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**REPORT OF THE
COMPTROLLER GENERAL
OF THE UNITED STATES**



**Financial And Legal Aspects Of The
Agreement On The Availability Of
Certain Indian Ocean Islands
For Defense Purposes**

Departments of Defense and State

A classified note to this December 30, 1966, agreement provides for the United States to pay \$14 million toward the British cost of detaching certain Indian Ocean Islands. The U.S. share is being financed through waivers of the research and development surcharge under the Polaris Sales Agreement of April 6, 1963.

GAO is unable to say that U.S. law was violated by these financial arrangements but believes the method used was a circumvention of the congressional oversight role.

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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-184915

The Honorable Gary Hart *R1 RSN 00001*
United States Senate

C1 RSN 00001

Dear Senator Hart:

Your letter of September 11, 1975, asked us to report to you how the dislocation of the inhabitants of Diego Garcia and of its associated islands was financed and whether U.S. law was violated.

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AGC 00005

The United States waived \$14 million under the Polaris Sales Agreement to cover its share of the British Indian Ocean Territory detachment costs. Because of limitations placed on access to records by the Departments of State and Defense, we were unable to satisfy ourselves about the financing methods considered by the Department of Defense or to learn the total extent of U.S. financial participation. However, we did note that U.S. economic assistance has been provided to the islands since the United States became involved in this area.

From the information made available to us, we are unable to say that U.S. law was violated. However, we consider the method used as a circumvention of congressional oversight authority.

Details of these and other matters are discussed below.

FINANCIAL ARRANGEMENTS FOR
DETACHMENT OF ISLANDS

On December 30, 1966, the United States and the United Kingdom entered into an agreement whereby the United Kingdom would detach the islands now comprising the British Indian Ocean Territory from Mauritius and the Seychelles to make them available for possible joint defensive purposes. In a classified note to the agreement, the United States agreed to provide up to half of the total British detachment costs, but not to exceed \$14 million. Compensation was required for such matters

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as loss of sovereignty by Mauritius and the Seychelles, purchase of privately owned property or land, and resettlement of inhabitants.

The U.S. share of detachment costs was to be provided through a waiver of the 5-percent research and development surcharge imposed on procurements under the April 6, 1963, Polaris Sales Agreement between the United States and the United Kingdom. This surcharge was expected to reach \$17 million by mid-1972, but at November 30, 1966, it was about \$4.3 million. The then Secretary of Defense made the decision to forego the surcharges until the amount, which would have otherwise been payable by the British, reached \$14 million. When this amount was reached, the surcharge was to be reimposed on subsequent sales.

However, to give the British earlier budgetary relief, as it would have taken several years to make the contribution through the research and development surcharge accrual alone, the United States provided the entire \$14 million to Britain shortly after entering into the 1966 agreement by:

- Applying toward the current procurement charges the amounts already paid into the Polaris Trust Fund by the British for research and development surcharges and overhead and facilities charges. (The overhead and facility charges were fixed amounts to be paid over a 24-quarter period.)
- Waiving British payments in December 1966 and March 1967 for then-current Polaris procurement charges (reflecting the application of funds as above), overhead charges, and facility use charges while allowing the British to restart overhead and facilities charges on an accelerated basis in order to repay the Trust Fund within the original payment schedule.

Thus, in effect, the United States loaned the British the \$14 million from the Polaris Trust Fund which was subsequently repaid except for the research

and development surcharge which had been waived. Currently, the research and development account still has about \$2.5 million to accrue before the surcharge is reimposed. As of September 18, 1975, the accrual had reached \$11.542 million, the last accrual being in July 1975. (See app. I.)

LEGAL BASIS FOR FINANCIAL
ARRANGEMENTS

According to Defense officials, the detachment of the Indian Ocean Islands had to be accomplished quickly because a British withdrawal from the area was feared. Accordingly, the Polaris financing arrangement was deemed the best solution by Defense, as the regular appropriations route via Congress would be subject to considerable delay. Except for these two methods, we do not know of any other financing alternatives considered. c2
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A November 12, 1965, Defense memorandum for State's Deputy Legal Adviser summarized the legal basis for the Polaris offset technique as follows.

"Insofar as the payments relating to overhead and facilities are concerned, the proposal does not affect the total sum to be paid by the United Kingdom; it merely alters the timing of such payments. The United States receives adequate consideration for this alteration in timing by being granted the use of the Islands for defense purposes. Further, the statutory authority under which the Polaris Sales Agreement was consummated, section 507 of the Foreign Assistance Act of 1961, as amended, does not require payment to be made prior to 120 days after delivery of the defense articles or defense services purchased. This 120 day period begins to run after delivery of the last defense article or the rendering of the last defense service."

"Insofar as the payments relating to P&D are concerned, the proposal foregoes payment up to the amount of \$14 million. This sum is not a sum now owing to the United States. The exact amount of the R&D payment is uncertain, being dependent upon price of the items sold. It is

further uncertain in that the United Kingdom may at any time at its option cancel the Polaris purchase, without being liable for any R&D charges over and beyond those calculated on items already delivered. Also significant is the fact that section 507 of the Foreign Assistance Act of 1961, as amended, does not require the imposition of any R&D charge whatsoever. Such a charge could have been omitted from the agreement, and was inserted in the agreement only as a matter of policy. Accordingly, the waiver of such a charge in exchange for a valuable consideration does not constitute the waiver of a charge which the Executive Branch is under a statutory mandate to collect. Viewed in this light, the United States is merely giving up one right in exchange for another right of equal or greater value."

From the information made available, we are unable to say that these financial arrangements violated U.S. law. But, we believe the method of financing--a technique which masked real plans and costs--was clearly a circumvention of the congressional oversight role.

Early in 1962, for instance, the Joint Chiefs of Staff recommended making arrangements with the British that would assure the availability of selected Islands in the Indian Ocean; by 1963, Defense had firm plans for facilities in Diego Garcia. Military construction funds were sought for fiscal year 1964 but were not approved by Congress because firm rights to the site were not available. Despite evidence that the financing method was seemingly settled by State and Defense as early as 1965, it was not until 1969 that these arrangements were first disclosed to a Member of Congress.

Defense officials were not aware of any other instances in which research and development surcharges had been waived to acquire base rights. Occasionally, however, such surcharges are reduced or eliminated in connection with a given sales transaction.

OTHER FINANCIAL MATTERS

Officials of State and Defense told us that the \$14 million Polaris research and development offset was

the sole financial involvement of the United States in the British Indian Ocean Territory detachment effort. However, we have thus far been denied full and complete access to records of negotiations and other memorandums we consider necessary to our review; therefore, we are unable to independently verify these statements.

During our review we noted other financial matters that, although recognizing they may not bear any relationship to the detachment question, we believe should be set forth.

Economic assistance

Since the early 1960s, Mauritius has been receiving a small amount of U.S. assistance, mostly under Public Law 480 (Food for Peace). This averaged about \$100,000 a year until 1968, when it increased to \$800,000. In 1969, assistance decreased to \$100,000, and during 1970-74 it ranged from \$1.1 million to \$3.3 million. Proposed assistance programs for 1975 and 1976 were \$1.2 million and \$1.8 million, respectively. Thus, total assistance to Mauritius (proposed and actual) since the United States became involved in the area, approaches \$16 million.

The increased assistance to Mauritius roughly corresponds with two events: (1) The relocation of inhabitants from Diego Garcia to Mauritius, and (2) The independence of Mauritius on March 12, 1968.

Both State and Defense officials said there was absolutely no connection between economic assistance to Mauritius and U.S. military programs. One State Department official observed that the United States normally did not give much assistance to dependencies and that the increase could probably be related to Mauritian independence.

The Seychelles, still a British Crown Colony, has been provided assistance primarily under Public Law 480 totaling about \$300,000 during 1962-74. Proposed assistance programs for 1975 and 1976 were \$26,000 and \$143,000, respectively.

Other assistance

In February 1975, units of the 7th Fleet provided cyclone relief assistance to Mauritius at a cost to the United States of more than \$300,000. In addition, the United States pledged \$25,000 to assist victims of the cyclone. A Defense official said the \$300,000 included money, supplies, and manpower used in the relief effort.

For a time, the U.S. military purchased fresh vegetables from Mauritius in an effort to aid the island economy. This was discontinued about 2 years ago because the Mauritians were unable to supply the needed quantities and the military found the arrangement inconvenient.

British detachment costs

As of September 19, 1975, the British stated they had incurred the following detachment costs.

<u>Description</u>	<u>Amount (note a)</u> <u>(millions)</u>
Compensation to Mauritius for loss of sovereignty	\$ 8.40
Copra plantation	3.78
Construction of commercial airfield (Seychelles)	17.36
Compensation to Mauritius for relocation of inhabitants	<u>1.82</u>
Total	<u>\$31.36</u>

a/ One pound sterling equals \$2.80, the rate of exchange used for the 1966 Agreement.

There has been no U.S. verification of British expenses incurred, but the above schedule was orally reconfirmed by the British in October 1975.

The British rendered a similar accounting to the United States in April 1970, at which time their expenses amount to \$19.958 million, including \$322,000 for a ship used by the British for administrative purposes. The amount for the ship did not appear in the 1975 accounting, and officials were unclear whether this represented

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the value of a new or used ship or of rental charges or whether there was more than one ship involved.

A Defense official stated that the British must have changed their minds about the appropriateness of including the ship(s) in the detachment costs. He said that, since detachment was purely a British effort, the United States must accept the British accounting on good faith.

CLASSIFICATION AND RESPONSIBLE OFFICIALS

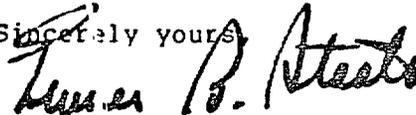
According to State and Defense, the information relating to the detachment was classified at the request of the British Government. At the time of our review, the British were in the process of declassifying certain information; however, some still remains classified. Under these circumstances, we cannot say that the security classification was imposed injudiciously.

As previously stated, the Secretary of Defense made the decision to finance the U.S. contribution from the Polaris Sales Agreement. Throughout the discussion which subsequently resulted in the 1966 Agreement, the State Department worked closely with Defense, and officials of both Departments were apparently in agreement on the eventual outcome.

As you requested, formal comments have not been obtained from the Departments of State and Defense. Informal comments were solicited and officials generally agreed with the factual content of this report. The report has also been reviewed for security classification. As agreed with your staff, we will make subsequent distribution of this report to the agencies and interested committees of Congress after it is transmitted to you.

If you would like to discuss this matter further with my staff or need additional assistance, please let me know.

Sincerely yours,



Comptroller General
of the United States

ACCRUED RESEARCH AND DEVELOPMENT SURCHARGES
AGAINST THE POLARIS SALES AGREEMENT
As of September 18, 1975

<u>Fiscal</u> <u>year</u>	<u>Amount</u>
1964	\$ 224,000
1965	1,819,000
1966	1,724,000
1967	1,984,000
1968	3,621,000
1969	1,031,000
1970	251,000
1971	140,000
1972	188,000
1973	177,000
1974	155,000
1975	209,000
July 1975	<u>19,000</u>
Total	<u>\$11,542,000</u>

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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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The Honorable John E. Moss
House of Representatives

Dear Mr. Moss:

On February 27, 1975, you requested that we survey the extent and legality of federally provided protective services for Cabinet-level officials and respond to a number of specific questions. You also requested that our survey include specifically the Secretaries of the Army, Navy, and Air Force; the Commissioner, Internal Revenue Service; the Administrator, Law Enforcement Assistance Administration; and the Administrator, Drug Enforcement Administration. *20, 61, 35*
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We sent questionnaires to 11 executive departments requesting specific information on personal protective services provided to Department, bureau, and agency officials, including top-level officials of any independent agency or commission controlled by the Department. A list of the agencies that we surveyed is enclosed. All Departments provided data for personal protective services within the continental United States, and a few furnished information on protection provided during foreign travel. Several of the agencies' responses required clarification or additional information, which was obtained through discussion with headquarters officials and examination of the agencies' records and files.

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Some information provided by the Departments of the Treasury and Defense was classified. We are, therefore, providing the information you requested in two reports. This report provides data on those questions which can be answered without disclosing information that has been classified by the two Departments. The Department of Defense, however, has specified that the information it furnished for this report is to be retained for official government use. The report provides data on (1) how many Cabinet members and heads of other entities are receiving protection and the type of protection provided, (2) the source of funds for protection and whether the agency formally requests those funds from the Congress, (3) Federal agencies that have their own police forces which provide the protection for the officials, and (4) the legal basis for the protection. *38, 5*

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INDIVIDUALS PROTECTED

Personal protective services were provided to the following officials during fiscal year 1975.

1. Attorney General.
2. Secretary of State.
3. Secretary of the Treasury.
4. Secretary of Defense.
5. Secretary of Agriculture.
6. Secretary of Commerce.
7. Secretary of Health, Education, and Welfare.
8. Secretary of the Interior.
9. Secretary of Transportation.
10. Secretary of Housing and Urban Development.
11. Secretary of the Air Force.
12. Secretary of the Army.
13. Secretary of the Navy.
14. Commissioner of the Internal Revenue Service.

The degree of protection furnished these officials ranged from around-the-clock personal security to occasional escort while traveling or at public appearances.

The Secretary of Labor did not receive personal protection; however, his office is secured by an alarm system.

The Administrators of the Law Enforcement Assistance Administration and the Drug Enforcement Administration received no protection during this period.

More specific information on the type of protection provided each individual is shown in the classified report to you.

SOURCE OF FUNDS

Funds were drawn from each Department's appropriation; however, none of the Departments' appropriation requests specifically showed that funds were to be used for this purpose. In hearings before the Subcommittee on the Treasury, Postal Service, and General Government, House Committee on Appropriations, a Department of the Treasury official informed the Subcommittee that Secret Service's fiscal year 1976 budget request included funds for protecting the Secretary of the Treasury. Protective services were funded from various salaries and expenses accounts of the Departments of State, the Treasury, Commerce, Justice, Agriculture, Labor, and Transportation; the operations and maintenance account of the Department of Defense, including military personnel accounts; the working capital fund of the Department of the Interior; the management budget of the Department of Health, Education, and Welfare; and the administrative operating fund of the Department of Housing and Urban Development.

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SECURITY FORCES

Each of the executive departments providing personal protection to the Department head, except the Department of Housing and Urban Development, has a "police force" (employees whose duties include providing personal protection). These forces range in size from a few employees to a large agency, such as the United States Secret Service or the Federal Bureau of Investigation. The protection is usually provided by police forces of the respective Departments; however, the incumbent Secretary of State receives protective services from the Secret Service, on a reimbursable basis under provisions of the Economy Act (31 U.S.C. 686). The organizational units responsible for protective services are identified in the enclosure. The Departments of Labor and of Housing and Urban Development do not have forces for protecting their Department heads, although on occasion the Department of Housing and Urban Development has used guards from the Federal Protective Service--a unit of the General Services Administration--to protect some officials while at public meetings.

LEGAL BASIS

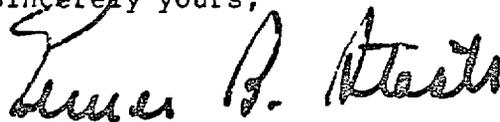
Specific statutory authority exists for the Secret Service to protect official representatives of the United States on special missions abroad (18 U.S.C. 3056) and for Department of State security officers to protect the Secretary of State and the Under Secretary of State (22 U.S.C. 2666).

A Decision of the Comptroller General (54 Comp. Gen. 624) concludes that protective services provided the Secretary of the Treasury are authorized if the Secretary is threatened or in danger and the Department determines that the risk is such as to impair his ability to carry out his duties and hence to adversely affect the efficient functioning of the Department.

We asked the remaining agencies to cite the legal authorization for providing protection. The Department of Justice said the Comptroller General's decision is applicable to the protection of the Attorney General. The other Departments could not cite statutory authority for protection, but they gave us several reasons for protecting their Department heads, such as threats of murder, kidnapping, or other violent acts directed against Government officials; possible harassment; demonstrations against the Government; and sit-ins at Government offices. For officials other than the Secretary of State and the Under Secretary of State, there is no specific statutory authority for protection; however, we believe that, if an official has been threatened or there are other indications that he is in danger and if administratively determined that the risk is such as to impair his ability to carry out his duties and hence to adversely affect the efficient functioning of the agency, then agency funds, which are not otherwise restricted, would be available to protect him. This follows from the premise that appropriations are generally available for necessary expenses.

Family members sometimes receive protection when they enter the immediate environment of the protected official. The wife of the Secretary of State has been provided protection for several years, whether or not she is with the Secretary. While there is no specific statutory provision for protecting the wife of the Secretary, we note that the Department disclosed to the Senate Appropriations Committee, in its fiscal year 1974 budget justification, its intention to protect the Secretary and his family "at all times."

Sincerely yours,



Comptroller General
of the United States

Enclosure

ENCLOSURE

ENCLOSURE

PROTECTION SURVEY

<u>Department</u>	<u>Organization providing protection</u>
State	Secret Service (for the Secretary) 146 Department of State's Division of Investigations (for the Secretary's wife)
Treasury (and Internal Revenue Service)	Secret Service Internal Revenue Service, Internal Security Division, Intelligence Division (support personnel)
Defense (includes Departments of the Army, Navy, and Air Force)	Security Staff, Office of the Secretary Army Criminal Investigation Command Naval Investigative Service Office of Special Investigations
Justice (includes Law Enforcement Assistance Administration and Drug Enforcement Administration) 2	Federal Bureau of Investigation (for the Attorney General only) 1-2
Interior	Division of Enforcement and Security Management
Commerce	Office of Investigations and Security
Transportation	Investigations and Protection Division
Agriculture	Office of Investigations
Health, Education, and Welfare	Office of Investigations and Security
Housing and Urban Development	No regular protection provided
Labor	No regular protection provided