



COMMODITIES BULLETIN

LME in China?

The secure approved warehouses of the London Metal Exchange (LME) remain central to the LME's function of maintaining market stability and price convergence in metal markets. Warehouses are typically located in metal consuming countries rather than producing countries, or at "gateways" to geographical areas of net consumption. Locations are also chosen with a view to political and economic stability and access to transportation networks.

Given these considerations, it was not surprising that during a recent visit to Singapore, as part of the LME's inaugural Asia Metals Seminar, the LME's chief executive, Martin Abbott, spoke about the LME's wish to establish a physical presence in China. Mr Abbott said:

"We are always looking to strengthen our business in this region [Asia Pacific]... We are spending a lot more time building links directly into the

Chinese industry and we are looking to expand our physical presence. We would love to be able to put LME delivery points, LME warehouses, into China, which we think would be a big benefit for the Chinese industry and the LME."

The LME already has a significant presence in the Asia-Pacific region, with warehouse facilities in Japan, Singapore, Malaysia and South Korea, but there are no LME storage facilities in China. This may seem surprising, since China is the world's largest consumer of non-ferrous metals. The reason is regulatory. In 2008, China's Securities Regulatory Commission (CSRC) prohibited overseas futures exchanges from setting up warehouses for the future delivery of commodities. The CSRC has kept tight control over China's commodities derivatives markets since the 1990s.

There are however signs of liberalisation and a willingness to open the Chinese futures market. An example was the decision in 2011 to allow foreign investors to trade stock index futures, subject to certain restrictions.



The restrictions imposed by the CSRC can be viewed as intended to establish China's own market institutions in advance of liberalisation. The Shanghai Futures Exchange (SHFE) is an example. Since it was established in 1999, the SHFE has grown quickly and is thought to trade twice as many contracts as the LME, albeit at lower values and with different products.

It seems certain that China will continue to be the world's predominant consumer and producer of metals for the foreseeable future. Stockpiles of copper in Chinese warehouses are currently at four times the level of that held in all LME warehouses worldwide, and Chinese producers and traders have recently agreed to export refined copper to LME warehouses.

If the LME were able to gain a foothold in China, it could begin competing directly with the SHFE and give greatly increased international access to Chinese metals markets.

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“The CSRC has kept tight control over China's commodities derivatives markets since the 1990s.”

DECC calls for RED evidence

Directive 2009/28/EC on the promotion of the use of energy from renewable sources, which is usually referred to as the Renewable Energy Directive or simply “RED”, sets a target for the EU to obtain 20% of its energy from renewable sources by 2020. RED also sets targets for EU Member States. The United Kingdom's target is to obtain 15% of its energy from renewable sources by 2020.

On 26 April 2012, the UK's Department of Energy and Climate Change (“DECC”) published a Call for Evidence on Renewable Energy Trading, and, in particular, on the possibility of the UK using certain mechanisms set out in RED.

Under RED, a Member State that generates renewable energy has a renewable “credit” attached to that energy, which it can use towards fulfilling its overall renewable energy target. Flexibility mechanisms in RED, including statistical transfers, joint projects and joint support schemes, allow Member States to apply towards their targets energy from renewable sources that is produced by them but consumed in other Member States. RED does not provide guidance on how the flexibility mechanisms should work in practice. Implementation is left to Member States.

Statistical transfers

The statistical transfer mechanism in Article 6 of RED allows a Member State with an expected surplus of renewable energy to “transfer” a quantity of its renewable energy to another Member State. No actual

physical flow of energy needs to take place. The RED does not prescribe the terms of such an agreement, other than that the Member State making the transfer must still meet its own target and that the European Commission must be informed of the transfer.

Joint projects

The joint projects mechanism is set out in Articles 7 to 10 of RED. It states that two or more Member States may finance joint renewable energy projects and share the value of the energy generated. As with the statistical transfers, there is no requirement that an actual physical flow of energy take place.

Member States can also finance joint projects with non-EU countries, but in such circumstances, in order to qualify under RED, the renewable energy produced from the project must be imported into the EU.

Joint support schemes

Joint support schemes provided for in Article 11 of RED are intended to encourage Member States to co-operate in the use of renewable energy. Two or more Member States may co-operate on some or all of their schemes for developing renewable energy, without necessarily providing joint finance, and can share the renewable energy value between them.

In its Call for Evidence, the DECC has stated that joint support schemes are not currently considered appropriate for use in the UK because of the importance to the UK of retaining control over domestic renewable energy schemes, which are partly



funded by UK residents through tax or levies on energy bills.

So far, there do not appear to be any statistical transfers or joint projects in the UK. The DECC's Call for Evidence is an attempt to understand how flexibility mechanisms could work, and the potential for the UK to import and export renewable energy. It follows the DECC's July 2011 consultation document, the Renewable Energy Roadmap, which stated that the UK government intended to acquire powers necessary to trade renewable energy with other EU Member States and other countries. The DECC's stated intentions indicate that RED flexibility mechanisms may create opportunities for companies in the renewable energy sector, particularly in the UK.

The Call for Evidence closes on 11 June 2012.

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“RED does not provide guidance on how the flexibility mechanisms should work in practice.”

HFW recruits leading commodities lawyer

HFW is delighted to announce its recruitment of [Robert Finney](#) as a new partner in its London office.

Robert's practice focuses on derivatives, trading and financial regulation, particularly in relation to commodities markets. He has a range of regulated and unregulated clients, including banks, investment institutions and other financial businesses. He assists those involved in trading physical commodities and commodity derivatives, including producers, processors, trading houses, brokers and investment funds. He also has extensive experience advising exchanges and other market infrastructure providers.

Robert has over 20 years' experience of exchange-traded and OTC derivatives and underlying commodities, especially in energy and metals. In addition to advising clients, Robert has spoken at numerous conferences, and written many articles on the impact of financial regulation on commodities businesses. Many HFW clients will be concerned about the impact of forthcoming EU reforms on OTC derivatives reporting, collateralisation and clearing, and the extension of the MiFID and market abuse regimes. Robert is particularly engaged in these matters. Over many years Robert has been listed for commodities, futures/derivatives and financial services in the leading law firm directories, Chambers UK, Legal 500 UK and Legal Experts. He was voted "Best Legal Advisor - Regulatory & Commercial" at The Compliance Register Platinum Awards 2010 and 2011. He is a founder member of the Futures and Options Association, and

a member of its Metals Working Group.

Welcoming Robert to the firm, [Chris Swart](#) comments, "HFW's commodities clients increasingly require assistance with regulatory matters. Robert's arrival is a significant addition to our existing regulatory practice and will assist with the broad expansion of our commodities capability".

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Conferences & Events

[Coaltrans Asia](#)

BICC Bali
(3-6 June 2012)

Richard Wilmot, Guy Hardaker and Andrew Carpenter

[LSLC Maritime Business Forum - LNG](#)

Thomas Miller, London
(13 June 2012)
Eleanor Midwinter

[Management of Risk in the LNG Business Today](#)

DeVere Venues, Canary Wharf, London
(14 June 2012)
Eleanor Midwinter

[Oil and Gas Trading Operations](#)

Dexter House, London
(18-20 June 2012)
Matthew East and Martina Kelly

[IECA: 26th European Education Conference](#)

Westin Palace Hotel, Madrid, Spain
(24-26 June, 2012)
Robert Wilson

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