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ACTION ARA 17

INFO OCT 01, CIAE 00, DODE 00, JPM 04, H 02, INR 07, L 03, NSAE 00, NSC 10,
P 04, RSC 01, SP 02, SS 20, USIA 12, IO 13, AID 28, PC 04, RSR 01, /129 W

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R 241445Z JUL 69
FM AMEMBASSY BRASILIA
TO SECSTATE WASHDC 1134
INFO AMEMBASSY RIO DE JANEIRO
AMCONSUL RECIFE
AMCONSUL SAO PAULO

Brasilia 304
7/24/69

C O N F I D E N T I A L BRASILIA 304

SUBJ: STATUS OF CONSTITUTIONAL REFORM

EIGHT MEMBER HIGH LEVEL ADVISORY COMMITTEE ON
CONSTITUTIONAL REFORM FINISHED WORK JULY 17. VICE PRESIDENT
PEDRO ALEIXO NOW DRAFTING AMENDMENTS BASED ON RECOMMENDATIONS
OF COMMITTEE KNOWN TO BE ACCEPTABLE TO PRESIDENT COSTA E SILVA.
ACCORDING TO PRESS REPORTS, WHICH EMBASSY INFORMED ORIGINATE
WITH PEDRO ALEIXO HIMSELF, FOLLOWING AMENDMENTS AGREED UPON:

1. PRESIDENT AND VICE PRESIDENT TO BE CHOSEN BY
CONGRESS WHICH ELECTED NOVEMBER 15, 1970. NEW CONGRESS AND
STATE REPRESENTATIVES TO CHOOSE PRESIDENT BY
FEBRUARY 15, 1971.
2. NUMBER OF SENATORS WILL BE REDUCED FROM THREE TO TWO
PER STATE AND SENATE FROM 66 TO 44.
3. NEW CHAMBER OF DEPUTIES TO BE ELECTED ON BASIS OF
MINIMUM THREE DEPUTIES PER STATE PLUS ONE FOR EACH 100,000
ELECTORS. THIS RESULTS IN NEW CHAMBER OF SLIGHTLY MORE THAN
270 DEPUTIES.
4. SIZE STATE LEGISLATIVE ASSEMBLIES TO BE ESTABLISHED
AT THREE TIMES NUMBER OF FEDERAL DEPUTIES REPRESENTING THE
STATE UP TO 12 FEDERAL DEPUTIES, PLUS ONE SEAT FOR EACH
FEDERAL DEPUTY ABOVE 12. IN MOST STATES THIS FORMULA RESULTS

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IN REDUCTION OF NUMBER OF STATE DEPUTIES.

5. TO MAINTAIN REPRESENTATION IN STATE AND FEDERAL LEGISLATIVE BODIES, PARTIES MUST ELECT A MINIMUM OF 5 PER CENT OF EACH BODY. THIS IS REDUCTION FROM PRESENT 10 PER CENT REQUIREMENT AND PRESUMABLY IS DESIGNED TO KEEP MDB AFLOAT IN SENATE.

6. CONSTITUTION TO BE AMENDED TO ALLOW EITHER SINGLE MEMBER DISTRICT OR PROPORTIONAL ELECTIONS FOR LEGISLATIVE BODIES ACCORDING TO FORMULA ESTABLISHED BY ORDINARY LEGISLATION.

7. DIRECT ELECTIONS FOR GOVERNOR WILL BE MAINTAINED BUT FEDERAL GOVERNMENT WILL HAVE POWER TO INTERVENE IN CASE OF CORRUPTION OR SUBVERSION.

8. PAY AND ALLOWANCES OF LEGISLATORS WILL BE REDUCED.

9. CONGRESSIONAL REQUESTS FOR INFORMATION FROM GOVERNMENT WILL BE LIMITED TO QUESTIONS OVER BILLS BEFORE CONGRESS.

10. SIZE AND OPERATIONS OF CONGRESSIONAL INVESTIGATION COMMITTEES WILL BE RESTRICTED.

11. SINGLE PARAGRAPH OF ARTICLE 151 UNDER WHICH PERMISSION OF CHAMBER REQUIRED BEFORE LEGISLATOR TRIED FOR ABUSE OF POLITICAL RIGHTS WILL BE DROPPED.

EMBASSY BELIEVES ABOVE MODIFICATIONS ACCURATELY REPORTED SO FAR AS THEY GO. HOWEVER, IT IS UNDERSTOOD THAT OTHER SECTIONS OF CONSTITUTION WILL ALSO BE MODIFIED INCLUDING PARTS RELATING TO JUDICIARY AND STATE OF SIEGE. WE DO NOT YET HAVE SOLID INFORMATION ON WHAT THESE CHANGES MAY BE. MOREOVER UNDERSTAND THAT NEW TRANSITORY PROVISIONS WILL BE ADDED TO CONSTITUTION. MOST IMPORTANT ARE MAINTENANCE IN EFFECT OF 1, 2, 5 UNTIL END OF COSTA E SILVA'S TERM AND A PROVISION PROVIDING FOR INDIRECT ELECTIONS OF STATE GOVERNORS IN 1970 ELECTIONS. ALSO IMPORTANT IN EVALUATING ABOVE INFORMATION IS THAT PRESIDENT HAS NOT YET DISCUSSED NEW AMENDMENTS WITH CABINET, INCLUDING MILITARY MINISTERS, AND CHANGES IN PROVISIONS AGREED TO BY ADVISORY COMMISSION CAN STILL OCCUR.

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THERE IS SOME CONFUSION AS TO WHAT SCENARIO PRESIDENT INTENDS TO FOLLOW IN PUTTING CONSTITUTIONAL AMENDMENTS INTO EFFECT. PRESIDENTIAL PRESS SECRETARY CARLOS CHAGAS IS QUOTED SAYING AMENDMENTS ARE BEING SUBMITTED TO MEMBERS NATIONAL SECURITY COUNCIL. IT IS NOT KNOWN, HOWEVER, IF PRESIDENT INTENDS TO CALL MEETING OF NSC. SOME REPORTS INDICATE PRESIDENT MAY ALSO SUBMIT AMENDMENTS TO SUPREME COURT. FOLLOWING PROCESS OF WINNING APPROVAL FOR AMENDMENTS IN EXECUTIVE BRANCH, PRESIDENT PUBLICLY COMMITTED TO SUBMIT TO CONGRESS, BUT PRESUMABLY ON TAKE IT OR LEAVE IT BASIS. DEPUTY LEON PERES (ARENA, PARANA) INFORMED EMBASSY, PRESIDENT TOLD HIM LATE LAST WEEK CONGRESS WOULD BE REOPENED SECOND HALF OF AUGUST BARRING "UNEXPECTED STORMS".

COMMENT: ALTHOUGH ABOVE INFORMATION INCOMPLETE AND TENTATIVE, IT IS CLEARLY INDICATIVE OF MOVEMENT TOWARDS RESTRICTING INFLUENCE AND AUTHORITY OF CONGRESS. AMENDMENTS, ESPECIALLY MODIFIED ARTICLE 151, PLACE CONGRESS AND INDIVIDUAL LEGISLATORS IN A POSITION OF DEPENDENCE OF PLEASURE OF EXECUTIVE. AS FURTHER INSURANCE DURING TRANSITIONAL PERIOD TO END OF COSTA E SILVA GOVERNMENT, I.A.5 WILL REMAIN AS RESERVE GOVERNMENT WEAPON. EQUALLY IMPORTANT, PROVISIONS RELATING TO JUDICIARY ARE NOT YET KNOWN WITH ANY CERTAINTY BUT SEEMS PROBABLE THE MEMBERSHIP SUPREME COURT WILL AGAIN BE INCREASED TO 16 ALLOWING PRESIDENT (AND MIN JUSTICE GAMA E SILVA) TO MAKE FIVE APPOINTMENTS IN NEAR FUTURE. ONLY SIGN POINTING IN DIRECTION OF MEANINGFUL RETURN TO RULE OF LAW IS PRESS SPECULATION THAT SUSPENSION OF HABEAS CORPUS IN ARTICLE 10 OF I.A.5 MAY NOT BE CONTINUED DURING TRANSITIONAL PERIOD.

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