

Consultation on the functioning of the Auctioning Regulation pursuant to the scheme for greenhouse gas emission allowances trading within the Community (EU ETS).

Fields marked with * are mandatory.

Introduction

Auctioning is the default method of allocating allowances within the EU emissions trading system (EU ETS, established by Directive 2003/87/EC). This means that the majority of allowances are brought into circulation by auctioning and businesses have to buy an increasing proportion of allowances through auctions or in the secondary market. Auctioning is the most transparent allocation method and puts into practice the principle that the polluter should pay with no distortion in the markets.

Following a [detailed consultation in 2009](#) and an in-depth [Impact Assessment](#) of several options, the modalities for conducting auctions of allowances (constituting the primary market of the EU ETS) were established through the [Auctioning Regulation](#) (Regulation (EU) No 1031/2010) in 2010 (Regulation on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to the EU Emission Trading System). The Auctioning Regulation was amended in 2011 to determine the volume of greenhouse gas emission allowances to be auctioned prior to 2013, in 2013 to improve certain technical aspects concerning procurement procedures for appointing auction platforms and the auction monitor, and the holding of auctions, and otherwise only to list the auction platforms appointed to conduct the auctions and to incorporate the [Backloading Regulation](#) (Regulation (EU) No 176/2014).

Europe's carbon market was the first cap-and-trade system in the world to put in place large-scale auctioning as of 2012. In no other existing carbon market have as many allowances, covering such a large proportion of the total allowances issued, been put in circulation via auctioning as in the EU ETS. To date over 700 auctions for more than 2 billion EU ETS emission allowances (hereafter "allowances" this reference also includes allowances for aviation) having taken place without any noticeable distortion or malfunctioning, indicating that the infrastructure established is performing well.

Further amendments of the Auctioning Regulation are required to make adjustments to certain modalities stemming from the forthcoming introduction of the Market Stability Reserve (MSR) ([Decision 2015/1814/EU](#)). This consultation addresses two objectives. Firstly, it aims to collect stakeholders' views on the changes to the Auctioning Regulation directly related to the technical aspects of implementation of the MSR (Decision EU 1814/2015). In addition, this consultation

contains questions that allow stakeholders to share their views on the functioning of the Auctioning Regulation in order to assess the extent to which the more than 700 auctions of allowances executed to date have been implemented effectively and efficiently and to identify any potential areas for further technical improvements. The functioning of the ETS Directive was the subject of a recent consultation (Consultation on revision of the EU Emission Trading System (EU ETS) Directive, carried out 19/12/2014 - 16/03/2015). In order to avoid overlap, the scope of this consultation is limited to those aspects directly related to the implementation of auctions for emissions allowances covered in the Auctioning Regulation.

Profile

* P.1 What is your profile?

Large enterprise

[1] The category of micro, small and medium-sized enterprises (SMEs) is considered to be made up of enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million (are defined in the [EU recommendation 2003/361](#)).

* Please enter the name of your business/organisation/association etc.:

Repsol, S.A.

P.2 Please enter your contact details:

* Street & number:

████████████████████

* Office/apt:

██████████

* Locality:

██████

* Postal code:

██████

* Country:

SPAIN

* Telephone:

[REDACTED]

* Email:

[REDACTED]@repsol.com

P.3 If relevant, please state if the sector/industry you represent falls within the scope of the EU ETS:

Yes

* P.4 Please state what sector you/ the entity you represent is active in/ represents:

Select all that apply

- Electricity generation
- Non-electricity energy sector
- Non-energy-intensive manufacturing sector
- Energy-intensive manufacturing sector
- Aviation sector
- Financial sector
- Other

* P.5 Since the introduction of large scale auctions of allowances (from 2012 to 2015) have you/ the entity you represent participated directly or indirectly in the primary market for allowances (auctions of allowances)?

Select all that apply

- Yes, directly
- Yes, via intermediary
- No

* P.6 In the past year (2015) have you/ the entity you represent directly or indirectly participated in the primary market for allowances (auctions of allowances)?

- Yes, directly
- Yes, via intermediary
- No

* P.7 Have you/ the entity you represent ever been denied direct access to auctions of allowances?

Never requested direct access to auctions of emission allowances

* P.8 In 2015 have you/ the entity you represent participated in the secondary market for allowances (in non-auction exchanges or over the counter)?

Select all that apply

- Yes, directly in non-auction exchanges
- Yes, via intermediary in non-auction exchanges
- Yes, directly over the counter
- Yes, via intermediary over the counter
- No

* P.9 From 2012 to 2014 have you/ the entity you represent participated in the secondary market for allowances (via non-auction exchanges or over the counter)?

Select all that apply

- Yes, directly in non-auction exchanges
- Yes, via intermediary in non-auction exchanges
- Yes, directly over the counter
- Yes, via intermediary over the counter
- No

* P.10 Please indicate your preference for the publication of your response on the Commission's website: (Note that whatever option is chosen, your contribution may still be subject to requests for 'access to documents' under Regulation 1049/2001):

- Under the name given: I consent to publication of all information in my contribution and I declare that none of it is subject to copyright restrictions that prevent publication;
- Anonymously: I consent to publication of all information in my contribution and I declare that none of it is subject to copyright restrictions that prevent publication;
- Not at all — please keep my contribution confidential (it will not be published, but will be used internally within the Commission).

P.11 Transparency Register ID number (if you/ the entity you represent is registered):

69240395197-02

Questions

CHAPTER II of the Auctioning Regulation covers general provisions on the design of the auctions.

* Q.1 Articles 4 to 7 of the Auctioning Regulation lay out provisions determining which products are to be auctioned, the auction format, how the submission and withdrawal of bids is to take place, how to determine the auction clearing price and how to resolve tied bids.

In the light of your experience with the auctions performed, do you consider changes to be necessary regarding the general provisions on the design of the auctions to further improve the effectiveness and efficiency of the auctions?

- Yes
 No

* Please explain your answer:

The auction calendar should be changed in order to ensure a fixed volume per month.

Chapter III of the Auctioning Regulation covers provisions regarding the auction calendar.

* Q.2 The date and volumes of every auction are currently set on the basis of calendar years (from January to December). Following the 2015 MSR Decision (Decision 2015/1814/EU), in principle for each year, from 2019 onwards, a certain number of general allowances may need to be deducted or added to the number of allowances to be auctioned over a 12-month period running from September to August. When this happens, if the calendar-year cycle is kept for establishing the auction calendars, the volumes to be auctioned in September to December of each year would have to be revised, and the corresponding auction calendars amended.

Once the MSR is in place, would you:

- a) prefer to continue the auction calendars on a calendar-year cycle (January to December);
 b) prefer the auction calendars to be changed to a September to August cycle;
 c) have no preference?

* Q.3 Please explain the reasons for your answer to the previous question:

We prefer to continue the auction calendars on a calendar-year cycle (January to December) because we organise our budget and company's annual action plan in the same way.

* Q.4 Since auctions started, the monthly auction volume for August has always been substantially lower than in other months, pursuant to Article 8(5) of the Auctioning Regulation. Article 8(5) of the Auctioning Regulation establishes that the volume to be auctioned is to be distributed evenly over the auctions held over a given year, except that volumes in August auctions are to be half the volumes of auctions in other months. This provision would also apply to annual cycles when the implementation of the MSR Decision would lead to deductions in the number of allowances to be auctioned.

Do you consider that:

- a) maintaining the reduction of volumes in August is appropriate;
- b) the reduction of volumes in August should be modified?

* How should the reduction of volumes in August be modified? Please explain the reasons for your reply:

The auction calendar should be changed in order to ensure a fixed volume per month. The reason for this proposal is that industrials produce the same throughout the year, even in August and Christmas time. Therefore, we do not understand why these volumes are less during those periods. Our point is that industrials need the same liquidity during the entire calendar, as the only periods when we produce less is during maintenance or because of an unexpected problem in our refineries.

At the same time, the irregular volumes auctioned during the year could make prices being more volatile when auctions come up again. If auctions are regular during the whole calendar, the open interest should be more or less the same, and prices should be less volatile.

Chapter IV of the Auctioning Regulation covers provisions regarding access to the auctions.

* Q.5 Article 8(2) of the Auctioning Regulation stipulates that auctions should not occur during public holidays that affect international financial markets, or in the 2 weeks over Christmas and New Year.

As a result, although the volume of each auction (except for those in August) is the same, by virtue of variations in the number of auctions within each month, the total volume auctioned varies in different months. In particular, there is often a sharp reduction in total volumes auctioned in December.

Do you consider that the existing provisions (the volume to be auctioned is distributed evenly over the year, leading to the auctioning of a fixed amount per auction but a differing amount per month) are:

- a) Appropriate;
- b) should be modified to ensure a fixed volume per month;
- c) should be modified in another way?

* Q.6 Do you have any further comments regarding the provisions of the Auctioning Regulation on the auction calendar?

The auction calendar should be changed in order to ensure a fixed volume per month. The reason for this proposal is that industrials produce the same throughout the year, even in August and Christmas time. Therefore, we do not understand why these volumes are less during those periods. Our point is that industrials need the same liquidity during the entire calendar, as the only periods when we produce less is during maintenance or because of an unexpected problem in our refineries.

At the same time, the irregular volumes auctioned during the year could make

prices being more volatile when auctions come up again. If auctions are regular during the whole calendar, the open interest should be more or less the same, and prices should be less volatile.

- * Q.7 Article 18 of the Auctioning Regulation establishes that bidding in the auctions of emission allowances is restricted to: a) ETS operators bidding on own account; b) investment firms authorised under the Markets in Financial Instruments Directive (MiFID) bidding on their own account or on behalf of their clients; c) credit institutions authorised under the Capital Requirements Directive (CRD) IV bidding on their own account or on behalf of their clients; d) business groupings of persons listed in point (a) bidding on their own account and acting as an agent on behalf of their members; (e) public bodies or state-owned entities of the Member States that control any of the persons listed in point (a); and f) Persons exempt under Markets in Financial Instruments Directive (MiFID) (for an ancillary activity) but authorized by the competent authorities of Member states bidding either on their own account or on behalf of clients of their main business.

To date, some means of access to auctions have been more used than others. Moreover, the implementation of Markets in Financial Instruments Directive (MiFID) II may *de facto* indirectly influence the portfolio of persons falling under the eligible categories listed in Article 18 of the Auctioning Regulation.

Do you consider this list of persons eligible to participate in auctions adequate?

- Yes
 No
 No opinion

- * Please indicate which other persons should be included in your opinion:

We should consider the list of the counterparties that could participate in auctions, since it is difficult to demonstrate that banks and brokers could give industrials and utilities service if they get into the auctions. Nevertheless, those counterparties who are not required in the compliance and just enter into auctions to buy could also speculate on markets and make prices higher. Liquidity is needed in the futures market but not in auctions, as only countries are those providing allowances –countries are the counterparties that sell.

In the event that only industrials and utilities participate in auctions, price must be adjusted according to their scheme and it should be hard to achieve levels that we cannot afford within our margins.

Those counterparties, brokers, banks and hedge funds should just participate in the futures market and in the spot market dealing with bilateral contracts, creating liquidity in both sides, selling and buying.

Chapter VIII of the Auctioning Regulation covers provisions regarding the appointment of auction platforms for Member States opting-out of the Common Auction Platform.

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Q.8 As explained in Recital 8 to the Auctioning Regulation, in order to mitigate any risk of reduced competition in the carbon market, in its Article 30 the Auctioning Regulation provides the possibility for Member States to opt out of the Common Auction Platform by appointing their own auction platforms under certain conditions. This has led to the appointment of a limited number of opt-out auction platforms in parallel to the Common Auction Platform, and the experience obtained to date indicates that the resulting auctioning process has been open, transparent, non-discriminatory and without any distortion or market malfunction.

Do you agree that this set-up, with a Common Auction Platform and a limited number of opt-out platforms, performs satisfactorily?

No opinion

* Q.9 Do you have any recommendations for improvements in this set-up?

No opinion

Chapter XVI of the Auctioning Regulation covers provisions regarding transparency and confidentiality in performing the auctions.

* Q.10 Articles 60 to 63 of the Auctioning Regulation lay down provisions regarding the announcement and notification of auction results, publication of other non-confidential information related to the performance of the auctions and protection of confidential information related to the performance of the auctions.

In the light of your experience with the auctions performed, are there any changes regarding the transparency and confidentiality provisions that you would deem necessary to further improve effectiveness or efficiency?

No opinion

* Q.11 Do you have any other specific comments on the Auctioning Regulation, and in particular on the way EU ETS auctions have been designed and implemented, that you would like to share?

No opinion

* Q.12 Do you consider that the Auctioning Regulation has been successful in achieving its objectives of ensuring that auctioning of EU ETS allowances is predictable, with full, fair and equitable access, avoiding distortions to competition, and with a cost-efficient organization and participation mechanism compared to alternative modes of organizing auctions of EU ETS allowances?

Yes

No

Contact

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