

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 Otherwise, the contribution will not be published nor will, in principle, its content be taken into account.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: European Federation of Energy Traders (EFET)

Principal nature of activities: EFET is an industry association, formed to improve the conditions of energy trading in Europe, mainly in electricity and gas markets. Established in 1999, EFET represents today over 90 energy trading companies operating in more than 21 countries. EFET is a non-profit independent foundation, solely funded by member companies' fees and is governed by a Board.

Number of employees in 2008:

World-wide _____

Europe-wide _____

Turnover in 2008:

World-wide _____

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: _____ 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-2, remainder in year n
- Other? Please specify: See also table below

year	(n-2)	(n-1)	spot
2011	25%	0%	0%
2012	25%	35%	0%
2013	25%	35%	40%
2014	25%	35%	40%
2015	25%	35%	40%
2016	25%	35%	40%
2017	25%	35%	40%
2018	25%	35%	40%
2019	0%	35%	40%
2020	0%	0%	40%

Question 1 asks for early auction needs in the years n-2, n-1 and n only. However, electricity contracts are being hedged also in year n-3. Inclusion of n-3 EUA auctions should therefore also be considered. Typical hedging needs for n-3 are estimated between 10 and 25%

Question 2

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

If so, why?

A:

The lion's share of EUAs to be auctioned will be ultimately bought by large compliance parties. Those parties hedge their exposure to CO2 prices as they sell their products on a forward basis. To meet these hedging needs, the auctions should be compatible with the

compliance need which arises in the moment that the product causing the emission gets sold. Thus EFET is principally advocating for future auctions.

However, in order to answer this question more precisely, it is important to distinguish two periods, being the pre-Phase III (2011, 2012) and Phase III itself (from 2013).

As to the years 2011 and 2012:

There is an imperative need for futures in the pre-Phase III years. With spot settlements unavailable, we need institutions to provide future auctions to bridge the “speculative gap” Ahead of the physical availability of Phase III allowances, speculators would have to “short sell” to compliance players with hedging needs. Physically settled future EUA contracts should be gradually released ahead of 2013, thereby front-loading the EU ETS with liquidity and mitigating the risk of excessive risk premiums on allowances (and following knock-on effects on electricity prices). For the years 2011 and 2012 EFET sees no other possibility than to conduct EUA-futures auctions to achieve this. In order to minimise delays and to ensure a smooth early start of Phase III auctions, we strongly recommend that a proven auction infrastructure is used, preferably through existing exchanges.

As from year 2013:

Indispensable before 2013, the working practice as described above should preferably continue from 2013 on. However EFET acknowledges that from 2013 there is a choice.

Main arguments for both options:

Why future auctions as of 2013?

- Market is used to trade majority of allowances on a future basis.
- Futures auctions should already exist in 2011/2012 and can be continued
- Mitigation of cash flow impacts for compliance players
- Reduced risk of excessive discounting due to the cost of carry, thereby allowing Governments to have better revenues

Why early spot auctions as of 2013?

- One, simple product thus providing more clarity and better access to all (and small) participants (take note that in EFET's proposal up to 40% spot auctioned EUAs remain available, providing good access)
- Perceived aversion of MSs to auction futures, regarding it as complex
- Market is supposedly better in offering futures products

EFET recognises that in the presence of spot allowances it becomes more a question of degree as to the respective burden and costs of who is buying spot to hold and to set

against a short futures or compliance position (as opposed to selling short without the ability to cover that position at all as before 2013). It is important to note that spot auctions –if futures are not to be chosen- should lead to a gradual but early release of allowances to avoid creating artificial shortness. (early spot auctions)

Finally EFET would like to stress, again, that whatever option for the period from 2013 will materialise, it should not cause any delay to the necessary futures auctions ahead of the start of Phase III.

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.

A: See table below

year	(n-2)	(n-1)	spot
2011	25%	0%	0%
2012	25%	35%	0%
2013	25%	35%	40%
2014	25%	35%	40%
2015	25%	35%	40%
2016	25%	35%	40%
2017	25%	35%	40%
2018	25%	35%	40%
2019	0%	35%	40%
2020	0%	0%	40%

Please take also note of our comments in Q1 and Q2 here.

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:

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: Daily

Please provide arguments to support your case.

A: EFET has assumed one centralised European calendar.

Frequent auctions provide a consistent supply of new allowances without disturbing the secondary market price signal. It will mitigate risks perceived by both auctioneers (e.g. market abuse) and bidders (e.g. system imperfections)

Question 6

For spot auctions, what should be the:

- Optimum auction size? 25 Mln EUAs
- Minimum auction size? 5 Mln EUAs
- Maximum auction size? 25 Mln EUAs

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

Please provide arguments to support your case.

A: Please read Q5 and Q6 for the added amount of EUA futures and spots (so Q7 and Q8 included). Please also refer to our table in Q3, as the shares of spots and early spots / futures differ in subsequent years.

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: Daily

Please provide arguments to support your case.

A: See Q5 and Q6

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 Q5 and Q6

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? _____
- Days where important relevant economic data is released? _____
- Days where emissions data are released? _____
- Other? Please specify: last week of December

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

Question 13

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

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

A: _____

Question 14

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

Annual volumes to be auctioned:

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

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

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

Dates of individual auctions:

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

Volume and product type for individual auctions:

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

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

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

Please provide arguments to support your case.

A: EFET asks for a clear auction calendar, for the whole ETS 3rd phase, to be set in advance before the start of the first auctions. Some elements, like the performing auctioneer, could be announced on a 12 months rolling early notice.

Question 15

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

- in 2011: 25 % of the 2013 volume and 0 % of the 2014 volume
- in 2012: 35 % of the 2013 volume and 25 % of the 2014 volume

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.

A: EFET thinks there is not another option than to auction EUAs as futures for the time that the 3rd trading phase has not yet commenced. Spot trade can thus start only from 2013 both for the reason of trading principals and also for the practical question if a 3rd phase registry can be in place in time to facilitate.

N.B.: The numbers have been taken from our table in Q3, but should be adapted when auctioning in year (n-3) should apply.

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] _

If not, please comment on your alternative proposal?

A: Assuming very frequent auctions, as EFET has recommended, the auction type will not be critical, as long as a simple and transparent method is used. A single-round-sealed-

bid auction certainly meets all important requirements like simplicity, confidentiality and fairness . However EFET does not exclude other options.

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: Having in place a well functioning secondary market, clearing prices in auctions will never deviate much from the market price. For reasons of simplicity and clarity, but also for the reason that EUA auctions are primarily meant for distributing allowances and not primarily for MS revenue maximisation, a uniform-pricing clearing is preferred.

An even more important reason to choose uniform-pricing is the fact that it allows SMEs and small emitters to easily participate in auctions: it enables them to acquire EUAs at the same price as the large compliance-buying and trading companies by just placing a relatively high bid for their required limited amounts, while getting these EUAs at the uniform - and lower - clearing 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:EFET thinks a pro-rata re-scaling is the fairest option, giving all the winners their equal share.

Question 21

Should a reserve price apply?

A: No

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:

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: Bidders should not be restricted to a maximum bid-size. Besides the practical fact that buyers can always buy through intermediates on their behalf, the market is too big for single operators to influence the market price substantially. Companies should not be restricted to buy large amounts of EUAs, as some of them need large amounts for compliance or for delivery to others. Restrictions of this kind will make auctions unnecessarily more complicated.

Question 24

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

10%: 15%: 20%:

25%: 30%: More than 30%: Please specify: _____

Please comment on your choice.

A: no maximum bid size

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: none of both, see answers above

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: Validly existing bank account

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:

Requirements should be in line with the known rules of the exchanges. Wherever bank account requirements under financial regulations provide sufficient information and security, it should not be superfluously required under ETS.

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: Focus should be on:

- 1) Identity of bidders for proper invoicing and
- 2) Source of funds (Bank account details) to draw on existing anti money laundering practices in the banking sector.

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: As a general comment EFET would like to emphasise here that EU ETS - and thus EUA auctioning - is not the regulation under which anti-fraud checks should be carried out. Financial checks are to be dealt with under the financial regulations applying to a company's bank account and should therefore already be covered when preregistrating using a bank account.

If not, why not?

A:

Please provide arguments to support your case.

Question 30

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

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

Please comment on your choice.

A: Relying on checks performed by recognised parties should be possible. This would minimize administrative and participation costs.

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: The administrative burden for both auctioneer and bidder should be minimised wherever possible, without compromising reliability. If making use of reliable third parties could contribute, this should be allowed.

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: As a general comment EFET would like to emphasise that EU ETS - and thus EUA auctioning - is not the regulation under which fraude checks should be carried out. Financial checks are to be dealt with under the regulations applying to a company's bank account and should therefor already be covered when preregistrating using a bank account.

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:

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: 10 to 15% collateral would normally suffice to avoid speculation on price variations before the payment date and ensure that bids won are executed. However 100% collateral up-front enables quick settlement for the winning bidders, while non-winning bidders' collateral is released immediately. The time between the date of providing collateral and the date of auction/settlement should be as short as possible.

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

A:

Question 36

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

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

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

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

A: The clearing house should apply the same rules for the primary and secondary market wherever possible.

Question 37

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

- Payment before delivery.
- Delivery versus payment.
- Both.

Please comment on your choice.

A: Delivery should take place as close to the conclusion of the auction as possible. EFET assumes that 'payment before delivery' is actually referring to 'payment before entering the auctions'. In doing so, either or not by the use of escrow accounts, delivery at the same day, even within minutes, is possible and preferable.

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: See Q37

Question 39

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

If yes, what should they be?

A: The Regulation should provide strongly harmonised provisions. These provisions applicable to the defaulting party (either auctioneer or bidder held liable) should be based upon the 'market damage' (i.e. difference of buying price and market price).

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: EFET emphasises that, for the sake of uniformity and clarity, transaction rulings should be in line with operation practises in the secondary market wherever possible.

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

- The designation of the parties' to the trade.
- The characteristics of the auctioned product:
 - Nature: EUAs or EUAAs, trading period concerned.
 - Date of delivery: date at which winning bidders will receive the allowances on their registry account.

- Date of payment: date at which payment will be required from winning bidders.
- Lot size: number of allowances associated with one unit of the auctioned good.
- Events of 'force majeure' and resulting consequences.
- Events of default by the auctioneer and/or the bidder and their consequences.
- Applicable remedies or penalties.
- The regime governing the judicial review of claims across the EU.

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

A:

Question 41

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

If so, should these be:

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

Please comment on your choice:

A:

If not, why not?

A:

Question 42

Which auction model is preferable?

- Direct bidding?
- Indirect bidding?
- Both?

Please comment on your choice.

A: Ensuring full and equitable access to all parties, any bidder should be allowed to participate directly in auctions. The UK Primary Participant model is against the principle of equal, full and fair access to the auctions. As the name suggests, the system divides bidders into primary and secondary classes. It is not appropriate that bidders should be prevented from bidding themselves, in the case of non-Primary Participants, or should be obliged to act for other parties in addition to placing their own bids, in the case of Primary Participants. EFET strongly opposes any compulsory requirement to use intermediaries.

However a parallel approach, where both direct and indirect bidders operate could also be feasible, but only on a non-compulsory basis. In other words, only where an intermediary and an indirect bidder will both choose to do so.

Question 43

If an indirect model is used, what share of the total volume of EU allowances could be auctioned through indirect bidding? no need to set a predefined share, see Q42

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: see Q42

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: see Q42

Question 46

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

- Intermediaries? A:
- Market makers? A:

Please provide arguments to support your case.

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: As a principle, auctions through exchanges should be allowed for any option. It should however not mean that day-to-day trading is open to non-members of the exchange.

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: EFET strongly supports the one common auction platform, which is also the route taken by RGGI as described in the consultation document. Both options 1) and 2) could be feasible in that approach, although the use of existing ('third party') infrastructure has many advantages and is therefore preferred by EFET. Open access and availability to everyone remains key. Even more important than the choice for either option 1) or 2) is that any choice should ensure a minimum impact on the harmonised approach and should not lead to less frequent auctions, due to preregistration bottlenecks, as seems to be the case with RGGI.

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. It is true that SMEs and small emitters in general have less bidding experience, leading to a potential disadvantage compared to bigger companies. However an auctioning system should not be designed for the exceptions, but for the majority of the EU ETS. For the very same reason, discriminatory price auctions should be avoided. It will make auctions more complex and will lead to disadvantage of small participants. Having partially non-competitive auctions will make the system even more complex. See also Q19.
- uniform-price auctions? A: No, as bidding in uniform-price auctions will enable SMEs and small emitters to easily and safely bid, while achieving the same price as the bigger participants, non-competitive bids will not be necessary.

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: non-competitive bids are not needed.

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: non-competitive bids are not needed.

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: Taking notice of EFET's position towards questions 19 and 50-53, implicitly providing equal access by a uniform-pricing auction, no distinction (and thus no definition) of SMEs and small emitters is needed and will keep the Regulation simple.

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: The whole auction calendar of the 3rd trading phase should be set in advance, so prior to the first auction.

Please comment on your proposal.

A: See also Q14.

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: To EFET's opinion, bidders should be enabled to submit the intention to bid shortly before the start of the auction, e.g. one day. However, as to pre-registration checks, auctioneers should be given a reasonable time to carry those out, e.g. 2 weeks.

Please comment on your proposal.

A: EFET questions the need for an intention to bid. An intention to bid seems unnecessary (as long as information provided for pre-registration is updated as and when needed) and would create a huge administrative barrier to holding frequent auctions. So there should be no intention to bid.

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: In case of derogations from the initial auction calendar, like extra EUAs from the NER, from closures, from cancelled earlier auctions or a change in the future-EUAs/spot-EUAs rate.

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: number of participants and the number of winning bidders.

No names of bidders to be disclosed

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: Somewhere between 5 and 15 minutes. As soon as possible, but enabling reliability checks.

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? publication of information via recognised and pre-announced information channels

Question 61

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

[Y/N] Y

If not, why not?

A:

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] N

If not, why not?

A: Market abuse should be dealt with under existing Regulation. The auctioning Regulation should be kept as simple as possible and should therefore refer to other Regulation where appropriate.

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: For market abuse, see Q63

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? _____

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

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:

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:

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:

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: EFET does not support a number of non-centralised auction processes

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: No fees. Cost should be covered through auction revenues.

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: The preferred option will depend on the overall auction model. Automatic addition to the next auction could be feasible in case of a centralised approach, while auctions by an authorised auctioneer seems more suitable in case of different platforms.

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: In EFET's preferred option, a central auction platform, such sanctions will not be needed. However in case MSs keep sovereign auctioning responsibility, sanctions should be of sufficient magnitude to avoid deviation from commitments. Options for sanctions could be a financial penalty or enforced auctioning by an authorised auctioneer.

Question 76

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

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

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

For reasons that EFET does not represent aviation companies, we leave Q76 to Q86 open. However, auction rules on aviation allowances should be maximum compatible with the EUA auction rules.

Question 77

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

If so, why?

A:

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

Request for potentially confidential information 3

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

For aircraft operators covered by the EU ETS:

Have you determined a corporate hedging strategy for carbon needs?

Yes []

No []

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

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

Request for potentially confidential information 4

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

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

Question 78

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

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

Please comment on your choice.

A:

Question 79

What would be your preferred timing for EUAA auctions:

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

Question 80

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

If so, please specify and comment on your choice.

A:

Question 81

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

If not, why not?

A:

Question 82

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

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

A:

Question 83

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

A:

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

A:

Please provide arguments to support your case.

Question 84

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

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

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

A:

Question 85

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

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

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

Please provide arguments to support your case.

A:

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: