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LONDON 3261

RELEASED IN PART
B1, 1.4(B), 1.4(D)

Printed By: Amy E DeFrank 05/12/2000 01:59:37 PM
Subject: DIEGO GARCIA COURT CASE NEARS TRIAL

Cable Text:

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ACTION IO-00

INFO	LOG-00	NP-00	AF-00	AID-00	ACQ-00	CIAE-00	
SMEC-00							
	COME-00	INL-01	DINT-00	DOEE-00	DOT-00	SRPP-00	DS-00
	EB-00	EUR-01	E-00	FAAE-00	FBIE-00	VC-01	H-01
	TEDE-00	INR-00	LAB-01	L-00	VCE-00	AC-01	
NEA-00							
	NSAE-00	NSCE-00	NSF-01	OES-01	OIC-02	OMB-01	
OPIC-01							
	PA-00	PM-00	PRS-00	ACE-00	P-00	SCT-00	SP-00
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USCINCPAC HONOLULU HI//J3/J5/J52//

CINCPACFLT PEARL HARBOR HI//N51/N00J/N42//
HQ PACAF HICKAM AFB HI

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UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: FRANK H PEREZ
DATE/CASE ID: 01 DEC 2006 200503422

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C O N F I D E N T I A L SECTION 01 OF 04 LONDON 003261

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E.O. 12958: DECL: 1.6X5,6
TAGS: MARR, MOPS, PREL, PHUM, SENV, UK, IO, MP
SUBJECT: DIEGO GARCIA COURT CASE NEARS TRIAL

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1. (U) CLASSIFIED BY DEPUTY CHIEF OF MISSION GLYN DAVIES
FOR REASONS 1.5 (B) AND (D).

2. (C) SUMMARY: A CASE BROUGHT BY A GROUP OF FORMER
RESIDENTS ("ILOIS") OF THE BRITISH INDIAN OCEAN TERRITORY
(BIOT), WHICH INCLUDES THE UK-U.S. BASE AT DIEGO GARCIA, IS
NOW SCHEDULED TO BE HEARD IN A LONDON COURT ON JULY 17. THE
PLAINTIFFS CLAIM THAT THE 1971 IMMIGRATION ORDINANCE
RESTRICTING ACCESS TO THE ISLANDS WAS ILLEGALLY IMPLEMENTED
AND THAT THE POLICY GOVERNING ACCESS TO THE ISLANDS IS
"DISPROPORTIONATELY RIGID." [REDACTED]

B1

[REDACTED] 25 YEARS AGO,
FOREIGN SECRETARY ROBIN COOK, THEN A JUNIOR MP, ASSAILED THE
REMOVAL OF THE POPULATION AS A "DISGRACE." THOUGH WE ARE
UNSURE AT THIS STAGE HOW HIS WORDS WILL IMPACT HMG'S
HANDLING OF THE CASE, IT SEEMS CERTAIN THAT THE PRESS WILL
SEIZE ON WHAT COOK SAID. END SUMMARY.

FIRST, SOME HISTORY

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3. (SBU) IN PREPARATION FOR NEXT WEEK'S U.S.-UK DIEGO GARCIA POL-MIL TALKS IN LONDON, POST BELIEVES IT WOULD BE USEFUL FOR ADDRESSEES FOR US TO REVISIT THE HISTORY OF THE BRITISH INDIAN OCEAN TERRITORIES (BIOT), AND PROVIDE A REPORT ON THE CURRENT STATE OF PLAY IN LONDON ON THE ISSUE. BIOT WAS SETTLED BY THE FRENCH IN THE 1700'S, AND BECAME BRITISH BY TREATY IN 1814. COCONUTS WERE CULTIVATED ON THE ISLANDS UNTIL THE 1960'S, WHEN BRITAIN BOUGHT OUT THE COCONUT COMPANY WITH THE GOAL OF DISSOLVING IT AND REMOVING THE INHABITANTS (SOME OF WHOM WERE FIFTH GENERATION) IN ORDER TO ESTABLISH THE UK/U.S. BASE ON ONE OF THE ISLANDS, DIEGO GARCIA. THE 1,100 ILOIS AND OTHER SHORT-TERM WORKERS WERE REMOVED TO MAURITIUS AND THE SEYCHELLES FROM DIEGO GARCIA IN 1969 AND THE TWO OTHER POPULATED ISLANDS TO THE NORTH (IN PEROS BANHOS AND THE SALOMONS) IN 1972.

4. (U) IN 1982, A GROUP OF ILOIS ANNOUNCED THEIR INTENTION TO SUE HMG FOR THE DISLOCATION. HMG SETTLED OUT OF COURT FOR FOUR MILLION POUNDS (US\$6.5 MILLION), TO BE HELD IN TRUST BY THE MAURITIAN GOVERNMENT. THE MONEY HAS SINCE BEEN USED MAINLY TO PURCHASE LAND IN MAURITIUS FOR THE ILOIS. IN THE AGREEMENT SETTING UP THE TRUST FUND, THE MAURITIAN GOVERNMENT ABSOLVES HMG OF FUTURE CLAIMS; IF SUCH CLAIMS ARISE, THEY WILL BE PAID OUT OF THE TRUST FUND. IF THERE IS NOT ENOUGH MONEY IN THE FUND, THE GOVERNMENT OF MAURITIUS WILL SETTLE THE CLAIMS. CURIOUSLY, THOUGH, INDIVIDUAL WAIVERS SIGNED BY THE ILOIS AT THE TIME ABSOLVE THE MAURITIAN GOVERNMENT OF FUTURE FINANCIAL RESPONSIBILITY.

THE COURT CASE

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5. (SBU) ON JULY 17, A NEW COURT CASE BROUGHT AGAINST THE BIOT COMMISSIONER (A CAREER DIPLOMAT WHO IS ALSO THE HEAD OF THE OVERSEAS TERRITORIAL DEPARTMENT WITHIN FCO) AND THE FOREIGN SECRETARY BY A GROUP OF ILOIS RESIDENT IN MAURITIUS IS SCHEDULED TO BE HEARD IN A LONDON COURT. THEIR THREE TOPFLIGHT BRITISH LAWYERS ARE BEING PAID FOR OUT OF LEGAL AID, I.E., BRITISH GOVERNMENT FUNDS. THE PLAINTIFFS MAKE TWO CLAIMS: FIRST, THAT THE 1971 IMMIGRATION ORDINANCE RESTRICTING ACCESS TO BIOT (VISITORS MUST FIRST OBTAIN A LICENSE FROM THE COMMISSIONER FOR BIOT OR FROM THE CHIEF BRITISH IMMIGRATION OFFICER ON DIEGO GARCIA) WAS ILLEGALLY IMPLEMENTED. THE CLAIM INVOKES THE ALLEGED CONFLICT OF

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INTEREST OF THE COMMISSIONER'S REPRESENTING BOTH BIOT AND ITS NON-EXISTENT POPULATION WHILE SERVING THE FOREIGN OFFICE AND ITS SECURITY POLICY AIMS.

[REDACTED]

6. (U) THE SECOND CLAIM IS THAT THE ACCESS POLICY TO THE ISLANDS IS "DISPROPORTIONATELY RIGID." TO THEIR DISCREDIT, THE PLAINTIFFS HAVE NEVER APPLIED TO VISIT THE ISLANDS. IN 1994, HOWEVER, ANOTHER GROUP OF ILOIS APPLIED TO THE BIOT COMMISSIONER TO VISIT THE ISLANDS AND SEE CEMETERIES AND

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HOME SITES. THE APPLICATION WAS DENIED. THEY APPEALED THE DECISION AND THE BIOT COMMISSIONER AGREED TO LET ONLY ILOIS GO. HOWEVER, THE TRIP WAS TO BE FINANCED BY A TV COMPANY THAT PLANNED TO FILM THE VOYAGE. AS THE TV CREW WAS DENIED PERMISSION, THE VISIT BECAME FINANCIALLY IMPOSSIBLE, AND NEVER TOOK PLACE.

7. (C) AS PART OF THIS SECOND CLAIM, THE PLAINTIFFS SEEK PERMISSION TO RESETTLE ON PEROS BANHOS AND THE SALOMONS, 120 MILES FROM DIEGO GARCIA. IN THEIR SUIT, THE PLAINTIFFS ACKNOWLEDGE THAT THERE ARE MILITARY CONSIDERATIONS THAT PREVENT THEM FROM SETTLING ON DIEGO GARCIA, WHICH HAD BEEN THE POPULATION CENTER IN THE PRE-BASE DAYS.

[REDACTED]

[REDACTED]

[REDACTED] THE FCO IS [REDACTED]
PAYING FOR AN ENVIRONMENTAL ASSESSMENT IN MAY OF THE TWO OTHER ONCE-POPULATED ISLANDS TO DETERMINE THE FEASIBILITY OF RESETTLEMENT. THE AVAILABILITY OF POTABLE WATER, FISHERIES STOCKS AND THE ENVIRONMENTAL IMPACT OF SETTLEMENT WILL BE ASSESSED.

[REDACTED]

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8. (SBU) IN MAKING THEIR CLAIM, THE ILOIS ALLEGE THAT THEY HAVE NOT BEEN ABLE TO INTEGRATE INTO MAURITIAN SOCIETY AND THUS NEED TO RETURN TO THEIR ROOTS. MCCRORY WAS OF THE OPINION THAT MANY ILOIS REMAIN OUTSIDERS IN MAURITIUS. MOREOVER, THE ILOIS ASSERT THAT THEY WERE MANIPULATED BY HMG INTO AGREEING TO LEAVE.

9. (C) [REDACTED]

[REDACTED] FOREIGN SECRETARY

ROBIN COOK, THEN A YOUNG M.P., CONDEMNED BRITAIN'S TREATMENT OF THE ILOIS AS A DISGRACE. [REDACTED] COOK'S NOVEMBER 10, 1975, COMMENTS IN PARLIAMENT [REDACTED]

[REDACTED]: "I HAVE...BEEN HUMILIATED TO LEARN FOR THE FIRST TIME ABOUT THE EVACUATION OF THE ISLAND, NOT IN THIS HOUSE...BUT THROUGH PRESS REPORTS FROM...WASHINGTON...THE INJUSTICE THAT TO MAKE ROOM FOR A MILITARY BASE...WE TRANSPORTED 1,100 PEOPLE ACROSS 1,400 MILES AND PUT THEM ON TO AN ISLAND (MAURITIUS) WHICH IS NOT ONLY THE MOST OVERCROWDED SPOT IN THAT PART OF THE GLOBE BUT ALSO ONE OF THE POOREST NATIONS. WE HAVE BEEN TOLD BY THE FOREIGN OFFICE THAT THESE PEOPLE WENT WILLINGLY...I VERY MUCH DOUBT (THAT). INDEED, I SUSPECT THAT (THE FOREIGN OFFICE) MEANS ONLY THAT THEY WENT PEACEFULLY AND WITHOUT MILITARY COERCION...IT IS HARD TO FORGIVE THE GOVERNMENT FOR NOT PUTTING EVEN ONE PENNY OF THE COMPENSATION MONEY UNDER THE ABSOLUTE CONTROL OF THE ISLANDERS. BUT BEYOND THE SPECIFIC INSTANCES OF INHUMANITY ONE CAN PICK OUT, THERE IS THE BASIC ETHICAL QUESTION: HOW FAR WAS IT RIGHT, OR FAIR, TO UPROOT A HUMAN SETTLEMENT FROM AN ISLAND...GOING BACK...FIVE GENERATIONS...WITH A STABLE AND VIABLE ECONOMY, AND WHERE ALL THE PEOPLE WERE BRITISH SUBJECTS WITHOUT ANY FORM OF POLITICAL REPRESENTATION TO PROTECT THEM?" COOK THEN POINTS OUT THAT UNINHABITED ALDABRA ISLAND IN THE SEYCHELLES WAS REJECTED AS A BASE SITE BECAUSE OF ITS' GIANT TORTOISES, AND THAT A GOVERNMENT M.P. "HAD THE SHEER GALL...TO ASSURE US THAT THERE WERE NO TURTLES IN DIEGO GARCIA TO BE DISTURBED...IT SHOULD DISTURB US TO KNOW THAT OUR GOVERNMENT AND THIS HOUSE ARE APPARENTLY LESS CONCERNED ABOUT THE DISTURBANCE TO A LARGE BODY OF BRITISH SUBJECTS." QUOTING THEN-CHAIRMAN OF THE U.S. JOINT CHIEFS OF STAFF BROWN WHO REFERRED TO DIEGO GARCIA AS "UNPOPULATED," COOK SAYS, "THE POPULATION WAS REMOVED...PURELY TO PRECLUDE ANY FUTURE POLITICAL CONSTRAINT OR POLITICAL PRESSURE ON THE AMERICAN BASES."

[REDACTED]

[REDACTED]

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10. (C)



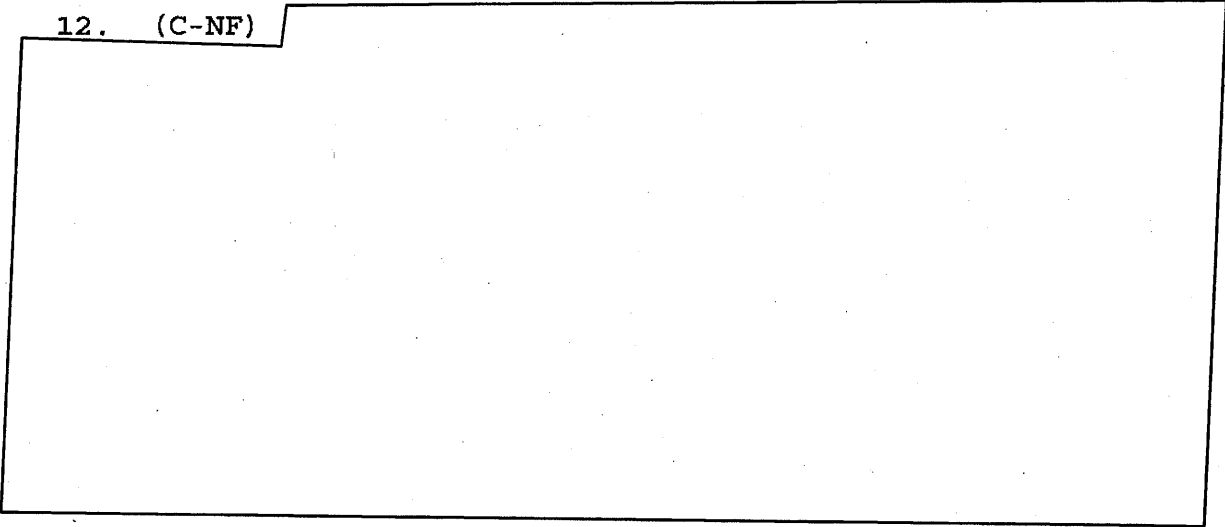
11. (C)



OTHER POTENTIAL PROBLEMS

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12. (C-NF)



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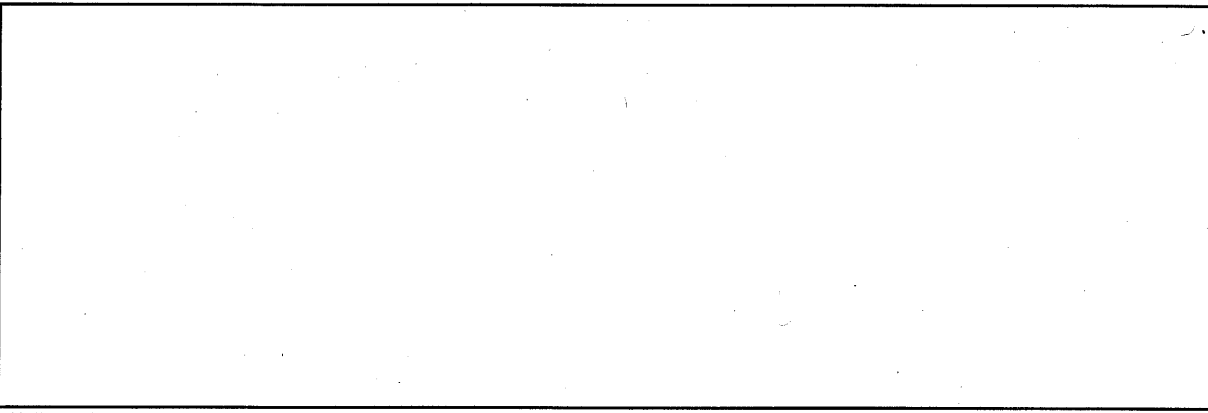
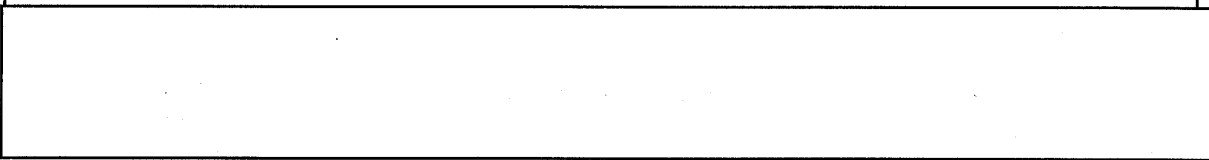
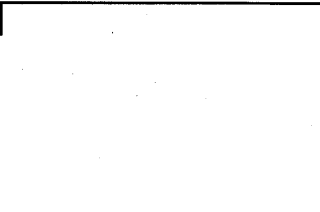
13. (C)



POSSIBLE OUTCOMES

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14. (C) THE COURT CANNOT AWARD THE PLAINTIFFS ANY MONEY.
IT COULD DECLARE THAT THE LAW WAS INVOKED INCORRECTLY OR
THAT THE POLICY IS DISPROPORTIONATELY RIGID.



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