

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

This document contains the responses for the survey. The survey contains **4** initial questions (A-D) to identify respondents and **86** questions for which responses will be made public. Contact details provided in Question C, are not made public and therefore are not in this document.

### **Period of consultation**

From 3 June 2009 to 3 August 2009 inclusive

### **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 Otherwise, the contribution will not be published nor will, in principle, its content be taken into account.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."

### **Thank you**

***Note:** Zero's on the right hand side of page reflect Non-Applicable questions in the survey response.*

## **Section 1: Questions to categorize participants**

### **Question A**

Name of Company/Organization: Hidroelectrica del Cantábrico, S.A.

Principal nature of activities: Electricity generation, distribution and supply

#### **Number of employees in 2008:**

World-wide: 1314

Europe-wide: 1314

#### **Turnover in 2008:**

World-wide: 2903000000

Europe-wide: 2903000000

### **Question B**

#### **Type of respondent:**

Company operating one or more installations covered by the EU ETS  
Electricity generators

Approx Annual Emissions: 9686810 tCO<sub>2</sub>

### **Question C**

***Contact details will not be made public.***

### **Question D**

**Do you object to publication of your personal data because it would harm your legitimate interests?**

No

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

Ans:

**Are any of your responses confidential?**

No

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

Ans:

## Section 2: Survey questions (86)

### Question 1

***As a general rule throughout the trading period, in your opinion, are early auctions necessary?***

Yes

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

Ans: 20-30% in year n-2, 30-35% in year n-1, remainder in year n

### Question 2

***Do you think there is a need to auction futures?***

Yes

***If so, why?***

Ans: Auctions need to be in place early (by-mid 2011 for 2013/14 allowances) as electricity companies need to hedge their positions several years in advance. Otherwise risk exposure will lead to unnecessary, higher costs and loss of liquidity in connected markets.

The biggest advantage of Futures is that they enable emitters to hedge their risks.

Another very important reason is that they require a much less initial outlay of cash than spot auctions. This is important since it will increase the number of entities participating in the auction (since the up-front financial effort is lower).

Therefore, Hc Energia is strongly in favour of futures auctions. Any decision 'not to auction early' would have serious ramifications for the electricity market.

### 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   |      |         |
| Year n-1 |      |         |
| Year n-2 |      |         |

***Please provide evidence to support your case.***

Ans:

*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  $n-1$ )?**

Yes

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

Ans:

### **Question 5**

**For spot auctions:**

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

Ans: Monthly

0

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

Ans: Quarterly

0

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

Ans: Monthly

0

**Please provide arguments to support your case.**

Ans: Reaching an optimum solution requires balancing the twin goals of predictability and liquidity. Frequent auctions would increase predictability and a common platform would allow for simplicity. A common platform would also be liquid, something which probably cannot be said of holding monthly auctions in smaller Member States.

Where there are a number of platforms operating under the same rules - then less-frequent auctions would be more practical from a simplicity point of view. Likewise, less-frequent would also be more liquid than monthly auctions. However, this solution would still have the negative impact of increasing 'lumpiness' which would decrease predictability.

### **Question 6**

**For spot auctions, what should be the:**

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

**Optimum auction size?**

Ans:

**Minimum auction size?**

Ans:

**Maximum auction size?**

Ans:

***Please provide evidence to support your case.***

Ans:

**Question 7**

***For futures auctions:***

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

Ans: Monthly

0

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

Ans: Quarterly

0

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

Ans: Monthly

0

***Please provide arguments to support your case.***

Ans: The optimum arrangement is for the auctions to be held on a monthly basis on a common platform

**Question 8**

***For futures auctions, what should be the:***

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

***Optimum auction size?***

Ans:

***Minimum auction size?***

Ans:

***Maximum auction size?***

Ans:

***Please provide evidence to support your case.***

Ans:

**Question 9**

***Should volumes of spot allowances be auctioned evenly throughout the year?***

Yes

***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.

**Question 10**

***In case futures are auctioned, should the volumes for spot and futures auctions be spread over the year in the same manner?***

Yes

***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?

**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)?***

No

***If yes, how long should this period be:***

Ans: No Response

***In case futures are auctioned, should there be similar provisions with respect to the period immediately prior to the maturity date?***

No

***If yes, how long should this period be:***

Ans: No Response

**Question 12**

***Which dates should be avoided?***

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

Public holidays common in most Member States?

Ans:

Days where important relevant economic data is released?

Ans:

Days where emissions data are released?

Ans:

Other?

Ans:

**Question 13**

***Is a harmonised 10-12 hrs CET auction slot desirable?***

Yes

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

Ans:

**Question 14**

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

***Please provide arguments to support your case.***

***Annual volumes to be auctioned:***

more years in advance

Ans:

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

more years in advance

Ans:

***Dates of individual auctions:***

1 year in advance

Ans:

***Volume and product type for individual auctions:***

more years in advance

Ans:

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

more years in advance

Ans:

**Question 15**

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

in 2011: 62% of the 2013 volume and 20% of the 2014 volume

in 2012: 38% of the 2013 volume and 80% of the 2014 volume

***Please provide evidence to support your case.***

Ans:

***What percentage of these shares should be auctioned as futures?***

in 2011: 100% of the 2013 share and 100% of the 2014 share  
in 2012: 100% of the 2013 share and 100% of the 2014 share

***Please provide evidence to support your case.***

Ans:

**Question 16**

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

Ans: They should automatically be added to the next auction on the calendar, irrespective of the auction process.

0

**Question 17**

***Is 1,000 allowances the most appropriate lot size?***

Yes

***If not, why not?***

Ans:

**Question 18**

***Is a single-round sealed-bid auction the most appropriate auction format for auctioning EU allowances?***

Yes

***If not, please comment on your alternative proposal?***

Ans:

**Question 19**

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

Ans: Uniform-pricing.

***Please provide arguments to support your case.***

Ans: Uniform-pricing is the most appropriate rule. This gives a clear price signal for the value of an EUA, thereby increasing predictability. It also ensures that every successful participant pays the same price, meaning that the auction price will be fair and minimises the risk of distorting the secondary market.

**Question 20**

***Should the rules for solving ties in the Regulation be:***

Ans: pro-rata re-scaling of bids

***Please comment on your choice.***



Ans:

**Question 21**

***Should a reserve price apply?***

No

**Question 22**

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

No Response

0  
0

**Question 23**

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

No

***Please comment on your choice.***

Ans: Since there is a liquid, open secondary market in place, there is no need to set restrictions on participants in the primary market. If there are adequate market abuse rules in place, then there is no need for a maximum bid size.

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

No

***Please comment on your choice.***

Ans:

**Question 24**

***If so, what is the desirable bid-size limit (as a percentage of the volume of allowances auctioned per auction):***

Ans: No Response

***Please comment on your choice.***

Ans:

**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?***

Ans: No Response

***Please comment on your choice.***

Ans: None. Intervention is not necessary if secondary EUA markets function properly, as is currently the case. Only if there is market failure should a maximum bid-size be imposed. Otherwise, the monitoring provisions contained in the regulation should be the main means used to ensure that manipulation does not take place

**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?

0

***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?

0

***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: The the requirement for '5-year declarations' timetables may need to be harmonised at M.S. level before application. The nature of the 'Declarations' is probably too wide and vague. 'Declarations' should relate to aspects that are relevant for the process in question and should have an objective and straightforward wording. Finally, the Regulation should provide for the possibility of applications being submitted in English only, regardless of the mother language of the Member State.

**Question 27**

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

Yes

***Please comment on your choice.***

Ans: Harmonised requirements would ensure a level-playing field as well as access to any auction for any participant.

**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: The main difference is when auctioning spot or futures

***If so, what should the differences be?***

Ans: The main difference on the amount of information to be supplied should consider whether it relates to auctioning spot or auctioning futures.

To auction futures the auctioneer will need to have more guarantees to minimise counterparty risk, thus implying that the amount of information should be more complete, exhaustive and complex than in spot auctions.

In case the requirements of information are different, the information to be supplied should probably also depend on its creditworthiness (rating).

**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?***

Yes

0  
0

***Please provide arguments to support your case.***

Ans:

**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:***

Yes

- Other auctioneers?
- Credit and/or financial institutions?
- Other

0

***Please comment on your choice.***

Ans: Yes, given that these third parties comply with requirements as strict as those for auctioneers in order to guarantee harmonisation and coherence and equal treatment among different countries

**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

***Please comment on your choice:***

Ans: Yes, because the rules need to be harmonised. Ultimately, except for those restrictions highlighted in question 26, there should be no barriers to entry at Member State level. Ideally, there needs to be mutual recognition of pre-qualification agents. Where Member States do not trust or recognise one another's pre-qualification processes, the Commission should step-in to offer an EU-wide level prequalification option, thereby transcending any inter-member state trust issues.

***If so, should such entities be:***

- Covered by the AML rules?
- Covered by MiFID?
- Covered by both?
- Other

Please specify: None

***Please comment on your choice:***

Ans: The regulation should not deal with these matters since they are already covered in existing legislation

**Question 32**

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

Yes

***Please comment on your choice.***

Ans: The regulation should not deal with these matters since they are already covered in existing legislation

**Question 33**

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

Yes

***If so, how should they be harmonised?***

Ans: Yes – in line with rules which apply in the secondary market. This is required to avoid distorting the electricity market

***If not, why not?***

Ans:

**Question 34**

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

Yes

***If so, how should they be harmonised?***

Ans: Yes if proportionate. Collateral needs to be easily-tradable, liquid etc.

***If not, why not?***

Ans:

**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?***

No

***If not, why not?***

Ans: This is not necessary for spot auctions. Therefore, there should be no obligation to provide collateral for spot transactions. If one defaults, then there should be some form of participation deterrent, but no collateral obligation. Quantities unsold can be transferred to next auction. In a word, spot is less risky.

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

Ans:

**Question 36**

***In case futures are auctioned, should a clearing house be involved to mitigate credit and market risks?***

Yes

***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:***

Ans: Clearing houses are an essential part of futures regime.

The use of clearing houses is an absolute must. Besides the fact that it mitigates credit and market risks it also simplifies the whole administrative process and reduces costs (risk/reward opportunity cost). The applicable rules should not be much different from the ones used in other similar exchanges which have already proven their resiliency and are very well known by the bidders.

**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.***

Ans: As per the prevailing 'norms' in the secondary market – i.e. payment after delivery.

**Question 38**

***Irrespective of the payment procedure, should the Regulation fix a maximum delay of time for payment and delivery to take place?***

Yes

***If yes; what should it be?***

Ans: 4 working days

0

**Question 39**

***Should the Regulation provide any specific provisions for the handling of payment and delivery incidents or failures?***

Yes

***If yes, what should they be?***

Ans: As per norms in secondary market.

**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?***

Yes

***If not, why not?***

Ans:

***If so, are the matters enumerated below complete?***

- 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.

Ans: Yes

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

Ans:

#### **Question 41**

***Should the Regulation provide for rules on jurisdiction and the mutual recognition and enforcement of judgments?***

Yes

***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:***

Ans:

***If not, why not?***

Ans:

#### **Question 42**

***Which auction model is preferable?***

- Direct bidding?
- Indirect bidding?
- Both?

***Please comment on your choice.***

Ans: Hc Energia strongly believes that, subject only to a requirement to demonstrate creditworthiness and provide financial assurance any party should be allowed to participate in an auction. This may be done and demanded to agents acting in the name of others, assuming the former the obligation to demonstrate the creditworthiness and financial assurance. Any further restrictions on participation should be clearly objective, and must not be based on nationality and/or on firm type or size. Therefore, there should be no requirement to use intermediaries, but these should be allowed as the costs associated to direct auction participation (including organisational costs) might be an obstacle to smaller agents.. Therefore we are firmly against any model which limits access solely to primary participants

#### **Question 43**

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

Ans: None

***Please provide arguments to support your case.***

Ans: Hc Energia does not support the obligatory use of intermediaries, then there should be no ex ante split or reservation of volumes between direct and indirect bidding pools. Use of intermediaries should be for market participants/emitters to decide.

**Question 44**

***If the primary participants model is used, what provisions would be desirable for mitigating disadvantages of restricting direct access:***

Allow direct access to largest emitters, even if they trade only on their own account? 0

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: We oppose the "primary participants model"

**Question 45**

***If the primary participants' model is used, what conflict of interest requirements should be imposed?***

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.

0

**Question 46**

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

Intermediaries

Market makers

***Please provide arguments to support your case.***

Ans: We oppose the "primary participants model"

**Question 47**

***Under what conditions should auctioning through exchanges be allowed:***

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: see below



***Please provide arguments to support your case.***

Ans: Exchanges should at least be members of a clearing house. That said; market participants should be able to choose exchange.

What is crucial is that bidders have a contractual relationship with the exchange.

**Question 48**

***Should direct auctions be allowed through:***

- 1) Third party service providers?  
Yes
- 2) Public authorities?  
Yes

***Please comment on your selection:***

Ans: Yes, preferably through third party service providers (i.e. exchanges) subject to the condition that rules are common, that access is open to all participants and that competency is demonstrable. This would reduce costs and would facilitate early auctioning.

**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?***

No

***If not, why not?***

Ans: Fair and impartial rules applying equally to all emitters should be put in place. Smaller emitters will have easy access where access to the market is non-discriminatory, where lot sizes are small (i.e. 1,000) and where there is a liquid secondary market in place. This means that SMEs have access to the auctions via an appropriate mechanism

**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?***

***uniform-price auctions?***

**Question 51**

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

Ans: Other

Please Specify: see below

***Please comment on your choice.***

Ans: A simple (uniform) sealed-bid format will allow simple access for SMEs, using intermediaries where optimal. Therefore, there is no need for non-competitive bidding.

**Question 52**

***What rule should apply for accessing non-competitive bids:***

- 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: see below

***Please comment on your choice.***

Ans: We do not believe that non-competitive bidding is necessary where lot-sizes are small, functioning secondary markets are in place, participation is not restricted and EUAs are transparently auctioned in a simple, regular, co-ordinated manner. In any case, experience with existing regimes which allow for non-competitive bidding indicates that such bidding means may not be used (e.g. current Austrian system).

**Question 53**

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

Ans: No Response

0

**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?***

Yes

***If so, please specify:***

Ans: In addition to the need for a simple auction design, we believe that transparency is very important

**Question 55**

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

Ans: Two months

0

***Please comment on your proposal.***

Ans: 2 months or more - preferably in line with the auction calendar. Full transparency means that participants should have as much preparation time as possible. Any unplanned changes should be published immediately.

**Question 56**

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

Ans: Other

Please Specify: none

***Please comment on your proposal.***

Ans: In our opinion the announcement of an intention to bid should not be needed. If the registration process is completed and the company is authorized to participate in the auctions, it will have to be free to decide if they want to participate or not in the auction, and no communication should be required before the auction day.

However, if this is seen as needed it should not involve any costs, should not be binding, and might be done 1 week before the auction bid date

**Question 57**

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

Ans: The notice to auction?

***Please specify what they are.***

Ans: The auction rules applying would need to be clearly presented (including any restrictions). The notice should also say when results will be released. Of course, all the processes should be public and accessible through webs, phone, information documents etc.

**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: 1)Number of successful participants. 2)Total amount unsold and carried over to next auction. 3)Number of participants (total). 4)The aggregated supply and demand curve

**Question 59**

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

5 minutes

15 minutes

30 minutes

1 hour

Other.

0

***Please comment on your proposal.***

Ans: Five minutes. The closer to the event the better, as this will affect the secondary market.

**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?***

Yes

***If so, what may they be?***

Ans: Provided that information is not commercially-sensitive, all information should be provided at the same time, according to a standardised format. There should be a prohibition on any unauthorised discriminatory release of information. Furthermore, all information should be put on one single website

**Question 61**

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

Yes

***If not, why not?***

Ans:

**Question 62**

***Do you agree that the Regulation should contain general principles on:***

- the designation and mandate of the auction monitor; and
- cooperation between the auctioneer(s) and the auction monitor?
- Neither

***If not, why not?***

Ans:

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

Yes

***If not, why not?***

Ans:

**Question 63**

***Is there a need for harmonised market abuse provisions in the Regulation to prevent insider dealing and market manipulation?***

Yes

***If not, why not?***

Ans:

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

Ans: Internal and external discussions are currently ongoing within the Commission regarding the desirability of having an energy-specific market-abuse regime. Such a regime will also cover CO2.

As Hc Energia supports the development of such a regime, we do not believe that issues to be dealt with under this regime should also be dealt with in the EUA regulation. We do not want an overlap of these rules.

#### **Question 64**

***Should the Regulation provide for harmonised enforcement measures to sanction:***

Non-compliance with its provisions?

Market abuse?

***Please provide arguments to support your case.***

Ans: Regarding enforcement, there are two groups which rules need to apply to:- Member States (and possibly the auctioneers acting on their behalf) on the one hand, and bidders in the auction on the other.

Non-compliance with its provisions will most likely be due to Member States actions. Looking at the history of compliance by Member States with the provisions in the ETS directive over the past years, one can easily remark that only a very few of them have met, for instance, required deadlines on time. In addition, they have sought to use creativity in designing Allocation Plans and applying rules.

For a timely and harmonised organisation of auctions, enforcement at EU level seems inevitable looking at the track record of Member States. Oversight should also ensure that volumes are always brought to the market by Member States according to schedule and not withheld in order to drive prices up or wait for “better” moments.

#### **Question 65**

***Should the enforcement measures include:***

The suspension of the auctioneer(s) and/or bidders from the EU-wide auctions?

***If so, for how long should such suspension last?***

Ans:

Financial penalties?

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

Ans:

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: see below

***Please provide arguments to support your case.***

Ans: We do not support the first bullet point proposal. We would propose that if no auctioning takes place, then allowances should be transferred to other auctioneers.

#### **Question 66**

***Should such enforcement measures apply at:***

EU level?

National level?

Both?

**Please comment on your choice.**

Ans:

**Question 67**

***Who should enforce compliance with the Regulation:***

- The auction monitor?
- The auctioneer?
- A competent authority at EU level?
- A competent authority at national level?
- Other?

0

**Please provide evidence to support your case.**

Ans: A competent authority, either at EU level, with the auctioneer (exchanges/brokers if different from authority) being the front-line compliance monitor.

**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.**

Ans: Hc Energia is strongly in favour of a centralised system.

We strongly opposes an auctioning scheme in which all 27 Member States run auctions individually. To have effective auctions with minimal differences, extensive harmonisation of rules within the Regulation would be required and enforcement at EU level to ensure proper execution by Member States. Difficulties may arise for smaller Member States who will not be able to run frequent auctions throughout the year because of their small volume. They have larger risks that their auctions are held in periods with “lower” prices.

Overall our strong preference is for a “fully-centralised auction” based on a single EU-wide auction process. The hybrid option, as proposed, would very much be a “second best”. In any case a centralized clearing would be required. There is no need to reinvent to wheel here - existing “Carbon Exchanges” could act as aggregators.

**Question 69**

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

Ans: 2

0

**Please give arguments to support your case.**

Ans: If necessary, as few processes as possible

**Question 70**

***Is there a need for a transitional phase in order to develop gradually the optimal auction infrastructure?***

No

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

Ans:

**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.***

Ans:

***Please elaborate what additional requirements would be desirable.***

Ans: Provisions to cover the following items should also be included:

- Auctioneers should not be able to purchase in the auction – MSs should not be able to buy;
- Credit rating for auctioneers (if not state entities) should be high so as to cover delivery risk.

**Question 72**

***What provisions on administrative fees should the Regulation include?***

- General principles on proportionality, fairness and non-discrimination.
- Rules on fee structure.
- Rules on the amount of admissible fees.
- Other?

Please specify: see below

***Please provide arguments to support your case.***

Ans: A rule needs to be included stating that fees have to be recovered from EUA auction proceeds.

**Question 73**

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

Yes

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

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:***

Ans: Hc Energia's view in this instance is that the allowances should be released to the market with immediate effect, perhaps by an auctioneer on behalf of Commission.

**Question 75**

***Should a sanction apply to a Member State that does not auction allowances in line with its commitments?***

Yes

***If so, what form should that sanction take?***

Ans: Such a sanction mechanism should take the form of financial penalties for Member States.

**Question 76**



***As a general rule throughout the trading period, in your opinion, are early auctions necessary?***

No Response

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

Ans: No Response

0

**Question 77**

***Do you think there is a need to auction EUAA futures?***

No Response

***If so, why?***

Ans:

**Question 78**

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

Ans: No Response

0

***Please comment on your choice.***

Ans:

**Question 79**

***What would be your preferred timing for EUAA auctions:***

Ans: No Response

0

**Question 80**

***Should any of the EUAA auction design elements be different compared to EUA auctions (see section 3)?***

No Response

***If so, please specify and comment on your choice.***

Ans:

**Question 81**

***Do you agree there is no need for a maximum bid-size?***

No Response

***If not, why not?***

Ans:

**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)?***

No Response

***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.***

Ans:

### **Question 83**

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

No Response

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

No Response

***Please provide arguments to support your case.***

Ans:

### **Question 84**

***Do you agree that there is no need for any specific provisions for EUAA auctions as regards:***

- 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?
- None of the above?

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

Ans:

### **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?***

No Response

***Please provide arguments to support your case.***

Ans:

**Question 86**

***Do you agree that there is no need for any specific provisions for EUAA auctions as regards:***

- Requirements for the auctioneer(s) and auction processes?
- Administrative fees?
- Rules to ensure appropriate and timely preparation of the auctions?
- None of the above?

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

Ans: