

Decree No. 63.164 of 24 August 1968,
governing Exploration and Research carried out on the Underwater Shelf of Brazil
or in the Waters of the Territorial Sea and Internal and Other Waters

CHAPTER I
AUTHORIZATIONS AND SUPERVISION OF EXPLORATION AND RESEARCH
CARRIED OUT ON THE UNDERWATER SHELF OF BRAZIL
OR IN THE WATERS OF THE TERRITORIAL SEA AND INTERNAL WATERS

Article 1

Exploration and research carried out on the underwater shelf of Brazil or in the waters of the territorial sea and internal waters, to the extent that they are not prohibited by the Constitution or special legislation, shall be conducted in compliance with the following rules:

- (a) When carried out by any public authority, autonomous unit or semi-public agency, or by Brazilian individuals or bodies corporate contracted by such authorities or agencies, they must have the prior approval of the Ministry of Marine in order to ensure compliance with the requirements of navigational safety and of the Marine Police;
- (b) When carried out by private agencies or Brazilian or bodies corporate and when, under special legislation, they require the authorization of another Ministry or authority, permission shall be granted only after prior approval has been given by the Ministry of Marine. In cases where there is no special legislation, they shall require the authorization of the Ministry of Marine:
- (c) When carried out by aliens (individuals or bodies corporate, governmental or private organizations), on their own initiative or under contract, they shall require the authorization of the President of the Republic, the procedure for which shall be initiated and carried out as prescribed in article 6 of this Decree.

Article 2

In any of the cases referred to in the previous article, exploration and research activities carried out on the underwater shelf or in the waters of the territorial sea and internal waters shall be subject to the control of the Ministry of Marine in so far as the requirements of the Marine Police and navigational safety are concerned.

The results of the exploration and research activities referred to in this article shall be reported to the Ministry of Marine for whatever action the latter may deem necessary.

Article 3

For the purposes of this Decree, the underwater shelf shall be considered to be the area of national territory included in the property of the Union under article 4, III of the Brazilian Constitution, and in accordance with the international treaties and conventions ratified by Brazil.

For the purposes of this Decree, the terms "underwater shelf", "continental shelf" and "underwater continental shelf" shall have the same meaning.

Article 4

The term "research" shall include all activities carried out on the underwater continental shelf or in waters of the territorial sea or internal waters involving filming and recording for scientific purposes, limnographic, oceanographic investigation or prospecting.

CHAPTER II
APPLICATIONS FOR PERMITS

Article 5

Applications for permits or for the prior approval of the Ministry of Marine made by any public authority, autonomous unit, semi-public agency, private body or Brazilian individual or body corporate for the execution of exploration of or research on the submarine shelf of Brazil or in the waters of its exploration of or research on the submarine shelf of Brazil or in the waters of its territorial sea and internal waters shall be transmitted to the Ministry of Marine at least sixty (60) days before the date on which it is intended to begin the programme of work.

Article 6

Applications by aliens for permits to carry out exploration or research on the submarine shelf of Brazil or in the waters of its territorial sea and internal waters shall comply with the following procedure:

1. The foreign individual or body corporate responsible for the proposed exploration or research on the Brazilian submarine shelf or in the waters of the territorial sea and internal waters shall transmit the appropriate application to the Brazilian diplomatic mission to the Government of the country concerned at least one hundred and eighty (180) days before the departure of the persons concerned from their countries of origin, as prescribed in article 8 below;
2. The Ministry of Foreign Affairs shall forward the application to the Ministry of Marine together with any information that it may deem appropriate. Having completed its procedures, the Ministry of Marine shall refer the documents to the President of the Republic or to any other Ministry, as the case may be;
3. In the case of aliens contracted by a public authority, autonomous unit, semi-public agency, private body, or a Brazilian individual or body corporate the application shall be transmitted to the Ministry of Marine by the contractor at least sixty (60) days before the date on which it is proposed to begin the programme of work;
4. The Ministry of Marine shall have a period of thirty (30) working days from the date of receipt of the application in which to express its opinion as to whether the proposed exploration or research should be carried out as regards the matters referred to in article 2, and shall transmit this opinion to the President of the Republic or to the appropriate Ministry, as the case may be. Each Ministry concerned shall have thirty (30) days in which to express its views on the application.(1)

Resident aliens in Brazil who wish to carry out research of the kind referred to in this Decree shall forward their applications to the Ministry of Marine at least sixty (60) days before the date on which it is proposed to begin the programme of work.

Article 7

In the case of exploratory or research expeditions consisting of both Brazilians and aliens, the Brazilian participants shall be governed by article 5 and the aliens by article 6 respectively.

Article 8

Applications for permits or the prior approval of the Ministry of Marine referred to in articles 5 and 6 shall be required to specify:

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CHAPTER III
SUPERVISION

Article 10

Supervision of the exploration and research referred to in this Decree shall be exercised by observers appointed by the Ministry of Marine and other Ministers concerned to accompany the authorized expedition for all or part of its duration. Any marine authority based in Brazilian ports or navigation over the submarine shelf, in internal waters or waters of the territorial sea may take the initiative of exercising such supervision, whenever necessary.

1. At the request of the Ministry of Marine, the National Research Council shall appoint Brazilian scientists or technicians to accompany the expedition in question, the transport costs being payable by the Ministry of Marine.

2. Supervision of exploration and research carried out by aliens shall be exercised from the beginning of such exploratory activities on the Brazilian submarine shelf or in the territorial waters. For the supervision of such activities to be effective from the start, the inspector, preferably, embark at the last foreign port or airport visited before the work is begun and shall remain on board until the first port or airport is reached after the work is completed.

3. The observers and inspectors appointed shall submit detailed reports to the Ministry of Marine on the techniques employed and the activities and research carried out.

Article 11

For the purpose of ensuring implementation of the provisions of this Decree, the Ministry of Marine shall be responsible for supervising the activities on the submarine shelf of Brazil and in the waters of its territorial sea and its internal waters and shall seize any vessels carrying out explorations or research in the areas referred to above without permission from the competent authority.

1. Any person found carrying out unauthorized research or explorations shall be liable to the penalties prescribed in Brazilian law.

2. Any material connected with unauthorized explorations and research shall be confiscated and placed at the disposal of the Ministry of Marine which shall decide what is to be done with it, after hearing the views of other interested bodies as appropriate.

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Endnotes

1 (Note - Note)

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