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FOR ACTION ONLY BY THE FOLLOWING NATIONAL SECTIONS:

CANADA (both branches), FRANCE, FRG, NETHERLANDS, SWITZERLAND, UK, USA

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Legal Concern

4 March 1981

BRAZIL: Luis Inacio DA SILVA ("Lula") and other trade unionists

Luis Inacio da Silva, known as "Lula", the President of the São Bernardo and Diadema Metal Workers' Union, and twelve other trade unionists were charged with offences under the Law of National Security in connection with a six week strike by metalworkers in São Paulo in 1980.

On 23 February 1981 Judge Nelson da Silva Machado Guimarães announced that their trial would take place in São Paulo on 25 February. However, lawyers defending the trade unionists tried to get the trial postponed after being informed of the restrictions being imposed which included:

- Only one lawyer and one relative for each defendant to be present;
- Only 14 Brazilian journalists to be allowed in the court room;
- No foreign journalists and no foreign observers to be admitted;
- No one would be allowed near the court room without army credentials.

The defence lawyers requested that they be allowed more time to prepare their case and that the trial be transferred to a larger court to enable more relatives and journalists to attend. They also requested that foreign journalists be admitted. On 25 February the Supreme Military Tribunal in Brasilia denied the request for postponement. The Judge suspended the start of the trial for one hour when neither the defendants nor their lawyers appeared. He then named new defence lawyers and the trial started in the absence of the defendants. The sentences were passed in the evening of the same day. "Lula" and three others, Djalma de Souza Bon, Nilson Timora Simon, and Rubens Teodoro de Arruda were given sentences of three and a half years. Five received terms of two and a half years: Gilson Correa de Meneses, Osmar Santos de Mendonça, Juracy Baptista Megalhães, Manuel Anisio Gomes, José Maria de Almeida. Two year sentences were given to Wagner Lino Alves and Nelson Campanola. Two men were acquitted; José Cicote and José Timoteo da Silva.

At 11.00 pm on 25 February the trade unionists presented themselves to the military authorities at DOPS (*Departamento de Ordem Política e Social* -Department of Political and Social Order) in São Paulo, where they spent the night. After spending 20 hours in custody they were all released the following day. They are all to appeal against their sentences to a higher military court.

The defence lawyers are trying to have the judgement against the trade unionists annulled on the grounds that it contravenes Brazilian law in that only when the defendants and lawyers in a case have failed to appear on more than one occasion can the trial go ahead in their absence.

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RECOMMENDED ACTION: Letters expressing concern that:

- the eleven trade unionists were sentenced under the Law of National Security for peaceful and legitimate trade union activities;
- the trial proceedings were conducted in the absence of the defendants and their lawyers in contravention of Article 431 paragraph 4 of the Código Processo Penal Militar ("*O julgamento poderá ser adiado por uma só vez, no caso de falta de comparecimento de acusado solto. Na segunda falta, o julgamento será feito à revelia, com curador nomeado pelo presidente do Conselho*")
- unusually severe restrictions were imposed by the military judge prohibiting the attendance of suitably qualified observers which give rise to increased anxiety about whether the defendants received a fair and just trial

APPEALS FROM LAWYERS, TRADE UNIONISTS AND TRADE UNION ORGANIZATIONS IN PARTICULAR ARE REQUESTED.

APPEALS TO:

Presidente da Republica Federativa do Brasil
 General João Baptista Figueiredo
 Gabinete do Presidente
 Palacio do Planalto
 70.000 Brasilia D.F.
 Brasil

Ministro da Justiça do Brasil
 Ibrahim Abi Ackel
 Ministério da Justiça
 Esplanada dos Ministérios bloco B
 70.000 Brasilia D.F.
 Brazil

COPIES TO:

Sr. Juis Auditor
 Nelson da Silva Machado Guimarães
 2a Circunscicao de Justica Militar
 S0227o Paulo
 Brazil

and to either of the following newspapers:

O Estado de São Paulo
 Av. Eng. Caetano Alvares 55
 São Paulo, Brasil

Folha de São Paulo
 Al Barao de Limeira 425, 4° Andar
 São Paulo, Brasil

FINAL DATE FOR ACTION; 15 APR 1981