

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

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

### **Period of consultation**

From 3 June 2009 to 3 August 2009 inclusive

### **Specific privacy statement**

"Received contributions, together with the identity of the contributor, will be published on the Internet, unless the contributor objects to publication of his or her personal data on the grounds that such publication would harm his or her legitimate interests. In such cases the contribution may be published in an anonymous form. Otherwise, the contribution will not be published nor will, in principle, its content be taken into account. Responses for questions deemed confidential in the consultation will not be available for view on the website irrespective of contributor objecting or not."

### **Thank you**

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

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

### **Question A**

Name of Company/Organization: Vattenfall AB

Principal nature of activities: Energy company

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

World-wide: 32,801

Europe-wide: 32,801

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

World-wide: 15,041 M€

Europe-wide: 15,041 M€

### **Question B**

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

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

Approx Annual Emissions: 82500000 tCO<sub>2</sub>

### **Question C**

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

### **Question D**

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

No

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

Ans:

**Are any of your responses confidential?**

No

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

Ans:

## Section 2: Survey questions (86)

### Question 1

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

Yes

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

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

### Question 2

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

Yes

***If so, why?***

Ans: Auctioning of futures provides an important element to hedging strategies by allowing the market participants to hedge against price risks without creating unnecessary requirements on up-front payment.

### Question 3

***What share of allowances should be auctioned spot and what share should be auctioned as futures for each year?***

	SPOT	FUTURES
Year n	50	
Year n-1		30
Year n-2		20

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

Ans: To be meaningful, the duration of the future contract should be of certain length and also reflect the hedging strategies usually practiced by the operators. A reasonable split between spot and future contracts could be 50/50, meaning that 50 % of the volume of EUAs for year n is sold in year n, whereas the remaining part is sold on future contracts divided on 20% in year n-2 and 30 % in year n-1.

The principle indicated above would mean that 20 % of the EUA-13 volume is sold in 2011. In order to promote the early start of the Phase III market one might want to have the system more front-loaded with respect to the first 2-3- years. However, taking into account the risk that the market might be initially over-supplied (in relation the overall scarcity of the period and the compliance cycle) and that banking of EUAs between the periods is allowed), the same principle (20%/30%/50%) should be practiced throughout the whole trading period.

*NB: The answer to this question will be published as part of the public consultation. Please do not submit confidential information as part of your answer to this question.*

#### **Question 4**

***Should the common maturity date used in futures auctions be in December (so the maturity date would be December in year n, both when auctioning in year n-2 as when auctioning in year n-1)?***

Yes

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

Ans:

#### **Question 5**

***For spot auctions:***

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

Ans: Weekly

0

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

Ans: Quarterly

0

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

Ans: Other.

Please Specify: Daily

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

Ans: The optimum frequency of EUA auctions in 2013-2020 is "weekly". This is a reasonable balance between the need of a more or less continuous release on the market which creates as low disturbances to the price formation on the secondary market as possible, and practical aspects (incl. transaction costs) for arranging the auctions.

If more than one auction platform is used (against the opinion expressed in the answer to question 68), then it could be motivated that the frequency of each auction is less than what would be the case under a centralized process (weekly). In that case, high coordination of the auctions (e.g. rotating schedule) is of utmost importance in order to achieve a stable and reliable supply of EUAs.

As a general principle, there is no need to arrange the auctions more frequently than on weekly basis, taking into account the risk of two auction processes eventually overlapping each other as well as the need to limit the administrative and transaction costs.

#### **Question 6**

***For spot auctions, what should be the:  
If deemed appropriate, please indicate a range and/or distribution over different sizes.***

***Optimum auction size?***

Ans:

***Minimum auction size?***

Ans:

***Maximum auction size?***

Ans:

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

Ans: The sizes to be auctioned must be decided on basis of the frequency of auctions that was indicated in relation to question 5 and the total availability of EUAs that are not to be allocated for free. A minimum size of the volume to sell on each auction should primarily be achieved through a high degree of coordination between the Member states' auctioning of allowances, preferably by using only one single EU-wide auction platform/auctioneer.

#### **Question 7**

***For futures auctions:***

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

Ans: Weekly

0

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

Ans: Monthly

0

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

Ans: Other.

Please Specify: Daily

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

Ans: There is no reason to perform a different frequency for the auctioning of EUA futures compared to spot auctions. All auctions should be frequent enough to ensure a smooth and continuous supply with small disturbances on the secondary market.

#### **Question 8**

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

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

***Optimum auction size?***

Ans:

**Minimum auction size?**

Ans:

**Maximum auction size?**

Ans:

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

Ans: See answer to question 6.

**Question 9**

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

Yes

**If not, how should volumes be distributed? (more than one answer possible) Please specify:**

- A larger proportion in the first 4 months of the year
- A larger proportion in December
- A smaller proportion in July and August
- Other.

**Question 10**

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

Yes

**If not, how should they differ? (more than one answer possible)**

- No futures auctions less than six months before the maturity date.
- A larger proportion in December.
- A smaller proportion in July and August.
- Otherwise?

**Question 11**

**Does the Regulation need to have provisions to avoid holding auctions during a short period of time before the surrendering date (30 April each year)?**

No

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

Ans: No Response

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

No Response

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

Ans: No Response

**Question 12**

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

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

Public holidays common in most Member States?

Ans:

Days where important relevant economic data is released?

Ans:

Days where emissions data are released?

Ans:

Other?

Ans:

**Question 13**

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

No Response

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

Ans:

**Question 14**

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

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

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

more years in advance

Ans: It is of outmost importance that the annual amounts of EUAs to be sold on the auctions are firmly decided and communicated already before the trading period in question (2013-2020) starts.

There should be full clarity on volumes, auction dates, contract types and auctioneer(s) as early as possible. The annual volumes to auction must be well known to the market well in advance of the period whereas it could be enough to publish e.g. the precise dates of the auctions or name of the auctioneer(s) during the course of the trading period.

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

2 years in advance

Ans:

***Dates of individual auctions:***

2 years in advance

Ans:

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

2 years in advance

Ans:

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

2 years in advance

Ans:

**Question 15**

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

in 2011: 20% of the 2013 volume and \_\_\_% of the 2014 volume

in 2012: 30% of the 2013 volume and 20% of the 2014 volume

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

Ans: Based on the distribution key proposed in relation to question 3, we believe that EUAs should be auctioned to the market already in advance of the trading period (2011 and 2012), although in line with a general approach performed throughout the trading period. The auctioning of futures for EUA-n should be 20 % in year n-2 and thereafter further increased to 30 % in year n- 1. Consequently, in year n, it remains 50 % of the total amount of EUA-n to be sold on spot auction.

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

in 2011: 100% of the 2013 share and \_\_\_% of the 2014 share

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

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

Ans:

**Question 16**

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

Ans: Other

Please Specify: The amount of EUAs that has not been auctioned in a timely manner because of a software failure, or another forms of "force majeure" events, should be auctioned as soon as possible after the event occurred - but still respecting the need of a reasonable time for announcing the new auction date in due advance of the conduct.

**Question 17**

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

Yes

**If not, why not?**

Ans:

**Question 18**

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

Yes

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

Ans:

**Question 19**

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

Ans: Uniform-pricing.

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

Ans: The price-setting mechanism practiced in the EUA auctions should be of an uniform-price type. This method is most likely to promote equal treatment of all participants and to avoid strategic behavior, whereas price-discriminatory auctions encourage bidders to "guess" the lowest successful bid. Hence, the uniform-price method will improve both how fair the EU ETS is perceived to be and make the participation more understandable and transparent.

Price-discriminatory auctions could potentially make the auction route more unattractive for smaller market participants that do not feel that they have complete information about their competitors' EUA valuation and long-term abatement costs. In addition, the preferred price-setting mechanism (i.e. uniform-price) should reduce the need for allowing non-competitive bids from SMEs (see also answer to question 50) .

**Question 20**

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

Ans: pro-rata re-scaling of bids

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

Ans: The method used to solve "ties" (i.e. where the total amount of EUA demanded at the clearing price exceeds the available supply) should be "pro-rata rescaling" of the bids placed at this price level. That is the most fair solution. As a general remark, the auctioning process should be completely free from all forms of randomization and gaming.

**Question 21**

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

No

**Question 22**

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

No

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

Ans: Although a reserve price is not the same as an absolute price floor, we believe that a reserve price applied in the auction process would in practice very much work towards a "price floor" for the EU ETS market.

The introduction of a reserve price (and consequently, a price floor) could provide some positive effects, however the arguments against such intervention weigh more heavy. A price floor would create a distortion to the market and induce new uncertainties related to the development of the price floor's level and/or expectations that a "price cap" will also be introduced. The EU ETS market will work most efficiently if the political interventions are limited to the cap-setting procedure that has to be made in advance of each new trading period.

Provided that the cap-setting process is conducted effectively, and there are sound hedging opportunities available, based on a well-functioning secondary market for EUAs, any additional political intervention to the price formation process is not desired.

**Question 23**

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

No

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

Ans: The market participants should be allowed to submit individual bids of any size. Firstly, the EU ETS market is considered to be large enough to not be associated with the risk of collusion and hoarding. Secondly, such rule would be ineffective since there is no way to hinder a market player to acquire the volume he/she wants to acquire, through either letting other participants bid on his/her behalf or acquire the desired amount of EUAs on the secondary market instead.

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

No Response

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

Ans:

**Question 24**

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

Ans: No Response

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

Ans:

**Question 25**

***In case only one of the two following options would be chosen, to limit the risk of market manipulation or collusion, which one would be preferable?***

Ans: A maximum bid-size per single entity?

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

Ans: If it would be absolutely necessary to choose one of the features indicated in the question, it would have to be "a maximum bid-size per single entity". Though, in our view its potential to restrict a certain participant to (indirectly) place bid on the amount of EUAs that he/she desire is very limited. There is no need for this kind of measures when the secondary market is functioning and competitive.

Moreover, price-discriminatory auctions are particularly undesired (cf. answer to question 19) and is neither a meaningful nor motivated mean to safeguard from participants hoarding (i.e. accumulating EUAs in order to impact the EUA price). There are no indications that such risk exists today, and the likelihood for such events will reduce further as the market size grows e.g. through the linking of different ETS schemes.

**Question 26**

***Are the following pre-registration requirements appropriate and adequate?***

***Identity:***

- Natural or legal person;
- Name, address, whether publicly listed, whether licensed and supervised under the AML rules; membership of a professional association; membership of a chamber of commerce; VAT and/or tax number;
- Contact details of authorised representatives and proof of authorisation; and
- CITL-Registry account details.
- Anything else?

0

***Declarations with respect to the past 5 years on absence of:***

- Indictment or conviction of serious crimes: check corporate officers, directors, principals, members or partners;
- Infringement of the rules of any regulated or unregulated market;
- Permits to conduct business being revoked or suspended;
- Infringement of procurement rules; and
- Infringement of disclosure of confidential information.
- Anything else?

0

***Declarations and submission of documentation relating to:***

- Proof of identity;
- Type of business;
- Participation in EU ETS or not;
- EU ETS registered installations, if any;
- Bank account contact details;
- Intended auctioning activity;
- Whether bidding on own account or on behalf of another beneficial owner;
- Corporate and business affiliations;
- Creditworthiness;

- Collateral; and
- Whether it carries out transactions subject to VAT or transactions exempted from VAT.
- Anything else?

Please specify: The bullet point "intended auctioning activity" does not seem appropriate as long as it has a discriminatory character. Whether bidding on own account or on behalf of another beneficial owner should be enough information to be displaced.

#### **Question 27**

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

Yes

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

Ans: There is strong interest to have a harmonization in every respect of the auction design across the EU. If there is more than one auctioning scheme established a harmonization of rules would therefore be kind of the least denominator to assure that unnecessary distortions of the market implied by such differences do not occur and to keep the administrative burden for market participants as low as possible, as well as to allow all market participants (regardless of their size) to have equal possibilities to participate in auctioning of EUAs.

#### **Question 28**

***Should the amount of information to be supplied in order to satisfy the pre-registration requirements for admittance to EU auctions depend on the:***

- means of establishing the trading relationship;
- identity of bidder;
- whether auctioning spot or futures;
- size of bid;
- means of payment and delivery;
- anything else?

0

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

Ans:

#### **Question 29**

***Should the bidder pre-registration requirements under the Regulation apply in the same manner irrespective of whether or not the auctioneer is covered by the MiFID or AML rules?***

Yes

0

0

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

Ans: Most certainly MIFID and AML rules will apply for the auctioneer, as well as for the auction participants. This should therefore be taken as the standard case, when considering pre-registration requirements and no exemption be made.

**Question 30**

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

Yes

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

0

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

Ans: The involvement of third parties in such pre-registration check is common practice today and should be allowed as long as it is also specified what qualifies a third party as reliable to assure that the trading relationship to be established is based on solid grounds.

**Question 31**

***In order to facilitate bidder pre-registration in their home country, should the auctioneer(s) be allowed to provide for pre-registration by potential bidders in other (or all) Member States than the auctioneer's home country e.g. by outsourcing this to a reliable third party?***

Yes

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

Ans: In regards to harmonization of regulation this is a preferable option and the inclusion of consideration of AML and MiFID rules seems appropriate to assure that a mutual recognition across borders can be assured. A common pre-registration that enables to participate in all auctioning schemes necessary (if there are really more than one) deems as best option.

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

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

0

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

Ans:

**Question 32**

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

No Response

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

Ans: It is appropriate to limit the administrative burden beforehand. Otherwise a joint auction scheme would lose some of its benefits.

**Question 33**

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

Yes

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

Ans: The level and type of collateral should be harmonized according to best practice in the market place and not exceed current reasonable collaterals as they apply at Carbon exchanges. Financial collateral therefore seems appropriate.

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

Ans:

**Question 34**

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

Yes

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

Ans: Compare question 33.

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

Ans:

**Question 35**

***Do you agree that 100% collateral in electronic money transfer ought to be deposited up-front at a central counterparty or credit institution designated by the auctioneer to access spot auctions?***

No

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

Ans: 100% collateral for spot auctions seems to be an administrative hinder that would possibly restrict participation in spot auctions. Instead of such collateral the pre registration check should be sufficiently designed to include credit aspects also for spot auctions. If one of the winning bidders defaults regarding payment clear rules should be established of what happens with the spare amount of allowance. Ideally these could be transferred to the other winning participants of the auctions that possibly couldn't be satisfied in the amount they wanted to auction.

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

Ans:

**Question 36**

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

Yes

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

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

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

Ans: Common practice and necessary pre condition. Compare answer to question 26.

### **Question 37**

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

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

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

Ans: Compare answer to question 26.

### **Question 38**

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

No Response

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

Ans: No Response

0

### **Question 39**

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

Yes

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

Ans: Compare answer to question 26.

### **Question 40**

***Should the Regulation provide for all matters that are central to the very creation, existence and termination or frustration of the transaction arising from the EUA auctions?***

Yes

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

Ans:

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

- The designation of the parties' to the trade.
- The characteristics of the auctioned product:

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

Ans: No Response

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

Ans:

#### **Question 41**

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

Yes

***If so, should these be:***

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

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

Ans: The European legislative framework as given in Brussels I should apply. In reference to the possible international trade relations that might be established according rules should also be taken into account in reference to the Brussels I regulation.

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

Ans:

#### **Question 42**

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

- Direct bidding?
- Indirect bidding?
- Both?

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

Ans: There is no reason to prescribe which routes the operators' access to the EU ETS auctions should or must take. Anyone interested in placing a bid in the auction process should be able to do so, provided that he/she can demonstrate creditworthiness and provide financial assurance, etc. The use of intermediaries in the market will emerge automatically in relation to e.g. small operators that perceive that direct participation in the auction process is too costly or disadvantageous compared to a strategy where they acquire EUAs via a bank or another market facilitator. There should not be any obligation to use intermediaries.

**Question 43**

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

Ans:

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

Ans: Not applicable. (cf. answer to question 42). There should be no provisions in the regulation limiting the operators (or other stakeholders) access to the auction process or prescribing through which routes the participants can choose to take part in the market.

**Question 44**

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

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

0

Disallow primary participants trading on their own account?

Impose strict separation of own-account trading from trading on behalf of indirect bidders?

Other

Please specify: There should be no discrimination between large and small emitters.

Everybody that finds it favorable to engage in the auction process directly should be able to do so. The operators that find it motivated to use intermediaries should be able to practice that instead.

**Question 45**

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

Separation of client registration and trading on behalf of clients from all own account trading activities.

Separation of collateral management, payment and delivery on behalf of clients from all own account trading activities.

Separation of anything else.

Please specify: Not applicable. (cf. answer to question 42).

**Question 46**

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

Intermediaries

Market makers

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

Ans: Not applicable. (cf. answer to question 42).

**Question 47**

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

- Only for futures auctions open to established members of the exchange?
- Also for spot auctions open to established members of the exchange?
- Only when the exchange-based auction is open to non-established members on a non-discriminatory cost-effective basis?
- Other.

0

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

Ans: Auctioning through exchanges is an interesting option. These market places are already familiar environments for many potential auction participants and it could contribute to keeping the transaction costs low (i.e. limiting the cost for both operators and auctioneer). It is necessary to ensure that the process is open for everybody. A simplified access to the EUA auctions compared to the current conduct with memberships at the exchanges might also be considered.

**Question 48**

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

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

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

Ans: Both direct and indirect purchase will be possible if the auctions are designed in order to not limit the participation of any potential buyer (or its subsidiary). There is no reason to prescribe who can participate in the primary market and who can not. All entities that fulfill the fundamental criteria (pre-registration, creditworthiness, etc.) must be allowed.

To the extent that public authorities are acting as a intermediary purchasing EUAs on the auctions (e.g. on behalf of operators) it should be monitored that there is not an unduly state-aid involved in the process.

**Question 49**

***Do the general rules for auctioning EUAs suffice for ensuring full, fair and equitable access to allowances to SMEs covered by the EU ETS and small emitters?***

Yes

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

Ans:

**Question 50**

***Is allowing non-competitive bids necessary for ensuring access to allowances to SMEs covered by the EU ETS and small emitters in case of:***

***discriminatory-price auctions?***

***uniform-price auctions?***

**Question 51**

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

Ans: Other

Please Specify: The level of EUAs to be reserved for non-competitive should be restrictive.

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

Ans: An useful comparison in this respect could be that the smallest installations in the EU ETS (<10 000 tCO<sub>2</sub> per year) comprise almost 41 % of the total number of installations.

To give certain operators prioritized access to the volume of EUAs to be auctioned without requiring them to submit “real” bids (i.e. containing price information) would to some extent induce less price fundamentals to the process. However, taking into account the situation of many SMEs (especially the smallest utilities increased dependence on buying EUAs after the abandoning of free allocation), the question of allowing non-competitive bids in the auction process should be subject to further consideration.

It should also be reiterated that the uniform-price auction design will serve to safeguard that SMEs can not be disadvantageous in the sense that they are paying a higher price for their successful bids than others due to e.g. less capacity to assess all market information.

**Question 52**

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

- Participants should only be allowed to use one of the two bidding routes?
- Non-competitive bids should be restricted to SMEs covered by the EU ETS and small emitters only?
- Other?

0

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

Ans: The share of non-competitive bids should be limited and only applied to SMEs if introduced at all. (cf. response to question 50 and 51).

**Question 53**

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

Ans: 5 000 EUAs

0

**Question 54**

***Are there any other specific measures not mentioned in this consultation that may be necessary for ensuring full, fair and equitable access to allowances for SMEs covered by the EU ETS and small emitters?***

No Response

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

Ans:

**Question 55**

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

Ans: Other

Please Specify: The date of the auction should be carefully scheduled and announced already before the trading period commence. Preferably, this information should be contained in the regulation, though it is not as indispensable as e.g. the early announcement of which fixed quantities of EUA that will be released on the auctions at different times.

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

Ans:

**Question 56**

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

Ans: Other

Please Specify: How long time in advance an operator should be required to notify that he/she is intending to submit a bid on the auction depends on the administration (checking the identity, creditworthy etc.) as well as the frequency of the auctions. This should not take more than 2 weeks. A notification of the intention to submit a bid should not come with any requirements to actually participate in the auction. Another important thing is that the information about which operators are intending to participate in the specific auction is not made publicly available, at least not as long as the auction format is of closed type.

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

Ans:

**Question 57**

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

Ans: The notice to auction?

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

Ans: In addition to the auction dates, detailed information relating to the quantity of EUAs to be released on each specific occasion must be communicated thoroughly within the auctioneer's notice to auction. In case the auction rules are not harmonized, these must be clearly presented in advance of the auction, as well as schedule for presenting the results.

**Question 58**

***What information should be disclosed after the auction:***

[X] Clearing price (if allowances are awarded on a uniform-price basis or in the case of non-competitive bids being allowed)?

- Average price (if allowances are awarded on a discriminatory-price basis)?
- Any relevant information to solve tied bids?
- Total volume of EUAs auctioned?
- Total volume of bids submitted distinguishing between competitive and non-competitive bids (if applicable)?
- Total volume of allowances allocated?
- Anything else?

0

#### **Question 59**

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

- 5 minutes
- 15 minutes
- 30 minutes
- 1 hour
- Other.

0

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

Ans: All parameters indicated in relation to the question, except for "average price" (cf. question 19, where a differentiated price model "discriminatory-price" auction is discouraged), should be published directly after the auctioning is completed. In addition, the fourth bullet point, which stipulates "total volume of EUAs auctioned", is something that must be completely decided already before the auctioning starts.

Equal, simultaneous and timely release of market sensitive information and data is important. Whether it takes 5 or 15 minutes to assess all the bids and declare the outcome might not be quite as imperative as the need for providing all markets participants the same information at the same time. However, the announcement should not be subject to any delay as it would open for speculation and create additional uncertainty to the market.

#### **Question 60**

***Do you feel that any specific additional provisions should be adopted in the Regulation for the granting of fair and equal access to auction information?***

Yes

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

Ans: Full and simultaneous public access to the auctioning results in all official EU languages, thus not only restricted to e.g. operators subject to pre-registration, preferably using one single EU platform/website to publish all market sensitive data.

#### **Question 61**

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

Yes

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

Ans:

**Question 62**

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

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

**If not, why not?**

Ans:

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

Yes

**If not, why not?**

Ans:

**Question 63**

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

Yes

**If not, why not?**

Ans:

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

Ans: To some extent this depends on the specific auction design chosen, as each design has its specifics possibly opening for market abuse. Openness and transparency of the auction design scheme should allow limiting possibilities for market abuse. As such the regulation will have to consider what kind of market abuse seems possible and tune the auction design accordingly for preventing these. The existing regulation regarding insider dealing seems appropriate for prevention purposes (compare answer to question 26).

**Question 64**

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

- Non-compliance with its provisions?  
 Market abuse?

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

Ans: Non-compliance with the regulations provisions enforcement measures should be clearly stated within the regulation and as such harmonized for all member states. As such it would help to enforce the legislation. For the case of market abuse it seems difficult to capture something as case sensitive as abuse in only one form of legislation. Market abuse as such should therefore be clearly stated to be sanctioned, but it might be necessary to refer to the wider legislative framework to really capture to issue.

**Question 65**

**Should the enforcement measures include:**

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

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

Ans:

Financial penalties?

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

Ans:

The power to address binding interim decisions to the auctioneer(s) and/or bidders to avert any urgent, imminent threat of breach of the Regulation with likely irreversible adverse consequences?

Anything else?

0

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

Ans: As there is no specific case stated regarding market abuse it seems impossible to fix enforcement levels in advance, but for the case of non-compliance with its provisions enforcement measures as named above are thinkable. The order of magnitude though and the means of enforcement should be balanced in regards to how severe the breach of any of the legislation has been.

**Question 66**

**Should such enforcement measures apply at:**

EU level?

National level?

Both?

**Please comment on your choice.**

Ans: Regarding market abuse it seems appropriate to have enforcement on EU level, but if there are different national schemes in place it is thinkable that some provisions should or do just apply on national level

**Question 67**

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

The auction monitor?

The auctioneer?

A competent authority at EU level?

A competent authority at national level?

Other?

0

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

Ans: Failure to comply with the EC regulation should be corrected by the competent authority appointed by the Member state, and if necessary based on the outcome of such enforcement, followed by appropriate actions from the European Commission's side.

**Question 68**

***Which of the three approaches for an overall EU auction model do you prefer? Please rate the options below (1 being the most preferable, 3 being the least preferable)***

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

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

Ans: The preferred EUA auctioning model is 1) full centralization based on a single EU-wide auction process, 2) very limited number of coordinated auction processes, and 3) a hybrid approach where different auction processes are cleared through a centralized system, in that specific ranking of the options displayed in the question.

The more centralized the auctions are in practice, the more the prospects for a cost-efficient and non-discriminatory conduct will improve. For example, the risk of encountering Member states (indirectly or directly) favoring certain operators located within their countries will be significantly lower in case a common (or heavily coordinated) EU platform is utilized.

Decoupling the conduct of the auctions from those that are benefiting from the proceeds could serve to ensure that potential conflicts of interests are avoided and that the process gets more transparent. The well-functioning of the EU ETS market must be first priority.

**Question 69**

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

Ans: No Response

0

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

Ans: In case the Member states' auctioning of EUAs for some reason can not be fully centralized, a minimum requirement should be that the auctions are conducted in a coherent fashion. This is important not least to promote the understanding of the system, facilitate the participation on EU-wide auctions and increase the transparency of the EU ETS as a whole.

**Question 70**

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

Yes

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

Ans: The implementation of auctioning provisions should be monitored carefully, and assessed on a regular and independent basis. Any shortcomings identified in connection to the collection of bids, handling of sensitive information, determination of the clearing price, issuance of EUAs, etc. should be swiftly corrected. This might require a revision clause introduced in the EC regulation in order to improve the functioning of auctions.

**Question 71**

**Should the Regulation impose the following requirements for the auctioneer(s) and auction processes? [mark those that apply]:**

**Technical capabilities of auctioneers:**

- capacity and experience to conduct auctions (or a specific part of the auction process) in an open, fair, transparent, cost-effective and non-discriminatory manner;
- appropriate investment in keeping the system up-to-date and in line with ongoing market and technological developments; and
- relevant professional licences, high ethical and quality control standards, compliance with financial and market integrity rules.

**Integrity:**

- guarantee confidentiality of bids, ability to manage market sensitive information in an appropriate manner;
- duly protected electronic systems and appropriate security procedures with regards to identification and data transmission;
- appropriate rules on avoiding and monitoring conflicts of interest; and
- full cooperation with the auction monitor.

**Reliability:**

- robust organisation and IT systems;
- adequate fallback measures in case of unexpected events;
- minimisation of the risk of cancelling an individual auction once announced;
- minimisation of the risk of failing functionalities (e.g. access to the bidding platform for certain potential bidders); and
- fallback system in case of IT problems on the bidder side.

**Accessibility and user friendliness:**

- fair, concise, comprehensible and easily accessible information on how to participate in auctions;
- short and simple pre-registration forms;
- clear and simple electronic tools;
- (option of) accessibility of platforms through a dedicated internet interface;
- ability of the auction platform to connect to and communicate with proprietary trading systems used by bidders;
- adequate and regular training (including mock auctions);
- detailed user guidance on how to participate in the auction; and
- ability to test identification and access to the auction.

**Please elaborate if any of these requirements need not be included.**

Ans:

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

Ans: It is desirable that the EC regulation on auctioning comprise of rules which ensure that the auctioneers have the capacity to conduct the auctions in a fair, transparent, cost-effective and non-discriminatory manner, that they comply with all relevant financial market rules and that no risk related to conflict of interests can occur.

**Question 72**

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

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

Please specify: In case bidders have to be charged with a fee, this should, to its size, be competitive with the fees currently applied on the secondary market (exchanges). Preferably the cost of the auction is covered by the auction result, and thus, proportionally assigned to the winning bids. High fees could hinder participation in the auctions and defer market participants to the secondary market.

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

Ans:

**Question 73**

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

Yes

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

Yes

**Question 74**

***Which one of the following options is the most appropriate in case a Member State does not hold auctions (on time)?***

- Auctions by an auctioneer authorised by the Commission.
- Automatic addition of the delayed quantities to those foreseen for the next two or three auctions.

***What other option would you envisage? Please specify:***

Ans: In case a Member state does not perform its auctions in line with the agreed and previously announced time schedule, measures should be taken to arrange that these EUAs are released to the market as soon as possible after the failure. However, an adequate time frame must be allowed to inform all potential market players about the new auction date in advance of the conduct and to give them opportunity to prepare for the new event.

**Question 75**

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

Yes

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

Ans: The Member state in question should be required to present a report in which it is described what the reason was for this discrepancy and what steps they have undertaken with the purpose to avoid that it will be repeated in the future.

**Question 76**

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

Yes

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

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

0

**Question 77**

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

No

***If so, why?***

Ans:

**Question 78**

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

Ans: More than 3 auctions per year?

Please specify: 3+

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

Ans: The fragmentation of the EU ETS market in respect of the aviation allowances (EUAs) gives rise to a range of different concerns. For example, the risk of collusion and non-uniform prices could be more significant in such sub-regulated market.

Considering that the number of airlines there exists about 2,000 airline operators potentially required to purchase additional EUAs, it would perhaps be too little to arrange 2-3 EU actions per year.

**Question 79**

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

Ans: Equally spread throughout the year?

0

**Question 80**

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

No

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

Ans:

**Question 81**

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

Yes

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

Ans: There is not a need for a maximum bid size even though the market for EUAAs is more narrow than the market for EUAs. The main reasons for this is that the prospects to avoid hoarding of EUAAs through such measure is limited because of the operators possibility to let other entities bid on their behalf, and that the aircraft operators already enjoy the possibility to use EUAs acquired on the ordinary auctions (despite stationary operators are not allowed to use EUAAs for compliance) which makes them less dependent on one specific commodity auction.

**Question 82**

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

No Response

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

Ans:

**Question 83**

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

No Response

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

No Response

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

Ans: See answer to question 50-51.

**Question 84**

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

- Involvement of primary participants, exchanges or third party service providers?
- Guarantees and financial assurance?
- Payment and delivery?
- Information disclosure?
- Auction monitoring?
- Preventing anti-competitive behaviour and/or market manipulation?
- Enforcement?
- None of the above?

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

Ans:

**Question 85**

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

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

***Does your choice differ from the approach preferred for EUAs?***

No

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

Ans: The same considerations apply for the auctioning of EUAAs as with respect to the auctioning of EUAs (cf. answer to question 68)

**Question 86**

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

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

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

Ans: