

FOI reference: 0557-15 – Digest of Information to be Released from Folder 1

Document 1: Email exchange

To: FCO Official
From: FCO Official, Washington
Subject: RE: Diego Garcia – allegations
Sent: 21 November 2003 16:34:53 GMT

[.....]

I spoke to [.....] on 21 November.

Detainees

I explained the contents of the letter from the Bar Human Rights Committee, and the press coverage. He said that he had no knowledge of any detainees being held on Diego Garcia. [.....]. I have informed him that you have also contacted [.....] and [.....].

Visit

The US Commanding Officer on DG has informed State that early February would not be a good time for a visit as he will be on leave. They are now looking for a date in mid to late February. They will be in contact as soon as CO DG has confirmed his availability.

Regards

[.....]
Chancery [External]
British Embassy
Washington

From: FCO Official
Sent: Friday, November 21, 2003 10:58 AM
To: [.....] Washington
Cc: FCO Official
Subject: Diego Garcia – allegations

Dear [.....]

I hope that you have received the fax I sent earlier today sending you a copy of a letter we have received from the Bar Human Rights Committee of England and Wales about the continuing allegations that Al Qai'da suspects are being held and interrogated in or around the territorial seas of Diego Garcia.

Reports on this subject have not died down completely and with every new detention come further allegations – the last being [.....].

Ann Huckle, head of OTD, has asked me to fax the letter to the British Representative on Diego Garcia to seek assurances from his US counterpart and also to [.....] at the US Embassy. [.....].

Grateful if you could forward any comments to [.....], who although on leave today, will be back on Monday and dealing with this correspondence. (I myself shall be on leave).

[.....]
BIOT Desk
OTD

Document 2: FCO Telegram

FM WASHINGTON
TO IMMEDIATE FCO
TELNO 626 OF 172259Z MAY 04

SUBJECT: DIEGO GARCIA: DETAINEES, 17 MAY

SUMMARY

1. [.....]

DETAIL

2. We spoke to State [.....] on 17 May following the 16 May Sunday Express articles alleging that the US was holding detainees on Diego Garcia and "on board ships in the island's harbours". We passed State a copy of the Express articles.

3. [.....]

COMMENT

4. [.....]

Contact: [.....]

MANNING

Document 3: Email exchange

From: FCO Official
Sent: 22 April 2008 17:04
To: FCO Official
Cc: FCO Official
Subject: RE: Rendition; Call on [.....]

[.....]

To draw the two strands together – hopefully you saw [.....] reply to [.....] email (attached here) sent post receipt of the note from the US on Friday.

[.....] also passed the note itself (which is very short) to the FS – [...] received the hard copy back from Private Office this morning. This may have passed you by on a rapid turn around if you were out of the office yesterday. Happy to come by and explain the contents if helpful.

We are currently considering how best to achieve our objectives (your bullets below, [.....]) in the new context.

[.....]

From: FCO Official
Sent 22 April 2008 16:11
To: FCO Official
Subject: RE: Rendition; Call on [.....]

Thanks

[.....]

From: FCO Official
Sent: 22 April 2008 16:11
To: FCO Official
Subject: RE: Rendition; Call on [.....]

Sure. I will speak to [.....] etc and see if they can get a copy sent to you.

[.....]

From: FCO Official
Sent: 22 April 2008 16:09
To: FCO Official
Subject: RE: Rendition; Call on [.....]

Wasn't aware, good to know look forward to hearing about it very soon. Can you make sure I get the full details in next 24 hours?

[.....]

From: FCO Official
Sent: 22 April 2008 16:06
To: FCO Official
Subject: RE: Rendition; Call on [.....]
Importance: High

[.....]

I'm not sure if you are aware that on Friday we received some information that addresses point 1 below. This is on a tight distribution. We met with colleagues from [.....] this morning to discuss further. [.....] and I are going to discuss with [.....] tomorrow [.....]. This does not fundamentally alter anything below but is certainly a point to be aware of.

If you were already aware, my apologies for adding to your inbox!

[.....]

Document 4: FCO Egram

From: FCO Egram

Sent: 15 May 2008 17:40

To: WASHINGTON

Cc: [.....]

Subject: Fwd: [.....] Rendition: Instructions to Post: Id=9447071

SUMMARY

Instructions for post to: hand over the list of flights where we have been alerted to concerns regarding rendition through the UK, our Overseas Territories or the Crown Dependencies; request written assurances that none of the flights listed have been used for rendition of an individual; explain the need for the Foreign Secretary to discharge his duty to Parliament.

DETAIL

1. In his statement to Parliament on 21 February, the Foreign Secretary explained that he had asked officials to compile a list of all flights where we had been alerted to concerns regarding rendition through the UK, our Overseas Territories or the Crown Dependencies. He gave a commitment to pass the list to the US and seek their specific assurance that none of the flights had been used for the purposes of rendition.

2. The list (to follow by email) is now complete. Post is requested to:

- Pass the list to [.....]
- Request a written assurance from the US Government that none of the flights listed have been used for the rendition of an individual through the UK or our Overseas Territories or the Crown Dependencies (other than the cases already confirmed to us).
- Explain the UK political context, particularly the Foreign Secretary's need to demonstrate to Parliament that there have been no other unauthorised renditions through UK territories.

LINES TO TAKE

- HMG shares your Government's desire to 'draw a line' under the two cases of rendition through Diego Garcia in 2002. But we need to restore public and parliamentary

confidence in the bilateral CT relationship which remains – as the Foreign Secretary made clear in his statement to Parliament – of vital importance to us.

- In order to achieve this, the Foreign Secretary must satisfy Parliamentary demands to properly investigate the 2002 renditions and demonstrate conclusively that no other unauthorised renditions through our territories have occurred.
- To this end [.....] we have assembled a list of specific flights where we have been alerted to concerns about rendition through the UK, our Overseas Territories or the Crown Dependencies.
- The list has been compiled from allegations put to us since 2000 by MPs, NGOs, international organisations and members of the public. It is not a list of HMG's concerns. Nor have we sought to assess the accuracy of any of the allegations.
- We ask that you look at the list as matter of urgency and confirm whether any of the flights were used for the rendition of an individual through the UK, our Overseas Territories or the Crown Dependencies.
- While we trust (on the basis of the helpful note from [.....]) that this is unlikely to be the case, we need a response from you that we can refer to publicly to ensure that Parliamentary and public concerns are met.
- We therefore request a written response to this list [.....] containing a form of words that will form the basis of our public lines and statements to Parliament.
- Once we have received this, we intend to present the list of flights and the substance of your response to Parliament.
- [.....]

BACKGROUND

3. On 9 May, the Foreign Secretary agreed an approach for passing the list of flights to the US. He is keen to receive a quick response which we can relate Parliament. He also wishes to make clear to the US that our publication of the list is not intended to give credence to any of the accusations associated with some of the flights.

4. The list has been compiled from information received by the FCO, Home Office, DfT, MoD, and the Cabinet Office from MPs, members of the public, international organisations and non-government organisations.

5. [.....]

6. There continues to be a steady Parliamentary and press interest in this area. CTD, Press Office and PRT are working on a handling strategy for the publication of the list, including a Written Ministerial Statement.

MILIBAND

Document 5: Email exchange

From: FCO Official Washington
Sent: 16 June 2008 14:17
To: FCO Officials
Subject: US Statement

This just in – from State legal.

[.....] now looking at it.

[.....]

From: [.....] US State
Sent: 16 June 2008 08:20
To: FCO Official, Washington
Subject: Statement

[.....]

The statement below has been fully cleared and may be drawn from or used publicly as appropriate.

“The United States Government has received a list of flights from the UK Government. The United States Government declines to confirm or describe the character or purpose of any specific flights, including whether any of them were U.S. intelligence flights. The United States Government notes, however, that intelligence flights may have a variety of purposes, including the movement of supplies, equipment and intelligence personnel. The United States Government confirms that, with the exception of two cases related to Diego Garcia in 2002 that have been previously disclosed to the UK Government, there have been no other instances in which intelligence flights landed in the United Kingdom, its Overseas Territories or the Crown Dependencies, with a detainee onboard since September 11, 2001.”

[.....]

Document 6: Prepared Key Questions for Written Ministerial Statement of 3 July 2008

RENDITION: QUESTIONS & ANSWERS

KEY QUESTIONS

How was the list drawn up?

The list was compiled by FCO officials. It consists of flights where we had been alerted to specific concerns regarding alleged rendition through the UK, our Overseas Territories or the Crown Dependencies. The list is not a list of UK Government allegations of rendition. It is a compilation of concerns that have been put to my Department, the Home Office, the Department of Transport, the Ministry of Defence and the Cabinet Office by hon. Members, members of the public, multilateral organisations and non-government organisations.

For the purposes of practicality, we exercised a limited and necessary degree of scrutiny. The list only contains flights where sufficient data was provided for those flights to be verified; we required a date, flight number and destination for a flight to be included on the

list. General allegations about a particular airport or blanket allegations relating to a particular aircraft, for example, were not included without specific flight data.

Why did you not publish the list when you sent it to the US?

The Foreign Secretary undertook to publish the list at the appropriate time. Now is the right time to publish it, together with the Foreign Secretary's statement.

Isn't this a stitch up? Did you negotiate the list with the US in advance to remove flights that were problematic from the list?

No. The content of the list was determined by the clear process we have described. There was no negotiation with the US about the contents of the list.

Why has it taken so long for them to reply?

We consider that it was more desirable to have a credible reassurance than a quick one. The US replied to our request within a reasonable timeframe; one month. The US has rightly wanted to be absolutely sure about the assurances it is providing.

Have the US looked at our list of flights?

The USG received the list of flights from the UK Government, and they have confirmed that there have been no other instances in which rendition flights landed in the United Kingdom, its Overseas Territories or the Crown Dependencies, with a detainee on board since September 11, 2001.

Has the Foreign Secretary spoken to Secretary Rice about this?

Yes. But we are not going to provide a running commentary on our diplomatic and other contacts with the US.

Will you release the correspondence with the US in which these assurances were delivered?

The terms of these US assurances are outlined clearly in the Foreign Secretary's written statement.

Did the US clear the statement?

We have worked hard with the US to ensure the factual accuracy of the statement

ABOUT THE LIST

Does the list contain concerns about flights that may have passed through UK territory on their way to or from a rendition?

The list contains all specific concerns that have been put to us regarding alleged rendition through the UK, our Overseas Territories or the Crown Dependencies. We have not sought to exercise judgment on the nature of any of those flights.

However, we do not consider that permitting transit or refuelling of an aircraft without detainees on board [without knowledge of what activities that aircraft had been or would be involved in, or indeed whether or not those activities were unlawful] to be unlawful in itself. We therefore sought assurance from the US on actual cases of rendition, not on empty flights transiting our territory. US Government aircraft, as with other government aircraft, regularly fly around the world for a variety of purposes.

I wasn't aware that the list was being compiled and I have a concern – will you send this to the US?

The Foreign Secretary made clear in his statement to the House that we would be compiling a list of all those flights where we had been alerted to concern. Following the statement we received a number of concerns that we included on the list. Officials also met with a number of NGOs who had previously made specific allegations about rendition to ensure that the list was as comprehensive as possible. We endeavoured to include all those flights where we had been previously alerted to concern as well as those received from the date of the Foreign Secretary's statement (21 February) up to 15 May when we passed the list to the US.

The US has provided a firm and clear assurance and so submitting further concern to them is unnecessary.

What about flights that transit UK airspace but do not land?

The US has provided us a firm assurance that no rendition flights will transit UK airspace without express British Government permission.

Has the US confirmed that there have been no transfers of detainees through your airspace?

We have no evidence that this has ever happened.

What do you mean by intelligence flights?

The US operates intelligence flights for a variety of purposes including the movement of supplies, equipment and personnel.

DIEGO GARCIA

Were detainees ever held on Diego Garcia or in its territorial waters?

The US has reportedly told us that no non-US personnel have been held on Diego Garcia or within its territorial waters since September 11, 2001. It follows that no detainees, prisoners of war or any other persons of that nature or status have been held on the island or within its

territorial seas since that date. General Hayden, the Director of the CIA, has said publicly that allegations of a CIA holding facility on Diego Garcia were false.

What about ships outside the territorial waters, but supplied from the island?

We are not aware of any ships holding detainees outside the territorial waters but being supplied from the island. In any case, we do not consider that the US supplying a ship outside territorial waters without our knowledge of what activities that ship is, had been of would be involved in, or indeed whether those activities were unlawful, would put us in breach of our international obligations.

Were detainees ever held on ships elsewhere?

The US has assured us that it does not operate detention facilities in the fight against terrorism on board ships. In a small number of cases, US Navy ships were used in the early days of Operation Enduring Freedom in Afghanistan to screen and temporarily hold a very small number of individuals pending their transfer to land-based detention facilities. (These ships were not located within the territorial waters of Diego Garcia.)

In an entirely independent matter from the war on terror, in the relatively recent past the US has apprehended pirates in ships in the vicinity of the horn of Africa. These pirates have been detained on operational US Navy combat ships pending their delivery to the land of a nation with jurisdiction to try them in that nation's criminal courts.

ABOUT THE INDIVIDUALS

Who were the two individuals who were renditioned in 2002? Where are they now?

As the Foreign Secretary set out in his earlier oral statement there is a limit to what we can say about the two individuals. The US Government has confirmed that neither of the individuals was a British national or a British resident. One is currently detained in Guantanamo Bay. The other has since been released.

How were they treated in third countries?

This is a matter for the US and the authorities in any third country involved. The UK's position on treatment of detainees is well known.

How were they treated by the US?

The US has told us that neither individual was part of the High Value Detainee Programme, or held in US secret detention facilities, or subjected to so called enhanced interrogation techniques, such as waterboarding, by the US.

Will we be making humanitarian representations on behalf of the individual in Guantanamo Bay? Will he be tried by a Military Commission and face the death penalty? Have UK officials had any contact with him during his detention by the US?

We have made it clear that we think Guantanamo Bay should be closed. President Bush has said that he would like to close Guantanamo Bay so soon as practicable. We welcome this.

In the meantime, as the Foreign Secretary conveyed to the House in his written statement of 13 December, we will continue to discuss with the US Government how best we can work with them to hasten the closure of the Guantanamo Bay detention facility. We will continue to encourage our allies to consider taking steps similar to our own to reduce the numbers of those detained at Guantanamo Bay, such as accepting the transfer of eligible detainees, thereby hastening the closure of the facility.

Were the transfers illegal under international law?

We are clear that the transfers that took place through Diego Garcia without our knowledge do not mean that the UK was in breach of its international obligations.

But what about the US?

That is an issue for the United States.

UK INVOLVEMENT

Will you now launch an independent inquiry in to UK involvement in rendition?

No. The Intelligence and Security Committee Report on Rendition published in July 2007 followed a thorough inquiry into whether the UK intelligence and security agencies had knowledge of or involvement in rendition during which the Committee was afforded access to an unprecedented level of highly classified information. The Report concluded that the Committee found 'no evidence that the UK Agencies were complicit in "Extraordinary Rendition2 operations.'

How can we be sure that UK authorities have not been complicit in torture?

The movement of detainees through UK territory without our permission, whilst concerning, does not mean that the UK has been complicit in torture. We condemn unreservedly any use of torture. The Government never uses torture for any purpose, nor would we instigate or encourage others to do so. The Government takes these matters very seriously. If any person acting in an official capacity committed an act of torture it would be a matter for the UK police.

As the ISC Rendition Report noted 'the UK agencies now have a policy in place to minimise the risk of their actions inadvertently leading to renditions, torture, or cruel, inhuman or degrading treatment.' Where it is known that the consequences of dealing with a foreign liaison service will include torture or cruel, inhuman or degrading treatment, the operation will not be authorised.

What was the status of the flights that transited Diego Garcia in 2002 (i.e. was it a civilian or military aircraft)?

The US would consider these matters to be of fundamental importance to their national security. We would therefore not expect them to disclose publicly the details of particular operations of their intelligence agencies any more than we would ours.