

November 1, 2004

Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

BY E-MAIL AND FACSIMILE

SUBJECT: Request for Commission Rule Approval: Proposed Amendments to Supplement No. 1, "Official List of Approved Brands and Markings" of the Grade 1 Copper Futures Contract. Submission No. 04-149.

Dear Ms. Webb:

Pursuant to Section 5c(c)(2) of the Commodity Exchange Act (the "Act") and CFTC Rule 40.5 ("Voluntary Submission of Rules for Commission Review and Approval"), the New York Mercantile Exchange Inc. ("NYMEX" or the "Exchange") hereby requests on a voluntary basis CFTC approval for a proposed amendment to Supplement No. 1, "Official List of Approved Brands and Markings" of the Grade 1 Copper Futures Contract.

The proposed amendment and a complete explanation of its operation, purpose and effect are attached hereto.

If you have any questions concerning this submission, please contact Albert J. Getz at 212-299-2608.

Sincerely,

Robert A. Levin
Senior Vice President

cc: Richard Shilts, Division of Market Oversight
Allen Cooper, Eastern Region

I. EXPLANATION AND PURPOSE

The Exchange proposes to amend COMEX Copper Supplement No. 1 "Official List of Approved Brands and Markings" by adding the BHP Billiton Tintaya S.A. "Tintaya" copper brand as acceptable for good delivery against the COMEX Grade 1 Copper Futures Contract.

BHP Billiton Tintaya S.A., wholly owned by BHP Billiton Limited, has submitted an application to the New York Mercantile Exchange, Inc. ("Exchange") requesting that its copper brand "Tintaya" produced at Campamento Minera Tintaya, Distrito de Espinar, Cusco, Peru be approved as acceptable for delivery against the New York Mercantile Exchange Inc.'s COMEX Division Grade 1 Copper Futures Contract. The application submitted by BHP Billiton Tintaya S.A. for the registration of the "Tintaya" copper brand meets the requirements of the Exchange.

BACKGROUND

Tintaya is located 260-km northeast of Arequipa, Peru. This area was extensively explored for copper mineralization starting in the late 1800's and in 1985, Empresa Minera Especial Tintaya S.A. commenced commercial operations at an annual rate of 300,000 tons of copper concentrate. The copper concentrate, with an average grade of 30 percent, is shipped to various locations. During the mining of the sulphide mineralization, oxide ore, which is amenable to heap leach solvent extraction technology, was mined and stored since commercial development of the mine started in 1985.

Construction of the facilities to treat the stored oxide mineralization commenced in February 2001 and the first cathodes were produced in April 2002. The process utilizes conventional heap leach solvent extraction, electrowinning technology coupled with the Kidd Creek Technology to produce between 36,000 and 38,000 tons per year of electrowon copper cathodes. The cathode dimensions are 101 cm (39 inches) long by 99 cm (38 inches) wide and weigh between 85 and 90 kilograms (187 and 198 pounds). Every fourth cathode is corrugated.

Cathode bundles contain between 28 and 30 cathode sheets and weigh approximately 2.5 tons (5,000 pounds) plus or minus five percent. Each bundle is labeled with the gross and net weight, lot and bundle number. Each bundle has three straps, which are secured by clips inscribed with the "TINTAYA" logo.

APPLICATION REQUIREMENTS

The application for listing Grade 1 Copper Brands as good delivery against the COMEX Division Grade 1 Copper Futures Contract stipulates that the copper brand must be in continuous production for a minimum of six months at the rated plant capacity. The minimum level of production required is 10,000 short tons per year. The application also requires letters from three mutually acceptable copper rod manufacturers affirming that they have purchased and tested the brand and that the brand is now acceptable for use in the manufacture of rod at their plant, and detailed assays from two mutually acceptable independent assayers. The "Tintaya" brand of electrowon copper cathodes meets these requirements.

REFERENCES

BHP Billiton Tintaya S.A. has submitted letters from the following wire rod manufacturers: AmRod Corp., Nexans and Southwire Company. All have tested a minimum of two 200-ton lots from different months of production and have confirmed that the cathodes conform to the chemical specifications required by ASTM B115-00. Based on these tests all three wire rod manufacturers will accept the "Tintaya" copper brand for purposes of manufacturing continuous

cast copper rod at their plants and the brand has been added to their approved list of suppliers of copper cathode.

The chemical analysis from all of the wire rod manufacturers is within the specifications of ASTM B115-00, the current quality specification for the Grade 1 Copper Futures Contract.

ASSAYS

Sampling of the "Tintaya" copper cathodes was conducted under the supervision of Alfred H. Knight and Alex Stewart (Assayers) Ltd. The samples taken by each assayer were sealed and sent to the respective laboratories of Alfred H. Knight ("AHK") and Alex Stewart (Assayers) Ltd. ("ASA") for chemical analysis. Production from two different months was sampled. AHK commenced their inspection on April 15, 2003 and completed it on April 18, 2003, during which 200,921 kg was sampled. ASA's inspection took place between May 15, 2003 and May 18, 2003 and 262 metric tons were sampled. The results of the analyses indicate that the "Tintaya" brand copper cathodes conform to the chemical specifications outlined in ASTM B115-00 for Grade 1 Copper Cathodes.

GUARANTEE AND OPINION OF COUNSEL

BHP Minerals International Inc., has guaranteed that the "Tintaya" brand of electrolytic copper cathodes conform to the ASTM Specification B115-00 for Grade 1 Copper Cathode as specified by ASTM and all other specifications for Grade 1 Copper Cathodes established pursuant to the By-Laws, Rules and Resolutions of the Exchange and any revisions or modifications thereto. The Guarantee is in the format required by the Exchange.

II. PROPOSED AMENDMENT

The proposed amendment is attached.

Proposed Amendment. Underlining indicates additions; [] bracketing indicates deletions.

Copper Supplement
No. 1

COMMODITY EXCHANGE, INC.
GRADE 1 COPPER CATHODES

OFFICIAL LIST OF APPROVED BRANDS AND MARKINGS

	<u>COMPUTER CODE</u>	<u>BRAND NAME(1)</u>
ASARCO Incorporated-----	ATR	ATR
ASARCO Incorporated Ray Unit -----	RAY	ASARCO RAY GRADE 1
Atlantic Copper S.A. -----	FMS	FMS
<u>BHP Billiton Tintaya S.A.</u> -----	<u>TINT</u>	<u>TINTAYA</u>
BHP Copper Inc.-----	PINT	*PINTO
BHP Copper Inc.-----	BHPC	BHP Copper
BHP Copper Inc.-----	BHPX	BHP Copper/SXEW
BHP Copper Inc.-----	BHPP	BHP Copper/Pinto
Cobre de Mexico, S.A.-----	CDM	CDM
Codelco-Chile---Corporacion Nacional del	AE	AE
Cobre de Chile	CCC	CCC
	ASXW	AE SX-EW
	CSBL	cCc SBL
	CHUI	CHUQUI-P
Compania Minera Cerro Colorado Ltda-----	CMCC	CMCC
Compania Minera Dona Ines de Collahuasi SCM---	COLL	COLL
Compania Minera Falconbridge Lomas Bayas-----	LBFA	LBF
Dowa Mining Co. Ltd.-----	DOWA	DOWA
Empresa Nacional De Minería-----	NAMI	ENM
Falconbridge Limited, Kidd Creek Division-----	FKA	FKA
Huttenwerke Kayser AG-----	HKAG	HK
INCO Limited-----	ORCO	ORC
Kennecott Utah Copper Corporation-----	KUCU	KUC

Proposed Amendment. Underlining indicates additions; [] bracketing indicates deletions.

COMMODITY EXCHANGE, INC.
 COPPER BRANDS AND MARKINGS
 PAGE 2
 GRADE 1 CATHODE COPPER (Cont.)

<u>PRODUCER</u>	<u>COMPUTER CODE</u>	<u>BRAND NAME (1)</u>
LG-Nikko Copper Inc. -----	ONSN	ONSAN
Metallo-Chimique International N.V.-----	SME	SME
Minera Escondida Limitada -----	ESOX	ESOX
Mitsubishi Materials Corporation-----	MTSB	MITSUBISHI
Mitsui Mining & Smelting Co. Ltd.-----	MITS TAMA	MITSUMI TAMANO
Nippon Mining & Metals Co., Ltd-----	HM SR	HM SR
Noranda Metallurgy Inc. - Copper-----	CCRL	CCR
Norddeutsche Affinerie AG-----	NAEN	NA-ESN
Onahama Smelting & Refining CO. Ltd.-----	OSR	OSR
Phelps Dodge Corporation-----	PD PDSR PDSS BCCC PDMI CBCC CMMC TWIN	P*D SANTA RITA PDSS BCCC ("BURRO CHIEF") PDMI CBCC CMMC ER CTB
Philippine Associated Smelting & Refining Corp.--	PSAR	PASAR
Sociedad Contractual Minera El Abra-----	ABRA	ABRA
Sociedad Minera Cerro Verde S.A.-----	SMCV	SMCV
Southern Peru Copper Corp.-----	SPCC	SPCC-ILO

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COMMODITY EXCHANGE, INC.
COPPER BRANDS AND MARKINGS
PAGE 3
GRADE 1 CATHODE COPPER (Cont.)

<u>PRODUCER</u>	<u>COMPUTER CODE</u>	<u>BRAND NAME (1)</u>
Southern Peru Copper Corporation/ Southern Peru Copper Ltd.-----	SPLX	SPCC-SXEW
Sumitomo Metal Mining Co. Ltd.-----	SUMI	SUMIKO
White Pine Copper Refinery, Inc.-----	WPCR	White Pine Copper
Zambia Consolidated Copper Mines Mufulira Copper Refining-----	MCM	MCM
Nkana Copper Refinery-----	REC	REC

(1) Copper Cathodes do not bear a brand marking. Accordingly, a written declaration of brand pursuant to Rule 11.16(f) of the Comex By-Laws must accompany all deliveries.

*No Longer Produced

III. EXCHANGE ACTION

The proposed amendment was approved by the NYMEX Board of Directors at a regularly scheduled meeting. No anti-competitive effects are anticipated or are apparent. There were no substantive opposing views concerning this amendment.

As the proposed amendment adding the copper brand "Tintaya" produced by BHP Billiton Tintaya S.A. as acceptable for delivery against the COMEX Division Grade 1 Copper Futures Contract affects a "Special Matter" under the COMEX By-Laws, notice was provided to the owners of COMEX Division Memberships who were provided with 10 days to submit a petition signed by owners of 155 COMEX Division Memberships requesting a vote of the COMEX Division to disapprove the amendments, pursuant to the procedures set forth under COMEX By-Law 205(D). No petitions were received.

While there are open positions in the Copper Futures Contract, this amendment will not have an economic impact on positions or prices in the market.

The Exchange intends to implement the proposed amendment the day after it receives notification of Commission approval, or notification that such approval is not necessary.

In addition to the notification of the proposed amendment to add the copper brand "Tintaya" produced by BHP Billiton Tintaya S.A. as acceptable for delivery against the COMEX Division Grade 1 Copper Futures Contract pursuant to COMEX By-Law 205(D), given October 7, 2004, the Membership was informed in a Notice to Membership dated November 1, 2004, that the Exchange intends to amend Supplement No. 1, "Official List of Approved Brands and Markings" of the Grade 1 Copper Futures Contract by adding the "Tintaya" copper brand as acceptable for delivery, pending notification from the Commission.