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RELEASED IN FULL

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ACTION AF-01

INFO	LOG-00	ACDA-08	ACDE-00	ACQ-01	CIAE-00	SMEC-00	DOEE-00
	SRPP-00	DS-00	EUR-01	FBIE-00	UTED-00	H-01	TEDE-00
	INR-00	L-01	ADS-00	NSAE-00	NSCE-00	OMB-01	PA-00
	PM-00	PRS-00	P-00	SP-00	SS-00	TRSE-00	USIE-00
	PMB-00	DSCC-00	PRM-01	DRL-02	G-00	SAS-00	/017W
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R 030931Z MAR 99
FM AMEMBASSY PORT LOUIS
TO SECSTATE WASHDC 3787
INFO AMEMBASSY LONDON
USCINCPAC HONOLULU HI
JICPAC HONOLULU HI
SECDEF WASHDC

UNCLAS PORT LOUIS 000464

SENSITIVE

E.O. 12958: N/A
TAGS: PREL, MARR, UK,
SUBJECT: DIEGO GARCIA "EXILE'S" SUIT HEARD IN
BRITISH HIGH COURT

(U) SENSITIVE BUT UNCLASSIFIED. PLEASE PROTECT
ACCORDINGLY.

1. (SBU) BRITISH HIGH COMMISSIONER BRIEFED
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AMBASSADOR ON A SUIT WHICH HAD ITS FIRST HEARING
MARCH 2 IN THE BRITISH HIGH COURT. LOUIS OLIVIER
BANCOULT, AN "ILOIS" (I.E. ONE OF THE FORMER
INHABITANTS OF THE CHAGOS ARCHIPELAGO WHO WAS MOVED
TO MAURITIUS WHEN THE BASE WAS BUILT), APPLIED FOR
LEAVE TO APPLY FOR JUDICIAL REVIEW OF THE BIOT
IMMIGRATION ORDINANCE OF 1971, CLAIMING THAT IT IS
INVALID BECAUSE IT AUTHORIZES "THE BANISHMENT OF
BRITISH DEPENDENT TERRITORIES CITIZENS."

2. (SBU) WE UNDERSTAND THAT HMG'S INITIAL POSITION
WILL BE THAT THE HIGH COURT IN LONDON IS NOT THE
PROPER VENUE AND THAT THE CASE IS PROPERLY HEARD IN A
BIOT COURT. IN THE EVENT THAT THE HIGH COURT DOES

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NOT AGREE, HMG MAY APPEAL THAT PROCEDURAL RULING.

3. (SBU) IF AND WHEN THE CASE DOES COME TO TRIAL ON THE ISSUES, HMG WILL "STRONGLY RESIST" AS IT BELIEVES THAT "UNDER BRITISH LAW" THERE ARE NOT GOOD GROUNDS FOR CHALLENGING THE VALIDITY OF THE LEGISLATION ITSELF. THE BRITISH HAVE ALREADY REMINDED THE GOM THAT IT AGREED TO INDEMNIFY THE UK GOVERNMENT FOR ANY CLAIMS MADE BY THE ILOIS. THE MAURITIAN UNDERTAKING WAS CONTAINED IN AN AGREEMENT BETWEEN THE TWO NATIONS DATED JULY 7, 1982 WHEN HMG (FOR THE SECOND TIME) PAID THE MAURITIANS AND THE ILOIS COMPENSATION FOR MOVING THE ILOIS TO MAURITIUS FROM CHAGOS.

4. (SBU) COMMENT: THE BRITISH HIGH COMMISSIONER WAS CONFIDENT THAT HMG WILL ULTIMATELY PREVAIL. HE WAS ALSO CONFIDENT THAT THE VARIOUS COURT ACTIONS WILL GO
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ON FOR MANY MONTHS TO COME. THIS CASE PUTS THE MAURITIANS IN A DIFFICULT POSITION BECAUSE THE PLAINTIFF IS SUING IN HIS CAPACITY AS A CITIZEN OF THE BRITISH DEPENDENT TERRITORIES AND NOT/NOT AS A MAURITIAN. RECOGNITION BY A PURELY BRITISH COURT OF HIS RIGHT TO RETURN HURTS THE MAURITIAN CASE THAT CHAGOS BELONGS TO THEM. IN ANY EVENT, NOTWITHSTANDING THE FACT THAT THREE HIGH-POWERED BARRISTERS ARE ARGUING THE CASE FOR THE PLAINTIFF, WE SEE NO NEW GROUND THAT HAS NOT BEEN PLOWED BEFORE.

GEISEL

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