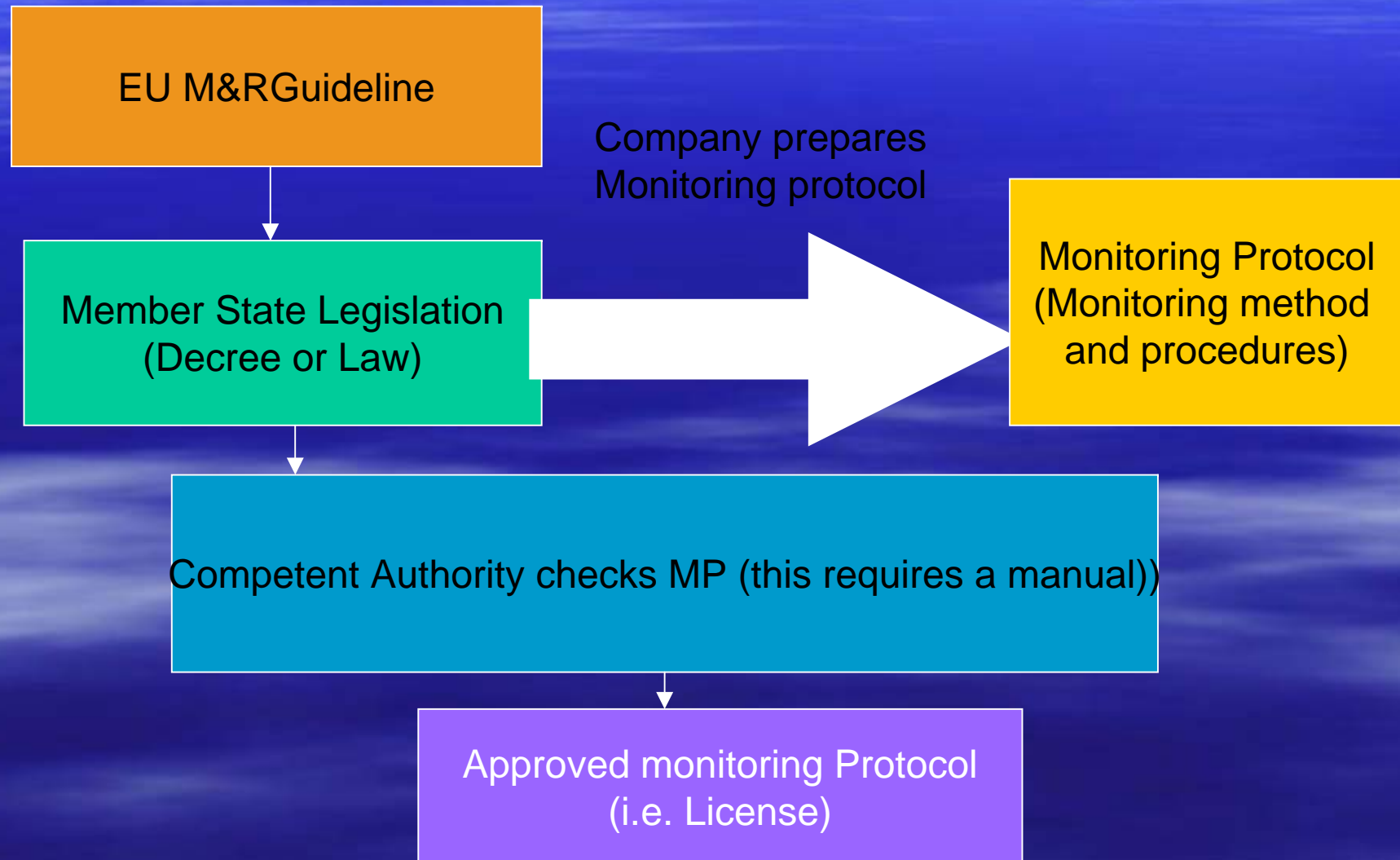
Penalties

- Requirement to annually surrender allowances for verified emissions (30 April)
- Penalties of €100 / tonne (~~€40 / tonne from 2005 - 2007~~) for failure to do so
- Plus the obligation to surrender 'missing' allowances in the subsequent year
- Publication of names of operators in breach of requirement to surrender sufficient allowances (*"name and shame"*)

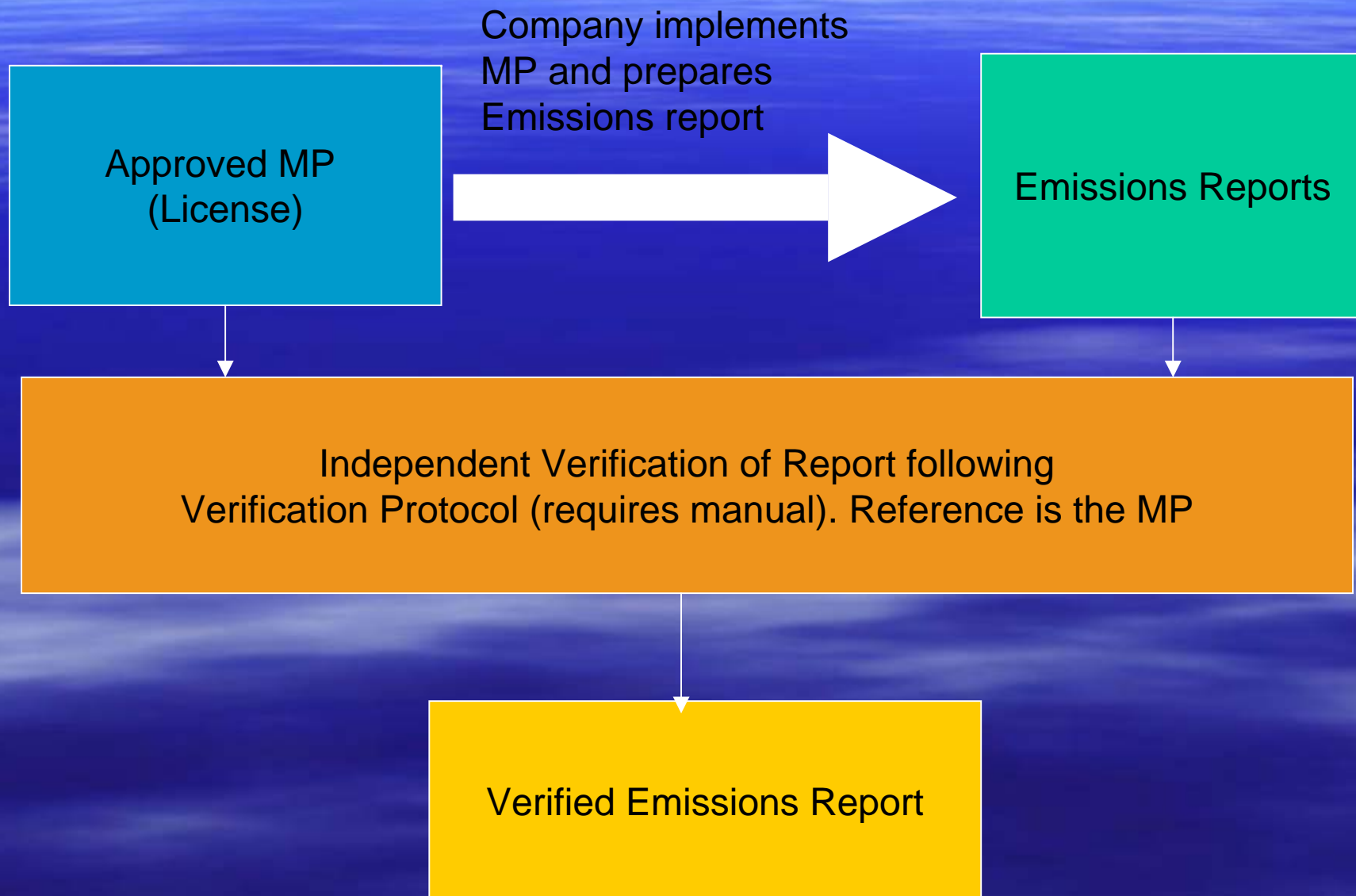
Non-harmonised compliance and enforcement elements

- **Details verification framework:**
 - Accreditation rules for verifiers
 - Detailed verification standards
- **Member States must set penalties for other breaches of trading rules:**
 - Non/late submission of verified emissions report
 - Fraud etc.

Compliance check Elements



Compliance check elements



Question round 2

- ETS versus IPPC: Is there a problem here in terms of incompatibility?
- Inspection strategy?
- Verifiers accredited?
- Verifiers versus inspectors?

Inspection

- Member States to develop their own method (subsidiarity)
- ETS is a new type of emission reduction regulation (“let the market do the work”) versus the other existing regulations (“IPPC”)
- Possible incompatibilities IPPC and ETS may exist
- But no jurisprudence exists

Inspection Methods

- Audit (Inspection protocol)
- Compliance check (has known irregularity been repaired?)
- Ad hoc control (Inspection receives signals)
- Thematic control (only certain aspects)
- In depth compliance check (may take few days)

Inspection Method?

- Announced versus unannounced visits?
- We are all in a learning process. Therefore a phased approach is suggested from soft compliance checking to tough compliance checking over years?
- Ideally: Visit all plants at least once within three years. Assess your HR capacity!!!
- Prepare an inspection strategy

Conclusion

- **Compliance key for successful trading, more so than with 'standard' environmental legislation**
- **Monitoring, reporting, verification and penalties: core rules harmonised, but further implementation by MS needed**



THANK YOU

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