

EU Emissions Trading Scheme (ETS) – Consultation on design and organisation of emissions allowance auctions

This document is the questionnaire for this consultation. The survey contains **4** initial questions (A-D) to identify respondents, **86** questions for which responses will be made public and **4** questions that are classified confidential, must be sent directly to the European Commission and will not be made public. The questions that are classified potentially confidential are on two separate pages (2 questions on each page) and highlighted in green boxes.

Period of consultation

From 3 June 2009 to 3 August 2009 inclusive

How to submit your contribution

This consultation seeks to obtain feedback from all categories of stakeholders regarding the different aspects of auction design and implementation covered in the Consultation Paper.

We are sorry for the inconvenience, but the web-based survey is not available yet. If participants wish to complete the survey on this document and send their contributions back to contact_ets_auctions_consultation@icfi.com their responses can be accepted in this format. The web-based survey will be available as soon as possible if participants wish to wait till that is available.

Received contributions will be published on the Internet. It is important to read the specific privacy statement attached to this consultation for information on how your personal data and contribution will be dealt with.

Specific privacy statement

"Received contributions, together with the identity of the contributor, will be published on the Internet, unless the contributor objects to publication of his or her personal data on the grounds that such publication would harm his or her legitimate interests. In such cases the contribution may be published in an anonymous form. Otherwise, the contribution will not be published nor will, in principle, its content be taken into account. Responses for questions deemed confidential in the consultation will not be available for view on the website irrespective of contributor objecting or not. "

Instructions to filling out the questionnaire

- Questions may only be answered in designated response fields
- For certain multiple choice questions, simply click on box to indicate choice
- Answer [Y/N] questions by typing “y” / “Y” or “n” / “N” on underlined area (___)
- Some responses require explanations, additional comments and detailed answers. These will either be identified by underline (___) or an answer section (A: ___). The amount of text that can be entered here is unlimited.
- After completing the survey, please save and send to contact_ets_auctions_consultation@icfi.com
- If any questions seem unclear in context or for method of response, please mail contact_ets_auctions_consultation@icfi.com to clarify

Thank you

Section 1: Questions to categorize participants

Question A

Name of Company/Organization: BlueNext S.A

Principal nature of activities: Multilateral Trading Facility (Exchange)

Number of employees in 2008:

World-wide N/A

Europe-wide 23

Turnover in 2008:

World-wide N/A

Europe-wide N/A

Question B

Type of respondent:

Member State

Company operating one or more installations covered by the EU ETS

Electricity generators

Energy companies other than electricity generators

Industrial sectors

Aviation

Other. Please specify: _____

Approx Annual Emissions: _____ tCO₂

Intermediary

Financial institution

Trading arm of non-financial institution

Other. Please specify _____

Trader on own account

Financial institution

Trading arm of non-financial institution

Other. Please specify _____

- Regulated market
 - Carbon only
 - Carbon and electricity
 - Carbon and other energy products
- Other carbon market
 - Multilateral trading facility trading carbon derivatives
 - Carbon exchange trading spot carbon
 - Other. Please specify _____
- Clearing house
- Central counterparty (for spot market)
- Other (multiple choices apply)
 - Non-governmental organisation
 - Trade association
 - Carbon analyst
 - Carbon publication
 - Academic
 - Other. Please specify _____

Question C

Contact details will not be made public.

Question D

Questions relating to the "Specific privacy statement" above.

- Do you object to publication of your personal data because it would harm your legitimate interests? [Y/N] [N](#)

If so, please provide an explanation of the legitimate interests that you think will be harmed:

A:

- Are any of your responses confidential? [Y/N] [N](#)

If so, please indicate which ones and provide an explanation:

A:

Section 2: Survey questions (86) and potentially confidential questions (4)

Question 1

As a general rule throughout the trading period, in your opinion, are early auctions necessary? [Y/N] Y

If so, what should the profile of EUA auctions be?

- 5-10% in year n-2, 10-20% in year n-1, remainder in year n
- 10-20% in year n-2, 20-30% in year n-1, remainder in year n
- 20-30% in year n-2, 30-35% in year n-1, remainder in year n
- Other? Please specify: _____

Early auctions will supply the secondary market, enabling the continuity of its role as a reference price provider. In addition, early auctions are a necessity for some compliance buyers as they hedge their buying and selling needs (especially for electricity) up to 2 and 3 years in advance.

Question 2

Do you think there is a need to auction futures? [Y/N] Y

If so, why?

A: There will be a need to auction futures prior to the beginning of phase 3 to allow some compliance buyers (especially electricity producers) to hedge their positions. However, this need shall remain limited given the futures market will, by nature, restrain access to the auction by adding some complexity for some participants (especially the smaller ones) and for the States (counterparty risk to be managed by Member States and public accounting capabilities; indeed, we understand that some Member States are not able to sell futures in 2011 for maturity in 2013).

Question 3

What share of allowances should be auctioned spot and what share should be auctioned as futures for each year?

	SPOT	FUTURES
• year n	: <u>80</u> %	<u>20</u> %
• year n-1	: <u>70</u> %	<u>30</u> %
• year n-2	: <u>60</u> %	<u>40</u> %

Please provide evidence to support your case.

A: Spot auctions are to be favoured since they reduce the risk and complexity for Members States and allow more participants to access the auctions. In order to auction on

a spot basis prior to 2013, the European registry will have to be up and running and national registries shall have the capacity to hold phase 3 EUAs.

NB: The answer to this question will be published as part of the public consultation. Please do not submit confidential information as part of your answer to this question.

Question 4

Should the common maturity date used in futures auctions be in December (so the maturity date would be December in year n, both when auctioning in year n-2 as when auctioning in year n-1)? [Y/N] N

If not, please suggest alternative maturity dates and provide evidence to support your view.

A: The maturity date of futures auctions should be at the end of November to allow their settlement before the secondary futures market and thus prevent a congestion in back office services.

This page contains two questions that will not be made public. These questions cannot be completed on this document

Request for potentially confidential information 1

Please send the answer to this question in paper and electronic format, marked on the envelope "Strictly Private and Confidential – Auctioning consultation", directly to the European Commission, DG ENV, Directorate C, Unit C2, to the attention of the Head of Unit, Office BU-5 2/1, 1049 Brussels, Belgium. It will be treated confidentially and will not be disclosed publicly.

For ETS operators: what share of your expected emissions covered by the EU ETS in a given year n do you hedge and how much in advance?

- year n : _____%
- year n-1 : _____%
- year n-2 : _____%
- earlier years (please specify) : _____%

Request for potentially confidential information 2

Please send the answer to this question in paper and electronic format, marked on the envelope "Strictly Private and Confidential – Auctioning consultation", directly to the European Commission, DG ENV, Directorate C, Unit C2, to the attention of the Head of Unit, Office BU-5 2/1, 1049 Brussels, Belgium. It will be treated confidentially and will not be disclosed publicly.

What share of the annual quantity of allowances you intend to purchase *via* auctions would you wish to buy spot or futures respectively?

- | | SPOT | FUTURES |
|------------|----------|---------|
| • year n | : _____% | _____% |
| • year n-1 | : _____% | _____% |
| • year n-2 | : _____% | _____% |

Please specify whether you are an:

- ETS operator; or
- Other participant.

Question 5

For spot auctions:

What should be the **optimum** frequency of auctions?

- Weekly?
- Fortnightly?
- Monthly?
- Quarterly?
- Other? Please specify: _____

What should be the **minimum** frequency of auctions?

- Weekly?
- Fortnightly?
- Monthly?
- Quarterly?
- Other? Please specify: _____

What should be the **maximum** frequency of auctions?

- Weekly?
- Fortnightly?
- Monthly?
- Quarterly?
- Other? Please specify: _____

Please provide arguments to support your case.

A: Spot auctions should be run on a weekly basis since (a) they shall have limited impact on the secondary market, (b) it will reduce the amount of cash to be put upfront for each auction and (c) regular auctions shall reduce the sellers' exposure to market volatility. If the auctions are run on several platforms, they shall coordinate so that there is no more than one auction done each week throughout Europe.

Question 6

For spot auctions, what should be the:

- Optimum auction size? 15 Mt (weekly)
- Minimum auction size? 5 Mt (weekly)
- Maximum auction size? 25 Mt (weekly)

If deemed appropriate, please indicate a range and/or distribution over different sizes.

Please provide arguments to support your case.

A: This is in line with the quantity that will have to be auctioned over Phase 3 and the capacity of absorption of the secondary market.

Question 7

For futures auctions:

What should be the **optimum** frequency of auctions?

- Weekly?
- Fortnightly?
- Monthly?
- Quarterly?
- Other? Please specify: _____

What should be the **minimum** frequency of auctions?

- Weekly?
- Fortnightly?
- Monthly?
- Quarterly?
- Other? Please specify: _____

What should be the **maximum** frequency of auctions?

- Weekly?
- Fortnightly?
- Monthly?
- Quarterly?
- Other? Please specify: _____

Please provide arguments to support your case.

A: Volumes for spot and futures should use the same frequency and size.

Question 8

For futures auctions, what should be the:

- Optimum auction size? 15 Mt
- Minimum auction size? 5 Mt
- Maximum auction size? 25 Mt

If deemed appropriate, please indicate a range and/or distribution over different sizes.

Please provide evidence to support your case.

A: See answer to question 7.

Question 9

Should volumes of spot allowances be auctioned evenly throughout the year? [Y/N] Y

Auctioning allowances evenly throughout the year will reduce the impact on the secondary market and the volatility risk for the sellers. Given the lower trading activity in August and in the second half of December (after the settlement of futures contract), auctions shall not be held during these periods.

If not, how should volumes be distributed? (more than one answer possible) Please specify:

- A larger proportion in the first 4 months of the year?
- A larger proportion in December?
- A smaller proportion in July and August?
- Other? Please specify: _____

Question 10

In case futures are auctioned, should the volumes for spot and futures auctions be spread over the year in the same manner? [Y/N] Y (avoid multiple price signals)

If not, how should they differ? (more than one answer possible)

- No futures auctions less than six months before the maturity date.
- A larger proportion in December.
- A smaller proportion in July and August.
- Otherwise? Please specify how and comment: _____

Question 11

Does the Regulation need to have provisions to avoid holding auctions during a short period of time before the surrendering date (30 April each year)? [Y/N] N

As long as the delivery and payment can be done before the surrendering date, there is no reason not to organize auctions during this period. It is also preferable to avoid overloading the registry with the delivery of auctioned allowances when operators are surrendering their allowances.

If yes, how long should this period be:

One week 2 weeks 3 weeks 1 month

In case futures are auctioned, should there be similar provisions with respect to the period immediately prior to the maturity date? [Y/N] N

As long as the delivery and payment can be done before the surrendering date, there is no reason not to organize auctions during this period. It is also preferable to avoid overloading the registry with the delivery of auctioned allowances when operators are surrendering their allowances.

If yes, how long should this period be:

One week 2 weeks 3 weeks 1 month

Question 12

Which dates should be avoided? (more than one answer possible)

Public holidays common in most Member States?

Avoid auctioning when markets are closed (January 1st, Good Friday - Friday preceding Easter, Easter Monday, Labour Day - May 1st, December 25th) and periods of low trading activity (August and last 2 weeks of December – see question 9).

Days where important relevant economic data is released? _____

Days where emissions data are released?

Auctions shall be avoided during and:

- 1 day before the release of emissions data because the uncertainty might limit the participation.
- 1 day after the release of emissions data because some market participants have more resources to analyse the results and could thus take advantage of this situation.

Other? Please specify: _____

Please specify the dates you have in mind in your answers.

Question 13

Is a harmonised 10-12 hrs CET auction slot desirable? [Y/N] Y

If not, what alternative(s) would you suggest?

A: _____

Question 14

How long in advance should each element of the calendar be determined?

Annual volumes to be auctioned:

- 1 year in advance
- 2 years in advance
- 3 years in advance
- more years in advance

Distribution of annual volumes over spot and futures (if applicable):

- 1 year in advance
- 2 years in advance
- 3 years in advance
- more years in advance

Dates of individual auctions:

- 1 year in advance
- 2 years in advance
- 3 years in advance
- more years in advance

Volume and product type for individual auctions:

- 1 year in advance
- 2 years in advance
- 3 years in advance
- more years in advance

Each auctioneer carrying out auction process (if more than one):

- 1 year in advance
- 2 years in advance
- 3 years in advance
- more years in advance

Please provide arguments to support your case.

A: A good predictability for the global amount and the spot/futures breakdown is necessary since it has an influence on secondary market strategies. For individual auctions, a year in advance shall give Members States some flexibility to adjust the volumes over the year.

Question 15

What should be the volume of allowances to be auctioned in 2011 and 2012?

- in 2011: _____ % of the 2013 volume and _____ % of the 2014 volume
- in 2012: _____ % of the 2013 volume and _____ % of the 2014 volume

What percentage of these shares should be auctioned as futures?

- in 2011: _____ % of the 2013 share and _____ % of the 2014 share
- in 2012: _____ % of the 2013 share and _____ % of the 2014 share

Please provide evidence to support your case.

A: This is difficult to evaluate because of the technical uncertainty (operability of the European and national registries) and the state of the “hypothetic” EUA/CER/ERU surplus in phase 3. In any case, the auction calendar shall be jointly communicated by Member States and well in advance. In this light, BlueNext recommends the Commission to undertake an independent and transparent study to evaluate this question.

Question 16

What should be the rule with respect to allowances not auctioned due to *force majeure*?

- They should automatically be added to the next auction on the calendar, irrespective of the auction process.
- They should be auctioned within one month, though leaving flexibility as to which auction(s) the EUAs should be added.

Unsold allowances should be spread over the next three or four auctions to distribute the auctioned quantity and thus limit the impact on the secondary market.

- They should be auctioned within three months, though leaving flexibility as to which auction(s) the EUAs should be added.
- Other? Please specify: _____

Question 17

Is 1,000 allowances the most appropriate lot size? [Y/N] Y

If not, why not?

A:

Question 18

Is a single-round sealed-bid auction the most appropriate auction format for auctioning EU allowances? [Y/N] Y

Multiple rounds provide a price discovery, but this already exists in the secondary market. Single round are less complex and less prone to collusion.

If not, please comment on your alternative proposal?

A:

Question 19

What is the most appropriate pricing rule for the auctioning of EU allowances?

- Uniform-pricing.
- Discriminatory-pricing.
- Indifferent.

Please provide arguments to support your case.

A:

Uniform pricing seems more appropriate because (a) it will create a single price reference, (b) it tends to favour smaller companies' participation (simplicity of the design and lower strategic risk) and (c) without market power, it will reduce the risk for Member States not to maximise their revenues (there will be few actors capable to lower the clearing price with high quantity bids).

Question 20

Should the rules for solving ties in the Regulation be:

- random selection; or
- pro-rata re-scaling of bids?

Please comment on your choice.

A: Pro rata should be more easily accepted by market participants. As a second option, we would propose to use the time priority (the participant which had posted the first order is the first to be served).

Question 21

Should a reserve price apply?

A: No. A reserve price, if made public, might create a price distortion in the secondary market and force the clearing price down. Even if the reserve price is not public, market participants might be able to find out how it is calculated after a few auctions.

Question 22

In case a reserve price would apply, should the methodology/formula for calculating it be kept secret? [Y/N] Y

Please comment on your choice.

A: As mentioned in question 21, the methodology should be kept secret but there is a risk that some market participants find it out after a few auctions. This would in addition generate some asymmetry of information amongst those who know the methodology and those who don't.

Question 23

Is a maximum bid-size per single entity desirable in a Uniform-price auction?

[Y/N] N

Is a maximum bid-size per single entity desirable in a discriminatory-price auction?

[Y/N] N

Please comment on your choice.

A: A maximum bid size seems complex to define (difficulty to set the cap given a low cap might increase the participation cost, shall it be the same for all Member States?) and to implement (difficulty to define the “entity” since many installations are related to several companies).

In addition, buying a large part of the auctioned units is not necessarily constitutive of market abuse.

Question 24

If so, what is the desirable bid-size limit (as a percentage of the volume of allowances auctioned per auction – only one choice is possible):

10%:

15%:

20%:

25%:

30%:

More than 30%: Please specify: _____

Please comment on your choice.

A: If a bid-size limit were to be used, we would recommend setting the cap around 25% of the auctioned allowances since the main actors participating in auctions will be the power producers and within this category, the biggest utility owns around 13% of the allowances. In addition, this is close to the cap used in the RGGI. If the auctions are done by a unique platform, the limit could be lowered.

Question 25

In case only one of the two following options would be chosen, to limit the risk of market manipulation or collusion, which one would be preferable?

- A discriminatory-price auction format?
- A maximum bid-size per single entity?

Please comment on your choice.

A: Although it will be difficult to implement, the maximum bid size would be more effective than a discriminatory price because it caps the volume *a priori*. The discriminatory pricing doesn't prevent collusion nor on prices or on volumes. In addition, the discriminatory pricing is to be avoided since it doesn't give a unique price signal.

Question 26

Are the following pre-registration requirements appropriate and adequate?

Identity:

- Natural or legal person;
- Name, address, whether publicly listed, whether licensed and supervised under the AML rules; membership of a professional association; membership of a chamber of commerce; VAT and/or tax number;
- Contact details of authorised representatives and proof of authorisation; and
- CITL-Registry account details.
- Anything else? Please specify: _____

Declarations with respect to the past 5 years on absence of:

- Indictment or conviction of serious crimes: check corporate officers, directors, principals, members or partners;
- Infringement of the rules of any regulated or unregulated market;
- Permits to conduct business being revoked or suspended;
- Infringement of procurement rules; and
- Infringement of disclosure of confidential information.
- Anything else? Please specify: _____

Declarations and submission of documentation relating to:

- Proof of identity;
- Type of business;
- Participation in EU ETS or not;
- EU ETS registered installations, if any;
- Bank account contact details;
- Intended auctioning activity;
- Whether bidding on own account or on behalf of another beneficial owner;
- Corporate and business affiliations;
- Creditworthiness;
- Collateral; and
- Whether it carries out transactions subject to VAT or transactions exempted from VAT.
- Anything else? Please specify: _____

Question 27

Do you agree that the pre-registration requirements for admittance to EU auctions should be harmonised throughout the EU?

Yes No

Please comment on your choice.

A: In case the auctions are held on a unique platform, a harmonised approach will reduce transaction costs for participants. If the auctions are to be held on several platforms, a “European passport” would allow a mutual recognition between the pre-registration’s desks (if a participant is registered on a platform, he is automatically allowed to bid for the auction on another platform). Such European passport will exclude a potential dumping between the platforms’ checks.

Question 28

Should the amount of information to be supplied in order to satisfy the pre-registration requirements for admittance to EU auctions depend on the:

- means of establishing the trading relationship;
- identity of bidder;
- whether auctioning spot or futures;
- size of bid;
- means of payment and delivery;
- anything else? Please specify: _____

If so, what should the differences be?

A: N/A

Question 29

Should the bidder pre-registration requirements under the Regulation apply in the same manner irrespective of whether or not the auctioneer is covered by the MiFID or AML rules? [Y/N] Y

A: MiFID and AML rules shall apply to the auctioneer covered by these rules. If not covered by MiFID and AML, comparable rules shall apply.

If not, why not?

A:

Please provide arguments to support your case.

Question 30

Do you agree that the auctioneer(s) should be allowed to rely on pre-registration checks carried out by reliable third parties including: [Y/N] Y

- Other auctioneers?
- Credit and/or financial institutions?
- Other? Please specify: _____

Please comment on your choice.

A: This would be acceptable only if the procedures are harmonised at the European level.

Question 31

In order to facilitate bidder pre-registration in their home country, should the auctioneer(s) be allowed to provide for pre-registration by potential bidders in other (or all) Member States than the auctioneer's home country e.g. by outsourcing this to a reliable third party?

Yes No

Please comment on your choice:

A:

If so, should such entities be:

- Covered by the AML rules?
- Covered by MiFID?
- Covered by both?
- Other? Please specify: _____

Please comment on your choice:

A: Because of the legal nature of the allowances, MiFID rules won't in principle be applicable for spot auctions. It will thus be necessary that the Regulation define MiFID-like requirements.

Question 32

Should the Regulation prohibit the multiplicity of pre-registration checks in the case of Member States auctioning jointly?

Yes No

Please comment on your choice.

A: For Member States auctioning jointly, the Regulation shall allow the outsourcing of the pre-registration checks but under strict conditions (as specified in question 31) and limit the number of registration desks.

Question 33

Do you agree that the *level* of collateral accepted in EUA auctions should be harmonised for all EU ETS auctions? [Y/N] Y

If so, how should they be harmonised?

A: Auctions should be carried out by existing exchanges which have already established rules regarding the level of collateral they require (for example, on BlueNext Spot market, bidders are not able to bid more than what they have deposited). Depending on the delivery method chosen, the Commission shall then provide guidelines to limit

competitive distortions and set a range of acceptable levels of collateral based on existing practices, but without imposing a specific level of collateral.

If not, why not?

A:

Question 34

Do you agree that the *type* of collateral accepted in EUA auctions should be harmonised for all EU ETS auctions? [Y/N] Y

If so, how should they be harmonised?

A: The types of collateral shall be harmonised but as for the level of collateral, the Commission shall define acceptable types of collateral based on existing practices.

If not, why not?

A:

Question 35

Do you agree that 100% collateral in electronic money transfer ought to be deposited up-front at a central counterparty or credit institution designated by the auctioneer to access spot auctions? [Y/N] Y

If not, why not?

A:

What alternative(s) would you suggest? Please provide arguments to support your case:

A:

Question 36

In case futures are auctioned, should a clearing house be involved to mitigate credit and market risks? [Y/N] Y

If so, should specific rules – other than those currently used in exchange clearing houses – apply to:

- the level of the initial margin;
- the level of variation margin calls;
- the daily frequency of variation margin call payments?

If you have answered yes, please justify and elaborate on the rules that should apply and the mechanisms to implement them:

A: No specific rules shall apply. It is better to use the existing practices that have already been experienced on derivatives markets.

Question 37

What are the most preferable payment and delivery procedures that should be implemented for auctioning EUAs?

- Payment before delivery.
 Delivery versus payment.
 Both.

Please comment on your choice.

A: Delivery vs. payment is the common practice on the markets whether the central counterparty is the exchange itself or a clearing house. This mechanism allows the highest level of security for both the seller and the buyer.

Question 38

Irrespective of the payment procedure, should the Regulation fix a maximum delay of time for payment and delivery to take place? [Y/N] Y

If yes; what should it be?

- 4 working days
 5 working days
 6 working days
 7 working days

Other? Please specify: Regarding the settlement on the spot market, 3 working days would be a good timing since it will take into account possible registries' maintenance, failure and delays and would limit overloading the registries.

Question 39

Should the Regulation provide any specific provisions for the handling of payment and delivery incidents or failures? [Y/N] Y

If yes, what should they be?

A: The regulation shall refer to the common practice regarding force majeure events and suspension of obligations. Most futures contracts list the following case of suspension (we refer to BlueNext futures market rules):

- When the ITL or the CITL is not available, delivery obligations are suspended until X business days after the incident is resolved.
- When the delivery will lead to a breach of the Commitment Period Reserve (CPR), or if the State where the delivery registry is located loses its eligibility

(under art. 17 of Kyoto Protocol), or if the delivery registry is unavailable during more than Y days, then the delivery is performed on another registry.

- When the delivery registry is unavailable during less than Y days, obligations are suspended until the event is cured.

Regarding force majeure, the common practice is to say that if the force majeure event is not cured 9 days after its occurrence; the parties can unilaterally terminate the contract.

Question 40

Should the Regulation provide for all matters that are central to the very creation, existence and termination or frustration of the transaction arising from the EUA auctions? [Y/N] Y (the more is decided at EU level, the better; as long as it refers to common practices)

If not, why not?

A:

If so, are the matters enumerated below complete? [Y/N] Y

- The designation of the parties' to the trade.
- The characteristics of the auctioned product:
 - Nature: EUAs or EUAAs, trading period concerned.
 - Date of delivery: date at which winning bidders will receive the allowances on their registry account.
 - Date of payment: date at which payment will be required from winning bidders.
 - Lot size: number of allowances associated with one unit of the auctioned good.
- 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.

If not, what additional matters should be foreseen in the Regulation and why?

A:

Question 41

Should the Regulation provide for rules on jurisdiction and the mutual recognition and enforcement of judgments? [Y/N] N/A

If so, should these be:

- specific to the Regulation;
- by reference to the Brussels I Regulation;
- by citing exceptions from the Brussels I Regulation;
- by citing additions to the Brussels I Regulation?

Please comment on your choice:

A:

If not, why not?

A:

Question 42

Which auction model is preferable?

- Direct bidding?
- Indirect bidding?
- Both?

Please comment on your choice.

A: Auctions should be carried out by existing exchanges which have already established rules and liquidity. An associate participants' model could be added for SMEs but only within the exchange scheme.

Question 43

If an indirect model is used, what share of the total volume of EU allowances could be auctioned through indirect bidding? 10%.

Please provide arguments to support your case.

A: SMEs represent 80% of the participants but around 10% of the allocated allowances.

Question 44

If the primary participants model is used, what provisions would be desirable for mitigating disadvantages of restricting direct access (more than one answer is possible):

- Allow direct access to largest emitters, even if they trade only on their own account?

If so, who should have direct access and what thresholds should apply?

Anyone able to provide the documents listed in question 26 (there is no need to set a threshold as long as we consider the rationality of economic agents : if the cost of preparing the pre-registration file is too high compared to what they need to buy, they shall directly go through an intermediary).

- Disallow primary participants trading on their own account? We consider here that

- Impose strict separation of own-account trading from trading on behalf of indirect bidders?

- Other? Please specify: _____

As described in question 42, BlueNext is not in favour of a primary participants' model as designed by the UK in phase 2. However, an associate member's solution into existing exchanges schemes would be the most realistic solution to implement.

Question 45

If the primary participants' model is used, what conflict of interest requirements should be imposed? (more than one answer possible)

- Separation of client registration and trading on behalf of clients from all own account trading activities.
- Separation of collateral management, payment and delivery on behalf of clients from all own account trading activities.
- Separation of anything else, please specify: _____

Question 46

What obligations should apply to primary participants acting in EU-wide auctions as:

- Intermediaries? A:
- Market makers? A:

Please provide arguments to support your case.

The obligations regarding the separation of proprietary and clients' activities shall apply in the same manner to primary participants whether they are already intermediaries or market makers.

Question 47

Under what conditions should auctioning through exchanges be allowed (more than one answer possible):

- Only for futures auctions open to established members of the exchange?
- Also for spot auctions open to established members of the exchange?
- Only when the exchange-based auction is open to non-established members on a non-discriminatory cost-effective basis?
- Other? Please specify: _____

Please provide arguments to support your case.

A: Auctioning through exchanges should be favoured whether it is for spot or futures auctions. Using existing infrastructures have the following advantages: (a) it reduces the administrative and transaction costs since most participants are already “connected”, on a legal point of view (legal package, KYC) and a technical point of view (the system is already integrated in the participant’s front and back offices) and because a market place reduces transaction cost via its liquidity (tighter spreads provide lower prices); (b) exchanges have to comply with the competent authorities’ compliance requirements; and (c) it shall be possible to access to the market via associate members acting on behalf of clients.

Question 48

Should direct auctions be allowed through:

- 1) Third party service providers? [Y/N] N
- 2) Public authorities? [Y/N] N

Please comment on your selection:

A: Allowing public authorities to run the auctions may encourage Member States to build their own national solution. It seems more efficient to use existing infrastructures (exchanges).

Question 49

Do the general rules for auctioning EUAs suffice for ensuring full, fair and equitable access to allowances to SMEs covered by the EU ETS and small emitters? [Y/N] Y

If not, why not?

A: Yes as long as SMEs can access the market via intermediaries.

Question 50

Is allowing non-competitive bids necessary for ensuring access to allowances to SMEs covered by the EU ETS and small emitters in case of:

- discriminatory-price auctions? A: N
- uniform-price auctions? A: N

Non competitive bidding has been used for the British and Austrian auctions and we understand that such a mechanism is expensive for the emitter since he needs to mandate an organisation to place bids on behalf of SMEs and to realise their creditworthiness and KYC checks. In addition, the mechanism doesn't seem to be very efficient since it would be easier and cheaper for the non-competitive bidders to go through an intermediary.

The Austrian experience has demonstrated little interest for this kind of process since only 5% of the quantity available for non competitive bidders was subscribed.

Question 51

If non-competitive bids are provided for in spot auctions, what maximum share of allowances could be allocated through this route?

- 5%
- 10%
- Other? Please specify: _____

Please comment on your choice.

A: Given BlueNext is not in favour of non-competitive bids, we advocate for the lowest possible rate.

Question 52

What rule should apply for accessing non-competitive bids (more than one answer possible):

- Participants should only be allowed to use one of the two bidding routes?
- Non-competitive bids should be restricted to SMEs covered by the EU ETS and small emitters only?
- Other? Please specify: _____

Please comment on your choice.

A: It doesn't seem fair to only allow one route of bidding. In addition, the definition of small emitter will be difficult to establish in a fair manner and as explained in question 23, it will be difficult to implement since an entity might belong to several companies.

Question 53

What should be the maximum bid-size allowed for SMEs covered by the EU ETS and small emitters submitting non-competitive bids?

- 5 000 EUAs
 10 000 EUAs
 25 000 EUAs
 Over 25 000 EUAs, please specify exact size and give reasons for your answer: _____

In order to limit the risk for the Member State and to simplify the registration procedure, the non competitive bid should not exceed 10 kt.

Question 54

Are there any other specific measures not mentioned in this consultation that may be necessary for ensuring full, fair and equitable access to allowances for SMEs covered by the EU ETS and small emitters? [Y/N] N

If so, please specify:

A:

Question 55

What should be the minimum period of time before the auction date for the release of the notice to auction?

2 weeks 1 month 2 months

Other Please specify: _____

Please comment on your proposal.

A: At the beginning (until the process is running smoothly), it seems better to give at least 2 months to prepare the auction.

Question 56

What should be the minimum period of time before the auction date for the submission of the intention to bid?

1 week 2 weeks 1 month

Other Please specify: _____

Please comment on your proposal.

A:

Question 57

Are there any specific provisions that need to be highlighted in:

- The notice to auction?
- The intention to bid?
- Both?

Please specify what they are.

A: As mentioned before, we reiterate that in order to provide predictability to the secondary market, the notice to auction shall be published well in advance.

Question 58

What information should be disclosed after the auction:

- Clearing price (if allowances are awarded on a uniform-price basis or in the case of non-competitive bids being allowed)?
- Average price (if allowances are awarded on a discriminatory-price basis)?
- Any relevant information to solve tied bids?
- Total volume of EUAs auctioned?
- Total volume of bids submitted distinguishing between competitive and non-competitive bids (if applicable)?

This information is generally released but is not necessarily relevant since some participants might put some cheap orders for a large amount just in case they might be executed.

- Total volume of allowances allocated?
- Anything else? Please specify: _____

Question 59

What should be the maximum delay for the announcement of auction results?

- 5 minutes
- 15 minutes
- 30 minutes
- 1 hour
- Other Please specify: _____

Please comment on your proposal.

A: The announcement shall be made quickly since the winning bidders will already be aware of the clearing price (avoids asymmetry of information in the market). 15 minutes leaves some time to do several checks, especially if there are specific provisions such as a reserve price or maximum bid size.

Question 60

Do you feel that any specific additional provisions should be adopted in the Regulation for the granting of fair and equal access to auction information? [Y/N] N

If so, what may they be? _____

Question 61

Should an auction monitor be appointed centrally to monitor all EU auctions?

[Y/N] Y

If not, why not?

A: A central monitor shall be appointed to make sure the different platforms' procedures are consistent.

Question 62

Do you agree that the Regulation should contain general principles on [mark those that you agree with,]:

the designation and mandate of the auction monitor; and

cooperation between the auctioneer(s) and the auction monitor? (Although cooperation between auctioneers might be difficult if there are 27 platforms)

If not, why not?

A:

Should these be supplemented by operational guidance, possibly through Commission guidelines? [Y/N] Y

If not, why not?

A:

Question 63

Is there a need for harmonised market abuse provisions in the Regulation to prevent insider dealing and market manipulation? [Y/N] Y

If not, why not?

A:

Please comment on your choice outlining the provisions you deem necessary and stating the reasons why.

A:

Question 64

Should the Regulation provide for harmonised enforcement measures to sanction [mark those that you agree with,]:

Non-compliance with its provisions?

Market abuse?

Please provide arguments to support your case.

A: Harmonised enforcement measures to sanction market abuse and non compliance with the Regulation's provisions will avoid arbitrage between different auctions rules (in case auctions are not run by a unique platform).

Question 65

Should the enforcement measures include [mark those that you agree with,]:

The suspension of the auctioneer(s) and/or bidders from the EU-wide auctions?
For the auctioneer, it depends whether the auctioneer has failed to comply with its obligations. The suspension measures shall be a fall back procedure: first a public communication and then financial penalties shall be applied.

If so, for how long should such suspension last?

The suspension shall last as long as the integrity of the participant is restored but shall be limited to 6 months (Feinstein/Snowe Bill).

Financial penalties?

If so, at what level should such penalties be fixed?

They shall be proportional to the scale of the breach.

The power to address binding interim decisions to the auctioneer(s) and/or bidders to avert any urgent, imminent threat of breach of the Regulation with likely irreversible adverse consequences?

Anything else? Please specify: **Public communication**

Please provide arguments to support your case.

A:

Question 66

Should such enforcement measures apply at:

EU level?

National level?

Both?

Please comment on your choice.

A: It is better to use a centralised approach but national structures might be faster to react and implement their decision than EU ones.

Question 67

Who should enforce compliance with the Regulation (more than one answer is possible):

- The auction monitor?
- The auctioneer?
- A competent authority at EU level?
- A competent authority at national level?
- Other? Please specify: _____

Please provide evidence to support your case.

A: An inter-governmental authority gathering representatives from national financial regulators would seem to be the most competent authority.

Question 68

Which of the three approaches for an overall EU auction model do you prefer? Please rate the options below (1 being the most preferable, 3 being the least preferable)

- 2 Limited number of coordinated auction processes.
- 1 Full centralisation based on a single EU-wide auction process.
- 3 The hybrid approach where different auction processes are cleared through a centralised system.

Please give arguments to support your case.

A: 1 – Full centralisation; 2- Limited number of coordinated approach; 3- Hybrid.

In theory, the hybrid model seems to be a good compromise between the unique platform and the coordinated processes. However, such a solution would still require building and connecting a central clearing system and to connect it to the trading platforms collecting the bids. It seems time and cost consuming for a solution which in the end doesn't seem optimal.

The optimal situation would rather be a fully centralized process where common rules apply in the process and the design and which favours efficiency and low transaction costs. A centralized approach would also limit the risk of competitive distortions regarding multiple aspects of the auction (registration, KYC, credit checks...). The main disadvantage of the solution is that it requires a political consensus.

The intermediary solution that would give the time to set up the centralized auction system and that seems the most appropriate will be the coordinated auction process. The main disadvantage of this solution is that it would require defining the cooperation modalities. The main advantage is that it shall be the fastest solution to build.

Question 69

If a limited number of coordinated auction processes develops, what should be the maximum number?

- 2
 3
 5
 7
 more than 7, please specify: _____

Please give arguments to support your case.

A: It would be interesting to perform a geographic distribution of exchanges' coverage (mostly in terms of membership). 5 seems a maximum in order to avoid too much complexity.

Question 70

Is there a need for a transitional phase in order to develop gradually the optimal auction infrastructure? [Y/N] _

If so, what kind of transitional arrangements would you recommend? _____

The optimal infrastructure should be the centralized one. The intermediary would be the coordinated approach so there will be no transition to manage.

Question 71

Should the Regulation impose the following requirements for the auctioneer(s) and auction processes? [mark those that apply,]:

Technical capabilities of auctioneers:

- 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;
- appropriate investment in keeping the system up-to-date and in line with ongoing market and technological developments; and
- relevant professional licences, high ethical and quality control standards, compliance with financial and market integrity rules.

Integrity:

- guarantee confidentiality of bids, ability to manage market sensitive information in an appropriate manner;
- duly protected electronic systems and appropriate security procedures with regards to identification and data transmission;
- appropriate rules on avoiding and monitoring conflicts of interest; and
- full cooperation with the auction monitor.

Reliability:

- robust organisation and IT systems;
- adequate fallback measures in case of unexpected events;
- minimisation of the risk of cancelling an individual auction once announced;
(We don't understand the above requirement)
- minimisation of the risk of failing functionalities (e.g. access to the bidding platform for certain potential bidders); and
- fallback system in case of IT problems on the bidder side.

Accessibility and user friendliness:

- fair, concise, comprehensible and easily accessible information on how to participate in auctions;
- short and simple pre-registration forms;
- clear and simple electronic tools;
- (option of) accessibility of platforms through a dedicated internet interface;
- ability of the auction platform to connect to and communicate with proprietary trading systems used by bidders;
- adequate and regular training (including mock auctions);
- detailed user guidance on how to participate in the auction; and
- ability to test identification and access to the auction.

Please elaborate if any of these requirements need not be included.

A:

Please elaborate what additional requirements would be desirable.

A:

Question 72

What provisions on administrative fees should the Regulation include (more than one answer is possible)?

- General principles on proportionality, fairness and non-discrimination.
- Rules on fee structure.
- Rules on the amount of admissible fees.
- Other? Please specify: [Harmonisation of the fee structure](#)

Please provide arguments to support your case.

A: [The fee structure shall not favour arbitrage between different auctions' rules \(in case auctions are not run by a unique platform\).](#)

Question 73

Should there be provisions for public disclosure of material steps when introducing new (or adapted) auction processes?

A: [Yes \(need for maximum clarity\).](#)

Should new (or adapted) auction process be notified to and authorised by the Commission before inclusion in the auction calendar?

A: [Yes \(need for maximum clarity\).](#)

Question 74

Which one of the following options is the most appropriate in case a Member State does not hold auctions (on time)?

- Auctions by an auctioneer authorised by the Commission.
- Automatic addition of the delayed quantities to those foreseen for the next two or three auctions.

What other option would you envisage? Please specify:

A: [See answer to question 16.](#)

Question 75

Should a sanction apply to a Member State that does not auction allowances in line with its commitments? [Y/N] _

If so, what form should that sanction take?

A: [N/A](#)

Question 76

As a general rule throughout the trading period, in your opinion, are early auctions necessary? [Y/N] _

If so, what should the profile of EUAA auctions be:

- 5-10% in year n-2, 10-20% in year n-1, remainder in year n
- 10-20% in year n-2, 20-30% in year n-1, remainder in year n
- 20-30% in year n-2, 30-35% in year n-1, remainder in year n
- Other? Please specify: _____

As for the EUAs, early auctions are necessary for aircraft operators who will need to hedge in advance their buying and selling needs of oil. The first auction could start in 2011 since registries might not be operational in 2010.

Question 77

Do you think there is a need to auction EUAA futures? [Y/N] Y

If so, why?

A: As for EUAs, there will be a need to auction futures prior to the beginning of phase 3 to allow aviation companies to hedge their positions. However, this shall remain limited given the futures market will, by nature, restrain the access to the auction by adding some complexity for the participants especially the smaller ones.

This page contains two questions that will not be made public. These questions cannot be completed on this document

Request for potentially confidential information 3

Please send the answer to this question in paper and electronic format, marked on the envelope "Strictly Private and Confidential – Auctioning consultation", directly to the European Commission, DG ENV, Directorate C, Unit C2, to the attention of the Head of Unit, Office BU-5 2/1, 1049 Brussels, Belgium. It will be treated confidentially and will not be disclosed publicly.

For aircraft operators covered by the EU ETS:

Have you determined a corporate hedging strategy for carbon needs?

Yes []

No []

If so, what share of your expected emissions covered by the EU ETS in a given year n do you (intend to) hedge and how much in advance?

- year n : _____%
- year n-1 : _____%
- year n-2 : _____%

Request for potentially confidential information 4

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What share of the annual quantity of allowances you intend to purchase *via* auctions would you wish to buy spot or futures respectively?

- | | | SPOT | | FUTURES |
|---|----------|------|--------|---------|
| • | year n | : | _____% | _____% |
| • | year n-1 | : | _____% | _____% |
| • | year n-2 | : | _____% | _____% |

Question 78

What should be the optimal frequency and size of EUAA auctions:

- 2 auctions per year of around 15 million EUAAs?
- 3 auctions per year of around 10 million EUAAs?
- More than 3 auctions per year? Please specify: _____

Please comment on your choice.

A: Given there is no secondary market, it seems simpler to directly auction large volumes.

Question 79

What would be your preferred timing for EUAA auctions:

- Equally spread throughout the year?
- November – March?
- Other? Please specify: _____

Auctioning allowances evenly throughout the years will reduce the volatility risk for the sellers.

Question 80

Should any of the EUAA auction design elements be different compared to EUA auctions (see section 3)? [Y/N] N

If so, please specify and comment on your choice.

A: Auction design shall not dissent from what we described for EUA: (a) auction should be single round (less complex), (b) uniform price (unique price signal, maximisation of revenues for the State...) and (c) no reserve price shall be used. Indeed, since EUA and EUAAs' market will be partially linked, it seems preferable to harmonize auction designs so there is no possible arbitrage with EUA auctions.

Question 81

Do you agree there is no need for a maximum bid-size? [Y/N] N

If not, why not?

A: Although it might be easier to implement technically, we don't recommend using maximum-bid size. Since the concentration ratio is lower in the aviation sector (50% of the allowances are held by 15% of the companies) than in the electricity sector (50% of the allowances belong to 8% of the companies), there shall be again less risk of squeeze or market collusion.

Question 82

Is there any information regarding aircraft operators made available as part of the regulatory process to the competent authorities that could facilitate the KYC checks performed by the auctioneer(s)? [Y/N] _

If so, please describe what information is concerned and whether it should be referred to in the Regulation or any operational guidance published by the Commission.

A: N/A

Question 83

In your opinion, is there a specific need to allow for non-competitive bids in EUAA auctions?

A: As for the EUA auctions we would not recommend to allow non competitive bids since it is expensive for the emitter who needs to mandate an organisation to place bids on behalf of SMEs and to realise their creditworthiness and KYC checks. SMEs will always have the possibility to go through intermediaries to buy EUAs on the secondary market.

Would this be the case even when applying a uniform clearing price format?

A: N/A

Please provide arguments to support your case.

Question 84

Do you agree that there is no need for any specific provisions for EUAA auctions as regards [mark those that you agree with,]:

- Involvement of primary participants, exchanges or third party service providers?
- Guarantees and financial assurance?
- Payment and delivery?
- Information disclosure?
- Auction monitoring?
- Preventing anti-competitive behaviour and/or market manipulation?
- Enforcement?

If not, please describe in detail what rules would be needed and why.

A: We believe there is no need to add any specific provisions for EUAA auctions compared with EUA auctions since this might create competitive distortions between both auctions.

Question 85

Taking into account the smaller volume of EUAA allowances to be auctioned compared to EUAs, which of the three approaches for an overall EUAA auctioning model do you prefer? Please rate the options below (1 being the most preferable, 3 being the least preferable)

- Limited number of coordinated auction processes.
- Full centralisation based on a single EU-wide auction process.
- Hybrid approach where different auction processes are cleared through a centralised system.

Does your choice differ from the approach preferred for EUAs? [Y/N] [N](#)

Please provide arguments to support your case.

A: [The arguments are identical to those provided in question 68.](#)

Question 86

Do you agree that there is no need for any specific provisions for EUAA auctions as regards. [mark those that you agree with,]:

- Requirements for the auctioneer(s) and auction processes?
- Administrative fees?
- Rules to ensure appropriate and timely preparation of the auctions?

If not, please describe in detail what rules would be needed and why.

A: [We believe there is no need to add any specific provisions for EUAAs auctions \(see question 84\).](#)