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CEPC



Foreign and Commonwealth Office

London SW1A 2AH

17 September 1984

*NBPM
EOP 17/9*

Dear Charles.

Prime Minister's Interview on BBC News, Monday 17 September

I enclose a note on the Durban Consulate incident, in case the Prime Minister is interviewed about it on BBC News.

There have been no fresh developments at the Consulate. Mr Yacoob, lawyer for the six, called this morning on John Johnson, the Assistant Under Secretary here with responsibility for Africa, to re-state the demands of the six, principally that we should intervene with the South African Government on their behalf. He reiterated his wish for a meeting with Ministers. We made no commitment to this; FCO Ministers here have decided that we should refuse on the grounds that such a meeting would merely increase the pressure on us to get involved and would also bolster Yacoob's position. He has been highly critical of our handling of the affair locally and has undoubtedly stiffened the attitude of the six against leaving voluntarily.

The Prime Minister has assured Mr Kinnock that the six will not be compelled to leave against their wishes. We are of course sticking firmly to this line. At the same time this may be a useful moment to take the opportunity to highlight the growing difficulty of the situation at the Consulate. It might also be useful to stress that we hope there will be a sensible agreement between the men and the South African authorities that will enable them to leave as quickly as possible. The Prime Minister might add that the occupation should not drag on indefinitely, impeding as it does the work of the Consulate and doing no good for the position of the six. She might also say that the Consul is doing his best in a very small post (normally one UK based officer only) to provide the six with essential facilities, but that his task is extremely difficult.

Yours ever,

Len Appleyard

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Private Secretary

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PRIME MINISTER'S INTERVIEW ON PANORAMA, MONDAY 17 SEPTEMBER:
INCIDENT AT DURBAN CONSULATE

LINE TO TAKE

General

1 Understand the predicament of the six. Our concern throughout has been to see the matter quickly resolved.

2 Made clear last week that the six would not be required to leave the Consulate against their will. But occupation should not drag on indefinitely. We hope that there will be a sensible agreement which will enable them to leave as quickly as possible. Work of the Consulate being totally disrupted. Situation bound to become increasingly difficult. Is not benefitting the six.


UK Mediation?

3 It is for the men and their lawyers to negotiate with the South African Government. We are not taking sides. We cannot negotiate or act as intermediaries.

UK Position Inconsistent with our concern at Detentions?

4 Not so. We are of course concerned at the oppression associated with apartheid, and want to see changes. But we cannot intervene in the legal processes of another country.

/Meeting



Meeting between Six's Lawyers and Ministers

5. Mr Yacoob has had a full discussion today with a senior official at the FCO. He has reported fully. We have made clear we are not willing to negotiate on behalf of the six, which was main purpose of Mr Yacoob's visit. Nothing therefore to be gained by meeting Ministers. Officials remain ready to see him again if he wishes.


Asylum?

6. Group have entered our premises and we are not compelling them to leave. But there is no general practice or custom about granting diplomatic asylum. The UK does not accept individuals seeking refuge in diplomatic premises from the local authorities, except in cases of extreme and immediate physical danger, and then only while that threat persists.

Facilities at Consulate

7. Consulate is small (5 rooms ^{on seventh floor} of which the largest now occupied by the six). There are minimal facilities (no water or toilet on the premises). Not designed for living accommodation. Inevitable that presence of 6 (plus our own staff to watch over them) leads to discomfort. But we have done our best to provide reasonable facilities. Food, drink permitted; adequate toilet facilities. Doctors have been allowed to examine all six. Situation not of our choosing.

/Access



Access to Families

8. Families admitted three times (13 and 14 September and again today). Further visits subject to Consul's discretion: must be a decision for man on the ground. Can give no commitments on further visits. We must control access to Consulate.

Have we Approached South African Government?

9. The South African Government is aware of our position.

ESSENTIAL FACTS

General

1. Six members of the United Democratic Front (UDF) and the Natal Indian Congress (NIC; a constituent member of the UDF) took refuge in our Consulate in Durban on 13 September. The men, along with others, were detained on 20 August without charge under the Internal Security Act. On 7 September the six and one other successfully petitioned the Supreme Court in Natal for release on the grounds that their detention orders were invalid. The Court ordered their release. They then went to ground, emerging only on 13 September at the Consulate. The Minister of Law and Order has issued fresh, re-worded, detention orders, yet to be served. Counsel for the six have submitted a fresh application to the Natal Supreme Court to have the new detention orders declared invalid. The hearing is scheduled for today or tomorrow. The likelihood of their succeeding seems slender.

Latest DevelopmentsConsulate

2. There have been no recent developments at the Consulate. The six remain there in necessarily spartan conditions. These have attracted criticism eg that the men have not been given access to their families. But we have done everything possible to make conditions tolerable.

Visit of the Six's Lawyer to London

3. A lawyer for the six, Mr Yacoob, accompanied by two members of the UDF/NIC are currently in London to press the British Government to intervene on behalf of the six. Mr Yacoob called at the Foreign and Commonwealth Office this morning. Mr Johnson (AUS for Africa) told him that in the present circumstances we would not require the six to leave the Consulate against their will but that they could not stay there indefinitely. He said that there was no question of HMG negotiating on their behalf. They must resolve their difficulties direct with the South African Government through Mr Yacoob and his colleagues. Mr

/Johnson



Johnson stressed that we had done our best to provide for the six on a temporary basis in the Consulate. He urged Mr Yacoob to work for the early resolution of the problem. Mr Yacoob was disappointed at our firm line. He is likely to continue to press for a Ministerial meeting, and further progress to securing the six's removal seems unlikely while Mr Yacoob is here.

Asylum

4. The six have not asked for asylum as such. But by asking for sanctuary and protection for as long as it is needed they have in effect sought asylum from us. The South Africans have so far neither informally requested surrender of the six members of the group nor presented legal authority for their detention in the shape of warrants of arrest or detention orders. Our policy is to grant asylum only in the most exceptional circumstances and for the most limited period (hours). It would be a complete departure from our approach if we were to continue to harbour the six in the Consulate if we were faced with a formal demand for surrender by the South African authorities backed by warrants of arrest or detention orders. International legal rules, do however, provide some margin for political appreciation.

ANNEX: BRITISH CONSULATE IN DURBAN: CONDITIONS

1. The Consulate normally has only one UK-based member of staff, Mr Davey. There are a number of locally-engaged staff concerned with consular and commercial work. The Consulate premises are on the 7th floor of the Barclays Bank building in Durban, and occupy a suite of five rooms. As is common in modern office blocks, washroom facilities are located outside our offices and shared with other offices on the same floor.

2. In the difficult circumstances created by the arrival of the six, we have made the following arrangements:

- (a) Reinforced our staff with an officer from our Embassy in Pretoria. He, the Consul and a senior locally-engaged officer share the task of supervising the six round the clock. Other locally-engaged staff are attempting to work normally, though this is extremely difficult. One room, the largest (70 sq yards), has been vacated, and this is occupied by the six.
- (b) Washing facilities: the six are at liberty to use the main facilities outside the Consulate during the hours when the building is closed and at weekends. While the building is open we have made clear that they leave Consulate premises at their own risk and we cannot guarantee re-admission. We have, however, provided a make-shift chemical toilet inside the premises, and the six have, in practice, made use of this.
- (c) Food and drink: this has been provided by friends and relatives of the six and has been passed into the Consulate.
- (d) Radios: it is common practice not to permit the possession of radios by unauthorised persons in British missions abroad. Accordingly a radio held by one of the six has been taken away.
- (e) Newspapers: the six have been allowed to see a newspaper each day.
- (f) Family visits: family visits for each of the six have been permitted on 13 and 14 August and again this evening.
- (g) Medical: doctors have been allowed to enter, and all six have been medically examined since their arrival.



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