

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 Otherwise, the contribution will not be published nor will, in principle, its content be taken into account.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: BP plc

Principal nature of activities: Refining of Mineral Oil, Chemicals, Offshore oil & gas,
Electricity Generation, Emissions Trading

Number of employees in 2008:

World-wide 92,000

Europe-wide 35,300

Turnover in 2008:

World-wide US\$ 365,700 million total revenue

Europe-wide _____

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: From operated installations: 13 million 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
- 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: Only futures should be sold prior to Phase 3. This allows for hedging - mainly by the electricity generation sector - but without the risk of a delayed EU-wide registry which could prevent physical delivery.

Question 2

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

If so, why?

A: The new centralised EU registry is only due into operation in 2012. Auction sales for futures in the years up to Phase 3 (2013-2020) would allow for a firm contract price to be established in this pre Phase 3 period without the need to issue allowances via the central registry. We anticipate a similar mechanism working at the end of Phase 3 when advanced Phase 4 futures allowances would be available as futures.

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>100%</u>	<u>0%</u>
• year n-1	: <u>0%</u>	<u>100%</u>
• year n-2	: <u>0%</u>	<u>100%</u>

Please provide evidence to support your case.

A: We think that 100% futures auctioning prior to 2013, with 100% spot in Phase 3 would simplify the auction process whilst allowing the fixing of an EUA price for future

delivery - mainly for the electricity generation sector forward power contracts with their customers. We think that a futures market will evolve outside the auctioning of EUA on behalf of Member States. A parallel exists in the way that contracts for physical delivery of Brent contract crude oil have given rise to a separate crude oil futures market.

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] Y

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

A: In addition to a common December maturity date for pre Phase 3 futures, we believe that there would be insufficient time for a further futures auction for any unissued allowances. Such allowances should be auctioned as spot EUA in the first auction during Phase 3.

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: The aim is to allow regular inflows into the market to avoid destabilising the secondary market

Question 6

For spot auctions, what should be the:

- Optimum auction size? We think that, with the current OTC market daily volume at 20M EUA, a similar-sized weekly auction volume could be absorbed by the market.
- Minimum auction size? _____
- Maximum auction size? _____

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

Please provide arguments to support your case.

A:

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: We envisage futures auctions taking place to satisfy projected demand from electricity generators. This will need an assessment by the Commission for demand by EU- 27 electricity generators. This level of demand will be less than that for Phase 3 spot, hence monthly auctioning may be a sufficient balance between size of auction and impact on the secondary market as envisaged by answer to Question 6.

Question 8

For futures auctions, what should be the:

- Optimum auction size? _____
- Minimum auction size? _____
- Maximum auction size? _____

If deemed appropriate, please indicate a range and/or distribution over different sizes.
Please provide evidence to support your case.

A: See Answer to Q 7

Question 9

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

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

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

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

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?

ECB nominated holiday list + Christmas 2nd day

01/01 New Year

02/01 New Year 2nd Day,

Good Friday

Easter Monday

01/05 Labour Day

Ascension Day

Whit-Monday

25/12 Christmas

26/12 Christmas 2nd Day

Days where important relevant economic data is released? _____

Days where emissions data are released? _____

Other? Please specify: Both Mondays and Weekend days should be excluded as auction dates.

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]

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: The calendar should fix the amounts of EUA for auction by Member States to ensure the regular and predictable supply of EUA to the market, and to avoid any possibility of Member States gaming the market by varying the auction times and EUA quantities.

Thus the regulation should differentiate between absolute disclosure of Core Auction Volumes (CAV) and a timely disclosure of the variable Residual Auction Volume (RAV).

CAV is mechanistically determined by Phase length (8 years) x annual non-free allocation for auctioning divided by number of auctions, and would have to take into account any front-loading of auction volume as well as the declining cap. The variable RAV will require advanced notification of additional EUA volume - say 6 months prior to auction.

Amongst other items RAV volumes would consist of unused NER EUA, early release NER EUA, closed installation unissued EUA allocation, and additional EUA auction allocation due to carbon leakage sectors being potentially redefined as non carbon leakage.

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: We estimate that the electricity generators will want to hedge some 80% of their EUA requirements forward of the Phase and that this forward requirement will roll forward throughout the phase. Thus a share of 2013 and 2014 is not relevant; a share of 2019 and 2020 is appropriate. We anticipate Phase 4 holding similar futures auctions in advance of that phase.

The percentage share of futures vs spot should be 100% futures prior to Phase 3 to allow sales to take place before centralised EU registry is completed. Thereafter it should be 100% spot for Phase 3.

The European Commission, on behalf of Member States, should determine whether the current level of Phase 2 supply is sufficient to enable forward hedging of the EU electricity generation sector's forward hedging requirements. Given this estimate will be not be precise, the Commission should err on the side of caution by issuing too many allowances rather than too few, as the risks of non compliance (too few EUA) are greater than the market not being able to finance the holding or rolling forward of allowances (too many EUA).

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.
- 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

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: We believe that the auction process should be as simple as possible. Holding a uniform price auction achieves this and allows small bidders to purchase exact requirements by over-bidding for their required quantity but paying the auction strike price.

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: Auctioning should be a rational process. The pro-rata scaling of bids would only be made when there was a tie between bidders on exactly the same price.

Question 21

Should a reserve price apply?

A: We believe there is a place for a reserve price to act as an indicator of force majeure events such as lack of electronic access to the auction. The reserve price would be deeply discounted (50%) and based on the average of three prior to auction trading days. Should the reserve price be triggered, the auction would be cancelled and the unsold allowances passed onto the next auction date (which we envisage being weekly). Note also answer to Q 22.

Question 22

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

Please comment on your choice.

A: The formula needs to be public to give confidence in the market mechanism.

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: In a weekly auction the proportion of allowances by one bidder may vary due to the limited size of the auction.

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: 50%

Please comment on your choice.

A: 50% given the size of of a weekly pan-European auction (approx 20 million EUA) and a single legitimate annual purchase for compliance by a single large installation (say 10 million EUA).

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:

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:

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:

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:

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] _

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

Please comment on your choice.

A: We prefer a single EU auctioning system. Allowing the auctioneer to rely on pre recognition checks is cost-effective by preventing duplication and by allowing the option of sub-contracting specialist agencies and companies.

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: Covered by both sets of rules to aid harmonisation.

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:

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: There should be a harmonised system using independent credit rating agencies to address the collateral basis to reflect credit risk

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:

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:Bank or financial institution guarantee

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:We view futures as applying to pre 2013 auctions. In the event of non performance, that bidder would be prevented from taking part in subsequent auctions for a set period.

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:Either is acceptable, though payment before delivery does not require membership of a central clearing house.

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: _____

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: Prompt return of any collateral or, at buyers discretion, further presentation following elimination of the initial incident or failure.

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

If not, why not?

A:

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

- 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] Y

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: We envisage a centralised system, thus rules on jurisdiction specific to the regulation make sense.

If not, why not?

A:

Question 42

Which auction model is preferable?

- Direct bidding?
- Indirect bidding?
- Both?

Please comment on your choice.

A: Direct bidding in a simple auctioning scheme allows direct participation by all types of buyer.

Question 43

If an indirect model is used, what share of the total volume of EU allowances could be auctioned through indirect bidding? No limit

Please provide arguments to support your case.

A:

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? _____
- Disallow primary participants trading on their own account?
- Impose strict separation of own-account trading from trading on behalf of indirect bidders?
- Other? Please specify: The primary participant model should NOT be used.

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: Member States must not be able to participate in EU ETS Auctions. They are sole sellers of allowance at primary auction and if also speculative buyers possess the ability to disrupt the auction price by restricting supply to other participants.

Public bodies controlled by Member States should declare and intention to bid in advance of an auction (under notice to bid), and declare the volume of purchases of allowances following an auction. There could be a de minimus level for participation applied per auction (We suggest 25,000 EUA as per EU ETS Phase 3 directive - Article 27: Exclusion of small emitters) on the basis that such levels have little or no market effect.

Question 46

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

- Intermediaries? A: Obligations as per current MiFID and AML regulations
- Market makers? A: An obligation to quote bid and ask prices as well as complying with MiFID and AML regulations

Please provide arguments to support your case.

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: Conditions must be in line with the requirements of the EU ETS Directive Article 10 on Auctioning.

Question 48

Should direct auctions be allowed through:

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

Please comment on your selection:

A: We envisage a centralised auction model. This would almost certainly need to be put out to public procurement tender. But this no reason to bar third party service providers or public authorities from tendering.

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:

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: No
- uniform-price auctions? A: No

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: Larger buyers may want to purchase at the strike price, and 5% would not destabilise the bid price mechanism.

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: A non-competitive bid structure is not required. The emphasis of the regulation should be to ensure direct access to auctions by all participants including SMEs.

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:_____

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: 3 months

Please comment on your proposal.

A: A 3 month lead-time would assist in the harmonisation of terms and conditions in the notice to auction by preventing frequent minor changes requiring expensive legal assessment by potential bidders..

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:No specific provisions

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)?
- Total volume of allowances allocated?
- Anything else? Please specify: Distribution of bidders vs. allowances purchased, the separation between compliance and speculative buyers at each auction and the names of publicly controlled bodies purchasing above the de minimis level suggested at 25 000 EUA.

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: This time needs to be minimised. Care must be taken to ensure that all bidders have access to the auction information as per the requirements of the Directive.

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] Y

If so, what may they be? Operation standards for the prompt and public disclosure of auction prices; any declaration of force majeure - with reasons; if the reserve price was reached invalidating the auction; and basis auction statistical details - number of participants, number of winning participants, list of bidding installations that are controlled by a Member State (see answer to Q 45).

Question 61

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

[Y/N] Y

If not, why not?

A: This would help in the coordination of the auctions process and (second best) assist Member States in establishing and running auctions.

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?

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: Market abuse regulation in existing EU law should be used whenever possible.

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?
If so, for how long should such suspension last? 2 years
- Financial penalties?
If so, at what level should such penalties be fixed? €100 + consumer price index + additional allowance - as per penalties proscribed in the revised EU ETS Directive.
- 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: _____

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: Enforcement and regulatory bodies should, in the first instance, use existing EU market regulation mechanisms.

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: We favour a centralised system of auctioning implying a competent authority at EU level. However, we are not in favour of the creation of another regulator unless it replaces comparable functions to those at Member State level or below..

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)

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

Please give arguments to support your case.

A: We favour the simplicity and cost effectiveness of a fully centralised system based on a single EU-wide auction process. Consequently this drive for central coordination means that a limited number of coordinated auction processes less desirable to the partially centralised hybrid approach.

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:

Question 70

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

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

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;
- 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: We believe that there should be no auction fees - these should be deducted from the auction revenues payable to Member States.

Please provide arguments to support your case.

A:

Question 73

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

A: Yes

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

A:Yes

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:

Question 75

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

If so, what form should that sanction take?

A:That the allowances would be transferred automatically to the central auctioning system holding account before the auction. In the event of failure to auction, the Auction Monitor would arrange for the contents of the account to be sold less any auction fees plus a penalty.

Question 76

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 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: The profile should be subject to further analysis by the Commission to determine hedging requirements.

Question 77

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

A: Yes, but this should be subject to further analysis by the Commission to determine hedging requirements in the EU aviation sector.

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

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 | : | _____% | _____% |

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: Quarterly

Please comment on your choice.

A:

Question 79

What would be your preferred timing for EUAA auctions:

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

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: We favour a centralised and harmonised approach

Question 81

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

If not, why not?

A: Given the limited size of the market supply in 2012 for EUA, there should be a maximum bid size to prevent a short term market squeeze. We suggest 25% for a quarterly auction.

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] 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:

Question 83

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

A:No. Simple auction type with access for SMEs is best

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

A:Yes

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:Where possible, rules should be in line with current EU regulation requirements and those in the EU ETS Auction regulation for EUAs.

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)

- 3 Limited number of coordinated auction processes.
- 1 Full centralisation based on a single EU-wide auction process.
- 2 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: Given the limited size of EUAA auctions, centralisation makes sense.

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: Fees should be deducted from Member State auction proceeds.