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THE WHITE HOUSE
WASHINGTON

May 12

[1975]

M

Jack --

Pat O'Donnell called to express concern over the Senator Stennis call re: Diego Garcia. As Stennis might have indicated to you, he is very unhappy that this legislation was sent up without his knowledge. Pat O'Donnell says "we had all kinds of holds on this legislation" and don't understand why or how it was sent up.

He would like to know how you left the situation with Stennis.

Thanks.

Russ



[Diego Garcia]

THE WHITE HOUSE
WASHINGTON

Mr. Marsh --

This is for your 4:00 LIG meeting.

donna

A handwritten signature consisting of a large, stylized loop that resembles the number '8'.

Attendees for LIG Meeting, Wednesday, May 21, 1975, 4:00 p.m.

AID	Denis Neill
CIA	George Cary
DOD	John Maury Dick Fryklund Fred Hitz Don Sanders
State	Amb. Robert McCloskey John Lehman
White House	Jack Marsh Max Friedersdorf Bob Wolthius Bill Kendall Vern Loen
OMB	Donald Ogilvie
NSC	Les Janka Col. Clinton Granger
USIA	Edward Hidalgo

MEMORANDUM

NATIONAL SECURITY COUNCIL

May 21, 1975

MEMORANDUM FOR: JACK MARSH
MAX FRIEDERSDORF

FROM: LES JANKA *les*

SUBJECT: ACDA Impact Statement

The most explosive issue in this afternoon's LIG is likely to be the interagency controversy over the Administration's position on H. R. 1550. This bill is attached to the ACDA Authorization legislation and attempts to strengthen the role of ACDA within the Executive Branch by placing the Director of ACDA on the NSC and other steps. The most controversial feature is Section 104 which would require DOD and ERDA to submit arms "control impact statements" to ACDA for its review and would also require the transmittal of these statements with a unilateral ACDA report to the Congress for its review. There is unanimous Administration opposition to the provisions of the original bill.

However, State and ACDA believe that there is such strong support on the Hill for strengthening ACDA's role that some form of impact statement provision will be passed. They have been strongly urging that a compromise be worked out with the Committee which would eliminate the formal impact statement and its provision to the Congress and have worked for substitute language which would merely formalize in legislation the satisfactory informal procedures now in force.

The current dispute revolves around the fact that at one point there was complete interagency agreement to attempt such a compromise, and Deputy Secretary Ingersoll testified to the HIRC that the Administration would be willing to work out compromise language which would provide an Administration agreed impact statement within any DOD or ERDA budget request. No unilateral ACDA statement would go to the Congress. Subsequent to Ingersoll's testimony, however, DOD

fell off its willingness to support a compromise when precise language could not be agreed on within the bureaucracy after a series of long, difficult interagency meetings and extended consultations with Senate and House committee staffs.

The issues were finally put to Dr. Kissinger in his NSC role, and he decided to support the position of DOD, firmly opposing further compromise attempts and all forms of any impact statement. State and ACDA are embarrassed by this reversal of the Administration's position and are strongly challenging the wisdom of putting ourselves in a position where our refusal to compromise will result in tougher language which we will then have to veto. Our veto may be overridden or we will at least be faced with an unsatisfactory compromise we cannot veto but will still give us considerable institutional grief.

Nevertheless, in today's LIG meeting Secretary Kissinger's instructions should be strongly communicated to the bureaucracy and the attached statement of the Administration's position may be used to provide marching orders.

Administration Position on H. R. 1550 - ACDA Impact Statement

-- The Administration's strong opposition to Section 104 as originally written was expressed in the Ikle letter to Morgan and Sparkman of April 16, 1975.

-- On May 14, Deputy Secretary Ingersoll testified that the Administration would be willing to "accompany any request for authorization for any program found by the NSC to have a significant impact on arms control or disarmament policy with a statement analyzing that impact."

-- Subsequently, the Administration has been unable to reach agreement on satisfactory language expressing the above compromise offer.

-- The Administration remains opposed to any provisions calling for an impact statement in any form for the following reasons:

- There is no certainty that any language can be found to avoid the possibility of litigation to force compliance with the impact statement provisions and which could lead to court challenges delaying vital security or arms control programs.

- It would disrupt ACDA's effectiveness within the Executive Branch by creating a formal adversary relationship with DOD and ERDA.

- The result of requiring such statements would be counterproductive to the Congressional intent of getting more timely and complete information on the DOD budget and arms control issues because it would formalize the flow of information and thus create internal executive branch barriers limiting ACDA's access to only that information specified in the legislation.

- It would impose a heavy and unnecessary bureaucratic burden on DOD, ERDA, ACDA and the NSC. The broad language of even the compromise legislation would require so many statements to be analyzed that ACDA's limited resources would be spread too thin and diverted from the really key arms control issues.

- The existence of any form of impact statement might tend to focus Congressional attention on the adequacy and form of the statement itself rather than on the substantive arms control issues now discussed in substantive Congressional hearings by the Director of ACDA.



Congressional Strategy on Diego Garcia

Background

On May 12 the President signed and sent to Congress a Determination which, by law, must lie in Congress for sixty days before funds under the Military Construction Act can be obligated for certain new facilities on Diego Garcia. During this period, either House can disapprove the Determination by simple majority. Senator Mansfield has introduced such a resolution, and Senators Kennedy, Javits and Pell have introduced an amending resolution, which would delay obligation of funds until the U. S. has initiated talks with the Soviets on Indian Ocean arms limitations.

Strategy

The Administration approach to Congress should have several elements.

First, the attached justification which the President approved when he signed the May 12 Determination will be sent to the President Pro Tempore and the Speaker. This should be utilized as the basis for discussions with Congress.

Second, we should continue to emphasize the importance of expanding facilities on Diego Garcia for contingency purposes. With the opening of the Suez Canal on June 5, high tensions and the possibility of an oil embargo in the Middle East, the striking evidence of the major Soviet facility at Berbera, and the loss or prospective loss of important and secure facilities in Southeast Asia, adequate facilities on Diego Garcia are needed to protect legitimate and vital U. S. interests. If we do not move rapidly we might not have these facilities when we need them.

Third, we must stress the independence of possible arms control measures in the Indian Ocean and our security needs for facilities on Diego Garcia. If asked about possibilities for arms control in the Indian Ocean, we should emphasize that there are great technical difficulties in developing workable measures for arms control in the Indian Ocean.

Fourth, if directly asked about negotiations with the Soviet Union, we should say that we would consider exploring this subject with the Soviets, but only after Diego Garcia construction is underway and after we come

up with a technically feasible arms control approach. The U. S. cannot be placed in a position where Soviet dilatory negotiating procedures could deprive us of badly needed facilities on Diego Garcia at a time when our vital and legitimate interests could soon be jeopardized, and while the Soviets are rapidly expanding their own facilities at Berbera. Even if we were to assume the Soviets would act in good faith, the very difficult and technical negotiations would be apt to be very protracted. Therefore, we must have approval for Diego Garcia first.

Finally, we should make it clear that the President cannot accept any legislation requiring either a link between Diego Garcia and arms control, or a requirement that we proceed to talk to the Soviet Union on this question.

THE WHITE HOUSE

WASHINGTON

Justification for the Presidential Determination
on the Construction of Limited Support Facilities
on Diego Garcia

In 1966, the United States signed an agreement with the British Government providing that the islands of the British Indian Ocean Territory would be available for 50 years to meet the defense purposes of both governments. In this context, we concluded in 1972 an Administrative Agreement providing for the establishment of a limited communications station on the small atoll of Diego Garcia in the central Indian Ocean. In February 1974, an agreement was negotiated ad referendum to replace the 1972 agreement and to provide for the construction and operation of a proposed support facility. The British Government announced in December 1974 its agreement with our proposal to expand the facility.

The United States has an important interest in the stability of the Indian Ocean area. In particular, the oil shipped from the Persian Gulf area is essential to the economic well-being of modern industrial societies. It is essential that the United States maintain and periodically demonstrate a capability to operate military forces in the Indian Ocean. Such exercise of our right to navigate freely on the high seas communicates to others the importance we attach to the stability of the region and to continued free access by all nations.

The credibility of any US military presence ultimately depends on the ability of our forces to function efficiently and effectively in a wide range of circumstances. Currently, the US logistics facility closest to the western Indian Ocean is in the Philippines, 4,000 miles away. At a time when access to regional fuel supplies and other support is subject to the uncertainties of political developments, the establishment of modest support facilities on Diego Garcia is essential to insure the proper flexibility and responsiveness of US forces to national requirements in a variety of possible contingencies. The alternative would be an inefficient and costly increase in naval tankers and other mobile logistics forces.

Objections have been raised to this proposal on the grounds that it will prompt an increase in the Soviet presence in the Indian Ocean and give rise to an arms race in the region. Clearly, both we and the Soviets are aware of the military presence of other nations, but it would be incorrect to assume that Soviet actions are determined exclusively by the level or nature of our

force presence. The growth of Soviet naval presence in the Indian Ocean from 1968 to the present can most convincingly be ascribed to the pursuit of their own national interests -- including the continuing expansion of the Soviet Navy in a global "blue water" role -- rather than to US force presence as such.

A distinction must also be drawn between facilities and force presence. The proposed construction on Diego Garcia would enhance our capability to provide support to US forces operating in the Indian Ocean. However, there is no intent to permanently station operational units there, and the installation would not imply an increase in the level of US forces deployed to that region. We have, on several occasions, expressed our willingness to consider constructive proposals for arms restraint in the Indian Ocean, but we do not believe that construction on Diego Garcia should be contingent upon the outcome of discussions on such proposals. In our view, these are two separate issues.

The Diego Garcia proposal has been criticized by a number of regional states which favor the concept of a special legal regime limiting the presence of the great powers in the Indian Ocean, as expressed in the several Indian Ocean Zone of Peace resolutions adopted in the United Nations General Assembly. United States policy has consistently been to oppose measures that would constitute an unacceptable departure from customary international law concerning freedom of navigation on the high seas.

We are aware of the concern expressed by some states of the region, but we do not share their conviction that the construction of support facilities on Diego Garcia will result in an arms race or that these facilities will somehow represent a threat to their interests. On the contrary, it is our belief that such facilities will contribute to the maintenance of healthy balance essential to the preservation of regional security and stability. It is our considered judgment that the legitimate differences in perspective between ourselves and certain other nations with respect to Diego Garcia are susceptible to reasoned discussion within a framework of mutual respect and need not inhibit the development of satisfactory relations with the states of the region.

THE PRIVACY ACT OF 1974

(As it Relates to Congressional Liaison)

1. SUBJECT MATTER

- The Act applies to any item, collection, or grouping of information about an individual that is maintained by an Agency of the Federal Government.

2. RELATIONSHIP TO THE FREEDOM OF INFORMATION ACT

- The Freedom of Information Act deals with the right of all members of the public to Government information.
- The Privacy Act is concerned with the rights of each individual and the records of his personal data held by the Government.

3. CONDITIONS IMPOSED ON AGENCIES IN ACQUIRING AND MAINTAINING PERSONAL DATA

- A - Only information relevant and necessary to the functions of the Agency may be collected
- B - The Agency must establish rules for
 - Notifying an individual in response to an inquiry as to whether a record is maintained concerning him
 - Disclosing to him the contents of such record
 - Amending such record in response to a request by the individual
- C - The Agency must publish in the Federal Register by August 27 and annually thereafter
 - A full and complete description of each system of records subject to the Act (i. e., records containing personal data which are retrievable by name or other individual identifier)

- A description of procedures through which the individual can exercise his rights of access.
- D - The Agency must provide timely advance notice to the Congress and to OMB concerning the privacy impact of any proposed new system of records containing personal data.

4. SECURITY AND ACCURACY OF RECORDS

- All Agencies must
 - Insure accuracy, relevance, timeliness, and completeness of all records
 - Must provide training and rules of conduct to insure that all personnel dealing in records of personal data perform their duties in conformity with the Act.
 - Establish appropriate safeguards for all record systems containing personal data to prevent any willful or inadvertent misuse

5. RESTRICTIONS ON DISCLOSURE TO OTHER THAN THE RECORD SUBJECT

- A - An Agency may disclose files only to
 - Persons having a need-to-know in the performance of their duties
 - For a routine use, i. e., compatible with the purpose for which it was originally collected, provided that notice of such routine use has been published in the Federal Register
- B - Disclosure is also authorized as required by the Freedom of Information Act.

6. ACCESS BY THE RECORD SUBJECT

- A - The individual must be given access to his record and to have a copy made of all or part thereof
- B - The individual may request amendment of a record

- If an amendment of the record is requested, the Agency must within 10 days
 - Make the requested correction, or
 - Inform the individual of the refusal, provide the reason and inform him of his right to request a review

7. CIVIL REMEDIES

- A - An individual may within 2 years bring a cause of action against an Agency in the U. S. District Court (in the District of a residence or the District of Columbia) for:
 - Refusal to comply with a request of an individual for access to his record
 - Making a final determination not to amend a record as requested
- B - If the Court determines that the Agency intentionally or willfully failed to comply with the Act to the detriment of the plaintiff, the damages shall not be less than \$1,000 and the Government shall be assessed attorney fees and other litigation costs

8. CRIMINAL PENALTIES

- A fine of not more than \$5,000 may be assessed against any officer or employee of an Agency who
 - Willfully maintains a system of records without giving the required public notice

9. THE PRIVACY PROTECTION STUDY COMMISSION

- Members
 - The Commission consists of 3 members appointed by the President, 2 by the President of the Senate, and 3 by the Speaker of the House

- **Functions**

- The Commission is directed to make a study of data banks, information systems of Government and private organizations
 - To determine the standards and procedures in force for the protection of personal information
 - To make recommendations to the President of the Congress for legislative, administrative or voluntary adoption of the principles of the Privacy Act
 - To make recommendations for other legislation as appropriate

- **Duration**

- The Commission shall perform its work within two years

10. EFFECTIVE DATE

- All principal provisions except those relating to the Privacy Commission and mailing lists take effect on September 27, 1975

MEMORANDUM

NATIONAL SECURITY COUNCIL

June 9, 1975

MEMORANDUM FOR: JACK MARSH
MAX FRIEDERSDORF

FROM: LES JANKA *for*

SUBJECT: LIG Meeting on Diego Garcia
4:00 p.m., June 10, 1975
Roosevelt Room

The purpose of tomorrow's meeting is to coordinate the Administration's effort to head off Congressional disapproval of the President's determination that the construction of Diego Garcia is in the national interest.

Senator Mansfield has introduced S. 160, a resolution of disapproval, which must be reported by the Senate Armed Services Committee within 20 days (June 16). The full Senate must vote within 60 legislative days. Initial State and DOD vote counts indicate sufficient Administration support in the Senate to defeat S. 160. The SASC hearings commence tomorrow with Secretary Schlesinger, JCS Chairman Brown, and George Vest of State as leadoff witnesses.

On the House side, Representative Hamilton is troubled with the plans to expand Diego Garcia and has been holding briefings on the current situation in the Indian Ocean. No resolution has been introduced in the House as yet. Given the new membership in the House, the opposition will be stronger and more vocal than last year, but DOD believes that the Administration's position will prevail, especially in light of the recent votes on defense budget issues.

Tomorrow's meeting will provide an opportunity to establish White House leadership on this issue and to ensure that DOD and State are making a maximum effort to avoid defeat. A defeat would be

a serious blow at a time when the world is closely watching U. S. deployments abroad as a signal of our strength and will to deter or match Soviet expansion. A defeat would also signal a deep U. S. Government division and raise serious doubts about our ability to conduct foreign policy.

Agenda and Talking Points

I. Report on SASC Hearing

-- Jack Maury, how did the hearing go today? What were the especially troublesome points the Committee raised?

-- (After Maury's report) Will there be other witnesses? When will the Committee vote?

-- How will the Committee vote? Who will contact the swing members?

-- Is a Presidential call to Stennis necessary?

-- When can we expect a floor vote?

II. Report on Senate Vote Checks

-- DOD and State were tasked at the last LIG to have a firm vote count by today. Jack Maury, what does your count show?

-- Who are the key opponents? What arguments will they use?

-- Who are our chief supporters? What help do they need from us?

-- Who are the swing votes? Which ones should the White House contact? Give us your contact lists for all the swing votes. (Divide up targets between State, DOD and White House.)

III. The Situation in the House?

-- Jack Maury, what does the House look like? Do you have any vote estimates there?

-- Is there a chance a resolution will be submitted on that side?

-- Hamilton has expressed some concern. Where does he stand? (Ask CIA for readout of Colby's briefing of Hamilton on Indian Ocean deployments.)

IV. Talking Papers

-- DOD and ACDA were tasked at the last LIG meeting to prepare a talking paper on the difficulties of arms control in the Indian Ocean. Is it completed? Who has cleared it?

-- What problems do you foresee in carrying out Secretary Kissinger's instructions to clearly indicate that the President will not accept a linkage of Diego Garcia with arms control negotiations in the Indian Ocean?

-- What other talking papers, etc. has DOD prepared to help our case?

V. Other Points to Raise if Time Permits

-- Ask State for a report on prospects for a House vote on lifting the restrictions on Turkey.

-- Ask ACDA for status of its legislation in the House and Senate. (HIRC reported out H. R. 7567 which contains the compromise on the arms control impact statement.)