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ORIGIN ACTION

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DEPARTMENT OF STATE

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HANDLING INDICATOR

TO : Department of State, Washington

INFO: Department of Defense, Washington;
American Embassy, Tananarive;
American Embassy, Nairobi

RS/AN

FROM : American Embassy, London

DATE: 2 July 66

SUBJECT: British Indian Ocean Territory

DECLASSIFIED

REF : Embtel 6275

E.O. 12958, Sec. 3.6

NLJ 00-58

By CB, NARA Date 7-19-00

Attached for addressees are copies of three documents provided to the Embassy by the Foreign Office on June 29, relating to the newly-created British Indian Ocean Territory (BIOT). As noted in the referenced message, these are as follows:

Enclosure A - Amended Draft: Use of Islands for Defense Purposes, with

Annex I: Customs Duties and Taxation
Annex II: Jurisdiction and Claims for Compensation

Enclosure B - Amended Draft: Financial Arrangement

Enclosure C - Unofficial explanatory memorandum covering changes proposed by the U.K. from previous U.S. drafts of Enclosures A and B.

It will be noted that the order in which these documents are listed, and discussed in the explanatory memorandum, is reversed from that of previous U.S. correspondence on the subject. The Foreign Office has explained informally that this reversal is deliberate, on the ground that HMG considers the proposed agreement regarding use of islands

Enclosure: As stated.

FORM 4-62 DS-323

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Drafted by:

PM:PEBarringer:es 6/30/66

Contents and Classification Approved by:
PM - Ronald I. Spiers

Clearances:

POL/N:Mr. Coote

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in the BIOT for defense purposes should take precedence to financial arrangements on the subject.

The British amended draft agreement governing the USAF satellite tracking station and related facilities at Mahe in the Seychelles will be forwarded as soon as received from the Foreign Office.

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British Indian Ocean Territory

Amended draft: Use of Islands for Defence Purposes

I have the honour to refer to recent discussion between representatives of the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland concerning the availability, for the defence purposes of both Governments as they may arise, of the islands of Diego Garcia and the remainder of the Chagos Archipelago, and the Islands of Aldabra, Farquhar, and Desroches. The United States Government has now authorized me to propose the following procedures and conditions in furtherance of those purposes:

- (1) The islands shall remain under United Kingdom sovereignty.
- (2) Subject to the provisions set out below the islands shall be available to meet the needs of both Governments for defence. In order to ensure that the respective United States and United Kingdom defence activities in the islands are correlated in an orderly fashion:

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- (a) In the case of the initial United States requirement for use of a particular island the appropriate governmental authorities shall consult with respect to the time required by the United Kingdom authorities for taking those administrative measures that may be necessary to accommodate defence requirements.] *
- (b) Before either Government proceeds to construct or install any facility, both Governments shall first approve the requirement in principle, and mutually satisfactory arrangements concerning specific areas and technical requirements for respective defense purposes shall be reached between the appropriate administrative authorities of the two Governments.

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(c) It is understood that the procedure described in sub-paragraphs (a) and (b) would not be applicable in emergency circumstances requiring temporary use of an island or part of an island not in use at that time for defense purposes. Each Government shall notify the other promptly of any emergency requirements and consultation prior to that use will be undertaken as soon as possible; provided that no such use shall be made of any island until the United Kingdom authorities are satisfied that all necessary steps have been taken to ensure the welfare of any inhabitants.

(3) The United Kingdom Government, or any organisation approved by it, may use and continue to use any permanent non-defense installation constructed either before conclusion of this agreement or after its conclusion following consultation and by arrangement with the United States Government.

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- (4) The United Kingdom Government reserves the right to permit the use by third countries of British financed defense facilities, but shall where appropriate consult with the United States Government before granting such permission. Use by a third country of United States or jointly-financed facilities shall be subject to agreement between the United Kingdom Government and the United States Government.
- (5) The required sites shall be made available to the United States authorities without charge.
- (6) Each Government shall normally bear the cost of site preparation, construction, maintenance, and operation for any facilities developed to meet its own requirements. Within their capacities, such facilities shall be available for use by the forces of the other Government under service-level arrangements. However, there may be certain cases where joint financing should be considered, and in these cases the two parties shall consult together.
- (7) For its defense purposes on the islands, the United States may freely select contractors and the sources of equipment, material supplies, or personnel, except that -

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- (a) the United States shall make use of workers
from Mauritius and the Seychelles to the
maximum extent practicable, consistent with
United States policies, requirements and
schedules; and
- (b) the appropriate administrative authorities
of the two Governments shall consult before
the United States introduces contractors or
workers from a third country.
- (8) The exemption from charges in the nature of customs
duties and other taxes in respect of goods, supplies
and equipment brought to the Territory in connexion
with the purposes of this Agreement by or on behalf
of the United States Government, United States con-
tractors, members of the United States Forces, con-
tractor personnel or dependants, and the exemption
from taxation of certain persons serving or employed
in the Territory in connexion with those purposes,
shall be such exemption as is set out in Annex I to
this Note.
- (9) The arrangements regarding the exercise of criminal
jurisdiction over persons and offences by the United
States Authorities and the Government of the United
Kingdom and the arrangements for payment of claims
made against the Government of the United States
shall be those respectively set out in Annex II to
this Note.

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- (10) Notwithstanding that airfields to which this Agreement applies are not open to public use, the Government of the United Kingdom reserves the right, after prior consultation with the authorities operating the airfields concerned, to permit the use of any such airfields in exceptional circumstances by British and American civil aircraft.
- (11) The United States Government and the United Kingdom Government contemplate that the islands referred to in the first paragraph of this Note shall remain available to meet the possible defense needs of the two Governments for an indefinitely long period. Accordingly, the Agreement shall remain in force for an initial period of thirty years. Thereafter it shall continue in force for a further period of twenty years unless, not less than two years before the end of the initial period, either Government shall have given the other three years' notice of its desire that the Agreement should be terminated.

If the foregoing is acceptable to the Government of the United Kingdom of Great Britain and Northern Ireland, I have the honor to propose that this Note and your reply to that effect shall constitute an agreement between the two Governments which shall enter into force on the date of your reply.

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AGREED MINUTE

[To remain classified]

With respect to sub-paragraph (2) (a) of the agreement concluded on _____ between the Governments of the United Kingdom and of the United States, it is understood that the administrative measures referred to are those necessary for modifying or terminating any economic activity then being pursued in the islands, resettling any inhabitants, and otherwise facilitating the availability of the islands for defense purposes.

Where any United States requirement is for land owned by the United Kingdom Government but in the possession of a lessee of that Government and it will be necessary for notice of termination of the lease to be given by or on behalf of that Government to the lessee, there shall be adequate advance notice of the United States requirement for the purpose of enabling the United Kingdom Government to give the lessee six months' notice of the termination of the lease or such less period of notice as may be specified in the lease.

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ANNEX I

BRITISH INDIAN OCEAN TERRITORY

Customs Duties and Taxation

1. Customs Duties and other Taxes on Goods

- (1) No import, excise, consumption or other tax, duty or impost shall be charged on:
 - (a) material, equipment, supplies, or goods for use in the establishment, maintenance, or operation of the facilities which are consigned to or destined for the United States authorities or a United States contractor;
 - (b) goods for use or consumption aboard United States public vessels or aircraft;
 - (c) goods consigned to the United States authorities or to a United States contractor for the use of or for sale to military members of the United States Forces, or to other members of the United States Forces, or to those contractor personnel and their dependents who are nationals of the United States and are not engaged in any business or occupation in the Territory.

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- (a) the personal belongings or household effects, of persons referred to in sub-paragraph (c) above, including motor vehicles, provided that these accompany the owner or are imported either -
 - (i) within a period beginning sixty days before and ending 120 days after the owner's arrival; or
 - (ii) within a period of six months immediately following his arrival.
- (c) goods for consumption and goods (other than personal belongings and household effects) acquired after first arrival, including gifts, consigned to military members of the United States Forces, or to those other members of the United States Forces who are nationals of the United States and are not engaged in any business or occupation in the Territory, provided that such goods are:
 - (i) of United States origin if the Commissioner so requires, and
 - (ii) imported for the personal use of the recipient.
- (2) No export tax shall be charged on the material, equipment, supplies or goods mentioned in paragraph (1) in the event of reshipment from the Territory.
- (3) This Article shall apply notwithstanding that the material, equipment, supplies or goods pass through other parts of the Territory en route to or from a site.

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pursuant to paragraph (1)(c), or not entitled to free importation under paragraph (1)(d) or (1)(e). There shall be co-operation between the United States authorities and the Commissioner to this end, both in prevention and in investigation of cases of abuse.

2. Motor Vehicle Taxes. No tax or fee shall be payable in respect of registration or licensing for use for the purposes of this Agreement in the Territory of motor vehicles belonging to the United States Government or United States contractors.

3. Taxation

- (1) No members of the United States Forces, or those contractor personnel and their dependents who are nationals of the United States, serving or employed in the Territory in connexion with the facilities shall be liable to pay income tax in the Territory except in respect of income derived from activities within the Territory other than such service or employment.
- (2) No such person shall be liable to pay in the Territory any poll tax or similar tax on his person, or any tax on ownership or use of property which is situated outside the Territory, or situated within the Territory solely by reason of such person's presence there in connexion with activities under this Agreement.

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- (3) No United States contractor shall be liable to pay income tax in the Territory in respect of any income derived under a contract made in the United States in connexion with the purposes of this Agreement, or any tax in the nature of a license in respect of any
- (4) The United States authorities shall do all in their power to prevent any abuse of customs privileges and shall take administrative measures, which shall be mutually agreed upon between the appropriate authorities of the United States and the Territory, to prevent the disposal, whether by resale or otherwise, of goods which are used or sold under paragraph (1)(c), or imported under paragraph (1)(d) or (1)(e), of this Article, to persons not entitled to buy goods service or work for the United States Government in connexion with the purposes of this Agreement.

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ANNEX II

BRITISH INDIAN OCEAN TERRITORY

Jurisdiction and Claims for Compensation

I. (1) The Government of the United States of America shall have the right to exercise the following jurisdiction over offences committed in the Islands -

(a) Where the accused is a member of the United States Forces;

(1) if a state of war exists, exclusive jurisdiction over all offences wherever committed;

(11) if a state of war does not exist exclusive jurisdiction over security offences wherever committed and United States interest offences committed inside the sites, concurrent jurisdiction over all other offences wherever committed

(b) Where the accused is not a member of the United States Forces a British national or a local alien, but is a person subject to the United States Uniform Code of Military Justice;

(1) if a state of war exists, exclusive jurisdiction over security offences committed inside the sites and United States interest offences committed inside the sites, concurrent jurisdiction over all other offences wherever committed;

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- (11) if a state of war does not exist exclusive jurisdiction over security offences which are not punishable under the law of the Territory; concurrent jurisdiction over all other offences wherever committed.
- (2) Wherever, under sub-paragraph (1) of this paragraph the Government of the United States of America has the right to exercise exclusive jurisdiction over security offences committed inside the sites, such right shall extend to security offences committed outside the sites which are not punishable under the law of the Territory.
- (3) In every case in which under this paragraph the Government of the United States of America has the right to exercise exclusive jurisdiction, the following provisions shall have effect -
- (a) The United States authorities shall inform the Commissioner as soon as is practicable whether or not they elect to exercise such jurisdiction over any alleged offences which may be brought to their attention by the Commissioner or in any other case in which the United States authorities are requested by the Commissioner to furnish such information.

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- (b) If the United States authorities elect to exercise such jurisdiction, the accused shall be brought to trial accordingly, and the courts of the Territory shall not exercise jurisdiction except in aid of a court or authority of the United States, as required or permitted by the law of the Territory.
- (c) If the United States authorities elect not to exercise such jurisdiction and if it shall be agreed between the Commissioner and the United States authorities that the alleged offender shall be brought to trial, nothing in this paragraph shall affect the exercise of jurisdiction by the courts of the Territory in the case.
- (4) In every case in which under this paragraph the Government of the United States of America has the right to exercise concurrent jurisdiction, the following provisions shall have effect:-
 - (a) The case shall be tried by such court as may be arranged between the Commissioner and the United States authorities.
 - (b) Where the offence is within the jurisdiction of a civil court of the Territory and of a court of the United States, trial by one shall exclude trial by the other.

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(5) Notwithstanding anything contained elsewhere in this paragraph, when a state of war exists in which the Government of the United Kingdom is, and the Government of the United States of America is not, engaged, then in any case in which the Government of the United States of America would, but for this paragraph, have exclusive jurisdiction, that jurisdiction shall be concurrent in respect of any of the following offences against any part of the United Kingdom and Colonies or any country within the Commonwealth committed outside the sites or, if not punishable in the Islands by the Government of the United States of America inside the sites -

- (a) treason;
- (b) any offence of the nature of sabotage or espionage or against any law relating to official secrets;
- (c) any other offence relating to operations in the Islands of the Government of any part of the United Kingdom and Colonies or any country within the Commonwealth, or to the safety of naval, military or air bases or establishments or any part thereof or of any equipment or other property of any such Government in the Islands.

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(6) Nothing in this paragraph shall give the Government of the United States of America the right to exercise jurisdiction over a member of the armed forces of the United Kingdom, and Colonies or of any country within the Commonwealth.

(7) Nothing in this paragraph shall affect the jurisdiction of a civil court of the Territory except as expressly provided in this paragraph.

(8) Wherever they appear in this paragraph and paragraph 2 of this Annex the following expressions shall have the meaning hereby assigned to them -

- (a) "The Territory" means British Indian Ocean Territory.
- (b) The "Commissioner" means the Commissioner for the Territory.
- (c) "The sites" means those structures or defined areas situated in the Territory at the relevant time being constructed or used by the United States authorities pursuant to this Agreement, and "site" shall be construed accordingly.
- (d) "The Islands" means those Islands of the Territory upon which there is for the time being a Site and "Island" shall be construed accordingly.
- (e) "British national" means any British subject or Commonwealth citizen or any British protected person, but shall not include a person who is both a British national and a member of the United States Forces.

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- (f) "Courts of the Territory" includes any court established for any colony other than the Territory upon which the Commissioner has lawfully conferred jurisdiction in respect of the Territory and the expression "civil court of the Territory" shall be construed accordingly.
- (g) "Security offence" means any of the following offences against the Government of the United States of America and punishable under the law of the United States of America:-
- (i) treason;
 - (ii) any offence of the nature of sabotage or espionage or against any law relating to official secrets;
 - (iii) any other offence relating to operations in the Islands of the Government of the United States of America under this Agreement, or to the safety of any equipment or other property in the Islands of the Government of the United States of America under this Agreement.
- (h) "State of war" means a state of actual hostilities in which either the Government of the United Kingdom or the Government of the United States of America is engaged and which has not been formally terminated, as by surrender.
- (i) "United States interest offence" means an offence which (excluding the general interest of the Commissioner in the maintenance of law and order

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in the Territory) is solely against the interests of the Government of the United States of America or against any person (not being a British national or local alien) or property (not being property of a British national or local alien) present in the Islands by reason only of service or employment in connexion with the construction, maintenance, operation or defence of the United States facilities of the Islands.

II. (1) The Government of the United States of America and the Government of the United Kingdom respectively waive all claims against the other of them -

(a) for damage to any property owned by it and used by its land, sea or air armed services if such damage -

- (i) was caused by a member of the armed services or by an employee of a Department with responsibility for the armed services of either Government in the execution of his duties or
- (ii) arose from the use of any vehicle, vessel or aircraft owned by either Government and used by its armed services provided either that the vehicle, vessel or aircraft causing the damage was being used in connexion with official duties or the damage was caused to property being so used.

(b) For injury or death suffered by any member of its armed services while such member was engaged in the performance of his official duties.

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- (c) For the purpose of this paragraph "owned" in the case of a vessel includes a vessel on bare boat charter, a vessel requisitioned on bare boat terms and a vessel seized in prize (except to the extent that the risk of loss or liability is borne by some person other than either Government).
- (2) The Government of the United States of America undertakes to pay adequate and effective compensation, which shall be assessed under the law applicable to the Territory and to indemnify the Government of the United Kingdom and its authorities and the Commissioner in respect of valid claims arising out of:-
- (a) The death or injury of any person resulting from the occupation or use by the Government of the United States of America, of the Islands.
 - (b) Damage to property resulting from any action of the Government of the United States of America in connexion with its occupation or use of the Island.

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British Indian Ocean Territory

Amended draft: Financial Arrangement

I have the honor to refer to the agreement concluded today between our two Governments concerning the availability of certain Indian Ocean islands for such defense needs of either of our two Governments as may arise. I wish to confirm the following financial arrangements which have been reached regarding the detachment of these islands from colonial administration and the acquisition of the lands thereon:

1. Under the POLARIS Sales Agreement signed by our two Governments at Washington on 6th April, 1963, the United Kingdom is obliged to make certain payments as a participation in expenditures incurred by the United States after 1st January, 1963 for research and development of the POLARIS missile system (hereinafter "R & D surcharge"). It is currently estimated that the R & D surcharge will total about \$17,000,000 over the entire POLARIS program. The United Kingdom will assume all costs pertaining to the administrative detachment of the Indian Ocean islands in question and to the acquisition of the lands thereon so that they may be available over the indefinite future to meet the defense needs of either Government as these needs may arise. In consideration thereof, the United States will forego the R & D surcharge to the extent of \$14 million, or one-half of the costs incurred by the United Kingdom, whichever is the less. The amount of the R & D surcharge so foregone is referred to below as the agreed contribution.

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2. The procedure proposed for effecting the agreed contribution is described in the following sub-paragraphs:

(a) As of *[1st September 1965] the United Kingdom has paid into the Trust Fund established pursuant to paragraph 2 of Article XI of the Sales Agreement the aggregate amount of *[\$9.9 million] in respect of:-

- (i) the R & D surcharge;
- (ii) the agreed overhead costs of the Polaris program (hereinafter "Overhead"); and
- (iii) the agreed charge for use of all United States Government-furnished Facilities (hereinafter "Facilities").

Quarterly payments against the United Kingdom obligation in respect of Overhead and Facilities will be postponed to a later date, and amounts paid to date into the Trust Fund for Overhead and Facilities will be applied to meet current charges against the United Kingdom for the POLARIS procurement. The amounts paid to date into the Trust Fund in respect of the R & D surcharge will also be applied against such current procurement charges. In consequence, the next practicable quarterly payments by the United Kingdom into the Trust Fund for such current procurement charges will be reduced by the aforementioned amount of *[\$9.9 million]. If the next quarterly payment otherwise due for such current procurement charges is less than [\$9.9 million], the difference between the *[\$9.9 million] and the amount of that quarterly payment otherwise due will be deducted from the succeeding quarterly payment or payments made by the United Kingdom.

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(b) United Kingdom payments for Overhead and Facilities will be postponed until such time as the total of all payments in respect of the R & D surcharge, Overhead and Facilities which (i) have been made as of *[1st September, 1965] and (ii) which would have been made except for these arrangements, equals the agreed contribution. Thereafter, the United Kingdom will pay the entire amounts for Overhead and Facilities called for by paragraph 2 of the Classified Minute relating to Article XI of the Sales Agreement in equal quarterly installments beginning as of the last day of the then current quarter and ending as of 31st March, 1969.

(c) When the cumulative amount of the R & D surcharge which would have been payable except for these arrangements equals the agreed contribution, the United Kingdom will commence payments in respect of the R & D surcharge at the rate specified in sub-paragraph 1.b of Article XI of the Sales Agreement.

I have the honor to request you to confirm the foregoing financial arrangements on behalf of the Government of the United Kingdom.

*Note: All items enclosed in brackets will be revised to reflect the dates and amounts relevant at the time of the signing of this Agreement.

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The following notes are intended to elucidate the amendments proposed by the United Kingdom to the draft exchanges of letters on financial arrangements relating to the detachment from Mauritius and the Seychelles of the islands now constituting the British Indian Ocean Territory, and to the terms and conditions on which the islands shall be available to the Governments of the United States and the United Kingdom for defence purposes.

I. Use of Islands for Defence Purposes

Introductory paragraph

For the sake of clarity it is desirable to distinguish the Islands constituting the Chagos Archipelago and the three remaining Islands incorporated in the British Indian Ocean Territory. A reference has therefore been inserted to "the Islands of Aldabra, Farquhar and Desroches". In the same paragraph the proposal that the Islands should be available for defence purposes duplicates the statement to this effect in main paragraph 2 and has therefore been deleted from the introductory paragraph.

2. Main paragraph 1

In accordance with British practice, in this paragraph and throughout the agreement the word "shall" is used to state an obligation arising from the agreement, rather than the word "will".

1. Main paragraph 2

It is proposed to incorporate in the introductory part of this major paragraph the wording from paragraph 2(b) of the United States draft, in order to make clear that all the following provisions are designed to ensure that the defence activities of the two Governments in the Islands are correlated in an

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orderly fashion.

4. Sub-paragraph 2(b)

In the United States draft reference is made to the construction of "any defence facility". It is envisaged that the construction of any facility, whether related to defence purposes or not, would require to be considered by the two Governments in view of its possible relationship to other existing or planned facilities. Hence the omission of the word "defence". In the United Kingdom redraft of this sub-paragraph a distinction is made between the need for the agreement in principle of both Governments that there is a requirement for a new facility, and the consequent agreement between administrative authorities on the siting and technical features of the proposed new facility.

5. Sub-paragraph (a)

The purpose of the United Kingdom redraft of this sub-paragraph relating to emergency circumstances is to distinguish between the use in emergency of an island or part of an island not already in use for defence purposes, and the use of an island or part of an island which was already being used for defence purposes. The United Kingdom redraft, while not precluding emergency use of any of the islands, seeks to ensure that the interests of those who may at the time be living on the island shall be adequately protected and that, if defence considerations require that their way of life should be disturbed, necessary steps can be taken in advance by the United Kingdom authorities to ensure their welfare. The redraft therefore calls for early notification of emergency requirements for the use of an island or part

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of an island not already being used, and for prior consultation before action is taken.

6. Paragraph 3

The aim of this new paragraph is to ensure that any existing installation on an island (e.g. the meteorological station on Diego Garcia) or any installation of a non-defence character which is established later, may continue to be used by the United Kingdom Government. Unless such a paragraph is inserted, the Agreement might create an obligation on the United Kingdom to remove such installations if their sites were required for defence purposes. An example of a non-defence installation would be a radio relay station established after consultation with the United States Government.

7. Paragraph 4

No change of substance has been made to the United States draft of this paragraph; for the sake of clarity the Governments which must give their agreement to the use by a third country of United States or jointly-financed facilities are specified.

8. Paragraph 7

A minor amendment has been made to sub-paragraph (a). The United Kingdom would prefer to avoid the implication that persons living on the Islands are permanent inhabitants rather than "belongers" of Mauritius and the Seychelles. Reference is therefore made to "workers from Mauritius and the Seychelles" instead of "local workers".

9. Paragraph 8

It has been found convenient to set out in some detail in a separate annex the exemptions from customs duties and other taxes

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which will be enjoyed by the United States Government, United States contractors, members of the United States Forces, contractor personnel or dependents. The redraft of this article therefore limits itself to referring to annex 1 which contains detailed provisions.

10. Paragraph 9

The United States draft of this article relating to the exercise of criminal jurisdiction seeks to apply to the British Indian Ocean Territory the criminal jurisdiction provisions embodied in Article V of the United States-United Kingdom Agreement of 25 June, 1956, relating to Ascension Island. In the opinion of the United Kingdom Government it would be satisfactory for the criminal jurisdiction provisions to follow the general terms of the Ascension Island Agreement, but it seems inappropriate that the new agreement should refer directly to the earlier one. There are three reasons for this. First, the Ascension Island Agreement provisions cannot be applied mutatis mutandis to the new draft since the Ascension Island Agreement contains references to "St. Helena" and "the Government" which cannot be simply translated by substituting "Indian Ocean Islands" for "Ascension" if there is no Government but simply a Commissioner. Secondly, there are provisions in the Ascension Agreement which depend on the presence of a civil court of the United States and it is understood that there will be no United States civil courts in the British Indian Ocean Territory. Thirdly, it is inadvisable to write the jurisdiction provisions by reference to another agreement. If this is done the amendment expiry or abrogation of

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the agreement to which reference is made leaves the position of the jurisdiction provision in the new Agreement uncertain.

11. For these reasons the United Kingdom prefers to incorporate detailed jurisdiction provisions in an annex. It is also convenient to include in this annex provisions relating to claims. A draft annex has been prepared covering these two subjects; it is based on the assumption that a United Kingdom civil administration will function in the Islands with the power to exercise local civil jurisdiction.

12. Paragraph 10

The purpose of this new paragraph, proposed by the United Kingdom, is to make provision for the possible use in exceptional circumstances by civil aircraft of airfields constructed on the Islands. The geographical position of the British Indian Ocean Territory could, in certain situations, give it particular value for civil aviation purposes. The civil aviation links of the United Kingdom with Australia, New Zealand and the South Pacific are exposed to interruption by forces beyond the United Kingdom's control. For example, if overflying and landing in the Indian sub-continent or Ceylon became no longer safe or practicable for temporary reasons, it might be a matter of great importance to the United Kingdom to have the opportunity to make use of an existing airfield in the British Indian Ocean Territory for technical stops. The same considerations might apply if established British air routes through East and Central or Southern Africa were temporarily closed. It is recognised however that the purpose of airfields constructed on the Islands constituting the

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British Indian Ocean Territory will be military and that the military use of such airfields must enjoy priority. It is also essential that if any provision exists for the use of these airfields for civil purposes, even in exceptional circumstances, no question should arise of the use of the airfields as of right by operators of countries other than the United Kingdom and United States. The paragraph has therefore been drafted in such a manner as to exclude the application of the Chicago Convention (on the ground that the airfields are not open to public use) and to ensure that before any use of the airfields is made, the authorities operating them are consulted. The purpose of this latter proviso is to ensure that the authority (whether British or United States) operating the airfields is given an opportunity to indicate that the use of the airfield at a particular time by civil aircraft would conflict with military requirements. The United Kingdom assumes that use of airfields by civil aircraft chartered by either Government for military purposes would be covered by the phrase in paragraph 6 "under service-level arrangements". There is thus no need for paragraph 10 to specify use by military charter aircraft.

13. Paragraph 11

The United States draft of this article proposes an initial period of validity of 50 years for the defence agreement with provision for extension by 20-year periods. The United Kingdom Government recognises the importance attached by the United States Government of a long initial period of validity of the Agreement and to the specific mention of a long renewal period. For presentational reasons, however, the United Kingdom Government

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would prefer that the Agreement, which is to be published, should mention a shorter initial period of validity. For this reason the United Kingdom draft provides for an initial period of 30 years. Should the United States Government retain their preference for a longer period, the United Kingdom Government would be grateful for an account of the particular reasons for this preference.

III. Agreed Minute

The United Kingdom Government would like the Agreed Minute, containing references to the modification or termination of economic activity in the Islands and the resettlement of inhabitants, to remain classified. The second paragraph of the Agreed Minute, added by the United Kingdom, is intended to take account of the situation which will exist when, as is the present intention, the United Kingdom Government shall have purchased the title to land on the Islands and shall have leased the land back to tenants. Clearly it will be necessary to give the lessees some notice of the intention of the United Kingdom or United States Government to make use of the land for defence purposes, and it is therefore desirable to include a provision to this effect in the Agreement.

II. Financial Arrangements

15. The United Kingdom amendments to the United States draft of this exchange of letters are largely formal in character. Main paragraph 1, third sentence.

In accordance with British practice the assumption of an obligation under an agreement of this kind is expressed in the

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form "The United Kingdom will assume all costs" rather than
"The United Kingdom agrees to assume all costs ..."

16. Main paragraph 1, fourth sentence.

In British practice it would be more usual to write
"whichever is the less" rather than "whichever is the lesser".

17. Main paragraph 2(a)

The phrase "It is agreed that ..." is considered to be
superfluous.

18. Concluding paragraph

The exchange of letters on financial arrangements is, by
agreement between the two Governments, to be kept secret. It
should not therefore be couched in a form which would make it
registrable under the United Nations Charter, for such registra-
tion would involve publication. It is therefore necessary that
the word "agreement" should be avoided in the text. For this
reason the concluding paragraph has been redrafted so as to re-
quest confirmation of the financial arrangements, rather than to
propose that the arrangements should constitute an inter-
governmental agreement.

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