

5 June 2008

Andrew Tyrie MP  
House of Commons  
London  
SW1A 2AH



Foreign &  
Commonwealth  
Office

London SW1A 2AH

*From the Foreign Secretary*

Thank you for your letter of 22 April regarding rendition.

In your letter, you ask about flights that transit UK territory or airspace on their way to or from a rendition operation without a detainee on board. As I explained in my letter to Mike Gapes, Chairman of the Foreign Affairs Committee, our purpose in submitting a list of flights to the US is to identify whether rendition of an individual has in fact occurred. We do not consider that a flight transiting our territory or airspace on its way to or from a possible rendition operation constitutes rendition. Nor do we consider that permitting transit or refuelling of an aircraft without detainees on board without knowledge of what activities that aircraft had been or would be involved in, or indeed whether or not those activities were unlawful, to be unlawful in itself. As the ISC's 2007 report on rendition concluded, it would be unreasonable and impractical to check every aircraft transiting UK airspace on the basis that it may have been, at some point in the past, and without UK knowledge, involved in a possibly unlawful operation. This is one of a number of areas relating to rendition that has been discussed extensively with legal advisers in my Department.

You also ask whether a request was made by the US for the two renditions through Diego Garcia in 2002. I can confirm that we have no record of such a request being made by the US, nor approved by the UK Government. I have written to Secretary Rice to clarify a number of specific points regarding these renditions.

You are correct to say that we have a legal obligation to carry out investigations where there are reasonable grounds to believe that UK authorities have been complicit in an act of torture. In such circumstances there would need to be a Police investigation to establish whether a crime has been committed. However, as I set out in my letter to you of 18 March, our policy on such matters is clear: we condemn unreservedly any use of torture. The Government never uses torture for any purpose, nor would we instigate or encourage others to do so. Our allies are fully aware of our rejection of torture. Should you have any evidence to suggest that any UK authority has been complicit in an act of torture, then please forward it to me at the earliest opportunity. The Government takes such matters very seriously.

Finally, you suggest that in light of the two cases of rendition through Diego Garcia, reliance on US assurances is now inadequate. However, as I made clear to the House following my statement on 21 February, I do not believe that we should conduct foreign policy with our most important bilateral partner on the basis of disbelief or a presumption of deceit. We fully accept that the US gave us its earlier assurances, both in relation to Diego Garcia and more



general assurances on rendition, in good faith. We accepted those assurances, and indeed referred to them publicly, also in good faith. However, it is of course sensible to work through with the US all the details and implications of the two cases of rendition in 2002. The list of flights that you refer to in your letter is an important part of this.

I acknowledge receipt of your letter of 19 May and will reply in due course.

Ms,

*DM*

**DAVID MILIBAND**