

Legal Aspects of the Kyoto Protocol

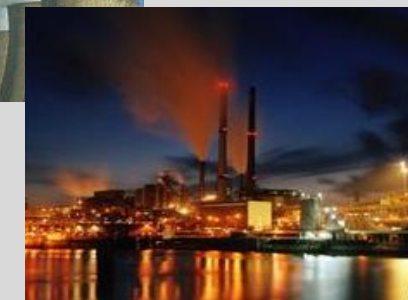
Dominique Tissot, Partner, CMS

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Legal aspects of the Kyoto Protocol

Overview

- Legal mechanisms proposed for implementing Energy Efficiency Projects
- JI projects
 - Eligibility
 - Procedure of approval
- Contractual relationships between a project host and an investor
 - Contract structuring issues
 - Possible contractual scheme
- What's next?
 - Possible modifications to the Russian legislation
 - Post-Kyoto Protocol (Copenhagen, December 2009)



Legal mechanisms proposed by the Kyoto protocol (1/2)

Emissions trading vs. CDM vs. JI

- GIS - Green Investment Scheme (art. 17 of the KP)
 - Allows inter-governmental emission trading and Assigned Allocation Units (**AAU**) trading
 - RF Government Decree No. 884-r of 27 June 2009:
 - Sberbank: participation in the implementation of pilot projects for GHG emission trading
 - MED/Ministry of Foreign Affairs/Sberbank: negotiations on conclusion of international treaties (MOU) relating to participation in emission trading for submission to the RF Government
- CDM - Clean Development Mechanism (art. 12 of the KP)
 - Project hosted in non Annex I countries
 - Project aim: assist non-Annex I countries to achieve sustainable development and to contribute to the objectives of the Convention
 - Generate Certified Emissions Reductions (**CERs**)
 - Not regulated by the Russian legislation in force

Legal mechanisms proposed by the Kyoto protocol (2/2)

Emissions trading vs. CDM vs. JI

- JI - Joint Implementation (art. 6 of the KP and Guidelines to article 6)
 - Project hosted in another Annex I country
 - Project aim: assist Annex I countries to achieve their targets under the KP through investment and development in other Annex I countries
 - Generate Emission Reductions Units (**ERUs**) by conversion from **AAUs**
 - Advantages
 - For investors: achieve emissions commitments at agreed costs and increase ties with host countries & local partners
 - For host countries: delivers investment, know-how and efficient technologies
 - RF Government Decree No. 332 dated 28 May 2007
 - RF Government Decree No. 884-r dated 27 June 2009
 - Simplification of approval procedure
 - Competence of Sberbank re receipt/transfer/acquisition of ERUs

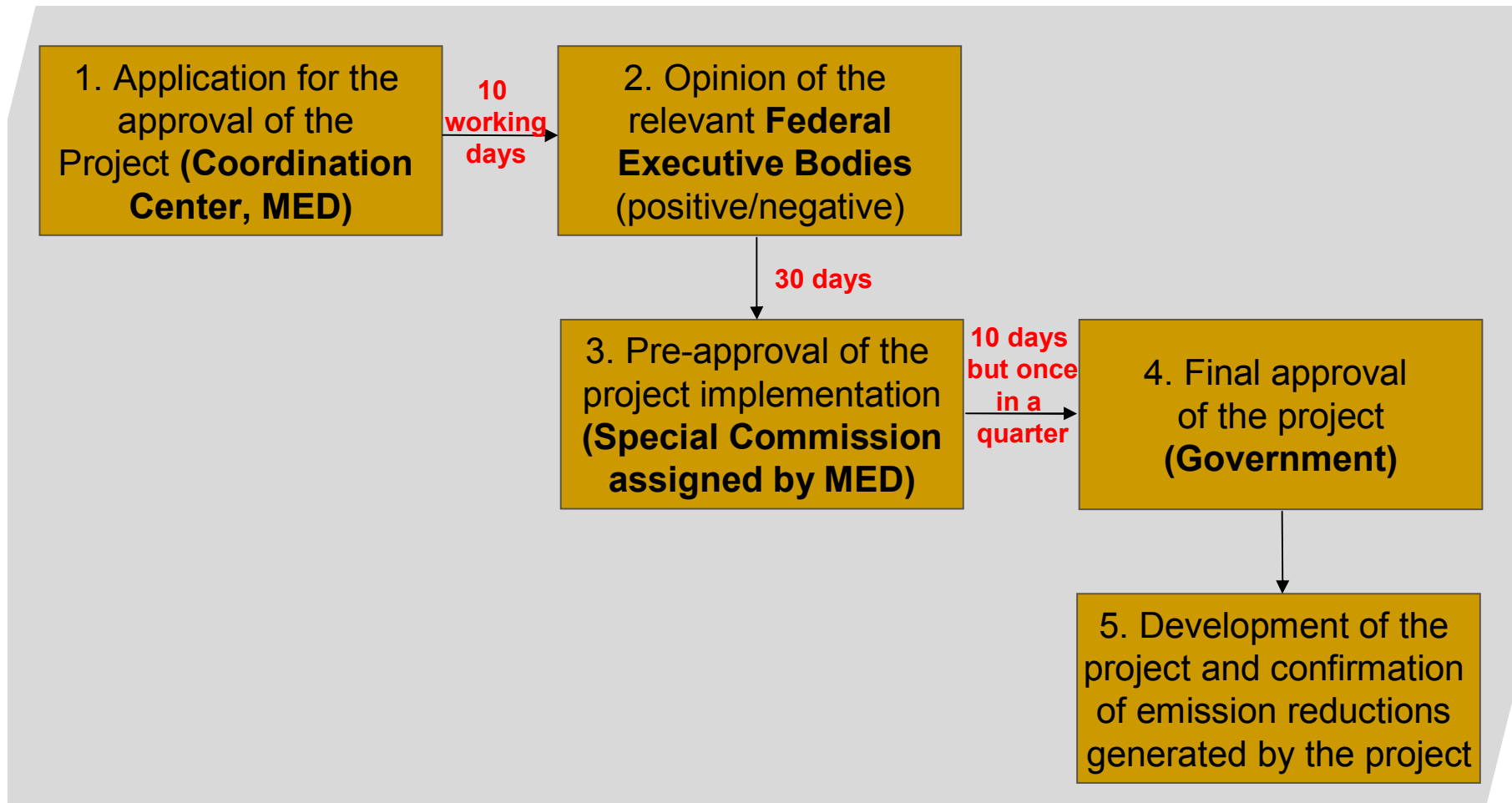
Jl projects (1/2)

Eligibility criteria

- **Project investor**
 - Russian or foreign legal entity, individual entrepreneur or individual
- **Territoriality**
 - GHG emissions reductions to be achieved within the boundaries of host country
- **Timeframe**
 - Projects starting from year 2000 but ERUs creditable from 2008 until 2012
- **Limitations**
 - Summary amount of the specific project emission reductions and those to be generated in the relevant sector
 - Anticipated efficiency indexes
 - Upstream and downstream reduction effects
- **Compulsory approval of the project**
 - RF Government
 - Other Party to the Protocol within 12 months after the RF Government approval
 - Authorisation of the participants by all Parties involved

Jl projects (2/2)

Main stages of the approval procedure



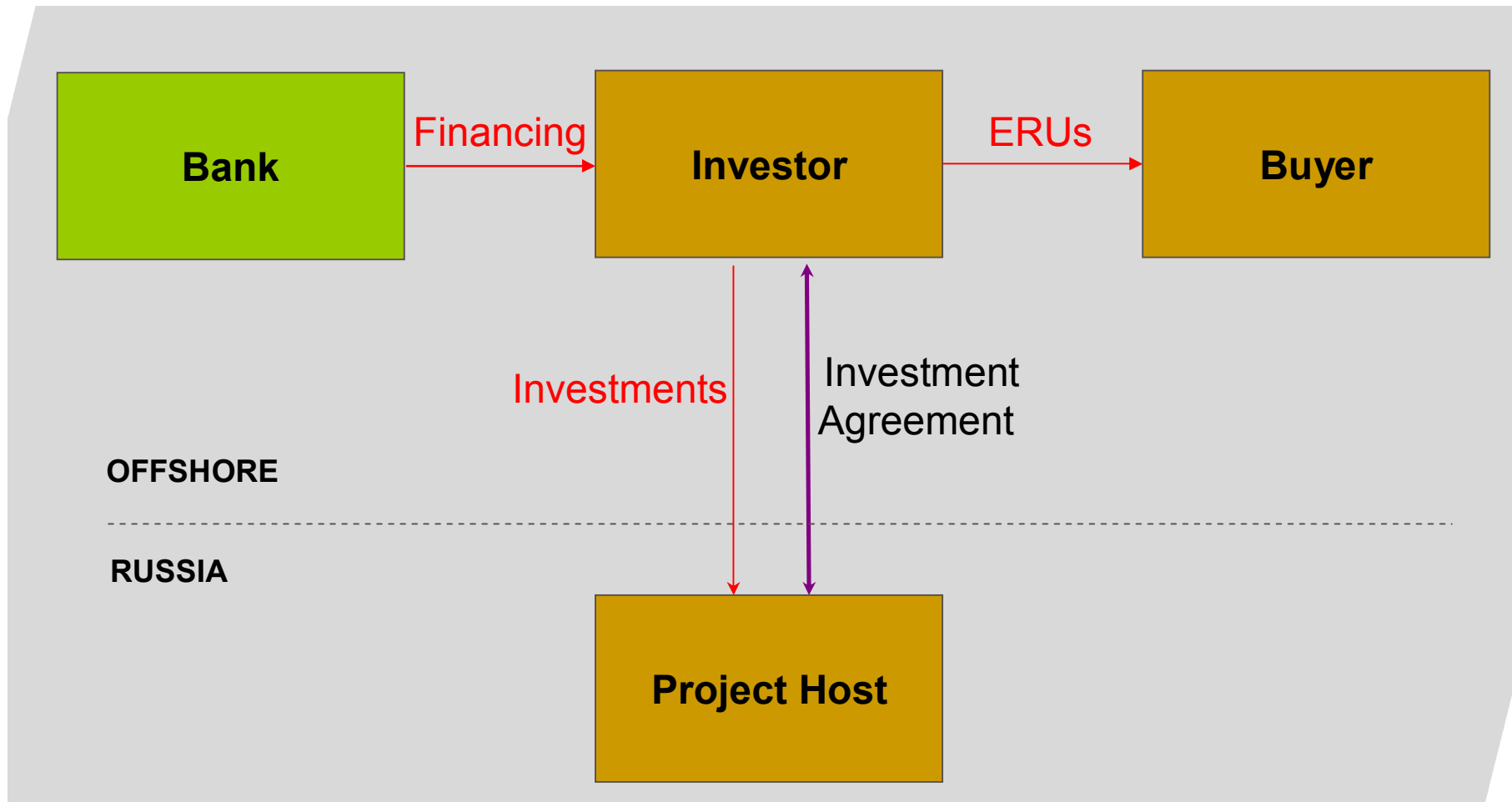
Contractual relationships between a project host and an investor (1/2)

Contract structuring issues

- Uncertain contractual framework
 - JI projects are investment projects implemented in accordance with applicable legislation, i.e. both domestic laws and international treaties (Decree No. 332)
 - ERPA vs. Investment agreement?
 - Unclear nature of ERUs under Russian laws
- Uncertain taxation regime of ERUs
 - The taxation regime may vary subject to
 - The legal qualification of ERUs
 - The terms and conditions of the investment agreement
 - The residency of the Investor and Buyer of ERUs

Contractual relationships between a project host and an investor (2/2)

Possible contractual scheme



What's next? Russia and post-2012 climate policy changes (1/2)

Possible modifications to the Russian legislation

- General
 - Adoption of relevant legislative rules on the CDM and GIS projects
 - Introduction of appropriate legal regimes
 - Clarification of the taxation regime / creation of tax incentives
- JI projects
 - Formulation of the JI projects eligibility criteria (list of energy efficiency projects and sectors appropriate for JI)
 - Simplification of the JI projects approval process (cf. Decree No. 332)
 - Possibility to allow internal turnover of ERUs

What's next? Russia and post-2012 climate policy changes (2/2)

Post-Kyoto Protocol (Copenhagen, December 2009)

- International
 - New agreement with the participation of USA, China, Japan, etc.
 - 50-85% decrease in greenhouse gas emissions by 2050 compared to 1990 levels?
 - Establishment of transparent and fair criteria for differentiation of commitments across countries, and criteria for graduation to higher levels of commitment
- Russia
 - Seeks recognition as International actor - interested in participation of other large countries (especially USA)
 - D. Medvedev: Russia ready by 2020 for emission reductions of 10-15% in comparison with today (i.e. 40-45% compared to 1990)
 - Combination of Post-Kyoto regime with Energy Efficiency policy
 - Russia's specifics to be taken into account

Thanks for your attention!

Dominique Tissot, Partner

Email: Dominique.Tissot@cmslegal.ru

CMS, Russia

Gogolevsky Blvd. 11, 119019 Moscow

Tel.: +7 495 786 4000

Fax: +7 495 786 4001