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DESKBY 210530Z

FM PRETORIA 202050Z SEPT 1984

TO IMMEDIATE FCO

TELNO 383 OF 20TH SEPT 1984

INFO SAVING JOHANNESBURG, DURBAN.

YOUR TELNOS 210 AND 211: DURBAN INCIDENT

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SUMMARY

1. THE SOUTH AFRICANS ARE EMBARRASSED BY THE SITUATION AND INTENT ON RESOLVING IT. BUT THERE MAYBE AN OPPORTUNITY FOR FULLER DISCUSSION WITH THEM OF POSSIBLE COMPROMISES. IF NOT THEY MAY FEEL FORCED TO ASK US TO CLOSE THE CONSULATE AT LEAST TEMPORARILY.

DETAIL

2. THE SOUTH AFRICAN MINISTER OF FOREIGN AFFAIRS TOLD PRESS REPRESENTATIVES IN CAPE TOWN THIS AFTERNOON (20 SEPT) THAT SOUTH AFRICAN MINISTERS HAD DECIDED THAT THE DURBAN SITUATION MUST BE BROUGHT TO AN END. PIK BOTHA EXPRESSED CRITICISM OF THE BRITISH FAILURE TO TAKE DECISIVE ACTION AND SAID THAT THE SOUTH AFRICAN GOVERNMENT WOULD BE COMMUNICATING WITH THE BRITISH GOVERNMENT. HE GAVE NO DETAILS OF THEIR PROPOSALS.

3. THE SOUTH AFRICAN DETERMINATION TO SEE THIS HIGHLY EMBARRASSING ISSUE RESOLVED SHOULD NOT BE UNDERESTIMATED. DOMESTIC PRESS BOTH ENGLISH AND AFRIKAANS HAS BEEN CRITICAL OF THEIR GOVERNMENT'S ACTIONS THAT LED UP TO THE SITUATION. THE SOUTH AFRICAN GOVERNMENT HAVE HAD AN APPALLING INTERNATIONAL PRESS DURING THE LAST THREE WEEKS AND IT IS AGAINST THIS BACKGROUND THAT THEY HAVE SEEMINGLY DECIDED THAT THE DURBAN SIT-IN MUST BE ENDED. LIKE WORRALL I DOUBT IF TOMORROWS COURT HEARING WILL RESOLVE THE ISSUE. IF WE ARE NOT ABLE TO SOLVE THE PROBLEM THROUGH NEGOTIATION, THE SOUTH AFRICANS MIGHT WELL DECIDE TO FORCE THE ISSUE.

4. WORRALL'S COMMENTS TO THE PUS DO HOWEVER SUGGEST THAT THERE MIGHT BE AN OPPORTUNITY TO PROPOSE A FULLER DISCUSSION WITH THE SOUTH AFRICANS ABOUT POSSIBLE ALTERNATIVES FOR ENDING THE PRESENT DEAD-LOCK. WE HAVE NOT YET EXPLORED WITH THEM POSSIBLE OPTIONS, PRIMARILY BECAUSE WE DID NOT WISH TO APPEAR TO BE ENGAGED AS INTERMEDIARIES BETWEEN THE SIX AND THE SOUTH AFRICAN AUTHORITIES. WE HAVE HAD NO SUBSTANTIVE COMMENT WITH OFFICIALS OR MINISTERS ABOUT THE CONSULATE SINCE WE SPOKE ON YOUR INSTRUCTIONS ON THE EVENING OF 14 SEPTEMBER TO THE DFA TO OUTLINE OUR POSITION AND INVITE COMMENTS. THE SOUTH AFRICANS HAVE NOT COMMENTED UNTIL THE APPROACH BY WORRALL BUT THERE HAVE BEEN VARIOUS REPORTS (E.G. PARA 4 OF MY TEL NO 374

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AND PARA 5 OF MY TEL 340) OF POSSIBLE DEALS WHICH MIGHT BE STRUCK AND SOME OF THESE MAY REFLECT INSPIRED BRIEFING. GENERAL COETZEE HAS ALSO SPOKEN OF CONTACTS WITH REPRESENTATIVES OF THE SIX.

5. IT MIGHT BE POSSIBLE TO GET THE GOVERNMENT TO MAKE AN OFFER WHICH WOULD PROVIDE US WITH A PRETEXT FOR SOME CHANGE IN OUR POSITION. E.G. AN OFFER OF NO IMMEDIATE REDETENTION AGAINST ASSURANCES THAT WOULD NOT PRECLUDE THE SIX TAKING FUTURE LEGAL STEPS IF THIS WAS NECESSARY. WE HAVE EARLIER EXPLAINED TO THE SIX THROUGH THEIR LAWYERS THAT OUR AGREEMENT TO TAKE NO STEPS TO REQUIRED THEM TO LEAVE WOULD ONLY APPLY IN PRESENT CIRCUMSTANCES. IT IS ALSO RELEVANT THAT WE HAVE LAID STRESS IN CONTACTS WITH THE SIX, THEIR LEGAL REPRESENTATIVES AND BOESAK THAT WE HAVE TO KEEP IN MIND CONSTANTLY WHAT IS PROPER TO OUR CONSULAR STATUTES IN DURBAN.

6. IF THE SOUTH AFRICANS DECLINED TO OPEN DISCUSSIONS WITH US ON THESE LINES, WE SHOULD BE FACED WITH A VERY DIFFICULT CHOICE. THEY WOULD SEEM TO HAVE A FAIRLY STRONG CASE IN TERMS OF INTERNATIONAL LAW. ON THE OTHER HAND IT WOULD BE POLITICALLY ABHORRENT FOR US TO HAND OVER THE SIX AND IN THESE CIRCUMSTANCES YOU WOULD PRESUMABLY WISH TO REPEAT OUR REFUSAL TO COMPEL THEM TO LEAVE AGAINST THEIR WILL. NOR PRESUMABLY WOULD YOU WISH TO ALLOW THE SOUTH AFRICANS TO ENTER THE PREMISES (WHICH WOULD BE TANTAMOUNT TO HANDING THEM OVER). THE SOUTH AFRICANS WOULD THEN HAVE THE DIFFICULT CHOICE OF WHETHER TO FORCE THE ISSUE, DESPITE THE REPERCUSSIONS FOR UK-SOUTH AFRICAN RELATIONS AND THE INEVITABLE INTERNATIONAL OUTCRY, BY CLOSING DOWN THE CONSULATE, IF ONLY TEMPORARILY. MY BEST GUESS IS THAT IN THEIR PRESENT MOOD, WITH A ROW POSSIBLY LOOMING OVER THE PROSECUTIONS FOR ARMS EMBARGO VIOLATIONS AND ILL FEELING OVER OUR TOUGH RESPONSE RECENTLY OVER CERTAIN ACTIVITIES BY THEIR EMBASSY, THEY MAY SEE LITTLE TO LOSE IN FORCING THIS PARTICULAR ISSUE AS WELL. IT WOULD AT LEAST SAVE US POLITICAL EMBARRASSMENT INTERNATIONALLY AND DOMESTICALLY IF WE WERE COMPELLED TO CLOSE THE CONSULATE.

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