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BRASILIA, BRAZIL

December 9, 1966

A-550

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DEPARTMENT OF STATE

AmEmbassy RIO DE JANEIRO

WEEKA 48

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PSA	
IRI	
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ACTION TAKEN

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AMB
DCM
POL-28
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ECON/COM
SVCATT
SCLATT
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TA
LEGAL-2
CONS
CF-2
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USIS
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ADCD
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Cons. Br.
Belem
Belo Horizonte
Curitiba
Porto Alegre
Salvador

ConGen
Recife
USAID-Rec
(Nelson)
Sao Paulo
Sao Paulo-
POL

Embassies
S.A.
OIC
ARA/P
OAPID
C-in-C
Soucom

POLAD
CINCLANT
POLAD/CINCSO
GUATEMALA
LISBON

POL:PSolmsen/dw

POL:MVKrebs

DECLASSIFIED

Authority NND 53155

POLITICAL1. New Brazilian Constitution

On December 6 the GOB released the text of the proposed new Brazilian constitution which it plans to submit to a special session of Congress beginning December 12.

Among the more important provisions of the draft are: Election of the President and Vice President by an electoral college consisting of the members of Congress, three delegates from each state assembly, and one delegate for each five hundred thousand registered voters. The college will choose from among candidates proposed by the political parties.

The governors of the States are to be elected by popular vote. Election for senators will be by popular statewide vote as at present, but the system for election of deputies is not specified, leaving open the possibility of a change from the proportional method to a district scheme.

Civilians may be judged by military courts in certain cases of crimes against the national security, with a right of appeal to the Supreme Court. The political or individual rights of any citizen may be suspended for two to ten years by action brought before the Supreme Court by the federal prosecutor, where there has been "abuse of individual or political right for the purpose of subverting the democratic regime or corruption."

The President is given power to declare a state of seige for 60 days, with a 60-day extension, during which constitutional guarantees and liberties may be suspended. The Decree must be submitted to Congress within 5 days. He also may issue decree laws in the area of national security, public economy and federal administration. Such laws may be rejected by Congress, but not amended. The President retains the power (set forth in Institutional Acts) to originate money bills and create jobs. Time limits are set for congressional action on bills submitted by the President, including proposed constitutional amendments. (UNCLASSIFIED)

2. Institutional Act No. 4

President Castello Branco on December 6 signed Institutional Act No. 4, which regulates the handling of the new draft constitution by a special session of Congress, convened for the period December 12 to January 24. The Act also empowers Congress to consider certain ordinary bills during the special session and gives the President authority to legislate by decree in certain fields during the special session and during the period between the special session and the next regular session.

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The Act states that the 1946 Constitution no longer serves the needs of the nation and that it is imperative to give the country a constitution institutionalizing the ideals of the revolution.

The steps in congressional consideration of the draft constitution are spelled out in detail, with strict time limitations being set on each step. Amendments to the draft must be supported by one fourth of either Chamber or Senate to be considered, and to be adopted must be accepted by an absolute majority of each chamber in a single balloting. (UNCLASSIFIED)

3. Administrative Reform and Economic Provisions of New Constitution

The draft Constitution published by the Administration on December 6 contains many innovations of great economic significance. Most of these innovations fall within the area of administrative reform: a) eliminated is prior approval by the Legislature's Accounts Tribunal of contracts negotiated by the Executive; b) also eliminated is civil service stability for employees hired other than through competitive examination procedure (apparently this will not be retroactive); c) prohibited, except in certain cases such as allocation of fuels tax revenues to road construction and maintenance, are continuing statutory allocations of federal revenues; d) abolished, except in case of national emergency, are procedures for making expenditures in absence of legislative authorization; e) included within the sphere of the federal budget are all autonomous and mixed entities receiving federal subsidies. Other draft constitutional provisions would perpetuate the regime temporarily established by Complementary Edict No. 18 whereby the power of Congress to change the nature or increase the amount of the expenditure programs incorporated in each annual proposed budget law is stringently limited. (UNCLASSIFIED)

COMMENT: Since 1964 the Country Team has urged adoption of the administrative reform measures incorporated in the draft constitution as being of utmost importance to the establishment of a sound institutional basis for economic stability in Brazil. (CONFIDENTIAL)

4. Labor Provisions in Draft Constitution

The GOB draft constitution omits Art. 158 of the 1946 constitution guaranteeing the right to strike and contains no mention of strikes, except to specifically prohibit them in the public service and "essential industries" to be defined by law. Other labor provisions continue the trade union tax and the statist union concept contained in the old constitution and retain in toto the long list of labor standards guaranteed by law in the old constitution. (UNCLASSIFIED)

COMMENT: Since the draft reproduces all the other labor provisions of the 1946 constitution, the omission of Article 158 is significant and may become a point of contention. (LIMITED OFFICIAL USE)

5. Election Roundup

The doubtful Senate races from the November 15 election (Week 46) are finally being resolved, generally in favor of the ARENA candidates. The Senate seats in Amazonas and Rio Grande do Sul both went to ARENA, as did the see-saw race in Espírito Santo. In the one contest remaining in doubt, in Bahia, the ARENA candidate has taken the lead and seems likely to win the race. If so, of the 23 Senate seats at issue, 19 will have gone to ARENA and 4 to the MDB. ARENA appears to have won about 260 seats in the Chamber of Deputies against some 140 for the MDB; however, these figures are subject to refinement because a number of states have not yet submitted their final reports.

ARENA has won majorities in 19 of the 22 state legislative assemblies and in all three territories, but the three MDB wins were in the populous states of Guanabara, Rio de Janeiro and Rio Grande do Sul. The number of blank and voided ballots this year was about 24 percent, about ten percent higher than in 1962. (UNCLASSIFIED)

6. Supreme Court Vacancies

The Supreme Court of Brazil (STF) has a new chief justice. In a ceremony in Brasilia on December 7, the present Chief Justice, Alvaro Moutinho Ribeiro da Costa, retired and the court elected Luiz Gallotti to replace him. A new Vice President, Justice Antonio Gonçalves de Oliveira, was elected at the same time. In his emotional farewell speech, Ribeiro da Costa adverted to the importance of keeping the high court independent of "political passions," and praised his fellow justices for their unflinching support of this principle. His retirement (he reaches the mandatory retirement age of 70 in January) creates a second vacancy in the Tribunal, the first being that of Minister Antonio Martins Villas Boas, who retired in late November. (UNCLASSIFIED)

COMMENT: The feeling on the STF is that the president will fill one of the vacancies, and perhaps both, with a jurist from the north, since that area is represented now by only two of the remaining 14 justices (Paraiba and Piaui). The president is known to have privately expressed the desire to see the STF more balanced geographically. Among the candidates mentioned are Oscar Tenorio, an international law specialist originally from Pernambuco, Djacy Falcão from Pernambuco, and Seabra Fagundes from São Paulo. No longer among the candidates is former Chamber of Deputies President Adauto Cardoso, who, it was reliably known, had been offered one of the upcoming vacancies by Castello Branco before Cardoso defied the President in October.

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President Castello Branco will probably make the appointments before he leaves office next March. Incoming President Costa e Silva will, however, soon have two appointments of his own to make, since Minister Pedro Rodovalho Marcondes Chaves will reach the mandatory retirement age in July 1967 and Minister Candido Motta Filho in September 1967. The new Chief Justice has served on the STF since 1949, and is well regarded by his colleagues. Retiring Chief Justice Ribeiro da Costa clashed publicly with the then War Minister Costa e Silva in late 1965, and was known to be planning a public denunciation of Costa e Silva after his retirement. (LIMITED OFFICIAL USE)

7. Escape of Political Prisoners

Three political prisoners, Tarzan de Castro, Gerson Alves Parreira and James Alen Luz, escaped by rowboat from a military prison located on Lajes Island in Guanabara Bay on November 21. They then were granted asylum in the Uruguayan Embassy, and the Brazilian Foreign Office has indicated that they will be granted safe-conduct out of Brazil. The military guard who assisted them in their escape also sought refuge in the Uruguayan Embassy but was refused asylum by the Ambassador on the grounds that he was a deserter from the Brazilian army and, as such, had no valid claim to political asylum. Rio papers report that the Uruguayan Ambassador has since been rebuked by the Uruguayan Foreign Office for his failure to grant the soldier asylum before seeking guidance from Montevideo. (UNCLASSIFIED)

Castro and Parreira, both former student leaders, are said to have received training in guerrilla warfare in China and had been leading guerrilla bands operating in the state of Golas. Luz is thought to have received similar training in Cuba. (UNCLASSIFIED)

8. November Cost of Living Up 1.5%

The GVF's Guanabara living cost index registered a 1.5% increase in November, 39.5% over the first 11 months. Increases during equivalent periods last year were 1.1 and 42.9% respectively. Food prices were the primary source of upward pressure on the index, having increased by 2.2% in November as compared to 0.7% in November, 1965. (UNCLASSIFIED)

MILITARY

9. New Army Chief of Staff

General Orlando Geisel has assumed the position of Chief of Staff of the Army. In the past, this job has not been one where the incumbent could exercise any particular control over the Army--that being the prerogative of the Minister of War and the separate Army commanders.

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The Chief of Staff is, however, a member of the Military High Command and as such, his voice is heard on important decisions. Geisel's appointment represents no change from the all-out support the current Government is receiving from the Army. (LIMITED OFFICIAL USE)

ALLIANCE FOR PROGRESS

10. First Loan Under Capital Goods Fund

The first loan extended under the \$30 million Capital Goods Fund was announced in a public ceremony December 5. The Fund, derived from the USAID 1966 Program Loan to Brazil was designed to finance the importation of capital equipment from US suppliers.

The loan in question amounted to Cr\$1 billion (approximately \$450,000) to be used to finance a floating dredge. Brazilian officials announced at the ceremony that they had to date already received some Cr\$4 billion (\$38 million) in loan applications directed to the Capital Goods Fund.

We expect that the \$30 million allocated to the Fund will be fully committed by early 1967. (UNCLASSIFIED)

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