

March 13, 2008

**VIA E-MAIL**

Mr. David Stawick  
Office of the Secretariat  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, N.W.  
Washington, D.C. 20581

RECEIVED  
C.F.T.C.  
2008 MAR 14 PM 4:01  
OFFICE OF THE SECRETARIAT

**Re: New Product Rule Certification. New York Mercantile Exchange, Inc. Submission #08.35: Listing New Certified Emission Reduction (CER) Futures Contract on NYMEX ClearPort® Clearing and CME Globex®.**

Dear Mr. Stawick:

The New York Mercantile Exchange, Inc. ("NYMEX" or "Exchange") is notifying the Commodity Futures Trading Commission ("CFTC" or "Commission") that it is self-certifying the listing of a New Certified Emission Reduction (CER) Futures Contract (code VA, NYMEX Rules 870.01-870.14).

The New Certified Emission Reduction (CER) futures contract will be listed on the NYMEX ClearPort® clearing and CME Globex® systems beginning at 6:00 p.m. on Sunday evening, March 16 for trade date March 17. The Exchange will list consecutive quarterly contracts starting from December 2008 through December 2010. The Exchange will also list contracts for December 2011 and December 2012. In addition, the Exchange will allow Exchange of Futures for Physical, and Exchange of Futures for Swaps to be submitted for clearing via NYMEX ClearPort® clearing pursuant to the terms of Rules 6.21 and 6.21A.

Pursuant to Section 5c(c) of the Commodity Exchange Act ("Act") and CFTC Rules 40.2 and 40.6, the Exchange hereby certifies that the attached contract complies with the Act, including regulations under the Act.

Should you have any questions concerning the above, please contact Brad Leach at 212-299-2609 or the undersigned at (202) 715-8517.

Sincerely,

A handwritten signature in black ink, reading "De'Ana H. Dow". The signature is written in a cursive style with a large initial "D".

De'Ana H. Dow  
Senior Vice President and  
Chief Legislative Counsel

Attachments: Contract terms and conditions  
Supplemental information

**Certified Emission Reduction (CER) Futures Contract**

**Definitions:**

Certified Emission Reduction (“CER”). CERs shall mean a unit issued pursuant to Articles 12 and 17 of the Kyoto Protocol and the decisions adopted pursuant to the UNFCCC or the Kyoto Protocol which may be used for compliance purposes under the EU ETS in accordance with Article 11a (3)(a) and (b) of the Directive 2003/87/EC (as amended from time to time) and the Linking Directive 2004/101/EC as implemented into Member State law. CER from nuclear facilities; land use, land use change and forestry activities (LULUCF); and hydroelectric projects with generating capacities exceeding 20 MW are excluded from this definition.

CDM (Clean Development Mechanism): A mechanism established by Article 12 of the Kyoto Protocol for project-based emission reduction activities in developing countries.

Clean Development Mechanism-Executive Board (CDM-EB): The CDM EB registers validated project activities as CDM projects, issues certified emission reductions to relevant projects participants, and manages series of technical panels and working groups meetings.

The terms “Seller” and “Buyer” shall mean the short Clearing Member and the long Clearing Member, respectively.

The terms “Seller’s Customer” and “Buyer’s Customer” shall mean the seller and buyer of the physical product.

ITL (International Transaction Log): All transactions between registries are maintained by transaction logs which verify the validity of transactions. The UNFCCC Secretariat maintains the ITL for the purposes of transfer under the Kyoto Protocol. Moreover the EU Commission has established and become the Administrator of a Community Transaction Independent Log (CITL) for transfers involving EU Member States. Transfers involving EU Entities entail an additional step from the ITL to the CITL under the Kyoto Protocol for transfers of CERs between national registries.

The term “Settlement Price” shall mean the final settlement price used as the price for delivery of the product, which shall be the settlement price for the last trading day of the expiring delivery month. The settlement price for the last trading day shall be determined in accordance with the procedures set forth in NYMEX Rule 11G.11.

**870. 01 Scope**

The provisions of these rules shall apply to all CERs, issued pursuant to Articles 12 and 17 of the Kyoto Protocol, bought or sold for future delivery on the Exchange with the Delivery at the UK Emissions Trading Registry or the Dutch CO<sub>2</sub> Emissions Trading Registry.

**870.01A References to Seller and Buyer**

(A) Except with respect to Rules 870.12, the terms "seller" and "buyer" shall mean the short

Clearing Member and the long Clearing Member respectively.

(B) In Rule 870.12, the terms "seller" and "buyer" shall mean the seller and buyer of the physical product.

#### **870.02 Time References**

For purposes of these Rules, unless otherwise specified, times referred to herein shall refer to and indicate the prevailing time in Greenwich Mean Time (GMT).

#### **870.03 Contract Unit**

The contract unit shall be one thousand (1000) metric tonnes of CER units for a delivery made by transfer through the UK Emissions Trading Registry or the Dutch CO2 Emissions Trading Registry.

#### **870.04 Delivery**

At the registry designation of the buyer, CER delivery shall take place by electronic transfer of CER units at the UK Emissions Trading Registry or the Dutch CO2 Emissions Trading Registry. The registry will be designated by the Buyer, and it must satisfy "Eligibility Criteria" for international emissions trading specified in Article 17 of the Kyoto Protocol and Decision 11/CMP.1. All deliveries made under these rules shall be final and there shall be no appeal.

#### **870.05 Delivery Months**

Trading shall be conducted in contracts providing for delivery in such periods as shall be determined by the Board of Directors.

#### **870.06 Minimum Price Fluctuations**

Prices shall be quoted in Euro and Euro cents per metric tonne. The minimum price fluctuation shall be € 0.01 per metric tonne (€10.00 per contract). There shall be no maximum price fluctuations.

#### **870.07 Termination of Trading**

Trading in the delivery month shall cease two business days prior to the first business day of the delivery month.

#### **870.08 Product Placement**

(1) Certification:

For purposes of Rule 9.19, the Seller and Buyer shall fulfill their respective contractual obligations on a maturing contract unless, by 5:00 p.m. GMT on the 10<sup>th</sup> business day prior to the first business day of the delivery month, such Seller and Buyer have received account certification from his customer, in the form prescribed by the Exchange stating that: If a buyer, the Buyer's Customer has an account with the UK Emissions Trading Registry or the Dutch CO2 Emissions Trading Registry; If a seller, the Seller's Customer has an account with the UK Emissions Trading Registry and the Dutch CO2 Emissions Trading Registry.

The receipt of such certification shall not relieve the Seller or Buyer, or their respective Customers of any obligations under any Rule other than Rule 9.19.

## **870. 09 Delivery Procedures**

### **(A) RESPONSIBILITIES OF CLEARING MEMBERS HAVING OPEN LONG POSITIONS**

#### **(1) NOTICE OF INTENTION TO ACCEPT**

By 4:30 p.m. GMT on the first business day after the final day of trading of the delivery month, a Buyer having an open position shall file with the Exchange a properly completed and signed Notice of Intention to Accept. The Notice of Intention to Accept shall be in the form prescribed by the Exchange and shall include: Name of the Buyer's Customer; Number of contracts to be accepted; Registry Name; Registry Account Number; Name, Phone Number and e-mail address of the Authorized Representative(s) for that that registry account; and any additional information as may be required by the Exchange

If the link between the ITL and CITL is not operational two business days prior to the first business day of the delivery month, a Buyer shall file a properly completed and signed Notice of Intention to Accept by 4:30 p.m. GMT on the first business day following Exchange notice that the link between the CITL and the ITL is operational related to contract delivery.

### **(B) RESPONSIBILITIES OF CLEARING MEMBERS HAVING OPEN SHORT POSITIONS**

#### **(1) NOTICE OF INTENTION TO DELIVER**

By 4:30 p.m. GMT on the first business day after the final day of trading of the delivery month, a Seller having an open short position shall file with the Exchange a properly completed and signed Notice of Intention to Deliver. The Notice of Intention to Deliver shall be in such form prescribed by the Exchange and shall include: Name of the Seller's Customer; Number of contracts to be delivered; and any additional information as may be required by the Exchange.

If the link between the ITL and CITL is not operational two business days prior to the first business day of the delivery month, a Seller shall file a properly completed and signed Notice of

Intention to Deliver by 4:30 p.m. GMT on the first business day following Exchange notice that the link between the CITL and the ITL is operational related to contract delivery.

**(C) USE OF SETTLEMENT PRICE:** The final settlement price used for the delivery shall be the settlement price from the final day of trading.

**(D) Notice Day**

- (1) The Clearing House shall allocate Notices of Intention to Deliver and Notices of Intention to Accept by matching positions, to the extent possible.
- (2) (a) The Clearing House shall provide Tender Allocation Notices to the respective Clearing Members on the first business day of the delivery month.

If the link between the CITL and the ITL is not operational two business days prior to the first business day of the delivery month, the Clearing House will provide Tender Allocation Notices to the respective Clearing Members on the second business day following Exchange notice that the link between the CITL and the ITL is operational related to contract delivery.

- (3) The day the Tender Allocation Notices are provided to the Clearing Members shall be referred to as "Notice Day". Tender Allocation Notices are not transferable.

**(E) Payment and Delivery Margins**

(1) Definitions

- (A) "Payment" shall include the settlement price times the number of contracts times 1000. If the link between the CITL and the ITL is not operational two business days prior to the first business day of the delivery month, the payment of the Buyer shall include the Euro OverNight Index Average (EONIA) interest cost from the first business day of the contract month to the revised delivery date.
- (B) "Payment Date" shall mean the business day after the Buyer's Customer receipt of proper delivery notification from the UK Emissions Trading Registry or the Dutch CO2 Emissions Trading Registry that CERs have been transferred from the Seller's Customer account to the Buyer's Customer account, provided documentation is supplied to the Buyer's Customer by no later than 4:00 p.m. GMT. Documentation supplied to Buyer after 4:00 p.m. GMT on any Exchange business day, shall be considered received on the following Exchange business day.
- (C) On the second business day following the last day of trading, the long clearing member shall obtain from the long, if any, margin equal to the full value of the product to be delivered. Such margin shall consist of cash, securities issued by the United States Treasury Department maturing within ten (10) years from the date of deposit and

guaranteed as to principal and interest by the United States Government or a letter of credit. Any Treasury securities so deposited shall be valued at ninety percent (90%) of the par value of such instruments. Any letter of credit so deposited shall be in a form approved by the Exchange, shall be issued or confirmed by an Exchange approved original margin depository, and shall be drawn in favor of the Exchange.

- (D) The Buyer shall pay the Seller at the office of the Seller by a certified check or electronic funds transfer, or any other method acceptable to both parties by 5:00 p.m. GMT on the payment date. The Buyer and Seller shall deposit with the Exchange margins in such amounts and in such form as required by the Exchange. Such margins which shall not be greater than the margins charged to the Buyer's Customer and Seller's Customer, shall be returned on the business day following notification to the Exchange that delivery and payment have been completed.
- (E) On the Payment Date, the Seller shall deliver a Notice of Payment to the Buyer with a copy to the Exchange by 4:30 p.m. GMT. Upon receipt of such notice the delivery shall be complete.
- (F) Any payment made on Payment Date shall be based on CERs actually delivered.

#### **(F) Delivery Day**

The day the Buyer's customer receives the CERs shall be referred to as the Delivery Day.

#### **870. 10 Delivery Period**

Delivery shall take place on the second business day of the delivery month.

If the link between the CITL and the ITL is not operational two business days prior to the first business day of the delivery month, the seller shall deliver on the tenth business day following the Exchange notice that the link between the CITL and the ITL is operational related to contract delivery.

#### **870. 11 Validity of Documents**

The Exchange makes no representation respecting the authenticity, validity or accuracy of any of Tender Allocation Notice, Notice of Intention to Accept, Notice of Intention to Deliver, check or of any document or instrument delivered pursuant to these rules.

#### **870.12 Exchange of Futures for Physical (EFP) and Exchange of Futures for Swaps (EFS)**

(A) An exchange of futures for, or in connection with, the product (EFP) or exchange of futures for swaps (EFS) consist of two discrete, but related, transactions; a physical commodity or swap transaction and a futures transaction. At the time such transaction is effected, the Buyer's Customer and Seller's Customer of the futures must be respectively the Seller's Customer and Buyer's Customer of a quantity of the physical product or swaps agreement covered by this Section (or any derivative, by-product or related product). The quantity of physical product or

swap agreement must be approximately equivalent to the quantity covered by the futures contracts.

(B) Except as provided below, an EFP or EFS must take place during the hours of futures trading for the futures contract. An EFP or EFS is permitted at any time before 2:30 p.m. GMT on the first business day after the final day of trading provided, however, that an EFP which established a futures position for both the Buyer's Customer and the Seller's Customer shall not be permitted on the first business day after the last day of trading.

If the link between the CITL and the ITL is not operational two business days prior to the first business day of the delivery month, EFP or EFS transactions will be extended until 2:30 p.m. GMT on the business day following the Exchange notice that the link between the CITL and the ITL is operational related to contract delivery.

(C) Any EFP or EFS shall be governed by the provisions of this Rule and by the provisions of Exchange Rules 6.21 and 6.21A, respectively.

(D) Each Buyer's Customer and Seller's Customer must satisfy the Exchange, at its request, that the transaction is a legitimate EFP or EFS transaction. All documentary evidence relating to the EFP or EFS, including, without limitation, evidence as to change of ownership of the physical commodity or swap commitment, shall be obtained by the Clearing Members from their customers and made available by the Clearing Members for examination by the Exchange upon request.

(E) A report of each EFP or EFS transaction shall be entered on the day that the transaction thereto was made, or if such agreement was made after the close of trading, then on the next business day. EFP or EFS transactions shall be cleared through the Exchange in accordance with normal procedures, shall be clearly identified as EFP or EFS transactions, and shall be recorded as such by the Exchange and by the Clearing Members involved

### **870.13 Alternative Delivery Procedure**

A Seller's Customer or Buyer's Customer may agree with the Buyer's Customer or the Seller's Customer with which it has been matched by the Exchange under Rule 870.09(D) to make and take delivery under terms or conditions which differ from the terms and conditions prescribed by this Chapter. In such a case, Clearing Members shall execute an Alternative Notice of Intention to Deliver on the form prescribed by the Exchange and shall deliver a completed executed copy of such Notice to the Exchange. The delivery of an executed Alternative Notice of Intention to Deliver to the Exchange shall release the Clearing Members and the Exchange from their respective obligations under the Exchange contracts.

In executing such Notice, Clearing Members shall indemnify the Exchange against any liability, cost or expense it may incur for any reason as a result of the execution, delivery, or performance of such contracts or such agreement, or any breach thereof or default there under. Upon receipt



of an executed Alternative Notice of Intention to Deliver, the Exchange will return to the Clearing Members all margin monies held for the account of each with respect to the contracts involved.

#### **870.14 Force Majeure, Late Performance and Failure to Perform**

**(A) DEFINITION.** As used in this Rule 870.14 the following terms, as well as variations thereof, shall have the meaning described below.

(1) "Late Performance" means the failure of a Buyer or a Seller to complete a material act with respect to a delivery obligation imposed by, and within the time period established in, the Rules.

(2) "Failure to Perform" means the failure of a Buyer or a Seller to complete a material act with respect to a delivery obligation prior to the expiration of the period allowed for the late performance of such act.

(3) "Contract Value" means the amount equal to the settlement price on the last day of trading in a futures contract times 1000 (the number of tons per contract) times the number of contracts to be delivered.

(4)(a) "Party" means a Buyer or Seller and such Buyer and Seller are each responsible to the Exchange for their obligations under these Rules and further responsible to the Exchange for the obligations of their respective customers under the Rules of this Chapter.

(b) "Other Party" means the corresponding Buyer when the Seller is late in performance or has failed to perform and the corresponding Seller when the Buyer is late in performance or has failed to perform.

(5) "Day of Late Performance" means the twenty-four hour period commencing twelve hours after a Buyer or a Seller was to have performed, provided however, with respect to the obligations of Buyers and Sellers to submit documents to the Exchange pursuant to the Rules in this chapter, and with respect to the failure to transfer CERs within the delivery period, "Day of Late Performance" means that twenty four hour period commencing immediately after the time specified in the Rules in this chapter for the submission of a document. Each subsequent Day of Late Performance shall commence twenty-four hours after the beginning of the prior Day of Late Performance. When a Party is late in performance, the day when the act is performed shall be a Day of Late Performance.

(6) "Force Majeure" means any circumstance (including but not limited to a strike, lockout, national emergency, governmental action, or act of God) which is beyond the control of such Buyer or Seller, and which prevents the Buyer or Seller from making or taking delivery of product when and as provided for in these Rules.

#### **(B) RESPONSIBILITIES OF PARTIES TO THE DELIVERY**

(1) The parties to a delivery shall make commercially reasonable efforts to perform their respective delivery obligations at all times until a Party has failed to perform.

(2) A Party which has failed to perform its obligations may no longer perform such obligations; provided, however, that a Buyer which has failed to make a payment shall make such payment.

### **C) EMISSIONS ALLOWANCE DELIVERY COMMITTEE**

(1) Force Majeure, Late Performance and Failure to Perform shall be determined by a Panel of the Emissions Allowance Delivery Committee as set forth below. The Chairman of the Emissions Allowance Delivery Committee shall appoint a Panel, which shall consist of three (3) members of the Committee, to review a delivery:

(a) When the Chairman is advised by the President or any person designated by the President that it appears that the performance of a Party to the delivery is late;

(b) Upon the written request of both the Buyer and the Seller;

(c) When the President or any person designated by the President requests such appointment; or

(d) When either Party to the delivery notifies the Exchange that circumstances exist constituting Force Majeure.

(2) The Chairman shall not appoint to any Panel any person who has a direct or indirect interest in the delivery in question. Any Panel so appointed shall retain jurisdiction over the delivery in question until the delivery has been completed or a Party has been found to have failed to perform such delivery. Exchange Counsel shall serve as advisor to the Panel.

(3) The Panel shall meet within one business day of notification as provided in these Rules. Unless good cause for delay exists, within one business day the Panel shall determine whether force majeure exists, whether a Buyer or Seller is late in performing, or has failed to perform its obligations as provided in the Rules, and advise the Compliance Department of such determination, and its findings in support thereof immediately. The Panel shall cause its determination to be communicated to the parties to the delivery as expeditiously as possible.

(4) Upon a finding of force majeure, the Panel may take any one or combination of the following actions as it deems suitable, order: an extension of time not to exceed 10 days from the date of the scheduled delivery; or refer the delivery to the Board of Directors for emergency action as provided in Article 7.

### **(D) EXCHANGE ACTION**

(1) Whenever a Buyer or a Seller is found by the Panel to be late in the performance of or to

have failed to perform a delivery, the Exchange, represented by the Compliance Department, shall issue a Notice of Assessment in accordance with subsections (2) of this Section, specifying the findings of the Panel with respect to the late or failed delivery.

(2) When a Party has failed to perform, the Compliance Department shall issue a Notice of Assessment assessing penalties of ten percent (10%) of the contract value, in addition to any penalties assessed pursuant to subparagraph hereof, to be paid to the Exchange.

(3)(a) A Party may appeal a Notice of Assessment by filing a Notice of Appeal with the Hearing Registrar of the Exchange and by serving a copy of the same on the Exchange's Compliance Counsel, within two business days of receipt of the Notice of Assessment from the Compliance Department. The Party filing the appeal ("Appellant") shall file, within twenty (20) days after filing the Notice of Appeal, a Memorandum of Appeal setting forth the factual and legal basis for the appeal. The Memorandum of Appeal must be filed with the Hearing Registrar and a copy of the same served upon the Exchange's Compliance Counsel.

(b) The Compliance Department may file with the Appellant and Hearing Registrar an Answering Memorandum to the Memorandum of Appeal within ten (10) days of receipt of that memorandum.

(c) Failure by the Party to file a Notice of Appeal or a Memorandum of Appeal with the time specified in subsection (D)(4)(a) of this Rule shall constitute a waiver, and the penalties set forth in the Notice of Assessment shall be paid within five days to the Exchange. Failure to pay such penalties in accordance with this Rule shall subject the party to the sanctions set forth in Bylaw 106. In the event a party fails to Appeal or waives the opportunity to appeal a Notice of Assessment the Assessment, and findings of the Delivery Committee shall constitute a final disciplinary action of the Exchange.

(4) Within ten (10) days after receipt of the Compliance Department's reply, the Appellant shall be entitled to examine all books, documents and other tangible evidence in possession or under the control of the Exchange that are to be relied on by the Compliance Department or are otherwise relevant to the matter.

(5) In the event of an appeal by a Party, the Chairman of the Exchange, or his designee, shall appoint an Assessment Appeal Panel to hear and decide the appeal. The Panel shall be composed of three members of the Exchange, at least one of whom shall be a member of the Board of Directors. No member of the Panel may have a direct or indirect interest in the matter under the appeal. Each Panel Member shall disclose to the Chairman any such interest which might preclude such Panel Member from rendering a fair and impartial determination. The formal Rules of Evidence shall not apply to such appeal, and the Panel shall be the sole judge with respect to the evidence presented to it. Exchange outside counsel shall advise the Panel.

(6) The procedures for the hearing of the appeal before the Assessment Appeal Panel shall be as follows:

(a) At a date to be set by order of the Panel, and prior to such hearing, the Appellant and the Compliance Department shall furnish each other with a list of witnesses expected to be called at the hearing, and a list of documents and copies thereof expected to be introduced at the hearing.

(b) At such hearing: The Appellant may appear personally and may be represented by counsel or other representative of his choice at the appeal.

(c) The Compliance Department shall be entitled to offer evidence relating to the delivery and shall be entitled to call witnesses and introduce documents in support thereof. It shall be the burden of the Compliance Department to demonstrate, by the weight of the evidence, the appropriateness of the sanction set forth in the Notice of Assessment.

(d) The Appellant shall be entitled to rebut the Compliance Department's evidence and shall be entitled to call witnesses and introduce documents in support thereof.

(e) The Compliance Department and the Appellant shall be entitled to cross-examine any witness called by the opposing Party at the hearing.

(f) The Notice of Assessment, the Notice of Appeal, the Memorandum of Appeal, any Answering Memorandum, the stenographic transcript of the appeal, any documentary evidence or other material presented to and accepted by the Panel shall constitute the record of the hearing. The decision of the Panel shall be based upon the record of the hearing.

(g) The Panel shall have the power to impose a penalty against any person who is within the jurisdiction of the Exchange and whose actions impede the progress of a hearing.

(h) The Assessment Appeal Panel shall issue a written decision in which it may affirm, reduce, or waive the charges assessed against the Appellant and shall state the reasons therefore.

(i) The decision of the Assessment Appeal Panel shall be a final decision of the Exchange and shall constitute a final disciplinary action of the Exchange. The fine is payable on the effective day of the decision or as specified. The effective day shall be fifteen (15) days after a copy of the written decision has been delivered to the appellant and to the Commission.

(8) The Assessment Appeal Panel shall consider, and make recommendations to the Board concerning acceptance or rejection of any offer of settlement submitted by Appellant. In the case of an offer of settlement, acceptance by the Board shall constitute the final disciplinary action of the Exchange.

#### **(E) ARBITRATION PROCEDURE**

(1) Any claim for damages arising between a Buyer and a Seller as a result of a delivery pursuant to this contract shall be settled by arbitration in accordance with these Rules.

(2) Notice of Intent to Arbitrate must be submitted to the Secretary of the Exchange within three business days of the occurrence upon which the claim is based or the decision of the Emissions Allowance Delivery Committee with respect to a late or failed performance. Failure to submit a Notice of Intent to Arbitrate within the prescribed period will be deemed a waiver of a Party's rights to arbitrate such a delivery dispute under the special or Regular Arbitration Rules.

(3) The Arbitration will be governed by Chapter 5 of the Rules except that the Chairman of the Exchange or his designee shall appoint an Arbitration Panel composed of three Members of the Exchange, at least one of whom shall be a Member of the Board of Directors.

### **Supplemental Information**

#### **Certified Emission Reduction (CER) Units**

The NYMEX Certified Emission Reduction (CER) Futures Contract relates to CER credits issued by the Clean Development Mechanism (CDM) established under the Kyoto Protocol (weblink below) of the United Nations Framework Convention on Climate Change (UNFCCC). The UNFCCC is an international treaty that established a goal of maintaining greenhouse gases at “safe” levels. The CDM is a program that enables industrialized countries to purchase or claim CER units generated by clean energy and sustainable development projects in developing countries that can be used for satisfying compliance requirements related to reduced carbon dioxide emissions. The CDM mechanism is governed by the CDM Executive Board which validates projects that generate CERs. As such CDM projects provide the deliverable supply for the CER market. There are many CDM projects that are underway in various stages of development which will add to the deliverable supply for CERs between now and 2012. The CDM Executive Board also operates a CDM Registry which maintains CDM accounts that hold issued CERs. CER units are frequently referred to as the global carbon credit currency due to the broad applicability of CERs to the nations that are Kyoto signatories. The contract unit for the CERs (1000 Metric Tonnes) is a standard commercial unit. The CERs deliverable against the NYMEX contract are fungible, equal in value, and all expire at the close of the Phase 2 (Kyoto Protocol) program December 31, 2012.

<http://unfccc.int/resource/docs/convkp/kpeng.html>

### The Linking Directive

The Linking Directive (LD) was issued by the European Community and amends the Emissions Trading Directive that established the European Union Emissions Trading Scheme (EU ETS). The purpose of the LD was to provide for the use of CER units from CDM projects for greenhouse gas compliance under the EU ETS. The overall importance of the LD is its function as a bridge between Kyoto Protocol and the operation of the EU ETS which is the most liquid carbon reduction trading program in the world.

### CER Market Activity

The chart below includes annual trading volume from the International Emissions Trading Association (IETA). The IETA was formed in 1999 and includes 150 business organizations involved in emissions trading. The CER annual volume information is provided for primary and secondary CERs. A primary CER is the first transaction of a specific CDM project that is generating CERs. A secondary CER is obtained from a third party following the primary purchase from a project operator. Commercial participants anticipate that the bulk of primary CERs will migrate to the secondary market following the first sale. In the first half of 2007 (H107) total primary CERs represented 292 million tones (MT). ^This total represents 292,000 NYMEX equivalent contracts (or 62,000 per month). In H107, secondary CERs accounted for 80 MT of which is 80,000 NYMEX equivalent contracts (13,333 per month).

	2005		2006		First 6 Months 2007		2007 Mo Vol
	MT	NYMEX Eq (1000 MT)	MT	NYMEX Eq (1000 MT)	MT	NYMEX Eq (1000 MT)	
EU ETS	362,000,000	362,000	1,017,000,000	1,017,000	775,000,000	775,000	129,167

<b>OTC+Exg</b>	262,000,000	262,000	817,000,000	817,000	675,000,000	675,000	112,500
<b>Bilateral</b>	100,000,000	100,000	200,000,000	200,000	100,000,000	100,000	16,667
<b>CER</b>	401,000,000	401,000	563,000,000	563,000	372,000,000	372,000	62,000
<b>Primary</b>	397,000,000	397,000	523,000,000	523,000	292,000,000	292,000	48,667
<b>Secondary</b>	4,000,000	4,000	40,000,000	40,000	80,000,000	80,000	13,333

**MT = Metric Tonnes**

Source: International Emissions Trading Association, Greenhouse Gas Market Report 2007

### **Top Five Market Participants**

The sector EUA participants below were identified by commercial sources.

#### **OTC Brokers**

Evolutions Markets  
 ICAP  
 Spectron  
 Traditional Financial Services  
 GFI

#### **Financial**

Vitol  
 Fortis Bank  
 Morgan Stanley  
 JP Morgan  
 RNK Capital

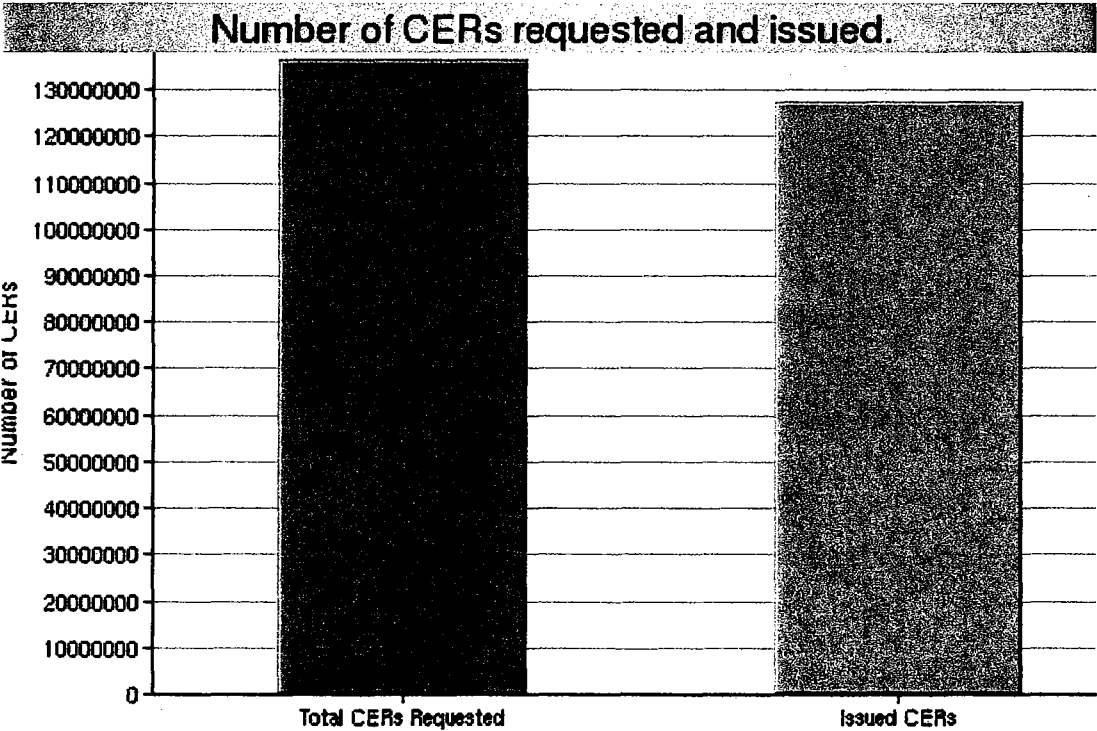
#### **Commercial**

EON  
 Shell  
 EDF  
 BP  
 Endesa

### **Available Supply**

The supply information included in this section is available from the United Nations Framework Convention on Climate Change (UNFCCC). As previously stated, CERs are issued by the Clean

Development Mechanism of the United Nations. As of March 7, 2008, 136,724,263 CERs have been requested with 127,473,065 issued by the CDM Executive Board. The total issued CERs equal 127,473 NYMEX-equivalent contracts. The NYMEX CER contract includes both the UK Emissions Trading Registry and the Dutch CO2 Emissions Trading Registry as buyer's choice delivery locations. These two locations account for 55% of registered CDM projects as indicated in the chart below.

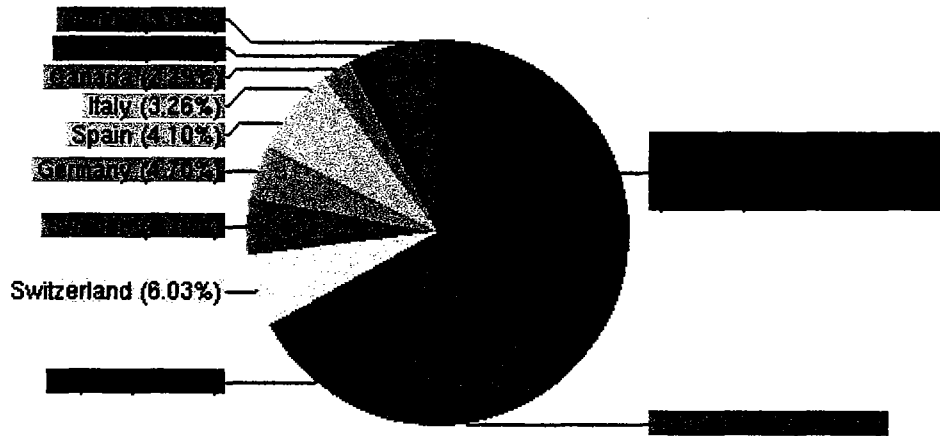


<http://cdm.unfccc.int> (c) 07.03.2008 20:15

<https://cdm.unfccc.int/index.html>



## Registered projects by AI and NAI investor parties



<http://cdm.unfccc.int> (c)07.03.2008 11:53

### Spot Month Position Limit

The spot month position limit of the NYMEX CER futures contract is 1,250 contracts. As previously stated, 127.5 million CERs have been issued by the Clean Development Mechanism. This represents 127,500 NYMEX equivalent contracts. The spot month position limit is 12% of this NYMEX equivalent contract divided by 12 months.

### The NYMEX Certified Emission Reduction (CER) Futures Contract Delivery Mechanism

The NYMEX CER Futures Contract Delivery Mechanism allows the buyer to select either the UK Emissions Trading Registry for standard delivery or the Dutch CO<sub>2</sub> Emissions Trading Registry. The national emissions registries were established as part of the development of Kyoto Protocol compliance. The descriptive information below is provided on the website of the UK Department of Rural, Food, and Environmental Affairs (DEFRA) which operates the UK Emissions Trading Registry. The weblink to the Dutch CO Emissions Trading Registry is also included.

<http://www.defra.gov.uk/environment/climatechange/trading/eu/phase2/pdf/nap-phase2.pdf>  
<http://www.emissieautoriteit.nl/english/co2-emissions-trading-registry>

### Emissions Trading Registry

#### Who can use the EU ETS Registry?

In the UK, the EU/UN Registry is operated by the Environment Agency (EA) meaning they carry out the role of Registry Administrator. The Registry Administrator is able to monitor and approve all accounts. Any individual can open an account on the UK Registry providing they are able to supply the necessary legal documentation and satisfy all the security checks. New account applications will incur an administrative charge payable to the Environment Agency.

For more information on how to open a Registry account - visit the Environment Agency website.

## What is a Registry?

Computerised registries are key components of the EU Emissions Trading Scheme (EU ETS) and wider international emissions trading under the UNFCCC's (United Nations Framework Convention on Climate Change) Kyoto Protocol. The EU ETS legislation Directive 2003/87/EC sets out that Member States must put in place a standardised, electronic National Registry. Similarly, Parties to the UNFCCC who have ratified the Kyoto Protocol must put in place a National Registry to facilitate wider international emissions trading from 2008.

A Registry allows account holders to hold, transfer, or acquire EU allowances and Kyoto units. They also enable regulators and nominated competent authorities to manage regulated industries (those with legal emissions reduction targets), and monitor national compliance and performance against international emissions reductions obligations.

An Emissions Trading Registry is a web-based application that records:

- CO2 allowances and units that are allocated to and held in installation accounts
- Annual verified emissions for installations
- The movement of allowances to and from accounts
- Annual compliance status of installations.

The EU Commission and the UNFCCC (United Nations Framework Convention on Climate Change) secretariat determined the functional requirements of the Registry.

## Key functions of the EU ETS Registry

- **Account management** - allows operators and Registry administrators to create, update, and close holding accounts as well as record emissions
- **Surrender and Retirement** - allows regulated companies (surrender) and national competent authorities (retirement) to demonstrate compliance with national emissions reduction targets.
- **Internal and External transfers** - allows accounts holders within the same Registry and those in other national Registries to transfer units and allowances between their accounts.
- **Cancellation and replacement, and carry over** - of units and allowances in accordance with the emissions trading rules. This allows the Registry to comply with both the EU and UN regulations as EU units can be replaced with Kyoto units.
- **Reconciliation** - with the Community Independent Transaction Log and the UNFCCC Independent Transaction Log on a periodic basis to ensure Registry records are consistent.
- A range of administration functions
- Generation of reports and compliance status tables.

## **ITL Link with CITL**

At present, CERs are held in CDM registry accounts. Transfers from the CDM accounts are effected by the International Transaction Log (ITL), operated by the United Nations Framework Convention on Climate Change. At present, the ITL is only electronically linked to the Japan emissions registry. Until the ITL is electronically linked to the European Community transaction log (CITL), CERs cannot be transferred into European national emission reduction registries such as the UK Emissions Trading Registry and the Dutch CO2 Emissions Trading Registry included in the standard delivery mechanism of the NYMEX futures contract. Industry sources have indicated that the ITL/CITL link will be in place no later than April 2009.

Discussions with commercial participants and internal operational considerations have required a revised proposed mechanism. Under the revised EUA and CER delivery process detailed below, termination of trading would take place on the second to last business day of the month preceding the delivery month (e.g, December 2008.) If the ITL and the CITL have not been linked as of an applicable contract month termination date, NYMEX would implement the following procedures.

The NYMEX Clearing Members representing the ultimate buyers and sellers would not file notice of intentions to accept and would not file the delivery notices until notified by the NYMEX Clearinghouse. The NYMEX Clearinghouse would not request delivery notices and provide the match information until NYMEX confirms that the link between the ITL and the CITL becomes operational thus allowing standard delivery to occur. An Exchange notice would be issued stating the revised dates for notice filings, notice day, and delivery. Although trading would terminate, this proposal would nonetheless allow individually negotiated Exchange Futures for Physical (EFP) and Exchange of Futures for Swaps (EFS) transactions to be submitted up to the revised deadline on the business day following the Exchange Notice. Thus, EFP and EFS transactions would enable market participants to close positions following the termination of trading and during the period before ITL/CITL linkage. Please note that consistent with other NYMEX contracts, EFP and EFS transactions executed after expiration cannot establish a new position for both buyer and seller. Thus, the result of EFP and EFS transactions will serve to either reduce the total open delivery commitment (offset for both buyer and seller) or result in no change to the total delivery commitment (offset for one party, new position for other).

During the intervening time until the link between the ITL and CITL becomes operational, the NYMEX Clearinghouse would continue to operate daily variation margin processes to ensure the integrity of clearinghouse financial risk management. During this period, variation margin would be based on price information obtained by the NYMEX staff from OTC brokers and other commercial sources.

Following confirmation that the ITL and CITL link is operational, the NYMEX Clearinghouse will require the delivery notices, conduct the delivery match, and provide the delivery notices to the respective Clearing Members. Following the conveyance of the notices, the seller will be required to deliver CER credits to the buyer ten (10) NYMEX business days from the date that the ITL/CITL link had become operational as stated by NYMEX notice.