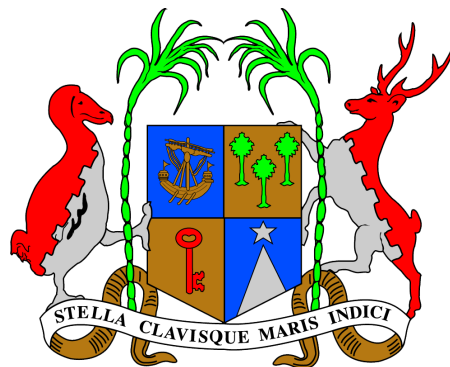


ARBITRATION UNDER ANNEX VII OF THE 1982 UNITED NATIONS
CONVENTION ON THE LAW OF THE SEA

REPUBLIC OF MAURITIUS

v.

**UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND**



MEMORIAL OF THE REPUBLIC OF MAURITIUS

VOLUME III

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ANNEX 136

Note Verbale dated 20 June 2008 from Permanent Mission of
Mauritius to the United Nations, New York to the Secretary General
of the United Nations, No. 10260/08 (NY/UN/395)



PERMANENT MISSION OF THE REPUBLIC OF MAURITIUS TO THE
UNITED NATIONS

MISSION PERMANENTE DE LA REPUBLIQUE DE MAURICE AUPRES DES NATIONS UNIES

No. 10260 /08 (NY/UN/395)

20 June 2008

The Permanent Mission of the Republic of Mauritius to the United Nations presents its compliments to the Secretary-General of the United Nations and with reference to the latter's Note No. 46-01447 dated 30 August 2006, has the honour to provide the requested clarification as follows:

- (a) The deposit to the United Nations of the list of geographical coordinates of points representing the baselines, closing lines and archipelagic baselines from which the Maritime Zones of Mauritius shall be measured as contained in the Regulations made by the Prime Minister of Mauritius under Section 4, 5 and 27 of the Act, is being made under Article 16 and Article 47 of the 1982 United Nations Convention on the Law of the Sea;
- (b) The geographical coordinates as well as the charts showing the baselines defined by the geographical coordinates of points are annexed as required under Article 16(2) and Article 47(9) of the Convention.

The Permanent Mission of Mauritius would highly appreciate if the United Nations could make the necessary arrangements to publish the deposit made by the Government of Mauritius.

The Permanent Mission of the Republic of Mauritius to the United Nations in New York avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

Secretary-General of the United Nations
New York



211 East 43rd Street, New York, N.Y. 10017 – Tel: (212) 949-0190 - Fax: (212) 697-3829

ANNEX 137

Joint Communiqué, Bilateral talks between Mauritius and the UK
on the Chagos Archipelago, 14 January 2009

Communique

Delegations of the British and Mauritian Governments met in London on Wednesday 14 January 2009. The British delegation was led by Mr Colin Roberts, Director of the Overseas Territories Directorate at the Foreign and Commonwealth Office, and also Commissioner for the British Indian Ocean Territory. The Mauritian delegation was led by Mr S C Seeballuck, Secretary to the Cabinet and Head of the Civil Service. The purpose of the meeting was to establish a dialogue between the UK and Mauritius on the British Indian Ocean Territory/Chagos Archipelago.

The delegations discussed the latest legal and policy developments relating to the British Indian Ocean Territory/Chagos Archipelago. The Mauritian delegation set out the view of Mauritius on sovereignty. The British delegation set out the view of the UK on sovereignty and set out how the United Kingdom had to bear in mind its treaty obligations with the United States of America. There was also mutual discussion of fishing rights, environmental concerns, the continental shelf, future visits to the Territory by the Chagossians and respective policies towards resettlement. The two delegations agreed the need to maintain a dialogue on a range of issues relating to the Territory and to meet again at a date to be agreed.

Both Governments agreed that:

nothing in the conduct or content of the present meeting shall be interpreted as:

- (a) A change in the position of the United Kingdom with regard to sovereignty over the British Indian Ocean Territory/Chagos Archipelago;
- (b) A change in the position of Mauritius with regard to sovereignty over the British Indian Ocean Territory/Chagos Archipelago;
- (c) Recognition of or support for the position of the United Kingdom or Mauritius with regard to sovereignty over the British Indian Ocean Territory/Chagos Archipelago.
- (d) No act or activity carried out by the United Kingdom, Mauritius or third parties as a consequence and in implementation of anything agreed to in the present meeting or in any similar subsequent meetings shall constitute a basis for affirming, supporting, or denying the position of the United Kingdom or Mauritius regarding sovereignty of the British Indian Ocean Territory/Chagos Archipelago.

ANNEX 138

“Giant marine park plan for Chagos”, The Independent, Sadie Gray,
9 February 2009

9 February 2009

**Giant Marine Park Plan for Chagos
Islanders may return to be environmental wardens**

Sadie Gray

An ambitious plan to preserve the pristine ocean habitat of the Chagos Islands by turning them into a huge marine reserve on the scale of the Great Barrier Reef or the Galapagos will be unveiled at the Royal Society next Monday.

Unpopulated for 40 years since the British government forcibly evicted inhabitants so the Americans could build a strategic military base on Diego Garcia, the Chagos Islands offer a stunning diversity of aquatic life.

The absence of human habitation has been a key factor in the preservation of the pristine coral atolls, the unpolluted waters, rare bird colonies and burgeoning turtle populations that give the archipelago its international importance.

The plan will be launched in London by the Chagos Environment Network, which includes the Chagos Conservation Trust, the RSPB, the Zoological Society and the Pew Environmental Group, a powerful US charity which successfully lobbied the Bush administration for marine reserves in America.

The Chagos Islands, which belong to the British Indian Ocean Territory, were emptied of about 2,000 residents between 1967 and 1971 to meet US demands that the islands be uninhabited. Most islanders were exiled to Mauritius and the Seychelles, where many ended up in poverty. Proposals for the new reserve tentatively broach the possible return of some of the Chagossian refugees to their homeland as environmental wardens.

"It is going to be compatible with defence and do something for the Chagossians," said William Marsden, the chairman of the Chagos Conservation Trust, adding that the islands were "by far Britain's richest area of marine biodiversity" and that at 250,000 square miles, the reserve would be in the "big league" globally.

Professor Callum Roberts, a marine biologist at the University of York, said the plan would mean far better environmental monitoring, especially where incursions from Sri Lankan fishing boats had depleted fish stocks. "The attitude of the British towards the Chagos Islands has been one of benign neglect," he said.

A formidable hurdle lies in the shape of US security fears and the refugees' continuing legal battles with the British Government over the court rulings that have prevented them going home.

Refugee groups say that of the 5,000 people eligible to return, half wished to do so permanently. Resettlement plans have called for the construction of a small airport and limited development to allow environmentally sustainable tourism, raising fears that designation as a reserve would be a further blow to the islanders' hopes. In 2000, the Chagossians won the right to return to 65 of the islands - although not Diego Garcia, the largest - only to see the ruling nullified in 2004 by the Government, using the Royal Prerogative.

The islanders succeeded in overturning that action in the High Court and the Court of Appeal, but in June last year the Government went to the House of Lords, arguing that allowing the islanders to return would damage defence and security.

The Government appeal was allowed by the law lords in October, and now experts say the case may be taken to the European Court of Human Rights. The Diego Garcia base has been used for bombing raids on Iraq and Afghanistan, and as a staging post in CIA "extraordinary rendition" flights.

A Foreign Office spokesman told Economist.com that the Government "welcomes and encourages recognition of the global environmental importance of the British Indian Ocean Territory", adding that it would "work with the international environmental and scientific community to develop further the preservation of the unique environment".

Haven of safety: Species at risk

Red-footed booby (*Sula sula*)

This seabird is the smallest of all the boobies, with distinctive red legs and pink and blue bill and throat. The spectacular diver has elaborate greeting rituals between mates.

Green turtle (*Chelonia mydas*)

Endangered; feeds mostly on seagrass; has found the waters around the Chagos Islands a haven. Elsewhere, it has suffered from habitat loss, pollution and fishing nets.

Variable flying fox (*Pteropus hypomelanus maris*)

A species of "megabat", it feeds on fruit and roosts in large colonies in forests, usually on small islands or near the coast. Under threat elsewhere because of deforestation and hunting.

Cuvier's beaked whale (*Ziphius cavirostris indicus*)

Also known as the goose-beaked whale, this mammal was thought in the Middle Ages to have a fish's body and an owl's head. Can live up to 40 years and grow to seven metres long. Occasionally seen off western and northern Scotland.

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Note Verbale dated 5 March 2009 from the Ministry of Foreign Affairs, Regional Integration and International Trade, Mauritius to the UK Foreign and Commonwealth Office, No. 2009(1197/28)



REPUBLIC OF MAURITIUS

MINISTRY OF FOREIGN AFFAIRS, REGIONAL INTEGRATION AND
INTERNATIONAL TRADE

Note No: 2009(1197/28)

05 March 2009

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius presents its compliments to the Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland and has the honour to refer to the article in *The Independent* of 9 February 2009 on the initiative of the Chagos Environment Network for the launching of a giant marine park plan for the Chagos Archipelago in early March 2009 at the Royal Society in London, United Kingdom.

The Ministry of Foreign Affairs, Regional Integration and International Trade wishes to restate to the Foreign and Commonwealth Office that, both under Mauritian law and international law, the Chagos Archipelago is under the sovereignty of Mauritius and the denial of enjoyment of sovereignty to Mauritius is a clear breach of United Nations General Assembly Resolutions and international law. The creation of any Marine Park in the Chagos Archipelago will therefore require, on the part of all parties that have genuine respect for international law, the consent of Mauritius.

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius avails itself of this opportunity to renew to the Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland the assurances of its highest consideration.

Foreign and Commonwealth Office
King Charles Street
London SW1A 2AH
United Kingdom



ANNEX 140

Note Verbale dated 13 March 2009 from the UK Foreign and Commonwealth Office to the Ministry of Foreign Affairs, Regional Integration and International Trade, Mauritius, No. OTD 04/03/09

ANNEX 140

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Note No. OTD 04/03/09

The Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland presents its compliments to the Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius and thanks the Ministry for its Note No. 2009(1197/28) about the initiative of the Chagos Environment Network for the launch of proposals for a marine park in the Chagos Archipelago (British Indian Ocean Territory).

The Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland would like to re-affirm that the United Kingdom has no doubt about its sovereignty over the British Indian Ocean Territory which was ceded to Britain in 1814 and has been a British dependency ever since. As the United Kingdom has reiterated on many occasions, we have undertaken to cede the Territory to Mauritius when it is no longer required for defence purposes.

The Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland would like to point out that the proposal for a marine park in the Chagos Archipelago (BIOT) is the initiative of the Chagos Environment Network and not of the Government of the United Kingdom of Great Britain and Northern Ireland. However, the Government of the United Kingdom of Great Britain and Northern Ireland welcomes and encourages recognition of the global importance of the British Indian Ocean Territory and notes the very high standards of preservation there that have been made possible by the absence of human settlement in the bulk of the territory and the environmental stewardship of the BIOT Administration and the US military.

The Government of the United Kingdom of Great Britain and Northern Ireland has already signalled its desire to work with the international environmental and scientific community to develop further the preservation of the unique environment of the British Indian Ocean Territory.

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The Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland avails itself of this opportunity to renew to the Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius the assurance of its highest consideration.

FOREIGN AND COMMONWEALTH OFFICE

LONDON

13 MARCH 2009



ANNEX 141

Note Verbale dated 19 March 2009 from the United Kingdom
Mission to the United Nations, New York to the Secretary General
of the United Nations, No. 26/09

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Note No: 26/09

The Permanent Mission of the United Kingdom of Great Britain and Northern Ireland presents its compliments to the Secretary-General of the United Nations, and has the honour to refer to the deposit by the Government of the Republic of Mauritius of charts and lists of geographical co-ordinates, pursuant to Article 16, paragraph 2, and Article 47, paragraph 9 of the 1982 United Nations Convention on the Law of the Sea ("the Convention"), as reported in Circular Note M.Z.N. 63. 2008. LOS of 27 June 2008.

The United Kingdom wishes to protest strongly against the above deposit in so far as the Government of the Republic of Mauritius are purporting to exercise rights over the territory of the United Kingdom by including in their claim the British Indian Ocean Territory in a list of geographical coordinates of points representing the basepoints and defining the baselines from which the maritime zones of Mauritius shall be measured, together with the chart entitled "Chagos Archipelago: Archipelagic Baselines".

The United Kingdom wishes to state

- a. that the British Indian Ocean Territory is an Overseas Territory of the United Kingdom;
- b. the UK has no doubts over its sovereignty over the British Indian Ocean Territory; and
- c. a 200 nautical mile Environmental (Protection and Preservation) Zone was established around this Territory on 17 September 2003 and a list of geographical co-ordinates establishing the outer limits of this zone was deposited pursuant to article 75, paragraph 2 of the Convention and subsequently published in the Law of the Sea Bulletin No. 54.

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Consequently, no other State is entitled to claim maritime zones deriving from the British Indian Ocean Territory.

The Government of the United Kingdom requests the Secretary-General to record and circulate this declaration and publish the same in the Law of the Sea Bulletin No.69, the Law of the Sea Information Circular and any other relevant publication issued by the United Nations.

The Permanent Mission of the United Kingdom to the United Nations takes this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.



United Kingdom Mission

to the United Nations

19 March 2009

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Note Verbale dated 10 April 2009 from the Ministry of Foreign Affairs, Regional Integration and International Trade, Mauritius to the UK Foreign and Commonwealth Office, No. 1197/28



REPUBLIC OF MAURITIUS

MINISTRY OF FOREIGN AFFAIRS, REGIONAL INTEGRATION AND
INTERNATIONAL TRADE

Note No: 1197/28

10 April 2009

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius presents its compliments to the Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland and has the honour to refer to the latter's Note No. OTD 04/03/09 of 13 March 2009 in reply to the note verbale no. 2009(1197/28) dated 5 March 2009 of the Ministry of Foreign Affairs, Regional Integration and International Trade.

The Ministry of Foreign Affairs, Regional Integration and International Trade wishes to reiterate that it has no doubt of its sovereignty over the Chagos Archipelago and does not recognize the existence of the so-called British Indian Ocean Territory. The Government of Mauritius deplores the fact that Mauritius is still not in a position to exercise effective control over the Chagos Archipelago as a result of its unlawful excision from the Mauritian territory by the British Government in 1965.

The Government of the Republic of Mauritius, whilst also supportive of domestic and international initiatives for environmental protection, would like to stress that any party initiating proposals for promoting the protection of the marine and ecological environment of the Chagos Archipelago, should solicit and obtain the consent of the Government of Mauritius prior to implementing such proposals.

The Ministry of Foreign Affairs, Regional Integration and International Trade wishes to reiterate to the Government of the United Kingdom that the Government of United Kingdom has an obligation under international law to return the Chagos Archipelago in its pristine state to enable Mauritius to exercise and enjoy effectively its sovereignty over the Chagos Archipelago.

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius avails itself of this opportunity to renew to the Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland the assurances of its highest consideration.

Foreign and Commonwealth Office
King Charles Street
London SW1A 2AH
United Kingdom



ANNEX 143

National Assembly of Mauritius, 14 April 2009,
Reply to PQ No. B/185

National Assembly sitting of 14 April 2009

DIEGO GARCIA & CHAGOS ARCHIPELAGO - MAURITIUS SOVEREIGNTY

(No. B/185) Mr N. Bodha (First Member for Vacoas & Floreal) asked the Prime Minister, Minister of Defence and Home Affairs whether, in regard to the issue of the sovereignty of Diégo Garcia and the return on the islands of the Archipelago, he will state if Government proposes to involve the new United States administration in the current efforts to find a suitable solution thereto, following the election of Mr Barack Obama as President of the United States.

Reply: Only two weeks after the new American President, Mr Barack Obama, took office, I proceeded to Washington from 03 to 06 February 2009 to attend the 57th National Breakfast Prayer Meeting and other related events. I had the opportunity to meet members of the new administration and to renew contacts with some influential members of the US Congress. I was among the select group of foreign personalities who were invited to the meeting with high officials of the new US Administration together with senior members of the House of Representatives and the Senate. I exchanged views with Ms Valerie Jarett, an influential member of the US President's team, Senior Adviser of the President for inter-governmental relations and public liaison.

In the course of my meeting with the State Department, I raised the important issue of Mauritian Sovereignty on the Chagos Archipelago. I explained our position concerning the very long standing claim of Mauritius. I pointed out that should we not get satisfaction at the earliest on this issue, we would have no alternative but to explore other avenues. Since the Agreement to lease Diego Garcia to the US will expire in early 2016, I invited the US to use its goodwill as a common friend and 'interested' party to help resolve this issue. I mentioned that Mauritius has, in principle, no objection to the US having a military base in Diego Garcia. The US officials took note of our stand and expressed their appreciation of our decision to bring this matter up.

I also had a meeting with prominent members of the US Congress. In the course of this meeting I informed the US authorities of our stand on the Chagos Archipelago and in particular the island of Diego Garcia, to try to come to a settlement in an amicable way of the long-standing and legitimate claim of Mauritius on the sovereignty over the Archipelago.

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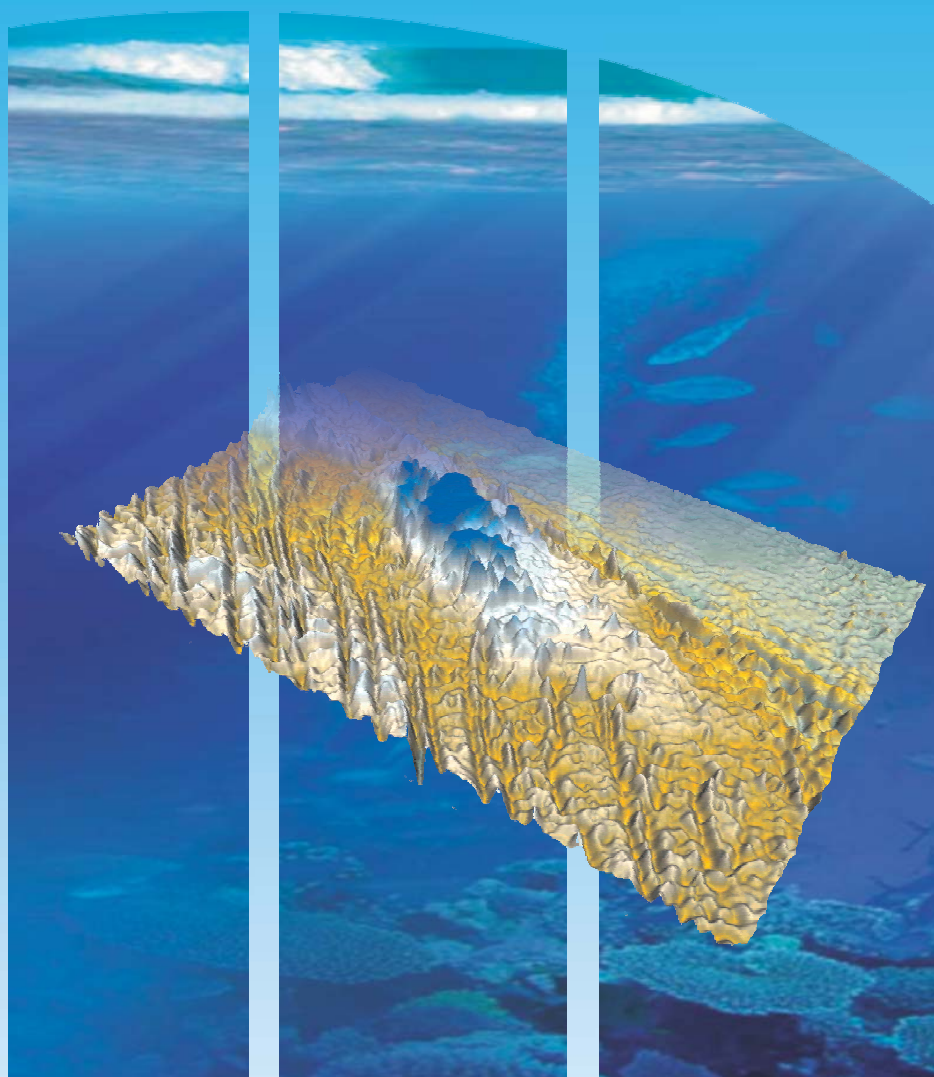
Preliminary Information Submitted by the Republic of Mauritius
Concerning the Extended Continental Shelf in the Chagos
Archipelago Region Pursuant to the Decision Contained in
SPLOS/183



Republic of Mauritius

United Nations Convention on the Law of the Sea

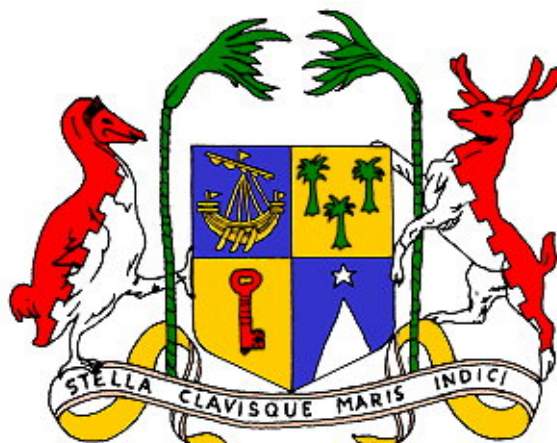
**Preliminary Information Submitted by the Republic of Mauritius
Concerning the Extended Continental Shelf in the Chagos Archipelago
Region Pursuant to the Decision Contained in SPLOS/183**



PRELIMINARY INFORMATION

**MCS-PI-DOC
MAY 2009**

1982 United Nations Convention on the Law of the Sea



**Preliminary Information Submitted by the
Republic of Mauritius Concerning the Extended
Continental Shelf in the
Chagos Archipelago Region
Pursuant to the Decision Contained in SPLOS/183**

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PREFACE

This Preliminary Information document was prepared by the following Ministries and Statutory Corporations of the Government of the Republic of Mauritius:

Prime Minister's Office
Ministry of Foreign Affairs, Regional Integration & International Trade
Attorney-General's Office
Ministry of Housing and Lands
Mauritius Oceanography Institute

The following persons have acted and/or will act as advisers to the Government of the Republic of Mauritius in the preparation of the Submission by the Republic of Mauritius concerning the extended continental shelf in the Chagos Archipelago Region:

Mr Joshua Brien, Legal Adviser, London
Mr Ian Brownlie CBE QC, Barrister, Blackstone Chambers, London
Mr Harald Brekke, Member of the Commission on the Limits of the Continental Shelf
Prof. Karl Hinz, former Member of the Commission on the Limits of the Continental Shelf
Dr Andre Chan Chim Yuk, former Member of the Commission on the Limits of the Continental Shelf

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MAPS

Figure 1 Map indicative of outer limits of the extended continental shelf of the Republic of Mauritius in the Chagos Archipelago Region

MCS-PI-MAP-1



1. INTRODUCTION

1-1 This Preliminary Information document has been prepared by the Republic of Mauritius pursuant to the *Decision regarding the workload of the Commission on the Limits of the Continental Shelf and the ability of States, particularly developing States, to fulfill the requirements of article 4 of annex II to the United Nations Convention on the Law of the Sea, as well as the decision contained in SPLOS/72, paragraph (a), adopted by the Eighteenth Meeting of the States Parties to the Convention (SPLOS/183)*. This document provides an indication of the outer limits of the continental shelf of the Republic of Mauritius, that lie beyond 200 nautical miles (M) from the baselines from which the breadth of the territorial sea is measured (hereinafter referred to as 'the territorial sea baselines') in respect of the Chagos Archipelago Region.

1-2 The Republic of Mauritius consists of a group of islands in the Indian Ocean. The main Island of Mauritius is located at longitude 57° 30' east, and latitude 20° 00' south, approximately 900km east of Madagascar and is part of the Mascarene Islands. The total land area of the Republic of Mauritius is approximately 1,950km². Under the *Constitution of Mauritius* the territory of Mauritius includes, in addition to the main island, the islands of Cargados Carajos (the St Brandon Group of 16 Islands and Islets) located some 402km north of the main Island of Mauritius, Rodrigues Island located 560km north-east, the Agalega Islands located 933km north, Tromelin located north-west of the main Island of Mauritius, and the Chagos Archipelago located at 06° 26' south 72° 00' east, approximately 2200km north-east of the main Island.

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1-3 The Republic of Mauritius is Party to the Convention, which it signed on the day it was opened for signature on 10 December 1982, and subsequently ratified on 4 November 1994. The *Maritime Zones Act 2005*, which repealed the *Maritime Zones Act 1977*, provides that the provisions of the Convention have the force of law in the Republic of Mauritius, and establishes maritime zones in accordance with the provisions of the Convention, including provisions defining the outer limits of the continental shelf.

1-4 Under Article 4 of Annex II to the Convention, as supplemented by the decisions contained in SPLOS/72 and SPLOS/183 respectively regarding the 10-year period established by Article 4 of Annex II to the Convention, a coastal State for which the Convention entered into force before 13 May 1999 is required to submit particulars of the outer limits of the continental shelf to the United Nations Commission on the Limits of the Continental Shelf ('the Commission') by 13 May 2009.

2. STATUS OF PREPARATION AND INTENDED DATE OF SUBMISSION

2-1 The Republic of Mauritius notes that it has made two partial submissions in respect of the outer limits of its extended continental shelf as set out below:

- a joint submission with the Republic of Seychelles concerning the region of the Mascarene Plateau, lodged on 1 December 2008 (**SMS-ES-DOC**); and,
- a submission concerning the region of Rodrigues Island, lodged on 6 May 2009 (**MRS-ES-DOC**).

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- 2-2** The Republic of Mauritius also intends to make a submission for an extended continental shelf in respect of the Chagos Archipelago Region. The preparation of a submission concerning this region is currently being undertaken and has reached an advanced stage. The Republic of Mauritius expects to complete the Submission by 2012. Pending the lodgement of the submission, this Preliminary Information document is submitted consistent with operative paragraph 1(a) of the decision contained in SPLOS/183 in order to satisfy the requirement of Article 4 of Annex II to the Convention.
- 2-3** The Republic of Mauritius notes that, in accordance with operative paragraphs 1(b) and 1(c) of the decision contained in SPLOS/183, pending the receipt of the submission concerning the Chagos Archipelago Region, the Preliminary Information submitted by the Republic of Mauritius shall not be considered by the Commission and further, that the Preliminary Information is without prejudice to the submission and its future consideration by the Commission.
- 2-4** The part of the continental shelf lying beyond 200 M from the territorial sea baselines of the territory of the Republic of Mauritius measured from the Chagos Archipelago is referred to in this Preliminary Information document as the 'extended continental shelf'.

3. INDICATION OF THE OUTER LIMITS OF THE EXTENDED CONTINENTAL SHELF IN THE CHAGOS ARCHIPELAGO REGION

- 3-1** As provided for under paragraph 1 of Article 76 of the Convention, the Republic of Mauritius has a continental shelf comprising the seabed and subsoil of the submarine areas that extends beyond its territorial sea throughout the natural prolongation of its land territory to the outer

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edge of the continental margin, up to the limits provided for in paragraphs 4 to 6 of Article 76 of the Convention or, to a distance of 200 M from the territorial sea baselines where the outer edge of the continental margin does not extend up to that distance.

- 3-2** Article 121 of the Convention further provides that, in the case of islands, the limits of the continental shelf are to be determined in the same manner as other land territory.
- 3-3** Paragraphs 4 to 6 of Article 76 of the Convention set out the manner in which a coastal State may establish the outer edge of its continental margin and its extended continental shelf, wherever that margin extends beyond 200 M measured from the territorial sea baselines.
- 3-4** Data considered by the Republic of Mauritius establish that the outer edge of the continental margin in the relevant land territory in the Chagos Archipelago Region (Egmont and Diego Garcia Islands) extends beyond 200 M measured from archipelagic baselines established in accordance with Article 47 of the Convention.
- 3-5** Pursuant to operative paragraph 1(a) of the decision contained in SPLOS/183, **Sections 4 and 7** of this Preliminary Information document provide an indication of the outer limits of the extended continental shelf in the Chagos Archipelago Region as determined by the Republic of Mauritius.

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4. MAP INDICATIVE OF OUTER LIMITS OF THE EXTENDED CONTINENTAL SHELF IN THE CHAGOS ARCHIPELAGO REGION

- 4-1** A map at an appropriate scale which provides an overview of the indicative outer limit of the extended continental shelf in the Chagos Archipelago Region is included in this Preliminary Information document as **Figure 1 (MCS-PI-MAP-1)**.

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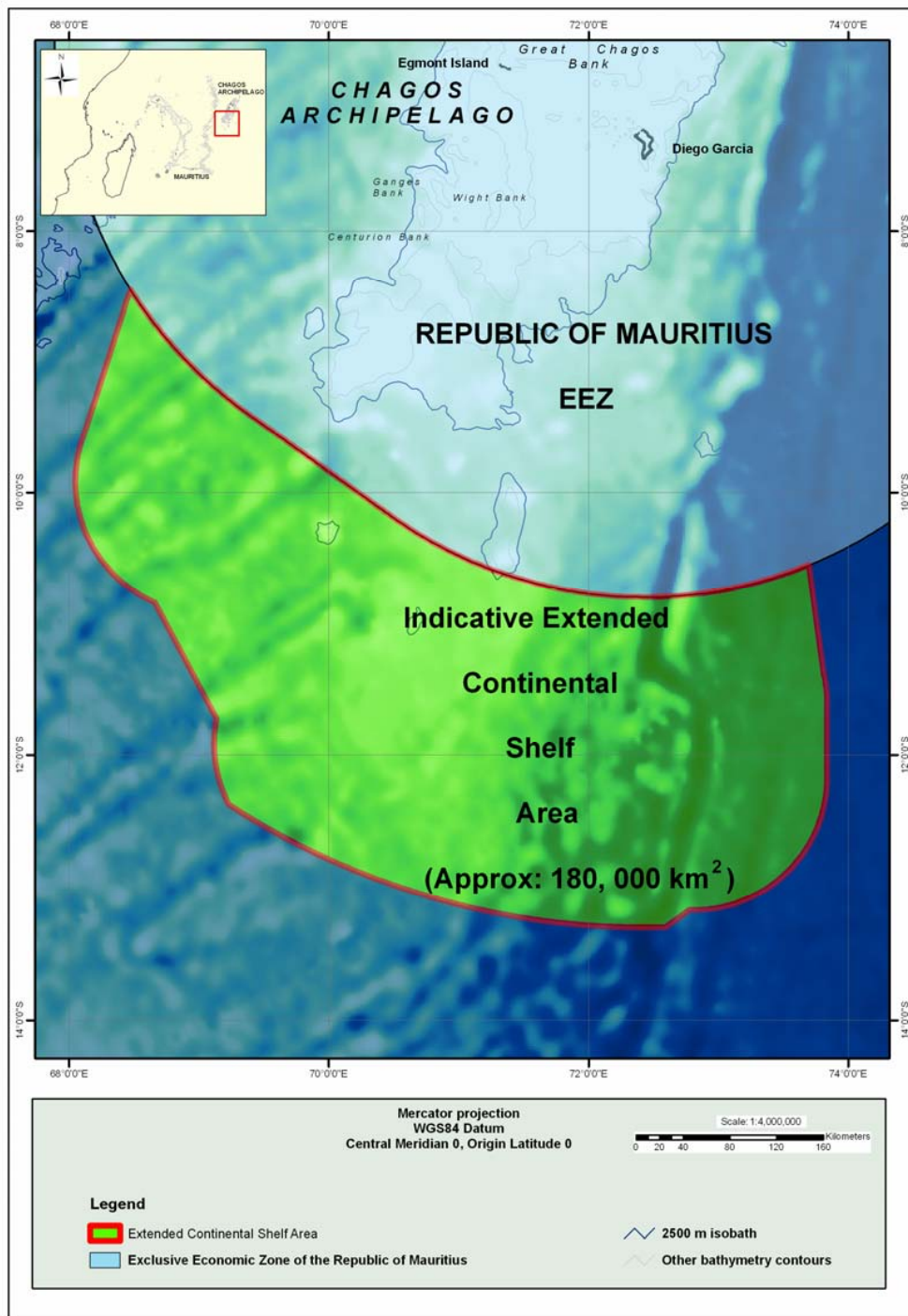


Figure 1 Map Indicative of the outer limits of the extended continental Shelf of the Republic of Mauritius in the Chagos Archipelago Region.
MCS-PI-MAP-1

Preliminary Information Submitted by the Republic of Mauritius concerning the Extended Continental Shelf in the Chagos Archipelago Region

MCS-PI-DOC

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5. PROVISIONS OF ARTICLE 76 INVOKED

The Republic of Mauritius has applied paragraphs 4 (a)(ii), 4 (b), 5, 6 and 7 of Article 76 of the Convention in support of the determination of the indicative outer limits of the extended continental shelf in the Chagos Archipelago Region.

6. UNRESOLVED LAND AND MARITIME DISPUTES

The Republic of Mauritius states that the Chagos Archipelago is and has always formed part of its territory. The Republic of Mauritius wishes to inform the Commission, however, that a dispute exists between the Republic of Mauritius and the United Kingdom over the Chagos Archipelago. Discussions are ongoing between the two governments on this matter. The last bilateral talks were held in London, United Kingdom, in January 2009.

7. OVERVIEW OF INFORMATION INDICATIVE OF OUTER LIMITS OF THE EXTENDED CONTINENTAL SHELF IN THE CHAGOS ARCHIPELAGO REGION

7-1 The Chagos Archipelago is an archipelago composed of atolls and islands that lies approximately 2200km northeast of the main island of Mauritius. The largest individual islands are Diego García (27.20km²), Eagle (Great Chagos Bank, 2.45km²), île Pierre (Peros Banhos, 1.50km²), Eastern Egmont (Egmont Islands, 1.50km²), île du Coin (Peros Banhos, 1.28km²) and île Boddam (Salomon Islands, 1.08km²).

7-2 The Chagos Archipelago is the surface expression of the southern portion of a prominent linear bathymetric feature in the western Indian

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Ocean known as the Laccadive-Chagos Ridge. The latter extends as a continuous physiographic ridge from the Laccadive Islands, through the Maldives, to the Chagos Ridge.

7-3 The Chagos Ridge is associated with submarine volcanic accumulations that resulted from the northward passage of the Indian Plate over the Reunion Hotspot.

7-4 The Republic of Mauritius is of the view that the elevations and banks that are surmounted by the Chagos Archipelago represent the submerged prolongation of the relevant land territory of the Republic of Mauritius in this region.

8. PUBLICATION OF INDICATIVE OUTER LIMITS OF THE EXTENDED CONTINENTAL SHELF IN THE CHAGOS ARCHIPELAGO REGION

The Republic of Mauritius has the honour to request the Secretary-General to inform the Commission and notify member States of the receipt of this preliminary information, and make such information publicly available in accordance with operative paragraph 1(d) of the decision contained in SPLOS/183.

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Note Verbale dated 6 May 2009 from the UK Foreign and Commonwealth Office to Ministry of Foreign Affairs, Regional Integration and International Trade, Mauritius, No. OTD 06/05/09

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Note No. OTD 06/05/09

The Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland presents its compliments to the Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius and thanks the Ministry for its Note No. 1197/28 of 10 April 2009.

The Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland would like to re-affirm that the United Kingdom has no doubt about its sovereignty over the British Indian Ocean Territory which was ceded to Britain in 1814 and has been a British dependency ever since. As the United Kingdom has reiterated on many occasions, we have undertaken to cede the Territory to Mauritius when it is no longer required for defence purposes.

The Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland avails itself of this opportunity to renew to the High Commissioner of the Republic of Mauritius the assurance of its highest consideration.

FOREIGN AND COMMONWEALTH OFFICE
LONDON
6 May 2009



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Cable from US Embassy, London, on UK Government's Proposals
for a Marine Reserve Covering the Chagos Archipelago, May 2009:
Mauritius Application, 20 December 2010, Annex 2

Le Matinal, (Port Louis / Mauritius, 2 December 2010)

Wikileaks: UK Foreign Office does not regret evicting Chagos islanders

More than 2,000 islanders were evicted during the Cold War to make way for a huge US military base. The islanders have fought a long battle to be allowed to return. British Foreign Office and American officials discuss plans to establish a marine park on Diego Garcia and the surrounding islands, which they say would effectively end the islanders resettlement claim.

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RHHMUNA/HQ USPACOM HONOLULU HI

RHEHNSC/NSC WASHDC

RUEKJCS/JCS WASHDC

RUENAAA/SECNAV WASHDC

RUVNSAO/NAVSUPPFAC DIEGO GARCIA

RHEBAAA/DEPT OF ENERGY WASHINGTON DC

RUEHC/DEPT OF INTERIOR WASHDC

C O N F I D E N T I A L LONDON 001156

NOFORN [no foreigners]

SIPDIS

EO 12958 DECL: 05/13/2029

TAGS MARR, MOPS, SENV, UK, IO, MP, EFIS, EWWT, PGOV, PREL

SUBJECT: **HMG FLOATS PROPOSAL FOR MARINE RESERVE COVERING**

THE CHAGOS ARCHIPELAGO (BRITISH INDIAN OCEAN TERRITORY)

REF: 08 LONDON 2667 (NOTAL)

Classified By: *Political Counselor Richard Mills* for reasons 1.4 b and d

1. (C/NF) *Summary.* Her Majesty's Government (HMG) would like to establish a "marine park" or "reserve" providing comprehensive environmental protection to the reefs and waters of the British Indian Ocean Territory (BIOT), a senior Foreign and Commonwealth Office (FCO) official informed Polcouns [Political Counselor] on May 12. The official insisted that the establishment of a marine park -- the world's largest -- would in no way impinge on USG use of the BIOT, including Diego Garcia, for military purposes. He agreed that

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the UK and U.S. should carefully negotiate the details of the marine reserve to assure that U.S. interests were safeguarded and the strategic value of BIOT was upheld. He said that the BIOT's former inhabitants would find it difficult, if not impossible, to pursue their claim for resettlement on the islands if the entire Chagos Archipelago were a marine reserve. *End Summary.*

Protecting the BIOT's Waters

¶2. (C/NF) Senior HMG officials support the establishment of a "marine park" or "reserve" in the British Indian Ocean Territory (BIOT), which includes Diego Garcia. Colin Roberts, the Foreign and Commonwealth Office's (FCO) Director, Overseas Territories, told the Political Counselor May 12. Noting that the uninhabited islands of the Chagos Archipelago are already protected under British law from development or other environmental harm but that current British law does not provide protected status for either reefs or waters, Roberts affirmed that the bruited proposal would only concern the "exclusive zone" around the islands. The resulting protected area would constitute "the largest marine reserve in the world."

¶3. (C/NF) Roberts iterated strong UK "political support" for a marine park; "Ministers like the idea," he said. He stressed that HMG's "timeline" for establishing the park was before the next general elections, which under British law must occur no later than May 2010. He suggested that the exact terms of the proposals could be defined and presented at the U.S.-UK annual political-military consultations held in late summer/early fall 2009 (exact date TBD). If the USG would like to discuss the issue prior to those talks, HMG would be open for discussion through other channels -- in any case, the FCO would keep Embassy London informed of development of the idea and next steps. The UK would like to "move forward discussion with key international stakeholders" by the end of 2009. He said that HMG had noted the success of U.S. marine sanctuaries in Hawaii and the Marianas Trench. (Note: Roberts was referring to the Papahānaumokuākea Marine National Monument and Marianas Trench Marine National Monument. *End Note.*) He asserted that the Pew Charitable Trust, which has proposed a BIOT marine reserve, is funding a public relations campaign in support of the idea. He noted that the trust had backed the Hawaiian reserve and is well-regarded within British governmental circles and the larger British environmental community.

Three Sine Qua Nons: U.S. Assent...

¶4. (C/NF) According to Roberts, three pre-conditions must be met before HMG could establish a park. First, "we need to make sure the U.S. government is comfortable with the idea. We would need to present this proposal very clearly to the American administration...All we do should enhance base security or leave it unchanged." Polcouns expressed appreciation for this a priori commitment, but stressed that the 1966 U.S.-UK Exchange of Notes concerning the BIOT would, in any event, require U.S. assent to any significant change of the BIOT's status that could impact the BIOT's strategic use. Roberts stressed that the proposal "would have no impact on how Diego Garcia is administered as a base." In response to a request for clarification on this point from Polcouns, Roberts asserted that the proposal would have absolutely no impact on the right of U.S. or British military vessels to use the BIOT for passage, anchorage, prepositioning, or other uses. Polcouns rejoined that designating the BIOT as a marine park could, years down the road, create public questioning about the suitability of the BIOT for military purposes. Roberts responded that the terms of reference for the establishment of a marine park would clearly state that the BIOT,

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including Diego Garcia, was reserved for military uses.

¶5. (C/NF) Ashley Smith, the Ministry of Defense's (MOD) International Policy and Planning Assistant Head, Asia Pacific, who also participated in the meeting, affirmed that the MOD "shares the same concerns as the U.S. regarding security" and would ensure that security concerns were fully and properly addressed in any proposal for a marine park. Roberts agreed, stating that "the primary purpose of the BIOT is security" but that HMG could also address environmental concerns in its administration of the BIOT. Smith added that the establishment of a marine reserve had the potential to be a "win-win situation in terms of establishing situational awareness" of the BIOT. He stressed that HMG sought "no constraints on military operations" as a result of the establishment of a marine park.

...Mauritian Assent...

¶6. (C/NF) Roberts outlined two other prerequisites for establishment of a marine park. HMG would seek assent from the Government of Mauritius, which disputes sovereignty over the Chagos archipelago, in order to avoid the GOM "raising complaints with the UN." He asserted that the GOM had expressed little interest in protecting the archipelago's sensitive environment and was primarily interested in the archipelago's economic potential as a fishery. Roberts noted that in January 2009 HMG held the first-ever "formal talks" with Mauritius regarding the BIOT. The talks included the Mauritian Prime Minister. Roberts said that he "cast a fly in the talks over how we could improve stewardship of the territory," but the Mauritian participants "were not focused on environmental issues and expressed interest only in fishery control." He said that one Mauritian participant in the talks complained that the Indian Ocean is "the only ocean in the world where the fish die of old age." In HMG's view, the marine park concept aims to "go beyond economic value and consider bio-diversity and intangible values."

...Chagossian Assent

¶7. (C/NF) Roberts acknowledged that "we need to find a way to get through the various Chagossian lobbies." He admitted that HMG is "under pressure" from the Chagossians and their advocates to permit resettlement of the "outer islands" of the BIOT. He noted, without providing details, that "there are proposals (for a marine park) that could provide the Chagossians warden jobs" within the BIOT. However, Roberts stated that, according to the HMG's current thinking on a reserve, there would be "no human footprints" or "Man Fridays" on the BIOT's uninhabited islands. He asserted that establishing a marine park would, in effect, put paid to resettlement claims of the archipelago's former residents. Responding to Polcouns' observation that the advocates of Chagossian resettlement continue to vigorously press their case, Roberts opined that the UK's "environmental lobby is far more powerful than the Chagossians' advocates." (Note: One group of Chagossian litigants is appealing to the European Court of Human Rights (ECHR) the decision of Britain's highest court to deny "resettlement rights" to the islands' former inhabitants. See below at paragraph 13 and reftel. *End Note.*)

Je Ne Regrette Rien

¶8. (C/NF) Roberts observed that BIOT has "served its role very well," advancing shared U.S.-UK strategic security objectives for the past several decades. The BIOT "has had a great role in assuring the security of the UK and U.S. -- much more than anyone foresaw" in the 1960s, Roberts emphasized.

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"We do not regret the removal of the population," since removal was necessary for the BIOT to fulfill its strategic purpose, he said. Removal of the population is the reason that the BIOT's uninhabited islands and the surrounding waters are in "pristine" condition. Roberts added that Diego Garcia's excellent condition reflects the responsible stewardship of the U.S. and UK forces using it.

Administering a Reserve

¶9. (C/NF) Roberts acknowledged that numerous technical questions needed to be resolved regarding the establishment and administration of a marine park, although he described the governmental "act" of declaring a marine park as a relatively straightforward and rapid process. He noted that the establishment of a marine reserve would require permitting scientists to visit BIOT, but that creating a park would help restrict access for non-scientific purposes. For example, he continued, the rules governing the park could strictly limit access to BIOT by yachts, which Roberts referred to as "sea gypsies."

BIOT: More Than Just Diego Garcia

¶10. (C/NF) Following the meeting with Roberts, Joanne Yeadon, Head of the FCO's Overseas Territories Directorate's BIOT and Pitcairn Section, who also attended the meeting with Polcouns, told Poloff [Political Officer] that the marine park proposal would "not impact the base on Diego Garcia in any way" and would have no impact on the parameters of the U.S.-UK 1966 exchange of notes since the marine park would "have no impact on defense purposes." Yeadon averred that the provision of the UN Convention on the Law of the Sea guaranteed free passage of vessels, including military vessels, and that the presence of a marine park would not diminish that right.

¶11. (C/NF) Yeadon stressed that the exchange of notes governed more than just the atoll of Diego Garcia but expressly provided that all of the BIOT was "set aside for defense purposes." (Note: This is correct. End Note.) She urged Embassy officers in discussions with advocates for the Chagossians, including with members of the "All Party Parliamentary Group on Chagos Islands (APPG)," to affirm that the USG requires the entire BIOT for defense purposes. Making this point would be the best rejoinder to the Chagossians' assertion that partial settlement of the outer islands of the Chagos Archipelago would have no impact on the use of Diego Garcia. She described that assertion as essentially irrelevant if the entire BIOT needed to be uninhabited for defense purposes.

¶12. (C/NF) Yeadon dismissed the APPG as a "persistent" but relatively non-influential group within parliament or with the wider public. She said the FCO had received only a handful of public inquiries regarding the status of the BIOT. Yeadon described one of the Chagossians' most outspoken advocates, former HMG High Commissioner to Mauritius David Snoxell, as "entirely lacking in influence" within the FCO. She also asserted that the Conservatives, if in power after the next general election, would not support a Chagossian right of return. She averred that many members of the Liberal Democrats (Britain's third largest party after Labour and the Conservatives) supported a "right of return."

¶13. (C/NF) Yeadon told Poloff May 12, and in several prior meetings, that the FCO will vigorously contest the Chagossians' "right of return" lawsuit

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before the European Court of Human Rights (ECHR). HMG will argue that the ECHR lacks jurisdiction over the BIOT in the present case. Roberts stressed May 12 (as has Yeadon on previous occasions) that the outer islands are "essentially uninhabitable" and could only be rendered livable by modern, Western standards with a massive infusion of cash.

Comment

¶14. (C/NF) Regardless of the outcome of the ECHR case, however, the Chagossians and their advocates, including the "All Party Parliamentary Group on Chagos Islands (APPG)," will continue to press their case in the court of public opinion. Their strategy is to publicize what they characterize as the plight of the so-called Chagossian diaspora, thereby galvanizing public opinion and, in their best case scenario, causing the government to change course and allow a "right of return." They would point to the government's recent retreat on the issue of Gurkha veterans' right to settle in the UK as a model. Despite FCO assurances that the marine park concept -- still in an early, conceptual phase -- would not impinge on BIOT's value as a strategic resource, we are concerned that, long-term, both the British public and policy makers would come to see the existence of a marine reserve as inherently inconsistent with the military use of Diego Garcia -- and the entire BIOT. In any event, the U.S. and UK would need to carefully negotiate the parameters of such a marine park -- a point on which Roberts unequivocally agreed. In Embassy London's view, these negotiations should occur among U.S. and UK experts separate from the 2009 annual Political-Military consultations, given the specific and technical legal and environmental issues that would be subject to discussion.

¶15. (C/NF) *Comment Continued.* We do not doubt the current government's resolve to prevent the resettlement of the islands' former inhabitants, although as FCO Parliamentary Under-Secretary Gillian Merron noted in an April parliamentary debate, "FCO will continue to organize and fund visits to the territory by the Chagossians." We are not as sanguine as the FCO's Yeadon, however, that the Conservatives would oppose a right of return. Indeed, MP Keith Simpson, the Conservatives' Shadow Minister, Foreign Affairs, stated in the same April parliamentary debate in which Merron spoke that HMG "should take into account what I suspect is the all-party view that the rights of the Chagossian people should be recognized, and that there should at the very least be a timetable for the return of those people at least to the outer islands, if not the inner islands." Establishing a marine reserve might, indeed, as the FCO's Roberts stated, be the most effective long-term way to prevent any of the Chagos Islands' former inhabitants or their descendants from resettling in the BIOT.

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Note Verbale dated 9 June 2009 from Permanent Mission of the
Republic of Mauritius to the United Nations, New York to the
Secretary General of the United Nations, No. 107853/09

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PERMANENT MISSION OF THE REPUBLIC OF MAURITIUS TO THE UNITED NATIONS

MISSION PERMANENTE DE LA REPUBLIQUE DE MAURICE AUPRES DES NATIONS UNIES

Note No. 107853/09

9 June 2009

The Permanent Representative of the Republic of Mauritius to the United Nations presents his compliments to the Secretary-General of the United Nations, and has the honour to bring to his attention, in his capacity as depositary of the 1982 United Nations Convention on the Law of the Sea, the following statement of the Government of the Republic of Mauritius with respect to the Note No. 26/09 dated 19 March 2009 from the Permanent Mission of the United Kingdom of Great Britain and Northern Ireland.

The Government of the Republic of Mauritius wishes to reiterate in very emphatic terms that it does not recognize the so-called "British Indian Ocean Territory", which was established by the unlawful excision in 1965 of the Chagos Archipelago from the territory of Mauritius, in breach of the United Nations Charter and United Nations General Assembly resolution 1514 (xv) of 14 December 1960, resolution 2066 (xx) of 16 December 1965 and resolution 2357 (xxii) of 19 December 1967.

The Government of the Republic of Mauritius has, over the years, consistently asserted, and hereby reasserts, its complete and full sovereignty over the Chagos Archipelago, including maritime zones generated from the Chagos Archipelago, which forms part of the national territory of Mauritius.

The Government of the Republic of Mauritius strongly believes that the protest raised by the United Kingdom against the deposit by Mauritius of the geographical coordinates reported in Circular Note M.Z.N. 63.2008-LOS of 27 June 2008 has no legal basis inasmuch as the Chagos Archipelago forms an integral part of the territory of Mauritius. The Government of the Republic of Mauritius further wishes to refer to its Note No. 4780/04 (NY/UN/562) dated 14 April 2004 in which it protested strongly against the deposit by the Government of the United Kingdom of Great Britain and Northern Ireland of a list of geographical coordinates of points defining the outer limits of the so-called Environment (Protection and Preservation) Zone.

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The Government of the Republic of Mauritius would appreciate if the above declaration could be duly recorded, circulated and published in the Law of the Sea Bulletin No. 70, the Law of the Sea Information Circular and any other relevant publication issued by the United Nations.

The Permanent Representative of the Republic of Mauritius to the United Nations avails himself of this opportunity to renew to the Secretary-General of the United Nations the assurances of his highest consideration.



Secretary-General of the United Nations
UN Headquarters
New York

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Joint Communiqué, Second round of bilateral talks between
Mauritius and the UK on the Chagos Archipelago, 21 July 2009,
Port Louis, Mauritius

JOINT COMMUNIQUE

Delegations of the Mauritian and British Governments met in Port Louis on Tuesday 21 July 2009 for the second round of talks on Chagos Archipelago/British Indian Ocean Territory. The Mauritian delegation was led by Mr S. C. Seeballuck, Secretary to Cabinet and Head of the Civil Service. The British delegation was led by Mr Colin Roberts, Director of Overseas Territories Department, Foreign and Commonwealth Office. The purpose of the meeting was to resume dialogue between Mauritius and the United Kingdom on the Chagos Archipelago/British Indian Ocean Territory.

Both delegations reiterated their respective positions on sovereignty and resettlement as expressed at the first round of talks held in London on 14 January 2009.

The British side provided an update on developments regarding the proceedings before the European Court of Human Rights.

Both delegations were of the view that it would be desirable to have a coordinated submission for an extended continental shelf in the Chagos Archipelago/British Indian Ocean Territory region to the UN Commission on the Limits of the Continental Shelf, in order not to prejudice the interest of Mauritius in that area and to facilitate its consideration by the Commission. It was agreed that a joint technical team would be set up with officials from both sides to look into possibilities and modalities of such a coordinated approach, with a view to informing the next round of talks.

The British delegation proposed that consideration be given to preserving the marine biodiversity in the waters surrounding the Chagos Archipelago/British Indian Ocean Territory by establishing a marine protected area in the region. The Mauritian side welcomed, in principle, the proposal for environmental protection and agreed that a team of officials and marine scientists from both sides meet to examine the implications of the concept with a view to informing the next round of talks. The UK delegation made it clear that any proposal for the establishment of the marine protected area would be without prejudice to the outcome of the proceedings at the European Court of Human Rights.

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The Mauritian side reiterated the proposal it made in the first round of the talks for the setting up of a mechanism to look into the joint issuing of fishing licences in the region of the Chagos Archipelago/British Indian Ocean Territory. The UK delegation agreed to examine this proposal and stated that such examination would also include consideration of the implications of the proposed marine protected area.

Both sides agreed to meet in London on a date to be mutually agreed upon during the first fortnight of October 2009.

Both Governments agreed that nothing in the conduct or content of the present meeting shall be interpreted as :

- (a) a change in the position of Mauritius with regard to sovereignty over the Chagos Archipelago/British Indian Ocean Territory;
- (b) a change in the position of the United Kingdom with regard to sovereignty over the Chagos Archipelago/British Indian Ocean Territory;
- (c) recognition of or support for the position of Mauritius or the United Kingdom with regard to sovereignty over the Chagos Archipelago/British Indian Ocean Territory;
- (d) no act or activity carried out by Mauritius, United Kingdom or third parties as a consequence and in the implementation of anything agreed to, in the present meeting or in any similar subsequent meetings shall constitute a basis for affirming, supporting, or denying the position of Mauritius or the United Kingdom regarding sovereignty of the Chagos Archipelago/British Indian Ocean Territory.

Port Louis
Mauritius
21 July 2009

W. CR

Composition of Mauritian Delegation:

- (i) Mr S. C. Seeballuck, Secretary to Cabinet and Head of the Civil Service; (Head of Delegation)
- (ii) Mr A. P. Neewoor, Secretary for Foreign Affairs
- (iii) Mr D. Dabee, Solicitor General
- (iv) Mr M. Kundasamy, Mauritius High Commissioner in UK;
- (v) Amb. J. Koonjul, Ministry of Foreign Affairs, Regional Integration and International Trade

In attendance:

- Mrs A. Narain, Assistant Parliamentary Counsel, Attorney-General's Office
- Mr M. Munbodh, Principal Fisheries Officer, Ministry of Agro Industry, Food Production and Security (Fisheries Division)
- Mr B. Gokool, First Secretary, Ministry of Foreign Affairs, Regional Integration and International Trade
- Mr A. Pursunon, Principal Assistant Secretary, Prime Minister's Office

Composition of the United Kingdom Delegation:

- (i) Mr Colin Roberts, Director of Overseas Territories Department, Foreign and Commonwealth Office (FCO); (Head of Delegation)
- (ii) H.E. Mr John Murton, British High Commissioner in Mauritius;
- (iii) Mrs Joanne Yeadon, Head of Section for BIOT; and
- (iv) Mrs Katherine Shepherd, FCO Legal Advisor

ANNEX 149

Declaration of Nueva Esparta, 2nd Africa-South America Summit,
26-27 September 2009, Isla de Margarita, Venezuela (extract)

**Declaration of Nueva Esparta, 2nd Africa-South America
Summit, 26-27 September 2009, Isla de Margarita, Venezuela
[extract]**

ASAVenezuela 2009

[...]

37. WE HIGHLIGHT the importance of fostering an Agenda, within the framework of WIPO, with a view to promote the transfer and dissemination of technology and access to knowledge and education to the benefit of developing countries and countries of less relative development, and the most vulnerable social groups.

38. WE CALL UPON the international community not to approve unilateral illegal and coercive measures as a means of exerting political, military or economic pressure against any country, in particular against developing countries, according to the Charter of the United Nations.

39. WE URGE the United Kingdom of Great Britain and Northern Ireland and the Argentine Republic to resume negotiations in order to find, as a matter of urgency, a fair, peaceful and lasting solution to the dispute concerning sovereignty over the Falklands/Malvinas Islands and South Georgia and South Sandwich Islands and surrounding maritime spaces, in accordance with the resolutions of the United Nations and other pertinent regional and international organizations.

40. WE URGE the United Kingdom of Great Britain and Northern Ireland, France and the Republic of Mauritius to pursue negotiations in order to find, as a matter of urgency, a fair, peaceful and definitive solution to the issues regarding the sovereignty over Chagos Archipelago, including Diego Garcia and Tromelin and the surrounding maritime spaces, in accordance with the resolutions of the United Nations and the other pertinent regional and international organizations.

[...]

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Note Verbale dated 5 November 2009 from Ministry of Foreign Affairs, Regional Integration and International Trade, Mauritius to the British High Commission, Port Louis, No. 46/2009 (1197/28/4)

4778/3

1471

No. 46/2009 (1197/28/4)

5 November 2009

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius presents its compliments to the High Commission of the United Kingdom of Great Britain and Northern Ireland and further to the latter's Note No. 48/2009 dated 22 October 2009, has the honour to inform that the dates proposed for the meeting of UK and Mauritian Technical Experts on the Limits of the Continental Shelf and the next round of talks between Mauritius and the UK on the Chagos Archipelago are not convenient to the Mauritian authorities in view of the presentation of the national budget on 18 November 2009.

The Ministry would like to suggest that these meetings take place in London in mid-January 2010.

The Government of the Republic of Mauritius wishes to reaffirm its non-recognition of the so-called British Indian Ocean Territory and reiterates its sovereignty over the Chagos Archipelago, including Diego Garcia.

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius avails itself of this opportunity to renew to the High Commission of the United Kingdom of Great Britain and Northern Ireland the assurances of its highest consideration.

High Commission of the United Kingdom
of Great Britain and Northern Ireland
7th Floor, Les Cascades Building
Edith Cavell Street
P.O. Box 1063
Port Louis

Copy to: 1. Secretary to Cabinet and Head of the Civil Service (Attn: Mrs. Rambeas) ✓
2. Solicitor-General (Attn: Ms. Narain)

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Nov 09 2009

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Note Verbale dated 10 November 2009 from the Ministry of
Foreign Affairs, Regional Integration and International Trade,
Mauritius to the UK Foreign and Commonwealth Office,
No. 1197/28/10



REPUBLIC OF MAURITIUS

**MINISTRY OF FOREIGN AFFAIRS, REGIONAL INTEGRATION
AND INTERNATIONAL TRADE**

No. 1197/28/10

10 November 2009

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius presents its compliments to the Foreign and Commonwealth Office (FCO) of the United Kingdom of Great Britain and Northern Ireland and has the honour to refer to the FCO Consultation Document on whether to establish a marine protected area in the so-called British Indian Ocean Territory, received today by the Mauritian authorities.

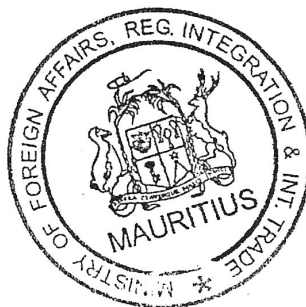
The Ministry of Foreign Affairs, Regional Integration and International Trade wishes to inform the FCO that the Government of the Republic of Mauritius has not welcomed the establishment of a marine protected area during the bilateral talks on the Chagos Archipelago held in Mauritius last July, contrary to what is stated at page 12 of the Consultation Document.

In that regard, the Ministry of Foreign Affairs, Regional Integration and International Trade would like to point out that what was stated in the Joint Communiqué issued following the bilateral talks of last July was that the Mauritian side had welcomed, in principle, the proposal for environmental protection and agreed that a team of officials and marine scientists from both sides would meet to examine the implications of the concept with a view to informing the next round of talks.

The Ministry of Foreign Affairs, Regional Integration and International Trade therefore requests that the FCO accordingly amend its Consultation Document to accurately reflect the position of the Government of the Republic of Mauritius.

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius avails itself of this opportunity to renew to the Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland the assurances of its highest consideration.

**Foreign and Commonwealth Office
of the United Kingdom of Great Britain
and Northern Ireland
London**



ANNEX 152

UK Foreign and Commonwealth Office, Consultation on Whether
to Establish a Marine Protected Area in the “British Indian Ocean
Territory”, November 2009



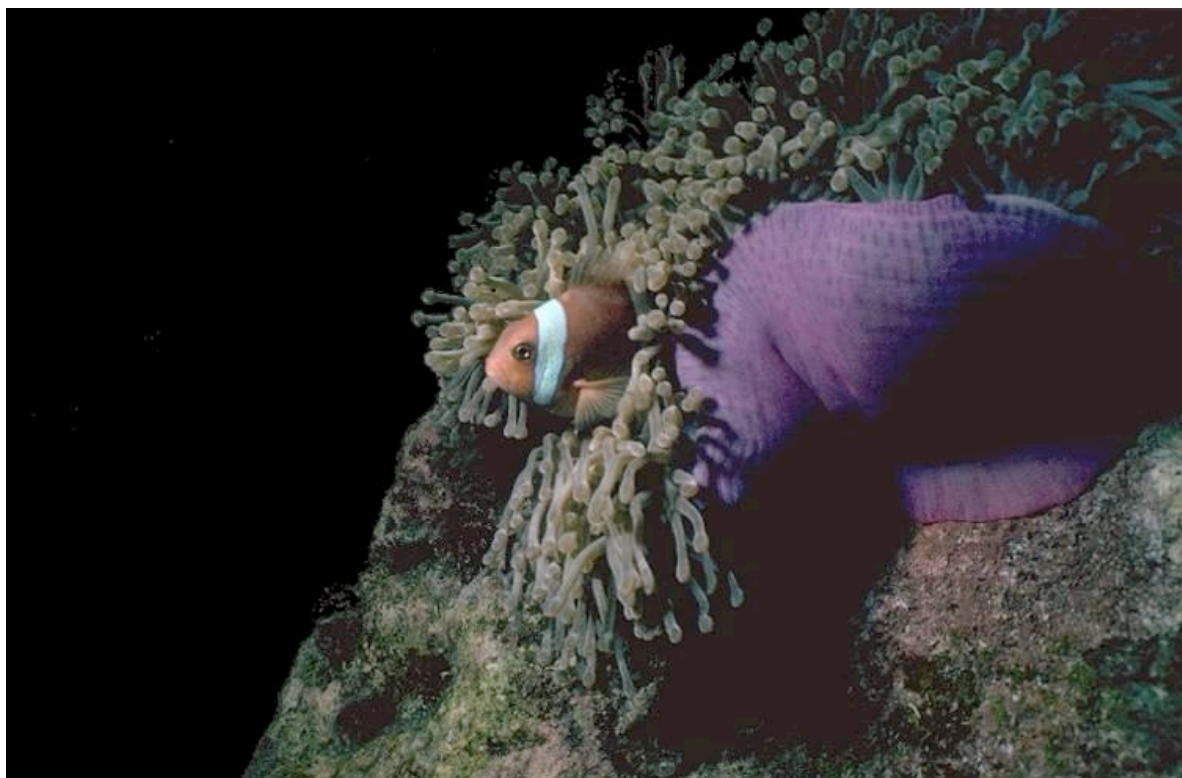
Foreign &
Commonwealth
Office

FCO CONSULTATION DOCUMENT

CONSULTATION ON WHETHER TO ESTABLISH A MARINE PROTECTED AREA IN THE BRITISH INDIAN OCEAN TERRITORY

A consultation produced by the Foreign and Commonwealth Office.

This information is also available on the FCO website: www.fco.gov.uk, British High Commission Port Louis website: www.ukinmauritius.fco.gov.uk and British High Commission Victoria website: www.ukinseychelles.fco.gov.uk



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Foreword



In March 2009, the Chagos Environment Network* presented their vision of “The Chagos Archipelago: its Nature and the Future” which advocates the creation of one of the world’s greatest natural conservation areas. This is a remarkable opportunity for the UK to create one of the world’s largest marine protected areas and double the global coverage of the world’s oceans benefiting from full protection.

We want to use this consultation to help us assess whether a marine protected area is the right option for the future environmental protection of the British Indian Ocean Territory. This document explains the issue on which we would like your views, and the ways in which you can send them to us. I strongly encourage you to participate in this consultation.

David Miliband
Foreign Secretary

(*includes: Chagos Conservation Trust, The Linnean Society of London, Pew Environment Group, The Royal Society, The Royal Society for the Protection of Birds (RSPB), The Zoological Society of London (ZSL) and the Marine Conservation Society (MCS), Royal Botanic Gardens Kew, Professor Charles Sheppard and many visiting scientists.)

Body Responsible for consultation: Overseas Territories Directorate, FCO

Who should read this document? Anyone with an interest in the British Indian Ocean Territory or the Overseas Territories in general. Anyone with an interest in protection of the environment.

Making your views heard: we are keen to gather all views on environmental protection in the British Indian Ocean Territory and any supporting evidence. You should not feel constrained by the specific question(s) or feel obliged to offer responses to all of them. Concentrate on those in which you have most interest. It would be helpful if you could describe your views, suggestions and experiences when responding, rather than giving “yes” or “no” answers.

How to respond

1. This section outlines the ways in which you can make your views heard.
2. The consultation period will begin on 10 November 2009. It will run until 12 February 2010. There will be meetings in Port Louis, Mauritius and Victoria, Seychelles between 21 January and 9 February (exact dates to be advised later). There will also be a meeting in the UK. These meetings will be organised by an independent facilitator who will record all the views expressed.
3. Alternatively, you are welcome to respond by post or e-mail. Please ensure that your response reaches us by 12 February. If you live overseas and intend to respond by post, please ensure that your response reaches us no later than 12 February. You may respond to this consultation in the following ways:
 - (i) Write to:

BIOT marine protected area consultation
Overseas Territories Directorate
Foreign and Commonwealth Office
King Charles Street
London
SW1A 2AH
 - (ii) E-mail your response to: biotmpaconsultation@fco.gov.uk
4. Copies of this consultation document can be found at www.fco.gov.uk, the British High Commission Port Louis website: www.ukinmauritius.fco.gov.uk and the British High Commission Victoria website: www.ukinseychelles.fco.gov.uk. This consultation document and the impact assessment will also be available in Creole on the Port Louis website.
5. If you have any general queries about this consultation, please contact: biotmpaconsultation@fco.gov.uk.
6. We have made every effort to bring this consultation to the attention of those with an interest in the British Indian Ocean Territory. The document has been disseminated to a wider audience through website, representative groups, directly to representatives of interested parties/governments/organisations with a known interest. However, if you

think there are other ways that we can increase awareness of the consultation, please do let us know.

Consultation Questions

It would be helpful if you could structure your response to address the question(s) below, but you should not be restricted to these questions. Please send us any information that you feel is relevant to your response.

1. *Do you believe we should create a marine protected area in the British Indian Ocean Territory?*

If yes, from consultations with scientific/environmental and fishery experts, there appear to us to be 3 broad options for a possible framework:

- (i) Declare a full no-take marine reserve for the whole of the territorial waters and Environmental Preservation and Protection Zone (EPPZ)/Fisheries Conservation and Management Zone (FCMZ); or*
 - (ii) Declare a no-take marine reserve for the whole of the territorial waters and EPPZ/FCMZ with exceptions for certain forms of pelagic fishery (e.g., tuna) in certain zones at certain times of the year.*
 - (iii) Declare a no-take marine reserve for the vulnerable reef systems only.*
2. *Which do you consider the best way ahead? Can you identify other options?*
 3. *Do you have any views on the benefits listed at page 11? What importance do you attach to them?*
 4. *Finally, beyond marine protection, should other measures be taken to protect the environment in BIOT?*

When you are responding, please state whether you are an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please state the name of the organisation, your role within it and how the views of members were assembled.

What will happen next?

We will not be able to consider any responses received after 12 February. We will then assess the evidence and opinions received, and we will publish a summary report soon after that. We expect to announce a decision on whether to establish a Marine Protected Area in early April 2010.

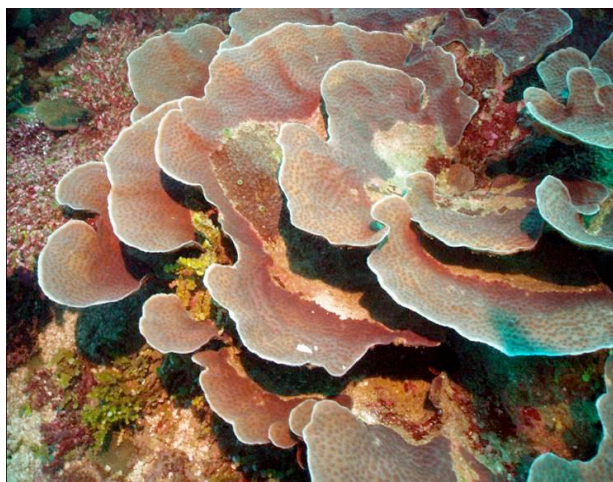
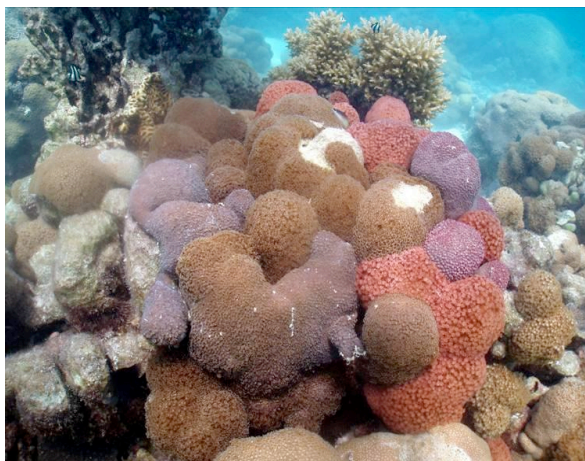
Confidentiality

The information you send us may be passed to colleagues within the Foreign and Commonwealth Office or the facilitator appointed by FCO to analyse responses to this consultation, and published in a summary of responses received in response to this consultation. We will assume that you are content for us to do this, and that if you are replying by e-mail, your consent overrides any confidentiality disclaimer that is generated by

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your organisation's IT system, unless you specifically include a reference to the contrary in the main text of your submission to us.

If you want your name and address to be kept confidential, please mark this clearly at the top of your response. *(Confidential responses will be included in any statistical summary of numbers of comments received and views expressed.)*



SCOPE

Any declaration of a Marine Protected Area in the British Indian Ocean Territory would be made by the BIOT Commissioner and not by the UK Government. Although the BIOT Commissioner is not bound by UK Government guidelines on public consultation, the Foreign Secretary has decided that there is sufficient international and public interest related to this proposal to merit such a consultation.

This consultation is in response to the proposal of the Chagos Environment Network: “The Chagos Archipelago: its Nature and Future” (www.chagos-trust.org) which recommends the establishment of a conservation area in the British Indian Ocean Territory. The purpose of this consultation is to seek views from stakeholders and interested parties on this proposal.

Any decision to establish a marine protected area would be taken in the context of the Government’s current policy on the Territory, following the decision of the House of Lords in *R (Bancoult) v Secretary of State for Foreign and Commonwealth Affairs* [2008] UKHL 61 that the British Indian Ocean Territory (Constitution) Order 2004 and the British Indian Ocean Territory (Immigration) Order 2004 are lawful; i.e., there is no right of abode in the Territory and all visitors need a permit before entering the Territory. Access to a part of the Territory is also restricted under our Treaty obligations with the US. It is the Government’s provisional view, therefore, that we would not establish a permanent research facility in any part of the Territory. Any decision to establish a marine protected area would not affect the UK Government’s commitment to cede the Territory to Mauritius when it is no longer needed for defence purposes.

This consultation and any decision that may follow for the establishment of a marine protected area are, of course, without prejudice to the outcome of the current, pending proceedings before the European Court of Human Rights (ECtHR). This means that should circumstances change, all the options for a marine protected area may need to be reconsidered.

An Impact Assessment has been written for this proposal and can be found at Annex A.

SUMMARY OF QUESTIONS

1. *Do you believe we should create a marine protected area in the British Indian Ocean Territory?*

If yes, from consultations with scientific/environmental and fishery experts, there appear to be 3 broad options for a possible framework:

- (iv) Declare a full no-take marine reserve for the whole of the territorial waters and Environmental Preservation and Protection Zone (EPPZ)/Fisheries Conservation and Management Zone (FCMZ); or*
 - (v) Declare a no-take marine reserve for the whole of the territorial waters and EPPZ/FCMZ with exceptions for certain forms of pelagic fishery (e.g., tuna) in certain zones at certain times of the year.*
 - (vi) Declare a no-take marine reserve for the vulnerable reef systems only.*
2. *Which do you consider the best way ahead? Can you identify other options?*
 3. *Do you have any views on the benefits listed at page 11? What importance do you attach to them?*
 4. *Finally, beyond marine protection, should other measures be taken to protect the environment in BIOT?*

BACKGROUND

“One of the most precious, unpolluted, tropical ocean environments left on Earth” – Chagos Conservation Trust.

The British Indian Ocean Territory (BIOT - also known as the Chagos Archipelago) is situated in the middle of the Indian Ocean and is made up of about 55 tiny islands in over half a million square kilometres of ocean. The Great Chagos Bank is the world’s largest atoll. The islands, reef systems and waters of BIOT in terms of preservation and biodiversity are among the richest on the planet and it contains about half of all the reefs of this ocean which remain in good condition. There are about 10 Important Bird Areas (IBAs). It has the Indian Ocean’s most dense populations of several seabird species. It also has remnants of Indian Ocean island hardwoods. It also contains exceptional numbers of coconut crabs and undisturbed and recovering populations of Hawksbill and Green Turtles.

This massive area has already been declared an Environmental (Preservation and Protection) Zone with legislation in place to protect these natural resources which include strict controls over fishing, pollution (air, land and water), damage to the environment, and the killing, harming or collecting of animals. Some of the most important land and sea areas have already been set aside for additional protection. Most of the lagoon areas and a large part of the land area of Diego Garcia are protected as Restricted Areas, four Special Conservation Areas and a Nature Reserve. Strict Nature Reserves cover the land and surrounding reefs and waters of the islands of the Great Chagos Bank and a large part of Peros Banhos Atoll.

The Territory is also subject to further levels of internationally binding legal protection. This includes the designation of part of Diego Garcia as a Wetland of International Importance under the Ramsar Convention; the Whaling Convention (including an Indian Ocean Whale Sanctuary); the Law of the Sea Convention (with provisions to protect fish stocks); the Indian Ocean Tuna Commission; CITES (regulating trade in wildlife, including corals); and the Bonn Convention (with provisions to protect marine turtles and cetaceans).

So with all this protection already in place, what would be the added value of creating a marine protected area? Taking into account the findings of the workshop “Marine conservation in the British Indian Ocean Territory (BIOT): science issues and opportunities” held 5-6 August 2009 at the National Oceanography Centre Southampton and supported by the NERC Strategic Ocean Funding Initiative (SOFI) www.oceans2025.org the FCO’s view is that:

- There is sufficient scientific information to make a convincing case for designating most of the Territory as a marine protected area (MPA), to include not only protection for fish-stocks but also to strengthen conservation of the reefs and land areas.
- The justification for MPA designation is based primarily on the size, location, biodiversity, near-pristine nature and health of the coral reefs, likely to make a significant contribution to the wider biological productivity of the Indian Ocean. It would have a wide diversity of unstudied deepwater habitats.
- There is high value to scientific/environmental experts in having a minimally perturbed scientific reference site, both for Earth system science studies and for regional conservation management.

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- MPA designation would be consistent with existing BIOT conservation policies, providing a very cost-effective demonstration of the UK Government's commitment to environmental stewardship and halting biodiversity loss.
- There is growing scientific support for establishing large scale marine reserves to protect fish stocks (which has already led the United States of America to create two Marine National Monuments) and there is growing scientific evidence of the global significance of BIOT as a pelagic/archipelagic eco system.
- MPA designation for BIOT would safeguard around half the high quality coral reefs in the Indian Ocean whilst substantially increasing the total global coverage of MPAs. If all the BIOT area were a no-take MPA, it would be the world's largest site with that status, more than doubling global coverage with full protection.
- In addition, the fisheries in the BIOT are currently a loss-making business for the British Indian Ocean Territory Administration. The average yearly income from the purse-sein/long line fishery is usually between £700,000 to £1 million. Only one company presently fishes on the reefs (inshore fishery) and this brings in only a very small income to BIOT Administration. The income from fishing is ploughed back into the running costs of the BIOT Patrol Vessel, the Pacific Marlin. But the income does not meet the entire costs of running the vessel. Consequently the Administration's costs have to be subsidised from the FCO's Overseas Territories Project Fund.

We have the opportunity here to preserve BIOT's unique environment. While the main focus of this consultation is whether to create a marine protected area in the first instance, we would also like your views on a possible framework for the fisheries. We have identified 3 options:

1. Declare a full no-take marine reserve for the whole of the territorial waters and EPPZ/FCMZ; or
2. Declare a no-take marine reserve for the whole of the territorial waters and EPPZ/FCMZ with exceptions for certain forms of pelagic fishery (e.g., tuna) in certain zones at certain times of the year.
3. Declare a no-take marine reserve for the highest value waters (i.e., the reef systems) only.

You may have other ideas and we would be interested to hear them.

We are aware that some marine parks are established and some end up being "paper parks" that is the area is declared as a marine protected area but nothing more happens. If the decision is taken to go ahead with the marine protected area in BIOT, we would need to develop an administrative framework from within the British Indian Ocean Territory Administration to oversee the Management of the MPA.

IMPACT/COSTS & BENEFITS

Costs

The cost of actually declaring a marine protected area in BIOT is nil.

However, if a decision is taken to move to a no-take fishery, then additional cost to the public purse of around £1 million per annum will be incurred. This is because of the need to maintain the BIOT patrol vessel which currently performs surveillance duties in the FCMZ. The annual cost of running the vessel is about £1.7 million (including fuel costs). This is at present offset by a fishing licence income varying between £700,000 and £1 million per year. Costs not offset by income are met by a subsidy from the Overseas Territories Programme Fund.

Global studies of the economic benefits of coral reefs estimate their value to be about \$100,000 - \$600,000 per square km per year. This should be compared with current protection costs in BIOT of \$5 per sq km per year.

Benefits

The benefits of a marine protected area were considered by the Chagos Environment Network in their brochure: www.chagos-trust.org and by the National Oceanography Centre workshop: www.oceans2025.org and include:

Conservation benefits: in recent years scientists and environmentalists have stressed the value of a large-scale ecosystem approach to conservation. For geographical, economic and political reasons there are few places where this is possible. BIOT is a place where it is possible. While recognising that it is a contentious subject, the fact is that the absence of a settled human population, the strict environmental regime and the minimal footprint of the military base have enabled a high level of environmental preservation to have occurred.

Climate Change benefits: BIOT has a special and growing significance in climate change science as a “control” against which to measure changes in the marine environment elsewhere. This could be guaranteed by extra protection under a marine protected area. Its location would also fill the large gap in global coverage for automated measurements of various important atmospheric and ocean parameters.

Scientific benefits: BIOT offers great scope for research in all fields of oceanography, biodiversity and many aspects of climate change. These are core research issues for UK science.

Development benefits: although at early stages of research at present, scientists advise us that BIOT is likely to be key, both in research and geographical terms, to many issues of:

- Providing an unpolluted reference site, and one which is almost entirely unaffected by man’s direct impacts;
- As a source site, or reserve, for many species heavily exploited in most other areas of the Indian Ocean, especially those down current (which is the Western Ocean and African coast);

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- For examination of the effects of climate change which, in most other places, is confounded by man's direct impacts and pollution;
- Provision of an "environmental insurance policy" whose size would ensure integrity in the way that smaller reserves cannot;
- Address a shortcoming in the global network of properly protected marine reserves (most being too small, damaged or far apart to function effectively);
- Provide a scientific benchmark and natural laboratory which will contribute to our understanding of the processes that collectively create climate change and to our ability to manage the threats it poses; and
- To increase our ability to manage degradation in other locations of the Indian Ocean.

Enshrining these characteristics of BIOT in a legal framework will ensure the area can continue to provide its vital functions and services.

Impact

As well as the international fishing community, there are some groups who will be directly or indirectly affected by the establishment of a marine protected area and any resulting restrictions or a ban on fishing.

US

The US has a military base on Diego Garcia. The use of that facility is governed by a series of Exchange of Notes between the UK and US and imposes Treaty obligations on both parties. Because of our Treaty obligations, we have been discussing the possible creation of a marine protected area with the US. Neither we nor the US would want the creation of a marine protected area to have any impact on the operational capability of the base on Diego Garcia. For this reason, it may be necessary to consider the exclusion of Diego Garcia and its 3 mile territorial waters from any marine protected area. This would be a total of 470 km sq out of the total proposed MPA area of 544,000 sq km. The existing environmental protection on Diego Garcia which includes a large Ramsar site and several Strict Nature Reserves and other conservation regulations such as those that affect turtles will not be affected by this exclusion.

Mauritius

We have discussed the establishment of a marine protected area with the Mauritian government in bilateral talks on the British Indian Ocean Territory - the most recent being in July 2009 (see communiqué of the meeting held in Port Louis at Annex C). The Mauritian government has in principle welcomed the concept of environmental protection in the area. The UK government has confirmed to the Mauritians that the establishment of a marine protected area will have no impact on the UK's commitment to cede the Territory to Mauritius when it is no longer needed for defence purposes. We will continue to discuss the protection of the environment with the Mauritians.

Chagossian community

Following the decision of the House of Lords in *R (Bancoult) v Secretary of State for Foreign and Commonwealth Affairs* [2008] UKHL 61 on 22 October 2008 (for full judgment see www.publications.parliament.uk), the current position under the law of BIOT is that there is no right of abode in the Territory and all visitors need a permit. Under these current circumstances, the creation of a marine protected area would have no direct immediate impact on the Chagossian community. However, we recognise that these circumstances may change following any ruling that might be given in the proceedings currently pending before the European Court of Human Rights in Strasbourg in the case of *Chagos Islanders v UK*. Circumstances may also change when the Territory is ceded to Mauritius. In the meantime, the environment will be protected and preserved.



CODE OF PRACTICE ON CONSULTATION

The Seven Consultation Criteria

1. When to consult: formal consultation should take place at a stage when there is scope to influence the policy outcome.
2. Duration of consultation exercises: consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
3. Clarity of scope and impact: consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
4. Accessibility of consultation exercises: consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
5. The burden of consultation: keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
6. Responsiveness of consultation exercises: consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
7. Capacity to consult: officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.
8. The full text of the Government Code of Practice on Consultation can be found at: www.berr.gov.uk/whatwedo/bre/consultation-guidance/page44420.html.
9. If you consider that this consultation does not comply with the criteria or have comments about the consultation process, please contact:

Consultation Coordinator
Overseas Territories Department
Foreign & Commonwealth Office
King Charles Street
London
SW1A 2AH

Or

E-mail address : biotmpacoordinator@fco.gov.uk

JOINT COMMUNIQUÉ

Delegations of the Mauritian and British Governments met in Port Louis on Tuesday 21 July 2009 for the second round of talks on Chagos Archipelago/British Indian Ocean Territory. The Mauritian delegation was led by Mr S C Seeballuck, Secretary to Cabinet and Head of the Civil Service. The British delegation was led by Mr Colin Roberts, Director of Overseas Territories Department, Foreign and Commonwealth Office. The purpose of the meeting was to resume dialogue between Mauritius and the United Kingdom on the Chagos Archipelago/British Indian Ocean Territory.

Both delegations reiterated their respective positions on sovereignty and resettlement as expressed at the first round of talks held in London on 14 January 2009.

The British side provided an update on developments regarding the proceedings before the European Court of Human Rights.

Both delegations were of the view that it would be desirable to have a coordinated submission for an extended continental shelf in the Chagos Archipelago/British Indian Ocean Territory region to the UN Commission on the Limits of the Continental Shelf, in order not to prejudice the interest of Mauritius in that area and to facilitate its consideration by the Commission. It was agreed that a joint technical team would be set up with officials from both sides to look into possibilities and modalities of such a coordinated approach, with a view to informing the next round of talks.

The British delegation proposed that consideration be given to preserving the marine biodiversity in the waters surrounding the Chagos Archipelago/British Indian Ocean Territory by establishing a marine protected area in the region. The Mauritian side welcomed, in principle, the proposal for environmental protection and agreed that a team of officials and marine scientists from both sides meet to examine the implications of the concept with a view to informing the next round of talks. The UK delegation made it clear that any proposal for the establishment of the marine protected area would be without prejudice to the outcome of the proceedings at the European Court of Human Rights.

The Mauritian side reiterated the proposal it made in the first round of the talks for the setting up of a mechanism to look into the joint issuing of fishing licences in the region of the Chagos Archipelago/British Indian Ocean Territory. The UK delegation agreed to examine this proposal and stated that such examination would also include consideration of the implications of the proposed marine protected area.

Both sides agreed to meet in London on a date to be mutually agreed upon during the first fortnight of October 2009.

Both Governments agreed that nothing in the conduct or content of the present meeting shall be interpreted as:

- (a) a change in the position of Mauritius with regard to sovereignty over the Chagos Archipelago/British Indian Ocean Territory;

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- (b) a change in the position of the United Kingdom with regard to sovereignty over the Chagos Archipelago/British Indian Ocean Territory;
- (c) recognition of or support for the position of Mauritius or the United Kingdom with regard to sovereignty over the Chagos Archipelago/British Indian Ocean Territory;
- (d) no act or activity carried out by Mauritius, United Kingdom or third parties as a consequence and in the implementation of anything agreed to, in the present meeting or in any similar subsequent meetings shall constitute a basis for affirming, supporting, or denying the position of Mauritius or the United Kingdom regarding sovereignty of the Chagos Archipelago/British Indian Ocean Territory.

Port Louis
Mauritius

21 July 2009

UK POLICY ON MARINE PROTECTED AREAS

The UK Administrations intend to establish an ecologically-coherent network of marine protected areas (MPAs) within the whole of UK waters in order to fulfil its international obligations, and to contribute to its policy intentions for the sustainable management of the marine environment.

The MPA network will play a key part in delivering our vision of clean, safe, healthy, productive and biologically diverse oceans and seas.

The MPA network will primarily consist of Marine Conservation Zones (MCZs) designated under the Marine and Coastal Access Bill and European marine sites designated under the EC Wild Birds and Habitats Directives (Natura 2000 sites). European marine sites include two types of designated areas: Special Areas of Conservation (SAC) and Special Protection Areas (SPA). SACs are designated under the EC Habitats Directive and SPAs are classified under the EC Wild Birds Directive (Council Directive 79/409/EEC on the conservation of wild birds).

Natural England (NE), Joint Nature Conservation Committee (JNCC) and Department for Environment Food and Rural Affairs (Defra) are working in partnership to implement the selection and designation of MCZs across the Defra marine area (English territorial waters and offshore waters adjacent to England, Wales and Northern Ireland).

NE and JNCC have established four regional MCZ projects that will bring stakeholders (including regional, national and relevant international) into the MCZ decision-making process from an early stage.

Finding Sanctuary has been a flagship project set up to identify Marine Conservation Zones in the South West. Based on the Finding Sanctuary model, we have asked Natural England and the JNCC to establish similar stakeholder-led MCZ projects for 3 other project areas around our coast which are now underway.

The UK remains committed to an MPA network that delivers our conservation needs while also minimising socio-economic impacts and maximising the benefits. Sites will have different levels of protection depending on conservation objectives and the sensitivity of features being protected. In some cases this will mean that there will be sites which will require high levels of protection.

OSPAR is the mechanism by which fifteen Governments of the western coasts and catchments of Europe, together with the European Community, cooperate to protect the marine environment of the North-East Atlantic.

In 2003 the OSPAR Commission agreed a work programme on Marine Protected Areas with the purpose of ensuring that by 2010 there is an ecologically coherent network of well managed marine protected areas for the maritime areas of the OSPAR network. This required each Contracting Party to:

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- a) Consider whether any areas within its jurisdiction justify selection as marine protected areas under the criteria set out in the identification and selection guidelines and, if so,
- b) Report to the OSPAR Commission the areas that it has selected as components of the OSPAR Network of Marine Protected Areas.

A Marine Protected Area (MPA) as defined by OSPAR is “an area within the [OSPAR] maritime area for which protective, conservation, restorative or precautionary measures, consistent with international law have been instituted for the purpose of protecting and conserving species, habitats, ecosystems or ecological processes of the marine environment” (OSPAR 2003 Annex 9 A-4.44a).

The UK is committed to the OSPAR work programme on Marine Protected Areas with the purpose of ensuring that by 2010 there is an ecologically coherent network of well managed marine protected areas for the maritime areas of the OSPAR network.



ANNEX 153

Note Verbale dated 10 November 2009 from the Ministry of
Foreign Affairs, Regional Integration and International Trade,
Mauritius to the British High Commission, Port Louis,
No. 48/2009 (1197/28/10)



REPUBLIC OF MAURITIUS

**MINISTRY OF FOREIGN AFFAIRS, REGIONAL INTEGRATION
AND INTERNATIONAL TRADE**

No. 48/2009 (1197/28/10)

10 November 2009

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius presents its compliments to the High Commission of the United Kingdom of Great Britain and Northern Ireland and has the honour to refer to the Foreign and Commonwealth Office (FCO) Consultation Document on whether to establish a marine protected area in the so-called British Indian Ocean Territory, received today by the Mauritian authorities.

The Ministry of Foreign Affairs, Regional Integration and International Trade wishes to inform the High Commission that the Government of the Republic of Mauritius has not welcomed the establishment of a marine protected area during the bilateral talks on the Chagos Archipelago held in Mauritius last July, contrary to what is stated at page 12 of the Consultation Document.

In that regard, the Ministry of Foreign Affairs, Regional Integration and International Trade would like to point out that what was stated in the Joint Communiqué issued following the bilateral talks of last July was that the Mauritian side had welcomed, in principle, the proposal for environmental protection and agreed that a team of officials and marine scientists from both sides would meet to examine the implications of the concept with a view to informing the next round of talks.

The Ministry of Foreign Affairs, Regional Integration and International Trade therefore requests that the Foreign and Commonwealth Office accordingly amend its Consultation Document to accurately reflect the position of the Government of the Republic of Mauritius.

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius avails itself of this opportunity to renew to the High Commission of the United Kingdom of Great Britain and Northern Ireland the assurances of its highest consideration.

**High Commission of the United Kingdom
of Great Britain and Northern Ireland
Port Louis**



ANNEX 154

Note Verbale dated 11 November 2009 from the British High Commission, Port Louis, to the Ministry of Foreign Affairs, Regional Integration and International Trade, Mauritius, No. 54/09

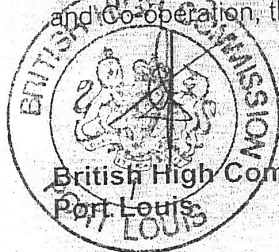
Note No. 54/09

The High Commission of the United Kingdom of Great Britain & Northern Ireland presents its compliments to the Ministry of Foreign Affairs, Regional Integration and International Trade and has the honour to thank the Ministry for its Note Verbale 48/2009 (1197/28/10) of 10th November regarding the wording of the UK's Consultation Document on the establishment of a Marine Protected Area (MPA) in the British Indian Ocean Territory (BIOT)/Chagos Archipelago. The British High Commission has forwarded the contents of your note to the British Foreign and Commonwealth Office's Overseas Territories Department responsible for co-ordinating the consultation.

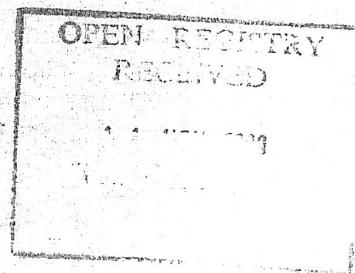
The British High Commission would like to underline that the purpose of the consultation is to gain views on a proposal made by an environmental NGO: the Chagos Conservation Trust. No policy decision has been made on the issue in hand. Our approach aims to be consultative and inclusive: the Chagos Conservation Trust's MPA proposal was discussed with the Government of Mauritius in bilateral talks on BIOT/Chagos Islands prior to the launch of the public consultation. We anticipate further discussion in the next round of bilateral talks, which we had hoped to hold this month, but which now look likely to be held in early 2010.

In light of this constructive and ongoing dialogue, the British High Commission would like to reassure the Ministry of Foreign Affairs, Regional Integration and International Trade that no offence was intended by the wording on page 12 of the draft consultation document that was shared with you on 10 November. We were, therefore, happy to amend the wording of the final document (released later that day on the following site: (<http://www.ukinmauritius.fco.gov.uk>) to reflect the views expressed in your Note Verbale.

The High Commission of the United Kingdom of Great Britain & Northern Ireland Avails itself this opportunity to renew to the Ministry of Foreign Affairs, Regional Trade and Co-operation, the assurances of its highest consideration.



11 November 2009



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Note Verbale dated 23 November 2009 from the Ministry of
Foreign Affairs, Regional Integration and International Trade,
Mauritius to the UK Foreign and Commonwealth Office,
No. 1197/28/10



REPUBLIC OF MAURITIUS

MINISTRY OF FOREIGN AFFAIRS, REGIONAL INTEGRATION
AND INTERNATIONAL TRADE

No. 1197/28/10

23 November 2009

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius presents its compliments to the Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland and has the honour to refer to the public consultation launched by the British Government on 10 November 2009 on a proposal put forward by the Chagos Environment Network for the establishment of a marine protected area (MPA) in the Chagos Archipelago and to its related Note Verbale (No. 1197/28/10) dated 10 November 2009.

The Ministry of Foreign Affairs, Regional Integration and International Trade, whilst welcoming the amendment at page 12 of the Consultation Document, regrets to note that the precise stand of the Mauritian side on the MPA project, as stated in the Joint Communiqué issued following the bilateral talks of last July and in its Note Verbale of 10 November 2009, has not been fully reflected in the amended Consultation Document. That stand, as per the Joint Communiqué, reads as follows:-

"The Mauritian side welcomed, in principle, the proposal for environmental protection and agreed that a team of officials and marine scientists from both sides meet to examine the implications of the concept with a view to informing the next round of talks".

Furthermore, the Ministry of Foreign Affairs, Regional Integration and International Trade would like to state that since there is an on-going bilateral Mauritius-UK mechanism for talks and consultations on issues relating to the Chagos Archipelago and a third round of talks is envisaged early next year, the Government of the Republic of Mauritius believes that it is inappropriate for the consultation on the proposed marine protected area, as far as Mauritius is concerned, to take place outside this bilateral framework.

The Government of Mauritius considers that an MPA project in the Chagos Archipelago should not be incompatible with the sovereignty of the Republic of Mauritius over the Chagos Archipelago and should address the issues of resettlement, access to the fisheries resources, and the economic development of the islands in a manner which would not prejudice an eventual enjoyment of sovereignty. A total ban on fisheries exploitation and omission of those issues from any MPA project would not be compatible with the long-term resolution of, or progress in the talks, on the sovereignty issue.

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The stand of the Government of Mauritius is that the existing framework for talks on the Chagos Archipelago and the related environmental issues should not be overtaken or bypassed by the consultation launched by the British Government on the proposed MPA.

The Government of Mauritius wishes to reiterate the sovereignty of Mauritius over the Chagos Archipelago, including Diego Garcia, and its non-recognition of the so-called British Indian Ocean Territory.

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius avails itself of this opportunity to renew to the Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland the assurances of its highest consideration.

**Foreign and Commonwealth Office
of the United Kingdom of Great Britain
and Northern Ireland
London**



ANNEX 156

Letter dated 15 December 2009 from the UK Secretary of State for Foreign and Commonwealth Affairs to the Minister of Foreign Affairs, Regional Integration and International Trade, Mauritius



Foreign &
Commonwealth
Office

London SW1A 2AH

From the Secretary of State

15 December 2009

His Excellency Arvin Boolell
Ministry of Foreign Affairs
PORT LOUIS

Arvin Boolell

I very much welcomed the opportunity to meet you at CHOGM. We had a useful discussion on the proposal for a Marine Protected Area in the British Indian Ocean Territory. I believe we both agree that without prejudice to wider political issues, discussed below, there is an opportunity to protect an area of outstanding natural beauty which contains islands, reef systems and waters which in terms of preservation and biodiversity are among the richest on the planet. As we agreed at the time, both the UK and Mauritius now need to reflect on next steps and work to bridge any differences in approach.

At our meeting, you mentioned your concerns that the UK should have consulted Mauritius further before launching the consultation exercise. I regret any difficulty this has caused you or your Prime Minister in Port Louis. I hope you will recognise that we have been open about the plans and that the offer of further talks has been on the table since July.

I would like to reassure you again that the public consultation does not in any way prejudice or cut across our bilateral intergovernmental dialogue with Mauritius on the proposed Marine Protected Area. The purpose of the public consultation is to seek the views of the wider interested community, including scientists, NGOs, those with commercial interests and other stakeholders such as the Chagossians. The consultations and our plans for an MPA do not in any way impact on our commitment to cede the territory when it is no longer needed for defence purposes.

Our ongoing bilateral talks are an excellent forum for your Government to express its views on the MPA. We welcome the prospect of further discussion in the context of these talks, the next round of which now look likely to happen in January.

As well as the MPA there are, of course, many other issues for bilateral discussion. My officials remain ready to continue the talks and I hope that Mauritius will take up the opportunity to pursue this bilateral dialogue.



Whatever misunderstandings there may have been to date, I remain convinced that furthering marine protection in the Indian Ocean is a goal that we can both share. I was delighted to learn that your budget last month contained new funds for the establishment of domestic marine protected areas as part of your own 'Maurice: Ile Durable' programme. I look forward to working with you towards this common goal of marine protection in the Indian Ocean.

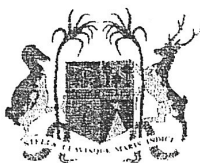
Yours sincerely,

A handwritten signature in dark ink, appearing to read 'David Miliband'.

DAVID MILIBAND

ANNEX 157

Letter dated 30 December 2009 from the Minister of Foreign Affairs, Regional Integration and International Trade, Mauritius to the UK Secretary of State for Foreign and Commonwealth Affairs



REPUBLIC OF MAURITIUS

Minister of Foreign Affairs, Regional Integration and International Trade

Ref: 1197/28/10

30 December 2009

Excellency,

I would like to refer to your letter dated 15 December 2009 on the proposed establishment of a Marine Protected Area around the Chagos Archipelago.

During our recent meeting in the margins of the Commonwealth Heads of Government Meeting, I had expressed the concerns of the Government of Mauritius about the Marine Protected Area project. I had stated that it was inappropriate for the British authorities to embark on consultations on the matter outside the bilateral Mauritius-United Kingdom mechanism for talks on issues relating to the Chagos Archipelago.

On the substance of the proposal, I had conveyed to you that the Government of Mauritius considers that the establishment of a Marine Protected Area around the Chagos Archipelago should not be incompatible with the sovereignty of Mauritius over the Chagos Archipelago. As you are aware, the Mauritian position, as also endorsed at various multilateral fora, is that the Chagos Archipelago was illegally excised by the British Government from the territory of Mauritius prior to the grant of independence to Mauritius. The Government of Mauritius has repeatedly informed the British Government that it does not recognize the so-called British Indian Ocean Territory and deplores the fact that Mauritius is still not in a position to exercise effective control over the Chagos Archipelago as a result of the illegal excision of its territory.

Moreover, the issues of resettlement in the Chagos Archipelago, access to the fisheries resources and the economic development of the islands in a manner that would not prejudice the effective exercise by Mauritius of its sovereignty over the Chagos Archipelago are matters of high priority to the Government of Mauritius. The exclusion of such important issues in any discussion relating to the proposed establishment of a Marine Protected Area would not be compatible with resolution of the issue of sovereignty over the Chagos Archipelago and progress in the ongoing talks between Mauritius and the United Kingdom.

In these circumstances, as I have mentioned, Mauritius is not in a position to hold separate consultations with the team of experts of the UK on the proposal to establish a Marine Protected Area.

ANNEX 157

You will no doubt be aware that, in the margins of the last CHOGM, our respective Prime Ministers agreed that the Marine Protected Area project be put on hold and that this issue be addressed during the next round of Mauritius-United Kingdom bilateral talks.

Please accept, Excellency, the assurances of my highest consideration.



Dr the Hon. Arvin Boolell
Minister

The Rt. Hon. David Miliband
Secretary of State
for Foreign and Commonwealth Affairs
Foreign and Commonwealth Office
London
United Kingdom

ANNEX 158

Note Verbale dated 30 December 2009 from the Ministry of Foreign Affairs, Regional Integration and International Trade, Mauritius to the UK Foreign and Commonwealth Office, No. 1197/28/4



REPUBLIC OF MAURITIUS

**MINISTRY OF FOREIGN AFFAIRS, REGIONAL INTEGRATION
AND INTERNATIONAL TRADE**

No. 1197/28/4

30 December 2009

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius presents its compliments to the Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland and has the honour to refer to the public consultation launched by the British Government on 10 November 2009 on a proposal put forward by the Chagos Environment Network for the establishment of a Marine Protected Area in the Chagos Archipelago and to its related Note Verbale (No. 1197/28/10) dated 23 November 2009.

The Ministry of Foreign Affairs, Regional Integration and International Trade wishes to inform the Foreign and Commonwealth Office that the Government of Mauritius considers that the next round of bilateral talks between the two Governments cannot take place during the month of January 2010, in the absence of satisfactory clarification and reassurances on the part of the Government of the United Kingdom on issues raised by the Government of Mauritius in the above-mentioned Note Verbale in relation to the Marine Protected Area project and in view of the continuation by the Government of the United Kingdom of the initial consultation process it had embarked upon.

The Government of Mauritius trusts that it will receive, within a reasonable period, adequate clarification and reassurances on the part of the Government of the United Kingdom on the issues raised in the above-mentioned Note Verbale.

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius avails itself of this opportunity to renew to the Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland the assurances of its highest consideration.

**Foreign and Commonwealth Office
of the United Kingdom of Great Britain
and Northern Ireland
London**



ANNEX 159

Letter dated 30 December 2009 from the Mauritius High
Commissioner, London to *The Sunday Times*,
published on 10 January 2010

01-2010 13:48 FROM:

TD:002302125507

P:1/2



MAURITIUS HIGH COMMISSION

32/33 ELVASTON PLACE
LONDON SW7 5NW

Tel. No. : 020 7581 0294/5

Fax No. : 020 7823 8437

020 7584 9859

Email : londonmhc@btinternet.com

Our Ref: **MHCL/886/1/03**

Your Ref:

30 December, 2009

Dear Editor in Chief,

I wish to refer to an article entitled "***Brown can build his green legacy on coral reefs***" which appeared in the issue of the Sunday Times of 27 December 2009 and wish to deplore the fact that the article purports to suggest to your readers that there are only two obstacles in the way of the establishment of the Marine Protected Area (MPA) around the Chagos Archipelago, namely:-

- (a) ***"the claim of the Chagossians – coconut farmers descended from Mauritian French (sic) stock who were shamefully evicted by the Military in the 1970's;***
- (b) ***".... What to do about a tuna fishery that pays the treasury about £1 million a year."***

The article utterly fails to refer to the illegal excision of the Chagos Archipelago from the territory of Mauritius prior to Mauritius being granted independence by the UK Government, an act which has been condemned by the international community at various multilateral fora on the ground that it was in breach of international law.

The right of Mauritius to enjoy its sovereignty over the Chagos Archipelago and the failure of the promoters of the MPA project to meaningfully address this issue in the MPA project document are, in the opinion of the Government of Mauritius, deplorable omissions in your article. There can be no legitimacy to the

ANNEX 159

01-2010 13:48 FROM:

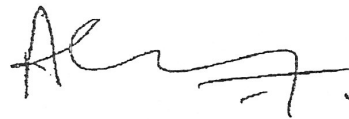
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MPA project without that issue being addressed to the satisfaction of the Government of Mauritius.

The Government of Mauritius requests that you bring the above facts to the attention of your readers in your esteemed paper.

Yours faithfully,



Abhimanu Kundasamy
High Commissioner

Mr John Witherow
Editor in Chief
The Sunday Times
1 Pennington Street,
London E98 1ST

Fax No. 0207 782 5420

ANNEX 160

Written Evidence of the Mauritius High Commissioner, London, on
the UK Proposal for the Establishment of a Marine Protected Area
around the Chagos Archipelago, to the House of Commons Select
Committee on Foreign Affairs

Uncorrected Evidence 423

OT 423: Written Evidence from HE Mr Abhimanu Kundasamy, High Commissioner of Mauritius

on the uk proposal for the establishment of a marine protected area around the chagos archipelago

1. As Under both Mauritian law and international law, the Chagos Archipelago, including Diego Garcia, is under the sovereignty of Mauritius. The creation of any marine protected area (MPA) around the Chagos Archipelago would therefore require the agreement of the Government of Mauritius.
2. Since there is an on-going bilateral Mauritius-UK mechanism for talks and consultations on issues relating to the Chagos Archipelago, it is inappropriate and insulting for the British Government to pursue consultations globally on the proposal for the establishment of an MPA around the Chagos Archipelago *outside this bilateral framework*. This position was brought to the attention of the British Government by way of Note Verbale dated 23 November 2009 issued by the Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius to the UK Foreign and Commonwealth Office. We have not received any answer yet whilst the FCO continues to defy our deep concerns on this process.
3. The manner in which the Marine Protected Area proposal is being dealt with makes us feel that it is being imposed on Mauritius with a predetermined agenda.
4. The establishment of an MPA around the Chagos Archipelago must be compatible with the sovereignty of Mauritius over the Chagos Archipelago. Any endorsement of the proposed unilateral initiative of the FCO's, particularly in some scientific quarters, would be tantamount to condoning the violation of international law and the enduring human tragedy.

5. Moreover, the issue of resettlement in the Chagos Archipelago, access to the fisheries resources, and the economic development of the islands in a manner which would not prejudice the effective exercise by Mauritius of its sovereignty over the Chagos Archipelago are matters of high priority to the Government of Mauritius.

6. The exclusion of such important issues from any MPA project and a total ban on fisheries exploitation would not be compatible with resolution of the issue of sovereignty over the Chagos Archipelago and progress in the ongoing talks between Mauritius and the United Kingdom.

7. The existing framework of talks between Mauritius and the UK on the Chagos Archipelago and the related environmental issues should not be overtaken or bypassed by the public consultation launched by the British Government on the proposed establishment of an MPA around the Chagos Archipelago.

8. The establishment of any MPA around the Chagos Archipelago should also address the benefits that Mauritius should derive from any mineral or oil that may be discovered in or near Chagos Archipelago (as per the undertaking given in 1965).

9. Why is the FCD in a hurry to establish a marine protected area around the Chagos Archipelago?

Is it because of the case which the Chagossians have brought before the European Court of Human Rights?

Is it because the Lease Agreement concluded by the UK and US Governments on 30 December 1966 for the use of the Chagos Archipelago for defence purposes will expire in 2014?

Why is it that the excision of the Chagos Archipelago from Mauritius in breach of two United Nations General Assembly resolutions is not being considered as a gross violation of international law by the British Government?

10. Lastly, the Government of the Republic of Mauritius unequivocally reaffirms its firm commitment to achieving the highest international standards for environment, including the marine environment and its ecosystems. The Government of the Republic of Mauritius is currently implementing a very comprehensive, all-encompassing and long-term multi-sectoral programme entitled "Maurice lie Durable", adopted in 2008 and underpinning the overall national development strategy. And last week at the World Economic Forum Annual Meeting 2010, the Environmental Performance Index (EPI) was released in Davos. The 2010 EPI is developed for 163 countries and is based on twenty five indicators grouped in ten policy categories: Environmental burden of disease, Air pollution (effects on humans), Water (effects on humans), Air Pollution (effects on ecosystem), Water (effects on ecosystem), Biodiversity & Habitat, Forestry, Fisheries, Agriculture and Climate Change. Mauritius was classed 6th in the world ahead of UK which was classed 14th.

4 February 2010

The text of Resolution 2066 is very significant and it stands out as an affirmation of the Territory of Mauritius as a single unit of self-determination:

"The General Assembly,

Having considered the question of Mauritius and other islands composing the Territory of Mauritius.

Having examined the chapters of the reports of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Inde-

pendence to Colonial Countries and Peoples,

Regretting that the administering Power has not fully implemented Resolution 1514 (XV) with regard to that Territory,

Noting with deep concern that any step taken by the administering Power to detach certain islands from the Territory of Mauritius for the purpose of establishing a military base would be in contravention of the Declaration, and in particular of paragraph 6 thereof,

1. *Approves* the chapters of the reports of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples relating to the Territory of Mauritius and endorses the conclusions and recommendations of the Special Committee contained therein:
2. *Reaffirms* the inalienable right of the people of the Territory of Mauritius to freedom and independence in accordance with General Assembly Resolution 1514 (XV);
3. *Invites* the Government of the United Kingdom of Great Britain and Northern Ireland to take effective measures with a view to the immediate and full implementation of the Resolution 1514 (XV):
4. *Invites* the administering Power to take no action which would dismember the Territory of Mauritius and violates its territorial integrity:
5. *Further invites* the administering Power to report to the Special Committee and to the General Assembly on the implementation of the present resolution;
6. *Requests* the Special Committee to keep the questions of the Territory of Mauritius under review and to report thereon to the General Assembly at its twenty-first session.

1960:

14th December:

The United Nations General Assembly adopted Declaration 1514 (XV) on the Granting of Independence of Colonial Countries and Peoples.

The UN Declaration Paragraph 5 clearly stated that the transfer of powers to the peoples of those territories which have not yet attained independence should be effected "without any conditions or reservations".

Paragraph 6 of the same Resolution very explicitly lays down that "any attempt aimed at partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of United Nations."

The Declaration 1514 is not only a resolution about the granting of independence to colonial countries and peoples but it is an affirmation of fundamental rights and a pillar in the UN Charter.

1964:

August - A joint US/UK military survey of the islands took place. The UK/US first choice was the island of Aldabra, north of Madagascar.

Unfortunately, Aldabra was the breeding ground for rare giant tortoises, whose mating habits would have probably been upset by the military activity and whose cause

would have been championed noisily by publicity-aware ecologists.

The alternative was the Chagos Islands, part of Mauritius, then a British territory campaigning for independence and inhabited by Chagossians .

October:

A Special Committee on Decolonisation was created by General Assembly Resolution 1654 to implement Declaration 1514 (above) and to make recommendations on its application. In October 1964, the attention of the Special Committee was drawn to a report that the United Kingdom and the United States of America were "examining the recommendations of an Anglo-American naval Mission which had selected the island of Diego Garcia in the Chagos Archipelago which was dependency of Mauritius" for the establishment of a joint military base.

1965:

16th December:

On the advice of the Special Committee on Decolonisation, the General Assembly adopted *United Nations Resolution 2066 (XV)*. "Noting with *deep concern* that any step taken by the administrative power to detach certain islands from the territory of Mauritius for the purpose of establishing a military base would be in contravention of the Declaration and in particular paragraph 6 thereof

... invites the administering power *to take no action which would dismember the territory of Mauritius and violate the territorial integrity.* (Attached key text)

The UN General Assembly has since repeated its disapproval of UK'S action by adopting Res-

olution 2232 and 2357."

Chagossians visiting relatives and friends in Mauritius were not allowed to return to the Chagos. They were informed that "The Islands are closed". This, and other tactics, continued until 1973.

1966:

December- Britain secretly leased Diego Garcia to the US for 50 years, with the option of an extension. *This was done behind the veil of the Cold War, to the detriment of the sovereignty and territorial integrity of Mauritius and in gross violation of International Law.*

What we saw was the forcible evictions of Chagossians from then onwards.

1968:

March: The Colony of Mauritius which had comprised, inter alia, the Chagos Archipelago was granted independence but without Chagos.

However the Constitution of Mauritius reads as follows: (Sec. 111): "Mauritius includes- (a) the islands of Mauritius, Rodrigues, Agalega, Tromelin, Cargados Carajos and the Chagos Archipelago, including Diego Garcia and any other island comprised in the State of Mauritius".

The colonial authorities cut off food imports to the Chagos islands. After 1968 food ships did not sail to the islands.

Britain began an illegal removal of 1,500 natives from the Chagos islands, including Diego Garcia, following agreement to lease the islands to the US.

1975:

11th September: The act of forcible evictions of Chagossians was described in an editorial in the Washington Post as "*This act of mass kidnapping*"

1983:

Report of the Select Committee on the Excision of the Chagos Archipelago was published. *The 7th Conference of the Non-Aligned Movement, when it met in New Delhi, India* voted a resolution for the dismantling of the base and for the retrocession of Diego Garcia and Chagos to Mauritius.

1995:

The UN Economic, Social and Cultural (UNESCO) Rights Committee drew attention to the fact that self determination has not been implemented in the case of Mauritius because of illegal occupation of Chagos in its Concluding Observations, when Mauritius country report was being reviewed.

1999:

Victory in Bancoult case as Chagossians was granted permission to fight for the right to return.

2000:

African Union Position: Decision by the Heads of States of the African Union on Chagos Archipelago

The Assembly inter alia:

1. *Expressed Concern* that the Chagos Archipelago was unilaterally and illegally exercised by the colonial power from Mauritius prior to its independence in violation of UN Resolution 1514;
2. *Noted with Dismay* that the bilateral talk between Mauritius and UK on this matter has not yielded any significant progress;
3. Urged the UK Government to immediately enter into direct and constructive dialogue with Mauritius so as to enable the early return of the sovereignty of Mauritius.

2009:

June-The European Court of Human Rights' investigation into the case of the Chagossians right of return is under way.

September: II Africa-South America Heads of State Summit (Venezuela, 26 and 27 September of 2009)

Declaration of Nueva Esparta- Resolution No. 40 urged "the United Kingdom of Great Britain and Northern Ireland and the Republic of Mauritius to pursue negotiations in order to find, as a matter of urgency, a fair, peaceful and definitive solution to the issues regarding the sovereignty over Chagos Archipelago, including Diego Garcia, and the surrounding mar-

itime spaces, in accordance with the resolutions of the United Nations and the other pertinent regional and international organizations".

The legal position of UK:

"The British Government has always acknowledged that Mauritius has a legitimate interest in the future of these islands and recognizes the Government of the Republic of Mauritius as the only State which has a right to assert a claim to sovereignty.... The British Government has therefore given an undertaking to the Government of the Republic of Mauritius that, when the islands are no longer needed for the defence purposes of the United Kingdom and the United States, they will be ceded to Mauritius."

Mindset of FCO's officials during the 1960s

British politicians, diplomats and civil servants began a campaign - in their own words-"to maintain the pretence there were no permanent inhabitants" on the islands.

The Colonial Office stated that the "prime objective of BIOT exercise was that the islands...hived off into the new territory should be under the greatest possible degree of UK control".

The Permanent Under Secretary at the Foreign Office noted in a secret file: "We would not wish it to become general knowledge that some of the inhabitants have lived on Diego Garcia for at least two generations".

A Foreign Office legal advisor noted that it is important "to maintain the fiction that the inhabitants of the Chagos are not a permanent or semi-permanent population".

He also noted that "we are able to make up the rules as we go along and treat the inhabitants as not 'belonging' to it in any sense".

One British official noted that British strategy towards the Chagossians should be to "grant as few rights with as little formality as possible". In particular, Britain wanted to avoid fulfilling its obligations to the islanders under the UN charter.

The Foreign Office stated that the islanders were to be "evacuated as and when defence interests required this", against which there should be "no insurmountable obstacle". This was vital, because proper residents would have to be recognised as people "whose democratic rights have to be safeguarded".

The inhabitants therefore became non-people. To the outside world, there must be no inhabitants, merely people living there temporarily- migrant workers and other transients.

A telegram sent to the UK mission at the United Nations in November 1965 summed up the problem:

"We recognise that we are in a difficult position as regards references to people at present on the detached islands.

"We know that a few were born in Diego Garcia and perhaps some of the other islands, and so were their parents before them.

"We cannot therefore assert that there are no permanent inhabitants, however much this would have been to our advantage. In these circumstances, we think it would be best to avoid all references to permanent inhabitants."

Sir Paul Gore-Booth, senior official at the Foreign Office, wrote to a diplomat in 1966: "We must surely be very tough about this. The object of the exercise is to get some rocks which will remain ours ... There will be no indigenous population except seagulls ...". Indeed the FCO promised Americans that deportations could be "timed to attract the least attention", leaving "no indigenous population except seagulls."

The diplomat, Dennis Greenhill, replied: "Unfortunately along with the birds go some few Tarzans or Man Fridays whose origins are obscure and who are hopefully being wished on to Mauritius."

As far back as 1965, Colonial Secretary Anthony Greenwood had warned that it was "important to present the United Nations with a fait accompli".

Mauritius High Commission

London, January 2010

ANNEX 161

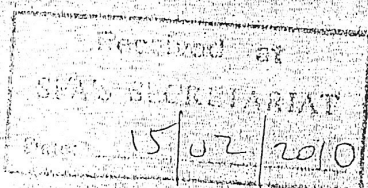
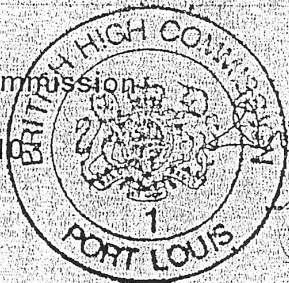
Note Verbale dated 15 February 2010 from British High
Commission, Port Louis, to the Ministry of Foreign Affairs,
Regional Integration and International Trade,
Mauritius, No. 07/2010

Note No. 07/2010

The High Commission of the United Kingdom of Great Britain & Northern Ireland presents its compliments to the Ministry of Foreign Affairs, Regional Integration and International Trade and should like to inform the Ministry that due to significant interest in the public consultation on the proposal for a Marine Protected Area in the British Indian Ocean Territory the Foreign Secretary has extended the deadline for submission of views until 5 March 2010.

The High Commission of the United Kingdom of Great Britain & Northern Ireland avails itself of this opportunity to renew to the Ministry of Foreign Affairs, Regional Integration and International Trade, the assurances of its highest consideration.

British High Commission
Port Louis
15 February 2010



ANNEX 162

Letter dated 19 February 2010 from the Secretary to Cabinet and
Head of the Civil Service, Mauritius to the British High
Commissioner, Port Louis



REPUBLIC OF MAURITIUS

PRIME MINISTER'S OFFICE

*Office of the Secretary to Cabinet
and
Head of the Civil Service*

4778/3/10

19 February 2010

Excellency,

I have the honour to refer to your High Commission's two Notes Verbales (Nos. 7/2010 and 6/2010) dated 15 February 2010 concerning the extension of the deadline for the public consultation on the proposal for the establishment of a marine protected area (MPA) around the Chagos Archipelago and the request to propose dates for the third round of bilateral talks between Mauritius and the United Kingdom respectively.

2. I also refer to previous correspondence between the Mauritius and United Kingdom Authorities on the matter and to the discussions held between our two Prime Ministers in the margins of the Commonwealth Heads of Government meeting in Trinidad and Tobago in November 2009.

3. I wish to reiterate the position of the Government of Mauritius to the effect that the consultation process on the proposed MPA should be stopped and the current Consultation Paper, which is unilateral and prejudicial to the interests of Mauritius withdrawn. Indeed, the Consultation Paper is a unilateral UK initiative which ignores the agreed principles and spirit of the ongoing Mauritius-UK bilateral talks and constitutes a serious setback to progress in these talks.

4. I further wish to inform you that the Government of Mauritius insists that any proposal for the protection of the marine environment in the Chagos Archipelago area needs to be compatible with and meaningfully take on board the position of Mauritius on the sovereignty over the Chagos Archipelago and address the issues of resettlement and access by Mauritians to fisheries resources in that area.

5. I also wish to state that the Government of Mauritius is keen to resume the bilateral talks on the premises outlined above.

6. Please accept Excellency the assurances of my highest consideration.

Yours faithfully,

A handwritten signature in dark ink, appearing to read 'S. C. Seeballuck'.

(S. C. Seeballuck)
Secretary to Cabinet &
Head of the Civil Service

H.E. Dr John Murton
High Commissioner of the United Kingdom of Great Britain
and Northern Ireland
7th Floor, Les Cascades Building
Edith Cavell Street
P.O. Box 1063
Port Louis

ANNEX 163

Letter dated 19 March 2010 from the British High Commissioner,
Port Louis to the Secretary to Cabinet and Head of the Civil Service,
Mauritius



British High Commission

Les Cascades Building
Edith Cavell Street
P.O. Box 1063
Port Louis
Mauritius

Telephone: (230) 202 9400
Facsimile: (230) 202 9408
E-mail: bhc@intnet.mu

From the High Commissioner

19 March 2010

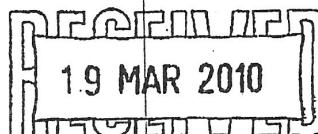
Mr Sureshchandre Seeballuck
Secretary to the Cabinet & Head of Civil Service
Office of the Prime Minister
Intendance Street
Port Louis

Dear Mr Seeballuck,

Thank you for your letter of 19 February in response to our Note Verbale 06/2010 and 07/2010 regarding the extension of the deadline for the public consultation on the proposal for setting up a Marine Protected Area (MPA) in the British Indian Ocean Territory (BIOT) and the resumption of Bilateral Talks.

The United Kingdom should like to reiterate that no decision on the creation of an MPA has yet been taken. However, as stated previously in discussions between Ministers and Officials and set out clearly in the MPA consultation document, the establishment of any marine protected area will have no impact on the United Kingdom's commitment to cede the Territory to Mauritius when it is no longer needed for defence purposes. Additionally, the United Kingdom is keen to continue dialogue about environmental protection within the bilateral framework or separately. The public consultation does not preclude, overtake or bypass these talks.

The United Kingdom is aware of Mauritius' position on the sovereignty of the Territory; however it does not recognise this claim. The United Kingdom has no doubt about its sovereignty over BIOT which was ceded to Britain in 1814 from France and has been a British dependency ever since. Nevertheless, the United Kingdom has undertaken to cede the Territory to Mauritius when it is no longer needed for defence purposes.





British High Commission
Mauritius

The United Kingdom's position on resettlement is clear. Following the judgement of the Law Lords on 22 October 2008 which upheld the validity of the 2004 BIOT Orders in Council, no-one has the right of abode in the Territory and all visitors need a permit. The British Government does not intend to resettle the Chagossians in the Territory. This consultation and any decision that may follow for the establishment of an MPA are, of course, without prejudice to the outcome of the current pending proceedings (Chagos Islanders v UK) before the European Court of Human Rights. This means that should circumstances change, all the options for an MPA may need to be reconsidered.

Like Mauritius, the UK is keen to continue these bilateral talks as there are many other things we can discuss with regards to BIOT.

Yours sincerely

John & Murton

John Murton
High Commissioner

ANNEX 164

Note Verbale dated 26 March 2010 from British High Commission,
Port Louis, to the Ministry of Foreign Affairs, Regional Integration
and International Trade, Mauritius, No. 14/2010

Note No. 14/2010

The High Commission of the United Kingdom of Great Britain & Northern Ireland presents its compliments to the Ministry of Foreign Affairs, Regional Integration and International Trade and has the honour to refer to the Secretary to Cabinet & Head of the Civil Service Seeballuck's letter to the British High Commissioner of 19 February regarding our Note Verbales 06/2010 and 07/2010 regarding the extension of the deadline for the public consultation on the proposal for setting up a Marine Protected Area (MPA) in the British Indian Ocean Territory (BIOT) and the resumption of Bilateral Talks.

The United Kingdom should like to reiterate that no decision on the creation of an MPA has been taken yet. However, as stated previously in discussions between Ministers and Officials and set out clearly in the MPA consultation document, the establishment of a marine protected area will have no impact on the United Kingdom's commitment to cede the Territory to Mauritius when it is no longer needed for defence purposes. Additionally, the United Kingdom is keen to continue dialogue about environmental protection within the bilateral framework or separately. The public consultation does not preclude, overtake or bypass these talks.

The United Kingdom is aware of Mauritius' position on the sovereignty of the Territory; however it does not recognise this claim. The United Kingdom has no doubt about its sovereignty over BIOT which was ceded to Britain in 1814 from France and has been a British dependency ever since. Nevertheless, the United Kingdom has undertaken to cede the Territory to Mauritius when it is no longer needed for defence purposes.

The United Kingdom's position on resettlement is clear. Following the judgement of the Law Lords on 22 October 2008 which upheld the validity of the 2004 BIOT Orders in Council, no-one has the right of abode in the Territory and all visitors need a permit. The British Government does not intend to resettle the Chagossians in the Territory. This consultation and any decision that may follow for the establishment of an MPA are, of course, without prejudice to the outcome of the current pending proceedings (Chagos Islanders v UK) before the European Court of Human Rights. This means that should circumstances change, all the options for an MPA may need to be reconsidered.

Like Mauritius, the UK is keen to continue these bilateral talks as there are many other things we can discuss with regards to BIOT.

The High Commission of the United Kingdom of Great Britain & Northern Ireland avails itself of this opportunity to renew to the Ministry of Foreign Affairs, Regional Integration and International Trade, the assurances of its highest consideration.

British High Commission
Port Louis
26 January 2010
Masch



ANNEX 165

UK Foreign and Commonwealth Office Press Release, 1 April
2010, “New Protection for marine life”

New protection for marine life

01 April 2010

Foreign Secretary David Miliband instructs the Commissioner of the British Indian Ocean Territory to declare a Marine Protected Area.

Foreign Secretary David Miliband today announced the creation of a Marine Protected Area (MPA) in the British Indian Ocean Territory. This will include a "no-take" marine reserve where commercial fishing will be banned.

The British Indian Ocean Territory (BIOT) consists of 55 tiny islands which sit in a quarter of a million square miles of the world's cleanest seas.

Announcing the creation of this MPA, David Miliband said:

I am today instructing the Commissioner of the British Indian Ocean Territory to declare a Marine Protected Area. The MPA will cover some quarter of a million square miles and its establishment will double the global coverage of the world's oceans under protection. Its creation is a major step forward for protecting the oceans, not just around BIOT itself, but also throughout the world. This measure is a further demonstration of how the UK takes its international environmental responsibilities seriously.

The territory offers great scope for research in all fields of oceanography, biodiversity and many aspects of climate change, which are core research issues for UK science.

I have taken the decision to create this marine reserve following a full consultation, and careful consideration of the many issues and interests involved. The response to the consultation was impressive both in terms of quality and quantity. We intend to continue to work closely with all interested stakeholders, both in the UK and internationally, in implementing the MPA.

I would like to emphasise that the creation of the MPA will not change the UK's commitment to cede the Territory to Mauritius when it is no longer needed for defence purposes and it is, of course, without prejudice to the outcome of the current, pending proceedings before the European Court of Human Rights.

Further information

The Chagos Islands have belonged to Britain since 1814 (The Treaty of Paris) and are constituted as the British Indian Ocean Territory (BIOT). Only Diego Garcia, where there is a military base, is inhabited (by military personnel and employees).

The idea of making the British Indian Ocean Territory an MPA has the support of an impressive range of UK and international environmental organisations coming together under the auspices of the "Chagos Environment Network" to help enhance the environmental protection in BIOT. Also, well over 90% of those who responded to the consultation made clear that they supported greater marine protection

Pollutant levels in Chagos waters and marine life are exceptionally low, mostly below detection levels at 1 part per trillion using the most sensitive instrumentation available, making it an appropriate global reference baseline.

Scientists also advise us that BIOT is likely to be key, both in research and geographical terms, to the repopulation of coral systems along the East Coast of Africa and hence to the recovery in marine food supply in sub-Saharan Africa. BIOT waters will continue to be patrolled by the territory's patrol vessel, which will enforce the MPA conditions.

Download the [full report](#) [PDF]



ANNEX 166

“British Indian Ocean Territory” Proclamation No. 1 of 2010



No. 1 of 2010

PROCLAMATION
PROCLAMATION NO.1 OF 2010

IN THE NAME of Her Majesty ELIZABETH the Second, by the Grace of God, of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories, Queen, Head of Commonwealth, Defender of the Faith.

A handwritten signature in dark ink, appearing to read 'Colin Roberts'.

COLIN ROBERTS

Commissioner

By Colin Roberts, Commissioner for the British Indian Ocean Territory.

I, Colin Roberts, Commissioner for the British Indian Ocean Territory, acting in pursuance of instructions given by Her Majesty through a Secretary of State, do hereby proclaim and declare that:

1. There is established for the British Indian Ocean Territory a marine reserve to be known as the Marine Protected Area, within the Environment (Protection and Preservation) Zone which was proclaimed on 17 September 2003.
2. Within the said Marine Protected Area, Her Majesty will exercise sovereign rights and jurisdiction enjoyed under international law, including the United Nations Convention on the Law of the Sea, with regard to the protection and preservation of the environment of the Marine Protected Area. The detailed legislation and regulations governing the said Marine Protected Area and the implications for fishing and other activities in the Marine Protected Area and the Territory will be addressed in future legislation of the Territory.
3. In this Proclamation "the Territory" means the British Indian Ocean Territory. The British Indian Ocean Territory comprises the islands of the Chagos Archipelago, as set out in the Schedule to this Proclamation.

Given at the Foreign and Commonwealth Office, London, this 1st day of April 2010.

GOD SAVE THE QUEEN

ANNEX 166

SCHEDULE

The Islands of the Chagos Archipelago, which constitute the British Indian Ocean Territory, are the following:

Diego Garcia	Three Brother Islands
Edmont or Six Islands	Nelson or Legour Island
Peros Banhos	Eagle Island
Salomon Islands	Danger Island

ANNEX 167

Note Verbale dated 2 April 2010 from Ministry of Foreign Affairs,
Regional Integration and International Trade, Mauritius to the
British High Commission, Port Louis, No. 11/2010 (1197/28/10)



REPUBLIC OF MAURITIUS

**MINISTRY OF FOREIGN AFFAIRS, REGIONAL INTEGRATION
AND INTERNATIONAL TRADE**

No. 11/2010(1197/28/10)

2 April 2010

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius presents its compliments to the High Commission of the United Kingdom of Great Britain and Northern Ireland and has the honour to state as follows:

The Government of the Republic of Mauritius strongly objects to the decision of the British Government to create a marine protected area (MPA) around the Chagos Archipelago, as announced by UK Secretary of State for Foreign and Commonwealth Affairs David Miliband yesterday.

The Government of the Republic of Mauritius wishes to recall that on several occasions following the announcement by the British authorities for an international consultation on their proposal for the creation of an MPA in the waters of the Chagos Archipelago, the Government of Mauritius conveyed its strong opposition to such a project being undertaken without consultation with and the consent of the Government of the Republic of Mauritius. In this regard, the Ministry refers to its Notes Verbales No. 1197/28/10 dated 23 November 2009 and No. 1197/28/4 dated 30 December 2009 in particular. The position of the Government of Mauritius was also conveyed directly by the Prime Minister of Mauritius to British Prime Minister Gordon Brown during the Commonwealth Heads of Government Meeting (CHOGM) in Port of Spain last November and earlier to British Foreign Secretary David Miliband over the phone. The Minister of Foreign Affairs, Regional Integration and International Trade of Mauritius, Dr. the Hon. Arvin Boolell, also communicated the position of Mauritius to Foreign Secretary Miliband during CHOGM in Port of Spain and to the British High Commissioner at several meetings.

It was explained in very clear terms during the above-mentioned meetings that Mauritius does not recognize the so-called British Indian Ocean Territory and that the Chagos Archipelago, including Diego Garcia, forms an integral part of the sovereign territory of Mauritius both under our national law and international law. It was also mentioned that the Chagos Archipelago, including Diego Garcia, was illegally excised from Mauritius by the British Government prior to grant of independence in violation of United Nations General Assembly resolutions 1514 (XV) of 14 December 1960 and 2066 (XX) of 16 December 1965.

The Government of the Republic of Mauritius further believes that the creation of an MPA at this stage is inconsistent with the right of settlement in the Chagos Archipelago of Mauritians, including the right of return of Mauritians of Chagossian origin which presently is under consideration by the European Court of Human Rights following a representation made by Mauritians of Chagossian origin.

The Government of the Republic of Mauritius will not recognize the existence of the marine protected area in case it is established and will look into legal and other options that are now open to it. The more so, the Anglo-US Lease Agreement in respect of the Chagos Archipelago, concluded in breach of the sovereignty rights of Mauritius over the Chagos Archipelago, is about to expire in 2016 and the Chagos Archipelago, including Diego Garcia, should be effectively returned to Mauritius at the expiry of the Agreement.

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius avails itself of this opportunity to renew to the High Commission of the United Kingdom of Great Britain and Northern Ireland the assurances of its highest consideration.

**High Commission of the United Kingdom
of Great Britain and Northern Ireland
7th Floor, Les Cascades Building
Edith Cavell Street
P.O Box 1063
Port Louis.**



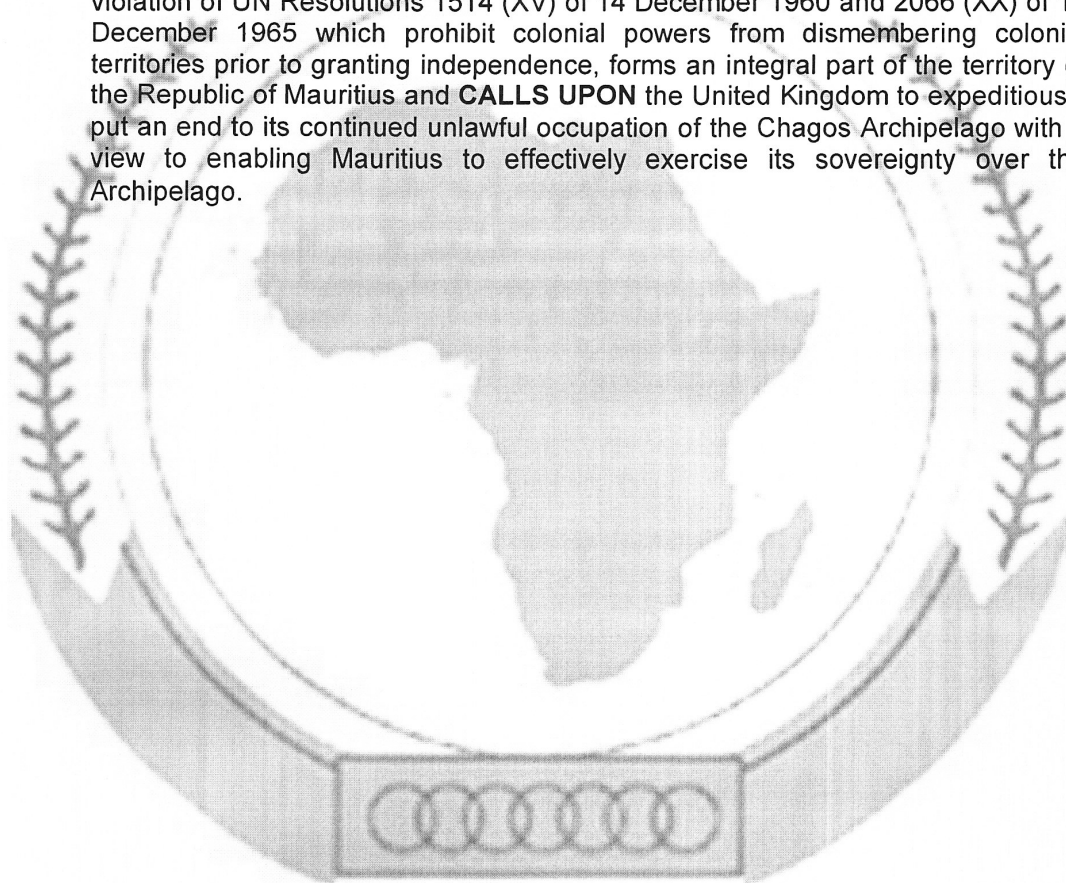
ANNEX 168

African Union Assembly of Heads of States and Government,
Decision on the Sovereignty of the Republic of Mauritius over the
Chagos Archipelago, Assembly/AU/Dec.331(XV), 27 July 2010,
Kampala, Uganda

**DECISION ON THE SOVEREIGNTY OF THE REPUBLIC OF MAURITIUS
OVER THE CHAGOS ARCHIPELAGO**

The Assembly,

1. **RE-AFFIRMS** that the Chagos Archipelago, including Diego Garcia, which was unlawfully excised by the former colonial power from the territory of Mauritius in violation of UN Resolutions 1514 (XV) of 14 December 1960 and 2066 (XX) of 16 December 1965 which prohibit colonial powers from dismembering colonial territories prior to granting independence, forms an integral part of the territory of the Republic of Mauritius and **CALLS UPON** the United Kingdom to expeditiously put an end to its continued unlawful occupation of the Chagos Archipelago with a view to enabling Mauritius to effectively exercise its sovereignty over the Archipelago.



Adopted by the Fifteenth Ordinary Session of the Assembly of the Union on 27 July 2010 in Kampala, Uganda

ANNEX 169

Hansard, House of Commons Written Answers, 21 October 2010

House of Commons Hansard

Written Answers to Questions

21 Oct 2010 : Column 818W

[...]

**FOREIGN AND COMMONWEALTH OFFICE
British Indian Ocean Territory: Fisheries**

Zac Goldsmith: To ask the Secretary of State for Foreign and Commonwealth Affairs what progress his Department has made on the establishment of a marine protected area in the British Indian Ocean Territory. [18332]

Mr Bellingham: The Government believe that the Marine Protected Area (MPA) proclaimed in the British Indian Ocean Territory (BIOT) on 1 April 2010 by the BIOT Commissioner is the right way forward for furthering the environmental protection of the territory and encouraging others to do the same in important and vulnerable areas under their control.

The BIOT Administration are no longer issuing new fishing licences but are honouring those already issued. These licences expire at the end of October.

The BIOT Administration are continuing to work on the implementation of the MPA. This includes preparing implementing legislation in BIOT law, enforcement **21 Oct 2010 : Column 819W** arrangements, establishing administrative and scientific research frameworks, funding, dialogue with interested parties and exploring the opportunities for involving representatives of the Chagossian community in environmental work in the territory.

ANNEX 170

African Union Assembly of Heads of States and Government,
Resolution adopted at the 16th Ordinary Session,
Assembly/AU/Res.1(XVI), 30-31 January 2011, Addis Ababa,
Ethiopia

Assembly/AU/Res.1(XVI)

RESOLUTION

The Assembly of the Union, at its 16th Ordinary Session held in Addis Ababa, Ethiopia from 30 to 31 January 2011,

Recalling that the Chagos Archipelago, including Diego Garcia, was unlawfully excised by the United Kingdom, the former colonial power, from the territory of Mauritius prior to independence of Mauritius, in violation of UN Resolution 1514 (XV) of 14 December 1960 and 2066 (XX) of 16 December 1965 which prohibit colonial powers from dismembering colonial territories prior to granting independence;

Reaffirming that the Chagos Archipelago, including Diego Garcia, forms an integral part of the territory of the Republic of Mauritius;

Recalling in this regard, inter-alia:

- (i) Resolution AHG/Res.99 (XVII) of July 1980 of the Assembly of Heads of State and Government of the Organisation of African Unity (OAU);
- (ii) Decision AHG/Dec.159 (XXXVI) of July 2000 of the Assembly of Heads of State and Government of the Organisation of African Unity (OAU);
- (iii) Decision Assembly/AU/Dec.331(XV) of July 2010 of the Assembly of the African Union.

Noting with grave concern that notwithstanding the OAU/AU Resolution/Decisions and the strong opposition expressed by the Republic of Mauritius, the United Kingdom has proceeded to establish a 'marine protected area' around the Chagos Archipelago on 01 November 2010, in a manner that was inconsistent with its international legal obligations, thereby further impeding the exercise by the Republic of Mauritius of its sovereignty over the Archipelago;

Noting further that the Government of the Republic of Mauritius has, on 20 December 2010, initiated proceedings against the United Kingdom in relation to the dispute concerning the legality of the purported 'marine protected area' as set forth in the Notification of that date, to an Arbitral Tribunal to be constituted under Article 287 and Annex VII of the United Nations Convention on the Law of the sea;

Considering that the Government of the Republic of Mauritius is committed to taking other measures to protect its rights under international law relating to its legitimate aspiration to be able to exercise sovereignty over the Chagos Archipelago, including action at the United Nations General Assembly:

1. **DECIDES** to support fully the action of the Government of the Republic of Mauritius at the United Nations General Assembly with a view to enabling Mauritius to exercise its sovereignty over the Archipelago.

ANNEX 171

Hansard, House of Commons Written Answers, 16 May 2011

House of Commons Hansard

Written Answers to Questions

16 May 2011 : Column 18W

[...]

British Indian Ocean Territory: Environment Protection

Andrew Rosindell: To ask the Secretary of State for Foreign and Commonwealth Affairs what steps his Department is taking to ensure that the Marine Protected Area around the Chagos archipelago is enforced. [55804]

Mr Bellingham: Enforcement is led by a marine protection officer working on board the Pacific Marlin patrol boat. The British Indian Ocean Territory Administration operates a system of permits to control access to and activities within the Marine Protected Area. We also work closely with the Indian Ocean Tuna Commission to limit illegal fishing.

ANNEX 172

Letter dated 20 October 2011 from the Minister of Foreign Affairs,
Regional Integration and International Trade, Mauritius to the UK
Secretary of State for Foreign and Commonwealth Affairs



REPUBLIC OF MAURITIUS

Minister of Foreign Affairs, Regional Integration and International Trade

20 October 2011

Excellency,

*Re: Application of the International Convention on the
Elimination of all Forms of Racial Discrimination
to the Chagos Archipelago*

The Government of the Republic of Mauritius has taken note of the periodic report submitted in March 2010 by the United Kingdom under the International Convention on the Elimination of all Forms of Racial Discrimination ('CERD'). In particular, the Government has noted the statement set forth at Annex XI of the periodic report, in which the United Kingdom states:

"2. In providing a response to the Committee the United Kingdom would make clear that the Convention does not apply to the British Indian Ocean Territory. The United Kingdom does not consider Article 2 paragraph 2 of the Convention relevant to the territory of the British Indian Ocean Territory, or that any separate report was required; so far as concerns the Ilois, the Territory has no permanent inhabitants and members of the armed forces, officials and contractors in the Territory spend only brief periods there.

3. Those individuals who are sometimes referred to as "Ilois" (or more frequently now as "Chagossians") are in many cases now British citizens, whatever racial groups of which they may be members, by virtue of the British Overseas Territories Act 2002. Such individuals now enjoy the right of abode in the United Kingdom and associated rights of residence in Member States of the European Union. A number have exercised their rights in this respect and are currently living in the United Kingdom, whilst others live in other States such as Mauritius and Seychelles."

As you will be aware, the Government of Mauritius does not recognize the so-called "British Indian Ocean Territory" ("BIOT") which the United Kingdom purported to create by illegally excising the Chagos Archipelago from Mauritius prior to its independence. This excision was carried out in violation of the United Nations Declaration on the Granting of Independence to Colonial Countries and Peoples (General Assembly Resolution 1514 (XV) of 14 December 1960) prohibiting the dismemberment of any colonial territory prior to independence, and General Assembly Resolutions 2066 (XX) of 16 December 1965, 2232 (XXI) of 20 December 1966 and 2357 (XXII) of 19 December 1967. Accordingly, the Republic of Mauritius has sovereignty over the Chagos Archipelago, including Diego Garcia. The Chagos Archipelago forms an integral part of the territory of Mauritius under both Mauritian law and international law. The United Kingdom's current *de facto* control over the Chagos Archipelago is preventing Mauritius from exercising its rights over the Chagos Archipelago.

Against this background, the statement by the United Kingdom in its periodic report, as set out above, raises a number of concerns for the Government of Mauritius, which is a party to the CERD. The Government of Mauritius considers that:

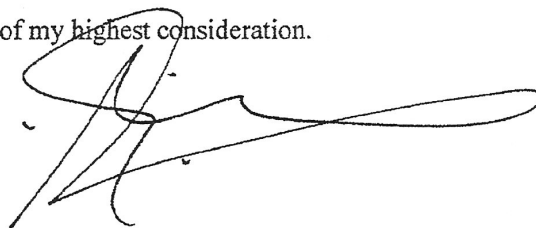
- i. as Mauritius is a party to the CERD, and the Chagos Archipelago is subject to the sovereignty of Mauritius, the CERD applies to the Chagos Archipelago;
- ii. as the United Kingdom is a party to CERD, and as the United Kingdom exercises de facto (but unlawful) control over the territory of the Chagos Archipelago, the United Kingdom has an obligation to ensure that the CERD is applicable to that territory and to give effect to applicable CERD obligations;
- iii. the United Kingdom has acted, and continues to act, in violation of Articles 2 and 5 of the CERD, *inter alia*, by preventing the exercise of the right of return of the former inhabitants of the Chagos Archipelago, as well as the right of entry of other Mauritian nationals.

It is apparent that there exists a dispute between Mauritius and the United Kingdom as to the interpretation and application of the CERD, including but not limited to the application of Articles 2 and 5 to the Chagos Archipelago.

Having regard to the passage of time over which this dispute has persisted, and the hardship caused to the former inhabitants of the Chagos Archipelago by the continuing violations of the CERD by the United Kingdom, the Government of Mauritius hereby invites the Government of the United Kingdom to engage in negotiation within the meaning of Article 22 of the CERD, with a view to an early resolution of the dispute.

Mauritius proposes that the negotiations commence on a mutually convenient date, subsequently to be agreed, in the month of November, in either Port Louis or London, and that the agenda include the matters identified in items numbered (i), (ii) and (iii) above.

Please accept, Excellency, the assurances of my highest consideration.



Dr the Hon. Arvin Boolell, GOSK
Minister

The Rt. Hon. William Hague MP
First Secretary of State,
Secretary of State for Foreign and Commonwealth Affairs
London
United Kingdom

ANNEX 173

Letter dated 21 March 2012 from the Minister of Foreign Affairs,
Regional Integration and International Trade, Mauritius to the UK
Secretary of State for Foreign and Commonwealth Affairs



REPUBLIC OF MAURITIUS

Minister of Foreign Affairs, Regional Integration and International Trade

21 March 2012

Excellency,

I wish to refer to Note No. 69/2011 of 22 November 2011 from the British High Commission in Port Louis concerning the International Convention on the Elimination of all Forms of Racial Discrimination ('CERD') and the Chagos Archipelago, in reply to my letter of 20 October 2011.

I reiterate the position of the Government of the Republic of Mauritius, as stated in my letter of 20 October 2011, that there is a dispute between Mauritius and the United Kingdom concerning the interpretation and application of CERD and renew our invitation to the Government of the United Kingdom to engage in negotiation within the meaning of Article 22 of CERD, with a view to an early resolution of the dispute.

Application of CERD to the Chagos Archipelago

In its Note of 22 November 2011, the British High Commission stated that CERD applies as a matter of law to the so-called "British Indian Ocean Territory" ("BIOT").

The Government of Mauritius does not recognize the so-called "BIOT" which the United Kingdom purported to create by illegally excising the Chagos Archipelago from the territory of Mauritius prior to its independence. This excision was carried out in violation of international law and the United Nations Declaration on the Granting of Independence to Colonial Countries and Peoples (General Assembly Resolution 1514 (XV) of 14 December 1960) prohibiting the dismemberment of any colonial territory prior to independence, and General Assembly Resolutions 2066 (XX) of 16 December 1965, 2232 (XXI) of 20 December 1966 and 2357 (XXII) of 19 December 1967. Accordingly, the Republic of Mauritius has sovereignty over the Chagos Archipelago, including Diego Garcia. The Chagos Archipelago forms an integral part of the territory of Mauritius under both Mauritian law and international law.

The United Kingdom exercises *de facto* control over the Chagos Archipelago, thus preventing the exercise by Mauritius of its rights over the Chagos Archipelago as well as the exercise of the right of return of the former inhabitants of the Archipelago and the right of entry of other Mauritian citizens.

ANNEX 173

The Republic of Mauritius and the United Kingdom are both parties to CERD. The United Kingdom signed CERD on 11 October 1966 and ratified it on 7 March 1969. The Republic of Mauritius acceded to CERD on 30 May 1972. Neither State has made any declaration or reservation in respect of CERD.

As Mauritius is a party to CERD and the Chagos Archipelago is subject to the sovereignty of Mauritius, CERD applies to the Chagos Archipelago.

As the United Kingdom is a party to CERD and exercises de facto (but unlawful) control over the Chagos Archipelago, it has an obligation to give effect to applicable CERD obligations with regard to the Chagos Archipelago.

Relevant Provisions of CERD

Article 1, paragraph 1 of CERD gives the following definition of "racial discrimination":

"[A]ny distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life."

Article 2, paragraph 1 of CERD provides that:

"States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end:

- (a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;

[...]

- (c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;
- (d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization."

ANNEX 173

Article 2(2) provides that:

"States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. [...]"

Article 5 provides that:

"In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

[...]

(d) Other civil rights, in particular:

- (i) The right to freedom of movement and residence within the border of the State;
- (ii) The right to leave any country, including one's own, and to return to one's country;

[...]"

The Government of Mauritius considers that, by its conduct in respect of the Chagos Archipelago, the United Kingdom has violated its obligations under CERD.

Factual Circumstances of the Dispute

The Chagos Archipelago

The Chagos Archipelago comprises a number of islands located in the Indian Ocean, including Diego Garcia, Peros Banhos and the Salomon Islands. Until 1965, the Chagos Archipelago was administered by the United Kingdom as part of the Territory of Mauritius, over which it exercised colonial authority. The settled population of the islands at that time numbered approximately 2,000 people, who are referred to as Chagossians ("former residents of the Chagos Archipelago"). They are recognised by the Constitution of Mauritius as citizens of Mauritius (see below) and formed a settled and well-established community on the Archipelago.

ANNEX 173

The Removal of the Population of the Archipelago

In 1964, the United Kingdom secretly agreed to provide Diego Garcia to the United States for the purpose of establishing a military base there. It was apparent at that time that Mauritius was likely to gain its independence in the near future, and would have sovereignty over the Chagos Archipelago. The United States did not wish sovereignty over Diego Garcia and the rest of the Chagos Archipelago to pass to an independent Mauritius. Accordingly, the United Kingdom made the "British Indian Ocean Territory Order 1965" ("the Order"), under the United Kingdom's Colonial Boundaries Act 1895. The Order purported to establish a so-called "British Indian Ocean Territory" consisting of the Chagos Archipelago which the UK illegally excised from Mauritius, and the separate islands of Aldabra, Farquhar and Desroches taken from the colonial territory of Seychelles. In 1976, when Seychelles gained independence, the latter three islands were returned to it. The Order created the office of the Commissioner of the so-called "BIOT" and conferred upon him power to "make laws for the peace, order and good government of the Territory."

At the end of 1966 there took place a secret exchange of notes between the Governments of the United Kingdom and the United States, by which the United Kingdom agreed to make the so-called "BIOT" available to the United States for defence purposes for an "indefinitely long period" with an initial term of fifty years, renewable for a further period of twenty years. The United Kingdom subsequently agreed to the establishment of a US military base on Diego Garcia.

In 1968, Mauritius achieved independence from the United Kingdom. Section 111(1) of the Constitution of Mauritius states that "'Mauritius' includes – (a)...the Chagos Archipelago, including Diego Garcia..."

Section 20 of the Constitution further provides *inter alia* as follows:

"(1) Every person who, having been born in Mauritius, was on 11 March 1968 a citizen of the United Kingdom and Colonies became a citizen of Mauritius on 12 March 1968....

(4) For the purposes of this section, a person shall be regarded as having been born in Mauritius if he was born in the territories which were comprised in the former Colony of Mauritius immediately before 8 November 1965 but were not so comprised immediately before 12 March 1968 unless either of his parents was born in the territories which were comprised in the Colony of Seychelles immediately before 8 November 1965."

In 1970, the United States gave notice that Diego Garcia would be required in July 1971. After receiving this notice, the Commissioner of the so-called "BIOT", using his powers of legislation under the "BIOT" Order, made the Immigration Ordinance 1971. It provided in section 4(1) that "[n]o person shall enter the Territory or, being in the Territory, shall be present or remain in the

Territory, unless he is in possession of a permit...[issued by an immigration officer].”

Between 1968 and 1973 the United Kingdom forcibly removed all Mauritians residing at the time in the Chagos Archipelago.

Subsequent Events

Since gaining its independence in 1968, Mauritius has consistently asserted its sovereignty over the Chagos Archipelago and its desire, as *parens patriae* of its citizens, to protect the rights of the former inhabitants of the Archipelago, including their right of return to their homes. It has asserted these rights in general statements, including at the United Nations,¹ and in bilateral communications with the United Kingdom.² The United Kingdom has persistently refused to recognise the sovereignty of Mauritius over the Chagos Archipelago and to allow the Chagossians to return to their homes on the Chagos Archipelago. Despite the discussions and negotiations between Mauritius and the United Kingdom on the right of return, including the two rounds of bilateral talks held in January and July 2009, the Chagossians remain unable to return to their homes.

At the same time, the United Kingdom has authorised others to reside in the Chagos Archipelago, including a significant number of personnel at the US base on Diego Garcia.

Most recently, by decision dated 1 April 2010, the United Kingdom purported to establish a “Marine Protected Area” (“MPA”) covering the entire 200-mile zone which it has purported to declare around the Chagos Archipelago. The United Kingdom purported to bring the “MPA” into force on 1 November 2010. Among the effects of the “MPA” is the prevention of all fishing in the waters of the Chagos Archipelago, including artisanal fishery and fishery by the Chagossians and other Mauritians when they return to the Chagos Archipelago. It is understood by the United Kingdom that the “MPA” will have the effect of preventing the right of return (see reported comments of Mr. Colin Roberts, the Commissioner of the so-called “BIOT”, that “establishing a marine park would, in effect, put paid to resettlement claims of the archipelago’s former residents”³).

¹ For example, in statements to the General Assembly on 23 September 1998, 30 September 1999, 22 September 2000, 19 September 2005, and 28 September 2010.

² For example, letters from the Government of Mauritius to the Government of the United Kingdom on 9 January 1998, 5 July 2000, 6 November 2000, 30 December 2009, 19 February 2010, and 2 April 2010.

³ See *The Guardian*, 3 December 2010. The legality of the “MPA” by reference to the 1982 United Nations Convention on the Law of the Sea is the subject of separate proceedings brought by Mauritius against the United Kingdom; those proceedings do not address the issue of discrimination or rights and obligations arising under the International Convention on the Elimination of all Forms of Racial Discrimination.

Dispute concerning the interpretation and application of CERD

The Government of Mauritius claims, in its own right and as *parens patriae* of its citizens, and without prejudice to the sovereignty of Mauritius over the Chagos Archipelago, that the United Kingdom is responsible for serious violations of its fundamental obligations under CERD, including, but not limited to Articles 2 and 5. The acts which constitute those violations include, but are not limited to:

- (1) The forcible removal of all the Mauritian citizens who were former residents of the Chagos Archipelago;
- (2) The ongoing denial of the fundamental rights of the Mauritian citizens who were former residents of the Chagos Archipelago, including their fundamental rights of residence and of return;
- (3) The failure to take practical steps to facilitate the return of the Mauritian citizens who were former residents of the Chagos Archipelago to their homes, and the adoption of measures that are aimed at impeding their effective return to the Chagos Archipelago.

The Republic of Mauritius, on its own behalf and as *parens patriae* for its citizens, and without prejudice to its sovereignty over the Chagos Archipelago, respectfully requests the United Kingdom to recognise that it has violated its obligations under CERD by:

- (1) Engaging in acts and practices of "racial discrimination against persons, groups of persons or institutions" and failing "to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation", contrary to Article 2(1)(a) of CERD;
- (2) Failing to "take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists", contrary to Article 2(1)(c) of CERD;
- (3) Failing to "prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization", contrary to Article 2(1)(d) of CERD;
- (4) Failing to take "special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms", contrary to Article 2(2) of CERD;

- (5) Undermining the enjoyment of the enumerated fundamental rights in Article 5 of CERD by the Mauritian citizens who were former residents of the Chagos Archipelago, including the right of return;
- (6) Failing to provide "effective protection and remedies" against acts of racial discrimination, contrary to Article 6 of CERD.

The Republic of Mauritius, on its own behalf and as *parens patriae* for its citizens, and without prejudice to its sovereignty over the Chagos Archipelago, respectfully requests the United Kingdom to take all steps necessary to give effect to applicable CERD obligations with regard to the Chagos Archipelago, including:

- (1) Taking all necessary measures to ensure the right of return of the Mauritian citizens who were former residents of the Chagos Archipelago, and their descendants, to their homes, including:
 - (a) repeal of the legal provisions barring them from return to the Archipelago; and
 - (b) the provision of appropriate practical and economic measures of support to enable them to rebuild their homes and communities and to ensure the reconstruction of a viable community on the Archipelago.
- (2) Paying full compensation to Mauritius for all injuries resulting from the internationally wrongful acts of the United Kingdom, including the costs of resettlement in the Chagos Archipelago.
- (3) Taking all necessary measures to ensure the right of entry of other Mauritian citizens to the Chagos Archipelago.

Negotiation within the meaning of Article 22 of CERD

The Republic of Mauritius notes the view set forth in the British High Commission's Note No. 69/2011 of 22 November 2011 that "there is no dispute between Mauritius and the United Kingdom concerning the interpretation or application of the CERD within the meaning of Article 22 thereof." For the reasons set out above, that view is plainly not sustainable. In this regard, we draw to your attention the concluding observations of the CERD Committee, adopted on 1 September 2011, which state *inter alia* at paragraph 12:

"The Committee is deeply concerned at the State party's position that the Convention does not apply to the British Indian Ocean Territory (BIOT). The Committee further regrets that the BIOT (Immigration) Order 2004 not only bans Chagossians (Ilois) from entering Diego Garcia but also bans them from entering the outlying islands located

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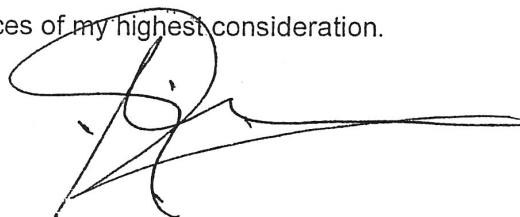
over 100 miles away, on the grounds of national security (arts. 2 and 5(d)(i)). [...]

The Committee recommends that all discriminatory restrictions on Chagossians (Ilois) from entering Diego Garcia or other Islands on the BIOT be withdrawn."

The views of the CERD Committee confirm the view of Mauritius that there exists a dispute between Mauritius and the United Kingdom as to the interpretation and application of CERD, including but not limited to the application of Articles 2 and 5 to the Chagos Archipelago. Having regard to the passage of time over which this dispute has persisted, and the hardship caused to the former inhabitants of the Chagos Archipelago by the continuing violations of CERD by the United Kingdom, the Government of Mauritius renews its invitation to the Government of the United Kingdom to engage in negotiation within the meaning of Article 22 of CERD, with a view to an early resolution of the dispute.

I reiterate the proposal of the Government of Mauritius that negotiations commence on a mutually convenient date to be agreed, and that this should be no later than the end of April 2012 in either Port Louis or London.

Please accept, Excellency, the assurances of my highest consideration.

A handwritten signature in black ink, consisting of a large, stylized 'A' followed by a long horizontal stroke.

**Dr the Hon. Arvin Boolell, GOSK
Minister**

**The Rt. Hon. William Hague MP
First Secretary of State,
Secretary of State for Foreign and Commonwealth Affairs
London
United Kingdom**

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Ministerial Declaration of the Group of 77 and China on the
occasion of UNCTAD XIII, 21 April 2012, Doha, Qatar



United Nations Conference on Trade and Development

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Ministerial Declaration of the Group of 77 and China on the occasion of UNCTAD XIII

The road to Doha: A world of constancy; a world of change

1. We, the Ministers of the member States of the Group of 77 and China, met in Doha, Qatar, on the occasion of the thirteenth United Nations Conference on Trade and Development (UNCTAD). We express our appreciation and gratitude to the State of Qatar and its people for the excellent organization and hosting the Ministerial Meeting and the warm hospitality that has been bestowed on us in the city of Doha since our arrival.
2. We also express our appreciation to the Secretary-General of the United Nations Conference on Trade and Development for the secretariat's continued support extended to the Group, which has enhanced our effectiveness, especially the Geneva Chapter. There is an organic and symbiotic link between UNCTAD and the Group of 77 and China, and we look forward to the continuing strengthening of this bond. We reaffirm our commitment to strengthen our ability as a Group to collectively promote our interests.
3. We also reaffirm the central role of UNCTAD as the focal point within the United Nations for the integrated treatment of trade and development and interrelated issues in the areas of finance, technology, investment and sustainable development. UNCTAD is pre-eminently placed to respond to the current and emerging *global* challenges facing developing countries. We call for the strengthening of UNCTAD's three pillars; research and analysis, consensus-building, and technical cooperation, as well as the intergovernmental machinery. We underscore the need of further enhancing the role of the United Nations in international economic and financial governance, and its centrality on the global development agenda.
4. Since our last meeting in Accra, Ghana, on the occasion of the twelfth United Nations Conference on Trade and Development, events have highlighted challenges and opportunities facing the international community. The global economic, financial and trading system, including the multilateral trading system, remains unbalanced. The global economic and financial crisis has revealed new vulnerabilities. High volatility of food and energy prices is a persistent challenge, global inequality remains, and many are still in the abyss of poverty. The threat from climate change seems to grow more pressing, even more so when combined with the effects of other man-made environmental degradation.

5. To reaffirm the Accra Accord, greater focus is required in development policy on building productive capacities while avoiding the use of economics as a tool to achieve political ends. Policy space for developing countries remains constrained. There continues to be a need to move away from the one-size-fits-all approach to development, which remains persistent.

6. On the other hand, opportunities have emerged in the international community for the elaboration and articulation of more effective approaches to development cooperation. Information and communications technology has made the world smaller and has made it easier to share experiences and best practices.

7. These challenges and opportunities have highlighted the need for continued and strengthened solidarity among developing countries, and the need to further enhance and strengthen the Group. We recognize that we face common external and systemic threats to our efforts to improve the economic and social welfare of all our citizens. This recognition enables us as developing countries to demonstrate our solidarity as the embodiment of South–South cooperation to act more effectively. We reiterate that South–South cooperation does not replace, but rather complements North–South cooperation, and along with triangular cooperation, may contribute to inclusive and sustainable growth and development. This includes addressing the persistent challenges whose solution has continued to be elusive, while affording developing countries, in particular least developed countries (LDCs), greater opportunity to overcome the new challenges to development.

8. The Group therefore needs to focus on how to mitigate crises or avert the fallout, and more importantly, how to achieve the development levels needed to create a truly balanced world and propel itself into a new level of development by addressing systemic and entrenched inequalities, including in the areas of information and communications technology, as well as the Internet. The expeditious and effective transfer of appropriate technology and the promotion of innovation in developing countries remain important, in particular in addressing the existing digital divide.

9. As part of the response, the Group needs to be a proactive force in the global effort to solve global issues. It needs to build on its solidarity and maximize its competitive advantage. Our collective capacity to address the main constraints to a better future for our people – such as poverty, hunger, food insecurity, unemployment, inequality, energy insecurity and lack of access to renewable energy and relevant technologies, the adverse effects of climate change, imbalances in global trade, the spread of communicable diseases, inadequate technology transfer and reforms of the international trade and financial architecture, should be enhanced. The United Nations' contribution to the global effort should be consistent with the profile, needs and development goals of the peoples of the South. Fresh and clear ideas are needed to address the needs and challenges of developing countries, in particular LDCs, as they graduate from every step of the development process. We also underline that the enhanced and effective role of the State is crucial to lead and promote development.

10. On this basis, the key message of UNCTAD XIII is of particular resonance in today's world: that in order to build sustainable and inclusive development the international community should enhance its support to development. In this direction, we must ensure that the approach to development is one that takes into account the needs, priorities and objectives of individual developing countries and its peoples.

From Doha to the future: Towards more effective approaches to development

11. We recognize that in order for the Group to play its rightful role in the international community, it must be better equipped, in terms of ideas and in terms of capacity. The objective is a simple one: to accelerate development to make the world a better place for humanity – through the articulation and pursuit of ideas and initiatives to make the global economic and financial system, and models for development, more effective and more rooted in the experiences and priorities of developing countries.

12. We must work collectively as a Group to redefine the development agenda. Through the force of our ideas, and through the effectiveness of our action, we must remain resolute as we continue to pursue the Millennium Development Goals and bring about development goals after 2015 that will enable us to realize a more prosperous and better future for humanity. In this regard, we reiterate the need to meet, in an expeditious manner, the internationally agreed targets for official development assistance of 0.7 per cent of gross national product (GNP) of donor countries to developing countries and of an additional 0.15 per cent to 0.2 per cent of GNP to the LDCs by 2015 as well as further enhance the resources for the LDCs.

13. We must articulate a more comprehensive and contemporary view of the global economic and development situation. In so doing, we must update our platform. We must continue to show that ours is a Group of ideas, of pragmatism and of effective action. As we refine and redefine development in the post-2015 world, we should engage with our partners and stakeholders that will support us in our development needs. It is vital that the international community work towards achieving the graduation of half of the LDCs by 2020, as envisioned in the Istanbul Programme of Action. In short, we should reposition ourselves to adapt to the global changes as well as to continue improving the standard of living in developing countries. To achieve this, we need the support and assistance of our key partners, such as UNCTAD and the South Centre, as well as through new partnerships with other multilateral and regional institutions, and other stakeholders that share our causes.

14. This work also requires that the global economic and financial system post-2015 will be an architecture that is truly fair, democratic and supportive of sustainable development. In this regard, the impact of the current global economic and financial crises needs to be addressed, while reform of global economic and financial governance structures with the participation of all is crucial. It is therefore imperative that the global monetary and financial system fully supports sustainable development, and that the multilateral trading system truly ensures that trade, among other factors, serves as an engine for development.

15. We express serious concern at the lack of progress in the Doha Round of World Trade Organization (WTO) negotiations. All WTO members should uphold and reiterate their commitment for WTO to promote an open, equitable, rules-based and predictable multilateral trading system, with development as a core element of WTO's work. The Group of 77 and China reiterates the call for the necessary flexibility and political will required to break the current impasse in the negotiations and conclude in a balanced, ambitious, comprehensive and development-oriented outcome of the Doha Development Agenda, with the necessary special and differential treatment for developing countries, in particular LDCs. We emphasize the importance of facilitating accession to WTO. The accession process should be accelerated without political impediments and in an expeditious and transparent manner for developing countries. This would contribute to the rapid and full integration of these countries into the multilateral trading system.

16. While preserving our policy space, the Group shall endeavour to fight against all threats to economic growth and development, including all forms of protectionist measures and unilateral economic pressures, especially by the leading industrial economies.

17. We express concern about the adoption of unilateral actions that are not consistent with International Laws, Rules and Principles of the World Trade Organization. These measures harm the exports and impede the full achievement and further enhancement of the economic and social development of all countries, particularly the developing countries. Therefore, we firmly reject the imposition of laws and regulations with extraterritorial impact and all other forms of coercive economic, financial and trade measures, including unilateral sanctions against developing countries. We urge the international community to take urgent and effective measure to eliminate the use of such measures.

18. Likewise, attention should be given to analysing and monitoring how subsidies of developed countries have historically affected and continue to undermine the development of productive capacities in the agricultural sector of developing countries.

19. We reaffirm the need for the Government of the Argentine Republic and the United Kingdom of Great Britain and Northern Ireland to resume negotiations in accordance with the principles and the objectives of the United Nations Charter and the relevant resolutions of the General Assembly, in order to find, as soon as possible, a peaceful solution to the sovereignty dispute relating to “the Question of the Malvinas Islands”, which seriously damages the economic capacities of the Argentine Republic and the need for both parties to refrain from taking decisions that would imply introducing unilateral modifications in the situation while the Islands are going through the process recommended by the General Assembly.

20. We reaffirm the need to find a peaceful solution to the sovereignty issues facing developing countries, including among others the disputes over Chagos Archipelago, including Diego Garcia, which was unlawfully excised from the territory of Mauritius in violation of international law and United Nations General Assembly resolution 1514 (XV) of 14 December 1960 and 2066 (XX) of 16 December 1965. Failure to resolve these decolonization and sovereignty issues would seriously damage and undermine the development and economic capacities and prospects of developing countries.

21. The Palestinian people continue to endure hardships on daily basis as a result of the occupation. We are alarmed by the harsh economic conditions and the Israeli-imposed illegal measures, which include closure, blockade and destruction of property, appropriation of Palestinian natural resources and land, and restrictions on movement. All of these measures aim to prevent the Palestinians from pursuing economic development, sustaining their basic needs, and violate the basics of human rights in the occupied territory of Palestine.

Building from Doha: strengthened capacities for a stronger Group

22. Along the way to 2015, we have an important double golden jubilee. In 2014, we will celebrate the fiftieth anniversary of the Group of 77 and China. We will also celebrate the fiftieth anniversary of UNCTAD. In its almost 50 years of existence, the Group has accomplished much. As the world has changed, the Group of 77 and China in Geneva needs to continue to evolve to strengthen the Group and enhance its impact. Likewise, UNCTAD has accomplished much. Yet so much more remains to be done.

23. The double golden jubilee should recall, recognize and build on past accomplishments, and should be celebrated in a forward-looking spirit. The Group should bring together in Geneva – the birthplace of the Group of 77 and China, and UNCTAD – an

unprecedented assembly of leaders and intellectuals to recommit the international community to the ideals of development and a better future for all.

24. We recognize that our endeavour is ambitious, and that it will not be easy. In order to embark on such an ambitious task, it is necessary to build on the most important resource of the Group – its people, its solidarity and capacity to act united. We therefore resolve that the Group should embark on a major program of capacity-building measures to strengthen the Group as a whole and reinforce the Group's role as a united and influential force in multilateral for a and global economy.

25. We therefore strongly encourage all Chapters of the Group to undertake specific capacity-building initiatives in partnership with the relevant institutions and organizations, be they multilateral or regional organizations and think tanks, to strengthen their capacity to generate new ideas, build consensus around them and operationalize them through the multilateral process. This should include enhanced training of negotiators of the Group in strategic planning, negotiations and consensus-building.

26. We also encourage closer coordination by all Chapters to strengthen their work, and that of the Group of 77 and China, by making use of new means of communication, to enhance the sharing of information, experience and expertise, as well as consolidating negotiating positions.

27. We also look forward to the Group working more closely with UNCTAD, South Centre, and other development-oriented think tanks and regional organizations to build further the intellectual capacity of the Group. In this regard, we encourage the New York and Geneva Chapters to initiate immediately the organization of an annual senior-level forum of officials and intellectuals, on the sidelines of the annual substantive session of the Economic and Social Council, for the exchange of innovative ideas on development issues, which could then directly contribute to the broader work of the Group of 77 and China.

28. We also look forward to the Group engaging with the various entities of the United Nations system, including the regional commissions, as well as other international organizations, regional organizations and development banks, and other think tanks in the South, to enrich and deepen the work of the Group. Such interaction can include, but not be limited to, capacity-building activities, substantive dialogue and other activities consistent with advancing the interests and the priorities of the Group.

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Hansard, House of Lords Debates, 11 June 2012, c149W

House of Lords - Written Answers

Monday 11 June 2012

British Indian Ocean Territory

Questions

Asked by **Baroness Whitaker**

To ask Her Majesty's Government, further to the Written Answer by Lord Howell of Guildford on 27 March (*WA 240*) indicating that there were "no plans to change the British Indian Ocean Territory marine protected area" and that the area was "fully

[11 Jun 2012 : Column WA150]

compatible with United Nations Convention on the Law of the Sea obligations", what are the grounds on which there was announced on the Foreign and Commonwealth Office Overseas Territories website as last amended on 12 April an increase of the size of the British Indian Ocean Territory (BIOT) Marine Protected Area from 544,000 square kilometres to 640,000 square kilometres; and whether amended outer limit lines of the BIOT Fisheries (Conservation and Management) Zone 1991 and the BIOT Environment (Protection and Preservation) Zone 2003 had accordingly been communicated to the Secretary-General of the United Nations, as required by Article 75 of the United Nations Convention on the Law of the Sea.[HL445]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): Due to a clerical error, the size of the British Indian Ocean Territory (BIOT) Marine Protected Area was incorrectly stated on the Foreign and Commonwealth Office's website. This was corrected in April 2012 when the mistake was realised. The outer limits of the BIOT Fisheries (Conservation and Management) Zone 1991 and the BIOT Environment (protection and Preservation) Zone 2003 have not changed.

Asked by **Baroness Whitaker**

To ask Her Majesty's Government, further to the Written Answer by Lord Howell of Guildford on 27 March (*WA 240*) indicating that there were "no plans to change the British Indian Ocean Territory marine protected area" and that the area was "fully compatible with United Nations Convention on the Law of the Sea obligations", whether

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the delimitation of the British Indian Ocean Territory marine protected area has been agreed with the Republic of the Maldives; and, if not, whether procedures for dispute settlement have been initiated in the absence of agreement, as required by Article 74 of the United Nations Convention on the Law of the Sea.[HL446]

Lord Howell of Guildford: There is no agreement delimiting the boundary between the Maldives and the British Indian Ocean Territory. There has been an initial discussion between the Government and the Republic of the Maldives. The UK regards the median line as the boundary between the Maldives and the British Indian Ocean Territory.

Asked by **Baroness Whitaker**

To ask Her Majesty's Government, further to the Written Answer by Lord Howell of Guildford on 27 March (*WA 240*), indicating that there were "no plans to change the British Indian Ocean Territory marine protected area" and that the area was "fully compatible with United Nations Convention on the Law of the Sea obligations", how they intend to take enforcement measures against foreign vessels in the British Indian Ocean Territory marine protected area under Article 73 of the United Nations Convention on the Law of the Sea, taking account of Article 56(2) of the Convention.[HL447]

[11 Jun 2012 : Column WA151]

Lord Howell of Guildford: The Government have consistently made clear that the establishment of the Marine Protected Area around the British Indian Ocean Territory (BIOT) is fully compatible with the United Nations Convention on the Law of the Sea. The BIOT Patrol vessel, the Pacific Marlin is used to enforce the laws of the British Indian Ocean Territory and its use is also compatible with the convention.

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National Assembly of Mauritius, 12 June 2012,
Reply to Private Notice Question

**PRIME MINISTER REPLIES TO PRIVATE NOTICE QUESTION AND
PARLIAMENTARY QUESTIONS OF 12th JUNE 2012**

12.06. 2012

Private Notice Question

To ask Dr the Honourable Prime Minister, Minister of Defence, Home Affairs and External Communications, Minister for Rodrigues -

Whether, in regard to the sovereignty of Mauritius over the Chagos Archipelago, he will state –

- (a) if he discussed same with Mr David Cameron, Prime Minister of the United Kingdom, during his last visit thereto and, if so, indicate the outcome thereof;**
- (b) if he proposes to meet Mr Barack Obama, President of the United States of America, in relation thereto and, if so, when;**
- (c) if Government proposes to take new initiatives to make out our case in relation thereto and, if so, give details thereof; and**
- (d) the stand taken by Government, if any, at the April/May 2012 Meeting of the Indian Ocean Tuna Commission held in Australia, following the intervention of the officials of the so-called “British Indian Ocean Territory”?**

REPLY

Mr Speaker, Sir,

Following my meeting with the British Prime Minister, Mr David Cameron on Friday 08 June 2012, I announced through the media that I shall make a statement at the National Assembly today on the outcome of the meeting. I thank the Hon. Leader of the Opposition for his Private Notice Question which gives me an opportunity to inform the House and the population at large on the discussions I had with the British Prime Minister.

I should like to stress that the main purpose of my mission to the UK last week was to have a bilateral meeting with Mr David Cameron, the British Prime Minister. While in the UK, I

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also participated in the celebrations marking Her Majesty's Diamond Jubilee at Her Majesty's invitation

The meeting with the British Prime Minister was held at 10, Downing Street. On the British side the Hon. Henry Bellingham, Parliamentary Under Secretary of State of the Foreign and Commonwealth Office Mr John Dennis, Head of Africa Desk at the Foreign and Commonwealth Office and Private Secretaries of Prime Minister Cameron and Hon. Henry Bellingham were also present. In attendance on the Mauritius side were the Secretary to the Cabinet, the Solicitor-General, our High Commissioner in London and our Permanent Representative to the United Nations in New York.

Both sides highlighted the long-standing ties between our two countries and looked forward to the successful hosting of CHOGM in Mauritius in 2015. I observed, however, that the dispute on the Chagos issue remained a blot in this otherwise excellent relationship.

I reminded the British Prime Minister of the repeated undertakings by the UK that the Chagos Archipelago would be returned to Mauritius when no longer needed for defence purposes. I indicated that there is an excellent window of opportunity to redress the injustice caused by the excision of the Chagos Archipelago from the territory of Mauritius with the expiry of the UK-US arrangements on the use of the archipelago in 2016. And, in this connection, I stressed on the need for formal talks between Mauritius, UK and the US to be initiated with a view to reaching an agreement on the effective exercise of sovereignty by Mauritius while safeguarding the continued use of Diego Garcia for US defence purposes.

The British Prime Minister observed that there were some concerns about the multiplicity of litigations pertaining to the Chagos Archipelago that are currently ongoing. He added that the presence of a military base in Diego Garcia further added to the complexity of the issue.

In the course of the discussions an understanding was reached for both parties to start a process of positive dialogue on the future use of the Chagos Archipelago. I informed the British Prime Minister that I will make a formal announcement about this process. I will follow up on this matter for a prompt start of such talks and will propose that these be held at Ministerial level.

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In regard to part (b) of the Question I informed the British Prime Minister that I intend, during a proposed visit to Washington, to put across our proposal that all three States sit together and come to an agreement on the sovereignty issue without causing any prejudice to the continued use of Diego Garcia as a military base to meet prevailing security needs. The British Prime Minister took note of this initiative vis-à-vis the US.

Mr Speaker, Sir,

Regarding part (c) of the Question, we all know the circumstances in which the Chagos Archipelago was excised from the territory of Mauritius prior to our accession to independence when the UK was the colonial master dictating the laws and policies of Mauritius. The excision was in violation of international law and various United Nations General Assembly Resolutions.

Mr Speaker, Sir,

The House will surely appreciate that in view of the sensitive and complex nature of discussions on this subject, it will not be in our interest to delve into details of the strategy we have chartered out for attaining our ultimate objective.

It will be recalled that, when in June 2004, media gave headline publicising a leaked information that Mauritius intended to leave the Commonwealth in order to take the UK to the International Court of Justice, the British Government promptly came up with a declaration at the UN stating that it did not recognize the jurisdiction of the International Court of Justice in relation to any dispute with the Government of any other country which is or has been a member of the Commonwealth.

Mr Speaker, Sir,

In the light of what I have just said the Leader of the Opposition and the House will appreciate that we should be very careful in engaging in a public debate about each and every of our initiatives. However, the House can rest assured that we will continuously explore all legal and diplomatic initiatives with the assistance of our local and external lawyers or advisers.

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I must, however, inform the House that at the diplomatic level, a number of initiatives have been successfully undertaken by Mauritius, as evidenced by Declarations, Decisions and Resolutions supporting the sovereignty of Mauritius over the Chagos Archipelago adopted by the African Union Summits in July 2010 and January 2011, the Non-Aligned Movement Summit in July 2009, and the Non-Aligned Movement Ministerial Conferences in May 2011 and May 2012. In particular, for the first time, the Group of 77 and China in April 2012 adopted a Ministerial Declaration on the occasion of UNCTAD XIII which, inter alia, reaffirms the need to find a peaceful solution to the dispute over the Chagos Archipelago, including Diego Garcia, which was unlawfully excised from the territory of Mauritius.

Mr Speaker, Sir,

Regarding part (d) of the Question, I am informed that Mauritian Officials attending the Indian Ocean Tuna Commission held in April 2012 in Australia had made the following statement, I quote,

“The Government of the Republic of Mauritius does not recognise the so-called “British Indian Ocean Territory” (“BIOT”) which the United Kingdom purported to create by illegally excising the Chagos Archipelago from the territory of Mauritius prior to its independence. This excision was carried out in violation of United Nations General Assembly Resolutions 1514 (XV) of 14 December 1960, 2066 (XX) of 16 December 1965, 2232 (XXI) of 20 December 1966 and 2357 (XXII) of 19 December 1967.

The Government of the Republic of Mauritius reiterates that the Chagos Archipelago including Diego Garcia forms an integral part of the territory of Mauritius under both Mauritian law and international law.

The Government of the Republic of Mauritius does not also recognise the existence of the ‘marine protected area’ which the United Kingdom had purported to establish around the Chagos Archipelago. On 20 December 2010, Mauritius initiated proceedings against the United Kingdom under Article 287 and Annex VII to the United Nations Convention on the Law of the Sea to challenge the legality of the ‘marine protected area’.”

Unquote

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In fact I should inform the House that my office has issued a circular to all supervising officers of Ministries/Departments in January 2012, requesting to ensure that officials attending international conferences, meetings or seminar adopt a consistent stand on the Mauritius position on the Chagos and Tromelin issue whenever so related questions arise.

The sovereignty of Mauritius over the Chagos Archipelago is an issue which, in my view, should transcend party politics. We should all act with a unity of purpose to achieve our objective for our country to effectively exercise sovereignty over the Chagos Archipelago. I would, therefore, appeal to all members of this august Assembly to support the initiative of Government regarding what the late Mr Robin Cook, former British Foreign Secretary described as, I quote

“one of the most sordid and morally indefensible episodes in our post colonial history”

Unquote.

Mr Speaker, Sir,

Let me assure the House that I will keep all members informed of any development on the Chagos Archipelago issue.

ANNEX 177

National Assembly of Mauritius, 10 July 2012,
Reply to PQ No. B/457

10.07.2012PARLIAMENTARY QUESTION

B/457

The Honourable Second Member for La Caverne and Phoenix (**Mr Soodhun**)

To ask Dr the Honourable Prime Minister, Minister of Defence, Home Affairs and External Communications, Minister for Rodrigues:-

Whether, in regard to the Chagos Archipelago, he will state if, following his meeting with the British Prime Minister on Friday 8 June 2012, he has been informed that there was no commitment to talks with Mauritius on the sovereignty thereon?

REPLY

Mr Speaker, Sir,

As I have already indicated to the House in reply to the PNQ of 12 June 2012, I discussed the issue of the Chagos Archipelago during my meeting with the British Prime Minister, the Rt Hon. David Cameron, on Friday 08 June 2012.

During the discussions, I reminded the British Prime Minister of the repeated undertakings of the United Kingdom that the Chagos Archipelago would be returned to Mauritius when no longer required for defence purposes. In view of the expiry in 2016 of the UK-US arrangements on the use of the Chagos Archipelago, I stressed the need for formal talks to be initiated between Mauritius, the United Kingdom and the United States with a view to reaching an agreement on the effective exercise of sovereignty by Mauritius over the Chagos Archipelago while safeguarding the continued use of Diego Garcia for US defence purposes.

As a result of the discussions, an understanding was reached for both parties to start a process of positive dialogue so that we could move forward on the issue of the Chagos Archipelago. The British Prime Minister stated that he has taken note of my intention to propose to the US authorities that the three States sit together and reach an agreement on the sovereignty issue without prejudice to the continued use of Diego Garcia as a military base to meet prevailing security needs.

Mr. Speaker, Sir,

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Since my meeting with the British Prime Minister on 08 June last, there have been exchanges between the two parties to see how we could move forward following my meeting with Right Honourable David Cameron at 10 Downing Street.

I do not intend to give further details about such exchanges at this stage as this would not be in the national interest. It is important that we allow diplomacy to follow its course.

However, I wish to point out that I stand by the statement I made in the House on 12 June 2012.