

*File Upshaw*



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

July 1, 1988

Mr. Hugo H. Bayona  
Program Development Officer  
Economics, Science and Technology Staff  
United States Information Agency  
Washington, D.C. 20547

Dear Mr. Bayona:

Enclosed herewith is the program evaluation report for my trip to Brazil on June 12 through June 18, 1988. I have taken the liberty of sending copies of this report to interested NRC officials. I want to thank you again for all of your efforts in making my trip a success, especially your efforts at resolving last minute problems with my passport and visa.

If you have any questions, or if I can be of any further assistance, please let me know.

Sincerely,

A handwritten signature in dark ink, appearing to read "M. G. Malsch", followed by a long horizontal flourish.

Martin G. Malsch  
Deputy General Counsel  
for Licensing and Regulation  
Office of the General Counsel

Enclosure:  
Program Evaluation Report

cc: Harold R. Denton, GPA/NRC  
Richard E. Cunningham, NMSS/NRC

USIA AMERICAN PARTICIPANT PROGRAM EVALUATION REPORT  
PROGRAM IN BRAZIL, MARTIN G. MALSCH, JUNE 12-18, 1988

1. Value of Mission Briefings

I found the mission briefings, both in Brasilia and in Rio de Janeiro, to be very useful. Prior to the trip I had familiarized myself with the Goiânia accident and reviewed with US/NRC officials the status of U.S. nuclear exports and non-proliferation policy regarding Brazil. The mission briefings were a useful supplement to this information, particularly with regard to the general status of Brazilian legal reforms in the nuclear area, areas of particular sensitivity on the part of Brazilian officials, and background and possible policy views of Brazilian officials with whom I would be meeting. I thought that mission staff members were all very knowledgeable and all quite interested in making my visit a success. James Chamberlin, the Embassy Scientific Attaché, deserves special praise for his efforts.

2. Description of Meetings with Foreign Audiences

My program in Brazil was briefly as follows:

In Brasilia: Meeting with Ministry of Justice, National Commission of Nuclear Energy (CEN) and National Security Council officials; meeting with Congressman Fabio Feldman, several other Congressmen and Congressional staff members; meeting with Senator Iram Saraiva, Chairman of the Senate Parliamentary Commission of Inquiry into the Goiânia accident, and members of his and the Commission's staffs; meeting with Fundacan Leide Das Neves Ferreira; and press interview with a reporter from "O Estado de São Paulo."

I also had dinner with Dr. Jackson Schneider from the Justice Ministry and lunch with Dr. José Mauro Esteves dos Santos of the Ministry of Mines and Energy. The dinner and lunch included a general discussion of how, in response both to the Goiânia accident and to economic conditions, Brazilian nuclear laws and nuclear programs were currently being reexamined. The direction that this examination was taking was not very clear from the conversation except that regulatory responsibilities need to be defined more clearly and that some general "belt tightening" was in order; nor was it clear which group in the Executive (Ministry of Justice, National Security Council, or CNEN) had the lead responsibility in this regard. The more formal meetings are described in more detail below under item 4.

In Rio de Janeiro: Meeting with Dr. Carlos Volpe and others from Nuclebras; meeting with Dr. José Eduardo Salvatore and others from CNEN; and presentations before the Physics Institute of the Catholic University and the Scientific/Technological Center of the Federal University of Rio de Janeiro.

I also had lunch with Dr. Volpe, which included a very general discussion of nuclear topics. The more formal meetings are described in more detail below.

### 3. Relevance of Program to Issues of Concern in Brazil

The people with whom I met were especially interested in how in the U.S. responsibility would be assigned for a Goiânia-type accident and for disposal of nuclear wastes. Since there apparently was some general public confusion in Brazil following the Goiânia accident as to who in governmental positions should be held responsible (CNEN, State governments, etc.), and there are some efforts by states in Brazil to enact nuclear waste disposal bans, U.S. laws and experience in these areas should prove instructive.

### 4. Issues Discussed and Audience Reaction

I have divided the formal meetings into four categories: meetings with Brazilian governmental officials; meetings with university faculty and students; a meeting with a citizens group; and a press interview. Except for the press interview, for each organization or group I gave an initial presentation, tailored to the audience and areas of likely special interest, and there were detailed questions. The press interview consisted of questions and answers.

#### a. Meetings with Brazilian Government Officials

For each governmental organization or official, the areas of apparent special interest were generally the same: U.S. rules of liability for clean-up of abandoned hazardous waste disposal sites (the principal statute here is the Comprehensive Environmental Response, Compensation, and Liability Act); division of operational and regulatory responsibility in the

United States between the Federal Government and the States for licensing of nuclear materials (especially for medical uses) and for nuclear waste disposal; personal liability of U.S. regulatory officials for their regulatory actions; and other (besides NRC) U.S. Federal agency roles in regulation of nuclear plants and materials. Although I avoided any direct response to the question who would be held responsible and liable in the U.S. for a Goiânia-type accident, because I did not believe that I had a sufficiently detailed knowledge of the facts to give a definitive legal opinion, Brazilian officials were very interested in any U.S. laws bearing on this general subject.

CNEN and Nuclebras officials were also very interested in U.S. emergency planning requirements for nuclear power plants, nuclear power plant standardization, U.S. laws regarding public participation in nuclear licensing and rulemaking, protection of U.S. workers who disclose safety problems, and whether military atomic energy activities in the U.S. are subject to NRC licensing and regulation (with limited exceptions, they are not).

Congressman Feldman was also quite knowledgeable regarding some current controversial nuclear plant issues in the U.S., such as the Shoreham plant and emergency planning. He was also interested in the status of NRC in the U.S. as an independent regulatory commission.

b. Meetings with University Faculty and Students

For both meetings the questioning covered a wide range of topics, including nuclear waste disposal, emergency planning, role of the States in waste management and licensing, and NRC regulatory authority over U.S. military atomic energy activities. Although there was some student participation, most of the questions came from faculty members.

c. Meeting with Fundacan Leide Das Neves Ferreira

This is a quasi-governmental group with a very ambitious program to aid the victims of the Goiania accident and to do scientific studies of the health and socio-economic effects of the accident. The group's representatives were especially interested in how legal responsibility would be assigned in the U.S. for Goiania-type accidents.

d. Press Interview

The press interview was really a kind of "cat and mouse" game, with the reporter trying to get me to criticize one or more aspects of the Brazilian nuclear program or the governmental response to the Goiânia accident, and me avoiding any direct response to such questions. She was just trying to get a good story.

5. Audience Preparation

Audience preparation ranged from good to outstanding. Nuclebras and CNEN officials, as would be expected, were the most familiar with the issues I discussed. It was difficult for me to tell if any specific preparations or study preceded my presentations.

6. Misconceptions or Issues Clarified

My purpose was to describe U.S. programs rather than to offer specific criticism or suggestions regarding the Brazilian nuclear regulatory program. Almost all of the information flow was from "me to them," and so I cannot judge very accurately the actual effect of my presentations. It is my general impression though that the Brazilian Government is now confronting some very fundamental issues about both the direction of its nuclear



program (decisions driven largely by the economic situation in the country) and the form which nuclear regulation should take. At least some factions, represented most clearly by Congressman Feldman and his followers, would seem to favor an NRC-type regulatory organization with some degree of independence from the Executive and the military establishment. Government officials also seemed very surprised at the strict liability in the U.S. for hazardous waste clean-up and at the various nuclear worker "whistle-blower" protection laws in the U.S.

#### 7. Benefits

Most of the information flow was from "me to them." I did gain a very general knowledge of the Brazilian legal system and a keen appreciation of the courtesy and professionalism of the Brazilian officials with whom I met. I will learn more about Brazilian legal reforms when I receive and comment on the draft legislation. (See 8 below.)

#### 8. Recommendations and Followup

I promised to provide some detailed comments on new draft legislation and regulations being prepared by the Ministry of Justice. The Embassy will need to provide me with a translation of those materials. I also promised to send information about studies of the socio-economic effects of the TMI-2 accident to the Fundacan Leide Das Neves Ferreira, and information about NRC emergency planning requirements to the Catholic University in Rio. I will send these materials to the program offices in Brasilia and Rio.

9. Logistics and Administration

I thought that the logistics and administration of the program were outstanding. I would like to especially commend Mr. Hugo H. Bayona for his efforts at resolving last minute problems regarding my passport and visa, and Ms. Dulce Santos of the U.S. Embassy in Brazilia and Ms. Jacelyn Eckman and Ms. Sandra Kaiser at the U.S. Consulate in Rio for their efforts at making my visit a successful one and, from my standpoint, as "hassle free" as possible. I did have some problems with Pan-American Airlines, but I cannot fairly blame USIA for them.