

**Final Explanatory Note for the EU ETS Article 21  
Questionnaire for Phase III<sup>1</sup>  
(13<sup>th</sup> May 2015)**

**1. DETAILS OF THE INSTITUTION SUBMITTING THE REPORT**

**Purpose**

This question seeks contact details in case of any clarification questions regarding the completed questionnaire.

**Instructions**

- Please provide details of the institution submitting the report, as well as the contact details of the person to whom any clarification questions can be addressed.

**2. RESPONSIBLE AUTHORITIES IN THE EU EMISSIONS TRADING SCHEME (EU ETS) AND COORDINATION BETWEEN AUTHORITIES**

**2.1. *Name, abbreviation and contact details of the competent authorities, the national accreditation body, the registry administrator and (if applicable) the national certification authority involved in the EU ETS compliance processes***

**Purpose**

This question seeks a complete overview of the authorities involved in the implementation of EU ETS compliance processes in your Member State, i.e. the competent authorities, the national accreditation body, the registry administrator and, if applicable, the national certification authority, to ensure that all relevant information on these authorities is available in a central place.

**Instructions**

- This question should only be answered for the report due by 30 June 2014. For subsequent reports, the question only needs to be answered if there have been changes during that reporting period.
- If multiple local or regional authorities or municipalities are involved, the contact details of all these local and regional authorities do not have to be provided. In this case, please use a collective name and abbreviation, and provide the number of local or regional authorities concerned.

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<sup>1</sup> Commission Implementing Decision of 21 March 2014 amending Decision 2005/381/EC as regards the questionnaire for reporting on the application of Directive 2003/87/EC of the European Parliament and of the Council, OJ L 89, 25.3.2014, p. 45

## 2.2. *Responsibilities of the competent authorities*

### **Purpose**

This question seeks an overview of the responsibilities and tasks of the various competent authorities in your Member State. It concerns the competent authority's responsibilities emanating from the EU ETS Directive, the Monitoring and Reporting Regulation (MRR)<sup>2</sup>, the Accreditation and Verification Regulation (AVR)<sup>3</sup>, the Auctioning Regulation<sup>4</sup> and the Registry Regulation<sup>5</sup>.

### **Instructions**

- Please provide the abbreviation of the competent authority or competent authorities responsible for the activities listed in the relevant boxes for installations and aircraft operators.
- If multiple competent authorities are involved in one particular activity, please add additional rows for these competent authorities. Where an activity is performed by multiple local or regional authorities, please use the collective abbreviation for those authorities (please see the guidance under question 2.1).
- Please note that not all activities concerning installations are applicable to aircraft operators and vice versa.
- This question should only be answered for the report due by 30 June 2014. For subsequent reports, the question only needs to be answered if there have been changes during that reporting period.

The table below explains some of the elements in the reporting table.

<b>Requested information in the table</b>	<b>Explanation</b>
Free allocation pursuant to Article 3e and 3f of the EU ETS Directive	The competent authority of the administering Member State mentioned in Article 3e (free allocation of emission allowances for aircraft operators) and Article 3f (special reserve).
Issuance of allowances	Please specify the competent authority responsible for actually issuing the emission allowances to the operator or aircraft operator.
Activities related to auctioning	The auctioneer mentioned in the Auctioning Regulation.
Inspection and enforcement	Inspection and enforcement includes site visits to operators to assess whether they comply with the

<sup>2</sup> Commission Regulation (EU) No 601/2012 of 21 June 2012 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council, OJ EU, 12 July 2012, L181/30.

<sup>3</sup> Commission regulation No. 600/2012 of 21 June 2012 on the verification of greenhouse gas emission reports and tonne-kilometre reports and the accreditation of verifiers pursuant to Directive 2003/87/EC of the European Parliament and of the Council, OJ EU, 12 July 2012, L181/1.

<sup>4</sup> Commission Regulation (EU) No 1031/2010 of 12 November 2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowances trading within the Community.

<sup>5</sup> Commission regulation (EU) No 389/2013 of 2 May 2013 establishing a Union Registry pursuant to Directive 2003/87/EC of the European Parliament and of the Council, Decisions No 280/2004/EC and No 406/2009/EC of the European Parliament and of the Council and repealing Commission Regulations (EU) No 920/2010 and No 1193/2011, OJ 3 May 2013, L 122/1.

	monitoring plan and the MRR, as well as taking enforcement action against infringements and imposing sanctions. Whereas inspection site visits might not be carried out by all Member States, enforcement actions should. All Member States should therefore complete this box regardless of whether they have carried out inspections or not.
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**2.3. *Competent authorities' focal point and coordination in the case of multiple competent authorities***

**Purpose**

Article 18 of Directive 2003/87/EC (EU ETS Directive) requires Member States to designate the appropriate competent authority or competent authorities for the implementation of the rules of the Directive. If there is more than one competent authority in a Member State, Article 69(2) of the AVR requires the Member State to authorise one of these competent authorities as the focal point for exchanging information, coordinating the cooperation between the national accreditation body (NAB) and the competent authority and the activities in Chapter VI of the AVR. The first question seeks to provide the Commission and all Member States with a complete overview of the competent authorities' focal points across Europe to facilitate information exchange between all Member States.

Where multiple competent authorities carry out activities under the MRR in your Member State, Article 10 of the MRR requires the activities of these competent authorities to be coordinated. The second question seeks to gather information on how this coordination is carried out.

**Instructions**

- Both questions only need to be answered when more than one competent authority is responsible for the activities mentioned in the MRR and AVR. They should be answered for the report due by 30 June 2014. For subsequent reports the questions only need to be answered if there have been changes during that reporting period.
- The competent authority focal point should be the focal point that is exchanging the information in practice according to Article 69(2) of the AVR.
- In the second question, please answer for each item yes or no depending on which situation is applicable to your Member State.

The table below explains some of the elements in the reporting table.

<b>Requested information in the table</b>	<b>Explanation</b>
Binding instruction on the monitoring plan, notification of changes to the monitoring plan or emissions reports	This situation applies where the national legislation requires the local or regional competent authority to consult the central competent authority when approving monitoring plans, approving significant changes to the monitoring plan or assessing emissions reports. The central competent authority reviews those

	monitoring plans/notification of changes to the monitoring plans and emissions reports. If the central competent authority has comments, these must be taken on board by the local competent authority in the approval or assessment process.
Providing binding instructions and guidance to local competent authorities	This applies to the situation where the central competent authority provides binding instructions and/or guidance on how the local competent authority should approve monitoring plans or deal with specific monitoring and reporting issues.
Voluntary advice on the monitoring plan, notification of changes to the monitoring plan and emissions reports	In this situation, national law does not require the local or regional competent authority to consult the central competent authority but this is done on a voluntary basis. Advice or comments made by the competent authority are non-binding for the local or regional competent authorities.

**2.4. *Cooperation between the national accreditation body (NAB) and, if applicable, the national certification authority (NCA) on the one hand and the competent authority on the other hand***

**Purpose**

Article 69(1) of the AVR requires Member States to establish an effective exchange of appropriate information and effective cooperation between their NAB/ NCA and the competent authority. This question seeks to obtain an overview of how the cooperation between the NAB/ NCA and competent authority is organised.

**Instructions**

- This question must be answered regardless of the number of competent authorities involved in your Member State.
- The question should be answered for the report due by 30 June 2014. For subsequent reports, the question only needs to be answered if there have been changes during that reporting period.

**3. COVERAGE OF ACTIVITIES, INSTALLATIONS AND AIRCRAFT OPERATORS**

**3A. INSTALLATIONS**

**3.1. *Total number of installations***

**Purpose**

The first table in this question seeks an overview of the aggregate number of installations covered by the EU ETS, distinguishing between category A, B and C installations as well as installations with low emissions. The second table aims to provide information on the Annex I activities for which permits have been issued according to the EU ETS Directive.

### **Instructions**

- The first table should be answered annually. The second table should be answered for the report due by 30 June 2014. For subsequent reports, the question only needs to be answered if there have been changes during that reporting period.
- Please note that the total number of installations is the combined total of category A, B and C installations (category A installations include the number of installations with low emissions).

### **3.2. *Installations excluded under Article 27 of Directive 2003/87/EC***

#### **Purpose**

Article 27 of the EU ETS Directive allows Member States to exclude installations which have, in each of the three years preceding the notification to the Commission, mentioned under Article 27 of the EU ETS Directive:

- emissions of less than 25,000 tonnes of CO<sub>2(e)</sub> excluding those from biomass; and
- a rated thermal input below 35 MW where they carry out combustion activities.

Hospitals may also be excluded under Article 27 of the EU ETS Directive if they undertake equivalent measures.

Exclusion of those installations is only possible if the conditions and requirements specified in Article 27 have been met. This question ensures that the information can be compiled in one place allowing Member States and other stakeholders to have easy access to the information.

#### **Instructions**

- Please note that this question only needs to be answered if a Member State has excluded installations under Article 27 of the EU ETS Directive.
- Please select the main Annex I activity and fill in the total emissions of installations excluded under Article 27 of the EU ETS Directive and the number of installations that have since exceeded the threshold and need to re-enter the scheme. The information in the table should be answered annually.

In answering the sub-questions on verification measures and on simplified MRV requirements, please note the following:

- Both sub-questions should be answered for the report due by 30 June 2014. For subsequent reports, the two sub-questions only need to be answered if there have been changes during that reporting period. It is expected that verification measures and simplified requirements will not change once they have been established for the excluded installations.
- Please describe under verification measures: which party is carrying out the verification, how the verification is carried out, against what standards and requirements the verification is performed (e.g. whether the main requirements of the AVR are being followed), whether verification reports need to be submitted to the competent authority, etc.
- Please describe under simplified monitoring, reporting and verification requirements: how emissions are monitored, whether monitoring plans need to be submitted, what data need to be reported to the competent authority, whether

templates are used to report emissions, which party is carrying out verification (e.g. verifier, competent authority), how verification is carried out and against what standards and requirements the verification is performed.

### **3B. AIRCRAFT OPERATORS**

#### **3.3. *Total number of aircraft operators***

##### **Purpose**

This question seeks an overview of the aggregate number of aircraft operators covered by EU ETS and administered by your Member State, distinguishing between commercial aircraft operators and non-commercial aircraft operators. The total number of small emitters is requested to assess the share of small emitters, as defined by Article 54(1) of the MRR, involved.

##### **Instructions**

- The number of aircraft operators to be reported in the first table of the question relate to aircraft operators that are administered by your Member State, have submitted monitoring plans and have carried out flights falling under the scope of the EU ETS.
- The second table seeks an overview of the number of additional aircraft operators that should have submitted a monitoring plan and complied with other requirements under the EU ETS Directive because they performed EU ETS flights to and from a Member State. If you are aware of such aircraft operators falling under your responsibility, please indicate the total number of these aircraft operators.
- The question below the second table gives the opportunity to provide further comments on the number of additional aircraft operators and to put that number into perspective. For instance, information on the environmental significance of the non-compliant aircraft operators can be provided by indicating the percentage of their estimated emissions.
- The question should be answered annually.

### **4. THE ISSUE OF PERMITS FOR INSTALLATIONS**

#### **4.1. *Integration of Articles 5-7 of the EU ETS Directive into procedures provided for in the Industrial Emissions Directive (IED), or coordination between the EU ETS permit and IED permit***

##### **Purpose**

Article 8 of the EU ETS Directive requires Member States to take the necessary measures to ensure that, where installations carry out activities that are included in Annex I of the IED Directive, the conditions and procedures for the EU ETS permit and the IED permit are coordinated. That coordination can take different forms. Some

Member States have integrated the EU ETS permit requirements into the IED permit, while other Member States issue separate permits. This question focuses on how the integration of the EU ETS permit with the IED permit takes place in your Member State, and, if those permits are separate, what measures have been taken to coordinate the procedures. It seeks relevant information on how the permit procedures are regulated in the Member States and the impact these may have on the organisational aspects of EU ETS compliance.

### Instructions

- This question should only be answered for the report due by 30 June 2014. For subsequent reports, the question only needs to be answered if there have been changes during that reporting period.
- The first table must be completed if your Member State has integrated the IED and EU ETS permits. The second table must be completed if your Member State has separate permits and procedures. Please answer yes or no under each item depending on which situation is applicable to your Member State.

The table below explains some of the elements in the first table.

<b>Requested information in the table</b>	<b>Explanation</b>
Are the permitting procedures under the IED Directive and ETS permit integrated?	Cases where permitting procedures of IED Directive and EU ETS Directive are aligned.
Is inspection of the EU ETS activities carried out by the IED regulators?	Cases where IED inspectors are involved in the inspection of EU ETS installations and IED installations together.

The table below explains some of the elements in the second table.

<b>Requested information in the table</b>	<b>Explanation</b>
IED regulators give binding instructions to the competent authority responsible for emissions trading during the permitting procedure	This situation applies, for example, where the national law requires the EU ETS competent authority to consult IED regulators during the permitting procedure. The central competent authority can give concrete and binding instructions related to the EU ETS permits. These must be taken on board by the EU ETS competent authority during the permitting procedure.
IED regulators give advice on a voluntary and non-binding basis to the EU ETS competent authority	The EU ETS competent authority consults IED regulators during the permitting procedure on a voluntary basis and the IED regulators can choose to make non-binding comments which the EU ETS competent authority is not obliged to take up.

## 4.2. *Updates of permits*

### Purpose

This question seeks an overview of the requirements in national law that Member States have set-up to implement Articles 6 and 7 of the EU ETS Directive. The aim is

to understand when national law requires the permit to be withdrawn or changed as a result of an increase or decrease of capacity, or a change to an installation's monitoring plan. Not all changes to an installation's monitoring plan or capacity will result in a permit update. In some Member States a permit is only updated when the capacity is changed by a certain % or if there are significant changes to the monitoring plan. It depends on the national law of Member States. Also, in some Member States, permits can expire under certain circumstances. The main objective of this question is to assess how Articles 6 and 7 of the EU ETS Directive have been implemented in the national law of Member States.

The total aggregate number of permit updates is requested to enable trend analysis of permit changes across the EU. The question seeks to obtain an overview of the extent to which the total number of updates varies between Member States, as well as a first indication of the administrative burden involved for Member States. Where the total number is high, this could mean that further assistance or guidance is necessary to implement Article 6 and 7 of the EU ETS Directive in a more efficient way.

### **Instructions**

- Please describe, for each item in the table, in which cases national law requires the permit to be updated in a specific category. For example the permit is updated as a result of an increase of capacity when a specific % of the emissions is exceeded, or the permit is withdrawn by the competent authority if the MRR has not been complied with. Please specify in the table the details of national law or policy regarding permit updates.
- The first question should be answered for the report due by 30 June 2014. For subsequent reports, the question only needs to be answered if there have been changes during that reporting period. The second question on the number of permit updates should be answered annually and should be completed as far as this is known to the competent authority.

## **5. APPLICATION OF THE MONITORING AND REPORTING REGULATION**

### **5A. GENERAL**

#### **5.1. *Additional national legislation and guidance***

#### **Purpose**

The MRR has direct effect in the Member States and must be directly applied by the parties addressed in the regulation. However, in some areas the MRR provides room for Member States to complement the Regulation with additional legislation. An example is Article 12(3) where Member States can require operators to submit further elements in the monitoring plan to support the requirements of Article 24(1) of

Commission Decision 2011/278/EU<sup>6</sup>. This question seeks to obtain an overview of such additional legislation.

The question also asks Member States to outline whether, in addition to the guidance made available by the Commission, they have developed national specific guidance to assist operators, aircraft operators or competent authority staff to apply the requirements in a uniform manner. This could be Member State specific frequently asked questions (FAQs), national templates or specific exemplars, checklists or other material.

#### **Instructions**

- The question should be answered for the report due by 30 June 2014. For subsequent reports, the question only needs to be answered if there have been changes during that reporting period.
- Please indicate the area to which any additional legislation relates and what the additional requirements consist of.
- Please indicate the area in the MRR to which any national guidance relates by referring to the respective article of the regulation and specifying the subject that the guidance addresses.

### **5.2. *Measures taken to streamline reporting requirements with any existing reporting requirements***

#### **Purpose**

This question seeks an overview of the data exchange arrangements between the competent authorities and other government bodies or agencies responsible for different reporting obligations.

#### **Instructions**

- The question should be answered for the report due by 30 June 2014. For subsequent reports, the question only needs to be answered if there have been changes during that reporting period.
- This question requests Member States to describe any processes that have been set up to connect EU ETS reporting with other existing reporting requirements. Please outline the following in your answer to this question:
  - the process in place to provide EU ETS emissions report data to the authorities responsible for the compilation of greenhouse gas inventories under UNFCCC, and the Mechanism for Monitoring and Reporting Regulation (MMR regulation);
  - whether EU ETS emissions reports are accessible to authorities for the purpose of quality assurance and, if this is the case, how the information is provided and used;
  - whether EU ETS emissions reports are accessible to the authorities responsible for compiling E-PRTR data and, if this is the case, how the information is provided to these authorities;

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<sup>6</sup> Commission Decision 2011/278/EU of 27 April 2011 determining transitional Union-wide rules for harmonised free allocation of allowances, OJ 17 May 2011.

- whether EU ETS emissions reports are accessible to the national statistical office and, if this is the case, how the information is provided and used; and
- other connections with existing reporting requirements.

### 5.3. *Use of electronic templates and file formats*

#### **Purpose**

In accordance with Article 74 of the MRR, Member States may require operators or aircraft operators to use electronic templates or specific file formats for the submission of monitoring plans, changes to the monitoring plan, annual emissions reports, verification reports and improvement reports. Templates or file format specifications established by the Member States shall contain, at least, all of the information specified in corresponding publications by the Commission.

This question seeks an overview of Member States that have developed Member State specific templates and to learn what additional elements Member States have added to their templates or IT systems. The second part of the question aims to gather information on what measures Member States have taken to implement and comply with the requirements in Article 74(1) and (2) of the MRR.

#### **Instructions**

- The question should be answered for the report due by 30 June 2014. For subsequent reports, the question only needs to be answered if there have been changes during that reporting period.
- Please indicate under the second column of both tables whether your Member State has developed a Member State specific template or a specific file format.
- Please specify under the third column of both tables whether your Member State's specific template is the Commission template with some additional elements, or a different template or specific file format. Please also specify what elements have been added to your Member State's template or IT system compared to the information contained in the Commission template.
- Please specify under the second question how you have ensured that the requirements of Article 74(1) and (2) of the MRR are complied with. Please also specify what standardised electronic reporting language or template is used.

### 5.4. *Use of automated systems (IT) for electronic data exchange*

#### **Purpose**

This question seeks to obtain an overview of Member States that use an IT system for submitting monitoring plans, emissions reports or other documents. It aims to gather information regarding what measures Member States have taken to implement and comply with the requirements in Article 75 of the MRR.

#### **Instructions**

- This question only needs to be completed in detail if your Member State uses an IT system.
- The question should be answered for the report due by 30 June 2014. For subsequent reports, the question only needs to be answered if there have been changes during that reporting period.
- Please specify what measures have been taken to ensure integrity of data, confidentiality of data, authenticity of data and non-repudiation of data (application of Article 75(1) of the MRR).
- Please specify what measures have been taken to ensure compliance with the non-functional requirements specified in Article 75(2) of the MRR.

## 5B. INSTALLATIONS

### 5.5. *Fuel consumption and total emissions*

#### **Purpose**

This question seeks to support the following:

- assessing changes in the most important fuels used: over the years it will be possible to assess whether installations covered by the EU ETS change from fuels with higher CO<sub>2</sub> emissions per unit of energy, to those with lower specific CO<sub>2</sub> emissions.;
- secondly, for allowing some checking of the consistency of emissions and fuel use between EU ETS and national inventories; and
- comparing fuel use across the EU for the most important fuels.

#### **Instructions**

- The question should be answered annually.
- Response to this question is not expected to include fuel used for non-combustion purposes (i.e. fuel used as process raw material).
- Please fill in the total fuel consumption and the total emissions for the fuels listed in the table. For “other fossil fuels”, please include all other fuels not covered by the specific fuels listed. Please note that details concerning biomass including biofuels and bioliquids (sustainable or unsustainable) are excluded from this question. But the fossil fractions of biomass fuels are to be included.

For more information on what fuels are included within the specific fuel types, please see the table below.

<i>Fuel type description</i>	<i>This includes the following fuels</i>
Hard coal	Anthracite, coking coal, other bituminous coals
Lignite and sub-bituminous coal	Coal briquettes and other low calorific coal derived products
Peat	Peat products
Coke	Coke oven coke, gas coke and lignite coke
Natural gas	

Coke oven gas	
Blast furnace gas	Oxygen steel furnace gas
Refinery gas and other process derived gases	Ethane, refinery gas, gas works gas and chemical plant process gases
Fuel oil	Heavy fuel oil, residual fuel oil
Liquefied petroleum gas	
Petroleum coke	
Other fossil fuels	Patent fuel, coal tar, oil shale and tar sands, natural gas liquids (NGL), naphtha: other kerosene, gas/diesel oil, white spirit, lubricants, bitumen, paraffin waxes, other petroleum products

**5.6. *Aggregate total emissions for each reported IPCC Common Reporting Format (CRF) category***

**Purpose**

Article 73 of the MRR requires operators to report emissions from their Annex I activities in accordance with, among other things, codes from the CRF for national greenhouse gas inventory systems (as approved by the respective bodies of the United Nations Framework Convention on Climate Change (UNFCCC)).

The objective of this question is to assist Member States and the EU as a whole to improve the quality of data in the national inventories, as well as to enable the Commission to assess the data consistency between the EU ETS and the national inventories reported to the UNFCCC.

It should be noted that data in response to this question aligns with Member State responsibilities to report proxy inventory data by 31<sup>st</sup> July, in accordance with Article 8(1) of the Monitoring Mechanism Regulation (MMR).

**Instructions**

- The question should be answered annually.
- Please compile and submit the data reported by operators in accordance with the IPCC CRF categories listed in section 6 of the annual emissions report (AER) template provided by the Commission. To facilitate this exercise, options to choose from have been included in the question .
- Please indicate the IPCC CRF category and , for each category, provide: the total emissions, the combustion emissions and the process emissions. An example of how to complete the table accompanying this question is provided below.
- The data needed for this question should be collected from the operator’s verified emission reports submitted to the competent authority. This data does not necessarily have to be equal to the data that is reported to the Commission in accordance with Article 7(1)(k) of the MMR (e.g. where the competent authority may have corrected data after 30 June as a result of checks performed on the

emission reports). The data collected under this question therefore concerns preliminary data.

- Annex X of the MRR requires operators to report the emissions per source stream or emission source. This is reflected in section 8 and 9 of the Commission AER template and allows Member States to determine the process and combustion emission data in this question.

**Example:** Joint reporting of energy and process related emissions in the iron and steel sector.

CRF Category 1 (Energy)	CRF Category 2 (Process emissions)	Total emissions (t CO <sub>2(e)</sub> )	Total combustion emissions (t CO <sub>2(e)</sub> )	Total process emissions (t CO <sub>2(e)</sub> )
1.A.2 Energy- iron and steel	2.C.1 Process- Iron and steel production	5,703,658	2,548,658	3,155,000

### 5.7. *Use of default values for calculation factors*

#### **Purpose**

This question seeks an overview of how the requirements in Article 31(1) (c), (d) and (e) of the MRR are applied. The information provided could also support the Commission in developing a list of EU-wide default values, and provide information on the sources used for default values and other values.

#### **Instructions**

There are two parts to this question. The information requested in the first sub-question distinguishes on the one hand between literature values agreed with the competent authority in accordance with Article 31(1) (c) of the MRR, and on the other hand constant values in accordance with Article 31(1) (d) and (e) of the MRR: i.e. values guaranteed by the supplier concerning a carbon content and 95% confidence interval of less than or equal to 1%, or on the basis of analysis carried out in the past but which are still valid. In the second sub-question Member States are asked to provide information on how many of the Type I default values are values listed in Annex VI of the MRR: i.e. values as referred to in Article 31(1) (a) of the MRR. Every calorific value and emission factor listed in Annex VI of the MRR and applied by the operator is to be counted as one (i.e. not the pairs of calorific values and emission factors).

The following applies:

- The question should be answered for the report due by 30 June 2014. For subsequent reports, the question only needs to be answered if there have been changes during that reporting period.
- The data can be collected from the monitoring plan (sections 7d and 8 of the Commission monitoring plan template).

- Please note that literature values referred to in Article 31(1) (c) of the MRR apply to calculation factors for fuels in which case only the fuel type must be filled out in the second column.
- Please select in the columns concerned the relevant value type and calculation factor. Note that tier 1 values for oxidation factors and conversion factors or factors published in the MRR (such as the conversion of carbon content to CO<sub>2</sub> in Article 25 and Article 36 of the MRR, or emission factors listed in Annex VI of the MRR) need not be provided in the first sub-question.
- Please use the source stream list used by operators in the monitoring plans and emissions reports.
- Please provide under the column “source of the value and its justification”: the information sources from which the value for the calculation factor is derived. Indicate the information source reference and a description of the information source by stating the name of the document, the year of publication of the source and where applicable a link to the website.
- Please note that you only have to state in the sixth column the number of installations for which the particular value was approved by the competent authority.

## 5.8. *Application of sampling plan requirements*

### **Purpose**

This question seeks an overview of how the requirements on sampling plans in Article 33 of the MRR are applied across the EU and what issues are encountered by competent authorities. Information on these issues will be used to identify whether further guidance or legislation is needed to clarify the requirements on sampling plans.

### **Instructions**

- Article 33 of the MRR requires a sampling plan to be drawn up and approved by the competent authority for each fuel or material where the calculation factor is determined by installation-specific analyses. If such a plan has not been drawn up, please specify the reasons for this and the circumstances in which this occurred.
- Please indicate any problems and issues identified relating to sampling plans. The information does not have to be provided on an installation-specific basis; information regarding the general quality of sampling plans and general problems encountered during the approval process is sufficient.

## 5.9. *Application of frequency of analysis*

### **Purpose**

This question seeks insight into the number of installations for which the competent authority has allowed a different frequency than the frequency listed in Annex VII of the MRR because of unreasonable costs. This question relates to the application of Article 35(2) (b) of the MRR only: the application of the 1/3 uncertainty rule in Article 35(2) (a) of the MRR is not covered in this question.

**Instructions**

- The question should be answered for the report due by 30 June 2014. For subsequent reports, the question only needs to be answered if there have been changes during that reporting period.
- Information on the analysis frequency applied can be generated from the monitoring plan (section 8g of the Commission monitoring plan template). The frequency needs to be compared against the analysis frequencies listed in Annex VII of the MRR.
- Please provide in the third column of the table, for each type of fuel or material, the number of major source streams for which a different analysis frequency in accordance with Article 35(2) (b) of the MRR is applied. In the interest of proportional approach, analogous information concerning minor source streams is not called for here.

**5.10. Application of tier approaches by category C installations****Purpose**

This question seeks an overview of category C installations that are not meeting the highest tier required by Articles 26 and 41 of the MRR. This carries on notification to the Commission of category C installations not in compliance with the highest tier. The provision of this information enables EU-wide trend analysis of:

- the types of installation involved;
- monitoring parameters mostly affected; and
- tiers applied in practice.

In addition, this information will help harmonise the application of the highest tiers across the EU in relation to the largest EU ETS emitters.

**Instructions**

- The question should be answered annually.
- The information can be collected from the monitoring plans (sections 8 and 9 of the Commission monitoring plan template).
- Please select the affected source streams under the calculation based and measurement based methodology. Please use the source stream list used by operators in the monitoring plans and emissions reports. Only major source streams need to be included in this table. In the case of continuous emission measurement (CEMS) only emission sources emitting more than 5,000 t CO<sub>2</sub>, or contributing more than 10% of the total annual emissions of the installation (Article 41(1) of the MRR) per year have to be included in this table.
- If more than one monitoring parameter or more than one source stream is affected within an installation, please provide a separate row for each source stream or monitoring parameter.
- Please provide the installation identification code (the code recognised in accordance with Regulation (EU) No 389/2013) for all rows. (Where due to special circumstances involving confidentiality a Member State is unable to reveal the installation identification code, a more anonymous code may be entered to represent the identity of the individual installation involved, as long as the correlation to the

actual installation identification code is clearly and accurately indicated to the Commission in a separate written communication.)

### **5.11. *Application of tiers by category B installations***

#### **Purpose**

This question seeks an overview of category B installations that are not meeting the highest tier in accordance with Articles 26 and 41 of the MRR because of unreasonable costs or technical infeasibility. This information is asked for on an aggregated level (i.e. not installation specific).

#### **Instructions**

- The question should be answered annually.
- Please select the monitoring methodology and main Annex I activity concerned and indicate the number of category B installations affected. A distinction should be made between the calculation based and measurement based methodology.

### **5.12. *Installations applying the fall-back approach***

#### **Purpose**

This question seeks an overview of installations applying the fall-back approach in accordance with Article 22 of the MRR. Only in rare cases and under strict conditions should the application of the fall-back approach be allowed by the competent authority. It is therefore important to understand where the fall-back approach has been applied in a Member State and for what reasons. Information on the parameter for which at least tier 1 was not met, and the estimated emissions affected by the parameter, provides insight into the circumstances which led to the application and approval of a fall-back approach.

#### **Instructions**

- The question should be answered annually.
- The information can be collected from the monitoring plan (section 12 in the Commission monitoring plan template). The reasons for applying the fall-back approach can be compiled from section 12b of the Commission monitoring plan template.
- Please select the reason for applying the fall-back approach and the parameter affected. For more information on the reasons for applying a fall-back approach please see section 4.3.4 in the MRR Guidance Document No. 1 (for installations).
- In the last column, please estimate the total emissions affected by the parameter for the source stream or emission source that cannot meet at least tier 1. The parameters for calculation based methodology and measurement based methodology are listed in the drop down box menu. In the case of a measurement based methodology, the parameter is the annual average hourly emissions.
- If, for several parameters within an installation, tier 1 cannot be achieved, please provide a separate row for each parameter.
- Please provide the installation identification code (the code recognised in accordance with Regulation (EU) No 389/2013) for all rows. (Where due to special circumstances involving confidentiality a Member State is unable to reveal the

installation identification code, a more anonymous code may be entered to represent the identity of the individual installation involved, as long as the correlation to the actual installation identification code is clearly and accurately indicated to the Commission in a separate written communication.)

### **5.13. *Improvement reports***

#### **Purpose**

This question seeks an overview of the number of times that a particular type of improvement report must be submitted, in accordance with Article 69 of the MRR, and the number of times that the improvement report was submitted in practice. This enables analysis of how the MRR requirement on improvement reports is applied over time across EU. The question concerns improvement reports submitted in the previous reporting period, not the actual reporting period.

#### **Instructions**

- The question should be answered annually. As the question relates to the previous reporting period, the first time this question needs to be completed is for the 2013 reporting period, i.e. in the Article 21 report due by 30 June of 2015.
- Please select the type of improvement report. It is important to analyse whether an improvement report was submitted because of: tiers not being met, application of the fall-back approach or as a result of verifier's comments (non-conformities and recommendations for improvements). Therefore the question asks for information related to the different types of improvement reports. This information can be collected from the submitted improvement reports themselves.
- Please indicate, in the last two columns, the number of installations required to submit an improvement report in accordance with Article 69 of the MRR, as well as the number of installations that actually submitted such a report. For more guidance on when an improvement report must be submitted, please see section 5.7 of the MRR Guidance Document No. 1 (for installations).

### **5.14. *Inherent and transferred CO<sub>2</sub>***

#### **Purpose**

Article 48 and 49 of the MRR allows operators to transfer inherent CO<sub>2</sub> and transferred CO<sub>2</sub> (as defined under Article 49) respectively, but only under strict conditions. The question seeks an overview of the type of transfers that occurred in the reporting period and the magnitude of inherent and transferred CO<sub>2</sub> transferred out of an ETS installation. This will enable analysis of how the requirements in both articles have been applied across Europe. Information on the party receiving the inherent or transferred CO<sub>2</sub> is essential to assess whether the requirements in Article 48 and 49 of the MRR have been met (e.g. transfer of CO<sub>2</sub> is only allowed to CCS installations, inherent CO<sub>2</sub> is only related to fuels).

#### **Instructions**

- The question should be answered annually.

- Information on these elements can be extracted from the emissions report (section 9 and tab I (summary) of the Commission AER template).
- Please indicate, for the party receiving the inherent or transferred CO<sub>2</sub>, the installation identification code of that ETS installation. Inherent CO<sub>2</sub> that is transferred to a non-ETS consumer cannot be deducted and must not be reported under this question.
- The emissions of transferred CO<sub>2</sub> may only be deducted under certain conditions (please see section 8.3.1 and 8.3.2 of the MRR Guidance Document No. 1 - for installations). To assess whether Article 48 and 49 of the MRR have been applied correctly and to cross-check the information provided in the table, the CO<sub>2</sub> transferred and the inherent CO<sub>2</sub> received must be completed.
- (Where due to special circumstances involving confidentiality a Member State is unable to reveal the installation identification code, a more anonymous code may be entered to represent the identity of the individual installation involved, as long as the correlation to the actual installation identification code is clearly and accurately indicated to the Commission in a separate written communication.)

#### **5.15. *Innovative technologies with respect to proposed permanent storage of CO<sub>2</sub>***

##### **Purpose**

Recital 13 of the MRR states that the conditions laid down in Article 49 of the MRR should not exclude the possibility of future innovations. This question seeks information regarding whether a Member State foresees such technologies in the future, and inform whether the current Article 49 of the MRR may need to be adapted in the future.

##### **Instructions**

- The question is optional for Member States. Its purpose is to provide Member States with the opportunity to bring information on future innovative technologies to the attention of the Commission.

#### **5.16. *Application of Continuous Emission Monitoring Systems (CEMS)***

##### **Purpose**

This question seeks data to support an assessment of whether the number of installations applying CEMS is increasing due to the new requirements on CEMS in the MRR. The information is asked for at an installation level to allow for comparison with previous years. This is important in relation to discussions in the international context, i.e. linking with systems that use CEMS as the main methodology for quantifying industrial CO<sub>2</sub> emissions, as well as to provide information on how CEMS are being used within Member States.

##### **Instructions**

- The question should be answered annually.

- The information requested can be extracted from the emissions report (section 9 of the Commission AER template).
- Please provide the installation identification code (the code recognised in accordance with Regulation (EU) No 389/2013) for all rows. (Where due to special circumstances involving confidentiality a Member State is unable to reveal the installation identification code, a more anonymous code may be entered to represent the identity of the individual installation involved, as long as the correlation to the actual installation identification code is clearly and accurately indicated to the Commission in a separate written communication.)

### 5.17. *Biomass*

#### **Purpose**

The MRR contains specific requirements on biomass. It is important for the Commission to assess how these requirements are being applied, and to evaluate how much sustainable and non-sustainable biomass is used in installations covered by the EU ETS. For more guidance on the requirements on biomass, please see the MRR Guidance Document No. 3 (on biomass).

#### **Instructions**

- The first question containing the table should be answered annually. The second question should be answered for the report due by 30 June 2014. For subsequent reports, the second question only needs to be answered if there have been changes during that reporting period.
- The information requested can be extracted from the emissions report (the summary tab I in the Commission AER template).
- Emissions from biomass can be zero rated if no sustainability criteria apply or, if sustainability criteria apply, these criteria are complied with. The actual emissions from biomass are automatically reported in the Commission template for emissions reporting (see section 8 and the summary tab I in the Commission AER template). In short, entry of the preliminary emission factor automatically leads to calculation of actual emissions from zero-rated biomass. This allows Member States to collect the necessary data for completing the third column of the table. The emissions should include not only emissions from mixed biomass but also emissions from exclusive (100%) biomass source streams<sup>7</sup> to provide a complete overview of all biomass. If the emissions from exclusive (100%) biomass cannot be provided based on the operator's emission reports, the competent authority should estimate the emissions from exclusive biomass by for example using a preliminary emission factor themselves.
- In the fourth column of the table, please provide the emissions from biomass to which sustainability criteria apply but have not been met.
- Please select from what methods are generally used to demonstrate compliance with sustainability criteria (according to national systems, Commission recognised systems or bilateral/ multilateral agreements). If in general national systems are used, please describe the main elements of these systems.

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<sup>7</sup> Exclusive biomass as referred to in Article 38(1) of the MRR.

**5.18. *Total quantity of waste used as fuel or input material for each waste type***

**Purpose**

The question seeks information to enable an assessment of the type and quantity of waste used as fuel or input material in EU ETS installations. Operators are required to report the use of waste types and emissions resulting from the use of waste as fuels or input materials (see Annex X of the MRR). The waste types shall be reported using the classification specified in the Community list of wastes (see Commission Decision 2000/532/EC).

**Instructions**

- The question should be answered annually.
- The information requested can be collected from the emissions report (section 8 of the Commission AER template).
- The waste type must be reported using the 6-digit code classification specified in the Community list of wastes (Commission Decision 2000/532/EC) or an equivalent classification.

**5.19. *Simplified monitoring plans and risk assessment***

**Purpose**

Article 13(2) of the MRR requires the competent authority or the operator to carry out a simplified risk assessment before any simplified monitoring plan is approved. This question seeks to understand the number of times that a simplified approach has been allowed under Article 13(2) in your Member State and the principles on which the simplified risk assessment is based. This information can give insight into the functioning of this article, especially in relation to small installations.

**Instructions**

- The question should be answered for the report due by 30 June 2014. For subsequent reports, the question only needs to be answered if there have been changes during that reporting period.
- In the first column of the table, please select what type of risk assessment was carried out. In the second column, please specify the principles on which the risk assessment was based, including: whether the inherent and control risks were assessed, what method and principles were used to assess those risks, to what extent the Commission Guidance on operator's risk assessment has been used to carry out the risk assessment, or other approaches (please specify).

**5.20. *Innovative ways to simplify compliance for installations with low emissions***

**Purpose**

This question seeks to collect information on innovative systems Member State have implemented to reduce the administrative burden for small installations. The

information could give input into EU wide initiatives to reduce the administrative burden and costs for small installations.

#### **Instructions**

- The question should be answered for the report due by 30 June 2014. For subsequent reports, the question only needs to be answered if there have been changes during that reporting period.

### **5C. AIRCRAFT OPERATORS**

#### **5.21. *Fuel consumption by aircraft operators***

##### **Purpose**

This question seeks an overview of the aircraft operators that are using either Method A, Method B or Method A and B to determine fuel consumption, and also the share that small emitters represent in the total number of aircraft operators applying either method (or both). The aim is to assess which method is used the most by aircraft operators, and to gather information on the number of small emitters applying the normal methodology to determine fuel consumption instead of the simplified methodology allowed under Article 54(2) of the MRR.

##### **Instructions**

- The question should be answered annually.
- The share of small emitters should be reported as a percentage (%) of the total number.

#### **5.22. *Aggregated total aviation emissions (all flights and domestic flights)***

##### **Purpose**

This question seeks an overview of the total aggregate emissions of all EU ETS flights and domestic flights carried out by aircraft operators in the reporting period for which your Member State is the administering Member State. The information is requested on an aggregate level and does not have to be completed per route.

##### **Instructions**

- The question should be answered annually.
- Please use the information from the emissions reports to aggregate the total emissions of all flights and the emissions for domestic flights. Please note that the information on emissions from domestic flights cannot be extracted from the EU ETS support facility.

#### **5.23. *Biofuels***

##### **Purpose**

The MRR contains specific requirements on biomass, including Article 53 of the MRR. Biofuels are an important issue for the aviation industry, with view to reducing fossil CO<sub>2</sub> emissions. It is therefore essential for the Commission and Member States to assess how the requirements on the use of biofuels are being applied, how effective they are, how the situation on the use of biofuels develops over the years, and how much sustainable and non-sustainable biofuels are being used by aircraft operators under EU ETS. For more guidance on the new requirements on biofuels and biomass please see the MRR Guidance Document No.3 on biomass.

### **Instructions**

- The question should be answered annually.
- The information requested can be extracted from the emissions report (section 5 in the Commission AER template).
- The emissions from biofuels can be zero-rated if the applicable sustainability criteria are complied with. The actual emissions from biomass are automatically reported in the Commission AER template for emissions reporting (see section 5 in the Commission AER template). In short, entry of the preliminary emission factor automatically leads to calculation of actual emissions from zero-rated biomass. This allows Member States to collect the necessary data for completing the second column. The emissions should include emissions from mixed biomass as well as emissions from exclusive (100%) biomass source streams to provide a complete overview of all biomass. If the emissions from exclusive (100%) biomass cannot be provided based on the aircraft operator's emission reports, the competent authority should estimate the emissions from exclusive biomass by for example using a preliminary emission factor.
- In the third column of the table, please provide the emissions from biofuels where the sustainability criteria have not been met.

## **5.24. *Use of the Small Emitters Tool (SET) by aircraft operators***

### **Purpose**

The question seeks an overview of the extent to which the SET is used in the monitoring and reporting of aircraft operators' emissions with view to gathering information to advise future policy for small emitters. Information is requested on the number of aircraft operators using an alternative method or the SET tool to determine the emissions from missing flights.

### **Instructions**

- The question should be answered annually.
- The information can be collected through the monitoring plan and the emissions report (sections 9 and 10 of the Commission monitoring plan template and sections 6 and 7 of the Commission AER template).
- The information on whether the ETS support facility has been used to generate an emissions report based on the SET and independently from any input of the aircraft operator can be collected through the verification report (under "compliance with

EU ETS rules” in the Commission’s verification report template). For more information on how a verifier should report this in the verification report please see Key guidance note II.6 on verification report (under the heading “compliance with the ETS rules”). The information on this question can also be collected by comparing the emission report submitted by the aircraft operator against an emission report downloaded by the competent authority from the ETS support facility: i.e. checking that the numbers agree.

#### **5.25. *Improvement reports for aircraft operators***

##### **Purpose**

The question seeks an overview of the number of times a particular type of improvement report was required in accordance with Article 69 of the MRR, and the number of times such a report was submitted in practice. It enables analysis of how the MRR requirement on improvement reports is applied over time and across EU. The question relates to improvement reports submitted in the previous reporting period.

##### **Instructions**

- The question should be answered annually. As the question relates to the previous reporting period, the first time this question needs to be completed is for the 2013 reporting period in the Article 21 report due by 30 June of 2015.
- In the two columns, please indicate the number of aircraft operators required to submit an improvement report in accordance with Article 69 of the MRR and the number of aircraft operators that submitted such a report in practice. For more guidance on when an improvement report must be submitted, please see section 6.6 of the MRR Guidance Document No. 2 for aircraft operators.

#### **5.26. *Simplified monitoring plans and risk assessment for aircraft operators***

##### **Purpose**

Article 13(2) of the MRR requires the competent authority or the aircraft operator to carry out a simplified risk assessment before any simplified monitoring plan is approved. This question seeks to understand the number of times a simplified approach has been allowed under Article 13(2) in your Member State and the principles on which the simplified risk assessment is based. This information can give insight into the functioning of this article especially in relation to small emitters.

##### **Instructions**

- The question should be answered for the report due by 30 June 2014. For subsequent reports, the question only needs to be answered if there have been changes during that reporting period.
- In the first column of the table, please select what type of risk assessment was carried out. In the second column, please specify the principles on which the risk assessment was based, including: whether inherent and control risks were assessed, what method and principles were used to assess those risks, to what extent the

Commission Guidance on aircraft operator's risk assessment was used to carry out the risk assessment), or other approaches (please specify).

#### **5.27. *Innovative ways to simplify compliance for small emitters***

##### **Purpose**

This question seeks to collect information on innovative systems Member States have implemented to reduce the administrative burden for small emitters. The information could provide input into EU wide initiatives to bring down the administrative burden and compliance costs for small emitters.

##### **Instructions**

- The question should be answered for the report due by 30 June 2014. For subsequent reports, the question only needs to be answered if there have been changes during that reporting period.

### **6. ARRANGEMENTS FOR VERIFICATION AND ACCREDITATION**

#### **6A. GENERAL**

#### **6.1. *Number of verifiers accredited or certified against a particular scope of accreditation or certification***

##### **Purpose**

The question seeks an overview of the number of verifiers accredited or certified against a particular scope of accreditation. This allows for an analysis of the availability and capacity of verifiers in each scope. The scopes relevant for installations and aviation are covered under this question.

##### **Instructions**

- The question should be answered annually.
- The list provides a summarised description of the different scopes of accreditation; please see Annex I of the AVR for a complete description of the scopes.
- Please note that verifiers can be accredited or certified against multiple scopes; in those cases the verifier must be included for each scope it is accredited or certified against.

#### **6.2. *Application of information exchange requirements***

##### **Purpose**

The AVR contains specific information exchange requirements that are both important within a given Member State, as well as being relevant for the information exchange between the competent authority and NABs/NCAs of different Member States. This question aims to provide an overview on how these information exchange

requirements are being applied, and what issues consistently arise in practice. This includes information on foreign verifiers operating in your Member State, as well as the number of administrative measures imposed on verifiers that are accredited or certified by your Member State.

### **Instructions**

- The question should be answered annually.
- Under “administrative measures”, please indicate the number of verifiers that were suspended, whose accreditation certificate was withdrawn or for which the scope of accreditation has been reduced.
- The rows related to certification only have to be completed by Member States that have set up a certification system in accordance with Article 54(2) of the AVR.

## **6B INSTALLATIONS**

### **6.3. *Conservative estimation of emissions***

#### **Purpose**

Article 70 of the MRR contains specific requirements on when the competent authority must conservatively estimate emissions. This question seeks to provide an overview of the reasons for conservatively estimating the emissions, taking into account the requirements in Article 27 of the AVR on the type of verification opinion statements. Information on emissions reports that are not satisfactory, emissions reports that are not submitted, or emissions reports that are not in line with the MRR is essential for the proper functioning of the market. Furthermore, information on how the conservative estimation is carried out by the competent authority supports the development of good practice and harmonised approaches on conservative estimation.

#### **Instructions**

- The question should be answered annually.
- For more guidance on the type of negative verification opinion statements, please see section 3.2.13 of the Commission guidance, i.e. the Explanatory Guidance on Verification and Accreditation (EGD I).
- Only situations that lead to a conservative estimation of emissions by the competent authority must be reported under this question. Positively verified emissions reports that have not led to a conservative estimation because the verified data is used, do not have to be listed in the table.
- Please provide the information in the table as far as it is known at the time that the Article 21 report is due. Where a final or complete assessment is not possible, for example concerning the percentage of emissions affected by a conservative estimate, please provide a best estimate.
- In some cases, the total amount of emissions will not (or not entirely) be conservatively estimated by the competent authority. For example, where most of the emission data in the verified emissions report are accurate, or where the competent authority has identified a data gap that needs to be corrected while the other data are accurate. For that reason, Member States are required to fill out the

share in percentage (%) of the emissions that are conservatively estimated. This percentage does not have to be precise and an estimate will suffice.

- Concerning the method used for conservative estimation, please specify the method in general terms. For example, whether the method is based on estimation by percentage, whether the Commission Guidance on conservative estimation of emissions by the competent authority is used, or another method is used.
- Please provide the installation identification code (the code recognised in accordance with Regulation (EU) No 389/2013) for all rows. (Where due to special circumstances involving confidentiality a Member State is unable to reveal the installation identification code, a more anonymous code may be entered to represent the identity of the individual installation involved, as long as the correlation to the actual installation identification code is clearly and accurately indicated to the Commission in a separate written communication.)

#### **6.4. *Non-material misstatements and non-conformities, non-compliance with the MRR and recommendations for improvements***

##### **Purpose**

Article 27 of the AVR requires the verifier to report any identified and outstanding non-material misstatements, non-conformities, non-compliance issues and recommendations for improvement in the verification report. This question seeks an overview of the number of installations for which such issues are reported and enables analysis of typical issues that come up consistently. It gives insight into the application of Article 27 of the AVR and the share of emissions reports that have led to conservative estimations of emissions in the case of non-material misstatements (the application of Article 70(2) of the MRR).

##### **Instructions**

- The question should be answered annually.
- Please select the relevant type of issue found. The non-conformities concern those that have not led to a negative verification opinion statement (please see section 3.2.13 EGD I for more information). These can be found in Annex I of the Commission’s verification report template (non-conformities that have no material effect and are listed as such in the report).
- Under “main reasons”, please specify at a high level the reasons for the types of issues found. This means that information does not have to be filled out per issue found or on an individual installation basis. The purpose of this information request is to learn the main causes for non-material misstatements, non-conformities, non-compliance with the MRR and recommendations for improvement in general. This relates to reasons that arise consistently such as non-implementation of procedures, incomplete documentation of relevant data or procedures, errors in the calibration or errors in the aggregation of data.
- Only outstanding and unresolved issues listed in the verification report must be reported. Information can be extracted from Annex I of the Commission verification report template.
- The last column in the table asks for the share of emissions reports that have been conservatively estimated by the competent authority, as a result of the issue reported

in the verification report. This request is relevant in particular for situations in which non-material misstatements have led to a conservative estimation in accordance with Article 70(2) of the MRR.

#### **6.5. *Checks on emissions reports and verification reports***

##### **Purpose**

The question seeks information on the checks that competent authorities carried out on the emissions and verification reports. Checks by the competent authority on the emissions reports and verification reports are an additional quality control measure to improve the overall quality of the emissions and verification reports. In addition, these checks provide to the competent authority an indication of the quality of specific verifiers.

##### **Instructions**

- The question should be answered annually.
- If the process for the assessment of emissions reports and verification reports has not yet been completed fully for the reporting period, please provide best estimates based on the reports that have been assessed, and on the experiences from the previous year. If the answer is based on an estimate, please indicate this clearly.
- If a Member State does not carry out inspections or does not perform checks of the emissions reports or verification reports, please answer 0% or not applicable.

#### **6.6. *Waive of site visits for installations***

##### **Purpose**

Article 31 of the AVR allows operators to submit an application to the competent authority to waive a verifier's site visit during the verification. Waiving a site visit is only possible under strict conditions: a key prerequisite is that the verifier's risk analysis must allow such a waiver. The first question seeks an overview on the number of times a site visit has been waived under one of the following particular conditions (mentioned in the Key Guidance note II.5 on site visits concerning installations):

- Condition I: category A or B installation using one single source stream consisting of natural gas and/ or one de-minimis source stream<sup>8</sup>;
- Condition II: category A or B installation using one single source stream consisting of fuel without process emissions whereby the fuel is directly combusted in the installation without intermediate storage and involving not more than one additional de-minimis source stream<sup>9</sup>;

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<sup>8</sup> Specific requirements apply for the monitoring methodology applied in those installations, i.e. where the monitoring of activity data is based on fiscal metering by the gas supplier and the emission factor is a default value.

<sup>9</sup> Specific requirements apply for the monitoring methodology applied in those installations, i.e. concerning the activity data and emission factors. Another prerequisite is the competent authority having allowed the use of a simplified monitoring plan.

- Condition III: an unmanned site with telemetered data sent directly to another location where all data is collected, processed, managed and stored; and the same person is responsible for all data management and recording for the site<sup>10</sup>; or
- Condition IV: the site is a remote or inaccessible location and there is a high level of centralisation of data collected from that site and transmitted directly to another location where all this data is processed, managed and stored with good quality assurance<sup>7</sup>.

The second question relates to waiving site visits for installations with low emissions which are not subject to the competent authority's approval, hence less information is requested to be reported.

#### **Instructions**

- The question should be answered annually.
- Please select the applicable condition from the drop down menu. For more guidance on these conditions, please see the Key Guidance note II.5 on site visits concerning installations.
- The information can be extracted from the Commission verification report template under 'site verification details'. This also applies to information on site visits waived for installations with low emissions.

## **6B. AIRCRAFT OPERATORS**

### **6.7. *Conservative estimation of emissions for aircraft operators***

#### **Purpose**

Article 70 of the MRR contains specific requirements on when the competent authority must conservatively estimate emissions. This question aims to provide an overview of the reasons for conservatively estimating emissions, taking into account the requirements in Article 27 of the AVR on the type of verification opinion statements. Information on emissions reports that are not satisfactory, emissions reports that are not submitted or emissions reports that are not in line with the MRR is essential for the proper functioning of the market. In addition, information on how conservative estimation is carried out by the competent authority is considered relevant for developing good practice and harmonising approaches to conservative estimation.

#### **Instructions**

- The questions should be answered annually.
- See question 6.3.

### **6.8. *Non-material misstatements, non-conformities, non-compliance with the MRR and recommendations for improvement***

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<sup>10</sup> Further conditions apply to evidence related to the inspection of meters.

**Purpose**

Article 27 of the AVR requires the verifier to report any identified and outstanding non-material misstatements, non-conformities and recommendations for improvement in the verification report. Both the tables on the data in emissions reports and the data in tonne-km reports aim to provide an overview of the number of aircraft operators for which such issues are reported. This information will also enable analysis of issues which arise consistently.

**Instructions**

- The question should be answered annually for emissions. For tonne-km data, the information usually only needs to be completed for a request for free allocation of allowances from the special reserve.
- See question 6.4.

**6.9. *Checks on emissions reports and verification reports*****Purpose**

The question seeks information on the checks that competent authorities carried out on emissions and verification reports. Checks by the competent authority on the emissions and verification reports are an additional quality control measure to improve the overall quality of the emissions and verification reports. In addition, it provides the competent authority with an indication of the quality of specific verifiers. The same applies for tonne-km reports.

**Instructions**

- The question should be answered annually. For tonne-km data the information only needs to be completed in the case of a request for the free allocation of allowances from the special reserve.
- If the process for the assessment of emissions and verification reports has not yet been fully completed for the reporting period, please provide best estimates based on the emissions reports that have been assessed, and on the experiences from the previous year. If the answer is based on an estimate, please indicate this clearly.
- If a Member State does not carry out inspections or does not perform checks on emissions reports or verifications reports please answer 0% or not applicable.

**6.10. *Waive of site visits for aircraft operators*****Purpose**

Article 32(1) of the AVR allows waive of site visits for verification of a small emitter's emissions report, where the verifier concludes following its risk analysis that all information can be accessed remotely.

The answers to this question enable a trend analysis of the number of times a site visit is waived for small emitters.

### **Instructions**

- The question should be answered annually.
- The information can be extracted from the Commission's verification report template under 'site verification details'. This also applies to information on site visits waived for small emitters as defined in Article 54(2) of the MRR.

## **7. REGISTRIES**

### **7.1. *Terms and conditions***

#### **Purpose**

The Commission needs to know under what legal conditions the registry is made available to Member State account holders. The Commission can then compare these conditions and potentially remove poor practice, as well as share best practice across all Member State's registry administrators.

#### **Instructions**

- The question should be answered for the report due by 30 June 2014. For subsequent reports, the question only needs to be answered if there have been changes during that reporting period.
- The copy of your Member State specific terms and conditions can be provided in your national language if it is not available in English.

### **7.2. *Surrender of allowances by operators***

#### **Purpose**

Competent authorities might need to close operator accounts in the registry because there was no reasonable prospect of further allowances being surrendered, e.g. if the operator or aircraft operator has been declared bankrupt. Emissions for which no allowances were surrendered prior to the closure of the account indirectly increase the overall cap of the EU ETS. The purpose of this question is for the Commission to assess the magnitude of such closures by competent authorities and of the outstanding emissions.

#### **Instructions**

- The question should be answered annually.
- Please complete the table providing the operator and/or installation details. Please also provide the reason why there was no reasonable prospect of allowances being surrendered by the installation or aircraft operator in question.

### **7.3. *Use of mandate for small emitters (aircraft operators)***

#### **Purpose**

Article 17 (3) of the Registry Regulation makes the provision for aircraft operators with emissions of less than 25,000 tonnes per year or who operate less than 243 flights

per period to mandate a different person or legal entity to open and operate an EU ETS Registry account on their behalf. This question seeks to provide the Commission with an indication of how much the mandate has been used and by whom it was used, so it can judge whether the mandate is useful and whether it should be retained in the legislation.

#### **Instructions**

- The question should be answered annually.
- Please provide the number of times the mandate was used in your Member State and which aircraft operators have used it.

## **8. ALLOCATION**

### **8.1. *Number of changes to installations and their allocation***

#### **Purpose**

The question seeks an overview of the number of changes that occurred in installations affecting their allocation and the quantity of emission allowances involved as a result of those changes. The information relates to changes in the reporting period and changes since the start of the trading period: i.e. since 2013.

#### **Instructions**

- The question should be answered annually.
- Changes in the reporting period should relate to the point (the reporting period) in which the allocation of allowances in the Registry is adjusted to reflect the change concerned.
- Cessation as referred to in Article 22(1) (a) to (d) of Commission Decision 2011/278/EU concerns installations that have ceased operations because the permit has expired or has been withdrawn, the operation of the installation is technically impossible or the installation is not operating but has been operating before and it is technically impossible to resume operation.
- Cessation as referred to in Article 22(1) (e) of Commission Decision 2011/278/EU concerns installations that are not operating, but have been operating before and it cannot be established that the installation will resume operation at the latest within 6 months after having ceased operations.
- Please specify the number of changes and the quantity of emission allowances involved for each type of change listed in the table.

### **8.2. *Planned or effective changes to capacity, activity levels and operation of an installation not notified to the competent authority in accordance with Article 24 of Commission Decision 2011/278/EU***

#### **Purpose**

The question seeks to inform the Commission of the number of installations that have not notified planned or effective changes to the capacity, activity levels or operation

of any installation and how these changes were identified.

**Instructions**

- The question should be answered annually.
- Please select the relevant options on how these changes were identified.

**8.3. *Total number of emission allowances issued and total value of investments in relation to Article 10c of the EU ETS Directive***

**Purpose**

The question seeks to inform the Commission on how Article 10c of the EU ETS Directive is being applied. The information is only requested on an aggregate level.

**Instructions**

- The question should be answered annually.
- Please provide the number of emission allowances and the total investments<sup>11</sup> in the reporting period.

**9. USE OF EMISSION REDUCTION UNITS (ERUs) AND CERTIFIED EMISSION REDUCTION (CERs) IN THE COMMUNITY SCHEME**

**9.1. *Measures taken to ensure that relevant international criteria are being applied***

**Purpose**

Large dams are likely to adversely affect local and regional environments. The EU ETS Directive therefore requires that Member States ensure that relevant international criteria and guidelines are respected during the development of such projects. This provision will not be effective if adherence is only assured in some Member States. This is because CERs/ERUs from these projects can be introduced into the scheme through other Member States.

**Instructions**

- The question should be answered annually.

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<sup>11</sup> The data on investments concern the types of investments eligible under Article 10c of the EU ETS Directive, i.e. retrofitting of infrastructure, upgrading of infrastructure, clean technologies, diversification of energy mix and diversification of sources of supply (see Annex V of Guidance document on the optional application of Article 10c of Directive 2003/87/EC, (2011/C 99/03), OJ 31 March 2011, C 99/9).

## **10. FEES AND CHARGES**

### **10.A INSTALLATIONS**

#### ***10.1 Fees and charges for issuance and update of permits***

##### **Purpose**

This question seeks to obtain an overview of the fees and charges to be paid by operators for the issue and update of permits as well as the approval of monitoring plans. It also seeks information on annual subsistence fees.

##### **Instructions**

- The question should be answered once for the report due by 30 June 2014. For subsequent reports, the question only needs to be answered if there have been changes during that reporting period.
- Annual subsistence fees should include charges associated with the receipt of annual emission reports and improvement reports as well as inspection and enforcement.

### **10.B AIRCRAFT OPERATORS**

#### ***10.2 Fees and charges for approval and update of monitoring plans***

##### **Purpose**

This question seeks to obtain an overview of the fees and charges paid by aircraft operators for the approval and update of monitoring plans. It also seeks information on annual subsistence fees.

##### **Instructions:**

- The question should be answered once for the report due by 30 June 2014. For subsequent reports, the question only needs to be answered if there have been changes during that reporting period.
- Annual subsistence fees should include charges associated with the receipt of annual emission reports and improvement reports as well as inspection and enforcement.

### **10.C INSTALLATIONS AND AIRCRAFT OPERATORS**

#### ***10.3 Fees and charges for opening and holding a registry account***

##### **Purpose**

Information obtained by this question will enable the Commission to publish all Member State's registry fees on the public pages of the EU Registry and then update

this information on an annual basis. Registry fee information is difficult to collect without being obtained directly from Member States.

**Instructions:**

- The question should be answered once for the report due by 30 June 2014. For subsequent reports, the question only needs to be answered if there have been changes during that reporting period.

**11. ISSUES RELATED TO COMPLIANCE WITH DIRECTIVE 2003/87/EC**

**11A. INSTALLATIONS**

**11.1 *Measures taken to ensure that operators comply with their permit and the MRR and AVR***

**Purpose**

This question seeks to obtain relevant compliance and enforcement information by asking for the measures Member States have taken to ensure operators comply with their permit and the MRR and the AVR.

**Instructions**

- The question should be answered once for the report due by 30 June 2014. For subsequent reports, the question only needs to be answered if there have been changes during that reporting period.

**11.2. *Infringements and penalties***

**Purpose**

Penalties have to be high enough to act as a deterrent against infringements of legislation. Transparency on these penalties and infringements contributes to the confidence that market actors have in the scheme. The question seeks an overview of what infringements and penalties have been regulated in national law.

**Instructions**

- This question should be answered for the report due by 30 June 2014. For subsequent reports, the question only needs to be answered if there have been changes during that reporting period.
- If your Member State has one fixed fine or imprisonment sanction, please specify your fine in the maximum column.

**11.3. *Penalties imposed***

**Purpose**

The question seeks an overview of the types of infringements which occurred and the

penalties imposed. Increasing transparency in relation to penalties increases confidence in the functioning of market oversight.

**Instructions**

- This question should be answered annually.
- The type of infringement should be selected from the list in question 11.2. A drop down box is included to facilitate the completion of this question. Every imposed penalty should be reported in a separate row.

**11.4. *Names of operators for which excess emission penalties were imposed***

**Purpose**

According to Article 16(2) of the EU ETS Directive, Member States have to publish the names of operators who are in breach of the requirement to surrender sufficient allowances. Those operators shall be held liable for the payment of excess emission penalties pursuant to Article 16(3) of the EU ETS Directive. This question provides insight into which operators covered by Article 16(2) of the EU ETS Directive have had excess penalties imposed on them in the reporting period. In principle, there should be no difference between non-compliant operators listed in the registry and operators on which excess penalties have been imposed.

**Instructions**

- This question should be answered annually.

**11B. AIRCRAFT OPERATORS**

**11.5. *Measures taken to ensure that aircraft operators comply with the MRR and AVR***

**Purpose**

This question seeks to provide an overview of the measures that Member States have taken to ensure aircraft operators comply with the MRR. The information provided will help the Commission to understand compliance and enforcement of the MRR and the AVR within the aviation sector.

**Instructions**

- This question should be answered for the report due by 30 June 2014. For subsequent reports, the question only needs to be answered if there have been changes during that reporting period.

**11.6. *Infringements and penalties***

**Purpose**

Penalties have to be high enough to act as a deterrent against infringements of the legislative requirements. Transparency on the infringements and penalties that can be imposed contributes to the confidence market actors have in the scheme. The question

seeks an overview of what infringements and penalties have been regulated in national law.

**Instructions**

- This question should be answered for the report due by 30 June 2014. For subsequent reports, the question only needs to be answered if there have been changes during that reporting period.
- If your Member State has one fixed fine or imprisonment sanction, please specify your fine in the maximum column.

**11.7. Penalties imposed**

**Purpose**

This question seeks to assess the types of infringements which occurred and the penalties imposed. Increasing transparency in relation to penalties increases confidence in the functioning of market oversight.

**Instructions**

- This question should be answered annually.
- The type of infringement should be selected from the list in question 11.6. A drop down box is included to facilitate completion of this question. Every imposed penalty should be reported in a separate row.

**11.8. Names of aircraft operators for which excess emission penalties were imposed**

**Purpose**

According to Article 16(2) of the EU ETS Directive, Member States have to publish the names of aircraft operators who are in breach of the requirement to surrender sufficient allowances. Those aircraft operators shall be held liable for the payment of excess emission penalties pursuant to Article 16(3) of the EU ETS Directive. This question provides insight into which aircraft operators covered by Article 16(2) of the EU ETS Directive have had excess emission penalties imposed on them in the reporting period. In principle, there should be no difference between non-compliant aircraft operators listed in the registry and aircraft operators on which excess emission penalties have been imposed.

**Instructions**

- This question should be answered annually.

**11.9. Operating ban**

**Purpose**

This question seeks to provide insight into the measures that Member States would have taken before they would request the Commission to impose an operating ban on an aircraft operator in accordance with Article 16(10) of the EU ETS Directive.

### **Instructions**

- This question should be answered for the report due by 30 June 2014. For subsequent reports, the question only needs to be answered if there have been changes during that reporting period.

## **12. THE LEGAL NATURE OF ALLOWANCES AND FISCAL TREATMENT**

### **12.1. *Legal nature of an emission allowance***

#### **Purpose**

This question seeks data regarding the legal nature of an emission allowance in each Member State.

#### **Instructions**

- The question should be answered once and after changes.
- Please indicate what the legal nature of an allowance is in your Member State and how this is regulated in your national law (e.g. whether it is seen as a property right, under which act it is regulated and what requirements apply to the transfer of allowances).

### **12.2. *Financial accounting for emission allowances***

#### **Purpose**

This question seeks to compare the method of financial accounting for allowances across EU. The question seeks to address the issue of how companies are required to deal with allowances in terms of financial accounting. The treatment of tax is covered under question 12.4.

#### **Instructions**

- The question should be answered for the report due by 30 June 2014. For subsequent reports, the question only needs to be answered if there have been changes during that reporting period.

### **12.3. *VAT on issuance of and transactions in emission allowances***

#### **Purpose**

This question seeks to assess whether VAT is due on the issuance of and transactions in emission allowances, and to understand whether use is being made of the reverse-charge mechanism. The reverse-charge mechanism has the potential to act as a valuable tool against fraud and it is important for the Commission to know whether Member States are using this mechanism.

#### **Instructions**

- The question should be answered for the report due by 30 June 2014. For

subsequent reports, the question only needs to be answered if there have been changes during that reporting period.

#### **12.4. Tax on emission allowances**

##### **Purpose**

This question seeks to compare the treatment of tax on emission allowances for corporations across EU. The question does not concern the treatment of tax on allowances for individuals.

##### **Instructions**

- The question should be answered for the report due by 30 June 2014. For subsequent reports, the question only needs to be answered if there have been changes during that reporting period.

### **13. FRAUD**

#### **13.1. Arrangements for fraudulent activities related to the free allocation of allowances**

##### **Purpose**

Information on fraud and other activities related to market abuse is pivotal to improve transparency and thereby increase confidence in the market. Reports on market oversight under the MIFID Directive<sup>12</sup> and Market Abuse legislation<sup>13</sup> will provide data on fraud, money laundering and market abuse with respect to the trading of emission allowances. Information on fraud related to auctioning is monitored through the Auction monitor and is available to stakeholders. However, this does not apply to fraudulent activities by operators, aircraft operators, verifiers or others related to the free allocation of emission allowances.

This question seeks to gather information concerning good practice on the arrangements Member States have put into place concerning fraudulent activities related to the free allocation of allowances. This includes fraud, the provision of deliberately false information, money laundering or activities concerning market abuse carried out by operators or aircraft operators, verifiers or other parties during the new entrant procedures (or any other activities listed in Commission Decision 2011/278/EU).

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<sup>12</sup> Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC, OJ L 145, 30.4.2004, p. 1

<sup>13</sup> See [http://ec.europa.eu/internal\\_market/securities/abuse/index\\_en.htm](http://ec.europa.eu/internal_market/securities/abuse/index_en.htm) (Regulation (EU) [...] of the European Parliament and of the Council on insider dealing and market manipulation (market abuse), [...] and Directive (EU) [...] of the European Parliament and of the Council on criminal sanctions for insider dealing and market manipulation [...]).

**Instructions**

- The question should be answered for the report due by 30 June 2014. For subsequent reports, the question only needs to be answered if there have been changes during that reporting period.
- In the table, please specify the details of arrangements and procedures your Member State has implemented in national law.

**13.2. *Arrangements on the communication of fraudulent activities*****Purpose**

This question seeks to gather information concerning good practice on the arrangements and communication procedures Member States have set-up to ensure that competent authorities involved in the implementation of EU ETS are being informed of any fraudulent activities. These activities include fraud, the provision of deliberately false information, money laundering or activities concerning market abuse carried out by operators, verifiers or other parties within the ETS compliance chain. It is not only related to the free allocation of allowances but also to trading, auctioning, monitoring, reporting, verification and other activities.

Although this question is about identifying Member State good practice rather than legal obligation, it is important that information on fraudulent activities investigated or brought to court is communicated to the competent authorities involved in EU ETS. The establishment of proper communication channels should ensure that crucial information on EU ETS compliance aspects and the functioning of the market is exchanged with the relevant ETS competent authority or competent authorities: it is the responsibility of those competent authorities to safeguard the proper functioning of ETS. Sharing information should allow the competent authority or competent authorities to take necessary follow-up measures such as updating monitoring plans, adapting inspection strategies. In addition information on fraud committed by verifiers is important information to share with the relevant national accreditation body that has accredited or certified the verifier and that is entitled to impose administrative measures. Information on communication arrangements and procedures is pivotal to improving transparency and thereby increasing market confidence.

**Instructions**

- The question should be answered for the report due by 30 June 2014. For subsequent reports, the question only needs to be answered if there have been changes during that reporting period.
- In the table, please specify the details of the arrangements and procedures your Member State has set-up.

**13.3. *Information on fraudulent activities*****Purpose**

This question seeks to gather information on the number of investigations being carried out, the number of court cases concerning fraudulent activities, as well as the number of cases that have led to conviction, settlement out of court, or acquittal. The question

also seeks indication of the types of fraud or fraudulent activity involved in broad terms including fraud, the provision of deliberately false information, money laundering or activities concerning market abuse carried out by operators, verifiers or other parties within the whole compliance chain. Data on fraudulent activities are not only requested in relation to the free allocation of allowances but also on trading, auctioning, monitoring, reporting, verification and other activities. Actual numbers of fraud and other activities related to market abuse that are being investigated, or have been committed, are pivotal to improving transparency and thereby increasing market confidence.

**Instructions**

- The question should be answered annually.

**14. OTHER OBSERVATIONS**

**14.1. *Opportunity to bringing forward other issues***

**Purpose**

This question seeks to provide Member States with the opportunity to bring forward general issues or any issues related to previous sections.

**Instructions**

- Please fill out issues related to each section in the relevant boxes.

**14.2. *Confirmation of whether changes occurred in the reporting period***

**Purpose**

A number of questions need to be answered only once for the report due by 30 June 2014. For subsequent reports, the question needs to be answered only when changes occurred during that reporting period. This question seeks confirmation that no such changes have arisen during the reporting year other than those that have been updated as relevant.

**Instructions**

- Please confirm that the one-off questions have been answered for the report submitted by 30 June 2014.
- For subsequent reports, please confirm that the one-off questions have been updated where relevant.