

MEMORANDUM OF UNDERSTANDING BETWEEN THE UNITED STATES COMMODITY FUTURES TRADING COMMISSION AND THE BRAZIL COMISSÃO DE VALORES MOBILIÁRIOS ON MUTUAL ASSISTANCE AND EXCHANGE OF INFORMATION

The United States Commodity Futures Trading Commission and the Brazil Comissão de Valores Mobiliários acknowledge the importance of ensuring compliance with and enforcement of the commodity futures and commodity options laws, rules and regulations of the United States and Brazil. In light of the increasing international activity in the commodity futures and commodity options markets, and the need for mutual cooperation in order to facilitate the performance of their respective duties, the Commodity Futures Trading Commission and the Comissão de Valores Mobiliários have reached the following understanding:

ARTICLE 1. Definitions

1. For the purposes of this Memorandum of Understanding

a. "Authority" means:

- i. the Commodity Futures Trading Commission of the United States (CFTC); and
- ii. the Comissão de Valores Mobiliários of Brazil (CVM).

b. "requested Authority" means an Authority to whom a request under this Memorandum is made.

c. "requesting Authority" means an Authority making a request under this Memorandum.

d. "person" means a natural person, unincorporated association, partnership, body corporate, government or political subdivision, agency, or instrumentality of a government.

ARTICLE 2. General Principles

1. This Memorandum sets forth a statement of intent of the Authorities regarding the exchange of information between the Authorities.

2. Nothing in this Memorandum is intended to limit the powers of the CFTC under the laws of the United States or the powers of the CVM under the laws of Brazil to investigate or gather information or to take measures otherwise than as provided in this Memorandum to obtain information, whether or not in connection with a request under this Memorandum.

3. The provisions of this Memorandum shall not give rise to the right on the part of any person other than the Authorities, directly or indirectly, to obtain, suppress or exclude any evidence or to challenge the execution of a request for assistance under this Memorandum.

4. Assistance under this Memorandum may be denied by the requested Authority on grounds of public interest.

ARTICLE 3. Scope of Assistance

1. The requested Authority will provide to the requesting Authority the fullest mutual assistance, within the framework of this Memorandum, in response to any request concerning matters within the jurisdiction of the requesting Authority.

2. In order to comply with any request for assistance under this Memorandum, the requested Authority will use all the means provided under the law of its jurisdiction to investigate violation of any law, rule or regulation within the jurisdiction of the requesting Authority, or to obtain information from any person likely to have information in connection with the facts contemplated by the request.

3. The Authorities recognize that they may not in all circumstances possess the legal authority to provide the assistance contemplated in this Memorandum. Subject to such limitations of legal Authorities will use all reasonable efforts to obtain the necessary authorization to provide the assistance described in this Memorandum.

ARTICLE 4. Requests for Assistance

1. Requests for assistance must be made in writing and addressed to the requested Authority's contact officer(s) listed in Appendix A.

2. The request for assistance shall specify the following:

- a. the information sought by the requesting Authority;
- b. a general description of both the matter which is the subject of the request and the purpose for which the information is sought;
- c. the person(s) suspected or believed by the requesting Authority to possess the information sought, or the places where such information may be obtained, if the requesting Authority has such knowledge;
- d. the laws, rules or regulations pertaining to the matter which is the subject of the request and
- e. the desired time period for the reply and, where appropriate, the urgency thereof.

3. In the event of urgency, requests for assistance and replies to such requests shall be effected by summary procedures or by means of communication other than the exchange of letters, provided that they are confirmed in the manners prescribed in paragraphs 1 and 2 of this Article.

4. Requests for assistance may be denied where the request does not comply with the provisions set forth in this Memorandum.

ARTICLE 5. Execution of Requests

1. If the requesting Authority specifies in the request:

- a. the testimony or statement shall be taken of any person who has participated directly or indirectly in the matters specified in the request, or who has information relating to those matters;
- b. the production of any relevant document shall be required;
- c. testimony shall be taken under oath;
- d. a verbatim transcript of the testimony shall be made;
- e. subject to the approval of the requested Authority,
 - (i) a designated representative of the requesting Authority may be present when a statement or testimony is taken; and
 - (ii) such representative may prescribe specific questions to be asked, or may, if permitted by the law of the jurisdiction of the requested Authority, ask questions directly of the person.

2. A person whose testimony or statement is taken pursuant to a request shall have the right to have counsel present during the taking of the testimony or statement.

3. The testimony or statement of persons will be taken in the same manner and to the same extent as in investigations or other proceedings in the jurisdiction of the requested Authority. Notwithstanding any other provision of this Memorandum, any person giving testimony or a statement as a result of a request made under this Memorandum will be entitled to all of the rights and protections of the laws of the jurisdiction of the requested Authority. Assertions made at the time the testimony or statement is taken regarding other rights and privileges arising exclusively pursuant to the law of the jurisdiction of the requesting Authority shall be preserved for consideration by adjudicatory bodies in the jurisdiction of the requesting Authority.

4. If it appears that responding to a request for assistance under this Memorandum will involve substantial costs being incurred by the requested Authority, the requested Authority and the requesting-Authority will establish a cost sharing arrangement before continuing to respond to such request for assistance.

ARTICLE 6. Permissible Uses of Information

1. The requesting Authority may use the information furnished solely:

- a. for purposes stated in the request, including. ensuring compliance with or enforcement of the law, rule or regulation specified in the request and related provisions; and
- b. for purposes within the general framework of the use stated in the request, including conducting a civil or administrative enforcement proceeding, assisting in a self regulatory compliance proceeding, assisting in a criminal prosecution, or conducting any investigation related thereto for any general charge applicable to the violation of the law, rule or regulation specified in the request.

2. To use the information furnished for any purpose other than those stated in paragraph 1 of this Article, the requesting Authority must first inform the requested Authority of its intention and provide the requested Authority an opportunity to oppose the utilization. If the requested Authority opposes the utilization, the information may be used only under the conditions imposed by the requested Authority. If use of the information is opposed by the requested Authority, the Authorities agree to consult pursuant to Article 8 concerning the reasons for the refusal and the circumstances under which use of the information might otherwise be allowed.

ARTICLE 7. Confidentiality

1. Each Authority shall keep requests made under the Memorandum, the contents of such requests and any other matters arising during the operation of this Memorandum, including consultations between the Authorities, confidential to the extent permitted by law. However, disclosures that are absolutely necessary to carry out the requests are permitted, and confidentiality may be waived by mutual agreement of the Authorities.

2. The requesting Authority shall keep confidential to the extent permitted by its law any information received pursuant to this Memorandum, unless it is disclose accordance with Article 6.

3. Except as contemplated by Article 6, the requesting Authority shall not disclose the information to any other person and shall use its best efforts to ensure that it is not obtained by any other person. However, unless otherwise agreed, if such information is obtained by a public authority, the requesting Authority shall use its best efforts to ensure that such information is not used by that public authority in any way that involves disclosure to any other person.

4. The requesting Authority will notify the requested Authority of any legally enforceable demand for information prior to complying with the demand and will assert such appropriate legal exemptions or privileges with respect to such information as may be available.

5. As soon as the requesting Authority has terminated, the matter for which assistance has been requested under this Memorandum, it shall return to the requested Authority, to the extent permitted by the law of the jurisdiction of the requesting Authority, all documents and copies thereof not already disclosed in proceedings referred to in Article 6. Other material disclosing the contents of such documents also shall be returned, other than material that is generated as part of the deliberative or internal analytical process of the requesting Authority, which may be retained.

ARTICLE 8. Disputes and Consultations

1. The Authorities will keep the operation of this Memorandum under continuous review and will consult with a view to improving its operation and resolving any matters that may arise. In particular, the Authorities will consult upon request in the event of:

- a. a refusal by one Authority to comply with a request for information on the public interest grounds set forth in paragraph 4 of Article 2;
- b. a change in market or business conditions, or, in the legislation governing matters within the jurisdiction of either

Authority, or any difficulty which may make it necessary to amend or extend this Memorandum in order to achieve its purposes; or

c. a dispute regarding the meaning of any terms used in this Memorandum.

2. The Authorities may agree on such practical measures as may be necessary to facilitate the implementation of this Memorandum, including the waiver of any of its requirements.

ARTICLE 9. Unsolicited Assistance

1. To the extent permitted by the laws and regulations of its jurisdiction, each Authority will use reasonable efforts to provide the other Authority with any information it discovers which gives rise to a suspicion of a breach, or anticipated breach, of the laws or regulations of the other Authority.

ARTICLE 10. Effective Date

1. All provisions of this Memorandum not requiring adoption of domestic implementing legislation shall become effective immediately upon signing by both Authorities.

2. All provisions of this Memorandum requiring adoption of domestic implementing legislation shall become effective upon notification that such implementing legislation and any necessary rules and regulations have been adopted.

ARTICLE 11. Termination

1. This Memorandum shall continue to have effect unless terminated by either Authority by giving 30 days advance written notice to the other Authority that this Memorandum is no longer to have effect. If such notice is given, this Memorandum will continue to have effect with respect to all requests for assistance which are made before the effective date of notification until the requesting Authority terminates the matter for which assistance was requested.

Signed at Washington, DC, this 12th day of April, 1991.

Wendy L. Gramm

Chairman

Commodity Futures Trading

Commission

Ary Oswaldo Mattos Filho

President

Comissão de Valores Mobiliários

APPENDIX A

Contact Officers

Commodity Futures Trading Commission

2033 K Street, N.W.

Washington, D.C.

U.S.A.

Telephone: (202) 254-7424

Attention: Director, Division of Enforcement

Comissão de Valores Mobiliários

Rua Sete de Setembro

111-32º Andar

20050 Rio de Janeiro

Brazil

Telephone: (21) 242-5601 (Rio de Janeiro)

(61) 321-7708 (Brasília)

Attention: Superintendent General