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POL 15-1 BRAZ

INCOMING TELEGRAM Department of State

XR PPB 9 BRAZ

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Action NNNNVZCZCESA744SUA586
 ARA PP RUEHC
 DE RUESUA 9113 0762307
 Info ZNY CCCCC
 P 172248Z MAR 67
 SS FM AMEMBASSY RIO DE JANEIRO
 GPM TO RUEHC/SECSTATE WASHDC PRIORITY
 SP INFO RUESUP/AMCONSUL SAO PAULO PRIORITY
 SC ZEN/AMEMBASSY BRASILIA
 L ZEN/AMCONSUL RECIFE
 H ZEN/AMCONSUL BELEM
 P ZEN/AMCONSUL BELO HORIZONTE
 USIA ZEN/AMCONSUL PORTO ALEGRE
 NSC ZEN/AMCONSUL SALVADOR
 INR STATE GRNC
 CIA BT
 NSA C O N F I D E N T I A L RIO DE JANEIRO 9113
 DOD REFERENCE - RIO 9064
 AID

018191

1967 MAR 17 PM 8 43

R10 9113 3/17/67

SUBJECT - HELIO FERNANDES CASE

RSR

1. IN RESPONSE TO SUMMONS, HELIO FERNANDES APPEARED VOLUNTARILY

PAGE 2 RUESUA 9113 C O N F I D E N T I A L
 AT FEDERAL POLICE HQ IN RIO AFTERNOON MARCH 16 TO CONFIRM
 AUTHORSHIP MARCH 15 ARTICLE IN TRIBUNA DA IMPRENSA. ACCOMPANIED
 BY THREE LAWYERS, FERNANDES DENIED HAD COMMITTED ANY CRIME.
 SAYING REFUSED ACCEPT DISFRANCHISEMENT BECAUSE ACT WAS ILLEGAL,
 UNCONSTITUTIONAL AND WITHOUT VALIDITY. ONE OF LAWYERS CONTENDED
 NO LEGAL BASIS FOR TAKING ACTION AGAINST FERNANDES NOW
 BECAUSE SO-CALLED STATUTE OF DESFRANCHISED (COMPLEMENTARY
 EDICT NO. 1) HAD EXPIRED WITH INSTITUTIONAL ACT 2.

2. CARLOS LACERDA APPEARED AT POLICE STATION WITH FERNANDES
 AND DENOUNCED "HUMILIATION" TO WHICH LATTER BEING SUBJECTED,
 ASKING REPORTERS WHETHER CONSTITUTION IN EFFECT OR JUST NEW
 NATIONAL SECURITY LAW. OBSERVED NEW ADMINISTRATION COULD NOT
 MAKE POLITICAL PROFIT OUT OF INCIDENT, PARTICULARLY BECAUSE OF
 CLUMSY WAY IN WHICH HANDLING FERNANDES.

3. MINISTER JUSTICE GAMA E SILVA ANNOUNCED TO PRESS WOULD

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-2- RIO DE JANEIRO 9113, MARCH 17, 1967

STUDY CASE OVERWEEKEND IN SAO PAULO AND EXAMINE POSSIBLY PERTINENT LEGISLATION, INDICATING THERE SOME KNOTTY LEGAL

PAGE 3 RUEEUA 9113 C O N F I D E N T I A L
PROBLEMS INVOLVED.

4. COMMENT: ALTHOUGH ARTICLE 173 OF NEW CONSTITUTION GIVES CONTINUING LEGAL FORCE TO ACTS PRACTICED UNDER INSTITUTIONAL ACTS AND MILITARY EDICTS, STILL NOT CLEAR THAT FURTHER ACTION CAN BE TAKEN AT THIS TIME BASED ON THOSE TEXTS. FERNANDES, LACERDA AND COMPANY SEEM COCKSURE OF LEGAL GROUND AND THEIR LAWYERS SHOW HAVE LOOKED CAREFULLY INTO SATUTORY ASPECTS OF CASE. DOUBTFUL HOWEVER THAT ADMINISTRATION WILL PERCEIVE MATTERS IN SAME LIGHT. TUTHILL
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