UNCLASSIFIED

PART I

THE DRAFTING OF THE 1988 BRAZILIAN CONSTITUTION

The new constitution promulgated on October 5th 1988, is the eighth in Brazilian history, since the country declared its independence in 1822. The first constitution in 1824 established Brazil as a monarchy, under an emperor. The second, formalized Brazil's transition to a republic in 1891. The third, and fourth dispensed with the loose federal oligarchy that ruled Brazil from 1891 to 1930 and were imposed on Brazil by the dictator Getulio Vargas in 1934 and 1937. The fifth re-established a modern liberal republican structure for Brazil in 1946, following the overthrow of Vargas by the Brazilian army at the end of the Second World War. The sixth was imposed by the military in 1967, following their seizure of power three years before; and it was substantially modified in a seventh document after the military closed the Congress in 1969. The latest constitution, the eighth, is a reversion to the liberal republican spirit of the 1946 constitution, but is updated in its sections dealing with civil liberties, economic rights and social values to reflect the modernization of Brazilian society in the 1970s and 1980s.

The promulgation of the new constitution consolidates the "New Republic" which came into being on March 15th 1985, when Brazil's last military president left office after twenty one years of military rule. One of the first important decisions of the Sarney government was that a Constituent Assembly would be convened, comprised of all sitting members of the Senate and Chamber of Deputies, following the first Congressional elections under the New Republic in November 1986. In those elections, the leading opposition party under the military, the Brazilian Democratic Movement Party, known as the PMDB, won 301 of the 559 seats in the Senate and the Chamber of Deputies. The chairman of this party, veteran opposition leader Ulysses Guimaraes was elected as the President of the Constituent Assembly, which began its work in February 1987.

A nineteen month drafting process ensued from February 1987 until September 1988. The first two months were spent in determining the rules of procedure for the Assembly. Twenty-four substantive sub-commissions were then formed to prepare draft chapters of the document, which in turn reported to eight commissions. Their reports were referred to a rapporteur, Bernardo Cabral, who prepared a complete draft,