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Bills Concerning Continental Shelf and Territorial Waters

Rio's A-116 of August 7, 1967

1. A bill to define Brazil's continental shelf and several bills proposing the extension of Brazil's territorial waters up to 200 miles have been introduced in the Chamber of Deputies. The bills have been approved by the Constitution and Justice Committee, which considered only their constitutionality. Hearings concerning the merits of the proposals must yet be held by the Foreign Relations, Economic, and National Security Committees. With only three weeks remaining in the present congressional session, any final action on these bills will almost certainly have to await the next session which begins in March 1968.
2. Continental Shelf. The purpose of this bill is to define the term Continental Shelf (platforma submarina) which is mentioned, but not elaborated upon, in the Constitution (Article 4, paragraph III) as belonging to the nation. The bill has been drawn up so it will not conflict with the convention on the Continental Shelf signed in April 1958 at the Geneva Conference on the Law of the Sea. The Foreign Relations Committee now has under study the four conventions (Territorial Waters, High Seas, Fishing and Conservation of Live Resources of the High Seas, and Continental Shelf) signed at that Conference. The report of the Constitution and Justice Committee requests the Foreign Relations Committee to carefully edit the bill to insure there is no conflict between it and the appropriate Geneva Convention.
3. Territorial Waters. Decree-Law No. 44 of November 18, 1966, defined Brazilian territorial waters as six miles with an adjacent six mile zone in which Brazil has exclusive fishing rights and jurisdiction concerning prevention and repression of customs, fiscal, sanitary, and

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immigration violations. Bills proposing the revocation of this law and the extension of territorial waters to 12, 100, and 200 miles have been introduced by Deputies from Rio Grande do Sul state who continue to be concerned with the operation of a Soviet fishing fleet off the coast of southern Brazil (Referenced airtel). The proposals received a favorable report from the Constitution and Justice Committee's rapporteur, Deputy Luiz ATHAYDE (ARENA-Bahia), who did not limit himself to only the constitutionality of the proposals. In discussing the failure of the 1958 and 1960 Geneva Conferences to reach agreement on the extent of territorial waters he stated that the result could not have been otherwise because conference participants were "on the one hand, poor countries, with extensive coastlines, like Brazil for example, and on the other hand, rich nations, highly industrialized, with powerful fishing fleets. These states, obviously, could not be interested in the increase of territorial sea limits by the rest of the coastal states." He also quoted the Brazilian jurist Celso de Albuquerque MELLO's statement that territorial limits are "at bottom, a fight between rich and poor nations. The most advanced nations need to fish off the coasts of foreign countries that never have the means to compete with advanced nations." Athayde concluded that there was nothing in international law to prohibit a nation from unilaterally extending its territorial limits as long as it did not violate the interests of neighboring coastal states.

4. The press has reported that Navy Minister Admiral Augusto RADERMAKER and Admiral Saldanha da GAMA, President of the Naval Club and President of the Foundation for Studies of the Sea, have spoken out against the proposals to extend the limits of territorial waters. Rademaker reportedly opposed the measure not only because Brazil has not recognized Argentina's extension of territorial waters to 200 miles, but also because approval of such a proposal would burden the Navy with responsibilities it is unable to discharge. Congress is drawing the Foreign Office into the question on two fronts: opposition Deputy Antonio BRESSOLIN (Rio Grande do Sul) has requested that Itamaraty inform the Chamber what actions it has taken against Soviet vessels fishing off Rio Grande do Sul; and Foreign Relations Committee member Ademar GILLES (ARENA-Santa Catarina) has announced he will request that the Foreign Minister and the Minister for Economic Affairs of the Foreign Office testify before his committee concerning Brazil's actions over Argentina's extension of its territorial waters.

5. Comment:

The Chairman of the Constitution and Justice Committee, Djalma MARIANO (ARENA-Rio Grande do Norte) has told the Political Counselor that he

expects eventual passage of the bill concerning the continental shelf, but strongly doubts that Congress would approve extension of Brazil's territorial waters. The territorial limits could, however, cause considerable debate since the issue lends itself to nationalistic exploitation in the more general context of the conflict between developed and underdeveloped nations. The Navy's congressional liaison officer informed an Embassy Officer that he expected considerable controversy over the issue when congressional hearings begin.

6. For Buenos Aires: We would be interested in knowing whether Soviet fishing fleets have altered their operations in Argentine waters as a result of the extension of territorial waters to 200 miles.

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