

FCO Digest of Information

Information relating to the United States disclosure that two "extraordinary rendition" flights landed on UK territory in 2002.

(1) Extract of Email from FCO Official to FCO Officials – 20/2/08

1. Our longstanding policy has been not to allow UK or our Overseas Territories to be used for the rendition of detainees. Ministers, including the Prime Minister, have said repeatedly that we have no evidence that such renditions have taken place since 2001.
2. On 15 February senior US officials told their UK counterparts that a new review of their records shows Diego Garcia was in fact used for refuelling during two rendition flights in 2002.

(2) Extract of Minute from FCO Official to Foreign Secretary – 20/2/08

In line with Government comments made in our response to the ISC Report on Rendition, the FCO has:

1. The clear lead on rendition policy, and there are established points of contact within other relevant Whitehall Departments (i.e. MOD, DfT, Home Office, MOJ, Cabinet Office).
2. Ensured officials in these Departments are fully aware of the seriousness with which we have taken the Intelligence and Security Committee's recommendations on record keeping.
3. Ensured that if a request for assistance with a potential rendition operation was received by another Government Department, it would be forwarded to the designated point of contact within the FCO.
4. Improved its system of record keeping for rendition requests. This was noted in the Government response to the Report. Prior to the publication of the Intelligence and Security Committee's Report, the FCO, Home Office and MOD had conducted an extensive review of their records which the Committee subsequently noted had proved difficult.
5. Instructed Posts to report to the Desk Officer responsible for rendition policy any request for assistance in a potential rendition or "Extraordinary Rendition" operation. This includes any over-flight request which may have - or could be perceived to have - a rendition angle.
6. Redrafted public lines on rendition to make them more transparent, working closely with Whitehall partners. The Foreign Secretary approved these last month.
7. Been in close contact with OGDs when Parliamentary Questions and MPs letters are received to ensure that we have a consistent and co-ordinated line.

(3) Extract of Email from FCO Official to FCO Official – 20/2/08

As we said in response to the ISC Rendition Report – “The Foreign and Commonwealth Office (FCO) now has the clear lead on rendition policy, and there are established points of contact within other relevant Whitehall Dept.”

We keep a running file on rendition and all posts are aware that they must notify the FCO of any potential rendition requests.

Since before September 2001, the UK has worked closely with the US on a wide-range of counter –terrorism issues to achieve our shared goal of combatting terrorism. We have a continued dialogue with the US on detainee-related issues, including rendition.

The US flagged this oversight to us as soon as it came to light and in the past they have sought our permission before using our airspace.

(4) Extract from Email from FCO Official to FCO Officials – 21/2/08

CIA Director Hayden issued a statement on the renditions today, stating that the two detainees were not tortured.

(5) Letter from Foreign Secretary to Amnesty International – 21/2/08

I am writing about new information passed to us by the US which is of interest to Amnesty. It requires us to correct statements made in previous letters to you. I am very sorry indeed that the information given was not correct.

On 15 February British officials were informed by their US counterparts that, contrary to earlier assurances by the US that Diego Garcia had not been used for rendition flights, recent US investigations had revealed two occasions, in January and September 2002, when this had in fact occurred. In both cases a US plane refuelled in Diego Garcia whilst a detainee was on board.

I made a full statement to the House of Commons on this matter this afternoon and enclose a copy. I made clear our disappointment at this news and its late emergence and outlined the work now in hand between my officials and their US counterparts to work through the details and implications, including on the subsequent treatment of both men.

I have asked my officials to compile a list of all the flights where we have been alerted to concerns regarding rendition through the UK or our Overseas Territories. Once this is ready we will be sending this list to the US and seeking their specific assurances that none of these flights were used for rendition purposes.

I will be keeping Parliament updated.

(6) Extract of submission by FCO Official – 21/2/08

SUBJECT: RENDITION ACTION POINTS

1. You asked for a note of action points arising from the Foreign Secretary's statement to the House of Commons on rendition on 21 February.

Points arising from the debate:

- The Foreign Secretary committed to look again at the evidence given on rendition to the Joint Committee on Human Rights and update if necessary. **Action:** [REDACTED].
- The Foreign Secretary promised to write to Sir John Stanley MP on the question of whether any detainees held by British forces in Iraq and Afghanistan had subsequently been transferred to Guantanamo Bay. **Action;** [REDACTED].
- The Foreign Secretary promised to write to Rob Marris MP setting out the legal issues surrounding rendition/ extra-ordinary rendition. **Action:** [REDACTED].
- Once compiled, we have committed to publishing the list of flights for which suspicions of rendition through UK airspace, or that of the OT's, have been raised. **Action:** [REDACTED].

(7) Background to Parliamentary Question HL2093 – answered 11 March 2008 - regarding Diego Garcia – 22/2/08

The Foreign Secretary's statement to the House of Commons on 21 February outlined new information that the UK had received from the US regarding rendition flights through the Overseas Territory of Diego Garcia. Contrary to earlier explicit assurances that Diego Garcia had not been used for rendition flights, the US told us on 15 February that recent investigations had revealed two occasions, both in 2002, when this had in fact occurred. In both cases a US plane with a single detainee on board refuelled at the US facility on the island.

NGOs, MPs and other organisations have raised a number of concerns about specific flights that may have been involved in rendition operations in Diego Garcia and other UK territory. A list of these flights will now be compiled and sent to the US.

The last assurances on renditions through Diego Garcia were given in September 2007 during the UK/US political-military talks with the US in Washington.

(8) Background to Parliamentary Question 189825 – answered 27 February 2008 - on Diego Garcia– 26/2/08

The UK personnel on Diego Garcia perform a number of civilian roles alongside their military ones eg., customs and immigration, police etc. The CBF [Commander of British Forces] is the magistrate and coroner for BIOT.

The use of Diego Garcia is regulated by a series of bilateral agreements (Exchange of Notes) between the UK and US. The 1966 Exchange of Notes provides that the islands of the British Indian Ocean Territories, including Diego Garcia, shall be available for an initial period of 50 years ie., until 2016 and continuing thereafter for a further period of 20 years unless terminated by either Government at the end of the initial period.

The Foreign Secretary's statement to the House of Commons on 21 February outlined new information that the UK had received from the US regarding rendition flights through the Overseas Territory of Diego Garcia. Contrary to earlier explicit assurances from the US that Diego Garcia had not been used for rendition flights, there had in fact been two cases in January and September 2002 when a single detainee was aboard a flight that refuelled at the US facility on the island.

NGOs, MPs and other organisations have raised a number of concerns about specific flights that may have been involved in rendition operations in Diego Garcia and other UK territory. A list of these flights will now be compiled and sent to the US.

The last assurances on renditions through Diego Garcia were given in September 2007 during the island's annual political/military talks with the US

(9) Extract of official communication from FCO Official, London to Posts in Overseas Territories– 29/2/08

Subject OVERSEAS TERRITORIES: FLIGHT RECORDS

Summary Request to ensure that no (no) flight records held in Territories are destroyed for the time being.

Detail

1 You will be aware that the Foreign Secretary made a statement to Parliament on 21 February outlining new information we have received from the US on the rendition of terrorist suspects through Diego Garcia. Please find the full statement at:

<http://www.publications.parliament.uk/pa/cm200708/cmhansrd/cm080221/debtext/80221-0008.htm>

2 As set out here, the Foreign Secretary has asked officials to compile a list of all the flights where we have been alerted to concerns regarding rendition through the UK or the OTs. This will be forwarded to the US seeking specific assurances that none were used for

rendition purposes.

3 In this context, we would be grateful if you could liaise with local aviation authorities to ensure that flight records going back to January 2001 (including any diplomatic clearance) are maintained. Please await further instructions and check with OTD before destroying any such records.

(10) Email from All Party Parliamentary Group on Extraordinary Rendition to FCO Official – 3/3/08

Just to flag up that [REDACTED] has written to the Foreign Secretary further to his statement about Diego Garcia, requesting a further search of US files, and with a list of specific flights and a request that they be included in the list he submits to the US for checking. It makes a point that this list should include planes on the way to or from a rendition and not to be limited to planes with detainees on board at the time of their transit through UK airspace.

The letter also highlights the need for more information about the treatment of the two detainees rendered through Diego Garcia, and the US' plans for the individual still in Guantanamo. Finally, he reiterates his view that the mechanisms currently in place need improvement.

(11) Email exchange between FCO Officials – 4/3/08

A factual read-out of the intervention of Terry Davies, SG [Secretary General] of the CoE [Council of Europe], which highlighted the UK and CT/HR [Counter Terrorism / Human Rights] issues in some detail

- Focussed on 5 HR/CT themes:

1. Rendition flights. CoE give credit to the UK for the fact that the UK FS announced the use of rendition flights involving DG as soon as information came to light. Also CoE takes particular note of Gordon Brown's pledges to introduce new measures to ensure that this does not happen again. On the latter, CoE believe that the most appropriate way to do this is to adopt CoE recommendations on the subject.

(12) Email exchange between FCO and Diplomatic Mission, London – 13/3/08

RENDITION PUBLIC LINES

- We are fully committed to our obligations under international human rights law. With regard to rendition, these include the obligation not to transfer a person to a country where they would face a real risk of torture or cruel, inhuman or degrading treatment or punishment; and the obligation to detain people only in accordance with proper legal procedures. We actively encourage all countries to comply with their international legal obligations.
- The Parliamentary Intelligence & Security Committee (ISC) report clarified that rendition is a term that may include a range of transfers, from the completely unacceptable (e.g.

“extraordinary rendition” to torture) to transfers that may in some circumstances be lawful (e.g. “rendition to justice”).

- HMG does not render people in breach of its legal obligations. There are nonetheless some circumstances where rendition (i.e. the transfer of an individual from one jurisdiction to another outside of a formal extradition, deportation or removal framework) would be lawful.
 - We unreservedly condemn any practice of “extraordinary rendition” to torture. We have always condemned torture. The UK Government, including its intelligence and security agencies, never uses torture for any purpose, including obtaining information. Nor would we instigate action by others to do so.
 - In the unlikely event that another state might wish to transfer a detainee through the UK or our airspace outside of a formal transfer process, we would require them to seek our permission to do so. We would not allow such transfers if to do so would put us in breach of our international human rights obligations, including the ECHR, the UN Convention Against Torture or other international human rights instruments to which we are a party. We have made this position clear internationally.
- Will you condemn rendition?

No. Rendition is not a term defined in international or UK domestic law. It is normally understood to mean the transfer of a person from one jurisdiction to another, outside formal processes such as extradition, deportation or removal. There are some circumstances where this would be lawful. For example, the transfer of an individual to safety, or where there was no apparent domestic legal framework, or where there was some other legal requirement to transfer (e.g. a Security Council Resolution).

- Will you condemn extraordinary rendition?

We condemn any “extraordinary rendition” of persons from one jurisdiction to another where there is a real risk of torture. As with “rendition”, there is no consensus on a definition of “extraordinary rendition”. We will not cooperate in any transfer of an individual where we believe there is a real risk of torture to the individual concerned. Our international partners are well aware of this position.

(13) Email exchange between FCO Officials and Ministry of Defence on Gibraltar – 26/3/08

To see the telegram below circulated from the FCO requesting all OT posts to ensure that no (no) flight records are destroyed for the time being.

Could you confirm whether records for Gibraltar are complete back to Jan 2001.

Detail

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<http://www.publications.parliament.uk/pa/cm200708/cmhansrd/cm080221/debtext/80221-0008.htm>

2 As set out here, the Foreign Secretary has asked officials to compile a list of all the flights where we have been alerted to concerns regarding rendition through the UK or the OTs. This will be forwarded to the US seeking specific assurances that none were used for rendition purposes.

Please find below links to other documents available to you by other means.

- **Foreign Secretary's Statement 21 February 2008**

<http://www.publications.parliament.uk/pa/cm200708/cmhansrd/cm080221/debtext/80221-0008.htm#08022198000007>

- **US State Department Daily Press Briefing, 21 February 2008**

<http://www.state.gov/r/pa/prs/dpb/2008/feb/101214.htm>

- **Reuters News Report, 21 February 2008**

<http://uk.reuters.com/article/topNews/idUKN2145882520080221>

- **Transcript of oral evidence given to Foreign Affairs Committee – Overseas Territories, 26 March 2008**

<http://www.publications.parliament.uk/pa/cm200708/cmselect/cmffaff/c147-v/c14702.htm>

- **Parliamentary Question regarding Diego Garcia – 11 March 2008**

<http://www.publications.parliament.uk/pa/ld200708/ldhansrd/text/80311w0001.htm#080311113000142>

- **Parliamentary Question 189825 on Diego Garcia– 27 February 2008**

<http://www.publications.parliament.uk/pa/cm200708/cmhansrd/cm080227/text/80227w0029.htm#0802286000036>

