



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

June 29, 1976

3772
EXECUTIVE

ND 10/15/15

FG 6-16

Diego Garcia

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer
Department of Defense
National Security Council
Department of Justice
Arms Control and Disarmament Agency

SUBJECT: State Department proposed report on S. J.
Res. 193, "To temporarily suspend construction
in the Indian Ocean Area."

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than C.O.B. today, June 29, 1976. Comments may be given informally by telephone.

Questions should be referred to George Gilbert
(103x4710), or to the legislative analyst in this office.

Ronald K. Peterson

RONALD K. PETERSON for
Assistant Director for
Legislative Reference

Enclosures

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DEPARTMENT OF STATE

Washington, D.C. 20520

NSC

Dear Mr. Chairman:

The Secretary has asked me to respond to your letter of May 11, 1976 in which you requested the coordinated views of the Executive Branch on S.J. Res. 193, introduced by Senator Culver, to temporarily suspend construction in the Indian Ocean area.

The resolution would prohibit the use of funds for "any construction in the Indian Ocean area" for a period of 180 days after enactment. This prohibition could be terminated at an earlier date by the adoption of a concurrent resolution expressing the sense of Congress that all reasonable diplomatic efforts have been made to achieve (1) a reduction of the Soviet military presence in the Indian Ocean and in Somalia, and (2) an agreement with the Soviet Union regarding mutual limitations on the military presence of both the United States and the U.S.S.R. in the Indian Ocean and adjacent land areas.

The scope of the term "any construction in the Indian Ocean area," if read literally, would appear to affect all United States construction projects, military and civilian, in East Africa, Australia, South Asia, and other littoral areas. We assume, however, that the resolution is intended only to delay the construction work in progress at the United States Navy facility on Diego Garcia. Such an intent is expressed in the resolution's preamble, which asserts that Congress needs more time to consider questions and to obtain information relevant to the Diego Garcia facility.

The Honorable
John Sparkman,
Chairman,
Committee on Foreign Relations,
United States Senate.

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The Executive Branch is strongly opposed to this resolution. The questions relating to construction at the Navy facility on Diego Garcia have been thoroughly scrutinized by Congress and funds for this purpose have been authorized and appropriated on the basis of detailed justification. Further delay in the ongoing construction while another review was undertaken would therefore, be unwarranted. Such delay would greatly increase the costs of the project and would detract from the attainment of the operational objectives intended to be served by this approved facility.

Funds for construction on Diego Garcia were first requested in FY 1970, and were authorized but not appropriated. In the following year, a more limited request was approved and a communications facility was established on the island. In FY 1974, a supplemental authorization of additional funds was requested in order to expand the facility so that it could provide support for U.S. naval deployments in the area. At that time, Congress considered the project more appropriate for consideration in the normal annual authorization process. Accordingly, it deferred the matter without prejudice until FY 1975.

In the FY 1975 Military Construction Authorization Act (Public Law 93-552) Congress provided for Diego Garcia expansion, subject to a requirement for a Presidential evaluation and certification to Congress regarding the need for the facility, which could be disapproved by resolution of the House or Senate. The President submitted the required report on May 12, 1975, supported by a complete statement of justification. On May 19, Senator Mansfield introduced S. Res. 160 to disapprove the project. This resolution was reported unfavorably by the Armed Services Committee on June 18 (S. Rept. No. 94-202) and was defeated in the Senate on July 28.

Funds for the project were appropriated in the Military Construction Appropriation Act for FY 1975 (P.L. 93-636).

In FY 1976, funds for Diego Garcia were authorized in P.L. 94-107 and appropriated in P.L. 94-138. The latter statute delayed the use of most of the new funds until April 15 in anticipation of a report by the Executive Branch on prospects for negotiations with the Soviet Union on arms limitations in the Indian Ocean. On April 15, 1976, such a report was transmitted to the concerned committees.

The report submitted on April-15 stated that the technical problems involved in arms limitations had been examined and, additionally, that the issue had been considered in the broader political context of recent events in the region. As a result, the decision was made that an approach to the Soviet Union for arms limitations in the Indian Ocean would be inappropriate now. Nothing has occurred during the brief interval since the report was submitted to alter the position of the Executive Branch, although we might want to give further consideration to some arms limitation initiative at a later date. Legislation now pending (S.3439 and H.R. 13680) would require a further report on this subject by December 1.

In the course of the deliberations by Congress on the above-described legislation, as well as several other relevant proposals that were not enacted, hearings were held by all interested committees and the matter was extensively debated in the House and the Senate. In addition, there have been consultations and discussions between the Legislative and Executive Branches regarding the agreements for our use of the island with the United Kingdom, which has sovereignty over Diego Garcia. An inquiry was made by the General Accounting Office as to the financial and legal aspects of the basic agreement (Report No. B-184915, dated January 7, 1976). The text of the current agreement permitting the United States to operate its facility on the island was transmitted to Congress on February 27, 1976, together with a detailed background statement.

Recent testimony before a Senate Subcommittee by former Ambassador to Saudi Arabia James Akins may also be relevant to the present resolution. In this regard, the Secretary of State appeared before your committee on May 13, 1976 and categorically refuted as "totally without foundation" former Ambassador Akins' view that the State Department decided not to pursue a Saudi Arabian aid proposal for Somalia in order to avoid weakening the arguments for the Diego Garcia facility. Any U.S. decision to ship large quantities of arms to Somalia would have entailed serious complications in our relations with friendly states bordering on Somalia, some of which were the object of Somali territorial claims. It would have gotten us deeply involved, for the first time, in arming both sides in a conflict in Africa, and would also have presented difficult financial problems. For these principal reasons we concluded that we could not propose to undertake a major arms relationship with Somalia, despite our continuing deep concern over the growing Soviet presence there.

We believe the record is clear that there are no "unanswered questions" or need for additional information that would warrant further legislation to suspend the execution of a project that has been so carefully examined and approved by Congress.

In conclusion, we wish to point out, apart from our strong belief that this resolution is unnecessary and unwise, our grave reservations as to the constitutional validity of a provision such as the one contained in S.J. Res. 193, to modify by subsequent concurrent resolution the express terms of a statute.

The Office of Management and Budget advises that the submission of this report is consistent with the Administration's program.

Sincerely,

Robert J. McCloskey
Assistant Secretary for
Congressional Relations

94TH CONGRESS
2D SESSION

S. J. RES. 193

IN THE SENATE OF THE UNITED STATES

MAY 6, 1976

Mr. OLIVER (for himself, Mr. KENNEDY, Mr. PELL, and Mr. SYMINGTON) introduced the following joint resolution; which was read twice and referred to the Committee on Foreign Relations

JOINT RESOLUTION

To temporarily suspend construction in the Indian Ocean area.

Whereas the military presence of major military powers in the Indian Ocean area may result in serious and unnecessary confrontations between such powers; and

Whereas many unanswered questions have been raised with respect to the desirability and necessity of expanding United States military operations on the island of Diego Garcia; and

Whereas no further military construction should be carried out on the island of Diego Garcia until the Congress has had additional time to consider those questions and has obtained accurate information with respect to (1) the diplomatic efforts which have heretofore been made by the United States to achieve a reduction of Soviet military presence in the Indian Ocean and to achieve an agreement with the

Soviet Union regarding mutual limitations on the military presence of both countries in the Indian Ocean and on land areas adjacent thereto, and (2) the background, basis, and legal authority on which any agreement or agreements with the United Kingdom were entered into authorizing the United States to use the island of Diego Garcia.

1 *Resolved by the Senate and House of Representatives*

2 *of the United States of America in Congress assembled,*

3 That, notwithstanding any other provision of law, no funds

4 may be used to carry out any work in connection with any

5 construction in the Indian Ocean area on and after the date

6 of enactment of this joint resolution until after the expiration

7 of one hundred and eighty days following the date of enact-

8 ment of this joint resolution or until the Congress has agreed

9 to a concurrent resolution expressing the sense of the Con-

10 gress that—

11 (1) all reasonable diplomatic efforts have been made

12 by the United States to achieve a reduction of Soviet

13 military presence in the Indian Ocean and in Somalia;

14 and

15 (2) all reasonable diplomatic efforts have been

16 made by the United States to achieve an agreement with

17 the Soviet Union regarding mutual limitations on the

18 military presence of both countries in the Indian Ocean

19 and on land areas adjacent thereto.

NSC CORRESPONDENCE PROFILE

DOC		RECD		LOG NUMBER	
MO	DA	MO	DA	HR	
6	29	6	29	12	7603772

INITIAL ACTION BY *Janha*

SOURCE/CLASS/DESCRIPTION

TO: PRES _____ FROM: SECSTATE *Peterson, Ronald K.* S/S _____
SCOWCROFT _____ SECDEF _____
HYLAND _____ DCI _____ X REF _____
DAVIS *+* STATE EXSEC _____ S _____
OTHER _____ TS SENSITIVE

SUBJECT: *State report on Enallid Reef*
SR-193 to temporary suspend construction
in the Indian Ocean

DISTRIBUTION/INITIAL ACTION ASGMT

INTERNAL ROUTING AND DISTRIBUTION					REC CY FOR	ACTION REQUIRED
ADV. CYS S'CROFT/WGH	ACTION	CONCURRENCE	COORDINATE	INFO		
STAFF SECRETARY						MEMO FOR SCOWCROFT. _____
CONGRESSIONAL	<i>+</i>					MEMO FOR PRES. _____
ECONOMIC						REPLY FOR _____
EUR/CANADA/OCEANS			<i>+</i>	<i>to Janha</i>		APPROPRIATE ACTION. _____
FAR EAST/PRC						MEMO _____ TO _____
INTELLIGENCE						RECOMMENDATIONS. _____
LATIN AMERICA						JOINT MEMO. _____
MID EAST/NO. AFRICA		<i>+</i>	<i>+</i>	<i>to Janha</i>		REFER TO _____ FOR: _____
NSC PLANNING		<i>+</i>	<i>+</i>	<i>to Janha</i>		ANY ACTION NECESSARY? <i>to omk</i>
PROGRAM ANALYSIS		<i>+</i>	<i>+</i>	<i>to Janha</i>		CONCURRENCE <i>to omk</i> <i>+</i>
SCIENTIFIC						DUE DATE: <i>6-29 CoB</i>
SUB-SAH/AFRICA/UN						COMMENTS: (INCLUDING SPECIAL INSTRUCTIONS)
						CONCURRENCES ARE REQUESTED IF APPROPRIATE.

SUBSEQUENT ROUTING/ACTIONS

DATE	FROM	TO	STATUS	SUBSEQUENT ACTION REQUIRED (OR TAKEN):	DUE	CY TO
			<i>C</i>	<i>by phone</i>		

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