www.decc.gov.uk

Second Consultation on the Form and Content of New Climate Change Agreements

December 2009

DEPARTMENT OF ENERGY & CLIMATE CHANGE

Department of Energy and Climate Change
3 Whitehall Place
London
SW1A 2AW
Telephone: 0300 068 4000
Website: www.decc.gov.uk

For further information on this consultation, contact:

Climate Change Agreements Team
Department of Energy and Climate Change
3 Whitehall Place
London
SW1A 2AW
Telephone: 0300 068 5302

Email: ccaconsultation@decc.gsi.gov.uk

Full text of the consultation and Partial Impact Assessment can be found on DECC's website:
www.decc.gov.uk/consultations

Published by the Department of Energy and Climate Change

Product Code URN 09D/848

Second Consultation on the Form and Content of New Climate Change Agreements

Climate Change Agreements were introduced in 2001 in response to the Marshall Report on "Economic Instruments and the Business Use of Energy". Under Climate Change Agreements, eligible energy intensive industry benefit from an 80%[1] reduction in the Climate Change Levy if they meet challenging energy efficiency targets. Climate Change Agreements were introduced in recognition that the Climate Change Levy could affect the competitive position of energy intensive industry. The aims of the Agreements are to offset the competitive disadvantage and to reduce energy demand, thereby reducing emissions of greenhouse gasses.

Current Climate Change Agreements expire in March 2013. However, the Government announced in the Pre Budget Report in 2007 that **"the scheme will continue until 2017, subject to State aid approval, and [it] will discuss with business the most effective way of taking this forward".**

The first consultation sought views on a number of proposals and options on the form and content of the new Climate Change Agreements. Having considered the responses to the first consultation, this consultation seeks views on a specific proposal for the form and content of the new Climate Change Agreements.

Issued 21 December 2009

Respond by 15 February 2010

[1] PBR 2009 announced that the Government's intention to reduce the Levy discount from 80% to 65% with effect from 1 April 2011.

Second Consultation on the Form and Content of New Climate Change Agreements

Table of Contents

Paragraph Number		Page Number
	Section I: Introduction	
1	This consultation	4
2 – 4	Background	4
5	Rate of Levy discount	4
6 – 21	Consultation process	4 – 6
	Section II: Proposed Package of Changes	
22 – 25	Proposed package of changes	7 – 8
	Section III: Consideration of the Individual Elements of the Package	
26 – 27	Consideration of the individual elements of the package	9
28 – 40	A. Target units to choose between absolute and relative targets, sector to take the currency of the largest energy use in the sector	9 – 11
41 – 45	B. Targets to be set annually	12
46 – 47	C. Targets for 2014 and 2015 to be reviewed in 2012	13
48 – 51	D. To benefit from Levy discount, all target units must meet targets either directly or through the purchase of carbon allowances	14
52 – 54	E. Risk management to be through the purchase of carbon allowances only	15
55 – 63	F. Compliance to be through the purchase of EU ETS allowances or Certified Emission Reductions; over-achievement may be banked for own use only against future targets; UK ETS to close with the cancellation of all remaining allowances	16 – 17
64 – 66	G. Introduction of provisions on *de minimis* and materiality	18
67	H. Novem procedure for setting relative targets and measuring performance against them to apply to relevant target units on an obligatory basis	19
68 – 71	I. Climate Change Agreement targets to be split into two elements: a requirement to meet any EU ETS obligation and a negotiated target	19 – 20
72 – 76	J. To revise the 90/10 rule and establish a new threshold of 70%	21
77 – 78	K. To establish one type of agreement only, based on the current “Option 2” agreement	22
79 – 80	L. All target periods to be on a calendar year basis with suitable adjustments to the deadlines for reconciliation and Levy discount period	23
81 – 82	M. All sectors to provide the same information at reconciliation, including the effective trading position of all target units, whether meeting targets or not	24

83	N. Establish Scheme Rules with the content of the agreements limited to that which is necessary to establish the relationship between the parties to the agreements	25
	Section IV: Other Issues Covered by the First Consultation Document	
84	Other issues covered by the first consultation document	26
85	Should a common start date be established, for the purpose of measuring the impact of the scheme, based on 2010 performance?	26
86	Are there barriers to access to Climate Change Agreements that can be removed without the need to amend eligibility criteria?	26
87 – 88	Are there ways within Climate Change Agreements to provide increased incentives to install Combined Heat and Power plant?	27
89	Should the “light touch” approach applied to Climate Change Agreements operators under the Environmental Permitting (England and Wales) Regulations 2007 continue?	27
90	Are there ways in which good energy management practices can be further encouraged under Climate Change Agreements?	27
	Tables	
	Table 1 Proposed changes to current Climate Change Agreements	7 – 8
	Annexes	
	Annex 1 Summary of Responses to Proposals and Options in the First Consultation Document	28 – 38
	Annex 2 List of Organisations that Responded to the First Consultation	39 – 40

Section I: Introduction

This Consultation

1. In this second consultation it is proposed that Climate Change Agreements under the new scheme should be based on those under the current scheme but subject to a number of amendments. Your views are sought on this proposal.

Background

2. The existing Climate Change Agreements scheme ends on 31 March 2013,[2] the final date on which the reduced rates of Climate Change Levy (often referred to as Levy discount) may be claimed. The Government announced in the Pre Budget Report in 2007[3] that **"the scheme will continue until 2017, subject to State aid approval, and [it] will discuss with business the most effective way of taking this forward".**

3. On 12 March 2009 a consultation entitled "Consultation on the Form and Content of New Climate Change Agreements"[4] was published (the first consultation document) seeking views on options and proposals for change to the existing Climate Change Agreements. You are advised to read the first consultation document, in conjunction with the current consultation, which sets out the background that led to the proposed continuation of Climate Change Agreements and discusses in detail the issues surrounding the various options and proposals for change.

4. The deadline for responses to the March 2009 consultation was 4 June 2009. A summary of the responses received is given at Annex 1.

Rate of Levy discount

5. The Government announced in PBR 2009 its intention to reduce the rate of Climate Change Levy discount applicable to Climate Change Agreements from 80% to 65% with effect from 1 April 2011. This ensures that the reduced Levy rate payable by companies in the Climate Change Agreement scheme are above the minimum rates set out in the Energy Taxation Directive[5] for all taxable commodities and will facilitate State aid approval of the new Climate Change Agreement scheme from April 2011.

Consultation process

6. Prior to the issue of the first consultation document DECC explored the issues with sector associations at a Plenary Meeting in March 2008 and subsequently with individual sector associations and groups of sector associations. During the consultation period four Focus Groups were established by DECC to provide sector associations and other interested parties with a forum to exchange views and further develop ideas on the main issues covered by the consultation. DECC also participated in further meetings with individual sector associations and groups of sector associations. Subsequent to the consultation period, DECC has discussed the results and further developed ideas with sector associations at a Plenary Meeting held in September 2009. In parallel with this second consultation, and subsequent to it, DECC will continue to hold meetings with sector associations and other interested parties. When this process is completed the full Government response will be published, probably in early Spring 2010.

---

[2] Subject to obtaining an extension to the existing State aid approval.
[3] See paragraph 7.37 of PBR 2007: www.hm-treasury.gov.uk/d/pbr_csr07_chapter7_258.pdf
[4] www.decc.gov.uk/en/content/cms/consultations/climate_change_agree/climate_change_agree.aspx.
[5] Directive 2003/96.

7. **In responding to the questions raised in this consultation you are requested to provide as much evidence as possible in support of your views and opinions.**

8. This written consultation will run for an eight-week period, commencing on 21st December 2009 and will close on 15th February 2010.

9. Please refer to the up-dated partial Impact Assessment that accompanies this consultation document for information on the costs and benefits of the proposals made. The up-dated partial Impact Assessment can be found at: [insert web address•••]

10. You are requested, where possible, to use the electronic version of the consultation response form, which can be found at the web address given in paragraph 8 above, and to forward your reply to: ccaconsultation@decc.gsi.gov.uk.

11. Alternatively, please complete a paper copy of the consultation response form and forward it by post to:

    Sam Lutterodt
    Department of Energy and Climate Change
    Climate Change Agreements Team
    Area 1A
    3 Whitehall Place
    London
    SW1A 2AW

12. For any enquiries, please telephone 0300 068 5302.

13. Respondents in Scotland, Wales and Northern Ireland are invited to copy their submissions to the appropriate Devolved Administration:

Scotland

By email:	james.simpson@scotland.gsi.gov.uk
By Post:	James Simpson Energy Efficiency and Microgeneration Team The Scottish Government 4th Floor 5 Atlantic Quay 150 Broomielaw Glasgow G2 8LU
Enquiries:	0141 244 1068

Wales

By email:	Ruth.Gow@wales.gsi.gov.uk
By Post:	Ruth Gow Climate Change and Water Division Department for Environment, Sustainability and Housing Welsh Assembly Government Cathay Park Cardiff CF10 3NQ
Enquiries:	029 20823615

Northern Ireland

By email: Keith.Brown@doeni.gov.uk

By Post: Climate Change Unit
Climate and Waste Division
2nd Floor
Calvert House
23 Castle Place
Belfast
BT1 1FY

Enquiries: 028 9025 4735

14. This consultation is in line with the Code of Practice on Consultation. This can be found at http://www.berr.gov.uk/bre/.

15. When this consultation ends, a copy of responses will be made available to the public. Members of the public may ask for a copy of responses under freedom of information legislation.

16. If you do not want your response – including your name, contact details and any other personal information – to be publicly available, please say so clearly in writing when you send your response to the consultation. Please note, if your computer automatically includes a confidentiality disclaimer, that will not count as a confidentiality request.

17. Please explain why you need to keep details confidential. Your reasons will be taken into account if someone asks for this information under freedom of information legislation. But, because of the law, it will not always be possible to keep those details confidential.

18. All responses will be summarised and the summary placed on the DECC website at http://www.decc.gov.uk/consultations. This summary will include a list of names of organisations that responded but not people's personal names, addresses or other contact details.

19. To see consultation responses and summaries, please contact:

Sam Lutterodt
Department of Energy and Climate Change
Climate Change Agreements Team
Area 1A
3 Whitehall Place
London
SW1A 2AW

Telephone: 0300 068 5302
Email: levy.agreements@decc.gsi.gov.uk.

20. Please allow 24 hours' notice. There may be a charge for photocopying and postage.

21. If you have any comments or complaints about the consultation process, please address them to Ferry Lienert, DECC Consultation Coordinator, Area 6A, 3 Whitehall Place, London SW1A 2AW, or email Ferry.lienert@decc.gsi.gov.uk

Section II: Proposed Package of Changes

22. The consultation process so far has been described in the Introduction. This second consultation sets out DECC's conclusions from this process and makes firm proposals for new Climate Change Agreements.

23. Table 1 sets out in summary what the proposed changes are (second column), compared to the current arrangements (first column). DECC has proposed these changes to formulate a coherent package that offers greater certainty of environmental result, a simplification of the current agreements and increased transparency. The proposed changes are considered in more detail in Section III of this document.

24. Any additional changes that were considered in the first consultation document not shown in Table 1 are not to be pursued (but see Section IV of this document).

Table1: Proposed changes to current Climate Change Agreements

Current Climate Change Agreements	Proposed Changes
A. Targets units allowed the choice between absolute and relative targets. Sector targets determined by the currency of the majority of the energy used in the target units within the sector.	A. No change. [See paragraphs 28 to 40]
B. Targets set biennially, those meeting targets qualifying for Levy discount for the following two years.	B. Targets to be set annually, for 2012 to 2015, those meeting targets qualifying for Levy discount for the following year. [See paragraphs 41 to 45].
C. Targets reviewed in 2004 and 2008.	C. Targets for 2014 and 2015 to be reviewed in 2012. [See paragraphs 46 to 47]
D. Target units in sectors that meet targets are deemed to have met targets irrespective of individual performance.	D. All target units to be required to meet their targets either by direct action or by purchase of allowances. [See paragraphs 48 to 51]
E. Three risk management tools: purchase of carbon allowances; provisions on regulatory constraints; provisions on fuel supply disruption.	E. Risk management to be limited to purchase of carbon allowances only. [See paragraphs 52 to 54]
F. Carbon trading through the UK ETS.	F. Compliance with negotiated targets through purchase of EU ETS allowances or Certified Emission Reductions. Target units to be allowed to bank over-achievement for OWN USE ONLY against future targets. UK ETS to be closed and all remaining allowances cancelled. [See paragraphs 55 to 63]
G. No *de minimus* or materiality provisions.	G. Introduction of *de minimus* and materiality provisions. [See paragraphs 64 to 66]
H. Novem procedure applied to relevant sectors and target units for setting relative targets and measuring performance.	H. Novem procedure to continue to apply for relevant sectors and target units for setting relative targets and measuring performance, but with application obligatory. [See paragraph 67]

Current Climate Change Agreements	Proposed Changes
I. Where there is overlap between Climate Change Agreements and EU ETS a double counting mechanism is applied.	I. Climate Change Agreement targets to be split into two elements: a requirement to meet any EU ETS obligation through that scheme; and a negotiated target. Only over-achievement against the negotiated target can be banked by target units for own use against future targets (see proposal F). Eligibility for Levy discount to remain unchanged. [See paragraphs 68 to 71]
J. Where the eligible energy of a facility is 90% or more of the energy use of the site, the energy use of the entire site is deemed eligible. Where the eligible energy is less than 90% of the energy use of the site, only the eligible energy may qualify for Levy discount with, under certain conditions, up to an additional 1/9th.	J. To re-set the threshold to 70% and retain the provision for the additional 1/9th. [See paragraphs 72 to 76]
K. Two types of agreement based on the so-called “Option 2” and “Option 3” agreements.	K. One type of agreement only, based on the current “Option 2” agreement. [See paragraphs 77 to 78]
L. Sectors allowed to choose a target period starting on 1 October, 1 November, 1 December or 1 January.	L. All target periods to be on a calendar year basis with suitable adjustments to the deadlines for reconciliation and Levy discount period. [See paragraphs 79 to 80]
M. Sectors failing to meet targets required to provide more detailed information at reconciliation than sectors that pass.	M. All sectors to provide the more detailed information at reconciliation. [See paragraphs 81 to 82]
N. Most rules of the scheme embodied in the agreements themselves.	N. Establish Scheme Rules, linked to the agreements through a suitable clause, with the content of the agreements limited to that which is necessary to establish the relationship between the parties to the agreements. [See paragraph 82]

25. DECC would like your views on the overall balance of this package. Please note that questions on the individual elements of this package are raised in Section III of this consultation document. Unless you need to make comments on individual elements in order to address the questions below on the balance of the package, we would be grateful if such comments could be reserved for the questions in Section III. If, in your response, you make alternative proposals, **please provide supporting evidence and assess their impact on the overall package.**

Questions

1. Do you consider this package to be balanced?
2. If not, please set out your reasons why, including the administrative burden and financial cost.
3. Are there any linkages between the elements of the proposed package that have not been taken into consideration and which present problems of implementation or any consequences that derive from the package as a whole that do not derive from the individual parts?

Section III: Consideration of the Individual Elements of the Package

26. The following section considers each of the elements contained in the package of proposals given in Table 1 above. If, in your response to the questions raised, you make alternative proposals, **please provide supporting evidence and assess their impact on the overall package.**

27. In the boxes reporting the responses to questions raised in the first consultation, please note that:

SA = Sector Association
C = Company with a Climate Change Agreement
O = Other type of respondent

A. Target units to choose between absolute and relative targets, Sector to take the currency of the largest energy use in the sector

Results of First Consultation

Questions 4 to 6 of First Consultation Document

4 Do you agree that all sector targets should be set in absolute terms?
5. If sector targets are set on an absolute basis, do you agree that targets for target units should also be set on an absolute basis?
6. If relative targets were set, are there ways in which carbon savings can be guaranteed?

	Yes			No		
	O	C	SA	SA	C	O
Q4	6	1	3	30	18	1
Q5	2	5	10	21	13	1
Q6	2	11	14	15	8	2

28. 83% of respondents disagreed with setting absolute targets for all sectors, noting the potential economic impact of absolute targets (restricting growth, encouraging carbon leakage and increased compliance costs) and that they would be difficult to set in the current economic situation. There were also concerns (un-quantified) about possible increased administrative costs. They also noted that relative targets had delivered absolute savings. Those in favour of absolute targets for all sectors noted the need to fit with carbon budgets and that absolute targets provide a greater guarantee of reducing emissions.

29. 67% of respondents considered that, if sector targets are absolute, target units should continue to be able to choose between absolute and relative targets for similar reasons to those expressed against absolute sector targets. A sizable minority (33%) therefore considered that if the sector target was absolute, the target unit targets should also be absolute.

The Options

30. In the first consultation, the Government identified three options for the currency of targets:

- The status quo, i.e. target units able to choose between absolute and relative targets and the sector target determined by the currency of the majority of the energy used in the target units in the sector agreement;
- To set absolute targets at both sector and target unit level; and
- To set targets at sector level on an absolute basis and allow target units the option of absolute or relative targets with a mechanism for the sector to reach compliance through the market (the "hybrid" model).

31. In reaching a conclusion on the choice between these options, the Government needs to balance a number of factors. These three are of particular importance:

- The impact of Climate Change Agreements on the achievement of Carbon Budgets;
- The need for a competitive UK manufacturing industry;
- The need for Climate Change Agreement operators to meet challenging targets in order to benefit from the Climate Change Levy discount, which is currently worth in total around £280 million a year.

Consideration

32. DECC have carefully analysed the three proposals. The "hybrid" model is a system whereby target units could access the Climate Change Levy discount by meeting a relative (i.e. energy efficiency) target, but the sector would have an absolute cap on emissions. If total emissions grew due to increased output from relative target holders, the sector as a whole would need to purchase allowances to meet the shortfall. Otherwise all target units in the sector would lose the Climate Change Levy discount.

33. The "hybrid" model was conceived to offer industry some flexibility at company level whilst providing some certainty on absolute emission reductions for Climate Change Agreements as a whole. Following the meeting of sector associations in September, and further analysis, it is clear that sector associations are likely to implement the "hybrid" model by requiring those target units with relative targets whose emissions have grown to purchase additional allowances to ensure the sector as a whole met the absolute target. In this respect, the operation of the system would be no different from the adoption of absolute targets at sector and target unit level. Taking into account the other practical enforcement difficulties for sector associations, the Government has decided not to pursue this option.

34. The Government has also carefully considered the case for moving to fully absolute targets at both sector and target unit levels. As set out in the first consultation document in March, Government is concerned at the prominent role that output levels play in determining performance under absolute targets, particularly under a baseline and credit scheme. While output also plays a part in determining performance under relative targets, larger surpluses tend to be generated, for trading or for own use, under absolute targets simply by changes in output.

35. The Government recognises the concerns about carbon leakage that have been associated with absolute targets, particularly for energy intensive manufacturing industry. The Government also acknowledges that there are challenges in setting absolute targets at a time that the country is emerging from recession. Any target setting process would, as always, be through negotiation between DECC and the sector associations, but there would be considerable difficulties in forecasting a realistic starting point for the reduction in emissions from 2012.

36. It is also true that relative targets have provided substantial absolute emission reductions in the past – 20 $MtCO_2$ below baselines. Respondents have argued that this trend is likely to continue though this would depend on energy efficiency targets that tighten at a faster rate than the forecast growth pattern for the sector.

Carbon Budgets

37. However, the main criteria for the decision on targets must now be the contribution of Climate Change Agreements to meeting the UK's carbon budgets. There was substantial support in the consultation responses for the splitting of the Climate Change Agreement targets into separately identified EU ETS and negotiated elements (see Proposal I, paragraphs 68 to 71). Government intend to adopt this proposal. The EU ETS element is of course already subject to an absolute cap. The negotiated target will, therefore, for the largest energy users, be the much smaller proportion of their total energy use. In addition, the electricity use element of the negotiated targets is also subject to the EU ETS cap. Whilst a reduction in electricity use would contribute indirectly to the meeting of our carbon budgets as caps are set at tighter levels because of reduced demand, it would not contribute directly.

38. The element of Climate Change Agreement targets that makes a **direct** contribution to meeting our carbon budgets is therefore the element that covers direct emissions outside EU ETS. DECC estimate that this accounts for 12% of total Climate Change Agreement emissions (EU ETS plus negotiated element) and 30% of the negotiated element, or 8.6 $MtCO_2$.

Conclusions

39. Government has taken into account the contribution of Climate Change Agreement targets to meeting carbon budgets, along with the risks of carbon leakage to non-regulated economies and the difficulties of setting absolute targets as the UK economy emerges from recession. Government also recognises that challenging relative targets can result in absolute reductions in emissions.

40. The Government therefore proposes to continue with the present arrangement whereby target units can choose between absolute and relative targets and the sector takes on the currency of the largest energy use in the sector. This will last for the extension of the agreements until 2017, but will then be reviewed in the context of wider consideration of future instruments for energy intensive industry. Government will also expect that energy efficiency targets negotiated during 2010 for the extension to 2017 will be sufficiently challenging to continue to deliver absolute reductions in emissions.

Questions

4 Do you agree with this analysis?

5. Do you agree that to ensure that Climate Change Agreements deliver absolute emission reductions without absolute targets, future Climate Change Agreement targets will need to be set at a level to counterbalance the effects of growth at sector level?

B. Targets to be set annually

Results of First Consultation

Question 13 of First Consultation Document

13. Do you agree that target periods should be set annually, with target periods in 2012, 2013, 2014 and 2015, and with one-year certification for Levy reduction?

	Yes			No		
	O	C	SA	SA	C	O
Q13	4	7	16	21	12	0

41. 55% of respondents disagreed with the proposal, mainly on the grounds of additional costs, both administrative (collection and provision of data) and compliance (a potential increased need to purchase carbon allowances).

Consideration

42. In relation to administrative costs, it is the understanding of DECC that the majority of sector associations already require their members to submit data on an annual basis, if not more regularly. Consequently for most sector associations it is likely that the additional cost would be small. Two sector associations provided an estimate of the likely additional administrative cost, one of which put this at an additional one week's work (estimated at £1,500), while the other put this at an additional 30 man days.

43. It is clear that, by increasing the number of target periods, there is an increased potential that target units will need to buy carbon allowances for compliance purposes. However, this potential additional cost will also act as a further incentive for businesses to meet targets by direct action. It should be remembered that targets are set on a cost effective basis and that meeting targets saves businesses money.

44. The benefits to be derived from setting targets annually include, therefore, providing a greater incentive on businesses to focus continuously on energy efficiency issues, but also establishing greater coherence with related climate change instruments (Carbon Reduction Commitment Energy Efficiency Scheme and EU ETS).

45. On the basis of the evidence so far presented, DECC considers that the benefits of setting annual targets outweigh the additional administrative costs which might need to be borne by some sector associations and any potential increased compliance costs. It is therefore minded to set annual targets.

Questions

6. Do you agree with this proposal?
7. If not, please set out your reasons why, including the administrative burden and financial cost, and any alternative proposal you may have **with the evidence base for it**, and your analysis of the impact of your proposal on the overall balance of the package.

C. Targets for 2014 and 2015 to be reviewed in 2012

Results of First Consultation

Questions 17 and 18 of First Consultation Document

17. Do you agree that there should be a target review in 2011 for the 2014 and 2015 targets?
18. Do you agree that the criteria for setting targets in a target review should be extended to include other factors, including previous performance and the status of the market in allowances?

	Yes			No		
	O	C	SA	SA	C	O
Q17	1	9	10	23	10	1
Q18	3	13	19	13	6	0

46. 63% of respondents disagreed with the proposal for a target review in 2011, mainly on the grounds that with original target setting in 2010 there would be little additional information available to review targets in 2011. 65% of respondents did agree that the factors taken into account in the review should be extended to include previous performance and the state of the carbon market (but see Proposal F, paragraphs 55 to 63), and other factors such as global competition, carbon leakage and the economic climate.

Consideration

47. DECC had proposed a review in 2011 to provide maximum time to industry to adjust to any new targets. However, it recognises that more information for a review may be available in 2012 and, in the light of responses to the first consultation, is minded to carry out a review of 2014 and 2015 targets in that year. In preparing Government proposals for any revision to targets, DECC will take account of all relevant information available to it, including previous performance and, if appropriate, the state of the carbon market (but see proposal F, paragraphs 55 to 63). As always, DECC will encourage industry to bring to the table in that review any information it considers should be taken into account including, for example, on global competition, carbon leakage and any relevant economic data.

Questions

8. Do you agree with this proposal?
9. If not, please set out your reasons why, including the administrative burden and financial cost, and any alternative proposal you may have **with the evidence base for it**, and your analysis of the impact of your proposal on the overall balance of the package.

D. To benefit from Levy discount, all target units must meet targets either directly or through the purchase of carbon allowances

Results of First Consultation

Question 21 of First Consultation Document

21. Do you agree that all operators should be required to meet their targets, or purchase carbon allowances, to qualify for Levy discount?

	Yes			No		
	O	C	SA	SA	C	O
Q21	4	19	26	8	0	0

48. 86% of those that responded to the first consultation agreed with this proposal. This reflects the fact that many sectors already require this independently. Those that disagreed did so mainly because they were concerned that this would put an end to the practice of group trading, which has the benefit of reducing costs, and that it would weaken the role of the sector association.

Consideration

49. Given that the proposed package does not provide for trading of over-achievement (see Proposal E, paragraphs 52 to 54) it would not be possible for group trading to continue on the same basis as under the current scheme. However, it would be possible for sectors to establish group purchasing schemes, to reduce the transaction costs of buying allowances for compliance purposes.

50. There are three main benefits in implementing this proposal:

- Value for money for the taxpayer (current arrangements allow target units to benefit from the Levy discount even when not meeting targets, if the sector passes);
- All target units would be treated equitably (each would be responsible for meeting their own targets);
- It would provide a stronger signal to target units to be active in meeting their targets.

51. DECC is therefore minded to implement this proposal.

Questions

10. Do you agree with this proposal?
11. If not, please set out your reasons why, including the administrative burden and financial cost, and any alternative proposal you may have **with the evidence base for it**, and your analysis of the impact of your proposal on the overall balance of the package.

E. Risk management to be through purchase of carbon allowances only

Results of First Consultation

Question 25 of First Consultation Document
25. Do you agree that carbon trading alone is an adequate and sufficient risk management tool?

	Yes			No		
	O	C	SA	SA	C	O
Q25	3	4	9	23	15	1

52. 71% of respondents disagreed with the proposal to limit risk management to carbon trading only. Most concern was with the potential for fuel supply disruption at the national level (due to a potential electricity gap or lack of gas storage capacity) and, to a lesser extent, with the potential impact of unknown regulatory constraints.

Consideration

53. Current agreements allow for three risk management tools:

- Allowance can be made where own fuel supply is disrupted unexpectedly (Fuel Supply Disruption);
- Allowance can be made where actions are imposed on operators by regulators as a result of any legislative change not foreseen when targets were set (Regulatory Constraints);
- Carbon trading.

54. The existing fuel supply disruption provision deals with own supply (e.g. generation on site) rather than disruption at the national level. Disruption at the national level is likely to reduce energy consumption, and therefore make targets easier to meet. Given the limited extension of the scheme (four years) the scope for unexpected regulatory constraints is considered to be small. Consequently DECC is minded to drop these risk management provisions from the new scheme and to limit risk management to the purchase of carbon allowances only.

Questions
12. Do you agree with this proposal?
13. If not, please set out your reasons why, including the administrative burden and financial cost, and any alternative proposal you may have **with the evidence base for it**, and your analysis of the impact of your proposal on the overall balance of the package.

F. Compliance to be through the purchase of EU ETS allowances or Certified Emission Reductions;[6] over-achievement may be banked for own use only against future targets; UK ETS to close with the cancellation of all remaining allowances

Results of First Consultation

Questions 29 to 31 of First Consultation Document

29. Do you agree that UK ETS should be closed after 31 December 2012 and all remaining allowances cancelled?
30. Do you consider that trading under the new scheme should take place in the Carbon Reduction Commitment Energy Efficiency Scheme market [*identified as yes responses below*] or a new stand-alone scheme [*identified as no responses below*]?
31. Do you agree that a mechanism or mechanisms should be introduced to limit the generation or use of allowances due to changes in throughput?

	Yes			No		
	O	C	SA	SA	C	O
Q29	3	3	7	26	15	1
Q30	0	5	12	18	13	4
Q31	1	4	12	18	13	1

55. 76% of respondents disagreed with the closure of UK ETS and cancellation of remaining allowances, since this would penalise early action taken under the current Climate Change Agreements scheme. 42% supported conditional carry forward of UK ETS allowances to the new Climate Change Agreements scheme (e.g. for own use only and/or at an agreed discount rate). 67% of respondents agreed that the Carbon Reduction Commitment Energy Efficiency Scheme market should not be used, given the potential for over-supply of allowances from Climate Change Agreements destabilising that market. 65% of respondents opposed any mechanism to limit the generation or use of allowances due to changes in throughput, since this would represent market intervention, would penalise over-achievement (which should be encouraged) and did not take account of a cyclical economy.

Consideration

56. UK ETS is heavily over-supplied with allowances (see paragraphs 89 to 92 of the first consultation document). To carry them forward would seriously undermine the market price for allowances and impact negatively on the environmental benefits of new Climate Change Agreements. With the end of the current Climate Change Agreements, UK ETS has run its original intended course. The Government therefore intends to close the scheme on 31 December 2012 and cancel any remaining allowances.

57. The first consultation document explored the scope for Climate Change Agreement operators to trade in the Carbon Reduction Commitment Energy Efficiency Scheme market or to establish a new stand-alone scheme to replace the existing UK ETS. The Government agrees that the risks of over-supply of allowances from Climate Change Agreements could undermine the Carbon Reduction Commitment Energy Efficiency Scheme and consequently does not intend to pursue this option.

[6] The Government is still considering the relative merits of allowing cancellation of EU ETS allowances or Certified Emission Reductions (derived from the Clean Development Mechanism).

58. In the context of a new stand-alone trading scheme, the consultation document also recognised that, as a baseline and credit scheme, Climate Change Agreements bring with them the potential for creation of large numbers of allowances due simply to throughput changes, with consequent undermining of the maintenance of a stable market. A range of options were explored on how the creation or use of large numbers of allowances due to throughput changes could be curtailed. Responses demonstrate that all options presented serious practical problems.

59. A new stand-alone trading scheme with no control mechanisms for the generation or use of such allowances is likely to result in a continued over-supply of the market with low prices for allowances. This would significantly limit any benefit for over-achievers and reducing the incentive to others to achieve targets by direct action rather than purchase of allowances, thereby reducing the environmental benefits of the scheme.

60. Given the problems over establishing a functioning market, DECC has been exploring with stakeholders a further option, under which compliance could be achieved through the purchase of EU ETS allowances or Certified Emission Reductions. This would have the benefit of reducing the number of markets operating in the UK and remove the need to resolve the complexities of ensuring a functioning stand-alone market for Climate Change Agreements.

61. One criticism from industry of such an approach was that this would provide no incentive for early action, and would penalise those that did take early action that might lead to the need to purchase allowances during later target periods that might otherwise not have been needed. This can be overcome by allowing target units to bank over-achievement for OWN USE ONLY (after verification) during a later target period.

62. The Government is reluctant to continue with the provisions of the current agreements to lower absolute targets if production falls below 90% of that predicted, or to adopt any of the other options for managing the market. The choice therefore appears to be between an open market in allowances and the buy only route to compliance (through allowances already traded globally – i.e. EU ETS allowances or Certified Emission Reductions) together with banking of over-achievement for own future use only. The former is highly likely to result in another over-supplied market within a short space of time, which in turn is likely to function much as the present UK ETS has, as a buy only compliance mechanism. It is not likely to provide the financial incentive for over-achievement and early action that sectors seek.

63. The Government is therefore minded to replace the existing trading arrangements with a system under which compliance could be achieved through the cancellation of EU ETS allowances or Certified Emission Reductions and over-achievement may be banked for own use only, after verification, during a later target period.

Questions

14. Do you agree with this proposal?
15. If not, please set out your reasons, including the administrative burden and financial cost, and any alternative proposal you may have **with the evidence base for it**, and your analysis of the impact of your proposal on the overall balance of the package.

G. Introduction of provisions on *de minimis* and materiality

Results of First Consultation

Questions 36 to 39 of First Consultation Document

36. Do you agree that both a *de minimis* and a materiality provision should apply?
37. If a *de minimis* provision is introduced, do you agree that the limit should be 1% of the target?
38. If a materiality provision is introduced, do you agree that the limit should be 2% of the target?
39. If a materiality provision is introduced, do you agree that the payment to be made should be £80 for each of the allowances to be bought?

	Yes			No		
	O	C	SA	SA	C	O
Q36	5	14	30	4	4	0
Q37	2	12	20	5	5	0
Q38	2	13	17	7	4	0
Q39	2	4	9	18	13	0

64. 86% of respondents agreed that both a *de minimis* and a materiality provision should be introduced, and 77% and 74% agreed to the limits of 1% and 2% of targets respectively. However, 67% disagreed that the payment for materiality should be set at £80. Those that disagreed with the payment level thought it should be lower (£10 to £40) or be calculated as a multiple (1.5 or 2 times) of the value of allowances bought under the materiality provision.

Consideration

65. *De minimis* and materiality provisions would enable operators to take corrective measures if targets are missed by small amounts. Under the current scheme this can lead to loss of Levy discount for the following two years. Given the level of support, the Government is minded to introduce both a *de minimis* and a materiality provision, with limits set at 1% and 2% of targets respectively.

66. The level of payment proposed in the first consultation document (£80) was based on the penalty of €100 per allowance applied under EU ETS. Government is minded instead to base the payment on the similar Carbon Reduction Commitment Energy Efficiency Scheme penalty of failure to comply with the performance commitment, i.e. £40 per allowance.

Questions

16. Do you agree with this proposal?
17. If not, please set out your reasons why, including the administrative burden and financial cost, and any alternative proposal you may have **with the evidence base for it**, and your analysis of the impact of your proposal on the overall balance of the package.

H. Novem procedure for setting relative targets and measuring performance against them to apply to relevant target units on an obligatory basis

Results of First Consultation

Question 42 of First Consultation Document

42. Do you agree that Novem should continue to be applied, but in an obligatory way, for relevant sectors and target units?

	Yes			No		
	O	C	SA	SA	C	O
Q42	0	17	21	2	0	2

Consideration

67. Given the overwhelming support for this proposal, the Government is minded to implement it.

Questions

18. Do you agree with this proposal?
19. If not, please set out your reasons why, including the administrative burden and financial cost, and any alternative proposal you may have **with the evidence base for it**, and your analysis of the impact of your proposal on the overall balance of the package.

I. Climate Change Agreement targets to be split into two elements: a requirement to meet any EU ETS obligation; and a negotiated target

Results of First Consultation

Question 46 of First Consultation Document

46. Do you agree that Climate Change Agreement targets should be split and agreements amended as proposed?

	Yes			No		
	O	C	SA	SA	C	O
Q46	4	11	21	6	5	0

68. 77% of respondents agreed with the proposal, and welcomed it on the grounds of simplification. Those opposed were mainly concerned with the reduction in flexibility to meet targets (for those subject to EU ETS this would effectively be restricted to actions related to savings in electricity); difficulties in splitting targets; and potential State aid issues.

Consideration

69. The proposal is as follows:

- To change the terms of Climate Change Agreements so that facilities would be recertified as eligible to claim the reduced rates of Climate Change Levy if:
  a) Sufficient EU ETS allowances are surrendered to meet obligations under that scheme (including that obligations related to any third party CHP supply to the facility are met); AND
  b) The negotiated target is met.
- To establish the negotiated targets by negotiation between sector associations and DECC.
- To restrict the creation of allowances under Climate Change Agreements to over-achievement against the negotiated target, which could be banked for own use only against future targets.[7]

70. The Government intends to discuss the proposed new scheme with the EU Commission prior to taking final decisions, with the aim to ensure that there are no issues of principle that would affect State aid approval. The Government recognises the issue of flexibility. Although this will only affect those target units (around 500 of the 5000 in the scheme) that are subject to both the EU ETS and Climate Change Agreements, total emissions of those target units account for 80% of all emissions covered by CCAs, of which 59% are direct emissions. The Government also recognises that setting targets may be more complex than under the current scheme. However, the Government is convinced that these concerns can be satisfactorily addressed in the target setting process, in which sector associations will, as usual, be able to bring to the negotiating table all the information they consider relevant.

71. Given that we believe that the concerns of those that disagreed with the proposal can be addressed, and given the strong support for it, the Government is minded to implement it.

Questions

20. Do you agree with this proposal?
21. If not, please set out your reasons why, including the administrative burden and financial cost, and any alternative proposal you may have **with the evidence base for it**, and your analysis of the impact of your proposal on the overall balance of the package.

[7] See proposal F, paragraphs 55 to 63.

J. To revise the 90/10 rule and establish a new threshold of 70%

Results of First Consultation

Question 50 of First Consultation Document

50. Has the 90/10 rule provided administrative or environmental benefits that could be extended to a larger number of businesses by lowering the threshold?

	Yes			No		
	O	C	SA	SA	C	O
Q50	3	15	28	2	1	0

72. 93% of respondents agreed that the threshold should be lowered, with 15% of those expressing a view recommending 80% and 85% recommending 70%.

73. 86% agreed that the 1/9th provision could be removed with simplification benefits. However, evidence has been submitted that in some sectors removal of the 1/9th provision could result in the creation of competitive distortions.

Consideration

74. Under the current scheme, where the energy use of the energy intensive installation is equal to 90% or more of the total energy of the site, the whole site is deemed to be an eligible facility. Where the 90% threshold is not met only the eligible energy is subject to Levy discount, although in certain circumstances this can be increased by 1/9th (see paragraphs 125 to 131 of the first consultation document). No proposal was made on this issue in the first consultation document, but views of stakeholders sought.

75. Lowering the threshold to 70% would have no significant adverse impact on Levy revenues. In the light of this, and the general support for such a change, the Government is minded to lower the threshold to this level.

76. Removing the 1/9th provision would have simplification benefits. However, in the light of the potential for competitive distortions, the Government is minded to retain it.

Questions

22. Do you agree with this proposal?
23. If not, please set out your reasons why, including the administrative burden and financial cost, and any alternative proposal you may have **with the evidence base for it**, and your analysis of the impact of your proposal on the overall balance of the package.

K. To establish one type of agreement only, based on the current "Option 2" agreement

Results of First Consultation

Question 54 of First Consultation Document

54. Do you agree that there should be only one type of agreement based on the current Option 2?

	Yes			No		
	O	C	SA	SA	C	O
Q54	2	14	25	6	2	0

77. 16% of respondents, which represented those sectors that currently have "Option 3" agreements, preferred to retain the current choice. They had concerns over protection of confidential data and the potential for a negative impact on the role of the sector association.

Consideration

78. Option 2 and Option 3 agreements are identical, other than the parties to the underlying agreements. Under Option 2 agreements, underlying agreements are between the Secretary of State and the target unit, while under Option 3 agreements they are between the sector association and the target unit, approved by the Secretary of State. Given this lack of any fundamental difference, DECC sees no reason why the role of the sector association should change. DECC is also unaware of any issues over the protection of confidential information under Option 2 agreements during the life of the current scheme. Consequently DECC is minded to limit agreements under the new scheme to Option 2 type agreements.

Questions

24. Do you agree with this proposal?
25. If not, please set out your reasons why, including the administrative burden and financial cost, and any alternative proposal you may have **with the evidence base for it**, and your analysis of the impact of your proposal on the overall balance of the package.

L. All target periods to be on a calendar year basis with suitable adjustments to the deadlines for reconciliation and Levy discount period

Results of First Consultation

Questions 57 and 58 of First Consultation Document

57. Do you agree that a common target period should be established under Climate Change Agreements based on a calendar year?
58. Do you agree that, if the start of the period of Levy reduction was to change to 1 June, that the period for Levy reduction under the current scheme should be extended to 31 May 2013 only for those target units that have agreements under the current scheme and that enter into agreements under the new scheme?

	Yes			No		
	O	C	SA	SA	C	O
Q57	4	17	32	1	0	0
Q58	3	18	31	0	0	0

Consideration

79. There was almost universal support for this proposal, which is:

- A common target period based on a calendar year;
- Deadlines at reconciliation to be adjusted so that:
  – Sector associations must submit data by 31 March following the end of the target period;
  – Reconciliation to be completed by 31 May;
  – Certification for Levy reduction to be for a period of twelve months, beginning 1 June;
- Levy reduction under the current scheme to be extended to 31 May 2013 only for those target units that have agreements under the current scheme and that enter into agreements under the new scheme.

80. The Government is therefore minded to adopt this proposal.

Questions

26. Do you agree with this proposal?
27. If not, please set out your reasons why, including the administrative burden and financial cost, and any alternative proposal you may have **with the evidence base for it**, and your analysis of the impact of your proposal on the overall balance of the package.

M. All sectors to provide the same information at reconciliation, including the effective trading position of all target units, whether meeting targets or not

Results of First Consultation

Question 61 of First Consultation Document

61. Do you agree that all sector associations should be required to provide full milestone reporting data, including the effective trading position of all target units?

	Yes			No		
	O	C	SA	SA	C	O
Q61	3	13	25	6	6	0

81. 77% of respondents agreed with this proposal. The main concern of those that did not was the commercial sensitivity of some of the data, in particular the effective trading position of target units.

Consideration

82. There are sound reasons for requiring submission of the same data by all sectors, which were set out in the first consultation document (see paragraphs 141 to 146 of that document). There have been no instances of commercially sensitive information being released to the public in the life of the current scheme. The Government is therefore minded to implement this proposal.

Questions

28. Do you agree with this proposal?
29. If not, please set out your reasons why, including the administrative burden and financial cost, and any alternative proposal you may have **with the evidence base for it**, and your analysis of the impact of your proposal on the overall balance of the package.

N. Establish Scheme Rules with the content of the agreements limited to that which is necessary to establish the relationship between the parties to the agreements

Results of First Consultation

Question 67 of First Consultation Document

67. Do you agree that Scheme Rules should be established and umbrella and underlying agreements simplified accordingly?

	Yes			No		
	O	C	SA	SA	C	O
Q67	3	19	32	0	0	0

Consideration

83. Given universal agreement to this proposal, the Government is minded to implement it. The Government will consult on the content of the Scheme Rules.

Questions

30. Do you agree with this proposal?
31. If not, please set out your reasons why, including the administrative burden and financial cost, and any alternative proposal you may have **with the evidence base for it**, and your analysis of the impact of your proposal on the overall balance of the package.

Section IV: Other Issues Covered by the First Consultation Document

84. In the first consultation document, the Government made a number of proposals or raised a number of issues that are not included in the proposals in this consultation document. These proposals/issues are identified below with brief comment on the result of the first consultation.

Should a common start date be established, for the purpose of measuring the impact of the scheme, based on 2010 performance?

Question 64 of First Consultation Document

64. Do you agree that a common start date should be established, based on performance in 2010?

	Yes			No		
	O	C	SA	SA	C	O
Q64	2	6	22	12	10	1

85. Although 56% of respondents supported this proposal, others were concerned that using 2010 as the start date could present a false picture of the impact of the scheme in the light of the current recession. As this issue is not a matter for the agreements, the Government is making no proposal in this consultation document. However, when making information on the impact of the scheme publicly available, the Government will take care to present as accurate a picture as possible of the performance of Climate Change Agreements when choosing the comparison year.

Are there barriers to access to Climate Change Agreements that can be removed without the need to amend eligibility criteria?

86. Respondents identified a number of barriers, the majority of which related to the eligibility criteria and hence not within the terms of reference of this review. Other issues identified were not within the direct control of the Government (e.g. EU State Aid Guidelines), were not accompanied by sufficient information by which to judge the barrier, or failed to offer possible solutions. Consequently the Government is minded not to take this issue further forward.

Are there ways within Climate Change Agreements to provide increased incentives to install Combined Heat and Power plant?

Question 72 of First Consultation Document

72. Do you agree that a requirement for a test of the viability of Combined Heat and Power by relevant target units should be reintroduced and that, where cost-effective opportunities exist, targets should be adjusted to reflect this?

	Yes			No		
	O	C	SA	SA	C	O
Q72	3	4	12	15	6	0

87. 53% of respondents did not agree that the three-stage test for viability of Combined Heat and Power should be reintroduced. A range of concerns were expressed, including that it was administratively burdensome and costly, and that there were real difficulties in agreeing what was "cost effective". The main alternative proposals made were to increase funding or financial incentives to install Combined Heat and Power.

88. The Government agrees that the three-stage test can be costly to apply and not necessarily result in the installation of Combined Heat and Power. The Government proposes to review with sector associations the potential for the installation of Combined Heat and Power at the time that targets for the new scheme are negotiated.

Should the "light touch" approach applied to Climate Change Agreements operators under the Environmental Permitting (England and Wales) Regulations 2007 continue?

89. There was unanimous support for the continuation of the "light touch" approach. The Government is therefore minded to make no change to the current practice.

Are there ways in which good energy management practices can be further encouraged under Climate Change Agreements?

90. A number of proposals were made, mainly concerning sector based activities either individually or in concert with DECC and/or the Carbon Trust. DECC proposes to engage in tripartite discussions with representative sector associations and the Carbon Trust to consider what more can be done to support sector association activities, within the resources available.

Questions

32. Please provide any comments on this section of this document.

ANNEX 1

Summary of Responses to Proposals and Options in the First Consultation Document

Question	Consultation Response	Main Arguments Employed/Comments Made
A. Should all targets be set in Absolute terms only?		
Q4. Do you agree that all sector targets should be set in absolute terms only?	17% (9% of sector associations) agreed	• Need for fit with carbon budgets and other climate change policy • Greater guarantee of reducing emissions • Simple to administer
	83% (91% of sector associations) disagreed	• Absolute targets: – restrict/penalise growth – encourage carbon leakage – are difficult to set in the current economic situation – increase the administrative burden – increase compliance costs • Relative targets have produced absolute savings
Q5. If sector targets were set on an absolute basis, do you agree that targets for target units should also be set on an absolute basis?	33% (32% of sector associations) agreed	• Difficult to administer in terms of practicality, fairness and cost • Could raise competition issues, particularly for sector associations with few target units • Potential increase in legal and commercial liability for sector associations • Liability to purchase allowances would only be known at the end of a target period
	67% (68% of sector associations) disagreed	• Similar arguments as those deployed against setting absolute sector targets • Sector algorithms could be developed to ensure sector absolute targets met
B. Should all targets be set in terms of carbon emissions only?		
Q9. Do you agree that targets for all sectors and target units should be set only in terms of carbon emissions?	43% (39% of sector associations) agreed	• Maintains focus on energy efficiency • Fits with other schemes • Additional administrative burden small
	57% (61% of sector associations) disagreed	• Energy efficiency easier to understand • Disadvantages those companies unable to switch fuel (e.g. where there is no natural gas supply)

Q10. If the choice of currency between energy use and carbon emissions is retained, do you agree that the currency of the sector targets should be fixed for the duration of agreements, making no subsequent changes for entrants and exits?	81% (76% of sector associations) agreed	• Energy efficiency is well understood, is used as a key performance indicator and allows target units to bench mark against sector targets • Measuring energy is simpler • Setting targets in terms of carbon emissions could disadvantage those unable to switch fuels
	19% (24% of sector associations) disagreed	• Consistency with other national and international climate change policy
C. Should targets be set annually?		
Q13. Do you agree that target periods should be set annually, with target periods in 2012, 2013, 2014 and 2015, and with one-year certification for Levy reduction?	45% (43% of sector associations) agreed	• Maintains focus on energy efficiency • Fits with other schemes • Additional administrative burden small
	55% (57% of sector associations) disagreed	• Increased administrative burden (particularly for those sectors that do not collect annual data already) (one sector estimates 30 days additional work) • Increased compliance costs (potential need to purchase allowances annually) • Two years provide greater flexibility for business investment decisions
D. Should targets under new Climate Change Agreements be subject to review?		
Q17. Do you agree that there should be a target review in 2011 for the 2014 and 2015 targets?	37% (30% of sector associations) agreed	• Enables up-to-date information to be taken into account • Provides time for industry to adjust to new targets
	63% (70% of sector associations) disagreed	• 2011 too soon – only one year after targets set • Other than 2010 performance data, no significant additional information would be available (e.g. market in allowances, market conditions, technological developments) ALTERNATIVE PROPOSALS • No review • Review in 2012 for 2014 and 2015 targets • Review in 2013 for 2015 targets

Q18. Do you agree that the criteria for setting targets in a target review should be extended to include other factors, including previous performance and the status of the market in carbon?	65% (59 % of sector associations) agreed	• Including previous performance provides encouragement for early movers • Other factors could include: – global competition – carbon leakage – economic climate
	35% (31% of sector associations) disagreed	• The market in allowances should not be included – Government should not interfere in the market. • Target reviews should allow for slackening as well as tightening of targets
E. Should all target units be required to meet their targets either by direct action or by purchase of carbon?		
Q21. Do you agree that all operators should be required to meet their targets, or purchase carbon allowances, to qualify for Levy discount?	86% (76% of sector associations) agreed	• Many sectors already require this • Ensures equality of treatment for all target units • Avoids free riding
	14% (24% of sector associations) disagreed	• Current arrangements: – ensure lower transaction costs (group trading) – provide greater flexibility to operators • Would remove rationale to sector approach and reduce role of sector associations
F. Should risk management tools be restricted to carbon trading only?		
Q25. Do you agree that carbon trading alone is an adequate and sufficient risk management tool?	29% (28% of sector associations) agreed	• Simple and clear way to manage a normal business risk • Other risk management tools weaken targets
	71% (72% of sector associations) disagreed	• Fuel supply disruptions could increase due to electricity gap and lack of gas storage capacity • Regulatory constraints are unknown
Q26. Is there scope for industry to insure against failure to meet targets?	14% (8% of sector associations) agreed	
	86% (92% of sector associations) disagreed	• Even if available, it is likely to be more expensive than purchase of allowances • The risks cannot be quantified

G. What arrangements should be made for carbon trading?		
Q29. Do you agree that UK ETS should be closed after 31 December 2012 and all remaining allowances cancelled?	45% (22% of sector associations) agreed	• Full carryover would undermine new Climate Change Agreements market • Closure of UK ETS would simplify the market if trading was done in Carbon Reduction Commitment market
	55% (78% of sector associations) disagreed	• Cancelling allowances penalises early action • Allow discounted carryover to new Climate Change Agreements
Q30. Do you consider that trading under the new scheme should take place in the Carbon Reduction Commitment market or a new stand-alone scheme?	17 respondents (including 12 sector associations) supported the proposal to use Carbon Reduction Commitment market	• Advantages of fewer trading markets
	31 respondents (including 18 sector associations) supported trading in a stand-alone market	• 17 respondents supported links to other markets (Carbon Reduction Commitment, EU ETS) • 22 respondents supported a stand-alone scheme with no links to other markets • 13 respondents noted the need for initial market liquidity (e.g. through carryover from UK ETS)
Q31. Do you agree that a mechanism or mechanisms should be introduced to limit the generation or use of allowances due to changes in throughput?	35% (40% of sector associations) agreed	• CCA-16 type mechanism is needed
	65% (60% of sector associations) disagreed	• Measures that penalise increased production should not be included • Additional rules impose additional burden • Mechanisms to limit allowances introduce uncertainty • Reduction in throughput is a valid abatement option • Target review process should deal with variations in output • Inconsistent with Carbon Reduction Commitment and EU ETS
Q32. Do you agree with any of the options identified in paragraph 103?	23 respondents (including 12 sector associations) supported no restrictions	• All other options: – Are market intervention – Penalise those that achieve savings – Undermine certainty of allowance generation – Do not account for the cyclical nature of the economy

	7 respondents (including 4 sector associations) supported the introduction of a CCA-16 type mechanism for both absolute and relative targets	• This mechanism should incorporate a *de minimis* provision
	4 respondents (including 2 sector associations) supported setting a sector cap on allowances	
H. Should provisions for *de minimis* and materiality be introduced?		
Q36. Do you agree that both a *de minimis* provision and a materiality provision should apply?	86% (88% of sector associations) agreed	• Avoids punishing genuine mistakes • More proportionate than decertification • Would reduce administrative burden
	14% (12% of sector associations) disagreed	• Ten-day period for purchase and retirement of allowances too short • Proposed penalty too high • No need for both measures • Of little use – extra burden without benefit
Q37. If a *de minimis* provision is introduced, do you agree that the limit should be 1% of the target?	77% (80% of sector associations) agreed	
	23% (20% of sector associations) disagreed	• Level too low
Q38. If a materiality provision is introduced, do you agree that the limit should be 2% of the target?	74% (71% of sector associations) agreed	
	26% (29% of sector associations) disagreed	• Higher threshold needed (4 to 5%)
Q39. If a materiality provision is introduced, do you agree that the payment to be made should be £80 for each of the allowances to be bought?	25% (33% of sector associations) agreed	
	75% (67% of sector associations) disagreed	• Lower amount preferred (£10 to £40) • Too rigid – should be a multiple (e.g. 1.5 or 2 times) the value of allowances

I. In the case that relative targets continue, should the "Novem" procedure for setting targets and measuring performance continue to be used in relevant sectors and target units?		
Q42. Do you agree that Novem should continue to be applied, but in an obligatory way, for relevant sectors and target units?	91% (91% of sector associations) agreed	
	9% (9% of sector associations) disagreed	• Novem should not be applied on an obligatory basis • Should only apply at target unit level and not at sector or sub-sector level
Q43. Do you consider that an alternative method should be developed for combining diverse targets?	100% (100% of sector associations) disagreed	
J. Should targets be split where there is an overlap between Climate Change Agreements and EU ETS?		
Q46. Do you agree that Climate Change Agreement targets should be split and agreements amended as proposed?	77% (78% of sector associations) agreed	• Simplification • EU ETS phase 3 will make double counting mechanism more complex
	23% (22% of sector associations) disagreed	• Difficult to deliver savings for electricity use only • Reduces measures available to meet targets • Concerns over State aid implications • Setting split targets will be difficult ALTERNATIVE PROPOSAL • Retain double counting mechanism for EU ETS phase 2 and split targets from 2013
Q47. If the double counting mechanism is retained, is there anything that could be done to make it less complex or more accurate?	47% (53% of sector associations) agreed	• Alignment of Climate Change Agreements and EU ETS reporting years • Refinements to target period reporting spreadsheet (CCA10) to improve usability • Exclude third party Combined Heat and Power supplies from the assessment
	53% (47% of sector associations) disagreed	

K. Has the 90/10 rule provided administrative or environmental benefits that could be extended to a larger number of businesses by lowering the threshold?		
Q50. Has the 90/10 rule provided administrative or environmental benefits that could be extended to a larger number of businesses by lowering the threshold?	94% (93% of sector associations) agreed	• It would enable – Climate Change Agreements to apply to many more sites – additional processes to be covered – greater proportion of energy use to be covered • 17 respondents preferred 70/30 • 3 respondents preferred 80/20
	6% (7% of sector associations) disagreed	• Lowering the threshold would be of limited value, all or almost all sites already meet 90/10
Q51. Do you have any views on the value of the 1/9th provision?	9 respondents (including 8 sector associations) did not value the 1/9th provision	• 1/9th provision could be removed with little impact: – not well understood – not widely used – created administrative burdens – not an issue if 70/30 used
	7 respondents (including 6 sector associations) wanted to retain the 1/9th provision	• Provides fairness • Removal would create additional burdens • Removal would disadvantage sites that had installed additional metering for it ALTERNATIVE PROPOSAL • Allow option of EITHER 90/10 + 1/9th OR lower threshold e.g. 70/30
L. Should only one agreement type be available, based on "Option 2" under the current scheme?		
Q54. Do you agree that there should be only one type of agreement based on the current Option 2?	84% (81% of sector associations) agreed	• Simpler • Option 2 worked well so far • Better for all agreements to be the same – the majority are currently Option 2
	16% (19% of sector associations) disagreed	• Less flexible • Option 3 agreements protect data confidentiality • Reduces role of sector – strong sector involvement has advantages in meeting Climate Change Agreement objectives

M. Should the compliance year be aligned with that for EU ETS, based on a calendar year?		
Q57. Do you agree that a common target period should be established under Climate Change Agreements based on a calendar year?	98% (32 sector associations) agreed	• It would: – simplify data gathering and be more convenient – simplify the procedures for target units in both EU ETS and Climate Change Agreements – reduce the administrative burden and costs – allow more time for reporting for some sectors – align with the IPPC reporting period, which is helpful – allow direct comparisons to be made between Climate Change Agreements data and other factors such as raw material usage; the data would be of use for something other than just reporting • Different reporting periods for EU ETS and Climate Change Agreements can result in a substantial cost penalty for target units
	2% (1 sector association) disagreed	• This would: – increase the workload in the first quarter of the year – put pressure on the EU ETS verification process – be out of step with CRC reporting • A four month period for reporting (i.e. end April deadline) would be preferred
Q58. Do you agree that, if the start period for Levy reduction was to change to 1 June, that the period for Levy reduction under the current scheme should be extended to 31 May 2013 only for those target units that have agreements under the current scheme and that enter into agreements under the new scheme?	100% (100% of sector associations) agreed	

N. Should all sectors, whether meeting targets or not, be required to provide the same data at reconciliation?		
Q61. Do you agree that all sector associations should be required to provide full data reporting, including the effective trading position of all target units?	77% (80% of sector associations) agreed	• To enable DECC to fully assess sector and site performance • Consistency
	23% (20% of sector associations) disagreed	• Additional information will provide no additional environmental benefit • Commercially sensitive data could get into public domain under Freedom of Information legislation • Trading position of target units is commercially sensitive and not available to sector associations • Providing the effective trading position of target units within trading groups will not add to understanding of performance of scheme
O. Should a common start date be established, for the purpose of measuring the impact of the scheme, based on 2010 performance?		
Q64. Do you agree that a common start date should be established, based on performance in 2010?	56% (64% of sector associations) agreed	• It would: – Allow consistent feedback of sector performance – Provide a true picture of effectiveness of new scheme
	44% (36% of sector associations) disagreed	• An earlier year is desirable. Choosing 2010 would reduce the apparent success of the scheme and present a false picture over time • 2010 potentially unrepresentative due to economic background • Not advisable to set targets against one background and measure against another
P. Should Scheme Rules be established, separate from the agreements, to facilitate their adjustment when necessary?		
Q67. Do you agree that Scheme Rules should be established and umbrella and underlying agreements simplified accordingly?	100% (100% of sector associations) agreed	• Simplified agreements would be easier for TUs to understand • It would reduce administrative burden and costs POINTS MADE FOR IMPLEMENTATION • Changes should not be frequent, and should be made with maximum notice to ensure clarity and stability • Need appropriate controls over revisions • Need full consultation on any changes • Any changes should be made before agreements are signed

Q. Are there barriers to access to Climate Change Agreements that can be removed without the need to amend eligibility criteria?		
Q69. Are there any significant barriers to energy intensive industry to enter into Climate Change Agreements under the current scheme?	50% (55% of sector associations) agreed	Other than issues related to eligibility criteria, issues identified included: • EU State Aid Guidelines • Rules on re-entry to the scheme • Targets for late joiners to the scheme • Complex application procedures • Policy overlaps
	50% (45% of sector associations) disagreed	
R. Are there ways within Climate Change Agreements to provide increased incentives to install Combined Heat and Power plant?		
Q72. Do you agree that a requirement for a test of the viability of Combined Heat and Power by relevant target units should be reintroduced and that, where cost effective opportunities exist, targets should be adjusted to reflect this?	48% (44% of sector associations) agreed	
	52% (56% of sector associations) disagreed	• Market should decide if CHP is viable • Former viability test is too administratively burdensome, too mechanistic, and takes no account of negotiated sector target • Difficult to agree as to what is "cost effective" • Treatment of CHP generated electricity under EU ETS Phase 3 • Financial viability of CHP has not improved
S. Should the "light touch" approach applied to Climate Change Agreements operators under the Environmental Permitting (England and Wales) Regulations 2007 continue?		
Q76. Do you agree that the existing "light touch" should continue?	100% (100% of sector associations) agreed	• Reduces administrative burden and costs • Maximises emissions reductions at least cost by enabling operators to choose best options for energy savings • Ending would be contrary to the recommendations of the Simplification Report • Climate Change Agreements provide a structured approach to meeting the energy requirements of the Environmental Permitting Regulations

Q77. Do you consider there would be environmental benefits in removing the "light touch"?	13% (12% of sector associations) agreed	• Under "light touch", installations are not audited • Greater energy savings can be delivered through Environmental Permitting Regulations
	87% (88% of sector associations) disagreed	
T. Are there ways in which good energy management practices can be further encouraged under Climate Change Agreements?		
Q79. Do you agree that there are benefits to be gained in providing wider encouragement under Climate Change Agreements to ensure that all target units engage in good energy management practice?	72% (75% of sector associations) agreed	• Sector based activities (e.g. peer pressure, sector feedback, general advice and guidance, minimum energy efficiency standards, benchmarks, best practice, sector tools), possibly developed with Carbon Trust • DECC based activities (e.g. guidance, advice on the services of the Carbon Trust, free energy audits, regional seminars promoted by DECC/Carbon Trust)
	28% (25% of sector associations) disagreed	• Already sufficient financial and regulatory stimulus • Current qualitative requirements and audits work well

LIST OF ORGANISATIONS THAT RESPONDED TO THE FIRST CONSULTATION

Sector Associations

Agricultural Industries Confederation
Aluminium Federation Limited
Association of Wallcovering Manufacturers/ British Coatings Federation Association of Wallcovering Manufacturers/ British Coatings Federation
British Beer & Pub Association
British Ceramic Confederation
British Glass Manufacturers' Confederation
British Lime Association
British Printing Industries Federation
British Soft Drinks Association
British Tyre Manufacturers' Association Limited
Chemical Industries Association
Chilled Food Association
Confederation of British Metalforming
Confederation of Paper Industries
Dairy UK
FEC Services Limited
Food and Drink Federation
Food Storage and Distribution Federation
The Kaolin and Ball Clay Association (UK)
Maltsters' Association of Great Britain
Metal Packaging Manufacturers Association
Mineral Products Association – Cement
Mineral Wool Energy Savings Company
NFU & National Pig Association
Cementitious Slag Makers Association
Society of British Aerospace Companies
The Society of Motor Manufacturers and Traders Limited
Spirits Energy Efficiency Company
Surface Engineering Association
UK Leather Federation
UK Steel
Target 2010 Limited
UK Renderers' Association
Wood Panel Industries Federation

Companies with CCAs

BOC Limited, part of The Linde Group
Britannia Refined Metals Limited
CEMEX UK Operations Limited
Corus UK Limited
Goonvean Limited
H.J. Enthoven & Sons
Hanson UK (Hanson Building Products, Hanson Clay Products, Hanson Red Bank,

Hanson Wilnecote, Hanson Cradley Special Brick)
Hanson Cement
IMERYS Minerals Limited
INEOS ChlorVinyls
Lafarge Cement UK Plc
Northern Foods Plc
Omya UK Limited
PDM Group Limited
Rio Tinto Alcan
SABIC UK Petrochemicals Limited
Sibelco UK
Tarmac Limited
Vale Inco Europe Limited – Clydach Refinery

Others

Association for the Conservation of Energy
Confederation of British Industry
EDF Energy
E.ON UK
Environment Agency
Lafarge Aggregates Limited
Npower Cogen Limited
Royal Town Planning Institute
Scottish Environment Protection Agency
Scottish and Southern Energy

URN 09D/848 December 2009