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BSB/FO 012/8

FCO DESKBY 080800Z

OO MODUK AIR (SIC 19F)

OO MODUK (FOR BGS/INT AND DIC ARMS CELL)

OO WASHINGTON DESKBY 081500Z
GPS1060

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CONFIDENTIAL

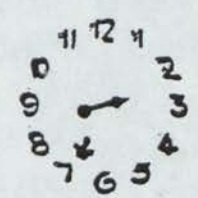
- 8 JUN 1982

DESKBY 080800Z

FM BRASILIA 072340Z JUNE 82

TO IMMEDIATE FCO

TELEGRAM NUMBER 258 OF 07 JUNE



AND TO IMMEDIATE MODUK AIR (SIC 19F), MODUK (FOR BGS/INT AND ARMS CELL), AND WASHINGTON.

YOUR TEL 170 : VULCAN DIVERSION

1. I CALLED ON THE FOREIGN MINISTER THIS EVENING. I PUT HIM THROUGH THE WRINGER ONCE MORE, USING THE POINTS IN YOUR PARA 2. I EXTRACTED SOME SMALL COMFORT, BOTH ON THE VULCAN AND THE LIBYAN ARMS TRAFFIC VIA RECIFE.

2. GUERRIERO HAD OBVIOUSLY REHEARSED THE POINTS HE WISHED TO MAKE IN REPLY, WHICH WERE AS FOLLOWS:

A. MENTION IN MY BOUT DE PAPIER OF A DETERIORATION IN OUR RELATIONS BECAUSE OF THE INCIDENT INVOLVING THE VULCAN SEEMED QUITE DISPROPORTIONATE.

B. IN OUR PREVIOUS CONVERSATION, HE HAD NEVER STATED AS A FACT THAT THE HAGUE RULES SHOULD APPLY TO THE CASE OF THE VULCAN

B. IN OUR PREVIOUS CONVERSATION, HE HAD NEVER STATED AS A FACT THAT THE HAGUE RULES SHOULD APPLY TO THE CASE OF THE VULCAN. IT WAS BECAUSE OF THEIR UNCERTAINTY ON THE QUESTION THAT THEY HAD CONSULTED THE FOREIGN MINISTRY'S LEGAL ADVISER. HIS WRITTEN OPINION WAS PRACTICALLY READY: AND HE WOULD HOPEFULLY BE SUBMITTING HIS CONCLUSIONS, ALSO IN WRITING, SOMETIME TOMORROW.

C. IF IT TURNED OUT THAT THERE WAS A VERY PRECISE OBLIGATION UNDER THE HAGUE RULES, THEY WOULD BE OBLIGED TO APPLY THEM IN THIS CASE. IF NOT, THEY WOULD HAVE TO TALK TO BOTH PARTIES (SIC) AND SEE WHAT KIND OF SOLUTION THAT WAS FAIR TO BOTH SIDES COULD BE WORKED OUT.

D. AS TO THE ALLEGED ARMS TRAFFIC, AS HE HAD TOLD ME ON SATURDAY, THE RESPONSIBLE SERVICES DID NOT CONFIRM THAT THE SPECIFIC FLIGHT WE HAD INDICATED (YOUR TEL NO 151 REFERS) CARRIED WEAPONS OR WAR MATERIAL. HE REPEATED THAT, IF THEY DID DISCOVER SUCH TRAFFIC, THEY WOULD TRY TO DISCOURAGE IT.

3. ENLARGING ON THESE POINTS, IN RESPONSE TO MY QUESTIONING, GUERREIRO SAID THAT THE LEGAL ADVISER WOULD PROBABLY END UP BY SAYING THAT THE SITUATION WAS ATYPICAL. HE HAD ALREADY ESTABLISHED THAT THE HAGUE RULES WERE INFORMALLY OBSERVED BY SOME OTHER COUNTRIES: BUT NEVER BY BRAZIL. IT WAS ALSO A FACT THAT BRITAIN AND ARGENTINA WERE NOT STRICTLY SPEAKING AT WAR. HE THOUGHT THAT WHATEVER THE LEGAL ADVICE, IT WOULD HAVE TO COME DOWN TO A POLITICAL SOLUTION WHICH WOULD NOT CREATE PROBLEMS FOR EITHER PARTY. THEY WOULD CERTAINLY NOT ADOPT A "MECHANICAL" SOLUTION (BY WHICH HE MEANT EITHER TO LET THE AIRCRAFT GO OR TO INSIST THAT IT STAYED HERE, WITHOUT CONDITIONS). SIR A ACLAND HAD MENTIONED TO CAMPOS THE POSSIBILITY OF THE AIRCRAFT BEING PUT INTO BOND, THUS ENDING ITS WARLIKE USE (PARA 9 OF YOUR TEL NO 166 REFERS). HE THOUGHT THAT THIS WAS A POSSIBILITY THAT MIGHT USEFULLY BE EXPLORED, THOUGH HE HAD TO MAKE IT CLEAR THAT NO DECISION OF ANY KIND HAD YET BEEN TAKEN BY THE GOVERNMENT.

4. WHEN I PROBED HIM FURTHER ON HIS POINT C. AND THE SURPRISING SUGGESTION THAT HE SHOULD TALK TO BOTH PARTIES, GUERREIRO EXPLAINED THAT HE WOULD HAVE TO BE SURE THAT BOTH SIDES UNDERSTOOD THAT ANY PROPOSED SOLUTION WAS NOT ARBITRARY BUT THE FRUIT OF LENGTHY CONSIDERATION. THUS, IF THE LEGAL ADVISER OPINED THAT THE HAGUE RULES DID NOT APPLY, HE WOULD HAVE TO TELL THE AGENTNESS OF THIS AND BECAUSE THEY HAD TO BE SURE THAT

GUERREIRO EXPLAINED THAT HE WOULD HAVE TO BE SURE THAT BOTH SIDES UNDERSTOOD THAT ANY PROPOSED SOLUTION WAS NOT ARBITRARY BUT THE FRUIT OF LENGTHY CONSIDERATION. THUS, IF THE LEGAL ADVISER OPINED THAT THE HAGUE RULES DID NOT APPLY, HE WOULD HAVE TO TELL THE ARGENTINES OF THIS AND PERSUADE THEM THAT THE AIRCRAFT MIGHT BE RELEASED ON CERTAIN CONDITIONS.

5. RETURNING TO THE QUESTION OF ARMS TRAFFIC, I REMINDED GUERREIRO THAT WE HAD CLEAR EVIDENCE THAT THAT TRAFFIC WAS STILL CONTINUING. THE BRAZILIANS HAD TO REALISE THAT THE WEAPONS IN QUESTION WERE INTENDED TO BE USED AGAINST OUR SHIPS, AIRCRAFT AND TROOPS AND THAT WE FELT VERY STRONGLY ABOUT THE NEED TO PUT A STOP TO THEM. I ADDED THAT I HAD RECEIVED ONLY TODAY UNSOLICITED INFORMATION FROM TWO SEPARATE AVIATION SOURCES TO THE EFFECT THAT AN AVERAGE OF TWO SUCH FLIGHTS PER DAY, ONE BY AEROLINEAS ARGENTINAS AND THE OTHER BY THE ARGENTINE AIRFORCE, WERE REGULARLY TAKING PLACE. GUERREIRO AGREED THAT, IF THIS WERE INDEED SO, SOMETHING MUST BE DONE TO STOP IT. HE UNDERTOOK TO PASS MY INFORMATION TO THE RESPONSIBLE AUTHORITIES AND ASK THEM TO LOOK INTO THE MATTER URGENTLY. I ASKED WHETHER HE HAD YET SAID ANYTHING TO THE ARGENTINES ABOUT THIS TRAFFIC. HE SAID THAT HE HAD NOT, BUT IMPLIED THAT, IF HARD EVIDENCE CAME TO LIGHT, HE WOULD SEEK TO DISCOURAGE THEM FROM USING THIS ROUTE ANY FURTHER.

6. LASTLY, I RETURNED TO GUERREIRO'S SUGGESTION OF DISPROPORTIONALITY AT A. ABOVE. I SAID THAT IT MIGHT PERHAPS SEEM DISPROPORTIONATE TO SPEAK OF A SERIOUS EFFECT ON OUR RELATIONS IN NORMAL CIRCUMSTANCES. BUT CIRCUMSTANCES WERE NOT NORMAL, SO FAR AS BRITAIN WAS CONCERNED. AT A TIME WHEN A GREAT DEAL OF BRITISH BLOOD AND TREASURE WAS BEING SPENT IN REGAINING THE FALKLAND ISLANDS, THE BRITISH GOVERNMENT AND PEOPLE FOUND IT HARD TO UNDERSTAND WHY THE BRAZILIAN GOVERNMENT SHOULD HAVE GONE BACK ON THEIR EARLIER DECISION TO RELEASE THE VULCAN, APPARENTLY ONLY IN RESPONSE TO ARGENTINE PRESSURE. I REPEATED THAT THIS INCIDENT WAS BEING SEEN AS A TEST CASE OF BRAZIL'S WHOLE STANCE IN THIS CONFLICT AND THAT IT WOULD BE A MISTAKE TO UNDERESTIMATE THE VERY STRONG FEELINGS AROUSED IN LONDON BY IT. GUERREIRO LOOKED SLIGHTLY IMPRESSED.

COMMENT

7. MY GUESS IS THAT:

- A. THE LEGAL ADVISER WILL SAY (MAYBE, HAS ALREADY SAID) THAT THE HAGUE RULES DO NOT APPLY.

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- A. THE LEGAL ADVISER WILL SAY (MAYBE, HAS ALREADY SAID) THAT THE HAGUE RULES DO NOT APPLY.
 - B. THE BRAZILIAN GOVERNMENT WILL THEN SET ABOUT CONSULTING THE ARGENTINE AMBASSADOR AND ME IN TURN ABOUT A POSSIBLE "POLITICAL" SOLUTION, WHICH MIGHT WELL BE THE BOND MOTION. WITH LUCK, THIS MIGHT LEAD TO THE RELEASE OF THE AIRCRAFT WITHIN A FEW DAYS.
 - C. THE BRAZILIANS WILL, SOMEWHAT LATE IN THE DAY, STIR THEMSELVES TO DISCOURAGE THE ARGENTINES FROM ROUTING THEIR ARMS PURCHASES FROM LIBYA THROUGH RECIFE OR ANY OTHER BRAZILIAN AIRPORT (THOUGH BY THE TIME THEY TAKE ANY EFFECTIVE ACTION, THE MAIN BULK OF THE LIBYAN CONSIGNMENT MAY ALREADY HAVE PASSED THROUGH SAFELY).
8. I THINK, ON BALANCE, IT WAS WORTH TURNING THE SCREW AGAIN IN THIS WAY. BUT I WOULD NOT RECOMMEND THAT WE DO IT AGAIN UNTIL WE HAVE GIVEN THE BRAZILIANS TIME TO MATCH PRACTICE TO GUERREIRO'S MILDLY ENCOURAGING WORDS. I THINK THEY CAN UNDERSTAND THE HIGH TEMPERATURE IN LONDON ABOUT THIS ISSUE; BUT THEY WILL EXPECT US TO UNDERSTAND THAT, FOR OBVIOUS GEOPOLITICAL REASONS, THEY VIEW THE SITUATION DIFFERENTLY.

HARDING

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SENT AT 07:0100Z BRL

SENT AT 08:0100Z BRL SRI

RECD AT 080100Z HK