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**POLICY ISSUE**  
(Notation Vote)

May 24, 1994

SECY-94-139

**FOR:** The Commissioners

**FROM:** Carlton R. Stoiber, Director  
Office of International Programs

**SUBJECT:** DOE PROPOSAL TO REMOVE ARGENTINA, BRAZIL, AND CHILE FROM LIST  
OF RESTRICTED COUNTRIES IN 10 CFR PART 810.8

**PURPOSE:**

The Department of Energy (DOE) requests our views on a proposed revision of DOE regulations to remove Argentina, Brazil, and Chile from the restricted list in 10 CFR Part 810.8 (see Attachment 1).

**DISCUSSION:**

DOE's proposal would bring under general authorization U.S. assistance to civilian nuclear power reactor-related activities in Argentina, Brazil, and Chile. As presented below, the staff believes that the proposal is in keeping with the major steps these countries have taken (or are taking) to bring their national nuclear laws and policies in line with international non-proliferation norms, including the implementation of full-scope IAEA safeguards. Specific authorization will still be required for assistance to uranium enrichment, plutonium reprocessing, fabrication of plutonium fuel, heavy water production, and research/test reactors greater than 5 Mw(t).

**Argentina and Brazil**

Both Argentina and Brazil have ratified the Quadripartite Agreement [with the International Atomic Energy Agency (IAEA), and the Agency for Accounting and Control of Nuclear Materials (ABACC)], which would place their complete nuclear programs under safeguards. The subsidiary arrangements with the IAEA are expected to be finalized this summer. In addition, Argentina has ratified

Contact: Karen Henderson, OIP/NEMR  
504-2337

SECY NOTE: TO BE MADE PUBLICLY AVAILABLE WHEN THE FINAL SRM IS MADE AVAILABLE.

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and waived into force the Treaty of Tlatelolco and recently has become a member of the multilateral Nuclear Suppliers Group, while Brazil has signed and ratified the Treaty of Tlatelolco, and there is a bill before its Congress to waive it into force which should be voted upon shortly. Both Argentina and Brazil have operated large nuclear programs in which nuclear materials were not subject to IAEA safeguards. The IAEA will safeguard the material under the Quadripartite Agreement. Full-scope safeguards will be in effect when this material is placed under IAEA inspection. Argentina and Brazil have stated that IAEA inspections will start later this year.

### Chile

In January 1994 Chile deposited its instrument of accession, and waived into force, the Treaty of Tlatelolco, thereby undertaking to place any future nuclear materials under safeguards. The staff understands that all nuclear materials in Chile are under IAEA inspection. Chile has undertaken to place any future nuclear materials under safeguards, pursuant to its implementation of the Treaty of Tlatelolco.

### CONCLUSION:

The staff believes that general authorizations to non-nuclear weapons states under Part 810 should be keyed to IAEA full-scope safeguards, even though this is not a statutory requirement. In this light, the removal of Chile from the restricted country list seems appropriate since full-scope IAEA safeguards are in effect in Chile, and Argentina and Brazil could be removed from the specific authorization requirement as soon as IAEA full-scope safeguards are implemented under the Quadripartite Agreement, expected to occur later this year. OIP plans to send a staff-level response to DOE indicating these views. EDO concurs and OGC has no legal objection.



Carlton R. Stoiber, Director  
Office of International Programs

Attachment:  
4/8/94 DOE Ltr TDedik to RDHauber

Commissioners' comments or consent should be provided directly to the Office of the Secretary by COB June 7, 1994.

Commission Staff office comments, if any, should be submitted to teh Commissioners NLT May 31, 1994, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

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INT'L SAFEGUARDS

Mr. Ronald D. Hauber  
Assistant Director, International Programs  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Dear Mr. Hauber:

As Argentina, Brazil, and Chile have moved steadily toward adherence to the international nuclear nonproliferation regime, there has been interagency discussion about when to remove the three countries from the list of countries in section 810.8 of Department of Energy regulations 10 CFR Part 810 for which U.S. nuclear assistance receives special scrutiny.

As a result of the latest discussions, there was mutual agreement that developments in the past several months warrant removal of the three countries from the list at this time.

This action would:

- o Recognize that on February 25, 1994, Argentina and Brazil completed ratification of their Quadripartite Agreement for the application of International Atomic Energy Agency (IAEA) safeguards on all of their nuclear activities. The other parties to this agreement are the IAEA and the Argentine-Brazilian Agency for Accounting and Control of Nuclear Materials. Chile has its own full-scope safeguards agreement with the IAEA.
- o Recognize that on January 18, 1994, Argentina and Chile brought into force for their national territories the 1967 Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco), and that Brazil is moving to do likewise.
- o Enable U.S. firms and individuals to compete more effectively against foreign competition to provide assistance to Argentine, Brazilian, and Chilean civilian nuclear power programs.
- o Reduce unnecessary paperwork and time-consuming U.S. Government reviews of proposals by U.S. firms and individuals to participate in Argentine, Brazilian, and Chilean civilian nuclear power reactor-related activities.

It should be noted that removal from the section 810.8 list will bring under general authorization only U.S. assistance to civilian nuclear power reactor-related activities. Specific authorization by the Secretary of Energy will continue to be required for assistance to uranium enrichment, plutonium reprocessing, fabrication of plutonium fuel, heavy water



production, or research/test reactors greater than 5 megawatts thermal in these countries -- as it is in all other countries.

Therefore, my office plans to recommend that the Secretary of Energy authorize publication in the Federal Register of an amendment removing Argentina, Brazil, and Chile from the section 810.8 list as soon as possible. Your views on this proposal are requested within 30 days of receipt of this letter.

Sincerely,



Trisha Dedik  
Director  
Export Control Operations Division  
Office of Export Control  
and International Safeguards

D R A F T

Ms. Trisha Dedik  
Director  
Export Control Operations Division  
Office of Export Control  
and International Safeguards  
U.S. Department of Energy  
Washington, DC 20585

Dear Ms. Dedik:

I refer to your letter of April 8 regarding the proposed revision of Department of Energy regulations to remove Argentina, Brazil, and Chile from the restricted list in 10 CFR Part 810.8.

The Commission believes that this request is in keeping with the major steps taken by these countries to bring their national nuclear laws and policies in line with international nonproliferation norms. However, general authorizations to non-nuclear weapons states under Part 810 should be keyed to IAEA full-scope safeguards, even though this is not a statutory requirement. In this light, the removal of Chile from the restricted country list seems appropriate since full-scope IAEA safeguards are in effect in Chile, and Argentina and Brazil should only be removed from the specific authorization requirement after IAEA full-scope safeguards are implemented under the Quadrapartite Agreement, expected to occur later this year.

Sincerely,

Ronald D. Hauber, Director  
Division of Nonproliferation, Exports  
and Multilateral Relations  
Office of International Programs

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