



Price Formation in Commodities Spot and Futures Markets

Prospectus for a CEPS/ECMI Task Force

Chair: *Ann Berg* (UN-FAO)

Rapporteurs: *Christian Egenhofer & Diego Valiante*

First meeting: September 30th (Brussels) – 10.30-16.30h



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Introduction

The European Capital Markets Institute (ECMI) and the Centre for European Policy Studies (CEPS) propose to set up and run a Task Force on the assessment of price formation mechanisms in selected commodities spot (physical) and future markets. ECMI and CEPS wish to engage European regulators, industry and other stakeholders in an international debate on the various aspects that affect the pricing of commodities and derivative financial instruments. This proposed initiative aims at giving voice to market participants, international experts, academics and regulators.

The ongoing regulatory reforms and the new global and European supervisory architecture represents an opportunity to engage in discussion among market participants, decision-makers and other stakeholders.

The proposed Task Force will evaluate recent academic studies and regulatory reports and discuss a set of recommendations/conclusions. Analyses and recommendations will be included in a final report issued in the first quarter of 2012, which will be promoted by ECMI and CEPS at EU and international level. European and national regulators (e.g. European Commission, ESMA, etc.) will be actively involved in the Task Force meetings with the remit to provide constructive support to the policy-making process. A final event in one or more European locations will launch the report with the participation of the European institutions and the media.

ECMI and CEPS can provide high-quality and independent expertise to support the drafting of the final report (see the section on 'Guidelines of the Final Report'). The subject of the proposed Task Force requires a team with proven capacity to cover legal, regulatory and economic issues, and translate the results of the empirical work into a meaningful framework for policy action. Accordingly, we propose a multidisciplinary research team led by two Rapporteurs with acknowledged expertise in energy and financial markets economics and regulation to support the Task Force group, which is expected to be composed in large part by market practitioners, academics, regulators and independent experts. In addition, both ECMI and CEPS will use their wide network of contacts to reach out to relevant actors within the European and international institutions (e.g. European Commission, IOSCO, etc.). In order to enrich the content of the discussions and the Final Report, member states' financial authorities and academics will be invited to contribute as well.

This prospectus is structured as follows. Section 1 describes the background to the Task Force and presents the main topics that we anticipate being relevant for discussion in the coming months. It also highlights the aspects that the Commission is currently looking at.

Section 2 illustrates the main objectives of the Task Force.

Section 3 describes the provisional content (subject to change) and purpose of each of the meetings in which the Task Force activities will be divided, in line with the Final Report guidelines. In addition, the third section describes the methodology that will support the drafting process of the final report, which will also issue a set of conclusions/recommendations for policy-makers.

Section 4 gives a brief description of the ECMI/CEPS research team that will support the activities of the Task Force.

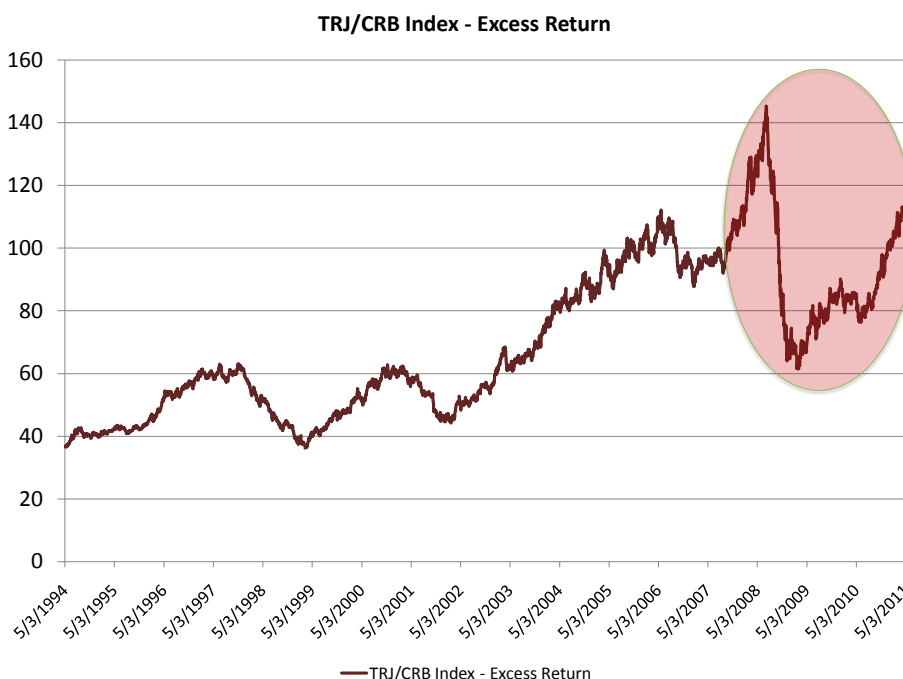
Section 5 contains a description of the fee to participate in this prestigious Task Force. Discounted fees will be offered to CEPS and ECMI members only.

1. Why a CEPS/ECMI Task Force on ‘commodities’?

A commodity is “an intermediate good with a standard quality, which can be traded on competitive and liquid global physical markets” (Clark et al., 2001, p. 3). Commodities are, for example, crude oil but also oil products such as heating oil or petrol, agricultural commodities such as wheat, corn or raw materials, e.g. gold, iron and so on. Each commodity has its own characteristics, e.g. product properties, availability, transportability, production and storage processes, substitutability, concentration of producers/end-users, the nature of the value chain and more. In addition, some commodities such as agricultural commodities are renewable and therefore have seasonal price swings. This variability of characteristics affects the way they are traded and distributed. This means that price formation mechanisms are very different. Nevertheless, despite these differences, commodities in a generic sense are often treated as being homogeneous. The first objective of this CEPS/ECMI Task Force is to highlight key differences as well as similarities of ‘commodities’. Following from this first analytical step, the Task Force will attempt to identify ‘market imperfections’ and – to the extent possible – potential instruments to address these challenges.

2. Why such a Task Force now?

Commodity markets attracted a great deal of attention both during and after the financial crisis. Highly volatile and soaring price patterns, particularly when it comes to food prices, have created economic uncertainty and contributed to political instability in some emerging countries. This situation comes at a critical moment when the European and US economies are struggling to regain the ground lost as a result of the recent financial crisis. Climbing prices and erratic price trends in many commodities (especially food and some raw materials) are mounting worries for both policy-makers and the public that considers unthinkable, the prospect that after the amount of resources dedicated to rescuing the financial system from its own troubles, they are now being squeezed by spending cuts and volatile commodity prices trends. This has triggered a lively debate on the need to regulate commodity trade and if so, how.



The French G-20 Presidency has already declared its intention to draw more attention to commodity prices volatility at the next G-20 meeting (Cannes, 2-3 November 2011). This action goes hand-in-hand with the statement of the G-

20 Pittsburgh summit, which pointed to the need “to improve the regulation, functioning, and transparency of financial and commodity markets to address excessive commodity price volatility”.¹

In February 2011, the Commission issued a communication on raw materials.² The communication documents the major surge in global demand and considers the multiple factors that influence commodity prices, such as derivatives trading, sustainability and competition dynamics.

Three important regulatory proposals are coming up for commodities in Europe: the European Markets Infrastructure Regulation (EMIR),³ a Regulation on Energy Market Integrity and Transparency (REMIT),⁴ and the revision of the Markets in Financial Instruments Directive (MiFID, Dir. 2004/39/EC; with the removal of current exemptions).⁵ Other regulations such as the Market Abuse Directive (MAD, Dir. 2003/6/EC) may directly or indirectly apply to physical and future commodities markets. In addition, it is likely that allowances (EU Allowances – EUS) under the EU Emission Trading Scheme (ETS) will be classified as MiFID ‘financial instrument’ (Annex I Section C, MiFID).

3. Scope

The Task Force will focus both on spot and future commodities markets, including OTC commodity derivatives. Therefore, the Task Force will focus on those commodities that have already liquid and large markets. Three categories of commodities can be identified. At this stage we suggest to pick few commodities from energy (e.g. crude oil as the largest traded commodity), agricultural/food (e.g. wheat, EU corn, sugar and oil seeds), raw materials and base metals (e.g. copper). Ideally the chosen commodities will have common generic features that will allow us to draw conclusions for more than one commodity. Note that the Task Force will not be able to cover all currently traded commodities but will need therefore to make a selection. Ultimately, it is up to the Task Force to make a final choice (at the first meeting) of commodities to be examined.

4. Objectives

The Task Force activities engages participants in the international debate on the discussion about commodities in order to promote these objectives. It will attempt to :

- ✓ Identify and assess the multiple factors that influence price formation in commodities markets based on independent analysis, fully transparent to stakeholders;
- ✓ Create a forum for discussion of regulatory reforms and market developments – involving regulators, industry, international experts and other relevant stakeholders;
- ✓ Classify, discuss and assess possible EU and international (regulatory) actions on commodities markets; and

¹ See Pittsburgh summit document (www.pittsburghsummit.gov/mediacenter/129639.htm).

² See European Commission, COM(2011) 25 (http://ec.europa.eu/enterprise/policies/raw-materials/files/docs/communication_en.pdf).

³ See European Commission, COM(2010) 484 (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0484:FIN:EN:PDF>).

⁴ See European Commission, COM(2010) 726 (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0726:FIN:EN:PDF>).

⁵ No legislative proposal is available yet but the Commission has recently consulted market participants, the consultation paper is available at http://ec.europa.eu/internal_market/consultations/docs/2010/mifid/consultation_paper_en.pdf

- ✓ Formulate and weigh policy options to be presented to European Commission, European Parliament and member state authorities.

ECMI and CEPS will lead the drafting of the Final Report and recommendations to keep high-quality standards and the independence of the rapporteurs, in line with the guidelines in section 6 below. The report carried out by the rapporteurs may not necessarily express the views of all participants, who may not agree with every conclusion in the Report (see guidelines below).

An experienced, well-reputed Chair, will give direction and reinforce the profile of the Task Force (see annex 1).

5. Work Plan and Methodology

Task Force meetings will be held at CEPS and ECMI offices in Brussels. At least five closed-door one-day meetings will be held before the launch of the final report in the first half of 2012, which will be promoted through a series of events with the participation of regulators, media and international experts.

The activities of the Task Force will work through the following aspects for each commodity:

1. Trading practices and financialisation (fundamentals, links between future and spot markets, trade transparency, storage factors, price reference indeces, hedging practices, settlement arrangements, etc.);
2. Competition and market structure (supply and distribution bottlenecks, anti-competitive practices, transport costs, storage constraints, exogenous shocks, etc.);
3. Market abuse and surveillance (accountability of market participants, market transparency, access to information, information-sharing, analysis and type of information, powers to fight market abuses, sanctions, etc.); and
4. Sustainability of current supply and demand (emerging markets demand, etc.).

The Task Force meetings will respectively tackle these four issues for each set of commodities (energy, agricultural commodities and food, raw materials, etc.).

Among other topics, most notably, the interaction between fundamentals and financialisation will be a crucial issue to be investigated by the Task Force. In particular, the TF should examine the impact of growing flows of capital by investment funds into commodities markets on price formation mechanisms across diverse commodities.

Proposed Tentative Schedule for Task Force Meetings (subject to change)

| | <i>Date*</i> | <i>Time</i> | <i>Provisional content</i> |
|------------------|---------------------|---|--|
| Meeting 1 | 30 Sept 2011 | 11.45 - 18.00 (lunch 13.45-15.00) | <ul style="list-style-type: none"> ✓ Chair's opening remarks ✓ Roadmap and scope of the TF: Where do commodities markets stand? (Presentation by Diego Valiante) ✓ How could the work of this Task Force (TF) be useful to policy-making in Europe? (Presentation by European Commission) ✓ Discussing the terms of reference, scope and guidelines as defined in this prospectus ✓ Energy commodities: trading practices and financialisation, competition and market structure issues ✓ Members' presentations ✓ Agreeing on the agenda and dates for next meetings |

| | | | |
|----------------------------------|---|---|--|
| | | | (Member presentations and guest invitations) ✓ Wrap-up of the meeting's conclusions and terms of reference (Chair) |
| Meeting 2 | 21st Oct 2011 (TBC) | 10.30 - 16.45 (lunch 13.00-14.00) | ✓ Chair's opening remarks (main points from the last meeting) ✓ Introductory presentations (e.g. ECMI/CEPS, regulators) ✓ Energy commodities: sustainability of global supply and demand, market abuses and surveillance ✓ Members' presentations ✓ Wrap-up of the meeting's conclusions (Chair) |
| Meeting 3 | November 2011 | 10.30 - 16.45 (lunch 13.00-14.00) | ✓ Chair's opening remarks ✓ Introductory presentations (e.g. ECMI/CEPS, regulators) ✓ Raw materials: trading practices and financialisation, competition and market structure ✓ Wrap-up of the meeting's conclusions (Chair) |
| Meeting 4 | December 2011 | 10.30 - 16.45 (lunch 13.00-14.00) | ✓ Chair's opening remarks ✓ Introductory presentations (e.g. ECMI/CEPS, regulators) ✓ Raw materials: market abuses and surveillance, sustainability of global supply and demand ✓ Members' presentations ✓ Wrap-up of the meeting's conclusions (Chair) |
| Meeting 5 | January 2012 | 10.30 - 16.45 (lunch 13.00-14.00) | ✓ Chair's opening remarks ✓ Introductory presentations (e.g. ECMI/CEPS, regulators) ✓ Agricultural commodities and food: trading practices and financialisation, competition and market structure ✓ Members' presentations ✓ Progress of the Final Report (further Members' contributions) ✓ Wrap-up of the meeting's conclusions (Chair) |
| Meeting 6 | February 2012 | 10.30 - 16.45 (lunch 13.00-14.00) | ✓ Chair's opening remarks ✓ Introductory presentations (e.g. ECMI/CEPS, regulators) ✓ Agricultural commodities: market abuses and surveillance, sustainability of global supply and demand ✓ Members' presentations ✓ Approval of a draft outline for the Final Report ✓ Wrap-up of the meeting's conclusions (Chair) |
| Final Meeting (if needed) | March 2012 | 10.30 - 16.45 (lunch 13.00-14.00) | ✓ Further issues to be discussed ✓ Members' presentations ✓ Review and approval of the final outline of the report and open discussion |
| Launch Event(s) | End of Q2 2012 | To be defined | Presentation of the TF findings and recommendations and collection of responses from industry, regulators and other stakeholders. Open debate and press release. |

*Dates and times can be subject to change, prior to approval of the Task Force Group.

ECMI and CEPS research staff will work closely with the TF members, following three general phases of the project. The first phase will consist of:

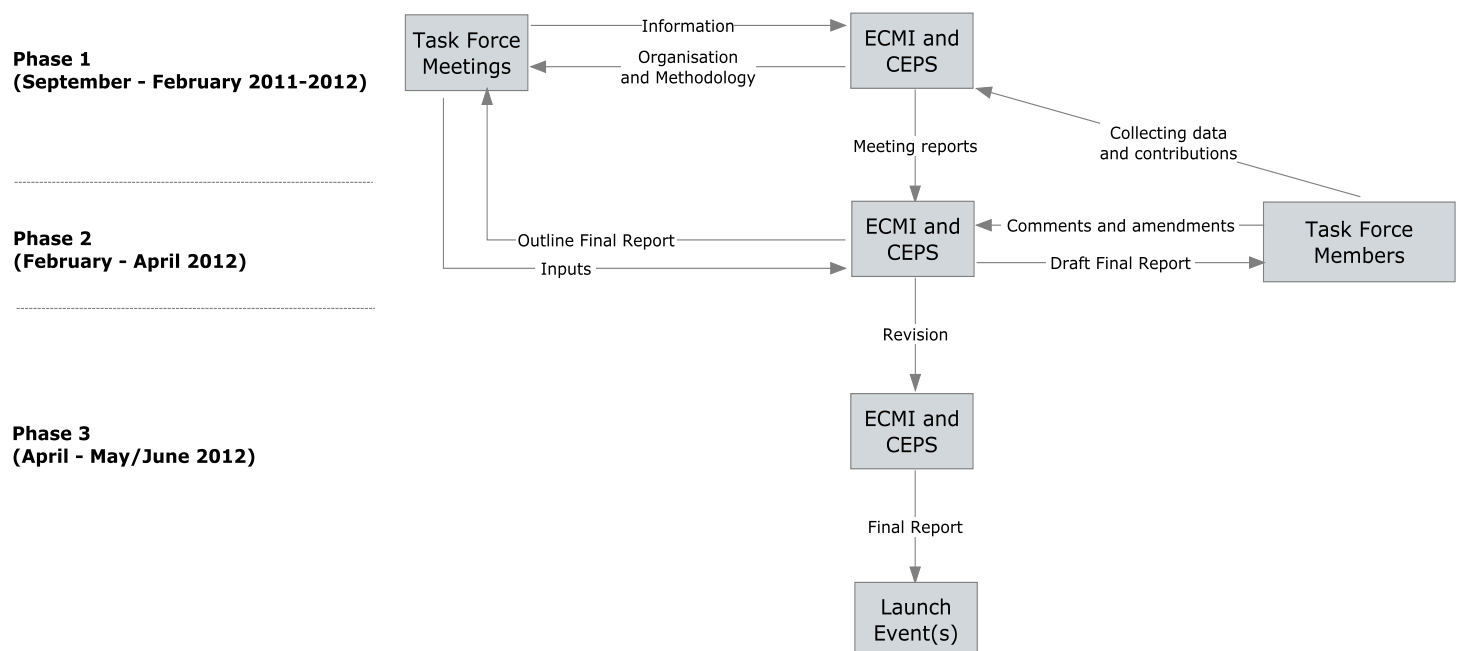
- Organising meetings and defining methodology and terms of reference
- Drafting meeting reports

- Collecting data and contributions from TF members
- Requesting active participation from TF members and international experts with presentations at each meeting

The second and third phases will contribute to the Task Force by:

- Drafting the Final Report
- Engaging with TF members to discuss amendments and comments to the draft Final Report
- Organising the launch event(s) and ensuring media coverage

Figure 1. The 3 work phases of the Task Force

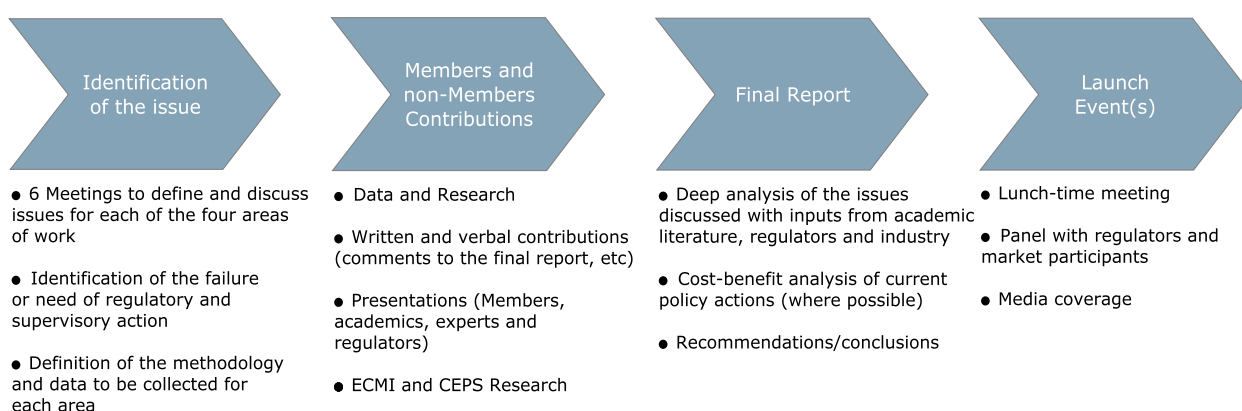


6. Guidelines of the Final Report

- ✓ The Final Report will describe the main topics discussed by the Task Force in a factual and objective manner. It will include data and references to academic literature, industry and regulatory reports that are considered 'material and relevant' by the Rapporteurs and in line with these guidelines. The rapporteurs will indicate if data or references are questioned by members of the Task Force and if so why. They will aim to present a balanced and well documented set of facts allowing the reader to rely on this data and information as much as possible.
- ✓ The Final Report will seek to clearly and accurately articulate the recommendations/conclusions that emerge from the Task Force discussions, and will not expressly include personal views of the Rapporteurs, who will lead the drafting process. The rapporteurs will also make sure that the content reflects these guiding principles and the input provided by TF members (where possible and in line with their mandate to remain independent and achieve a balanced work). Members will be given sufficient time to comment on each version of the draft Report.

- ✓ For a recommendation to be included, at least a 'broad agreement' among segments represented in the Task Force must be reached. 'Broad agreement' and 'broad consensus' do not necessarily mean unanimity of views. If a segment of the Task Force disagrees with the majority, the report – at the Rapporteurs' discretion – may reflect the other view(s) as well in the text, presenting their arguments in a fair and proper way. On some topics, the balance of the views may be such that there is actually no clear 'broad agreement' or 'consensus' and the report then has to note that there are differing views and explain them. This situation may imply that there is no grounds for a recommendation but perhaps only a general conclusion about the disagreement. In such cases, the report will seek to identify the points related to the topic where there is some agreement (e.g. a common understanding of facts, a general consensus on what the policy options are) so as to provide a constructive basis for discussion to the reader of the Final Report.
- ✓ In principle, members of the Task Force represent their institutions, but they are always invited to provide input as experts. Views should be appropriate for the market as a whole, as this will increase the likelihood that the final work will be considered relevant by the European Commission and other international organisations/institutions.
- ✓ The Final Report will be a delicate exercise in balancing different positions and at the same time trying to keep together all relevant issues on the agenda. The conclusions/recommendations of the group will be added at the end of each relevant section, as defined in the outline of the report, as well as summarised at the end of the Report. The main sections will provide explanatory and background information to give the reader an understanding of the issues on the agenda and the benefits and costs of the recommendations and policy options on the table.
- ✓ Members will be asked to review and comment on the draft Report and to provide inputs both before the draft report is circulated and afterwards. To facilitate the review process, the Rapporteurs will discuss with the group in advance a draft outline of the Report and will circulate a draft of the sections of the Report in successive batches starting from a few days after the last meeting.
- ✓ The final report will be gradually circulated by sections and members will be given ample time to comment on each section and provide further input. A complete final report will be sent out for final comments at the end of this process, roughly 30 working days after the last meeting. Dates and times are indicative and may be subject to changes in line with the needs of the Task Force and the Rapporteurs. The Final Report is expected by the end of Q2 2012.

Figure 2. Methodology for the final report



The final report aims at:

- i) Shedding light on linkages between spot and future markets;
- ii) Explaining the multiple factors that affect price formation processes in commodity spot and futures markets;

- iii) Classifying current policy options (with a cost-benefit analysis, where possible) and proposing new solutions;
- iv) Linking these options to the existing market structures and their future sustainability;
- v) Assessing the impact of those policies on market participants;
- vi) Identifying market and regulatory failures and recommending potential solutions; and
- vii) Proposing clarifications and sound legal definitions where needed.

Members will find all materials presented and discussed during Task Force meetings and meeting reports freely available for download from a private website created solely for this purpose. Access details will be provided after the first meeting on a confidential basis. It is important that the information circulated during the meetings remains completely confidential to ensure frank and open exchange of views.

7. Research Team

The Rapporteurs of the Task Force will be **Diego Valiante** and **Christian Egenhofer**, with his team of energy and climate change specialists (see biographies in Annex 1).

The main aspects that define ECMI and CEPS expertise are the following:

- *Multidisciplinary nature of the work.* Any Task Force report is likely to require expertise that goes beyond the direct focus of the assessment to be performed. A report on commodities markets will require competence in the assessment of the economic and legal impact of regulatory reform, which in turn may require skills in the quantification and analysis of impacts that are only indirectly related to the policy proposals at hand. ECMI and CEPS unite a team of experts in all the fields relevant to this proposal (economic, legal and cost-benefit analysis). Moreover, ECMI and CEPS propose that all relevant dimensions are duly taken into account with the involvement of the European Commission, Parliament and member state authorities.
- *Quality.* Despite growing attention for *ex-ante* and *ex-post* assessments of policy options, there is still a fairly limited number of academics and practitioners who have devoted significant effort to this complex policy field. ECMI and CEPS offer some of the most authoritative experts in this field, including scholars and market practitioners who have significantly influenced the debate over the past years. In particular, the European Capital Markets Institute has a track record in research in EU capital markets, including commodities.
- *Reliability and timeliness.* ECMI and CEPS have published numerous Task Force reports in the past years, which have proven in some cases to be highly instrumental in the policy-making processes of the European institutions.⁶ In addition, ECMI and CEPS have shown a remarkable ability to respond to requests for studies and reports by EU institutions, including the European Commission. In particular, our team has amply demonstrated the ability to timely deliver research and studies at European level. The structure of our organisation and our work is explicitly designed to provide timely and high-quality research that makes a constructive contribution to the international debate.
- *Geographical reach.* Based in Brussels, ECMI and CEPS also have a longstanding experience in the performance of studies that require an extensive geographical reach, covering the EU27 and beyond. This is due to a number of factors: i) ECMI and CEPS have a very international team of researchers from almost all

⁶ Please visit our websites www.ceps.eu and www.eurocapitalmarkets.org for a list of relevant Task Force reports that CEPS and ECMI have published in the recent years.

EU member states; ii) ECMI and CEPS coordinate several large networks of policy specialists, who can be drawn upon to support the Task Force work and the drafting process; and iv) ECMI and CEPS have created in recent years a major database and network of contacts across Europe, which give them a competitive advantage over other research centres.

8. Costs

Participation in the Task Force is subject to a discounted fee for ECMI and CEPS members, and to a full fee for non-members. Discounted fees will be considered for non-members if they decide to become a member of ECMI and/or CEPS.

The fee covers: ECMI and CEPS research, organisational costs, launch event, documentation, lunch during meetings, editing and printing costs of the final report (3 printed copies for each Member). Members' travel and accommodation costs are not included. Upon request, ECMI and CEPS will mail additional copies of the final report to Members, at their expense.

| Fee Structure | |
|-------------------------------|---|
| ECMI Members | €2,000 (+21% VAT, if applicable) |
| CEPS Corporate Members | €2,000 (+21% VAT, if applicable) |
| Non-Members | €7,000 (+21% VAT, if applicable) |

To join the Task Force Group, please fill out the reply form at the end of this document and send it back to the address indicated on the form.

* If you have any questions regarding the Task Force, please contact:

Dr. Diego Valiante
 Research Fellow (ECMI/CEPS)
 Tel: (32.2) 229 39 14
 GSM: (32) 489 27 25 97
 Fax: (32.2) 201 46 89
 e-mail: diego.valiante@ceps.eu

Christian Egenhofer
 Senior Research Fellow (CEPS)
 Tel: (32.2) 229 39 60
 Fax: (32.2) 201 46 89
 e-mail: christian.egenhofer@ceps.eu

To register, please use the registration form (below).

Annex 1. Biographies

Chair

Ann Berg (US) is a leading expert in commodities, commodity futures, and food security issues. In a career that spans over 35 years, she began as a grain exporter - engaging in shipping, hedging, arbitrage, cost/risk analysis, and physical swaps. In 1982, she became a member of the Chicago Board of Trade and operated as an independent futures trader for 18 years. She was twice elected to the Board of Director of the CBOT and served on the Executive Committee of the National Grain Trade Council in Washington DC. She has advised foreign governments, the United Nations Food and Agricultural Organization (Rome), the United Nations Conference on Trade and Development (Geneva), Catalyst Institute (Chicago), and multinational and foreign corporations on a variety market related issues. Since 2000, Ms. Berg has served as an arbiter for the North American Export Grain Association. She has worked on commodity/capital markets projects in Turkey, Puerto Rico, United Arab Emirates, Canada, India, Egypt and Vietnam. In 2010, she became a senior consultant to UN-FAO. She also writes frequently for financial publications and is an exhibiting artist.

Rapporteurs

Christian Egenhofer (DE) is a Senior Research Fellow at the Centre for European Policy Studies (CEPS), a Brussels-based think tank specialising in EU affairs, where he is head of the Energy, Climate and Environment Programme. He holds a Master's degree in Administration from the University of Konstanz as well as a Public Law degree. He has worked as a consultant both for private and public organisations, including various Directorates-General of the European Commission, the European Parliament, the World Business Council for Sustainable Development and the International Network for Environmental Compliance and Enforcement.

He is also a Senior Research Fellow and Jean-Monnet Lecturer at the Centre for Energy, Petroleum and Mineral Law and Policy at the University of Dundee in Scotland/UK (since 1999). In addition to the University of Dundee, Christian Egenhofer teaches a number of courses on "EU integration and "energy and climate change" at the College of Europe both in Bruges and Natolin, the Solvay Business School MBA Programme of the Université Libre de Bruxelles and the LUISS University in Rome.

Christian Egenhofer is Director of IMPACT – European Bureau for Consulting and Analysis, a Brussels-based political consultancy. Christian is member of several editorial boards. His most recent books include *Beyond Bali: Strategic Issues of the Global Climate Change Negotiations* (editor, CEPS 2008) and *Climate and Trade Policy* (co-editor with Carlo Carraro, Edward Elgar Publishing, 2007).

Diego Valiante, Ph.D. (IT) is a Research Fellow at the European Capital Markets Institute (ECMI) and the Centre for European Policy Studies (CEPS) since March 2009. He coordinates the research activities of ECMI. He holds a BSc in Economics and an MSc in Law and Economics from LUISS – Guido Carli in Rome, both degrees summa cum laude. He also received the LL.M. Master in Law and Economics (EMLE) from Hamburg and Bologna University, and in 2010 the Ph.D. in Law and Economics from LUISS University.

Diego's specialties are financial and securities regulation, capital markets, market structure, competition policy and corporate governance. He has published extensively on economic and regulatory aspects of financial markets and services. He is involved in working groups of experts on capital markets and is regularly invited to speak at conferences and seminars on economic and legal issues of capital markets and financial regulation.

Diego is often invited to give lectures on economics and regulation of capital markets and financial services, and quoted on major international newspaper and specialised blogs. In the past, he also had a brief experience as an intern in the Public Authorities Division of a major investment bank in Canary Wharf, London.

REGISTRATION FORM

Task Force on 'Price Formation in Commodities Spot and Futures Markets'



Contact attending the meetings (attendees can change according to requests for presentations or the firms' needs; max. 2 people)

Salutation: _____ First name: _____ Last name: _____

Job title: _____

E-mail: _____ Telephone: _____

Company

Company name: _____

Postal address: _____

Postcode _____ City _____ Country _____

Contact Person: _____

E-mail: _____ Telephone: _____

Billing information

Tax register number (VAT for Europe): _____

Your reference, Customer Purchase Order No. or Cost Code N: _____

Department: _____

Postal address: _____

Postcode _____ City _____ Country _____

Contact person: _____

Telephone: _____ Fax: _____

E-mail: _____ Other: _____

ECMI and CEPS members - please state your fee (+21% VAT)

ECMI Member | EUR 2,000

CEPS Corporate Member | EUR 2,000

Non-members - please state your fee (+21% VAT)

Full Fee | EUR 7,000

Interested in becoming a member of CEPS and ECMI. Please also contact staffan.jerneck@ceps.eu - +32 (0) 475 903 924 or diego.valiante@ceps.eu - +32 (0) 222 93 914.

Date: _____ Signature: _____

Return to: Isabelle TENAERTS at isabelle.tenaerts@ceps.eu | Tel: +32 2 229 39 56 - Fax: +32 2 219 41 51

European Capital Markets Institute | Centre for European Policy Studies | 1 Place du Congrès | 1000 Brussels

For more information, please contact Diego Valiante at diego.valiante@ceps.eu or learn more at www.eurocapitalmarkets.org and www.ceps.eu