business by a broker or dealer of information, opinions or recommendations relating solely to common stock or to debt or preferred stock convertible into common stock of such registrant shall not be deemed to constitute an offer for sale or offer to sell the security to which such registration statement relates for purposes of sections 2(10) and 5(c) of the Act (15 U.S.C. 77a et seq.) even though such broker or dealer is or will be a participant in the distribution of the security to which such registration statement relates.

(b) Where a registrant which meets the requirements of paragraph (c)(1), (c)(2) or (c)(3) of this section proposes to file, has filed or has an effective registration statement under the Act relating solely to common stock or to debt or preferred stock convertible into common stock, the publication or distribution in the regular course of its business by a broker or dealer of information, opinions or recommendations relating solely to a nonconvertible debt security, or to a nonconvertible nonparticipating preferred stock shall not be deemed to constitute an offer for sale or offer to sell the security to which such registration statement relates for purposes of sections 2(10) and 5(c) of the Act (15 U.S.C. 77a et seq.), even though such broker or dealer is or will be a participant in the distribution of the security to which such registration statement relates.

(c)(1) The registrant meets all of the conditions for the use of Form S-2 [§ 239.12 of this chapter] or Form F-2 [§ 239.32 of this chapter];

(2) The registrant meets the registrant requirements of Form S–3 [§ 239.13 of this chapter] or Form F–3 [§ 239.33 of this chapter]; or

(3) The registrant is a foreign private issuer which meets all the registrant requirements of Form F–3 [§ 239.33 of this chapter], other than the reporting history provisions of paragraph A.1. and A.2.(a) of General Instruction I of such form, and meets the minimum float or investment grade securities provisions of either paragraph B.1. or B.2. of General Instruction I. of such form and the registrant's securities have been traded for a period of at least 12 months on a designated offshore securities market, as defined in § 230.902(a).

Instruction to Rule 138

When a registration statement relates to securities which are being registered for an offering to be made on a continuous or delayed basis pursuant to Rule 415(a)(1)(x) under the Act (§ 230.415(a)(1)(x)) and the securities which are being registered include classes of securities which are specified in

both paragraphs (a) and (b) of this section on either an allocated or unallocated basis, a broker or dealer may nonetheless rely on:

- 1. Paragraph (a) of this section when the offering in which such broker or dealer is or will be a participant relates solely to classes of securities specified in paragraph (a) of this section, and
- 2. Paragraph (b) of this section when the offering in which such broker or dealer is or will be a participant relates solely to classes of securities specified in paragraph (b) of this section.
- 3. By revising the introductory text to § 230.139 and paragraph (a)(2) to read as follows:

§ 230.139 Definition of "offer for sale" and "offer to sell" in sections 2(10) and 5(c) in relation to certain publications.

Where a registrant which is required to file reports pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or which is a foreign private issuer meeting the conditions of paragraph (a)(2) of this section proposes to file, has filed or has an effective registration statement under the Securities Act of 1933 (15 U.S.C. 77a et seq.) relating to its securities, the publication or distribution by a broker or dealer of information, an opinion or a recommendation with respect to the registrant or any class of its securities shall not be deemed to constitute an offer for sale or offer to sell the securities registered or proposed to be registered for purposes of sections 2(10) and 5(c) of the Act (15 U.S.C. 77a et seq.), even though such broker or dealer is or will be a participant in the distribution of such securities, if the conditions of paragraph (a) or (b) of this section have been met:

(a) * * *

(2) The registrant is a foreign private issuer that meets all the registrant requirements of Form F-3 (§ 239.33 of this chapter), other than the reporting history provisions of paragraphs A.1. and A.2.(a) of General Instruction I of such form, and meets the minimum float or investment grade securities provisions of either paragraph B.1. or B.2. of General Instruction I of such form, and the registrant's securities have been traded for a period of at least 12 months on a designated offshore securities market, as defined in § 230.902(a), and such information, opinion or recommendation is contained in a publication which is distributed with reasonable regularity in the normal course of business.

By the Commission.

Dated: February 1, 1995. **Margaret H. McFarland**,

Deputy Secretary.

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DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

[T. D. 95-14]

Addition of Brazil to the List of Nations Entitled to Special Tonnage Tax Exemption

AGENCY: U. S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: Pursuant to information provided by the Department of State, the United States Customs Service has found that Brazil no longer imposes discriminating duties of tonnage or imposts upon vessels belonging to citizens of the United States. Accordingly, vessels of Brazil are exempt from special tonnage taxes and light money in ports of the United States. This document amends the Customs Regulations by adding Brazil to the list of nations whose vessels are exempt from the payment of any higher tonnage duties than are applicable to vessels of the United States and from the payment of light money.

EFFECTIVE DATE: The reciprocal privileges for vessels registered in Brazil became effective on September 15, 1994. This amendment is effective February 6, 1995.

FOR FURTHER INFORMATION CONTACT: Barbara E. Whiting, Carrier Rulings Branch (202–482–6940).

SUPPLEMENTARY INFORMATION:

Background

Generally, the United States imposes regular and special tonnage taxes, and a duty of a specified amount per ton, called "light money," on all foreign vessels which enter United States ports (46 U.S.C. App. 121, 128). However, vessels of a foreign nation may be exempted from the payment of special tonnage taxes and light money upon presentation of satisfactory proof that no discriminatory duties of tonnage or impost are imposed by that foreign nation on U.S. vessels or their cargoes (46 U.S.C. App. 141).

Section 4.22, Customs Regulations (19 CFR 4.22), lists those nations whose vessels have been found to be exempt from the payment of any higher tonnage