



# ***New EU regulation of commodity derivatives markets***

***Markus Henn***

***Project officer financial markets, World Economy, Ecology & Development – WEED***

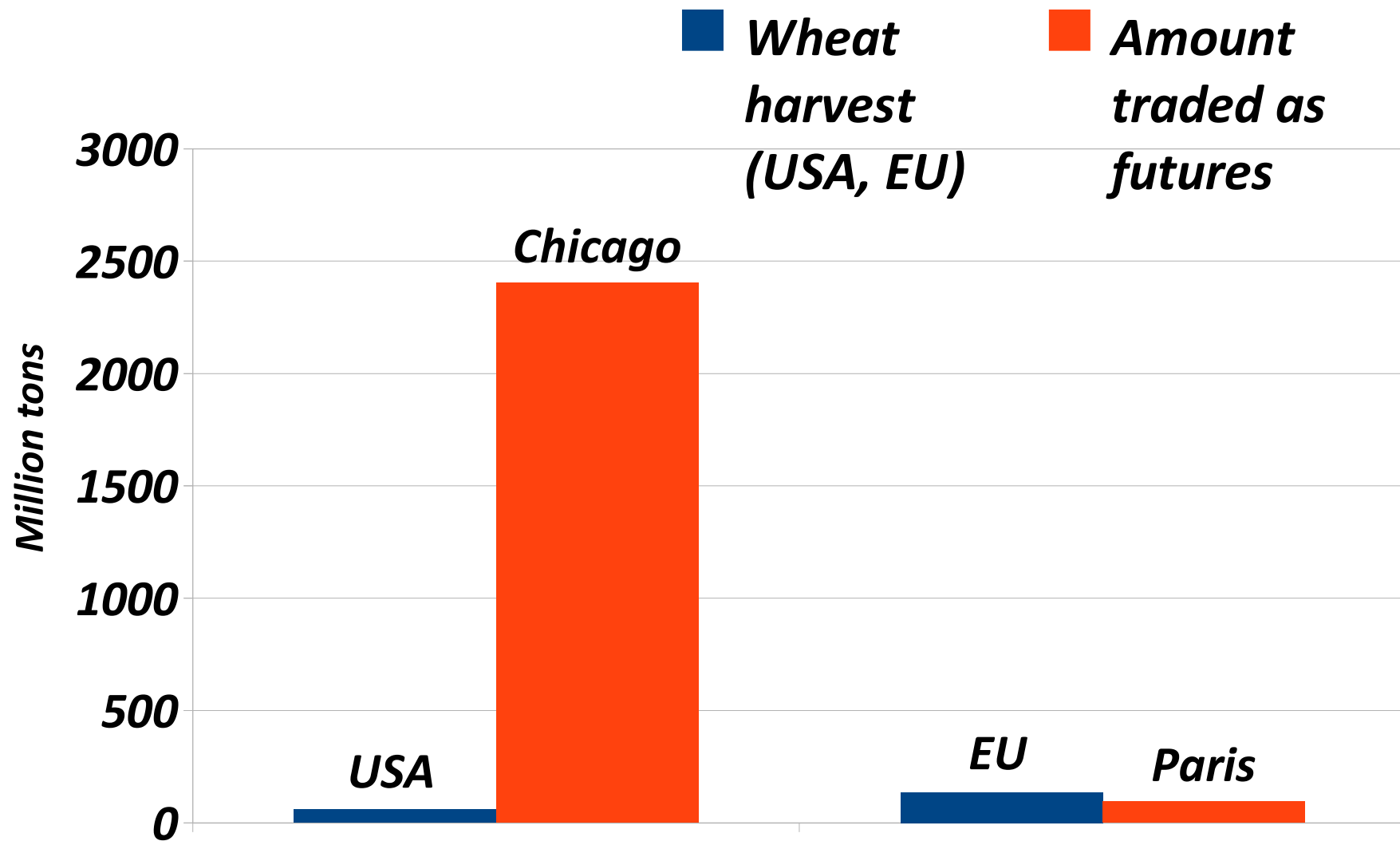
***Kontakt: [markus.henn@weed-online.org](mailto:markus.henn@weed-online.org)***

***25 October 2011***

***Webinar IATP***

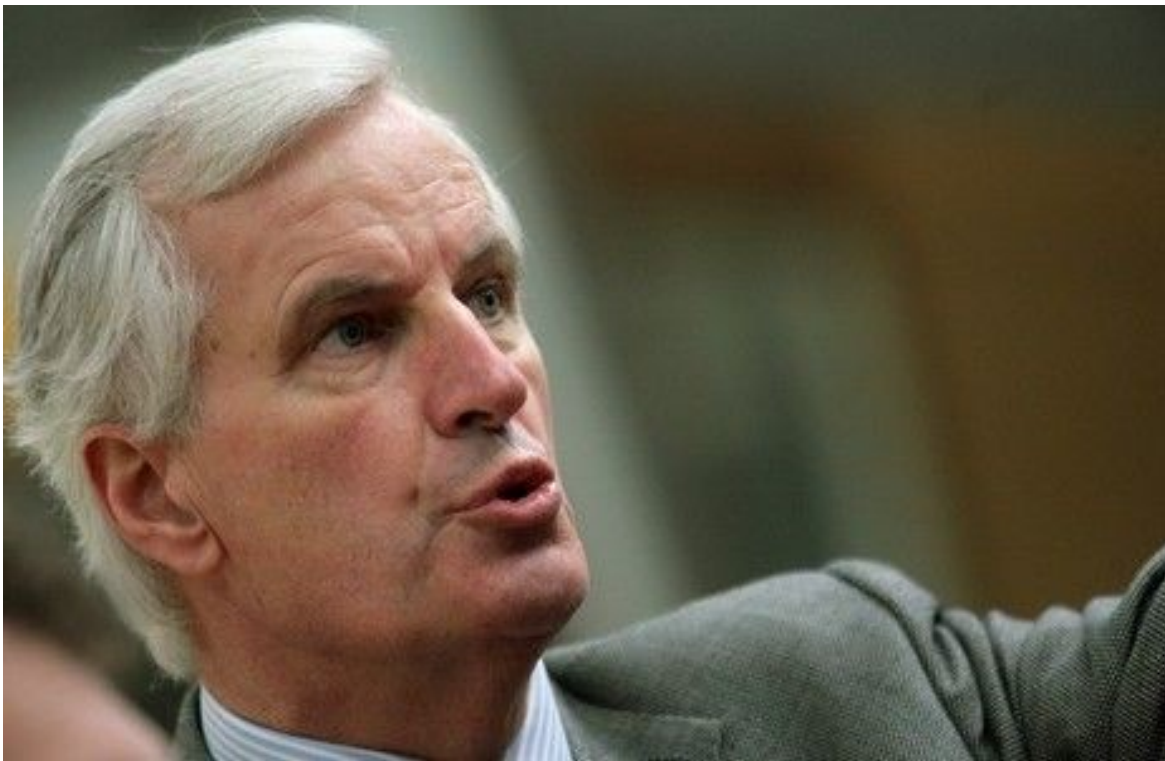


# Harvests and Futures: EU/USA in comparison, 2009



## *EU – Piecemeal regulation*

- Internal Market and Services Commissioner Barnier condemned food speculation, so did French President Sarkozy
- Regulation in different laws, i.e. regulations (directly applicable in all Member States) and directives (framework laws, to be implemented by Member States in national laws)



# Overview on new regulation

*in force*

*Markets in Financial Instruments Directive (MiFID)*

*Market Abuse Directive (MAD)*

*revision*

*new*

*new*

*revision*

*new*

*MiFID II*

*Markets in Financial Instruments Regulation (MiFIR)*

*Market Abuse Regulation (MAR)*

*MAD II*

*European Markets Infrastructure Regulation (EMIR)*

Commission proposals 20 October, will be decided by Parliament and Council summer 2012 earliest

To be decided by Parliament / Council soon

# Scope, Exemptions and Market Infrastructure

## MiFID/MiFIR:

- Applies primarily to investment firms and regulated markets, partly to credit institutions; one exemption deleted for commodity traders, but other exemptions remain for some dealing on own account and ancillary activities in commodity derivatives
- New “Organized Trading Facilities” (OTF) to cover OTC trading and dark pools, e.g. swap execution facilities (before only “regulated markets” and “Multilateral Trading Facilities”, MTF)
- Algorithmic trading: risk controls by investment firms including trading thresholds/limits, and by regulated markets

**EMIR:** “Financial counterparties” / “non-financial counterparties”

# Clearing

## EMIR:

- Central Counterparty (CCP) Clearing for eligible derivatives
- bottom-up + top-down approach to define clearing eligibility
- remaining OTC trades: margin/collateral requirements
- non-financial counterparties exempted for hedging, clearing threshold for their financial activities

# Transparency

## MiFID:

- For commodity markets: Real-time reporting to venues, weekly public report according to class of traders (e.g. credit institution, investment fund, commercial undertaking,...)
- Pre- and Post-trade transparency for all trading venues, for “systemic internalizers”, and for Exchange Traded Funds: public quotes, prices, volumes and execution times

**MiFIR:** Real-time reporting by trading venues to authorities: names, numbers, quantity, execution time, prices, client ID designation, algorithms, firms

**EMIR:** Reporting for all derivatives to “trade repositories” which “regularly” publish aggregate positions

# Position and Price Limits

## MiFID (only for commodities and emission allowances):

- Position limits on all trading venues for „number of contracts“ entered „over a specific period of time“, or „alternative arrangements with equivalent effect“ to support liquidity or orderly pricing/settlement conditions, or to prevent market abuse
- Commission has power to prescribe position limits, national authorities to apply higher ones only in exceptional cases

**MiFIR:** New European Securities and Markets Authority (ESMA) to ensure coherent approach for position limits

**MiFID:** Regulated markets need to “reject orders that exceed pre-determined volume and price thresholds or are clearly erroneous” and “halt trading if there is a significant price movement”

# *Supervision, Enforcement, and Market Abuse*

**MiFID/MiFIR/EMIR/MAD in general:** Supervision shared between EU (ESMA, Commission) as coordinator and Member States' authorities; no CFTC-like specialised body

**MiFID/MiFIR:** measures like prohibitions can be taken both by ESMA and Member States' authorities, with several pre-conditions

**MAR:** Market Abuse and Insider Dealing: now all trading including OTC, commodity spot market transactions having an “effect” on derivatives markets, and algorithmic / high frequency trading

***Thank you  
for your attention!***



**weed**

***Weltwirtschaft, Ökologie & Entwicklung  
World Economy, Ecology & Development***

***www.weed-online.org***



***This presentation is part of the project „Towards a Global Finance System at the Service of Sustainable Development“, co-funded by the European Union. The views expressed herein can under no circumstances be seen as the EU's views but are under the sole responsibility of WEED.***