



RECEIVED
CFTC

2011 SEP -6 PM 3:42

September 1, 2011

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

OFFICE OF THE
SECRETARIAT

Re: Rule Certification. New York Mercantile Exchange, Inc. Submission #11-302: Notification Regarding the Listing of Coal (API 6) fob Newcastle (ARGUS-McCloskey) Swap Futures Contract for Open Outcry Trading and for Clearing through CME ClearPort®

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 Coal (API 6) fob Newcastle (ARGUS-McCloskey) Swap futures (Chapter 1109) for open outcry trading and for submission for clearing through CME ClearPort beginning at 6:00 p.m. on Sunday, September 11, 2011 for trade date Monday, September 12, 2011.

The product specifications are as follows:

- **Commodity Code:** NCL
- **Settlement Type:** Financial
- **First Listed Month:** October 2011
- **Listing Period:** Current year plus next full calendar year - up to 24 months. A new calendar year will be added following the termination of trading in the December contract month of the current year.
- **Contract Size:** 1,000 metric tons
- **Termination of Trading:** The contract shall terminate at the close of trading on the last Friday of the contract month. If such Friday is a UK holiday, the contract will terminate on the UK business day immediately prior to the last Friday of the contract month.
- **Minimum Price Tick:** \$0.01 per metric ton
- **Final Settlement Price:** Settlement tick = \$0.01
- **Fee Schedule:**

| Exchange Fees | | | | | |
|---------------|------------|--------|----------------|------------|-----|
| | Member Day | Member | Cross Division | Non-Member | IIP |
| Pit | n/a | \$5.00 | \$6.00 | \$7.00 | |
| Globex | n/a | n/a | n/a | n/a | n/a |
| ClearPort | | \$5.00 | | \$7.00 | |

| Processing Fees | | | Additional Fees and Surcharges | |
|--------------------|------------|------------|--------------------------------|--------|
| | Member | Non-Member | EFS Surcharge | \$0.00 |
| Cash Settlement | \$1.00 | \$1.00 | Block Surcharge | \$0.00 |
| Futures from E/A | n/a | n/a | Facilitation Desk Fee | \$0.20 |
| | House Acct | Cust Acct | | |
| Options E/A Notice | n/a | n/a | | |
| Delivery Notice | n/a | n/a | | |

The Exchange will allow the exchange for related position (EFRP) transactions to be submitted through CME ClearPort. EFRP transactions in these futures contracts will be governed by the provisions of Exchange Rule 538.

The Exchange is also notifying the CFTC that it is self-certifying the insertion of the terms and conditions for the Coal (API 6) fob Newcastle (ARGUS-McCloskey) Swap futures contract into the Position Limit, Position Accountability and Reportable Level Table and Header Notes located in the Interpretations and Special Notices Section of Chapter 5 of the NYMEX Rulebook in relation to the listing of the new Coal (API 6) fob Newcastle (ARGUS-McCloskey) Swap futures contract. These terms and conditions establish the all month/any one month accountability levels, expiration month position limit, reportable level, and aggregation allocation for the new contract.

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 and its terms and conditions comply with the Act, including regulations under the Act. There were no substantive opposing views to the proposal. This contract will become effective on trade date September 12, 2011.

Should you have any questions concerning the above, please contact Owain Johnson, +65 6593 5568, or owain.johnson@cmegroup.com. Alternatively, you may contact the undersigned at (212) 299-2207, (347) 463-5347 or Felix.Khalatnikov@cmegroup.com. Please reference NYMEX Submission 11-302 in any related correspondence.

Sincerely,

/s/Felix Khalatnikov
Dir & Assoc General Counsel

Attachments: Appendix A: Rule Chapter
Appendix B: Chapter 5 Table
Appendix C: Cash Market Overview and Analysis of Deliverable Supply

Chapter 1109

Coal (API 6) fob Newcastle (Argus/McCloskey) Swap Futures

1109100. SCOPE OF CHAPTER

The provisions of these rules shall apply to all futures contracts bought or sold on the Exchange for cash settlement based on the Floating Price. The procedures for trading, clearing and cash settlement of this contract, and any other matters not specifically covered herein shall be governed by the general rules of the Exchange.

1109101. CONTRACT SPECIFICATIONS

The Floating Price for each contract month shall be equal to the (API 6) fob Newcastle Monthly Coal Price Index published in the Argus/McCloskey's Coal Price Index Report (i.e., being the average of weekly prices during the contract month).

1109102. TRADING SPECIFICATIONS

The number of months open for trading at a given time shall be determined by the Exchange.

1109102.A. Trading Schedule

The hours of trading for this contract shall be determined by the Exchange.

1109102.B. Trading Unit

The contract quantity shall be one thousand (1,000) metric tons. Each contract shall be valued as the contract quantity (1,000) multiplied by the settlement price.

1109102.C. Price Increments

Prices shall be quoted in U.S. dollars and cents per ton. The minimum price fluctuation shall be \$0.01 (1¢) per metric ton. The minimum final settlement is \$0.01 per metric ton.

1109102.D. Position Limits and Position Accountability

In accordance with Rule 559, no person shall own or control positions in excess of 1,500 contracts net long or net short in the spot month.

In accordance with Rule 560:

1. the all-months accountability level shall be 5,000 contracts net long or net short in all months combined;
2. the any-one month accountability level shall be 5,000 contracts net long or net short in any single contract month excluding the spot month.

Refer to Rule 559 for requirements concerning the aggregation of positions and allowable exemptions from the specified position limits.

1109102.E. Termination of Trading

The contract shall terminate at the close of trading on the last Friday of the contract month. If such Friday is a UK holiday, the contract will terminate on the UK business day immediately prior to the last Friday of the contract month unless such day is not an Exchange business day, in which case the contract shall terminate on the Exchange business day immediately prior.

1109103. FINAL SETTLEMENT

Final settlement under the contract shall be by cash settlement. Final settlement, following termination of trading for a contract month, will be based on the Floating Price. The final settlement price will be the Floating Price calculated for each contract month.

1109104. DISCLAIMER

The Coal (API 6) fob Newcastle (ARGUS-McCloskey) Swap futures (the "Product") is not sponsored, endorsed, sold or promoted by Argus Media Inc. ("Argus") or IHS Global Ltd. ("IHS"). Argus and IHS make no representation or warranty, express or implied, to the owners of the Product or any member of the public regarding the advisability of trading in the Product. Argus' and IHS' only relationship to Chicago Mercantile Exchange Inc., CME Clearing Europe Ltd. and New York Mercantile Exchange, Inc. (together, "CME") is the licensing of certain trademarks and trade names of Argus and IHS, and of the API 6 index (which is determined, composed and calculated by Argus and IHS without regard to CME or the Product), and Argus and IHS have no obligation to take the needs of CME or the owners of the Product into consideration in determining, composing or calculating the API 6 index. Argus and IHS are not responsible for and have not participated in the determination of the timing of, prices at, or quantities of the Product to be listed or in the determination or calculation of the equation by which the Product is to be converted into cash.

Appendix A

Argus and IHS have no obligation or liability in connection with the administration, marketing or trading of the Product.

ARGUS, IHS AND CME DO NOT GUARANTEE THE ACCURACY AND/OR THE COMPLETENESS OF THE API 6 INDEX OR ANY DATA RELATED THERETO AND NEITHER ARGUS, IHS, NOR CME SHALL HAVE ANY LIABILITY FOR ANY ERRORS, OMISSIONS, OR INTERRUPTIONS THEREIN. ARGUS, IHS AND CME MAKE NO WARRANTY, EXPRESS OR IMPLIED, AS TO RESULTS TO BE OBTAINED BY CME, OWNERS OF THE PRODUCT, OR ANY OTHER PERSON OR ENTITY FROM THE USE OF THE API 6 INDEX OR ANY DATA RELATED THERETO. ARGUS, IHS, AND CME MAKE NO EXPRESS OR IMPLIED WARRANTIES, AND EXPRESSLY DISCLAIM ALL WARRANTIES, OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE WITH RESPECT TO THE API 6 INDEX OR ANY DATA RELATED THERETO. WITHOUT LIMITING ANY OF THE FOREGOING, IN NO EVENT SHALL ARGUS, IHS, OR CME HAVE ANY LIABILITY FOR ANY DAMAGES WHATSOEVER, WHETHER DIRECT OR INDIRECT, INCLUDING WITHOUT LIMITATION, LOST PROFITS OR INDIRECT, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS), EVEN IF NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGES. THERE ARE NO THIRD PARTY BENEFICIARIES OF ANY AGREEMENTS OR ARRANGEMENTS BETWEEN ARGUS, IHS, AND CME.

Without prejudice to any of the above provisions and in addition to them, each and every third party should and must note that, insofar as New York Mercantile Exchange, Inc. ("NYMEX") may list any index for trading in or in connection or by reference therewith, none of:

- a. NYMEX;
- b. its directors or officers; or
- c. any relevant party that NYMEX may contract with for the supply of the index or information in relation thereto; (each of the foregoing, a "Relevant Party") assume any obligation or liability in connection with the trading of any contract based on such index. Accordingly, no Relevant Party shall be in any way responsible for any losses, expenses or damages (in all cases direct or indirect) arising in connection with or referable to the trading of any contract linked or referable to the said index, *provided* that nothing herein shall affect either the obligations of NYMEX or its Members as Parties trading in any contract so linked or referable. None of the Relevant Parties guarantee or warrant or undertake in any manner the accuracy or completeness of any such index or any information or data included in or referable to it.

NONE OF THE RELEVANT PARTIES MAKE ANY WARRANTY OR GIVES ANY GUARANTEE OR UNDERTAKING, EXPRESS OR IMPLIED, AS TO THE ACCURACY OR COMPLETENESS OF, OR THE RESULTS TO BE OBTAINED BY ANY PERSON OR ENTITY FROM THE USE OF ANY SUCH INDEX, AND PROXY RELATED OR REFERABLE THERETO OR ANY INFORMATION OR DATA INCLUDED IN OR REFERABLE TO IT IN CONNECTION WITH ANY TRADING OR ANY CONTRACTS OR FOR ANY OTHER USE. NONE OF THE RELEVANT PARTIES MAKE ANY EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO ANY SUCH INDEX, ANY RELATED OR REFERABLE THERETO OR ANY INFORMATION OR DATA INCLUDED IN OR REFERABLE TO ANY SUCH INDEX.

NYMEX RULEBOOK CHAPTER 5 POSITION LIMIT TABLE
 (Bold/underline indicates additions)

| <u>Contract Name</u> | <u>Rule Chapter</u> | <u>Commodity Code</u> | <u>All Month Accountability Level</u> | <u>Any One Month Accountability Level</u> | <u>Expiration Month Limit</u> | <u>Reporting Level</u> | <u>Aggregate Into (1)</u> |
|--|---------------------|-----------------------|---------------------------------------|---|-------------------------------|------------------------|---------------------------|
| | | | Rule 560 | Rule 560 | Rule 559 | Rule 561 | |
| <i>Coal</i> | | | | | | | |
| <u>Coal (API 6) fob Newcastle (ARGUS-McCloskey) Swap Futures</u> | 1109 | NCL | 5,000 | 5,000 | 1,500 | 25 | NCL |

CASH MARKET OVERVIEW**a) Coal as a traded commodity**

Thermal coal, also known as steam coal, is a globally traded commodity. Thermal coal is burned to generate electricity. Coal is usually transported by truck, trains or barges within the domestic markets, but for international trade, dry-bulk vessels are used, primarily handysize, panamax, and capesize vessels. Seaborne trade in steam coal has increased by an average of around 7% per year over the last 10 years¹.

The two major thermal coal markets are the Atlantic and Pacific markets. In the Atlantic, the main importers are Western European countries, such as the UK, Germany and Spain. In the Pacific market, import demand comes mainly from Japan, China, South Korea and Taiwan. India is also a major importer from both Atlantic and Pacific suppliers.

Australia is the world's largest coal exporter with total exports equaling 298 million tons in 2010.

Tables 1 and 2 show the world's most important coal exporting and importing countries:

Table 1: Top Coal Exporters (2010e) (million tons)

| | Total | Thermal | Coking |
|--------------|-------|---------|--------|
| Australia | 298 | 143 | 155 |
| Indonesia | 162 | 160 | 2 |
| Russia | 109 | 95 | 14 |
| USA | 74 | 23 | 51 |
| South Africa | 70 | 68 | 2 |
| Colombia | 68 | 67 | 1 |
| Canada | 31 | 4 | 27 |

Source: World Coal Institute²

¹ Data from the International Energy agency.

² The World Coal Institute is a global industry association comprising the major international coal producers and stakeholders (<http://www.worldcoal.org/resources/coal-statistics/>).

Table 2: Top Coal Importers (2010e) (million tons)

| | Total | Thermal | Coking |
|-------------|-------|---------|--------|
| Japan | 187 | 129 | 58 |
| PR China | 177 | 129 | 48 |
| South Korea | 119 | 91 | 28 |
| India | 90 | 60 | 30 |
| Taiwan | 63 | 58 | 5 |
| Germany | 46 | 38 | 8 |
| Turkey | 27 | 20 | 7 |

Source: *World Coal Institute*³

b) Australia's role in the world coal market

Australian exports have grown strongly in recent years and Australia is currently the world's second largest exporter of thermal coal.

Over the period 2004-05 to 2008-09, Australian exports of thermal coal grew at an average rate of 5% per year. This strong growth was largely a result of increased imports by South Korea, Japan and Taiwan, according to recent estimates by the Australian Bureau of Agricultural and Resource Economics (ABARE)⁴. China's imports of thermal coal grew strongly because of high domestic prices relative to the landed price of imports and high electricity demand.

Australian exports are expected to continue to grow in the near term in response to strong Asian demand (see Table 3).

Table 3: Thermal coal exports from Australia (million tons)

| | 2009 | 2010* | 2011* |
|---------------------------|-------|-------|-------|
| Australian exports | 139.1 | 142.4 | 158.0 |

*Predictions.

Source: *Australian Bureau of Agricultural and Resource Economics (ABARE)*

³ <http://www.worldcoal.org/resources/coal-statistics/>

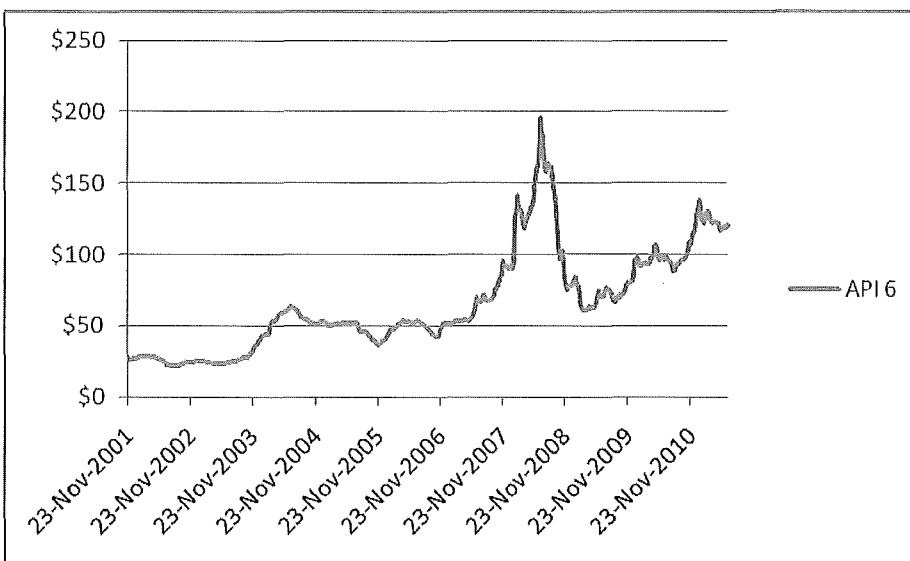
⁴ *Energy in Australia 2010*, Australian Bureau of Agricultural and Resource Economics (ABARE).

c) Australian coal export pricing

Until recent years, the majority of Australian coal was traditionally sold on a long-term basis with contracts ranging from one year in duration to multi-year arrangements. But the increased volatility in commodity prices experienced in recent years has led to a greater focus on market-related index pricing and on risk management.

In particular, the surge in coal prices seen in late 2007 and 2008 and the subsequent sharp contraction experienced during the global financial crisis (see table 4 below) created significant economic difficulties for buyers and sellers committed to long-term fixed-price contracts.

Table 4: Historic prices for the API 6 fob Newcastle (Argus/McCloskey) Marker (US\$ per ton)



The negative experiences associated with long-term pricing arrangements have led participants to move towards shorter term and index-linked contracts that correspond more closely with market conditions at the time of delivery.

The impact of the sharp rises and falls in coal prices in recent years has also led to a sharp upturn in interest in risk management from participants in the Asian coal markets. There is now active trade in over-the-counter swaps by participants in the Australian, Indonesian and Chinese coal markets.

The Exchange intends to provide trading and clearing services for swaps and options contracts based on this benchmark. CME Group has license arrangements in place with publishers of the API 6 fob

Newcastle (Argus/McCloskey) benchmark to reference this index for this purpose. Further details on the index follow.

d) Existing use of derivatives in the international coal market

The US and European coal markets have made use of derivatives for risk management for some time, but usage of derivatives is also becoming increasingly widespread in Asia, in part as a response to the fluctuations in price experienced in recent years.

NYMEX currently lists several coal swap futures on its trading floor and through the CME ClearPort platform, most of which have open interest:

Table 5: List of existing coal swap futures contracts on the NYMEX Trading Floor and CME ClearPort:

| | |
|-----|--|
| QX | CSX Coal (Platts OTC Broker Index) Swap Futures |
| QL | Central Appalachian Coal Futures |
| QP | Powder River Basin Coal (Platts OTC Broker Index) Swap Futures |
| MTF | Coal (API 2) cif ARA (Argus/McCloskey) Swap Futures |
| MFF | Coal (API 4) fob Richards Bay (Argus/McCloskey) Swap Futures |
| MCC | Indonesian Coal (McCloskey sub-bituminous) Swap Futures |
| MC6 | Indonesian Coal (McCloskey sub-bituminous 6,000 kcal basis) Swap Futures |

e) Formation of the API 6 fob Newcastle (Argus/McCloskey) benchmark

The API 6 (fob Newcastle) is an average of two assessments made independently by two well regarded international price reporting agencies, Argus Media and IHS McCloskey.

Argus and McCloskey are the two pricing agencies that are most widely used in the over-the-counter (OTC) market for pricing coal swap contracts, and the methodology that they utilize is well-known in the global coal industry.

The API 6 fob Newcastle (Argus/McCloskey) benchmark specifically represents the average of the Argus fob Newcastle assessment as published on Friday and McCloskey's fob Newcastle marker as published on Friday.

f) Argus methodology for Newcastle coal

For price assessments of the fob Newcastle, Australia physical market Argus regularly contacts Australian producers, buyers of Australian coal and international traders.

Argus makes separate averages for each type of these market participants to assist in making its final assessment. Argus also calculates a weighted average of reported transactions traded during the week for coal specified in the International Coal Prices table. These averages serve as guides to the prevailing market levels.

Argus constructs a weighted transaction average and an average of estimates from participants in the Newcastle market for its Friday report. This weekly assessment takes both elements into account and does not rely exclusively upon transactions to determine the index. This is to eliminate the possibility of manipulation of the index⁵.

g) About Argus Media

Argus describes its business as follows: Argus is a leading provider of price assessments, business intelligence and market data for the global crude oil, petroleum products, gas, LPG, coal, electricity, biofuels, biomass, emissions and transportation industries. It is headquartered in London, and has offices in Moscow, Washington, Houston, Calgary, Singapore, Tokyo, Beijing, New York, Kiev, Sydney, Astana, Portland, Johannesburg and Dubai as well as employees in other key locations including Germany, France, Nigeria, South Africa, Venezuela, Argentina and Chile. Argus was founded in 1970 and is a privately held UK-registered company, owned by its employees and the family of its founder⁶.

⁵ Please see the Argus Coal Daily International methodology handbook for further details:
http://www.argusmedia.com/~media/Files/PDFs/Meth/argus_coal_dailyint.ashx

⁶ Further details about Argus Media can be found here:
<http://www.argusmedia.com/pages/StaticPage.aspx?tname=About&pname=History>

h) McCloskey methodology for Newcastle coal

IHS McCloskey produces physical price assessments for all the major international seaborne traded coal hubs. The markers assess fixed price physical business for delivery or loading over a prompt three month period.

These markers are all compiled through a combination of physical market activity (transactions and bid/offer levels) and a survey of active market participants. This approach limits the ability of one party to determine the market through just one or two transactions. But also with volatility in the market increasing hugely over the last few years a concentration of trades at any one point over the period of investigation may skew the index if the market evaluation component is not used.

Each reported deal is thoroughly investigated and is corroborated in some form usually by more than one party. IHS McCloskey will exercise judgment after discussion with market players when assessing how to take into account confirmed deals which appear to be distressed or off-market, especially those trades that have transacted outside of the usual trading hours for the markets being assessed.

IHS McCloskey does not use freight netbacks from delivered CIF business to determine FOB values because the CIF and FOB markets often have different dynamics.

The IHS McCloskey Newcastle FOB marker is an assessment of the price of coal delivered into vessels at the capesize Newcastle port in Australia over a week.

The price is based on a standard Newcastle export quality steam/thermal coal c.v. adjusted to a 6,000kc NAR basis⁷.

i) About the McCloskey Group

IHS McCloskey is a leading source of news and analysis on the international coal industry. Known for providing valuable market information and insights, the group's suite of publications, including the McCloskey Coal Report, is recognized globally for accurate and reliable price reporting. Every day, many of the major deals in the international market are executed using McCloskey prices as a reference.

⁷ For further details please see the IHS McCloskey published methodology here:
<http://cr.mccloskeycoal.com/hybrid.asp?typeCode=21&pubCode=7&navcode=204>

McCloskey prices account for half of the API 2 (cif ARA) and API 4 (fob Richards Bay) international coal price benchmarks, which are the two most widely referenced coal benchmarks for global derivative trade.

McCloskey also hosts a number of highly regarded coal conferences throughout the world, and the consultancy practice continues to advise many of the world's leading producers and consumers on a wide range of issues.

j) Market Participants

There is a wide range of participants in the Australian coal market place. The following table highlights some of the more active participants.

| Brokers | Commercial | Banks |
|-----------------|-------------------|------------------|
| Ginga Petroleum | RWE Trading | JP Morgan |
| Tullett Prebon | Cargill | Deutsche Bank |
| Spectron | EDF Trading | Morgan Stanley |
| ICAP | Noble Group | Societe Generale |
| | Peabody | Goldman Sachs |
| | Trafigura | |
| | Vitol | |

ANALYSIS OF DELIVERABLE SUPPLY

1. OTC market⁸.

Coal is traded all over the world, with coal shipped huge distances by sea to reach markets. Over the last twenty years, seaborne trade in steam coal has increased significantly in line with the decline in coal production in Europe and the growth of demand in the Asian economies.

Overall international trade in coal reached 938 million tons in 2010; while this is a significant amount of coal it still only accounts for about 16% of total coal consumed. Transportation costs account for a large share of the total delivered price of coal, therefore international trade in steam coal is effectively divided into two regional markets – the Atlantic and the Pacific. The Atlantic market is made up of importing countries in Western Europe, notably the UK, Germany and Spain. The Pacific market consists of developing and OECD Asian importers, notably China, Japan, India, South Korea and Taiwan. The Pacific market currently accounts for about 70% of world steam coal trade. Markets tend to overlap when coal prices are high and supplies plentiful.

2. Proposed Position Limits:

The following point explains the analysis applied to develop the spot limits:

- Deliverable supply is based on the total export output for Australia as estimated by the World Coal Institute for 2010.

Australia is the world's second largest thermal coal exporter with total exports equaling 143 million tons in 2010. This equates to 11.9 million tons per month. Based on a 1,000 metric ton monthly contract, that implies total deliverable supply of 11,900 contracts in the expiration month.

Based on this figure, it is proposed that the spot position limit for the Coal (API 6) fob Newcastle (Argus/McCloskey) Swap Futures contract be set at 1,500 contracts, representing just under 13% of deliverable supply for the underlying markets.

⁸ The statistics are available at <http://www.worldcoal.org/resources/coal-statistics/>