



EFMA REPLY TO THE COMMISSION CONSULTATION ON AUCTIONING UNDER THE FORTHCOMING ETS 2013 REGIME

EFMA on behalf of the European nitrogen fertilizer industry wishes to submit the following positions for consideration by the Community authorities which are either fundamental to the whole ETS 2013 regime or specific and technical with regard to the of the auctioning aspects.

FUNDMENTAL FACTORS

The fundamentals factors can never be divorced from the technical aspects of auctioning.

1. The European nitrogen fertilizer industry is a manufacturing sector which is seriously “exposed” and highly vulnerable to “carbon leakage”. The Commission evaluation of exposure to carbon leakage conducted over January to June 2009, found that nitrogen fertilizer industry’s “trade exposure” is 27.4%; and the cost increase due to the impact of carbon costs at Euro 30/mt is extremely high at 92.4% on a GVA – Gross Value Added basis. This industry is the No 1 most exposed manufacturing industry sector in the European Union.
2. These indicators prove that this industry is very vulnerable to “carbon leakage”. This is most true with regard to “near neighbour competitors” in countries bordering the European Union where no carbon charge is expected to be operational to the same standards and costs as in the European Union.
3. Presently the EU industry is most concerned by competitors in the former Soviet Union such as Russia, Ukraine, Belarus. These have a long history of dumping campaigns into the EU. However, other Former Soviet Union countries such as Kazakhstan, Uzbekistan and most North African countries could also prove to be

- problematic competitors if they are not part of a Pan – European carbon market essentially based on the EU model now being developed.
4. This industry therefore calls for a Pan-European carbon market – either set up on a fully uniform basis or based on precise “linking” mechanisms such that the carbon cost to all nitrogen producers is the same across the Pan-European market.
 5. EFMA has regularly advised the Commission and Member States that the bi-lateral treaties which form the central part of the EU’s Global Europe programme and above all in the EU “good neighbourhood” programme must include full account for a level playing field with regard to climate change commitments and equal carbon market costs.
 6. The EU nitrogen fertilizer industry uses natural gas as a feedstock, i.e. a raw material. This feedstock represents between 60 to 80% of total production costs. As the EU is already the highest cost gas market in the world any additional carbon costs - which is not shared by our competitors - will simply damage the EU industry’s ability to compete in its own home Single European market and world markets.
 7. The EU nitrogen industry is the most energy efficient and carbon efficient in the world.
 8. The EU nitrogen industry buys gas on virtual and physical gas exchanges as well as direct from gas suppliers. It experienced in functioning of gas and carbon markets and recognizes the critical importance of an effective regulatory framework, liquidity, the importance of many players and ability to become a player. Above all there must be hard and immediate correction of any anti-competitive or manipulation of the market.

Many of the above fundamental points are further expanded upon in EFMA’s publication “2020 Vision” done as part of the Community’s Second Energy Strategy. See Enclosure.

TECHNICAL ASPECTS OF EU EMISSIONS ALLOWANCES AUCTIONS

EFMA REPLY TO CONSULTATION PAPER

1. **The cardinal legal principles and foundations of any EU legal based system, i.e. legal certainty, equal treatment, proportionality and subsidiarity must be enforceable with regard to the ETS 2013 scheme.** As such Member States and the Commission must have expert staff resources to assist all “players” with complaints or enquiries. Consideration should be given to expert information contact points. Recourse to legal action in the Courts should be last resort action.
2. More fundamentally, **an EU Central Carbon Bank should be created to govern and monitor the CO2 market.** The European Central Bank may offer a model. The primary activity of the Carbon Bank would be:
 - a) to intervene in the market according to matching policy objectives of the ETS;
 - b) to intervene in the market in the case of liquidity problems;
 - c) to intervene in the market in the case of EU competitiveness or carbon leakage problems;
 - d) to monitor good order of buying and selling in the market
 - e) to monitor and challenge (and even prosecute against) anti-competitive behavior.
3. **Anti-competitive behavior should be severely sanctioned by the Bank and/or by DG Competition at the European Commission.** There is a risk manipulation in the market as up to 50% of the volume of CO2 trading is in the hands of 25 companies. Therefore it is vital that there is full transparency on the fundamental forces of supply and demand making the market; and there must be effective controls and intervention powers for the relevant or appropriate authorities.
4. **For most industrial buyers – and this is generally the case for the nitrogen fertilizer industry – their primary interest and involvement will be in the secondary market.** Transparency and liquidity in the secondary market will therefore be vital to the overall international and European competitiveness of EU industry buying carbon. It is essential that open and fair access to the secondary market is safeguarded by all players not only the regulators.
5. **Management including timing of auctions: ideally auctions should be organized on a monthly basis.** There must a system devised whereby the auction calendar – dates, volumes and product types are made known to all players. While industry buyers may reply on specialist intermediaries, it is important that EU manufacturing industry can plan and understand its cost base.