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FM PRETORIA 301505Z OCT 1984
TO PRIORITY FCO
TELNO. 575 OF 30TH OCT 1984

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YOUR TELNO 321: DURBAN

SUMMARY

1. NO SIGNS OF MOVEMENT BY THE SOUTH AFRICAN GOVERNMENT OR THE THREE. SHOULD WE TAKE FURTHER STEPS OURSELVES ?

DETAIL

2. PRESIDENT BOTHA'S MESSAGE (YOUR TELNO 319), THOUGH FAIRLY CONCILIATORY IN TONE, OFFERS NO CONCESSIONS ON ANY POINT OF SUBSTANCE. AFTER THE FAILURE OF THE COVENTRY FOUR TO APPEAR, IT WOULD NOW BE IN THE SOUTH AFRICAN INTEREST TO LOWER THE TEMPERATURE. BUT IT IS NOT EASY TO SEE HOW WE CAN EMERGE FROM THE PRESENT IMPASSE. I WAS INTERESTED TO NOTE WORRALL'S REFERENCE TO 'SOME IDEAS WHICH MIGHT BE USEFUL'. PMK BOTHA, HOWEVER, GAVE ME LITTLE REASON TO BELIEVE THAT THE SOUTH AFRICANS ARE LIKELY TO TRY TO HELP US OUT OF OUR DIFFICULTIES.

3. THE SOUTH AFRICANS SEEM TO HAVE A RANGE OF OPTIONS OPEN TO THEM, INCLUDING :

- (A) TO DO NOTHING.
- (B) TO TRY TO FORCE EVICTION OR CLOSURE UNDER LOCAL BY-LAWS.
- (C) TO ASK US TO CLOSE THE CONSULATE.
- (D) TO TAKE ACTION WHICH MIGHT PERSUADE THE THREE TO LEAVE EG BY REMOVING DETENTION ORDERS ON ONE OR MORE OF THE THREE WHO VOLUNTARILY LEFT THE CONSULATE.
- (E) TO WITHDRAW ALL DETENTION ORDERS ON GROUNDS THAT THE PURPOSE FOR WHICH THEY WERE IMPOSED HAS NOW BEEN SERVED.
- (F) TO SEND IN THE POLICE.

4. IN PRESENT CIRCUMSTANCES, THE SOUTH AFRICANS CAN HAVE LITTLE INCENTIVE TO TAKE ANY POSITIVE ACTION, WHETHER AGAINST THE CONSULATE (B OR C) OR IN FAVOUR OF THE THREE (D OR E). WE CANNOT RULE OUT A DECISION TO USE THE POLICE (F), BUT HAVING COME THIS FAR WITHOUT TAKING SUCH DRASTIC ACTION I BELIEVE THE ARGUMENTS AGAINST IT WILL CONTINUE TO WEIGH HEAVILY WITH THE SOUTH AFRICANS. MY BEST GUESS IS THAT THEY WILL PREFER TO LET THINGS DRIFT IN THE HOPE THAT INTERNATIONAL INTEREST WILL SLACKEN AND THAT WE MAY OURSELVES DECIDE TO TAKE DEFINITIVE ACTION TO RESOLVE THE CRISIS. THIS MEANS THAT IT IS LESS LIKELY THAT THEY WILL TRY TO FORCE THE ISSUE. (OUR LEGAL ADVISERS HAVE, INCIDENTALLY, DISCOVERED THAT THE BY-LAWS FOR OFFICES IN THE DURBAN CENTRAL BUSINESS DISTRICT ALLOW 2% OF OFFICE BUILDING SPACE TO BE USED FOR ACCOMMODATION PURPOSES. THIS MAY SLIGHTLY LESSEN THE LIKELIHOOD OF ACTION UNDER (B).

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5. AS REGARDS THE MENTAL AND PHYSICAL STATE OF THE THREE IN THE CONSULATE, ALTHOUGH THEY ARE MISSING CONTACT WITH FAMILIES AND LAWYERS AND ARE DISAPPOINTED THAT THEIR APPEAL TO THE MINISTER OF LAW AND ORDER HAS HAD NO EFFECT, THERE IS NO SIGN THAT THEY ARE CONTEMPLATING AN END TO THEIR SITUATION. THE THREE HAVE WRITTEN TO THEIR LAWYERS ABOUT ARRANGEMENTS FOR REPRESENTATION AT THEIR APPEAL IN BLOEMFONTEIN AND THIS COULD BE MAY WEEKS AWAY. ALL THREE HAVE EXPERIENCE OF BEING BANNED. IN GUMEDE'S CASE HE SPENT A LONG TIME ON ROBBER ISLAND. AT PRESENT THEY SEEM UNLIKELY TO MAKE ANY MOVE WITHOUT ADVICE FROM LAWYERS AND THE NIC.

6. SINCE WE HAVE INTRODUCED THE NEW ARRANGEMENTS AT THE CONSULATE, WE HAVE NOT MADE ANY FURTHER APPEALS TO LAWYERS OR THE THREE TO LEAVE. DR MEER, ACTING PRESIDENT OF THE NIC, TOLD THE PRESS OVER THE WEEKEND THAT HE WAS GIVING THOUGHT TO WAYS IN WHICH THE CONSULATE SITUATION COULD BE BROUGHT TO AN END, BUT THE PRESS HAVE TOLD US THAT NIC SOURCES HAVE ALSO BEEN SAYING THAT THE THREE ARE SETTLING IN FOR AN INDEFINITE PERIOD AND ARE UNLIKELY TO LEAVE IN THE NEAR FUTURE.

7. THE PRESENT SITUATION CONTINUES TO BE HIGHLY UNSATISFACTORY: IT MEANS THAT NONE OF OUR STAFF IN DURBAN IS REALLY PRODUCTIVELY EMPLOYED ALTHOUGH THE CONSUL WILL BE VISITING KWAZULU LATER THIS WEEK ON A ROUTINE VISIT THAT HAS BEEN PLANNED FROM HIS HOME AND THE VICE CONSUL (COMMERCIAL) IS DOING SOME VISITS ALSO PLANNED FROM HIS HOME. THREE STAFF FROM ELSEWHERE IN SOUTH AFRICA ARE NOW ENGAGED IN DUTIES IN DURBAN. WE ASSUME THAT YOU WOULD NOT WISH TO CONTEMPLATE DEVOTING SUCH RESOURCES TO LOOKING AFTER THE THREE INDEFINITELY (AND AFTER A WEEK OR TWO WE SHALL PROBABLY NEED TO ASK FOR EXTERNAL REINFORCEMENT IF WORK AT OTHER POSTS IN SOUTH AFRICA IS NOT TO BE UNACCEPTABLY CURTAILED).

8. AS SEEN FROM HERE WE HAVE BASICALLY THREE OPTIONS:

- (A) TO CONTINUE AS WE ARE IN THE HOPE THAT A COMPARATIVE LESSENING OF PUBLIC INTEREST AND FEELINGS OF ISOLATION WILL BRING THE MEN TO LEAVE. BUT THIS COULD BE A VERY LONG HAUL.
- (B) TO POINT OUT TO LAWYERS AND THE THREE EVEN MORE FORCEFULLY THAN BEFORE THAT WE HAVE REACHED THE LIMIT OF OUR ABILITY TO HELP THEM, THAT THE CONSULATE HAS SCARCELY BEEN ABLE TO OPERATE SINCE 13 SEPTEMBER, THAT THE SITUATION CANNOT GO ON INDEFINITELY AND TO ASK THEM ABOUT THEIR PLANS FOR ENDING IT. DR MEER'S REMARKS (PARA 6 ABOVE) WOULD PROVIDE A HANDLE FOR SUCH ACTION.
- (C) TO SERVE NOTICE THAT WE SHALL SOON HAVE TO CLOSE THE OFFICE IF THE THREE DO NOT LEAVE VOLUNTARILY, MAKING MAXIMUM PLAY OF THEIR REFUSAL TO COOPERATE AND OF THE DISOBLIGING STATEMENTS ABOUT OUR ROLE WHICH CONTINUE TO BE MADE BY THEIR CLOSEST SUPPORTERS.

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CONFIDENTIAL

19.

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9. IN PRESENT CIRCUMSTANCES, IT IS NOT EASY TO DECIDE WHICH COURSE IS THE MOST LIKELY TO BE PRODUCTIVE. THE NIC AND THE THREE ARE CLEARLY FRUSTRATED BY THE PRESENT SITUATION. THERE MIGHT BE A CASE FOR WAITING A LITTLE LONGER TO SEE WHETHER THIS PROMPTS THEM INTO ACTION. HOWEVER, THIS COULD VERY WELL LEAVE US FURTHER DOWN THE ROAD WITH NO CHANGE. A RESURGENCE OF INTERNATIONAL INTEREST, ESPECIALLY ON BISHOP TUTU'S RETURN, IS POSSIBLE AND EVEN PROBABLE. FOR THIS REASON, MY PREFERENCE WOULD BE TO PURSUE 8(B) ABOVE AND TO REITERATE TO THE THREE AND TO THEIR LAWYERS WITHOUT FURTHER DELAY THAT THE THREE SHOULD LEAVE, COUPLED WITH A RENEWED URGENT ENQUIRY ABOUT THEIR INTENTIONS. IF IN SAY A WEEK'S TIME THERE IS NO SATISFACTORY RESPONSE, I BELIEVE THAT WE SHOULD THEN BE JUSTIFIED IN MOVING ON TO 8(C). WARNING OF CLOSURE WOULD BE BOUND TO LEAK AND THERE WOULD NO DOUBT BE STRONG PROTESTS. BUT TO CLOSE WITHOUT A FINAL WARNING COULD BE CONSIDERED EVEN MORE HIGH-HANDED AT THIS STAGE. ONCE A FINAL WARNING HAS BEEN ISSUED, HOWEVER, THERE SHOULD BE NO TURNING BACK FROM CLOSURE ITSELF WITHIN A SHORT PERIOD.

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3

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