



**Climate Action**

Energy for a Changing World

# Auctioning 3<sup>rd</sup> Trading period carbon allowance

*Stakeholder meeting*

*30 June 2009*

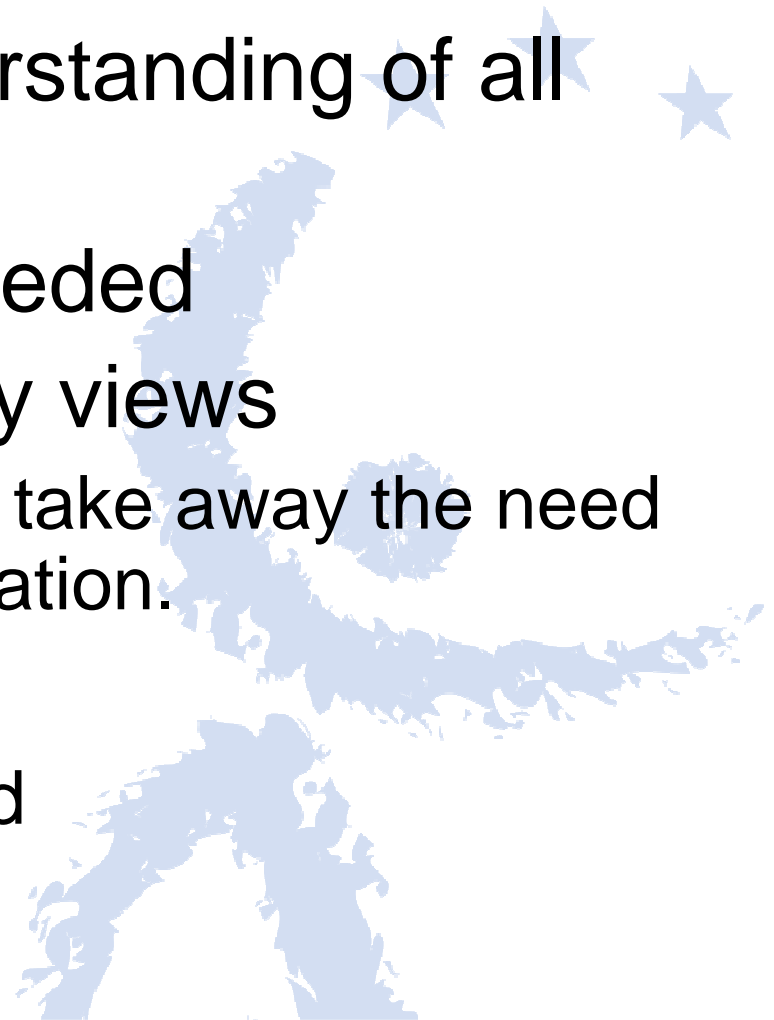
*Anne Theo Seinen  
Nadia de Souza*

DG ENV.C.2

- 9.30h Introduction, legal and market context
- 10.30h What and when to auction?
- 11.30 Auction design
- **12.30h Lunch break**
- 13.30h How will auctions be implemented?
- 15.30h Who auctions? Auction processes and institutions
- 16.30h Auctioning Aviation Allowances
- 17:30h Concluding remarks, next steps

## Purpose of the meeting

- Foster a common understanding of all the issues at stake
- Clarify issues where needed
- Exchange of preliminary views
  - This discussion does not take away the need to respond to the consultation.
- Testing of arguments
  - Devil's advocates needed

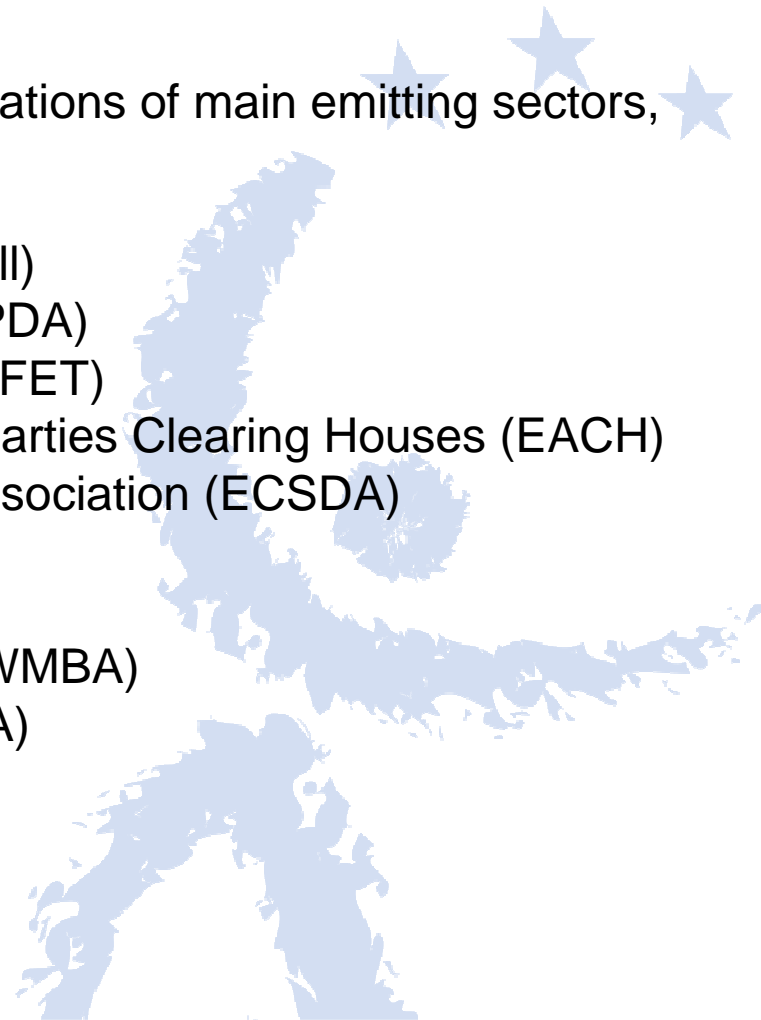


The usual suspects:

- Member States, Business Europe – Associations of main emitting sectors, Eurelectric, NGOs

Guest invitees - new to the game:

- Carbon exchanges (2 representatives for all)
- European Primary Dealers Association (EPDA)
- European Federation of Energy Traders (EFET)
- European Association of Central Counterparties Clearing Houses (EACH)
- European Central Security Depositories Association (ECSDA)
- European Banking Federation (EBF)
- Euro Banking Association (EBA)
- Wholesale Markets Brokers' Association (WMBA)
- London Energy Brokers' Association (LEBA)
- Futures & Options Association (FOA)





# Consultation paper

## Introduction



- Stakeholder consultation open from 3 June to 3 August inclusive. <https://quickplace.icfconsulting.com/eu-ets-auctions-consultation>
- Website includes Q&A to be updated as questions come.
- Responses will be publicly available on the website. Confidential answers for 4 specific questions to be sent to the European Commission directly.
- General information on auctioning: COM auctioning website:  
[http://ec.europa.eu/environment/climat/emission/auctioning\\_en.htm](http://ec.europa.eu/environment/climat/emission/auctioning_en.htm)

- Move to auctioning represents one of the most fundamental changes
- Phase 3 auctioning: > 50% of the annual cap
  - <1% in phase 1
  - 3-4% in phase 2
- First large-scale cross-border auctioning in environmental markets world-wide

## What has been decided in the revised Directive? (1)

- All allowances not allocated free of charge are auctioned
  - In principle no free allocation for electricity production
  - Remaining free allocation in particular for sectors exposed to significant risk of carbon leakage.
- Member States shares in the total quantity to be auctioned are determined
  - Member States have procedural responsibility
  - Re-distribution in favour of poorer MSs and those doing very well on their Kyoto target

## What has been decided in the revised Directive? (2)

- Principles for auction design and implementation:

- Openness
- Transparency
- Non-discrimination
- Harmonisation

### Complemented by:

- Predictability
- Cost-effectiveness
- Access for SMEs & small emitters



## What has been decided in the revised Directive? (3)

- Auctioning Regulation
  - Strongest form of Community legislation
  - Binding in its entirety
  - Directly applicable, no need for transposition
  - Creates directly enforceable rights and obligations
  - Need to be very clear, precise and unconditional
- To be adopted by 30 June 2010

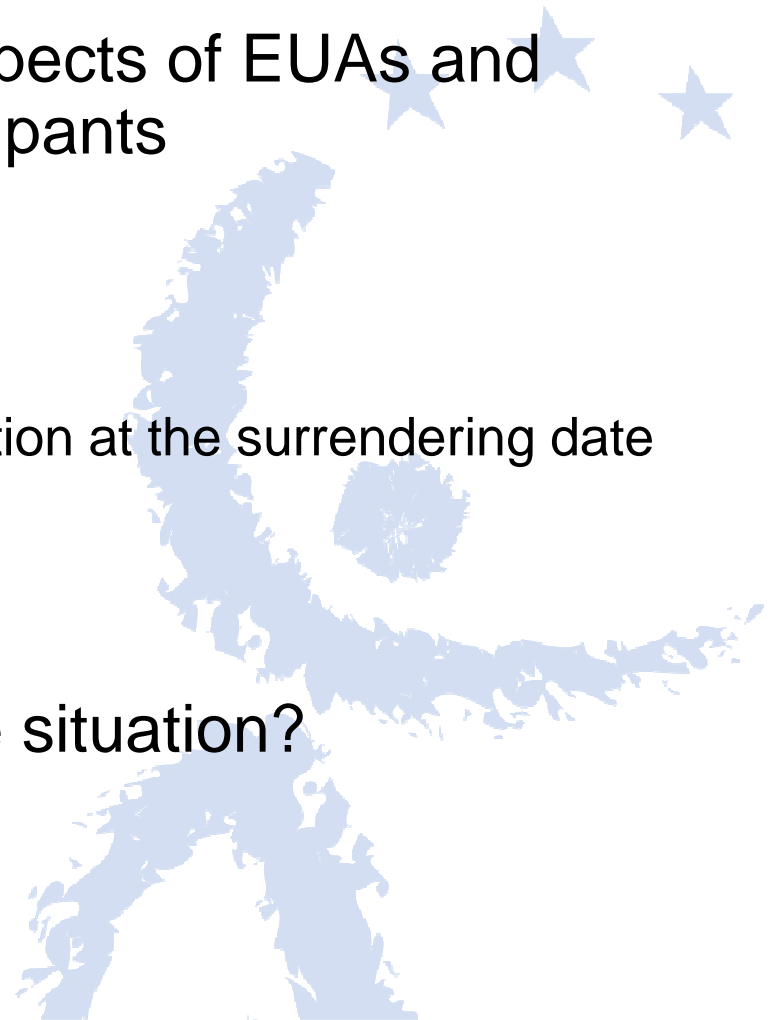


## Approaches for an overall auctioning system

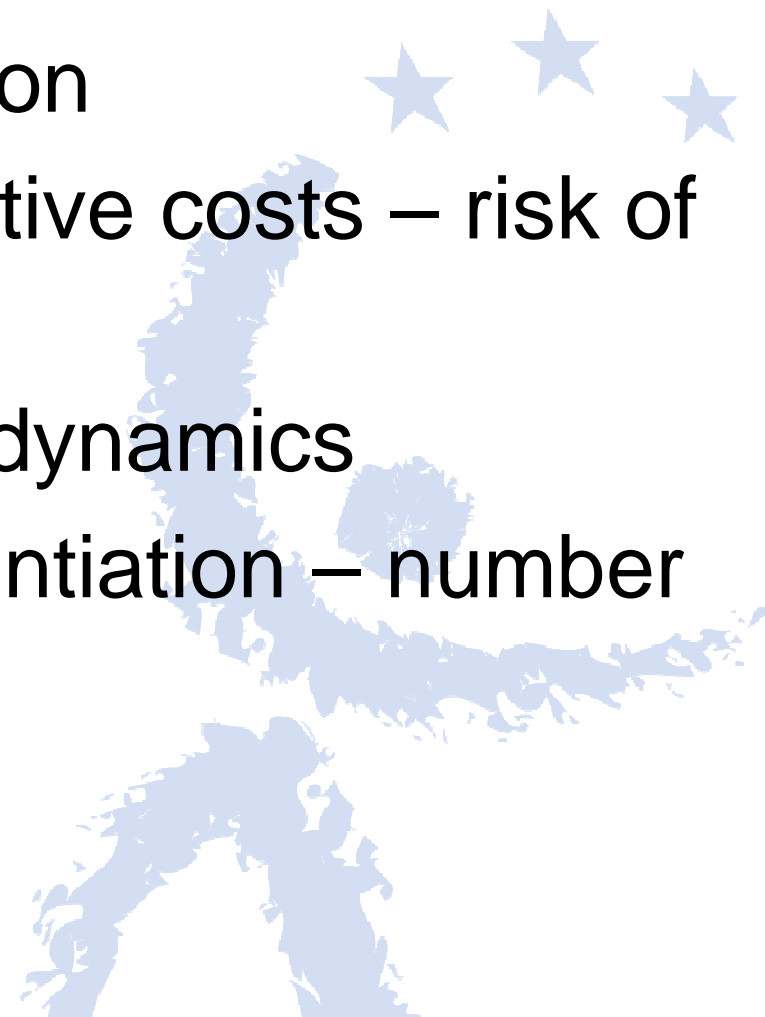
- Full decentralisation
- Full centralisation
- A limited number of coordinated platforms
- Hybrid approach: collecting bids by several auctioneers during a common time slot with centralised clearing based on all bids and all allowances on offer.

Separate auctions for aviation allowances.

- Regulatory and quantitative aspects of EUAs and EUAAs, types of trade & participants
- Mitigating risk of market abuse
  - Large size of the market
  - Flexibility within the trading period
  - Two annual tranches of free allocation at the surrendering date
  - Transparency of market data
  - Free allocation
  - Easy entry, various exchanges
- How will auctioning change the situation?

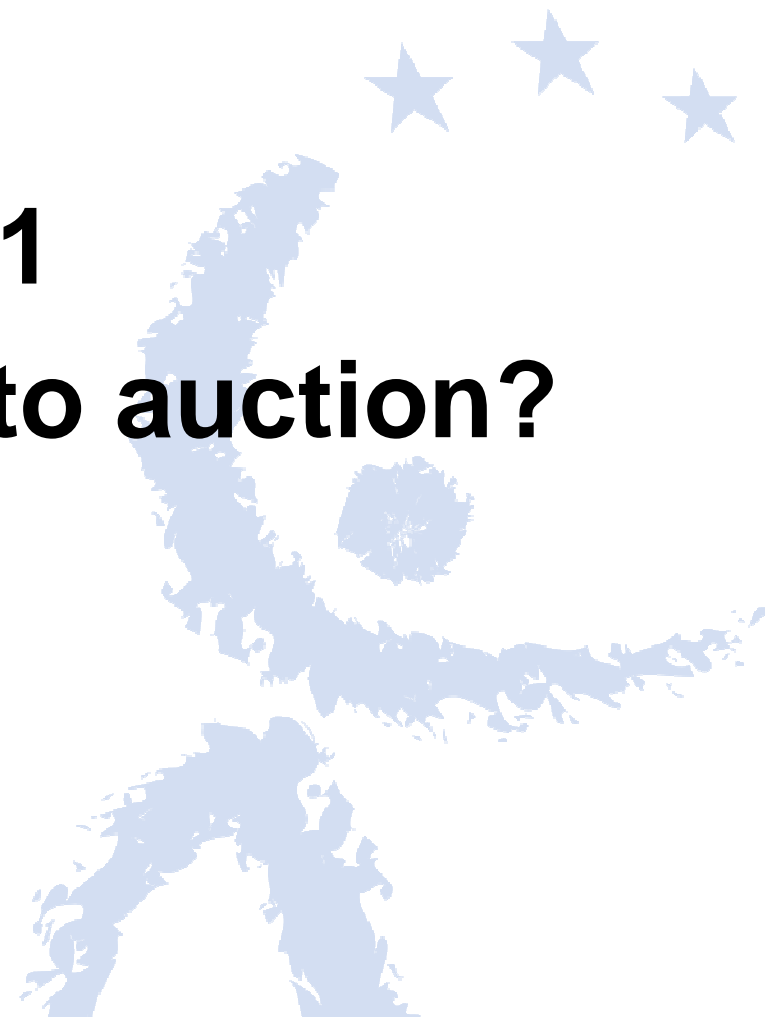




- Simplicity – differentiation
  - Openness – administrative costs – risk of market abuse
  - Predictability – market dynamics
  - Harmonisation – differentiation – number of auction processes
- 

# Block 1

## What and when to auction?



## 1.1 Early auctions, why?

- Avoid artificial scarcity – risk of market abuse
- Hedging needs

But:

- Risk of depressing price?
- Limited participation – risk of market abuse?

If desirable, how much?

Take into account banking of EUAs and rights to use CERs/ERUs

## 1.2 Spot or Futures?

- Cash flow (but initial margin + variation margin calls)?
- Lower transaction cost at aggregate level?
- But:
  - why should public authorities take the role of secondary market?
  - complexity and market fragmentation
- If futures, what maturity dates? Must be harmonised to ensure liquidity.

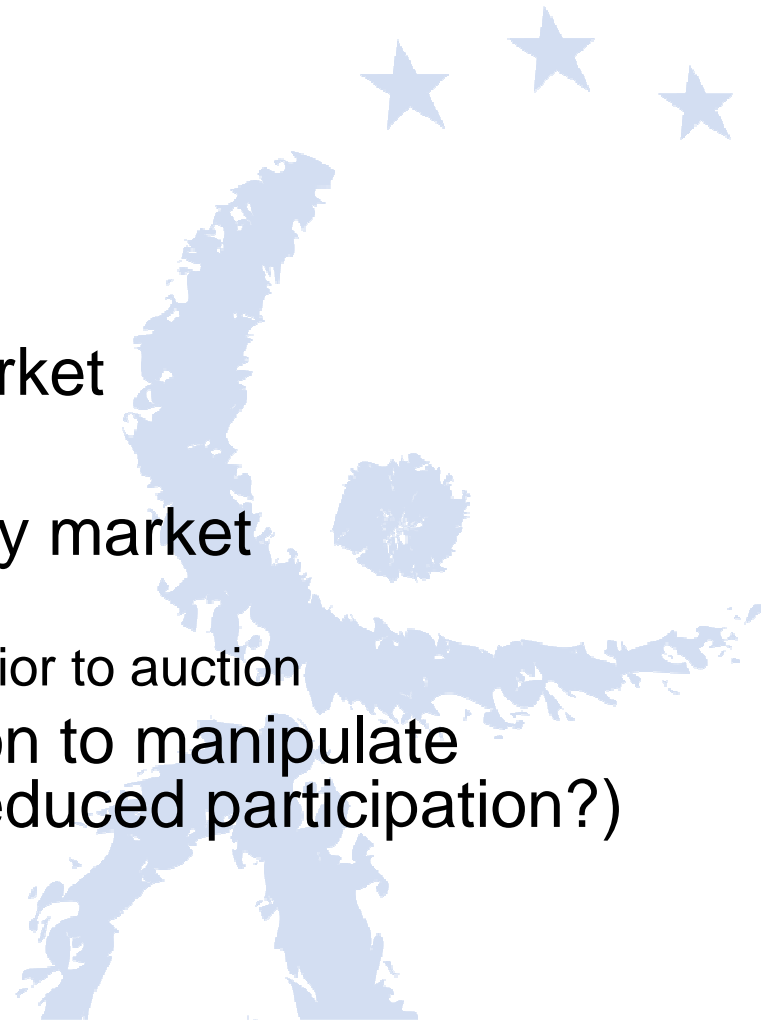
## 1.3 Size and frequency

### *Big and few*

- Attract bidders
- Reduce administrative cost
- Practicalities of pre-registration
- More re-sale on secondary market

### *Many and small*

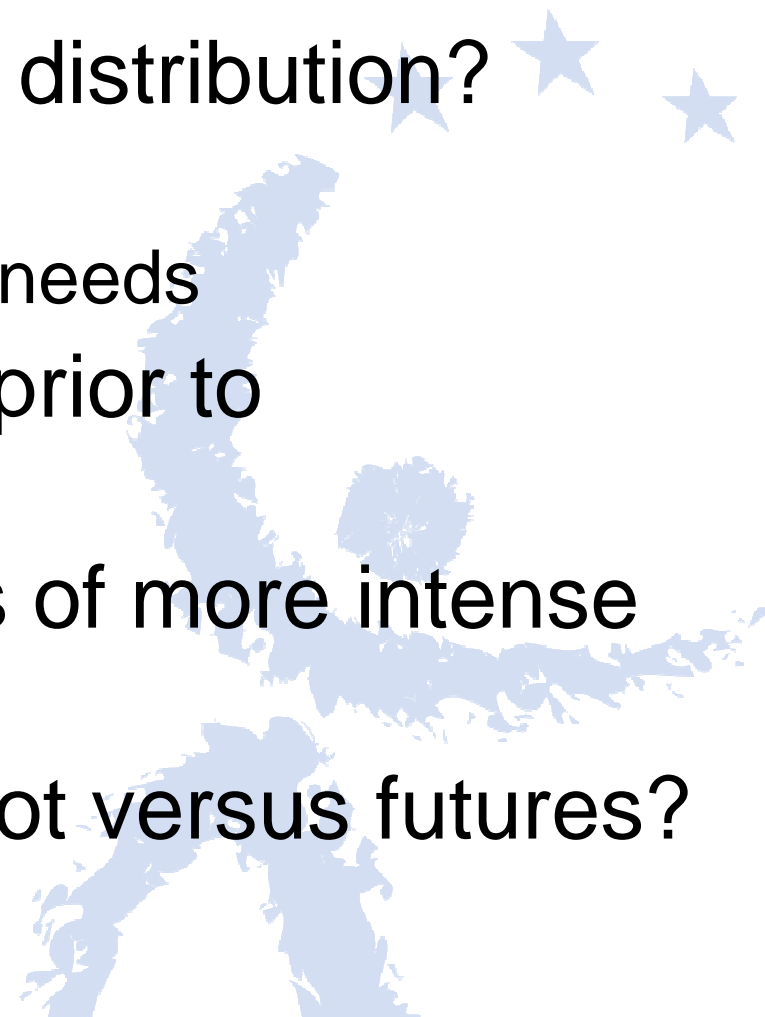
- Avoid 'disturbing' the secondary market
  - Depressing clearing price
  - Big auctions may reduce trading prior to auction
- More difficult to build up position to manipulate market? (but higher risk with reduced participation?)



## 1.3 Size and frequency (2)

- Simultaneous independent auctions is not possible: how should a bidder decide how much to bid?
- Auctioneer(s) – Member States
  - If all MSs auction: 50 auctions varying from 1-30 million
  - If minimum size 20 million: 50 auctions, 15 MSs would have to cooperate
  - If minimum size 80 million: 13 auctions, 22 MSs would have to cooperate.

## 1.4 Distribution over the year

- Flat and homogeneous distribution?
    - Simple
    - Corresponds to hedging needs
  - More weight on period prior to surrendering?
  - More weight on periods of more intense trading?
  - Different distribution spot versus futures?
- 

## 1.5 Dates and times

- Avoid public holidays, day of publishing verified emissions, days where relevant data/reports are released
- Timing: 10-12am CET





## 1.6 Auctioning calendar

- Annual volume
- Distribution spot – futures
- Dates of individual auctions
- Size of individual auctions
- Identity of auctioneer/auction process(es)

How long to determine in advance?

What flexibility needed?

Fallback position? *Force majeure* clause?

- 1 000 allowances?



# Block 2

## Auction design



## 2.1 Auction type

- Formats
- Number of rounds

Single-round sealed bid auctions favoured



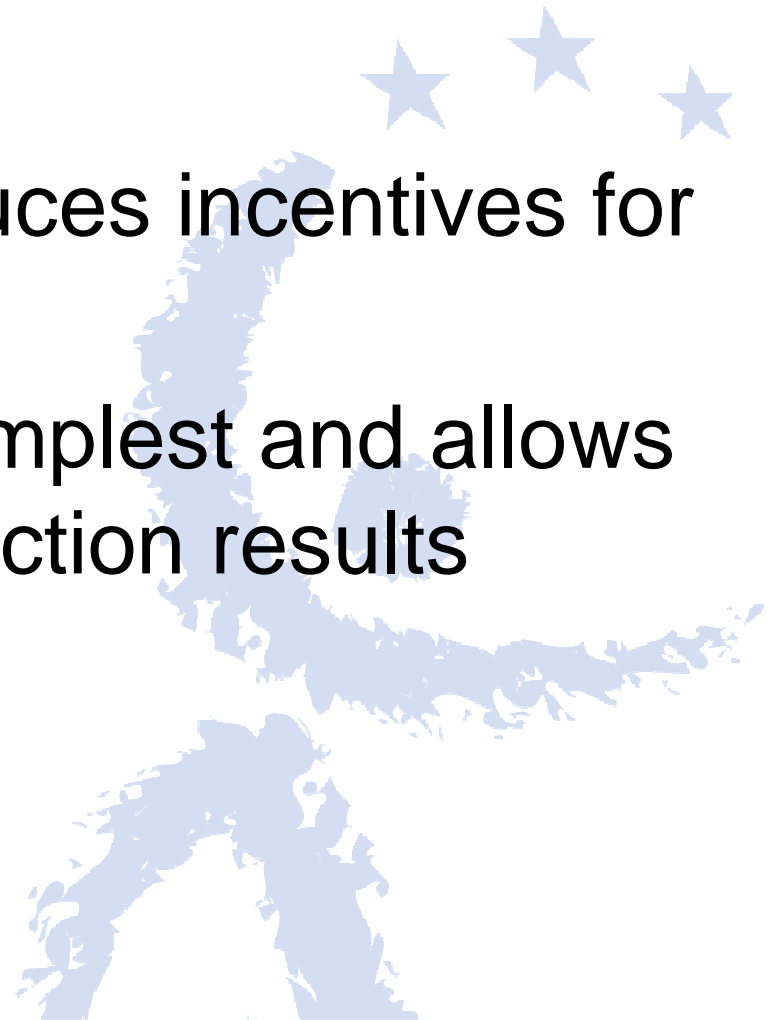
## 2.2 Clearing price

### Uniform or discriminatory?

- Uniform is the simplest, but secondary market price facilitates bidding anyway
- Discriminatory pricing:
  - disincentivises hoarding or cornering strategies
  - thereby reducing the need for maximum bid-size
- Discriminatory pricing could (should?) be combined with the option of non-competitive bids from SMEs covered by the scheme and small emitters

How to manage ties?

- Random approach reduces incentives for collusion
- Pro-rata approach is simplest and allows quick information on auction results



## 2.4 Reserve price

- Protect auctioneer from selling below **prevailing market price**, e.g. in case of unexpectedly low participation
- Defined by reference to the prevailing market price. There is no 'price floor' and no 'price management'.
- Is it needed?
- Should the methodology be kept secret?

## 2.5 Maximum bid-size (1)

- Purpose is to make hoarding and cornering strategies more difficult, but can it work effectively in the presence of a liquid secondary market?
- If applied, its level should be consistent with the net demand for allowances from the largest individual ETS operators as a share of the total quantity to be auctioned e.g. 20%.



## 2.5 Maximum bid-size (2)

- Should apply to aggregated bids from the same group of companies: identifying entities involves (significant) additional administrative effort.
- It would require bidders to disclose prior to each auction:
  - All the companies that they **wholly own**, or if **partially owned**, over which they exercise *de jure* or *de facto* a **decisive influence**.
  - The **beneficial ownership** of the allowances they are seeking to acquire per auction i.e. whether they are bidding on their own account or on the account of some other entity.
  - Any **corporate association** that could allow bidders to act in concert or that prevent them from competing actively against each other e.g. joint ventures, or any other business associations.

## 2.5 Maximum bid-size (3)

- To enforce the maximum bid-size rule the auctioneer must put in place a pre-auction:
  - notification,
  - Verification, and
  - clearance system
- There would have to be a post-auction monitoring to detect infringements and correction mechanism to order remedial action.
- The effectiveness of such administrative oversight would depend on its level of enforcement which must be capable of acting as a deterrent.

## 2.5 Maximum bid-size (4)

- The need for a maximum bid-size, if it can be made effective at all, must be evaluated in the light of:
  - the risk of market manipulation and
  - alternative measures to mitigate such risk
- What are the risks of market manipulation abuse? Discussed in Block 3.
- What alternative/additional instruments/design features in auctions? Discussed in Block 3.

# **Block 3**

## **How will auctions be implemented?**



## 3.1 Pre-registration of bidders (1)

- Auctioneer must know its customer by having carried out adequate know-your-customer (KYC) checks.
- Carrying out adequate checks prior to the admittance of bidders entails, however, costs for auctioneers and bidders alike.
- Costs multiply with multiplicity of auction processes.
- Pre-registration ensures the soundness, integrity, stability, and credibility of the auction process mitigates.
- Pre-registration helps ensure that systems are put in place to address risks.

## 3.1 Pre-registration of bidders (2)

- Why do we need bidder pre-registration rules?
  - comparable access standards across EUA auctions
  - participation process must be documented by the auctioneer and available for verification / inspection by the auction monitor

## 3.1 Pre-registration of bidders (3)

- What bidder pre-registration rules do we need?
- The auctioneer must:
  - verify the potential bidder's identity, integrity and business profile
  - analyse the nature of the trading relationship to assess the risks involved

## 3.1 Pre-registration of bidders (4)

- What risks are we talking about?
  - The means of establishing the trading relationship – face to face or not.
  - The type of bidder - financial institutions/publicly listed companies versus others.
  - The type of trade – spot versus futures.
  - The size of trade – little & large.
  - The means of payment and delivery – electronic via clearing house (CCPs) or central counterparty (CSDs) versus other means.



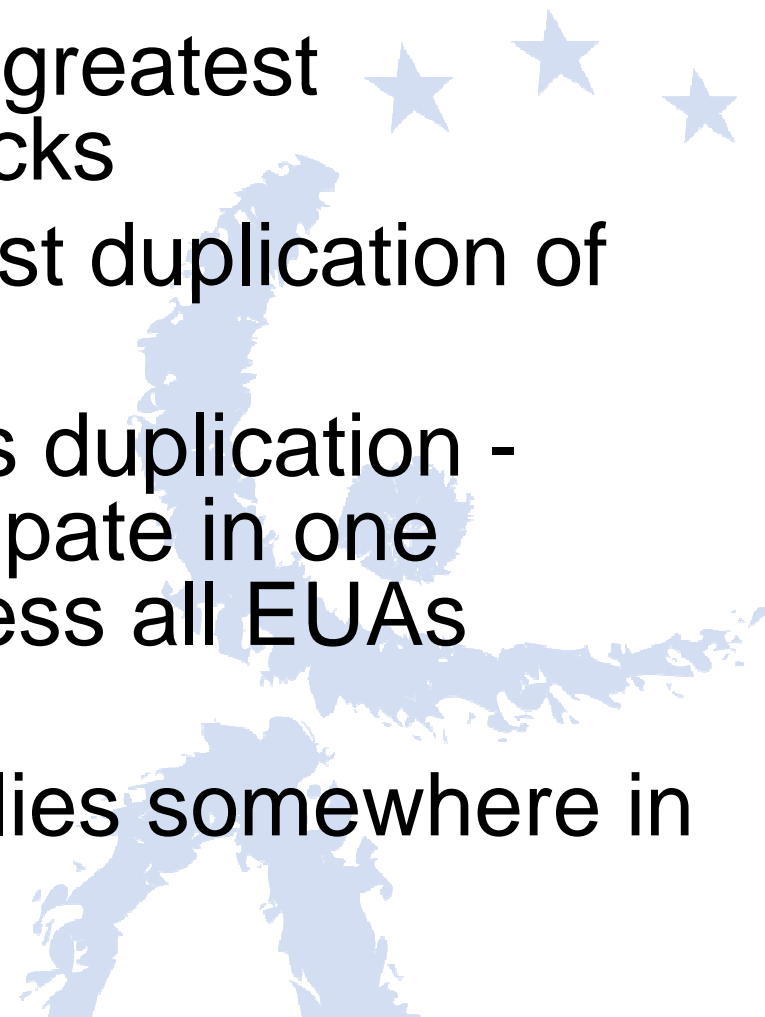
## 3.1 Pre-registration of bidders (5)

- What else must the auctioneer check?
  - Rules on beneficial ownership in any case + corporate and business affiliations if a maximum bid-size per single entity were adopted
  - Rules on types of bidders if distinguishing between participation through competitive / non-competitive bidding
  - Bank / EU ETS registry account details to execute electronic payment and delivery
  - Rules on collateral required to ensure bidders honour their financial obligations
  - Any other bidder information (e.g. EU ETS profile) for monitoring / reporting on EU-wide auctions

## 3.1 Pre-registration of bidders (6)

- How to ensure effective yet efficient pre-registration?
  - A **'single auctioning passport' / 'mutual recognition'** is **not possible** due to auctioneer liability / system integrity.
  - Auctioneers could rely on pre-registration checks carried out by **reliable third parties** (e.g. third party service providers or other auctioneers), but **could not be forced to do so**.
  - **Harmonise pre-registration** requirements for admittance to EU-wide auctions to create a level playing field for all EU bidders.
  - **Prohibit multiplicity of KYC checks** in the case of **Member States auctioning jointly** as unjustified since only one trading relationship.

## 3.1 Pre-registration of bidders (7)

- Full decentralisation = greatest duplication of KYC checks
  - Full centralisation = least duplication of KYC checks
  - Hybrid approach avoids duplication - bidder need only participate in one auction process to access all EUAs auctioned
  - Coordinated approach lies somewhere in between
- 

- What level of harmonisation for collateral?
  - Equivalent collateral terms both in terms of **level** and **type** across auctioning processes to avoid *de facto* discrimination between bidders.
  - Auctions must be open on a non-discriminatory basis: no objective justification for variations in collateral terms across auction processes.

- What **level** of collateral?
  - Commensurate to the risks associated with the type of trade, namely spot versus futures.
  - Grounded in commercial reality: the secondary market rules on collateral taken as a benchmark:
    - 100% collateral for spot
    - initial and variation margin calls for futures
  - Plus:
    - delivery of EUAs into a blocked registry account

- What **type** of collateral?

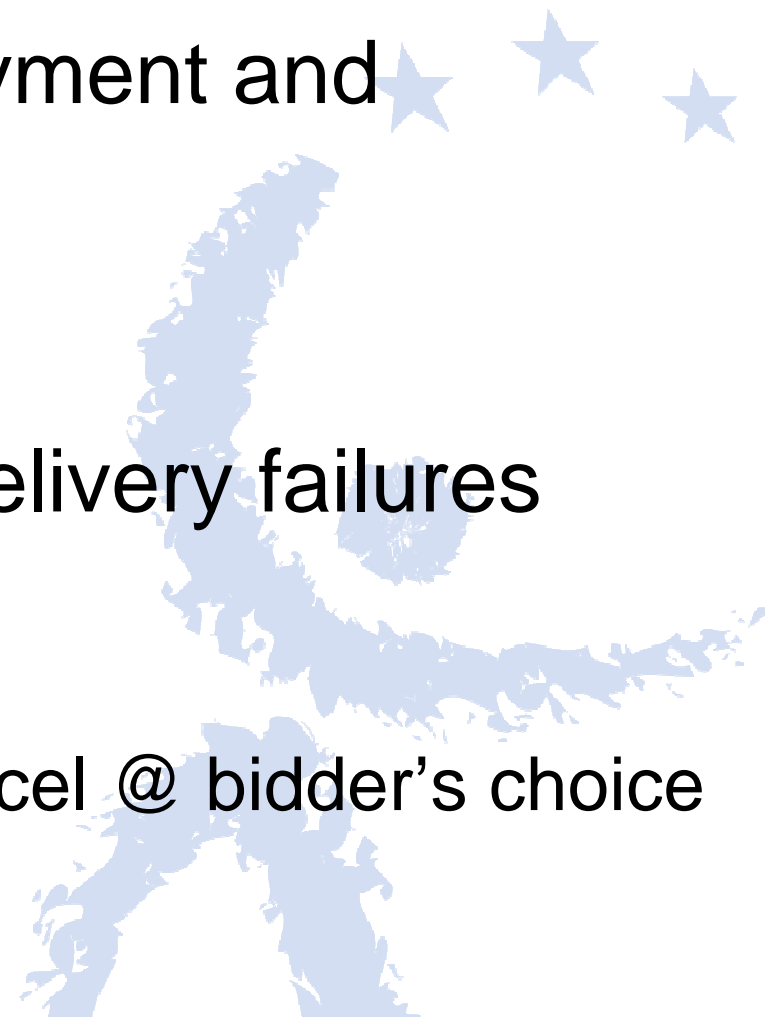
The Regulation must take into account the:

- Financial Collateral Arrangements Directive 2002/47/EC (FCD)
  - Settlement Finality Directive 98/26/EC (SFD).
- FCD & SFD provide wide-ranging protection against the effects of insolvency proceedings for compliant cross-border:
    - Financial collateral arrangements - **cash** or **financial instruments**
    - Transfer orders and netting instructions – wider collateral

## 3.2 Collateral (5)

- FCD does not apply where **both** the collateral taker auctioneer and the collateral provider bidder are **legal persons**
- SFD would apply **only** where auctioneer or bidder is **public authority / credit institution / publicly guaranteed undertaking / investment firm** and payment is being made through a credit institution

## 3.3 Payment & delivery

- What provisions for payment and delivery?
    - Payment before delivery
    - Delivery versus payment
  - Handling payment or delivery failures
    - Collateral
    - Timing of auctions
    - Right to postpone or cancel @ bidder's choice
- 



## 3.4 Transaction rules (1)

- What provisions on transaction rules?
  - The Regulation will deal with matters that are central to the very creation, existence and termination or frustration of the auction transaction.
  - These include without limitation:
    - the designation of the parties' to the trade
    - the characteristics of the auctioned product
    - events of 'force majeure' and resulting consequences
    - events of default by the auctioneer and/or the bidder and their consequences
    - applicable remedies or penalties
    - the regime governing the judicial review of claims across the EU.

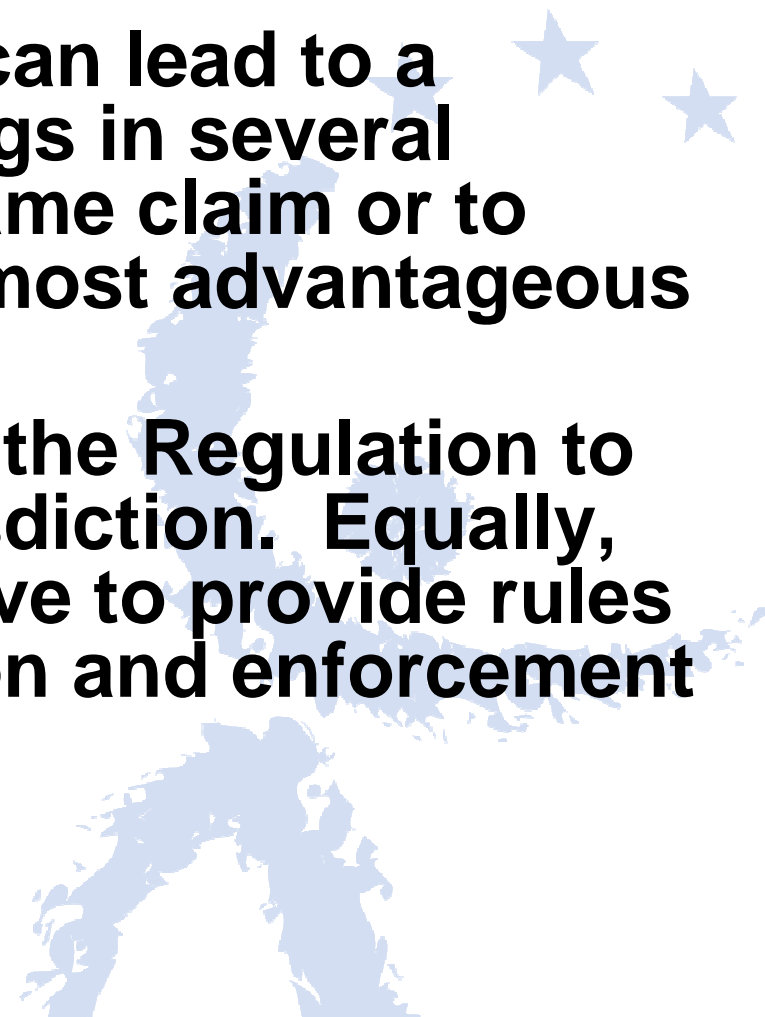
## 3.4 Transaction rules (2)

- Transaction rules ought to be inspired by existing best practices for similar spot / futures transactions on the secondary market.
- Auctioneer issues a 'notice to auction' which sets out all the terms of the auction.
- Bidders return an 'intention to bid' accepting the terms set out in the notice to auction.

## 3.4 Transaction rules (3)

- **The “notice to auction” and “intention to bid” would be directly applicable throughout the EU.**
- **Member State national courts would have concurrent jurisdiction in respect of any action brought by an aggrieved party.**
- **National courts could refer questions of interpretation to the European Court of Justice (ECJ) for a preliminary ruling (Article 234 EC) which would be binding throughout the EU.**

## 3.4 Transaction rules (4)

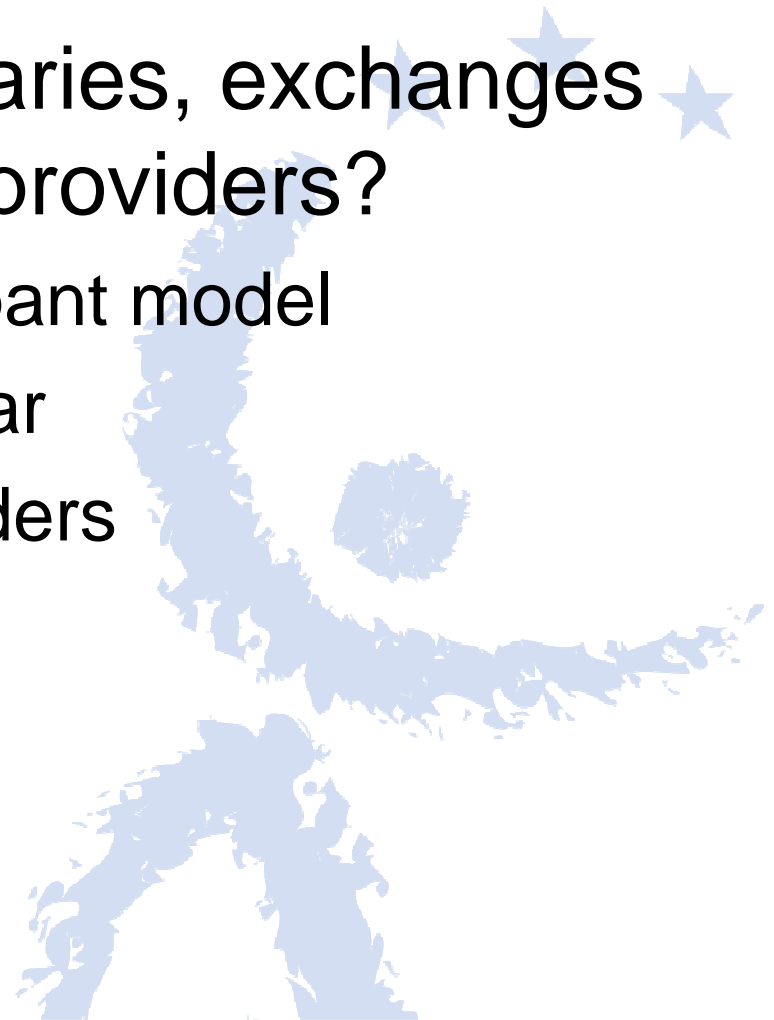
- **Concurrent jurisdiction can lead to a multiplicity of proceedings in several Member States on the same claim or to forum shopping for the most advantageous jurisdiction.**
  - **It would be desirable for the Regulation to provide for rules on jurisdiction. Equally, the Regulation would have to provide rules for the mutual recognition and enforcement of judgments.**
- 

## 3.4 Transaction rules (5)

- This may be done in one of three ways:
  - simply by reference to the same rules already agreed in the **Brussels I Regulation** for cross-border disputes on civil or commercial matters of whatever kind;
  - by special rules specific to the Regulation. Though this might involve duplication of some of the provisions of the **Brussels I Regulation**; or
  - by making the **Brussels I Regulation** applicable, whilst providing for any exceptions or additions. This would avoid the aforementioned duplication.
- For unforeseen gaps or any unexpected matters not specifically covered by it, the Regulation would have to provide for the applicable law (e.g. on any residual matters of contractual and non-contractual liability).

## 3.5 Cost-effective participation

- What role for intermediaries, exchanges and third party service providers?
  - UK DMO primary participant model
  - Exchanges – selling so far
  - Third party service providers



- How to ensuring full, fair and equitable access?
  - Non-competitive bidding: discriminatory versus uniform price competitive bidding
  - Limiting the share of allowances to be sold through non-competitive bids, if any, between 5% and 10% of the total volume of allowances to be auctioned

## 3.6 SMEs & small emitters (2)

- Different rules could be envisaged for submitting non-competitive bids:
  - Bidders could be allowed to use only one of the two bidding routes (competitive or non-competitive).
  - Non-competitive bids could be restricted to a specific category of ETS operators, namely SMEs covered by the EU ETS and small emitters. The definition used should be as clear as possible to minimise administrative burden.
- If non-competitive bids were used, and if the demand were to exceed the maximum volume of EUAs auctioned through this route, all bids could simply be scaled down proportionally.



## 3.7 Auction information (1)

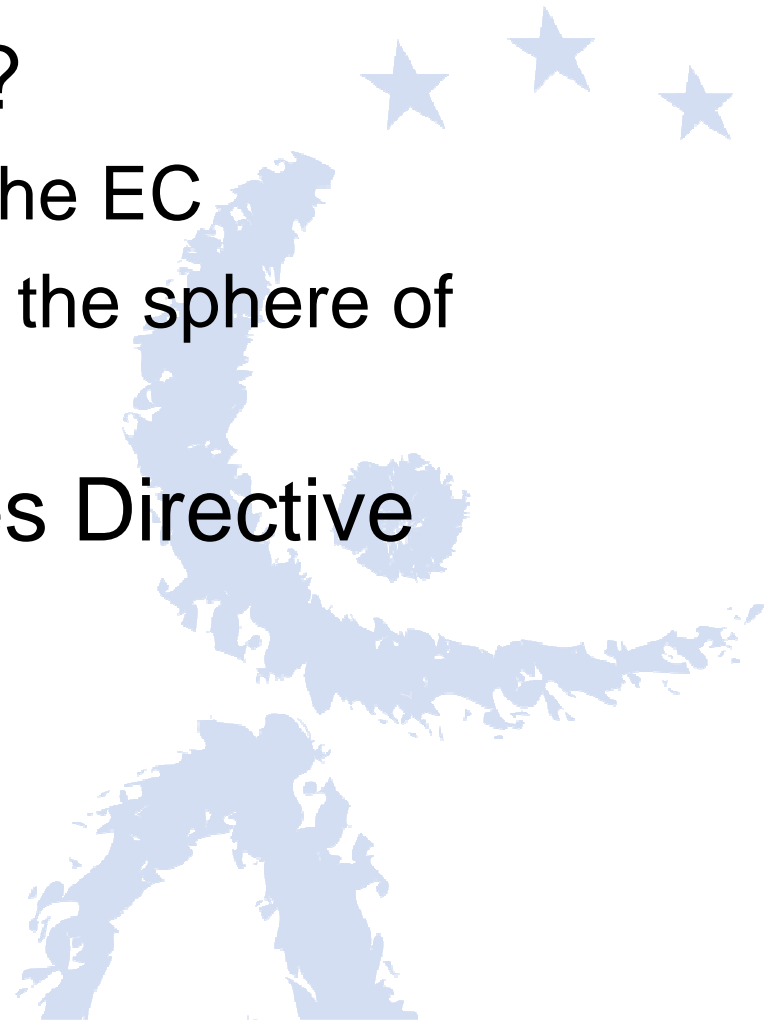
- What information to be disclosed pre-auction?
  - The auction calendar
  - The notice to auction
  - Intention to bid
  - Insider dealing issues



- What information to be disclosed post-auction?
  - Announcement of auction results includes issues such as the:
  - Delay between the end of an auction and the disclosure of the auction results should be reduced to a minimum.
  - Regulation could set a maximum acceptable delay for publishing auction results.

## 3.7 Auction information (3)

- What language regime?
  - All Official languages of the EC
  - A language customary in the sphere of international finance
- Precedent Prospectuses Directive



## 3.8 Auction monitoring & reporting (1)

- The purposes of auction monitoring are:
  - to detect possible non-compliance with the objectives of the revised ETS Directive (openness, transparency, required level of harmonisation and non-discrimination to mention but a few)
  - to improve auction design modalities through periodic review
  - to identify any anti-competitive behaviour and/or market abuse
- Regular analysis of how auctions are conducted, how the Regulation is implemented and the bids submitted

## 3.8 Auction monitoring & reporting (2)

- Monitoring would be best carried out by a central EU-wide auction monitor
- The Regulation should contain general principles on:
  - the designation and mandate of the auction monitor; and
  - cooperation between the auctioneer(s) and the auction monitor.
- Supplemented by operational guidance, possibly through Commission guidelines.

## 3.8 Auction monitoring & reporting (4)

- Auction monitor could either be a private undertaking or a public authority.
- Auction monitor reports to be transmitted to the Commission - non-confidential versions to be published on the Commission's website.
- Auction monitor to be independent from the auctioneer.
- Auction monitor should have the requisite qualifications and professional experience to carry out its mandate.

- What are the risks of market manipulation?
  - hoarding strategies (e.g. by stockpiling more than anticipated compliance needs)
  - cornering strategies (e.g. by stockpiling allowances to create price peaks at given dates such as surrendering dates).

## 3.9 Anti-competitive conduct & market manipulation (2)

- What measures for mitigating the risk of market manipulation?
  - Sustainability over time will depend very much on the **depth** and **breadth** of both the primary and secondary market for EU allowances
  - Regulation ought to maintain **liquidity** of the secondary market and not to restrict the **plurality of supply sources** into that market
  - Participation of **financials** in the auctions is seen as a means of **injecting competition** in the auction process quite apart from their function as **demand aggregators** and **liquidity providers** within the secondary market



## 3.9 Anti-competitive conduct & market manipulation (3)

- Auction design and process features intended to enhance participation and competition in the EUA auctions:
  - timing, size and frequency of the auctions
  - product mix
  - lot size
  - simplified pre-registration KYC checks wherever possible
  - non-competitive bids for SMEs covered by the EU ETS and small emitters
  - equal access to pre- and post- auction information
  - regulating administrative fees paid by bidders

## 3.9 Anti-competitive conduct & market manipulation (4)

- Additional auction design and process features intended to mitigate risks of collusion and/or market abuse include:
  - discriminatory clearing price
  - random approach for managing ties in auctions
  - reserve price
  - maximum size of bids allowed from a single entity
  - provisions for 100% cash collateral being put up in spot auctions and for marking to market in futures auctions
  - rules on conflicts of interest in the primary participants model
  - auction monitoring and reporting
  - transparency and confidentiality requirements

## 3.9 Anti-competitive conduct & market manipulation (5)

- What transparency and confidentiality requirements? Transparency will derive from the publication of:
  - The total cap on emissions
  - The amounts to be auctioned (in total and by Member State) and allocated for free (at the level of individual operators and installations) The auction calendar under the Regulation
  - The auction results under the Regulation
  - The auction monitor's reports

## 3.9 Anti-competitive conduct & market manipulation (6)

- Commission could publish annually the aggregate amounts won in all EUA auctions carried out in the preceding year, by bidders at the level of the final beneficial owner.
- Such information could be reported to, collated, verified, and validated by the EU-wide auction monitor prior to their publication by the Commission.

## 3.9 Anti-competitive conduct & market manipulation (7)

- More enhanced information disclosure may be particularly relevant during the period just before the surrendering date (i.e. between January and April of each year).
- The role and effectiveness of such disclosure needs to be assessed in the light of the work on protecting the market for emissions allowances from market abuse, which is being carried out by the Commission pursuant to Article 12(1a) of the revised ETS Directive.

## 3.10 Enforcement of the Regulation (1)

- How to ensure enforcement of market abuse rules?
  - The **mere possibility of detection** particularly if it is accompanied by effective, proportionate and dissuasive, enforcement mechanisms.
  - Regulation would have to **fill in the gaps** re conduct that could potentially undermine the EU auctions which is not adequately covered by existing EC competition and/or market abuse rules
  - Enforcement measures under existing EC rules require **time consuming investigation and enforcement** before the anti-competitive conduct or market abuse may be terminated and/or sanctioned
  - **Delay incompatible with the proper functioning of an on-going primary market** in the auctioning of EUAs intended to put allowances in the hands of ETS operators to surrender them annually against their verified carbon emissions

## 3.10 Enforcement of the Regulation (2)

- How to ensure enforcement of the Regulation?
  - Regulation will have to contain enforcement measures designed to ensure that both auctioneers and bidders adhere to the auction design and process rules mandated by the Regulation
  - Provision should be made for swift action in case of non-adherence, particularly where such failures threaten the smooth running, integrity and credibility of the EU-wide EUA auctions

## 3.10 Enforcement of the Regulation (3)

- Hierarchy of norms?
  - **Strict non-fault based liability** to be preferred to fault based liability which requires onerous and potentially time consuming investigation.
  - **Remedial action** to reverse the effects of the detrimental conduct ought to be preferred to punitive action.
  - **Structural remedies** that are self-executing and may be implemented in a clean-cut manner ought to be preferred to behavioural remedies that require follow-up and monitoring for their proper implementation, wherever possible.
  - **Punitive remedies** ought to be reserved for situations where participants have intentionally, negligently or recklessly flouted the provisions of the Regulation.
  - Commission and/or the auction monitor could have the power to address binding **interim decisions** to auctioneers and/or bidders alike to avert any urgent, imminent threat of breach with likely irreversible adverse consequences.



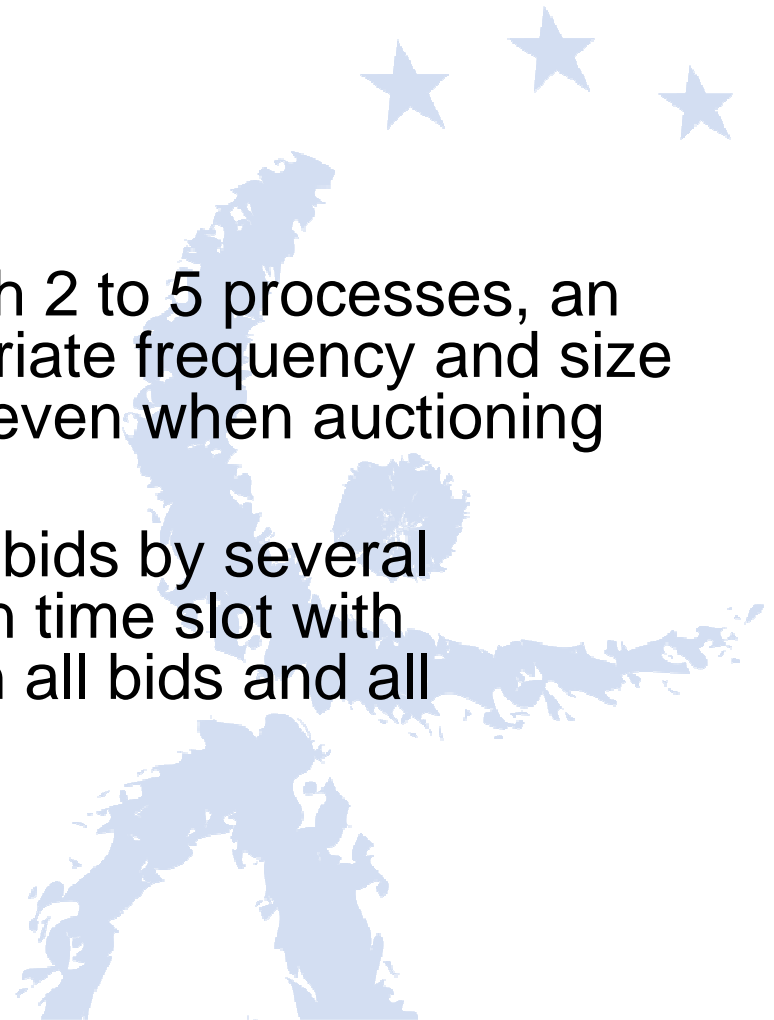
## Block 4

# Who auctions? Auction processes & auctioneers

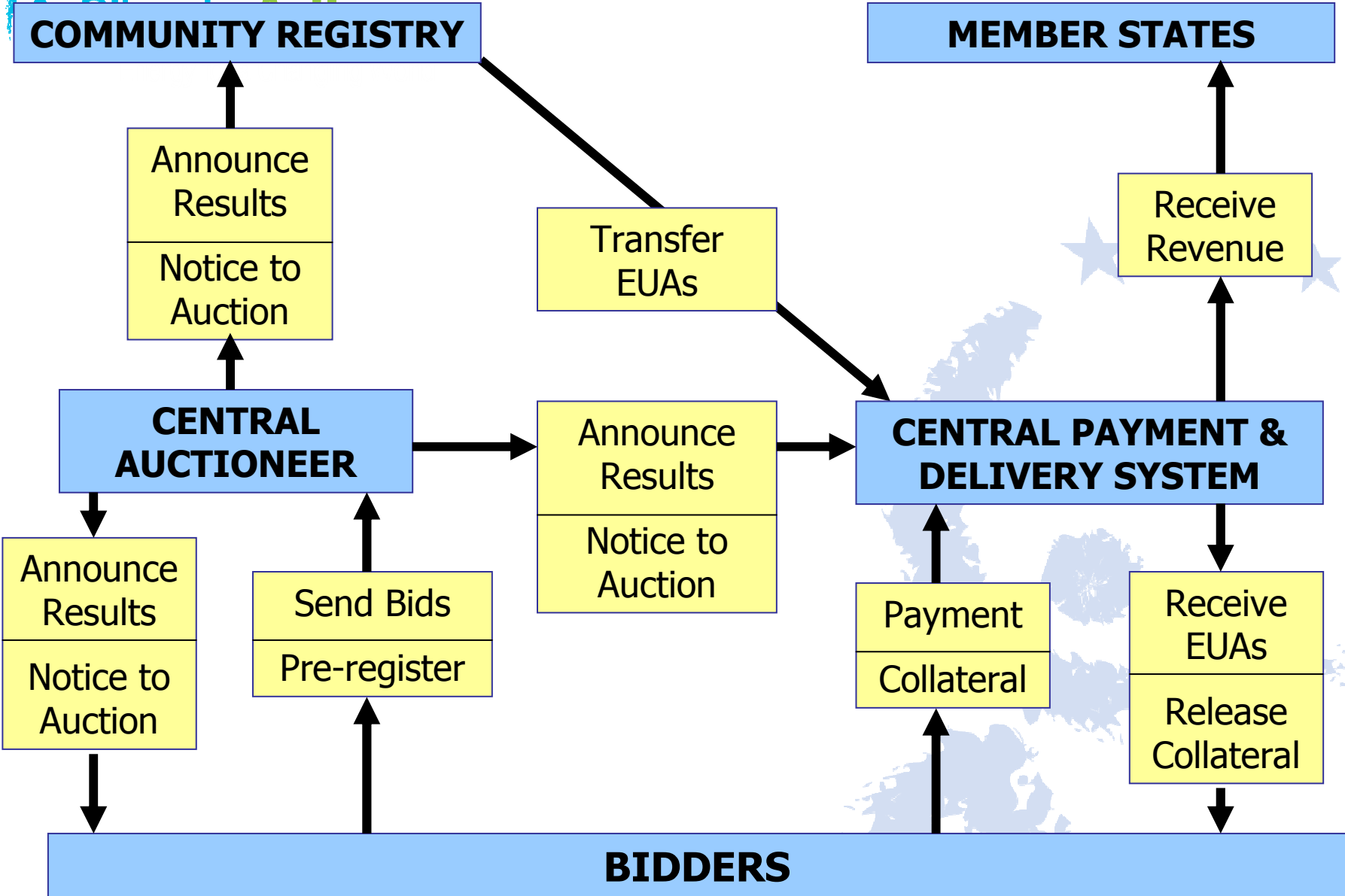


## 4.1 Overall auction model (1)

- Four approaches:
  - **Full decentralisation**
  - **Full centralisation**
  - **Coordinated platforms:** with 2 to 5 processes, an auction calendar with appropriate frequency and size of auctions may be feasible, even when auctioning both spot and futures.
  - **Hybrid approach:** collecting bids by several auctioneers during a common time slot with centralised clearing based on all bids and all allowances on offer.

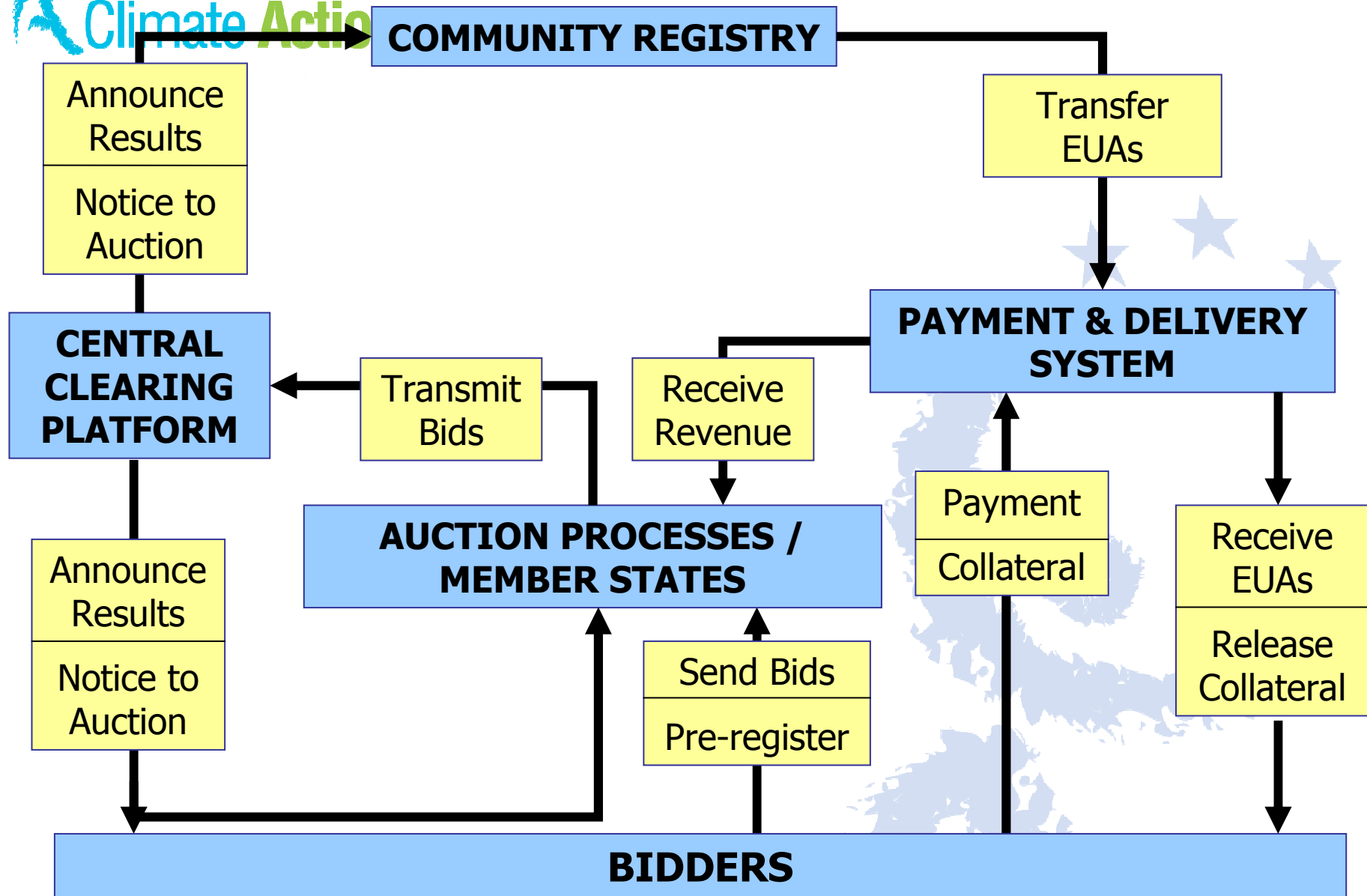


# FULL CENTRALISATION





# HYBRID APPROACH



## 4.2 Auctioneers & auction processes (2)

- What requirements for auctioneers and auction processes?
  - Technical capabilities - auctioneer needs to :
    - ❑ have the capacity and experience to conduct auctions (or a specific part of the auction process) in an open, fair, transparent, cost-effective and non-discriminatory manner;
    - ❑ make appropriate investment in keeping the system up-to-date and in line with ongoing market and technological developments; and
    - ❑ dispose of any relevant professional licences, high ethical and quality control standards, and be in compliance with financial and market integrity rules.

## 4.2 Auctioneers & auction processes (3)

- What requirements for auctioneers and auction processes?
  - Integrity:
    - the institution must guarantee confidentiality of bids and be able to manage market sensitive information in an appropriate manner;
    - electronic systems must be duly protected and appropriate security procedures with regards to identification and data transmission should be designed and implemented;
    - appropriate rules on avoiding conflicts of interest need to be in place and enforced. The absence of conflicts of interest and abidance by such rules should be duly monitored by the auction monitor; and
    - full cooperation with the auction monitor must be ensured.

## 4.2 Auctioneers & auction processes (4)

- What requirements for auctioneers and auction processes?
  - Reliability:
    - the organisation and systems need to be robust with adequate fallback measures in case of unexpected events.
    - risk of cancelling an individual auction once announced and the risk of failing functionalities (e.g. access to the bidding platform for certain potential bidders) should be strictly minimised.
    - in case of IT problems on the bidder side, a fallback system could consist in telephone, fax or e-mail orders being sent to the auctioneer.
    - larger participants could have the option of using secured lines.

## 4.2 Auctioneers & auction processes (5)

- What requirements for auctioneers and auction processes?
  - Accessibility and user friendliness:
    - fair, concise, comprehensible and easily accessible information on how to participate in auctions
    - pre-registration forms should be as short and simple as possible
    - electronic tools should be clear and simple, designed to minimise the risk of errors
    - access through a dedicated internet interface
    - proprietary trading systems should be able to connect to and communicate with the auction platform
    - adequate and regular training (including mock auctions) should be provided
    - detailed user guidance on how to participate in the auction
    - bidders should be able to test identification and access to the auction.



## 4.2 Auctioneers & auction processes (6)

- Non-discrimination must be ensured both *de jure* and *de facto*.
- Flexibility to accommodate possible changes resulting from periodic reviews.

## 4.3 Administrative fees

- What provisions for administrative fees?
  - Regulation should include adequate rules to ensure respect of the general principles of **proportionality, fairness, non-discrimination** and **legal certainty** with respect to administrative fees.
  - Excessive fees to be avoided. Any fee ought to be commensurate to the actual cost borne by the auctioneer.
  - Regulation should avoid administrative fees becoming an undue barrier to access for SMEs covered by the EU ETS and small emitters.
  - All this would entail harmonised rules on **fee structure** and **levels**.

## 4.4 Timely Auctions (1)

- How to ensure appropriate and timely preparation for auctions?
  - The Regulation could require Member State wishing to introduce a new (or adapted) auction process to make their intention public in good time (e.g. 18 months in advance of start date).
  - A procedure for notification to and authorisation by the Commission of the selected auctioneer, auction design and auction process would help to ensure compliance with the objectives laid down in Article 10(4) of the revised ETS Directive as implemented by the Regulation.

## 4.4 Timely Auctions (2)


- How to ensure appropriate and timely preparation for auctions?
  - If a Member State does not hold auctions it is responsible for on time, the Regulation should therefore contain a fallback provision to ensure that allowances retained by the Member State in question will be brought to market.
  - Two potential fallback provisions may be envisaged.
    - The Commission could authorise another auctioneer to auction the allowances on behalf of the Member State concerned
    - The allowances are automatically added to the quantities scheduled for the next two or three auctions
  - Revenues would still belong to the Member State that was originally responsible for auctioning them minus auctioneers fees

## 4.4 Timely Auctions (3)

- How to ensure appropriate and timely preparation for auctions?
  - Member States that do not live up to the timetable they are committed to could be sanctioned:
    - 0.1 - 0.25% of the delayed quantity being redistributed amongst Member States on the basis of the shares laid down in Article 10(2) of the revised ETS Directive, or
    - by adding the same amount to the New Entrants Reserve.

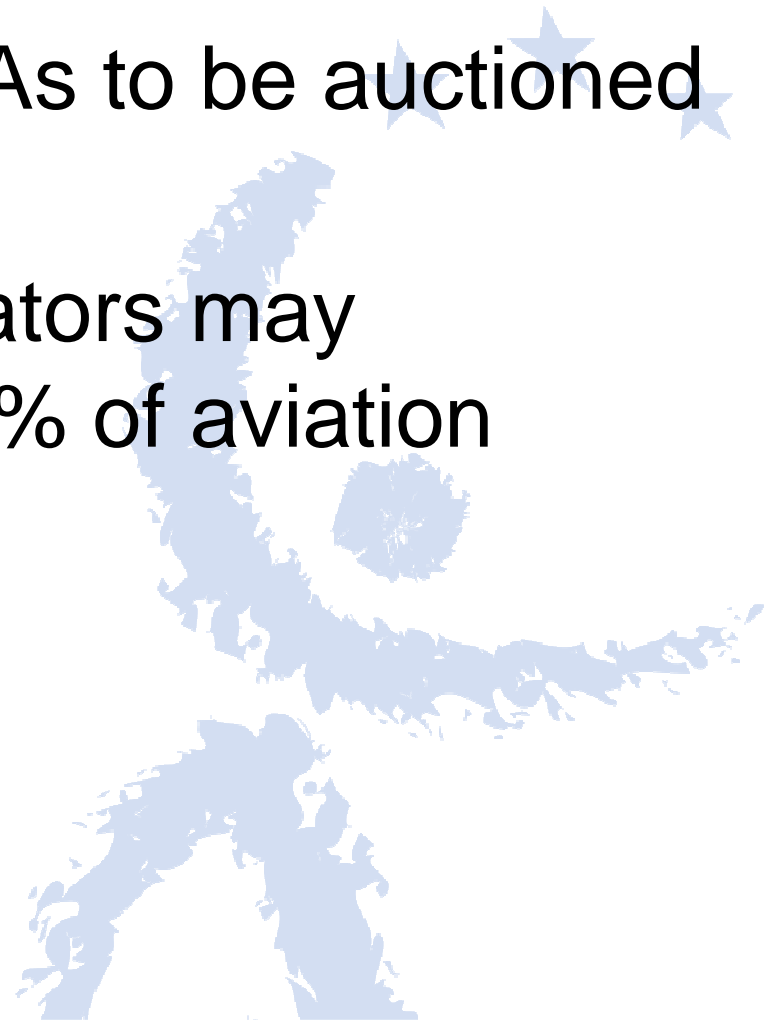
# Block 5

## Auctioning aviation allowances



## 5.1 Introduction

- Around 30 million EUAAs to be auctioned per year
- 15 largest aircraft operators may correspond to some 50% of aviation emissions



## 5.2 EUAAs: what & when?

- Hedging needs? Auctioning Futures?
  - But potential use of secondary market and EUAs (spot or futures)
  - Avoid fragmenting secondary market for EUAAs.
- Size & Frequency
  - Size should be sufficiently large to attract participation and mitigate risk of market abuse.
- EUAA auctions should not coincide with EUA auctions



## 5.3 EUAA auction design

- Same as for EUA auctions?
  - Greater need for simplicity
  - Design features to mitigate risk of market abuse and collusion: discriminatory pricing, reserve price, solving ties randomly
- No need for a maximum bid-size
  - Operators can EUAs in any event

## 5.4 How to implement EUAA auctions?

- No need for specific rules as regards:
  - Involvement of primary participants, exchanges or third party service providers?
  - Collateral, payment & delivery, information disclosure, auction monitoring?
  - Preventing anti-competitive behaviour and/or market abuse, enforcement?
- Possibility to use information from regulatory processes to facilitate KYC-checks?
- Non-competitive bids for SMEs/small emitters needed?

## 5.6 Who auctions EUAAAs?

- Smaller volume => greater disadvantages of decentralised approach
- No specific rules needed for:
  - Requirements for auctioneer(s)?
  - Administrative fees?
  - Rules to ensure appropriate and timely preparation?

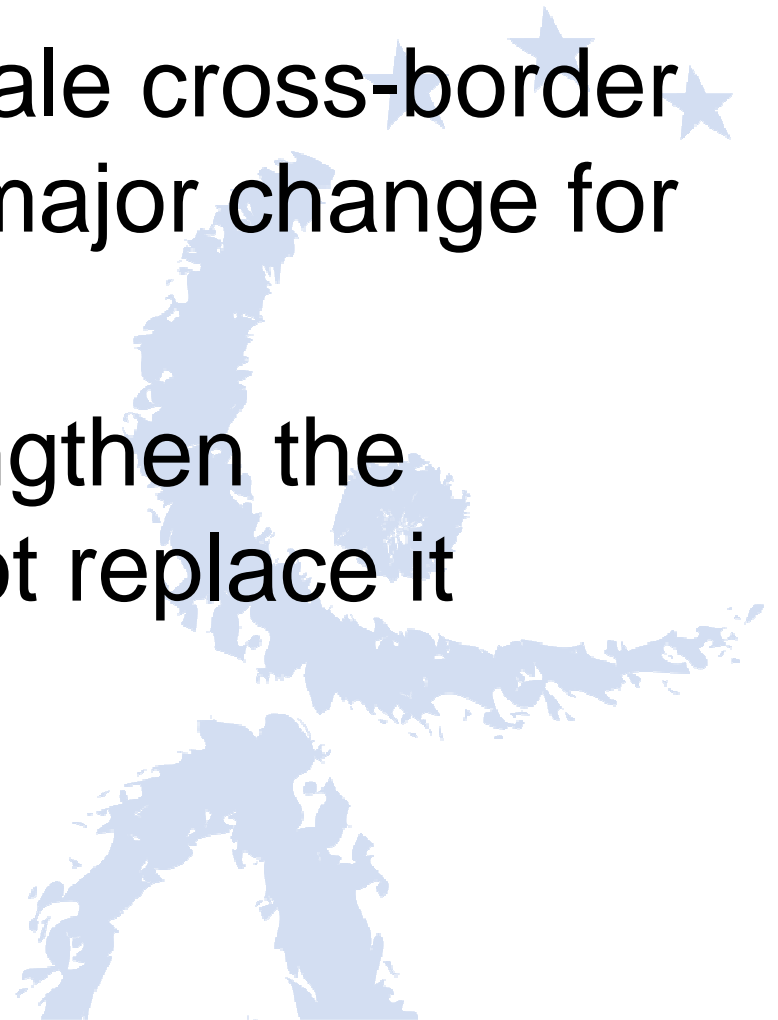
## Concluding remarks (1)

- Legal framework:
  - defines procedural responsibility
  - assigns allowances to Member States
  - ensures revenues go to Member States
  - but leaves the platform question open

Decisions should be driven by practical cross-border considerations, rather than a repeat of the *NAP mentality*

## Concluding remarks (2)

- Transition to large-scale cross-border auctioning implies a major change for the carbon market
- Auctions should strengthen the secondary market, not replace it



# Concluding remarks (3)

- Simplicity is key for openness and transparency. There is a trade-off when considering:
  - the number and variation of auction processes,
  - auctioning futures or only spot,
  - involving primary participants and/or exchanges.
- Low participation costs fosters participation, mitigates the risk of market abuse and optimises revenues. An insufficient degree of harmonisation may increase costs.

# Concluding remarks (4)

- Predictability is important for a clear price signal. Some uncertainty is, however, inevitable and markets are evolving. Need to build confidence.
- The Directive requires non-discrimination and a transparent level playing field. There is a trade-off between differentiation and the need for harmonised coordinating rules in the Regulation.

### Tentative planning:

- End of September: Stakeholder meeting on the results of the consultation
- End of October: Stakeholder meeting on the possible options for the way forward



**YOU CONTROL  
CLIMATE CHANGE.**



**TURN DOWN. SWITCH OFF. RECYCLE. WALK. CHANGE**

Info on the Climate Action and Renewable Energy Package at  
[http://ec.europa.eu/environment/climat/climate\\_action.htm](http://ec.europa.eu/environment/climat/climate_action.htm)