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Registries remain closed as traders nurse legal headaches

Most national carbon registries will remain closed into a fourth week as the commission failed to make much progress in security checks to guard against the theft of carbon permits.

Just one registry- Portugal's- was given the green light to resume normal operations this week to add to the five cleared a week earlier by the commission after meeting minimum security requirements.

"Cooperation with national authorities is constructive and the commission expects several more reports to be submitted in the coming days," the commission said on Wednesday, although the executive had made no more announcements at the time of press.

A spokesman with the bloc's executive said earlier in the day that more registries could reopen this week following a three-week suspension after around 3.3 million EU allowances were stolen in a spate of cyberattacks.

Twenty-four of 30 European carbon registries have still to pass security checks following emissions permit thefts amounting to around €50 million. The registries of France, Germany, the Netherlands, Slovakia and the UK have resumed operations.

Some of the closed registries in large emitting nations were unable to comment or said they needed more time to test their security procedures.

A Polish spokeswoman said her registry's work on security procedures could take until next week to finalise with the commission.

Italy this week confirmed that 267,991 EUAs were taken from an Italian CO_2 registry account on 24 November, following news that Paris-based bourse Bluenext would not facilitate the transfer of the EU allowances, labelling them "questionable".

An official said hackers made of copy of the account-

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Manufacturers show mixed trading fortunes

Two large industrial ETS participants this week gave contrasting signals as to how big their surplus of carbon allowances will be for 2010.

Output among both the steel and cement producers was hit hard by the economic downturn across the bloc, but two financial reports highlighted the differing pace of recovery for the bloc's two carbon-intensive industrial sectors last year.

Steelmaker ArcelorMittal posted a 23 per cent year-on-year gain in shipments from its EU mills, while Heidelberg Cement said its sales dipped last year as stuttering construction markets were exacerbated by two severe cold snaps.

ArcelorMittal's European shipments totalled 40.2 million tonnes of steel in 2010, up from 32.6 million in 2009, according to data compiled by Point Carbon News.

The world's biggest steelmaker, which accounts for around 10 per cent of global steel output across four continents, said Europe's economic recovery helped lift demand. The group did not give a full breakdown of data for EU steel production, but said its total global output

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EUAs stick to tight range despite new supply

European carbon traded in a tight range during the five days that ended Thursday, with the December 2011 contract closing at €14.69, just a cent below where prices were on 4 February.

Prices hit a peak of €14.79 on Friday and a low of €14.53 on Tuesday – way below activity the week before, when EUAs hit a 10-week high and repeatedly breached €15.00.

Liquidity started to fade during the middle of the week, with traders citing an industry event in Essen, Germany, as the main cause.

Around 73 million EU allowances and 12 million certified emission reductions (CERs) changed hands over the five day period, markedly down on the 86 million EUAs and 20 million CERs that we dealt in the previous week. But despite the razor-thin trading range, carbon shrugged off some bearish pressure – holding firm in the face of weaker German power prices and increased EUA supply.

German power, which normally moves in line with carbon, fell to €51.55/MWh from €52.88/MWh on 3 February, while an additional 5.2 million EU allowances were sold by the EU's two biggest emitters following the reopening of the German and UK registries.

"Not much direction came out of UK auction, so I think the market is starting to settle into realisation that it might be rangebound for some time," said one trader.

"People are starting to give up on idea of a price breakout," he added.

But while spot trade resumed on two exchanges – Paris-based Bluenext and Leipzig-based EEX – following a two-week suspension, prompt dealing has been slow to react. Under 400,000 allowances have changed hands on the platforms since reopening on Friday, below the daily average of over 600,000 since the start of this year.

Meanwhile, in the secondary CER market, prices were also rangebound, although the benchmark CER contract softened 10 cents to €11.24 on 10 February, according to Point Carbon's OTC price assessment.

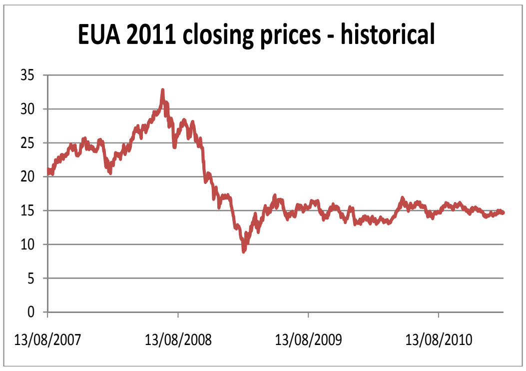
The move south came despite an ease-up in the frantic rate of issuance seen since the start of the year – which witnessed the UN dole out a record 50 million offsets over the month.

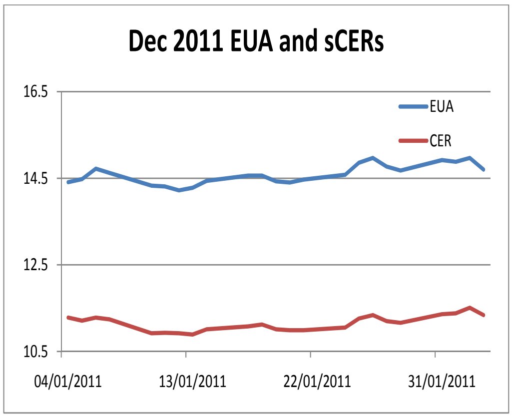
The spread between the EUA and CER contracts for delivery in December consequently widened to €3.45, 9 cents up on the €3.36 that it was pegged at on 3 February.

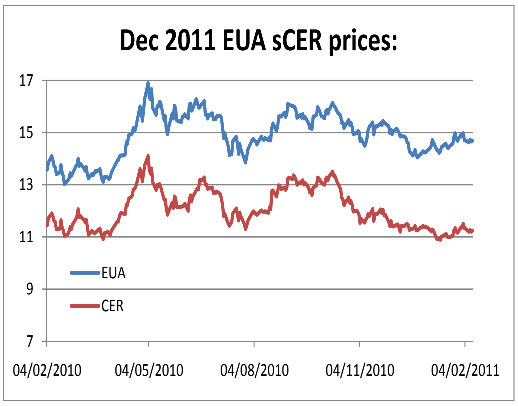
Point Carbon's closing prices and changes (€)

Delivery	EUA	+/-	CER	+/-	Diff
Spot	14.31	N/A	11.38	N/A	**2.93**
Dec-11	14.69	+0.01	11.24	+0.10	**3.45**
Dec-12	15.25	-0.02	11.10	+0.06	**4.15**
Dec-13	16.15	+0.03	N/A	N/A	**N/A**
Dec-14	16.99	+0.03	N/A	N/A	N/A

Quoted prices are euros per EUA/CER, at close of market 10 February, as assessed through Point Carbon's bid-offer-close methodology for the over-the-counter (OTC) market. Changes refer to the last issue of CME.
For methodology, see www.pointcarbon.com.







Registries remain closed as traders nurse legal headaches (cont.)

holders password to make the transaction.

The ministry had tracked allowances from the victim's account to a second Italian account, where they were immediately transferred to an account in the Liechtenstein registry and then on to the UK registry.

It is the second time in the past two weeks that stolen allowances have been tracked to the Liechtenstein registry.

Meanwhile, it emerged that EUAs stolen from Greek cement firm Halyps were channelled through the Czech registry. A block of 100,000 Greek-issued EUAs has appeared on a list of illegal transactions published by Czech registry operators OTE, Point Carbon News has uncovered.

Labyrinth

As authorities struggle to unpick the threads of the ill-gotten allowances and trace the criminals involves, a host of carbon market watchers said traders face years of uncertainty over whether stolen EUAs bought in good faith can be resold.

Industry lobby groups, banks and lawyers agree that the online thefts have created a labyrinth of legal complexity around who has ownership of stolen credits, particularly as these have been traded many times over.

This legal quagmire means banks - who buy and sell EUAs for pure profit in contrast to utilities that use them for compliance - could be saddled with millions of euros worth of untradeable permits.

"From what we are hearing from our members is (it) could take months, even years before the ownership of stolen credits is finally decided upon," said Henry Derwent, chief executive of lobbyist the International Emissions Trading Association (Ieta).

Barclays Capital, one of the biggest financial players in the EUA market, said that advice being given by lawyers will be unfeasible for many traders.

Even if stolen EUAs could be sold on, clients would expect a substantial discount for the perceived risk that the credits may eventually have to be handed back to the original owners, said Louis Redshaw, director of environmental markets with the bank.

"We are voting with our feet and steering clear of physically delivered EUAs for now. We will lose more money than we can make in this business," he added.

Lawyers who specialise in the European carbon market, worth €72 billion in 2010, said the main problem of ownership of emissions permits is the same as any other goods or property and is determined by national laws.

"It's a very complex issue to trace title to a stolen credit that may have passed through multiple legal systems," said Graham Stuart, a London-based partner with international law firm Baker & McKenzie.

Lawyers are advising that before selling on credits that may be suspect, traders should ensure they comply with all relevant anti-money laundering rules under national law, quarantine the EUAs, assess the traceability of legal title and examine their potential exposure to criminal offences such as handling stolen goods and fraud.

Buyers will also need to assess civil liability risks and contractual rights; and if in any doubt about the legal title, the buyer should consider whether to inform the original owner, if they can be identified, and ask it to assert its rights to ownership.

"Failure to do so risks creating the perception of dishonesty in the eyes of criminal and civil law," Stuart said.

Recovery unlikely

Companies that had credits stolen will find it tough to get their permits back as legal systems for every country in which the certificates were channeled will need to be referred to.

"It's unlikely that many of the stolen credits will be repatriated to the original owners," Stuart said.

An action by the original owners of credits would be complicated further if laws in some member states allow traders to keep credits if they had been bought in good faith, he added.

In some countries, such as the Netherlands, EUAs will always be valid for compliance, whether stolen or not, said Rutger de Witt Wijnen, a lawyer with Amsterdam-based firm De Brauw Blackstone Westbroek.

The Dutch registry would have to allow transfer of stolen EUAs if the buyer and seller could not tell if the credits were stolen, he added.

But the publication of serial numbers of misappropiated credits, originally intended to quarantine stolen EUAs from the wider carbon market, means traders have found it very difficult to sell the credits on, prompting a logjam in the spot market.

"Publication has, as far as I know, not solved any actual theft, it has just screwed up the EU ETS, so the policy should be don't ask, don't tell," De Witt Wijnen said.

With the prospect that legal cases to recover stolen credits would prove lengthy, costly and highly complicated, traders are putting pressure on the European commission - which administrates the ETS - to step in and impose some form of redress for the market.

Last week Ieta called on member states to develop a set of common rules and measures to protect participants from losses if they have exercised "all prudent measures" to prevent the theft of EUAs from registry accounts or to prevent the receipt of allegedly stolen allowances.

Manufacturers show mixed trading fortunes (cont.)

rose 26.5 per cent year-on-year to 90.6 million tonnes.

The upturn reversed heavy declines posted for 2009, which saw the company slash its global output 27 per cent amid sliding demand for its products in the face of the global economic downturn.

"Although 2010 continued to be a challenging year, as anticipated we saw a slow and progressive recovery which enabled us to deliver a substantially improved performance with 2009," said ArcelorMittal chairman and CEO Lakshmi Mittal.

Despite a mixed economic picture across European nations in 2011, ArcelorMittal said it expected a year-on-year growth in output this year.

The view is in line with the EU steel federation, which last week said it expected 4 per cent growth in demand for EU steel in 2011 and 2012 on top of last year's 24.6 per cent output growth.

ArcelorMittal said it booked $140 million (€103m) of profit from the sale of CO2 allowances in 2010, up from $108 a year earlier, and said it was re-investing the cash in "energy-saving projects."

The earnings from selling EUAs accounted for 1.6 per cent of the group's annual global earnings of $8.5 billion.

According to analysts Carbon Market Data, ArcelorMittal had the biggest corporate EUA surplus of any firm in 2009, emitting 45.6 million tonnes of carbon dioxide in the EU versus an allocation of 89 million allowances – almost 4.4 per cent of the 2 billion or so allocated each year.

Meanwhile, Heidelberg Cement said its sales of cement-based products fell 6.3 per cent in its western EU plants in 2010, while its eastern European plants (including some non-EU units) produced 9.8 per cent less.

The Germany-based cement company said 2010 sales of its cement-based products from its 40 plants in Europe and central Asia amounted to 33.97 million tonnes, down from 36.7 million a year earlier.

The lower volume is likely to widen the firm's surplus of carbon allowances required for compliance in the EU ETS, which requires permits to match pollution levels for 2010 to be submitted by the end of April.

In 2009, Heidelberg's ETS emissions totalled 18.4 million tonnes, which gave the firm a surplus of 5.3 million EUAs, according to Carbon Market Data.

The cement industry's emissions as a whole declined 20 per cent year-on-year in 2009, according to Point Carbon data, which groups cement firms with glass and lime producers.

The data shows the three sectors emitted 183 million tonnes of CO2 in 2009, compared to a free allocation of 262 million allowances- equivalent to around 13 per cent of the entire ETS allocation.

Emissions from individual cement plants can vary considerably based upon the type of production process and the fuel used, however, general estimates suggest around 0.8 tonnes of CO2 is emitted for every tonne of cement produced.

Denmark, UK want expansion of industrial gas offset ban

An industrial gas offset ban should be expanded to non-ETS sectors, Denmark and the UK say.

EU officials on 21 January agreed to ban most industrial gas offsets used in the EU ETS from 1 May 2013.

However, Denmark and the UK reckon the ban should be consistent with all member states' emissions targets for sectors outside of the ETS, particularly since the restrictions are applicable only to cap-and-trade operators.

"The decision taken by member states on the 21 January only applies to the emissions trading scheme. However, we recognise the need to be consistent across the board," a UK spokesperson said.

The ban, which still needs approval by the EU parliament, blocks the use of carbon credits generated from HFC 23 and adipic acid N2O projects.

These credits, which are generated from projects mostly located in China, India and South Korea, account for nearly 70 per cent of all certified emission reductions (CERs) issued by the UNFCCC to date.

Last month, however, Denmark's minister for climate change and energy Lykke Friis said the government would not use the credits from emission reductions generated after 2012 for compliance in the non-ETS sector.

Furthermore, the Scandinavian nation plans to scrap post-2012 CERs generated from HFC 23 projects in the government's portfolio.

"To my knowledge, Denmark is so far one of the few countries that have taken this decision and we encourage other EU member states to follow suit," the minister said in a statement.

EU law obliges the bloc to cut its greenhouse gas emissions 20 per cent below 1990 levels by 2020, and certain UN-backed emission offsets can be used to reach that goal.

This means companies covered by the ETS must collectively cut emissions 21 per cent below 2005 levels in 2020, while non-ETS sectors must deliver a 10-per cent cut.

Under an effort-sharing decision governing emissions from non-ETS sectors, each member state has agreed to a binding national emissions limitation target for 2020 which reflects its relative wealth.

In 2008, the non-ETS emissions from Germany, France, UK, Italy and Spain alone totalled 1.81 billion tonnes of carbon dioxide equivalent, or 61 per cent of all emissions from 30 nations taking part in the EU cap-and-trade scheme, according to data from the European Environment Agency.

A spokeswoman from France's environment ministry said the government had not yet made its position clear. Officials from Germany, Italy and Spain had not responded to questions or were not immediately available for comment.

"It would be somewhat paradoxical if member states, that decided to exclude these credits from the EU ETS based on environmental integrity, should find the same credits good enough to use for compliance against national targets," said Stig Schjolset, a senior policy analyst at Thomson Reuters Point Carbon.

Steelmakers, utilities scramble for EU CCS funding

At least 14 projects have applied for EU funding to build carbon capture and storage projects.

Industry lobby group the Carbon Capture and Storage Association (CCSA) said the projects had applied for cash that will be raised from the sale of 300 million EU allowances set aside for new entrants.

Scottish and Southern Energy, the UK's second-biggest power generator, said it had submitted a proposal to develop a project at its 385-MW gas-fired power station in Peterhead in Scotland, but the CCSA reckons at least seven UK schemes are in the running.

"It's extremely encouraging that so many have applied from the UK, where the resources to engineer this technology are very promising," said Jeff Chapman, chief executive of the CCSA.

Based on current carbon allowance prices, the 27-nation bloc could make around €4.5 billion to fund renewable energy and carbon capture and storage projects.

EU member states will decide which applications will go forward to the European commission, which will then decide on at least eight CCS projects to be eligible for funding that will pay up to 50 per cent of the start-up costs.

The technology collects greenhouse gases from fossil fuel power generation and buries them underground, but the expense of building the projects means governments will need to demonstrate whether the technology will be effective on a large scale.

According to the CSSA, the UK applications will be augmented by 2-4 requests from projects in the Netherlands, and at least one each in Germany, Poland, Spain.

But it's not just power companies that hope to secure the cash.

ArcelorMittal, the world's biggest steel company, said on Tuesday it had also applied for EU funding for its Florange plant in northern France.

The proceeds of the fund will be overseen by the European Investment Bank (EIB), but details have yet to emerge on how it will sell the allowances.

Besides financing at least eight CCS plants of various types, the identities of which could be decided by May, the sales could provide finance 34 renewable power schemes across the 27 member state bloc.

According to an EC document published at the end of December, Brussels said it expected 20 applications for CCS funding and 90 for renewable generation.

The UK government will next week publish the names of the contenders in its own CCS competitions.

The UK Department of Energy and Climate Change has two competitions to fund projects.

Scottish Power's Longannet project is likely to win a £1-billion competition to fully fund the start-up costs of a demonstration project, as it is the only applicant left after several companies withdrew from the competition last year.

Meanwhile, the UK has a second competition to fund three CCS projects, some of which will likely get funding from the EU scheme.

"Under the UK scheme priority will be given to projects that have already secured EU funding (through the NER300). That improves chances for success for these plants and is better value for the taxpayer," said a spokeswoman with Decc.

UK sets auction dates

The UK government will auction a further 17.5 million EU carbon permits this year.

An additional five auctions, each for 3.5 million EUAs, have been added to the 2011 schedule, the UK's Debt Management Office (DMO) said.

The auctions will be held on 9 June, 7 July, 8 September, 6 October and 10 November.

The UK also has one previously scheduled auctions, for 4.4 million EUAs, set for 10 March.

Some 73.6 million spot EUAs have been sold by the government in 17 auctions since November 2008 at an average price of €14.05 each, raising over £1 billion for government coffers.

The most recent auction was on Thursday, with 4.4 million units sold at €14.36 each, roughly in line with offer prices at the time on the Bluenext exchange.

The auction was almost seven times oversubscribed, despite fears earlier this week that bidder numbers would be down due to concerns the auction's agents, called primary participants, could replace the EUAs sold by the UK with units from their own accounts.

All nine primary participants pledged to Point Carbon

News that no EUAs received from the government would be replaced with others prior to delivery.

The UK government converts Kyoto protocol emissions rights, called assigned amount units (AAUs), directly into EUAs, meaning they have not been in circulation or issued to any operator previously, a spokeswoman for the UK's Department of Energy and Climate Change (Decc) told Point Carbon News.

But the auction agents are under no obligation to deliver to the winners the same EUAs passed to them from the government, meaning the permits could technically have been switched with those from other countries, some of which may have been involved in alleged thefts.

Most of the missing permits have yet to be returned to the affected firms, meaning the EUAs could still be in circulation.

"Whatever we receive from the DMO, we pass on to the client," said an emissions trader at one of the banks, who requested anonymity.

The nine auction agents include Bache Commodities, Bank of America Merrill Lynch, Barclays Capital, BNP Paribas, Credit Agricole, Credit Suisse, Deutsche Bank, JP Morgan and Morgan Stanley.

Bulgaria returns to international carbon trade

Bulgaria has regained eligibility to transfer carbon credits and permits after a seven-month ban.

The decision, made by a UNFCCC compliance committee at a 3-4 February meeting in Bonn, allows Bulgaria to transfer greenhouse gas emission rights internationally under the Kyoto protocol and the EU cap-and-trade scheme.

Bulgaria was suspended from international carbon trade on 28 June 2010 due to the country's breach of Kyoto protocol reporting rules.

In October, however, a UN mission visited Bulgaria and found the country was making progress on its emissions record and had no outstanding issues to prevent its Kyoto rights from being reinstated.

Still, the suspension created "major problems" for some 130 firms taking part in the EU emissions trading scheme by preventing them from selling any surplus CO_2 permits, the ministry said.

Last year, Bulgaria's emissions covered by the EU emissions trading scheme were forecast at 34.3 million tonnes of CO_2, compared with an overall cap of 35.1 million, according to Point Carbon data.

Meanwhile, the suspension was an obstacle to government plans last year to sell part of its total Kyoto protocol surplus of around 200 million emission rights.

EU weighs options for land use, forestry

The EU is weighing options to regulate greenhouse gas emissions from land use and forestry.

One option is to develop a separate mechanism that deals specifically with land use, land-use change and forestry (LULUCF), preferably with a sector target of some sort – a proposal favoured by many environmental groups.

Other options include the integration of LULUCF with existing EU climate policy – either in the regional emissions trading scheme or non-ETS sectors, such as transport, housing and agriculture.

Either way, any proposal must be backed by strict accounting rules to ensure any emission increases from forest and land use aren't ignored, observers said.

"Genuine and additional mitigation should be rewarded, but it should be ensured that accounting rules are clear, strict and transparent," Ulrikka Aarnio, senior policy officer at Climate Action Network Europe, told Point Carbon News.

Emissions and removals of greenhouse gases in LULUCF are currently not part of the EU's 2020 goal to cut emissions at least 20 per cent below 1990 levels by 2020.The commission intends to publish a communication in June 2011, which could be accompanied or followed by a legislative proposal.

Greek Kyoto surplus grows amid economic crisis

Greece's emissions fell 5 per cent year-on-year in 2009 to increase the country's AAU surplus.

The Balkan nation's emissions totalled 122.4 million tonnes of CO_2 equivalent in 2009, down 6 million tonnes on the previous year, preliminary data submitted to the European Environment Agency shows.

Emissions for both years were below Greece's targeted Kyoto level, which allowed the government to book a surplus of 27 million AAUs, according to Point Carbon News calculations.

The government's surplus, which could be worth tens of millions of euros, contrasts with the country's pre-recession expectation it would need to buy credits to comply with its Kyoto cap.

Under Kyoto, Greece is allowed to increase its emissions by up to 25 per cent over 1990 levels between 2008 and 2012. The 27 million AAU surplus, which is an adjusted figure taking into account the effect of the EU ETS and Greece's reforestation measures, will likely swell further over the next two years, as the country's economic contraction is expected to continue.

Guest Commentary

The road to South Africa

By Liz Bossley, CEO, Consilience Energy Advisory Gruop (CEAG)

International negotiators may wish to consider a new idea for a global climate deal starting in 2013.

Countries including China, India, Russia and the Ukraine might form a new category in the UNFCCC, perhaps called Annex III, that are treated differently from either developed and lesser developed countries. These countries would be committed to mitigating actions that are 'nationally appropriate' for them.

These new Annex III countries might express their Copenhagen pledges as a legally binding quota of clean development mechanism (CDM) projects. Failure to fill the quotas in a commitment period would result in an obligation on the part of the Annex III defaulter to make up any shortfall by surrendering its own CERs generated from CDM projects or by buying secondary CERs, ERUs or AAUs in the international market.

As a result of the Copenhagen accord, China agreed to cut its emissions intensity by 40-45 per cent by 2020 compared to 2005 and India agreed to cut intensity by 20-25 per cent by 2020 compared to 2005. Both countries also appeared willing to make these commitments legally binding and subject to independent verification, provided that other countries, particularly the US, do their part in cutting their own emissions and financing the green climate fund. Russia offered to cut its absolute emissions by 15-30 per cent below 1990 levels by 2020 and Ukraine 20 per cent below 1990 levels by 2020.

For China and India, this represents a pledge to cut emissions per unit of output. The Russian and Ukrainian pledges are arguably worth very little. Not only are these two countries already emitting below their Soviet era 1990 levels, they both have a surplus of AAUs from the 2008-2012 period to carry forward for use in the second commitment period.

Given these unchallenging Russian and the Ukrainian pledges and given that these two economies will grow, a commitment by them to cut carbon intensity could achieve more than their current offer of absolute cuts. A condition for re-classifying Russia and the Ukraine as Annex III countries could be that they cancel their AAU surplus. This may have to be bought with a reduced commitment from these two countries to contribute to the green climate fund.

The CO_2 intensity pledges of Russia and the Ukraine would have to be at least as robust as those of China and India and calculated by the same methodology.

Transposing pledges to cut carbon intensity into a quota expressed as X per tonne of carbon dioxide equivalent could be done in one of two ways:

1.The quota could be based on the country's carbon intensity and actual GDP in 2005, compared with its pledged percentage reduction in carbon intensity and its forecast GDP for the relevant period; or,

2.The quota could be based on the country's carbon intensity and economic output for a range of targeted sectors in 2005. At the end of the commitment period the quota could be calculated by comparing the actual 2005 output and carbon intensity for those sectors with the pledged carbon intensity and actual economic output of those same sectors during the commitment period in question. The minimum retroactive calculation of the quota could be set at zero.

The increased CDM project pipeline that this approach implies would add to the total supply of CERs in the market as both Annex III and non-Annex I countries seek investors in CDM projects. It would also boost CER demand because Annex III countries would become potential buyers of CERs from non-Annex I countries.

The promise of an increased flow of primary CERs could be used to reassure developed Annex I countries that they could agree to more stringent caps for themselves without the risk of economically damaging emissions prices.

Inevitably primary CERs issued to investors in CDM projects would remain theirs to sell in the market as a reward for their investment. But they could be taken into account by the UNFCCC in assessing whether or not an Annex III country had fulfilled its CDM quota.

Such a quota would ensure that the economic growth of Annex III countries was as green as possible. Furthermore performance against the quota would be independently verified in the same way as any other CDM project.

This idea has been outlined in a paper by Consilience to the UNFCCC Joint Implementation Network (see http://www.jiqweb.org/images/stories/JIQmagazine/2010Dec.pdf)

Do you want to write a guest commentary for Carbon Market Europe? Contact news@pointcarbon.com.

Offices

Oslo
Point Carbon
Akersgata 55, 3rd floor
P.O. Box 7120 St.Olav
N-0130 Oslo, NORWAY
contact@pointcarbon.com
Phone: +47 22 40 53 40
Fax: +47 22 40 53 41

Kiev
Point Carbon Kiev
3 Sportyvna Ploscha
Entrance IV, 4th floor
Olymp Business Center
01601 Kiev, Ukraine
kiev@pointcarbon.com
Tel: ++38 044 499 0308
Fax: +38 044 499 0309

Tokyo
Point Carbon representative
2-3 Kandanishiki-cho
Chiyoda-ku Tokyo
101-8443 Japan
tokyo@pointcarbon.com
Tel: +81 80 3170 0094
Fax: +81 3 3365 5586

Washington D.C.
Point Carbon North America
1200 First Street, NE; Suite 310
Washington, DC 20002
washington@pointcarbon.com
Phone: +1 202 289 3930
Fax: +1 202 289 3967

Malmö
Point Carbon Malmö
Östra Förstadsgatan 34
212 12 Malmö, Sweden
contact@pointcarbon.com
Phone: +47 22 40 53 40
Fax: +47 22 40 53 41

London
Point Carbon London
Second Floor
102-108 Clerkenwell Road
London, EC1M 5SA
United Kingdom
london@pointcarbon.com
Phone: +44 (0)20 7253 7878
Fax: +44 (0)20 7253 7856

Beijing
F2 Central Tower
Chemsunny World Trade Center
28 Fuxingmennei Street
Xicheng District
Beijing 100031
People's Republic of China
Tel: +86 10 6627 1288
Fax: +86 10 66013858

Carbon Market Europe
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Editorial enquiries
Ben Garside
bg@pointcarbon.com
Tel: +44 207 017 2872

Sales enquiries
Lee Tumelty
lt@pointcarbon.com
Tel +47 22 40 53 64
Fax +47 22 40 53 41

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