

GRS 1000

CONFIDENTIAL

CONFIDENTIAL

DESKBY 011100Z

FM PRETORIA 010955Z OCT 84

TO IMMEDIATE FCO

TELEGRAM NUMBER 444 OF 01 OCTOBER

INFO PRIORITY UKMIS NEW YORK, WASHINGTON./

MY TELNO 436:- SITUATION IN THE DURBAN CONSULATE

SUMMARY

1. THE REQUIREMENT FOR MEMBERS OF THE SIX TO APPEAR IN COURT ON TUESDAY HAS BEEN DROPPED. CONTINUING ATTEMPTS TO GET THE SIX TO LEAVE VOLUNTARILY HAVE NOT MET WITH SUCCESS. THE SIX HAVE APPEALED TO OTHER MISSIONS FOR REFUGE. WE NEED INSTRUCTIONS ON HOW TO DEAL WITH CERTAIN CONTINGENCIES IF THE SIX STAY PUT.

DETAIL

2. WE LEARNT THIS MORNING FROM THE SIX'S LAWYERS AND FROM P.I.K. BOTHA'S OFFICE THAT THE ATTORNEY GENERAL HAD DROPPED THE CHARGES AGAINST 46 DEFENDENTS INCLUDING SEWPERSADH, NAIDOO AND RAMGOBIN (WHOM WE HAD DISCOVERED DURING THE WEEKEND WAS ALSO AFFECTED) WHICH WOULD HAVE NECESSITATED THEIR APPEARING IN THE DURBAN COURT ON TUESDAY ON CHARGES UNDER SECTION 57.1 (C) OF THE INTERNAL SECURITY ACT. THE DEFENDENTS HAD BEEN CHARGED FOR THEIR PART IN DEMONSTRATIONS LAST NOVEMBER. THEIR DEFENCE HAD BEEN THAT THEY WERE DOING NO MORE THAN HOLDING UP PLACARDS AND THAT THEIR ACTIVITY HAD NOT BEEN ILLEGAL. IT MAY BE THAT THE GOVERNMENT CONCLUDED THAT TO PURSUE THE CASE MIGHT NOT BE PROFITABLE IN VIEW OF THE APPARENTLY FLIMSY CHARGES.

3. THIS REMOVES WHAT WOULD HAVE BEEN A POTENTIALLY EMBARRASSING SITUATION TO US IF THE THREE OF THE SIX CONCERNED HAD DECLINED TO PUT IN AN APPEARANCE IN COURT.

4. THE SIX HAD BEEN URGENTLY CONSIDERING THEIR SITUATION IN THE CONTEXT OF THE TUESDAY COURT CASE. THEY ARE NOW UNLIKELY TO MAKE ANY MOVE UNTIL THE FINDINGS OF THE JUDGES ON THEIR APPLICATION AGAINST DETENTION ORDERS ARE DELIVERED. THEIR LAWYERS BELIEVE THAT JUDGEMENT MAY BE HANDED DOWN ON 3 OCTOBER.

5. IN A DEVELOPMENT APPARENTLY RELATED TO REPRESENTATIONS THAT WE HAD MADE TO THE SIX ABOUT OUR CONCERN OVER THE IMPENDING COURT CASE, THE SIX HAVE ASKED THE US, FRENCH, GERMAN AND DUTCH EMBASSIES TO ALLOW REFUGE ON CONSULAR PREMISES IN DURBAN. IT SEEMS UNLIKELY THAT ANY OF THE FOUR GOVERNMENTS WILL REPLY TO THIS APPROACH. THE AMERICANS HAVE STATED PUBLICLY THAT THEY HAVE REFERRED THE APPROACH TO WASHINGTON. COMMENTING ON THIS TO THE SABC THIS MORNING, THE SOUTH AFRICAN FOREIGN MINISTER SAID THAT WERE THE US GOVERNMENT TO ACCEDE TO THIS REQUEST THEY WOULD BE PUTTING THEMSELVES IN BREACH OF THE LAW.

CONFIDENTIAL

/6.

6. WE HAVE BEEN CONTINUING TO TRY TO GET THE SIX TO AGREE TO LEAVE THE CONSULATE VOLUNTARILY. IT HAS BEEN A FRUSTRATING WEEKEND. THE SIX MADE IT PLAIN ON SATURDAY THAT THEY WOULD NOT COME TO A DECISION THEMSELVES AND SUGGESTED THAT IT WOULD BE NECESSARY FOR THE FULL EXECUTIVE OF THE NATAL INDIAN CONGRESS TO MEET BEFORE ANY FINAL DECISION WAS MADE. WE SPOKE TO VARIOUS MEMBERS OF THE EXECUTIVE WHO AGREED TO TRY TO ASSEMBLE THE EXECUTIVE BUT THIS HAS NOT HAPPENED. WE HAVE BEEN TOLD THAT ONE OF THE PROBLEMS WAS THAT A NUMBER OF THE MEMBERS WERE ARRESTED DURING A PROTEST RALLY AT PORT SHEPTON IN NATAL AND THAT OTHERS SPENT THE WEEKEND TRYING TO GET THEM RELEASED ON BAIL. THIS MAY WELL BE NO MORE THAN AN EXCUSE.

7. IN A SEPARATE DEVELOPMENT THE AFRIKAANS SUNDAY PAPER RAPPORT ALLEGED IN AN ARTICLE THAT THE SIX HAD BEEN INCENSED THAT I HAD SUGGESTED THAT THEY SHOULD LEAVE THE CONSULATE IN A BLAZE OF PUBLICITY LAST THURSDAY EVENING. THIS IS A REFERENCE TO A TELEPHONE CONVERSATION BETWEEN THE HEAD OF CHANCERY AND GUMEDE WHEN ARCHER POINTED OUT THAT DR NAUDE'S VISIT WOULD BE ATTRACTING ATTENTION AND ASKED WHETHER THE SIX HAD COME TO ANY CONCLUSION ABOUT LEAVING THE CONSULATE. WE HAVE NOT BEEN GIVEN ANY INDICATION THAT THE SIX WERE ANNOYED BY THIS APPROACH.

8. ACCORDING TO LOCAL PRESS REPORTS YACOOB, THE MEMBER OF THE NIC WHO HAS BEEN LOBBYING IN BRITAIN AND NEW YORK, WILL BE RETURNING TO SOUTH AFRICA LATER TODAY. REPORTS SUGGEST THAT HE HAS INDEED MISREPRESENTED HIS CASUAL ENCOUNTER WITH THE UN SECRETARY GENERAL AS BEING A FORMAL MEETING WITH THE UN SECRETARY GENERAL. HIS RETURN TO DURBAN IS LIKELY TO BE UNHELPFUL.

COMMENT

9. I SHOULD BE GRATEFUL FOR EARLY INSTRUCTIONS ABOUT THE ATTITUDE THAT WE SHOULD TAKE IN THE EVENT THAT OUR EFFORTS TO GET THE SIX TO LEAVE VOLUNTARILY ARE UNSUCCESSFUL IN THE FOLLOWING SITUATIONS:

(A) WHAT ARE WE TO DO ABOUT (I) THE INDECISION BY THE NIC EXECUTIVE AND (II) YACOOB'S RETURN? IT WOULD SEEM TO US TO BE ENTIRELY LEGITIMATE TO BE MORE RESTRICTIVE ABOUT WHOM WE ADMIT TO SEE THE SIX. WE CAN TAKE THE LINE THAT SINCE THE SIX HAVE APPARENTLY BEEN ABLE TO MANAGE THEIR LEGAL REPRESENTATIONS BY BRIEFING THE TEAM IN DURBAN AND JOHANNESBURG WHILE YACOOB IS AWAY, THERE SEEMS TO BE NO NEED TO ADMIT FURTHER LEGAL ADVISERS AND THAT MOREOVER SINCE THE NIC EXECUTIVE HAVE BEEN UNABLE TO MEET WE CANNOT NOW SEE ANY PURPOSE SERVED BY ALLOWING FURTHER MEMBERS OF THE EXECUTIVE ACCESS TO THE CONSULATE. WE SHOULD UNDOUBTEDLY BE CRITICISED FOR SUCH AN ATTITUDE, BUT IT MIGHT HELP TO UNDERLINE THAT WE ARE LOOKING FOR URGENT DECISIONS

SEMICOLON

CONFIDENTIAL

/B

CONFIDENTIAL

(B) WHAT SHOULD WE DO ONCE THE NATAL BENCH HAS HANDED DOWN THE JUDGEMENT ON THE APPLICATION BY THE SIX? AS SEEN FROM HERE, IF THE SIX DO NOT THEN LEAVE, THEIR PRESENCE WOULD BECOME MUCH MORE EXPLICITLY A POLITICAL DEMONSTRATION. MOREOVER, IF THEY DO NOT GO THEN IT WOULD APPEAR AS IF WE ARE LIKELY TO BE IN FOR A VERY LONG HAUL INDEED. CAN YOU AGREE THAT WE SHOULD REPRESENT TO THE SIX WITH BACKING FROM LONDON THAT WE EXPECT THEM TO LEAVE VOLUNTARILY AS SOON AS THE COURT JUDGEMENT IS AVAILABLE, IRRESPECTIVE OF ITS FINDING?

10. AS SEEN FROM HERE, THE NIC ARE DIVIDED AND PROBABLY WISH TO EXPLOIT THE PRESENT SITUATION PRIMARILY FOR POLITICAL PURPOSES. THE ONLY CHANCE OF GETTING THE SIX OUT IN THE NEAR FUTURE IS LIKELY TO BE IF WE ARE NOW RATHER MORE FIRM WITH THEM.

TONKIN

[COPIES SENT TO NO 10 DOWNING STREET]

SOUTHERN AFRICA

STANDARD(PALACE)

S AF D

OADS

MCAD

UND

NAD

WED

ECDs

SOVIET D

EED

MR J R J JOHNSON

CABINET OFFICE

ADDITIONAL DISTRIBUTION
SOUTHERN AFRICA

³
CONFIDENTIAL