

DEF 15-IND-US  
XR DEF 15-IND-UK

We have reviewed your letter of October 19, which sets forth the JCS findings and recommendations concerning the potential military usefulness of a number of Indian Ocean Islands.

Frankly, we have serious doubts whether the US military requirements for these islands, as we understand it from your letter, provide a sufficiently persuasive basis for the UK to take the necessary steps to detach all of them from local administration and make them direct dependencies of the UK. For a number of reasons, we believe a further examination of the US position is desirable before we approach the UK.

First of all, it is clear that the British probably will encounter serious political problems when they take steps to detach these islands from local administration. Press reaction in Pakistan, India, Afghanistan and Mauritius, among others, has by and large been in opposition to a US/UK military presence in the Indian Ocean. Our mission to the UN has warned of difficulties in the Committee of 24. Communist and Afro-Asian bloc countries will undoubtedly generate opposition in the UN and elsewhere. The final communiqué of the recent Cairo Non-Aligned Conference included condemnation of the "expressed intention of the imperialist powers to establish bases in the Indian

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G/PM: CA FRESH MAN: SS 11/5/64

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3E - Captain Miller  
N/A - Colonel Bunt  
ID/INP - Mrs. Brown  
BNA - Mr. Gold  
AF - Mr. Sullivan

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the Indian Ocean". Finally, we understand from the UK Foreign Office that at least one key island authority has reserved his position on the question of detachment.

Notwithstanding these problems, the British are evidently prepared to press forward. Nevertheless, to undertake the broad detachment proceedings requested in your letter of October 19 would seem to warrant that the UK be given solid assurances of existing and prospective US military planning requirements for the specific islands affected by detachment. A statement that these islands would be "potentially useful" for certain future military purposes would not be adequate justification for the British to accept the political liability of their detachment. As you know, the proposed arrangements with the British involve their providing the real estate and the US military providing the facilities available for joint use. The current position of the JCS, providing specifically for only the communications facilities in Diego Garcia will probably not seem very attractive as a quid pro quo to the British.

Detachment proceedings must also take into account factors of timing and political expediency. Mauritius could achieve independence as early as mid-1965, thus narrowing the time-frame within which the British can act on the Chagos Archipelago and Agalega. (This is not a consideration with the Seychelles, for which independence, if at all, is evidently some time distant.) More importantly, in view of the political problems involved, the British will want to institute detachment proceedings as a one-time undertaking only, and not repeat the process every time a military requirement for an Indian Ocean island is established.

In light of the current strictures in the JCS requirements - against which the foregoing considerations must be measured - our best course may be to express to the British a specific requirement for the detachment of the Chagos Archipelago, for which we understand there to be a funded US need. Additionally, we would recommend that the British consider concurrent detachment of Aldabra

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for potential joint military use, (for which we should, I presume, prepare to request funding in the reasonably near future), and that they concert with us on approaches to the Australians regarding the availability of Cocos/Keeling. This approach would exclude any stated requirement for the additional five islands indicated by the Chiefs as having potential usefulness, unless we can inform HMG that we are contemplating funding for air-strips, pre-stockage and POL storage in those islands.

Because of the very unsettled political climate in East Africa, and other considerations, we wish to press the British to move forward urgently on detachment proceedings. Before doing so along the lines of the preceding paragraph, we believe the Department of Defense might wish to reassess its long-range objectives and related requirements in the Indian Ocean area in the light of the preceding comments.

In any event, I agree with your suggestion that we get together on this matter, hopefully at an early date. I believe we should target a meeting with the British in London late this year or early in 1965 to facilitate getting things underway.

Sincerely,

15/

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Clearances and cc:

AF - Mr. Oulashin  
BNA - Mr. Judd  
IO/UNP - Miss Brown  
NEA - Colonel Bunte

FE - Captain Miller

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DEPARTMENT OF STATE

THE LEGAL ADVISER

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December 9, 1964

MEMORANDUM

TO : G/PM - Mr. Meyers

FROM : L - Richard D. Kearney (R.W.T.)

SUBJECT: Possible United States Acquisition of Indian Ocean Islands.

Your memorandum of November 20 to Mr. Meeker suggests that U.S. ownership of such islands as the Chagos Archipelago might conceivably prove a more desirable arrangement than continued British ownership, U.S. contribution of construction and maintenance costs, and U.S.-U.K. sharing of insular facilities.

The U.S. could acquire ownership of the Chagos by concluding a bilateral cession agreement with the U.K. International law prescribes no particular form for the cession of territory. There is nothing complicated about the technical task of drafting a cession agreement; its basic provision would merely state that the sovereign cedes specified territory to the U.S.\* Provision for settlement of financial claims, nationality of inhabitants, and continuation in effect of legislation and judicial decrees might also be required. On the domestic side, a cession agreement would have to be submitted to the Senate for advice and consent, necessitating a full-fledged, open debate on the issue. This is to be contrasted with arrangements going no further than the acquisition of base rights, which could be accomplished by Executive action alone with a public debate of much lesser magnitude.

American acquisition of territory by cession was not uncommon earlier in our history. We acquired the Philippines, Puerto Rico and Guam by the 1898 Treaty of Peace with Spain; Eastern Samoa by

the 1899

\* Complications arise in the case of cession of inhabited territory. There is a real question whether a cession of territory not accompanied by a plebiscite would be recognized as valid in contemporary international law. Suggestions of plebiscite-as-pre-requisite-to-cession can be found in Grotius. Such a claim would undoubtedly be pressed vigorously in the U.N. (see below). Cession without a plebiscite would require the U.S. to make a contrary argument in the face of the deepest political traditions of the Republic.

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the 1899 Samoan Convention (US-UK-Germany); and the Virgin Islands by purchase under the 1916 Cession Convention. Generally, however, cession had already fallen into ~~disrepute~~ by the end of World War I due largely, of course, to Wilsonian concepts of self-determination. Thus, the Treaty of Versailles and subsequent mandates agreements transferred administration--not sovereignty--of former German overseas possessions to the victorious powers. During World War II the United States acquired control over the Pacific islands formerly under Japanese mandate (Marshall, Marianas and Carolines), with full powers of legislation, administration, and jurisdiction as agreed upon in the 1947 U.N.-U.S. Trusteeship Agreement for Former Japanese Mandated Islands. Consistent with the trusteeship system, we have never claimed sovereignty over these islands. The Trusteeship Agreement under which the U.S. administers the Trust Territory of the Pacific Islands is a reflection of the way in which we have turned our backs on acquisition of territory by cession and have sought instead to promote the concept of self-determination.

The concept of self-determination is reflected in our treaty commitments under the U.N. Charter with regard both to trust and non-self-governing territories. The status of the Chagos, as a matter of international law, is that of a non-self-governing territory. Article 73 of the Charter imposes upon the U.K., as administering power of the Chagos, international legal obligations to:

"...recognize the principle that the interests of the inhabitants of these territories are paramount...and, to this end:

"a. to ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment, and their protection against abuses;

"b. to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement;

"c. to further international peace and security;

" . . .

"e. to

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"e. to transmit regularly to the Secretary-General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social, and educational conditions...."

U.S. acquisition of the Chagos would necessarily involve us in the assumption of identical obligations. In view of increasing supervision over non-self-governing territories by the General Assembly and its subsidiary organs, this would be a serious political burden.

A U.S. attempt to acquire sovereignty would exacerbate the difficulties which we and the U.K. must anticipate with regard to the Indian Ocean program. Cession--with all its 19th century connotations--would highlight and proliferate already substantial difficulties and thus impair the very end of peaceful tenure we are seeking. Cession would inspire the Afro-Asian bloc, aided and abetted by the USSR, to maintain a continuing propaganda barrage which might eventually make our position untenable. If the indigenous inhabitants were removed, we would have to anticipate an irredentist movement financed and directed by the Communists. On the other hand, failure to remove the inhabitants would require them to live under military rule. This would involve a further denial of self-determination and create enhanced opportunities for Soviet agit-prop.

Moreover, cession would run counter to fundamental U.S. policy elsewhere. For example, our position with regard to East Germany is based upon a call for the East Germans to be able to determine freely their own future. Cession in Indian Ocean areas could thus fundamentally weaken our posture in Central and Eastern Europe, and in this context too could provide the Soviets with a weapon of some value.

A long-term lease of insular facilities from the British offers an alternative, but one which seems almost equally unattractive. While the terms of such a lease can easily be drawn up (possibly along the lines of the 1940 U.S.-U.K. Exchange of Notes on Naval and Air Bases), there would not seem to be any obvious increase in the long-range security of the Chagos resulting from a lease arrangement.

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The willingness of the British Government to continue to bear the burden of insular administration and the burden of removing natives from the Indian Ocean islands seems all the more noteworthy in the light of these considerations. Given the additional, substantial problems which would come into play were the U.S. to acquire these islands by cession or long-term lease, a cession proposal could significantly decrease existing British responsiveness to our mutual defense requirements.

cc: BNA - Mr. Judd  
UNP - Mr. Buffum

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