## PERMANENT COURT OF ARBITRATION

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

In the Matter of Arbitration Between:

THE REPUBLIC OF MAURITIUS,

and

PCA Reference MU-UK

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

Volume 8

## HEARING ON JURISDICTION AND THE MERITS

Monday, May 5, 2014

Pera Palace Hotel Mesrutiyet Cad. No:52 Tepebasi, Beyoglu Conference Room Galata II & III 34430, Istanbul-Turkey

The hearing in the above-entitled matter convened at 9:30 a.m. before:

PROFESSOR IVAN SHEARER, Presiding Arbitrator

SIR CHRISTOPHER GREENWOOD, CMG, QC, Arbitrator

JUDGE ALBERT J. HOFFMANN, Arbitrator

JUDGE JAMES KATEKA, Arbitrator

JUDGE RÜDIGER WOLFRUM, Arbitrator

# Permanent Court of Arbitration:

MR. BROOKS W. DALY
Registrar
MR. GARTH L. SCHOFIELD
PCA Legal Counsel
MS. FIONA POON
PCA Legal Counsel

## Court Reporter:

MR. DAVID A. KASDAN, RDR-CRR
Certified Realtime Reporter (CRR)
Registered Diplomate Reporter (RDR)
Worldwide Reporting, LLP
529 14th Street, S.E.
Washington, D.C. 20003
+001 202 544 1903
info@wwreporting.com

### APPEARANCES:

On behalf of the Republic of Mauritius:

## MR. DHEERENDRA KUMAR DABEE, GOSK, SC

Solicitor-General, Attorney General's Office Agent of the Republic of Mauritius

### MS. ARUNA DEVI NARAIN

Parliamentary Counsel, Attorney-General's Office Deputy Agent of the Republic of Mauritius

### Counsel:

## PROFESSOR JAMES CRAWFORD, AC, SC

University of Cambridge

## MR. PAUL S. REICHLER

Foley Hoag LLP

## PROFESSOR PHILIPPE SANDS, QC

Matrix Chambers, London

## MR. ANDREW LOEWENSTEIN

Foley Hoag LLP

### MS. ALISON MACDONALD

Matrix Chambers, London

### Advisers:

## MR. SURESH CHUNDRE SEEBALLUCK, GOSK

Secretary to Cabinet and Head of the Civil Service, Republic of Mauritius

### H.E. DR. JAYA NYAMRAJSINGH MEETARBHAN, GOSK

Ambassador and Permanent Representative of the Republic of Mauritius to the United Nations, New York

### MS. SHIU CHING YOUNG KIM FAT

Ministry of Foreign Affairs, Regional Integration and International Trade, Republic of Mauritius

### DR. DOUGLAS GUILFOYLE

University College London

# MS. ELIZABETH WILMSHURST Doughty Street Chambers (academic panel), London

# MR. YURI PARKHOMENKO

Legal Researchers:

MR. REMI REICHHOLD
Legal Assistant, Matrix Chambers, London

MR. FERNANDO L. BORDIN

## Assistants:

MR. RODRIGO TRANAMIL MS. NANCY LOPEZ Foley Hoag, LLP

## On behalf of the United Kingdom:

## MR. CHRISTOPHER WHOMERSLEY,

Deputy Legal Adviser, Foreign and Commonwealth Office Agent for the United Kingdom

### MS. MARGARET PURDASY

Assistant Legal Adviser, Foreign and Commonwealth Office Deputy Agent for the United Kingdom

### Counsel:

# THE RIGHT HONOURABLE DOMINIC GRIEVE, QC MP Her Majesty's Attorney General

### SIR MICHAEL WOOD

20 Essex Street Chambers, London

### PROFESSOR ALAN BOYLE

University of Edinburgh and Essex Court Chambers

## MR. SAMUEL WORDSWORTH, QC

Essex Court Chambers, London

### MS. PENELOPE NEVILL

20 Essex Street Chambers, London

### MS. AMY SANDER

Essex Court Chambers, London

## Legal Researcher:

MR. ERAN STHOEGER

## Advisers:

## MS. JO BOWYER

Foreign and Commonwealth Office, London

## MS. MINA PATEL

Foreign and Commonwealth Office, London

# MS. NEELAM RATTAN

Foreign and Commonwealth Office, London

## MS. REBECCA RAYNSFORD

Attorney General's Office, London

## MR. DOUGLAS WILSON

Attorney General's Office, London

# CONTENTS

PAC	ЗE
PRELIMINARY MATTERS9	17
MAURITIUS ARGUMENT ROUND 2:	
STATEMENT ON BEHALF OF THE REPUBLIC OF MAURITIUS:	
By Professor Sands9	20
By Ms. Macdonald9	28
By Professor Crawford.	)53
United Kingdom Response to Questions.	986
By Professor Sands	994
By Mr. Reichler10	031

## PROCEEDINGS

PRESIDENT SHEARER: Good morning, ladies and gentlemen. We have reached now the second round of arguments, with Mauritius to begin.

I understand that Mauritius has a proposal for a somewhat altered schedule for today's hearings. Could we perhaps know about those?

Thank you.

Yes, Mr. Sands.

PROFESSOR SANDS: Thank you very much, Mr. President, and Members of the Tribunal. Good morning, and I hope you had a good weekend.

Yes, perhaps the confusion is ours. We thought we had asked on Friday afternoon after the close of the day to invert the timetable as we had done on one occasion last week. Not much stands on it. It just goes more easily with the flow of the speeches. And so what we would ask for is that we start this morning now at 9:30, and we run in the morning for three hours rather than three-and-a-half hours, with one break, until 12:30; that there is then a normal break for lunch until 2:00, when we understand the United Kingdom will come on to address the documents that were submitted over the weekend; and that we would then resume at 2:30 until 6:00 p.m., with two breaks in the afternoon. I think that was more or less the process that was followed in the first week in relation to one of the days.

So, it's simply to avoid breakups of speeches. That's the only reason that that is requested.

PRESIDENT SHEARER: So, when would we take the mid-morning break?

At what time?

PROFESSOR SANDS: Whenever is convenient to the Tribunal. We are pretty relaxed about that. We could do it – I'm going to introduce now for about 20 minutes. Then Ms. Macdonald is speaking. She will be about 60 minutes. So it might be convenient after

1	Ms. Macdonald has finished, which would be 80 minutes from 9:30, which would be about
2	10:50.
3	PRESIDENT SHEARER: Yes.
4	PROFESSOR SANDS: If that's convenient, but we're in your hands, Mr.
5	President.
6	PRESIDENT SHEARER: Well, it's convenient to the Tribunal.
7	But I'm just wondering whether the United Kingdom has any observations on that proposal. No
8	objection?
9	MR. WHOMERSLEY: No objection.
10	PRESIDENT SHEARER: Very well. And, of course it remains the case that
11	we reconvene at 2 o'clock. We give the United Kingdom the opportunity to tender and explain
12	its documents, the new documents that have been proposed in answer to Judge Greenwood's
13	questions. Yes, so we will adhere to that timetable.
14	Very well, it's so agreed.
15	And so you will continue now, Mr. Sands, will you?
16	PROFESSOR SANDS: Thank you, Mr. President. I will continue, and I
17	express our gratitude, both to the United Kingdom understanding and to the Tribunal for its
18	willingness –
19	PRESIDENT SHEARER: I'm sorry, yes, there was one other matter I meant to
20	raise before, and it's in relation to some questions that were asked of the United Kingdom, which
21	we are wondering when we're going to get a reply.
22	Perhaps Judge Greenwood could just outline those questions.
23	Thank you.
24	ARBITRATOR GREENWOOD: Thank you, President.

There are two questions I didn't think I had had an answer to in the previous round.

The first was the date of the two reports on the consultation, when were those reports actually not published to the public at large, but given to the Foreign Commonwealth Office, obviously sometime after the 5th of March, when the consultation closed, before the decision-making process beginning on the 29th.

The second question was – I think it's at Page 586 or thereabouts in the transcript. I asked about the statement in Mr. Roberts' Third Witness Statement. There was private funding for the "MPA" conditional upon it being a no-catch, no-take area. And I asked what that funding was and what were the terms on which it had been given. I would be very grateful if I could have answers to those in time for Mauritius to respond. So, if it's possible for the UK to answer them in its statement this afternoon, that might be desirable.

PRESIDENT SHEARER: Thank you, Judge Greenwood.

Yes, would it be to possible to either them or give an indication of when they can be answered during the UK's opportunity to deal with the documents in the time slot that we have made available between 2:00 and 2:30 p.m. today?

Very well. I think there is nothing more.

I'm sorry, yes? Was the UK side going to say something?

MR. WHOMERSLEY: I was only going to say, Mr. President, that we will endeavor to try and answer those two questions at 2:00, which, I think, is what you then subsequently asked us to do.

Thank you.

PRESIDENT SHEARER: Thank you, Mr. Whomersley.

Well, I think that's all we need to do by way of procedural questions.

Yes, I will call you back now, Mr. Sands.

Thank you. 1 ARBITRATION UNDER ANNEX VII TO 1982 UNCLOS 2 Republic of Mauritius 3 4 v. United Kingdom 5 **SPEECH 1: INTRODUCTION** 6 7 **Professor Philippe Sands QC** Monday 5 May 2014 8 Thank you, Mr. President, Members of the Tribunal, 9 So I will introduce Mauritius' second round. I will do so briefly. You should have a 10 fresh set of folders which will be added too. I see you have those in front of you. Over the 11 next three sessions today and tomorrow, we will address the three elements of the case that is 12 being put by Mauritius, the three elements in the sense set out in response to the question put by 13 Judge Wolfrum. The United Kingdom, as you will have noted, continued to seek to cast 14 15 aspersions on the way we have set out our arguments, but to our mind they do appear to be rather clear. 16 2. We say, first and foremost, that Mauritius is "the coastal State", and that accordingly the 17 United Kingdom was not entitled to declare the "Marine Protected Area" that it purported to 18 establish on the 1st of April 2010. As an alternative, which might be called our "second limb", 19 and it exists independently of the first. Mauritius has the attributes of, and is, "a coastal 20 State" in relation to fishing rights; in relation to rights over oil and mineral resources, 21 including in the outer continental shelf; and reversionary rights, and the purported creation of 22

the "MPA" is fundamentally incompatible with those rights pertaining to "a coastal State".

And third, again, as an independent claim, Mauritius has rights under UNCLOS that have

23

<sup>&</sup>lt;sup>1</sup> Transcript, p. 463, line 6 – p. 467, line 11 (Sands).

been violated by the United Kingdom in establishing the "MPA", as it has and in the manner that it did. And we say that on any of these three approaches, the purported establishment of the "Marine Protected Area" is unlawful by reference to the Convention.

- 3. I do not need to return, I think, to the reasons why we have run these arguments as we have. It's obvious, and we say all the more so now that we have heard from the United Kingdom: its counsel were unable to respond to a number of rather simple questions, to one, for example, from Judge Greenwood asking whether the United Kingdom was free to cede the Chagos Archipelago to a third State.<sup>2</sup> Three years into this case, under the apparent force of internal contradictions, the United Kingdom now appears to be unable to tell this Tribunal whether Mauritius has any rights at all.
- 4. Such contradictions were, we noted, a constant feature of the UK's approach last week, contradictions between its own counsel, contradictions between the two rounds of its written pleadings, and contradictions between the written pleadings and what it said last week during the oral hearing, and we'll come back to these in the course of today and tomorrow. The contradictions, we noted, were also accompanied by a rather striking absence of clarity. To take but one example, we heard what Sir Michael Wood had to say about the now notorious paragraph 8.39 of the United Kingdom's Rejoinder, where the United Kingdom stated that Mauritius had no entitlement to file preliminary information to the United Nations Commission on the Limits of the Continental Shelf ("CLCS"). Addressing the obvious

<sup>&</sup>lt;sup>2</sup> Transcript, pp. 855-856. Judge Greenwood asked: "Am I to understand, therefore, that the United Kingdom's position is that none of the undertakings given at Lancaster House – I use the word undertakings without wishing to pre-judge their legal status – that none of those undertakings is legally binding upon the United Kingdom today, so, for example, the United Kingdom would be free to cede the Chagos Archipelago to a third State." (p. 855, line 24 - p. 856, line 3). Mr. Wordsworth response, in full, was: "Thank you. But the way I put it is, in order for us to be in a fair position in responding to that question, we would like to be seeing what Mauritius' position in terms of which specific statements it is relying on. It's put forward the case that there has been a significant change in those statements. It's highlighted to you. It changed from return to cede. I think it's highlighted to you inclusion of language in relation to in accordance with international law. Now, the understandings or undertakings in relation to cession and oil and minerals were not a big part of Mauritius' case before this hearing. The focus on the pleadings in the pleadings has been on the understanding on fishing rights or the alleged undertaking. Now, we wait for Mauritius to put its case in relation to the these other alleged undertakings, and then I'll be in a position to respond." (p. 856, lines 5-14).

conclusion from that argument of the United Kingdom, the submission was therefore "a nullity", as he put it, and the clock had "not been stopped and cannot now be stopped", Sir Michael said somewhat cryptically: "That is not the position." So no entitlement to file but not a nullity and the clock has stopped. So we're looking forward to hearing an explanation from the United Kingdom as to how a filing that Mauritius had no entitlement to make might nevertheless have produced legal consequences, and stopped the clock; none came in the United Kingdom's first round. We assume that this is because the United Kingdom recognised that it was walking a tightrope: accept that it has legal consequences, the filing, and that the clock has stopped and you confirm that Mauritius is a "coastal State" within the meaning of Article 76, because only a coastal State can make such a filing, deny that it has legal consequences and that the clock has stopped and you confirm that Mauritius has lost its outer continental shelf rights forever. So Sir Michael chose the same path as Mr. Wordsworth did, Mr. Wordsworth in the case of a question put by Judge Greenwood, putting him in the position of an impossible dilemma: He was damned if he answered one way, and he was damned if he answered the other. The upshot is probably best summarised in a single word: disarray.

- 5. That complex disarray is caused by the interplay of issues of jurisdiction and merits in this case. And you saw for yourselves how the United Kingdom allocated its time, sending the clearest possible signals (1) a belief that its jurisdictional arguments are now the last refuge, and (2) its recognition that the arguments on the merits – and I would say here all of the merits – have mostly melted away.
- 6. There was too a real sense that counsel for the United Kingdom were perhaps not entirely familiar with the facts, or the legal arguments. You saw, for example, in relation to the facts, a rather confused response to the relatively simple question, we thought, as to whether there

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

Transcript, p. 735, lines 6-7 (Sir Michael Wood).
 Transcript, p. 735, line 7 (Sir Michael Wood).

had ever been a response to Foreign Minister Boolell's letter of the 30th of December 2009<sup>5</sup> – the answer is there was not – and the dawning recognition of what that meant for the argument on Article 283 – it collapses. You saw that in relation to the law also, when Mr. Wordsworth told you that "self-determination" and General Assembly Resolution 1514, and I quote his words – the transcript will show you the citation, "have nothing at all to do with the Convention" – those are his precise words. Well, he obviously did not have the text of the Convention at the forefront of his mind. He obviously wasn't thinking about Article 140 or Article 162(o)(i) or Article 305 or Resolution III, all of which place "self-determination" and General Assembly Resolution 1514 into the fabric of the Convention.

- 7. You will have picked up something else: at no point last week did the United Kingdom really try to defend the "MPA". Judge Wolfrum asked a series of detailed questions. One would have expected a well-functioning State that was seriously committed to an "MPA" that it had created to offer chapter and verse in the form of the documents justifying the approach that it had taken. You got nothing well, not quite nothing. There were assertions and a single piece of paper cobbled together dated the 1st of May 2014. That is United Kingdom's defence.
- 8. So you will have picked up also the reliance on the old adage the best form of defence is attack. Mauritius has got it all wrong, Professor Boyle told you. And I quote, "Mauritius was putting a gun to the Foreign Secretary's head"; that's what Professor Boyle told you, in apparent sincerity. We got elements of that same aspect too in relation to the UK's version of what happened in 1965. On their account, they behaved with impeccable decorum and decency. Those who were unreasonable ones were the Mauritians. Counsel for United

<sup>&</sup>lt;sup>5</sup> See Transcript, p. 578 (lines 19-20); p. 579 (lines 3-11); p. 590 (lines 16-24); p. 591 (lines 1-10); p. 788 (lines 24-25); 789 (lines 1-3); p 886 line 1 – p. 888, line 2.

<sup>&</sup>lt;sup>6</sup> Transcript, p. 665, line 23 (Mr. Wordsworth).

<sup>&</sup>lt;sup>7</sup> See Questions by Judge Rüdiger Wolfrum (23 April 2014) and Transcript, p. 594, lines 4-17 (Arbitrator Wolfrum).

<sup>&</sup>lt;sup>8</sup> UK Folder, Tab 74.

<sup>&</sup>lt;sup>9</sup> Transcript, p. 884, lines 4-5 (Boyle).

Kingdom never actually said that it was the Mauritians that put a gun to Harold Wilson's head, but they might as well have done so for it was implied on numerous occasions, what with the Mauritius's constantly unreasonable demands once they had been "frightened with hope".

9. In that regard, I have been instructed – and for very good reason, I would add – to respond to one remark made by Sir Michael Wood on Thursday afternoon. It's is reported in the transcript at Day 6 at page 719, line 8 to line 10. Sir Michael said, and I quote: "What the evidence does show, in contrast, is that detachment was agreeable to the Mauritian Ministers because their interests lay in securing a new source of income for their economy." Mauritius takes very great exception to those words. They are not only unsubstantiated, but they constitute a slur on the character of an entire generation of Mauritian leaders, a generation that struggled for the independence of its country and who were the founding fathers of the modern nation. The evidence that is on the record – and the contemporaneous accounts of the events of the mid-60s – clearly show that these leaders had opposed the dismemberment of Mauritian territory, that they only reluctantly gave their purported consent – under the conditions noted by Judge Kateka<sup>10</sup> – only because they did not want the colonial power to have recourse to a potentially divisive course of action that could derail the move towards independence. As set out in Mauritius' Memorial at paragraph 3.20, Mauritian Ministers expressed strong opposition to detachment when this was first raised in July 1965. That opposition was communicated to the UK Government by their own Governor on the 23rd of July 1965, and then again on the 30th July 1965 and then again on the 13th of August 1965. 11 Once excision became inevitable, and the colonial power had made it clear that it would go ahead with the excision with or without agreement or purported agreement, the Mauritian leaders had no choice but to take the best possible terms they could get for their people and also to safeguard the long-term interests of the country. The issue of compensation was first

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

<sup>&</sup>lt;sup>10</sup> Transcript, p. 864, line 21 - p. 865, line 8 (Arbitrator Kateka).

<sup>&</sup>lt;sup>11</sup>MM, paras. 3.20-3.21.

1

9

10

8

11 12 13

14 15

17

18

16

19

20 21

22 23

24

raised by the United Kingdom, not by Mauritian leaders. Now the United Kingdom not only denies that the undertakings it gave were given as an inducement for obtaining "agreement" – and I put that in inverted commas – to detachment, but it now asserts they were agreeable to detachment because their only interest was to secure income for the country. This is a most unhappy misrepresentation of the events that took place 50 years ago. We regret it greatly. It casts aspersions on the motivations of individuals who are not able to defend their integrity. We invite the United Kingdom to kindly withdraw these allegations.

Mr. President, Members of the Tribunal,

10. I now turn to the organization of Mauritius' second round. Ms. Macdonald will respond next to what the United Kingdom had to say about the circumstances in which the "Marine Protected Area", so-called, was cobbled together, as well as its supposed "scientific" justification. She will also address the arguments of the United Kingdom on Article 283, arguments offered at surprising length, and with a strong embrace of formalism, presumably because that is all that is left to the United Kingdom in relation to the jurisdictional arguments on the obvious violations of Articles 2(3), 56 and 194, amongst others. Professor Crawford will then address the merits arguments on our first limb, namely that the United Kingdom is not "the coastal State" within the meaning of the Convention, but it violated the right of self-determination and that true consent was not given to the detachment of the Chagos Archipelago. Professor Crawford will also address what remains of the somewhat hopeful argument put by the United Kingdom that the Chagos Archipelago was not actually a part of Mauritius in 1965. Following Professor Crawford, and continuing probably for a little after Lunch, I will address the Tribunal's jurisdiction to rule that the United Kingdom is not "the coastal State" within the meaning of the Convention and that Mauritius is the coastal State within the meaning of the Convention.

<sup>&</sup>lt;sup>12</sup>MR, para. 2.33.

11. Following on, Mr. Reichler will then address the second limb of Mauritius' argument: that the United Kingdom has acknowledged the rights and legitimate interests of Mauritius in relation to the Chagos Archipelago, such that Mauritius has the attributes of a coastal State and is entitled in law to be treated as such, with the result: the United Kingdom is not entitled in law under the Convention to impose the purported "MPA", or establish maritime zones, over the objections of Mauritius. Mr. Reichler will address the undertakings made in 1965, in relation to fishing and oil and minerals, and the later commitments made in relation to the Article 76 preliminary filing. He will also address the jurisdiction of the Tribunal to hear this part of our claim, a matter on which the United Kingdom spent no more than three minutes.

- 12. Tomorrow morning, following Mr. Reichler, Professor Crawford will respond to the argument by the United Kingdom that the term "coastal State" refers to the State in actual control, and that there can only ever be one coastal State with respect to a given coast. He will be followed by Mr. Loewenstein, who will address the third limb of Mauritius' case, namely the violations of various provisions of the Convention, including Articles 2(3), 56 and 194, irrespective of whether or not Mauritius is "the coastal State" or has the attributes of a "coastal State". He will also address the jurisdiction of the Tribunal to address these matters. Professor Crawford will then return and will respond to the United Kingdom's arguments that Article 300 has not been violated.
- 13. The oral presentation of Mauritius will be then be concluded by our Agent, Mr. Dheeren Dabee. He will also read out our submissions and our request for relief, which will follow that sought in our written pleadings, with one addition: in light of the uncertain position of the United Kingdom on the status and effect of the filing by Mauritius of preliminary information to the CLCS, and our desire to submit full information later this year after the Tribunal has given its Award we will seek additional relief in relation to Article 76 of the Convention.

1	14. Mr. President, there is one final matter to address and you touched upon it in the introductory
2	part. We have noted that despite your request that unanswered questions from the United
3	Kingdom side be dealt with by the end of Friday, some of the Tribunal's questions were met
4	with silence from the other side and they were left unanswered. 13 Judge Greenwood has
5	identified two that we had noted also, and we have some others. One other one that
6	immediately comes to mind is Judge Hoffman's question, which is at page 569 of the
7	transcript, lines 5 through 9, and Judge Hoffman, and I quote, "whether there was any
8	response from a scientific point of view on this idea of excluding from the MPA Diego
9	Garcia". <sup>14</sup> As far as we were able to ascertain, the United Kingdom did not respond to that
10	question, and it will be a matter for the Tribunal decide whether the United Kingdom should
11	address that later today, that if it does not address it later today, our expectation would be that
12	they should not anymore be able to return to that or we would not have an opportunity to
13	respond to what they have said. We have other questions and it may be that in the break we
14	will now gather those up. On other occasions, you will have noted in relation to questions,
15	the buck was passed. Questions were passed along to other members of the United Kingdom
16	legal team, a bit like a hot potato. But however you deal with this question of questions, we
17	hope that you will ensure that we have the opportunity to address the Tribunal in the event
18	that the United Kingdom at some point does choose to respond to these matters.
19	15. Mr. President, that concludes a very brief introduction, and I would now invite you to call Ms.

15. Mr. President, that concludes a very brief introduction, and I would now invite you to call Ms. Macdonald to the bar.

PRESIDENT SHEARER: Thank you, Mr. Sands

And I call Ms. Macdonald to the podium.

Thank you.

20

21

22

Transcript, p. 837 (President Shearer), lines 15-17: "If there are any unanswered questions from the UK side, we'd be grateful if they could be dealt with before the end of today."

Transcript, p. 569 (Arbitrator Hoffman), lines 5-9.

## **Mauritius v United Kingdom**

#### **Second Round**

## The Creation of the "MPA", and Article 283

### Alison Macdonald

### Introduction

1. Mr. President, Members of the Tribunal, as Professor Sands explained, my part of Mauritius' submissions in reply will deal firstly with the creation of the "MPA", and secondly with the requirements of Article 283 of the Convention.

### The Creation of the "MPA"

## Nature of the "MPA"

- 2. On the "MPA", my submissions are in two parts. Firstly, I will look again at the question of what the "MPA" actually is, and what happens or does not happen there. And, secondly, I will return to the key aspects of the chronology and to the manner in which the decision was taken.
- 3. On the first issue, the nature of the "MPA", we now have the UK's answers to the written questions posed by Judge Wolfrum. We note that the UK has not disclosed any documentation in support of those answers, despite our request that it do so. As Professor Sands mentioned, in a late attempt to bolster its position on the scientific justification for the "MPA", you will recall that on Friday, the UK provided you with a written submission which it had put together during the course of these proceedings, it seemed, dated the 1st of May, headed "Biological effects of the marine reserve in BIOT (Chagos)". <sup>15</sup>I don't ask you to go to that now. It's in the UK folder at Tab 74. You will probably have noticed, if you have had a chance to study this document, that it claims on the first page that, I quote, "A clear scientific case for [the MPA] has been made in the peer reviewed scientific literature". If you follow

<sup>&</sup>lt;sup>15</sup> UK Folder Tab 74

that up to the end of the document, if you follow the footnotes, you will see that this refers to a piece by Professor Sheppard, himself, the scientific adviser engaged by the administration of the so-called "BIOT", as do a large proportion of the other footnotes. The UK, we would suggest, seemed less than clear about the underpinnings of its scientific case, with Mr. Boyle offering, you will remember, late on Friday, to try to find additional scientific material to support the UK position.<sup>16</sup>

- 4. On the question of the enforcement of the "MPA", Ms. Nevill said that: "Although Mauritius seeks to make mileage out of the fact that there is only one BIOT patrol vessel, it provides no evidence that enforcement of the MPA is in fact deficient." Well, on that point, Mauritius simply notes the fact that the "MPA" covers an area of 640,000 square kilometres, and asks the UK to produce evidence of any assessment which it has carried out to establish the patrol needs of such a vast area. As with so much about the "MPA", we simply do not know what assessments, if any, have been undertaken in this regard. And, in relation to funding for enforcement, much of which we are told is private, as you pointed out, Mr. President, we still do not know what conditions attach to the private portion of funding, since the UK has not answered Judge Greenwood's question on that point. <sup>18</sup>So we await the answer.
- 5. As for the absence of regulations, Judge Wolfrum asked for the reason for this in his eighth written question. The terse answer given<sup>19</sup> was that, I quote, "No additional legislation was found to be necessary to enforce the prohibition on commercial fishing. The existing BIOT legislation is sufficient for this purpose." And we know that already the UK has been able to decide, within the existing framework of the EPPZ, simply not to issue any new licences. We understand that. But we understood Judge Wolfrum to be asking why no additional legislation has been enacted, although it is said to be forthcoming. And the UK gave no

<sup>&</sup>lt;sup>16</sup> Transcript, p. 906/19-22.

<sup>&</sup>lt;sup>17</sup> Transcript, p. 589/12-14.

<sup>&</sup>lt;sup>18</sup> Transcript, p. 592/21-23.

<sup>&</sup>lt;sup>19</sup> UK Folder Tab 1.

answer to this, saying simply that "recent legislation in BIOT has streamlined the fisheries enforcement powers [this is a reference to the recent Ordinance at Tab 2 of the UK folder, which provides for fixed penalties for carrying out commercial fishing without a licence in the Marine Protected Area...] and work is continuing on a consolidation of the relevant BIOT legislation." So the answer boils down to "we're working on it". No indication of why that task has not been completed in the last four years, or when it might be.

## The process by which the "MPA" decision was taken

- 6. After those observations on the nature of the "MPA" and its enforcement, I turn to the second part of my submissions on this issue the process by which the "MPA" decision was taken. My submissions on this point are, of course, also relevant to the Article 283 question, which is why we have decided, in the interests of economy, to address both issues together in this second round.
- 7. The United Kingdom through Ms. Nevill made much of the fact that the group of 'interested stakeholders' who were consulted at an early stage were all, in her words, "UK bodies whose support would be essential if the idea was to make any progress." We consider that this underlines Mauritius' point about its exclusion from the early stages of the process. Was Mauritius' support not considered to be essential if the idea was to make any progress? Apparently the UK thought that the project could not survive its formative stages without the support of, among others, the British Geological Survey, but it could survive without the support of Mauritius.
- 8. Now, in fact, the UK did make some attempts to find out what Mauritius might think about the idea, but surreptitiously, and we see this from the email at page 278 of Mauritius' folder for the first round<sup>21</sup> I don't ask you to pull it out now this is the email sent by Mr. Allen to Ms. Yeadon about the agenda for the January 2009 talks. Mr. Allen describes the agenda

<sup>&</sup>lt;sup>20</sup> Transcript, p. 551/20-21.

<sup>&</sup>lt;sup>21</sup> Mauritius Folder Tab 6.1

item 'fishing rights / protection of the environment' as, in his words, "Means of discussing current / possible Mauritian rights in BIOT waters and introducing discussion of Pew ideas, if not name." So it seems from that that the UK was trying in January to get an idea of Mauritius' likely reaction to the project, while not telling them what it was up to. It can hardly count as consultation, we say, if the State concerned does not know what it is being consulted about.

- 9. Ms. Nevill emphasised that NGOs, and not the Government, were the source of the February 2009 article in the Independent, through which Mauritius learned for the first time of the MPA proposal.<sup>22</sup> But does this make the situation any better, we ask? What the UK is saying here is that, if it had been left up to it, Mauritius would have found out nothing for another three months, when the Foreign Secretary took his 'formal decision' to pursue the project.
- 10. The Foreign Secretary's decision to, in Ms. Nevill's words, "move forward" with the proposal followed, you will recall, Mr. Roberts' briefing paper of the 5th of May 2009<sup>23</sup>, in which he observed that the MPA could "create a context for a raft of measures designed to weaken the movement" which supported Chagossian resettlement.
- 11. Professor Crawford will come back to Mr. Roberts' remarks later in the context of Article 300. For now I will simply note that, when you come to look again at the remarks recorded in the Wikileaks cable<sup>24</sup>, but denied by Mr. Roberts, you will see that he is saying essentially the same thing as in the 5th of May document. In each case the import of his remarks is that the MPA will help the UK in its continued efforts to prevent the Chagossians from achieving resettlement in the Archipelago.
- 12. You heard the UK say, through Ms. Nevill, that it was not required to consult Mauritius until a formal Ministerial decision had been taken to pursue the proposal on the 6th of May 2009.

<sup>&</sup>lt;sup>22</sup> Transcript, p. 553/3-7.

Mauritius Folder Tab 6.2, p. 284.

Mauritius Folder Tab 2.13

- 13. But by that time, as we see from the email of the 7th of May 2009 I pause to say that all the references to the transcripts and materials that I refer to in my speech will be in the transcripts for you we see that the Foreign Secretary was "fired up" and his Private Secretary is telling Mr. Roberts to "keep the timelines taut, keep him involved, and [...] ensure that the creation / announcement of the reserve is scheduled within a reasonable timescale."
- 14. The UK took issue with my interpretation of that email as showing a certain determination to ensure that the MPA proposal came to pass. We simply invite you to read the documents again during your deliberations, and we suggest that what the correspondence, viewed as a whole, and very much including this email, shows is that if the "MPA" was not a *fait accompli* at that point, it was well on its way to becoming one. This shows the very real danger, we suggest, of leaving Mauritius out of the discussion until the process had gained a critical momentum.
- 15. We now come to the July 2009 talks. You have the record of those talks,<sup>27</sup> you have been taken through them by the parties, and I do not propose to go through them again. Professor Boyle made the surprising submission on Friday afternoon that if, which he denied, the UK had any legal obligation to consult Mauritius at all about the MPA proposal, then the July 2009 talks were, in themselves, sufficient to fulfill this obligation. He said:

"In our view, the July meeting was timely. It ensured that Mauritius was fully informed about the MPA proposal, including the proposed ban on commercial fishing, and it was at an early enough

<sup>&</sup>lt;sup>25</sup> Transcript, p. 554/3-5.

<sup>&</sup>lt;sup>26</sup> Mauritius Folder Tab 6.3.

<sup>&</sup>lt;sup>27</sup> UKCM Annex 101; MR Annex 144

stage to allow Mauritius to ask for further information – as it did – and to make meaningful representations. And what was the outcome of that July bilateral meeting? It was a Joint Communiqué in which the Government of Mauritius welcomed in principle the MPA proposal. [UK Tab 56 / M Tab 6.5]"<sup>28</sup>

- 16. Now going to the Communiqué itself, Professor Boyle stated that "If you read that, you will see there were no complaints about inadequate consultation. There were no complaints that Mauritius could not get its views across or had been ignored."<sup>29</sup> And he went on to say that "the subsequent contacts between the two governments are not relevant to the question whether there was consultation", and that "in our view the necessary consultations took place in July, and what occurred after that is not material to Mauritius' case."<sup>30</sup>
- 17. Now, Mr. Loewenstein will look at the legal merits of these assertions later on when he replies on that aspect of the case. But Professor Boyle's analysis does also merit examination as part of the "MPA" chronology. The UK appears to be saying, in all seriousness, that it was required to do nothing more by way of involvement of Mauritius in the process after July 2009; in other words, that it stepped out of those talks having heard all it needed to hear from Mauritius. Well, we would suggest that you only have to look at the Joint Communiqué of that meeting, to which you have been taken many times, to see why we were surprised by Professor Boyle's argument. Quite clearly that document records the start of a process, not the end of it. Mauritius' position, as recorded there in black and white, was that it "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."

<sup>&</sup>lt;sup>28</sup> Transcript, p. 880/6-13.

<sup>&</sup>lt;sup>29</sup> Transcript, p. 880/13-15.

<sup>&</sup>lt;sup>30</sup> Transcript, p. 881/14-16.

<sup>&</sup>lt;sup>31</sup> Mauritius Folder Tab 6.5.

18. This might be an appropriate moment to examine the words used by the UK in the record of the July meeting, that 'no decision had yet been taken'. Ms. Nevill said that the inclusion of these words "runs completely counter to Mauritius' argument that the decision to go ahead with the MPA was made earlier by the Foreign Secretary on the 7th of May." Ms.

- 19. You already have my submissions on the 7th of May email about the Foreign Secretary being "fired up". The point I want to make at this stage is that the fact that the UK repeatedly told Mauritius that no decision on the "MPA" had been taken does not of course prove that this was the case. As I indicated before, the evidence shows that, if no final decision had been taken, the project certainly had a very great deal of momentum by that point. The reason I focus on the words "no decision has yet been taken" particularly is that, as you have seen and I'll touch on briefly later, the UK kept repeating those exact words to Mauritius right up until six days before the "MPA" decision was taken. And we would suggest that the credibility of those words diminished over time.
- 20. We now come to the period between July 2009 and the announcement –

ARBITRATOR GREENWOOD: Ms. Macdonald, I'm sorry to interrupt you.

MS. MACDONALD: Yes.

ARBITRATOR GREENWOOD: But isn't what you're saying difficult to reconcile with the fact that the exchanges of emails between Mr. Allen, Mr. Roberts, Ms. Yeadon, and the Foreign Secretary's private office during that critical period of 29 to 31 March show that the officials didn't think that the decision had been taken and indeed it looks to me as though they were a bit surprised by where the Foreign Secretary came out.

MS. MACDONALD: Yes. Well, I'm certainly not saying that – of course, the formal decision to defer the MPA was taken by the Foreign Secretary in that final 48-hour period, and clearly, and one thing that we made clear in the first round, was that that was very

UKCM Annex 101

<sup>&</sup>lt;sup>33</sup> Transcript, p. 560/9-10.

much – and in our written pleadings – was that what appears from the correspondence is that was very much over the objections or at least if not objections, serious concerns of the officials concerned. And when I'm talking about the decision being taken, I'm referring particularly to the 7th of May email as well, what we were referring to is Foreign Secretary-level momentum and a certain determination that that is the course that should be gone down, although of course it was not ratified until the final date. And of course, as you point out, over the serious concerns of the officials. So we're certainly not saying that a final decision was taken, but we are saying, and I'm drawing attention particularly to the words used in July, back in July 2009, that no decision had been yet taken; that's absolutely fine. But when you get to the 26th, the same words had been used in the letter of the 26th of March 2010, we say that the credibility of that – of course, the Final Decision had not been signed off at that point, but we say that telling Mauritius that no decision had yet been taken and that the process was not supposed to in any way cut cross the bilateral talks, et cetera, as we see in the 26th of March letter, by that point they were stretching it when the decision was about to be taken six days later.

ARBITRATOR GREENWOOD: Well, that decision was about to be taken six days later or at some point in the very near future, I quite understand.

MS. MACDONALD: Yes.

ARBITRATOR GREENWOOD: But one doesn't have to be aficionado of "Yes Minister" to realize that Ministers in the British Government system quite often get fired up and excited about ideas but are sometimes talked out of those ideas by their officials, and quite often talked out of those ideas by their officials. And the picture that seems to me to emerge from those emails is that the British Government collectively really hadn't made up its mind until the late afternoon on the 31st of March. That's actually quite surprising, the chronology to me, but they hadn't made a decision until that critical point. It wasn't simply that there was a formal decision still to come. There was no substantive decision, either.

MS. MACDONALD: Well, of course, the Tribunal's reading of emails would be definitive, and I'm not sure that there is anything necessarily between us on that. But certainly I wasn't seeking to suggest that, and I think I said specifically a few minutes ago, that there was no set fait accompli as of 7th of May 2009, July 2009. But what I said was that we see from the Private Secretary's email of the 7th of May that certainly the Foreign Secretary was "fired up". The officials who were involved were advised to keep the timelines taut, ensure the announcement within a reasonable time, so there was a lot of enthusiasm and a very significant degree of momentum that the proposal had at that point. But, of course, you're correct that final decision was not taken, and politicians can be quixotic and, as we know nothing is set in stone until it's set in stone. So we fully accept the decision wasn't taken.

The question is when was Mauritius brought in, and was it brought in early enough to shape the thinking, or had the proposal really got quite strong legs by the time they were told anything about it. And thereafter, were they kept – were they really genuinely and properly consulted and kept informed.

ARBITRATOR GREENWOOD: Just to make clear for the record that "quixotic" is your term, not mine.

MS. MACDONALD: Absolutely. I was attempting to paraphrase your question.

So, looking a bit at the period that has just been canvassed in answer to Judge Greenwood's questions, and briefly, Judge Greenwood, that might be - I've touched on this a little, but he posed a question last week to the UK but really to both Parties about the relationship between the public consultation and the bilateral talks.<sup>34</sup>

21. There seems to be a fair degree of consensus between the Parties that the reason why the third round of talks did not take place was because Mauritius took the view that it was not

-

<sup>&</sup>lt;sup>34</sup> Transcript, p. 592/5-14.

appropriate for that round to take place without the public consultation having been halted. And Ms. Nevill said, "If there was any lack of consultation with Mauritius, this was because it refused to proceed unless the UK halted the public consultation, which was a wholly unreasonable expectation in all of the circumstances. The public consultation did not cut across consultations with Mauritius." And Professor Boyle put it more graphically, saying that "you might say that Mauritius was putting a gun to the Foreign Secretary's head." head."

- 22. So the dispute between the Parties on this point is not primarily, it seems to us, about the factual position. The United Kingdom thought that it was acceptable to be talking to Mauritius about the proposal while consulting with the rest of the world at the same time. And Mauritius, for the reasons expressed in the many communications which you have seen, did not. Whether its position on this issue amounted to putting a gun to the Foreign Secretary's head will for you to decide.
- 23. According to Ms. Nevill,<sup>37</sup> the exchanges show that Mauritius was "offered involvement" in the public consultation. She did not make clear what she meant by this. And indeed there is some tension between this submission and Ms. Nevill's subsequent point that Mauritius "was kept fully apprised of the fact that the public consultation would go ahead before the talks and could not be delayed."<sup>38</sup> And the first dates offered by the UK for the next round of talks were the 4th and 5th of November 2009. The public consultation opened on the 10th of November. How, exactly, were the talks supposed to feed into the consultation in the intervening five days? As you have seen, the first that Mauritius saw of the Consultation Document was with the rest of the world on the 10th of November 2009.

<sup>&</sup>lt;sup>35</sup> Transcript, p. 590/8-11.

<sup>&</sup>lt;sup>36</sup> Transcript, p. 884/4-5.

<sup>&</sup>lt;sup>37</sup> Transcript, p. 564/7.

<sup>&</sup>lt;sup>38</sup> Transcript, p. 564/10-11.

- 25. We were not quite sure that we understood that point. When Prime Minister Ramgoolam said that he "did not want the MPA consultation to take place outside of the bilateral talks between the UK and Mauritius on Chagos", on our reading, he was quite clearly saying that the bilateral talks and the consultation process were mutually incompatible.
- 26. Separately to that, as you have seen, Mauritius wrote to the UK on the same day to point out that the Consultation Document inaccurately presented Mauritius' position on the MPA.
- 27. I don't propose to take you through the next few rounds of correspondence in any detail, because you have seen them a number of times by now.
- 28. Ms. Nevill took you to the Mauritius' Note Verbale of the 23rd of November 2009<sup>40</sup> in which it stated 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." Repeating the words used by the UK in the Rejoinder<sup>41</sup>, Ms. Nevill said that "These were somewhat belated objections, given that the public consultation had by then been underway for nearly two weeks." As I said in the first round, however, the "two week' point is not entirely understood. Although Mauritius, through its Prime Minister, made clear its opposition to the consultation on the very day that it was published, clearly it still spent some time trying to persuade the UK that the bilateral talks were the appropriate way of consulting on the issue, but in vain.

<sup>39</sup> UKCM Annex 106

<sup>&</sup>lt;sup>40</sup> MM Annex 155

<sup>&</sup>lt;sup>41</sup> UKR 3.13

<sup>&</sup>lt;sup>42</sup> Transcript, p. 575/10-11.

- 29. Then, of course, there was the meeting of the 27th of November between the two Prime Ministers. The United Kingdom Agent described this as a "private" meeting. <sup>43</sup> This implies, perhaps, some form of casual encounter. But this is not an accurate description as Prime Minister Ramgoolam makes clear in his statement, <sup>44</sup> the meeting was a formal one, pre-arranged by both Governments, and attended in the background by Dr. Boolell, the Minister of Foreign Affairs, and Mr. Kundasamy, the Mauritian High Commissioner in London.
- 30. Now, at the end of round one, what has the UK said about this meeting? Ms. Nevill told you that "The UK has never suggested that UK officials were not aware that a misunderstanding had arisen. It is clear that it had, and it is not uncommon in any conversation between two individuals. The UK does not seek to suggest that Prime Minister Ramgoolam's stated understanding and recollection as to what was said was not genuine, nor to make light of it, but it does not accept that that was what was said by Prime Minister Brown. The Attorney General last week assured the Tribunal that he was satisfied that no commitment to put the MPA 'on hold' had been given by the Prime Minister."
- 31. So, the UK uses words like "does not accept". But as I asked previously, what evidence are those assertions based on? It is simply not enough, we say, for a party to assert that it "does not accept" evidence which is unhelpful to it.
- 32. The UK presents the letter of the 15th of December 2009<sup>46</sup> as an attempt to clear up what it describes, rather condescendingly perhaps, as the "confusion". But you will note that the letter does not refer to the meeting between the two Prime Ministers.
- 33. You will recall that Ms. Nevill went on to claim that none of Mauritius' subsequent communications referred to Mr. Brown's undertaking of the 27th November.<sup>47</sup> But of

<sup>&</sup>lt;sup>43</sup> Transcript, p. 502/8.

<sup>44</sup> Mauritius Folder Tab 2.8, para. 8

<sup>&</sup>lt;sup>45</sup> Transcript, p. 576/14-21.

<sup>&</sup>lt;sup>46</sup> MM Annex 156

course, as we have now seen, the Mauritian Foreign Minister raised it in clear terms in the letter of the 30th of December 2009.<sup>48</sup> And successive counsel for the UK were pressed to tell the Tribunal whether the UK ever answered that letter. Ms. Nevill and Mr. Wordsworth were reluctant to commit to an answer, so the task finally fell, late on Friday, to Professor Boyle. The straightforward answer, we say, is "no". But relying on what he described as a British culture of understatement,<sup>49</sup> Professor Boyle tried ingeniously to present the UK's Note Verbale of the 15th of February<sup>50</sup> and its letter of the 19th of March<sup>51</sup> as answers to the point, but we suggest that this attempt failed.

- 34. Mauritius observes that, regardless of whether or not the UK hoped that the matter would be discussed in some further round of talks, it is very surprising that it did not see fit to place something on the written record in response to this very serious claim.
- 35. Then on Saturday, the United Kingdom produced a series of emails which touch on the conversation between the two Prime Ministers. Mauritius was greatly troubled that new evidence should be introduced at this very late stage, particularly when it must have been available to the United Kingdom throughout these proceedings. But Mauritius did not object to the admission of this evidence, as we did not wish the Tribunal to be denied the benefit of further information on the point, however belatedly supplied. Since this could and should have been addressed during the first round, however, we are grateful to the Tribunal for giving us the opportunity to hear first what the United Kingdom says about these before we respond ourselves. Because that procedure has been adopted, I will not address the emails in any detail at this stage, although we do have points to make about them. I simply note that they underline the fact that Prime Minister Ramgoolam was extremely clear with UK

<sup>&</sup>lt;sup>47</sup> Transcript, p. 578/8-12.

<sup>&</sup>lt;sup>18</sup> MM/157

<sup>&</sup>lt;sup>49</sup> Transcript, p. 887/24-25.

<sup>&</sup>lt;sup>50</sup> MM Annex 161

<sup>&</sup>lt;sup>51</sup> MM Annex 163

officials at the time about the content of Mr. Brown's undertaking at the meeting of the 27th of November, just as he has described it in his Witness Statement. And Mauritius regrets that the UK has sought to address this serious matter through the belated submission of fragmentary emails and not by way of signed witness evidence.

- 36. Moving towards the final "MPA" decision, we have seen that the consultation closed on the 5th of March. And we have also seen that, as late as the letter of the 26th of March, the UK was claiming that "no decision on the creation of an MPA has been taken yet", and that "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."
- 37. But the letters are partly discussed in answer to Judge Greenwood's questions. This letter really fails to give any idea of how imminent a decision on this subject was, and you've seen from Prime Minister Ramgoolam's statement how surprised was when he received Mr. Miliband's telephone call on the 1st of April. If, as the UK now seems to argue, it was serious about obtaining Mauritius' views on the "MPA" at a third round of talks, then, judged on the 26th of March, when exactly were those talks supposed to take place? In the five days between that and the 1st of April?
- 38. Now, the United Kingdom told you that the consultation response was the biggest one ever for a UK government consultation, involving some 250,000 people. We understand that that doesn't mean 250,000 individual responses, because some responses came by way of petitions or, for example, submissions that were signed by a number of individuals, but is was still a very substantial number of individual responses. And one would think, therefore, and there is this outstanding question from the Tribunal, about the report, the assessment report, that was done on those consultation responses. One would think it would have taken

<sup>52</sup> MM Annex 164

some time to assess their answers and to think the matter through. We await the answer to the question of when the analysis of the consultation responses was completed. But as you have seen, in fact, the UK moved with extraordinary speed, announcing the "MPA" only 26 days after the response closed. And this prompted Judge Greenwood to ask Ms. Nevill, "What was the hurry?" <sup>53</sup>

- 39. Mr. President, that was a question which was also asked in the UK Parliament. The 1st of April 2010 fell during the Easter Parliamentary recess. On the very first day sitting day after Easter, the 6th of April, members of both Houses insisted on having the matter debated as a matter of urgency. We referred to this debate at paragraph 4.81 of the Memorial, and we have included its text at Tab 2.1 of your new folder for today. The debates make interesting reading, and we invite you to look through them fully in due course, but for now I'll draw your attention to some key passages.
- 40. I should just explain this is cut and pasted from the Hansard web site on Parliament's own web page but that doesn't produce a very legible readout, so we've reformatted it so that you can actually see the text more clearly. So we see that Jeremy Corbyn, who is a Labour Member of Parliament and the chair of the All-Party Parliamentary Group on Chagos, has tabled the urgent question to ask the Foreign Secretary if he will make a statement on the declaration of a Marine Protected Area around the Chagos islands, and what consultation took place before the announcement was made. There is an initial statement by the Minister, but the passage I would then take you to is just below the second hole punch. Mr. Corbyn says, "The Minister must be aware that on 10 March I was given an undertaking in a Westminster Hall debate that consultation with interested parties, Members of Parliament and the Chagossian community would take place before an announcement was made. No such consultation has taken place, and there has been no communication with me as chair of the

<sup>&</sup>lt;sup>53</sup> Transcript, p. 593/2.

All-Party Group on the Chagos islands or with the Chagossian communities living in Mauritius, the Seychelles or this country."

- 41. If we go over the page, and I apologize for just skipping along but just in the interest of time, I will take you to what we consider as some of the most helpful passages if we go over the page, Mr. Bryant, we see has an answer, and there is a passage which we take you to. It's the third paragraph down, beginning "I apologise to my hon. Friend and to the House...".

  He says, "I apologise to my hon. Friend and to the House because it became clear to us that, notwithstanding the commitment made to him in the debate" that's the debate of the 10th of March "no further information could have come in that would have made any difference to the decision on the protection of the marine environment in the British Indian Ocean Territory."
- 42. And Mr. Corbyn pressed Mr. Bryant on whether the Foreign Affairs Committee had been consulted about the decision, to which Mr. Bryant answered, if we skip over to page 4, and again I apologize, this is all interesting reading but in the interest of time, I'm just taking it quite quickly. If we go across to page 4, following the red number in the bottom, this again is Mr. Bryant, 8 lines down, after the word "interruption", and it seems from the transcript that this was a fairly heated debate at some points: "The hon. Gentleman asks from a sedentary position whether the Foreign Affairs Committee was consulted. The whole House was consulted, the country was consulted, and we extended the consultation process by weeks so that others could take part."
- 43. This appears to be a statement that, in the view of the Foreign Office, everybody in the world had been consulted in the sense that they were free to file their own response to the Consultation Document. It appears from this perhaps slightly evasive answer that the Foreign Affairs Committee was not specifically consulted on the decision and, indeed, we don't see a trace in the emails of the 30th of March to the 1st of April of any indication that that

committee, or any other Parliamentary committee, had been consulted before the decision was taken.

44. Now, at the same time as this was happening, the matter was being debated in the House of Lords. And if we go forward a few pages to page 9, we've included the transcript of the debate in the House of Lords. Lord Wallace, a Liberal Democrat peer, tables the question:

"To ask Her Majesty's Government why the Foreign Secretary announced the establishment of a marine protected area in the British Indian Ocean Territory during the Easter Parliamentary Recess."

- 45. The representative of the Government in that debate was Baroness Kinnock of Holyhead, who was the Minister of State at the Foreign and Commonwealth Office. And she responded to the question posed by the Lord Wallace of Saltaire which you see about halfway down. She elaborates on the question which he has tabled, and he says, "I thank the Minister for her reminder that this was a 1 April announcement. Does she recall that in the 10 March debate in the other place the Foreign Office Minister who replied promised to keep Parliament informed before a final decision was taken? Does she also recall that the head of the consultation exercise is on record as saying that it would take three months after the closure of the consultation to complete a report? Is she also aware that a European Court of Human Rights assessment is still pending on this and that the Government have not yet given any indication as to how they will manage to enforce this MPA? What then is the hurry, with these many uncompleted consultations and questions, for the Government to rush this out on Maundy Thursday?"
- 46. Well, before I go to Baroness Kinnock's answer, we have before that, if you go over the page to page 10, we have another peer, Lord Howell of Guildford saying: "One body feeling that they were not well consulted or worked with over the marine park project are the Government of Mauritius, in whose territory part of the marine park lies. Is the noble

Baroness aware of the considerable anger and dismay that has been expressed by Mauritian government authorities about how they were not consulted and not involved in the whole process that the Minister described, and will she comment on that?"

47. And the answer given by Baroness Kinnock is in the paragraph immediately following:

"My Lords, I am aware that that has caused considerable discussion in the lead-up to an election in Mauritius. They consider the impact on Mauritius to be extremely serious, but" – and then here we see the point that's been made by the UK on a number of occasions – "the establishment of an MPA would have no effect on our commitment to cede the territory to Mauritius when it is no longer needed for defence purposes." – the stock words that we've seen so many times before. – "I know that that is a sensitive issue, and, indeed, an election issue, but our commitment to Mauritius remains unaffected." Just for completeness at the next tab –

ARBITRATOR GREENWOOD: Ms. Macdonald, I'm sorry to interrupt you again.

MS. MACDONALD: Yes.

ARBITRATOR GREENWOOD: This is always one of the difficult things with British parliamentary figures because they go to the House of Lords and they change their names.

MS. MACDONALD: Yes.

ARBITRATOR GREENWOOD: But can I just be clear about two of the people who feature in this. The first is in the Lords' debate, Lord Howell of Guildford. Am I right in thinking that's the Lord Howell who became a Minister at the Foreign Office in the coalition a few weeks later?

MS. MACDONALD: Yes. I believe that to be the case.

ARBITRATOR GREENWOOD: Thank you.

And then in the House of Commons debate, there's a question asked by Meg Munn, who was a 1 Labour MP. 2 MS. MACDONALD: She was. 3 ARBITRATOR GREENWOOD: The name is familiar. There is something in 4 one the emails earlier on about I suggest you send this, these details to Meg Munn. 5 6 And from that I had assumed she was a PPS or something like that, but the 7 question is asked as though she's just a back-bencher. 8 MS. MACDONALD: Yes, she does feature in the emails, and I haven't cross-checked that reference. 9 10 ARBITRATOR GREENWOOD: Well, I don't suggest you try to do it on your feet. 11 MS. MACDONALD: Yes. 12 13 ARBITRATOR GREENWOOD: I'm trying to avoid – MS. MACDONALD: I did spend some time over the weekend Googling these 14 15 various individuals in this debate, just to understand who they were, but we will check up and find on the point of Ms. Munn – 16 17 ARBITRATOR GREENWOOD: Thank you. The United Kingdom would be able to clarify the matter as well. It's just a matter of curiosity and to make sure I've properly 18 understood who is who in this. 19 MS. MACDONALD: It did strike me when I was just – I mean, obviously 20 sometimes – I apologize, it's in the UK's dramatis personae. I don't have a copy of that in front 21 of me. Oh, sorry, it's in Mauritius' dramatis personae. So, hopefully that has been answered. 22 23 What we do see - I mean obviously sometimes Hansard particularly in the 24 Commons is easier because it indicates party affiliations. But what we see when we investigate

affiliations of those speaking in the House of Lords as well is that there was real cross-party

criticism being raised of the measure. It doesn't appear to divide at all along party political lines, but politicians of all three main political parties were joining in expressing their serious concern about what had taken place.

48. So we have included the 10 March debate just at Tab 2, and that's longer debate, and we certainly do not ask you to look at it all now. We just put it in there for completeness because there's reference obviously that you're seen on the 6th of April.

Is there an empty tab in Judge Hoffman's folder?

(Pause.)

So are you missing the previous documents as well?

I apologize for that, and we'll ensure that you are provided – I'm sorry that I hadn't picked up when I had been speaking that you didn't have those in front of you. I apologize.

We put this in for completeness simply because you see on the 6th of April politicians referring back to this debate on the 10th of March and the commitment which they considered to have been broken. And where we see the commitment being recorded is on page 29, if we follow the red letters. As I say, it's a lengthy debate. But we see a Mr. Lewis, that's Ivan Lewis, a Foreign Office Minister, saying, and this is the second-to-last paragraph, which starts with "I'm not being coy": "I am not being coy when I say that the consultation genuinely closed last Friday," – that was the 5th – "and we are not in a position at this stage to announce its outcome or how we intend to proceed. However, I would like to place on record that it is important that hon. Members are briefed – I suspect that this may be the responsibility of someone else, who will, I hope, come from the Labour party – when the Government decide what to do next about the marine protected area. I am cognisant of the fact that hon. Members feel that there was not sufficient consultation with parliamentarians on the Chagossians in the past before apparently unilateral decisions were made. I therefore put on record a commitment to

make sure, wherever possible, that interested hon. Members are briefed before we make final decisions on the marine protected area."

- 49. Of course, as it turned out the Government broke that promise, and Parliament was never briefed before the decision was taken, which is what led to the anger and dismay expressed in the debates of the 6th of April. And the promise given by the Government on the 10th of March was broken because, as Mr. Bryant explained and as you've seen, on the 6th of April, in his view, after 10th of March "it became clear to us that, notwithstanding the commitment made to him that is to the hon. Member in the debate, no further information could have come in that would have made any difference to the decision on the protection of the marine environment in the British Indian Ocean Territory."
- 50. "No further information could have come in that would have made any difference" perhaps those words mark a convenient point to turn to Article 283.

# Article 283

51. The UK devoted a whole speech to the legal requirements of that Article, and although Mr. Wood accused Mauritius of a "cavalier" attitude to its requirements, <sup>54</sup> on careful analysis we would submit that the United Kingdom has said nothing to persuade you that the hurdle should be any higher than Mauritius has described it. Mr. Wood explained that Article 283 was part of the "package deal" and was included in order to secure acceptance by reluctant States of the Convention's compulsory dispute resolution procedures. So far so good – there is no dispute about any of that. But Mr. Wood engaged very little with the actual caselaw on Article 283, describing it as "not entirely satisfactory" and saying that the direct Article 283 cases "turn on their own particular facts and do not assist [Mauritius'] case." Now every case turns on its own facts, in one sense, but this tends to be the phrase that advocates

Transcript, p. 748/8.

<sup>ິ</sup> Transcript, p. 737/9

<sup>&</sup>lt;sup>56</sup> Transcript, p. 738/8-9.

use to describe cases which are not helpful to their argument. Instead, Mr. Wood relied heavily on the Anderson article at Tab 55 of the UK folder. I don't ask you to turn that up just now, but I would, in due course, draw your attention to the very final paragraph of that article, which Mr. Wood didn't take you to, and that paragraph says: "Both the International Tribunal for the Law of the Sea and arbitral tribunals have shown a reluctance to find that article 283 has not been complied with. [...] The requirement imposed by article 283 is not to enter into a lengthy discussion or to make genuine attempts to reach a compromise over the means of settlement. The obligation is simply to exchange views or to consult, and to do so expeditiously. So long as the applicant can produce some evidence of relevant exchanges, article 283 is unlikely to act as a bar to proceedings. However, it forms part of the Convention and should be applied..."

- 52. So the parties agree that Article 283 forms a threshold jurisdictional requirement, and Mauritius must satisfy it. Mauritius has not sought to ignore it or to circumvent it. But the UK showed you no authority, judicial or otherwise, to indicate that the hurdle is a high one, and even the article relied on so heavily by Mr. Wood indicates the hurdle's very modest height. It can be stepped over lightly, we would suggest it does not need to be jumped. In my submission, there is nothing in this article or indeed in the caselaw to detract from the propositions which I put to you in the first round and which I do not repeat here.
- 53. Possibly the only area of implicit legal disagreement between the Parties relates to the need to refer to a specific treaty or its provisions. The UK's factual submissions on Article 283, advanced by Mr. Wordsworth, were replete with criticism of Mauritius for not referring to UNCLOS and its specific provisions. In arguing in this way, the UK appears to ignore the clear words of the International Court in *Georgia v Russia* that "it is not necessary that a State must expressly refer to a specific treaty in its exchanges with the other State to be able

later to invoke that instrument before the Court."<sup>57</sup> It follows from this, of course, that a State need not refer to specific treaty articles either. Rather, as the Court went on to say, "the exchanges must refer to the subject-matter of the treaty with sufficient clarity to enable the State against which a claim is made to identify that there is, or may be, a dispute with regard to that subject-matter."<sup>58</sup>

- 54. Now, I can deal with these legal issues briefly because this is not, in our submission, a complex or a difficult point of law. The real question is the application of the principles that Mauritius has identified to the facts. On that you were addressed by Mr. Wordsworth. He sketched out a highly formalistic legal framework<sup>59</sup> which, on the facts of this case, would mean that nothing said or done by Mauritius before the 1st of April 2010 can in any way contribute to fulfilling the requirements of Article 283. On this analysis, you can simply disregard the record before that date. We say that this approach is unrealistic and finds no support in the caselaw. And indeed, Mr. Wordsworth cited no authority for his analysis.
- 55. So, although the UK's position is therefore that everything before the 1st of April 2010 is entirely irrelevant to Article 283, Mr. Wordsworth went on to carry out a good deal of textual analysis of the record before that date. His position seems to be that Mauritius' communications in that period are simultaneously irrelevant and deficient.
- 56. Before addressing those criticisms, briefly, a word about the UK's selection of documents. They placed in Tab 56 of their folder, the documents to which I specifically referred in my Article 283 oral submissions, ostensibly to help you in assessing the strength of Mauritius' case on the point. This would be a sensible approach if the written pleadings did not exist, and if we had not made extensive speeches on the facts before I addressed you on Article 283. But as I emphasized to you in my submissions on Article 283, that they were not

<sup>&</sup>lt;sup>57</sup> *Georgia v Russia*, para. 30. UKCM, Authority 37.

<sup>&</sup>lt;sup>58</sup> *Georgia v Russia*, para. 30. UKCM, Authority 37.

<sup>&</sup>lt;sup>59</sup> Transcript, p. 745/3 - 753/18.

- 57. The proper approach, in Mauritius' view, is to approach the record as a whole. The UK's approach does very little justice to this complex, long-running dispute. Mauritius' repeated references to its specific rights in the Archipelago, including its fishing rights, are dismissed by the UK as simply part of its overarching claim to sovereignty over the Chagos Archipelago. But even then on what it calls "the sovereignty claim" in truth a claim concerning whether the UK is or is not "the coastal State" the UK will not accept that the requirements of Article 283 have been met, even in the face of documents where Mauritius specifically said that the UK was not the coastal State for the purposes of declaring maritime zones. And the UK still offers no explanation for the *volte face* on this point between its pleadings at bifurcation stage and its Counter-Memorial.
- 58. Mr. President, I do not propose to go back through the record at this stage. But what it shows, I would submit, is that by the time Mauritius initiated these proceedings, the "MPA" had been unilaterally imposed on it, in violation of a commitment given at Prime Ministerial level. Mauritius had made it clear for a long period of time that, in its view, the UK lacked any sovereign rights over the Chagos Archipelago, including the right to declare maritime zones. It had made it clear that such a measure would violate rights which Mauritius had asserted for many years, of which the UK was fully aware, and which in many cases were self-evidently incompatible with a no-take MPA.
- 59. The UK takes issue with Mauritius' assessment that, by the time it brought this claim, further exchanges were futile. But that is the judgment that Mauritius made, and I would suggest that it was entirely reasonable in the circumstances. The "MPA" had been rushed through. The

<sup>&</sup>lt;sup>60</sup> Letter dated 1 December 2005 from the Prime Minister of Mauritius to the Prime Minister of the United Kingdom, MM, Annex 132; Letter dated 4 January 2006 from the Prime Minister of the United Kingdom to the Prime Minister of Mauritius, MM, Annex 133.

1	new Government was keeping it in place. And it had become clear, we say, that if this
2	important, long-running dispute was to be resolved, it would have to be resolved in this
3	forum, before you, and not in meeting rooms in Port Louis or London.
4	60. Mr. President, Members of the Tribunal, in my submission there is nothing to suggest that the
5	framers of the Convention, or those who have subsequently shaped and developed its
6	caselaw, would intend Article 283 to pose any barrier to an examination of the merits of this
7	case.
8	60. Mr. President, that concludes my submissions, happily within time.
9	61. Can I ask whether members of the Tribunal have any questions?
10	PRESIDENT SHEARER: No, I think not, Ms. Macdonald.
11	MS. MACDONALD: In that case I thank you, Mr. President. We can take the
12	break now –
13	PRESIDENT SHEARER: Take the break now.
14	MS. MACDONALD: And after that I would ask you to call Professor
15	Crawford.
16	PRESIDENT SHEARER: Thank you very much.
17	Well, I think it will be a 20-minute break, rather than 15, and we'll resume at five
18	past 11.
19	Thank you.
20	(Brief recess.)
21	PRESIDENT SHEARER: Mr. Crawford, before you begin, the Tribunal notes
22	that there's been a change in your status, too, since our last meeting in Dubai, and it congratulates
23	you on the Award of the Companion of the Order of Australia.
24	PROFESSOR CRAWFORD: Thank you.
25	Thank you, Sir, no longer Australia's highest civic honor. That's an in-joke.

Mr. President, Members of the Tribunal, just to respond to Judge Greenwood's question before the break, Ms. Munn was the Parliamentary Under Secretary of State, UK Foreign and Commonwealth Office, in our dramatis personae.

ARBITRATOR GREENWOOD: Thank you. I gather she left office in October 2008, which explains why she's asking a question as a back-bencher in the debate. That's what was puzzling me.

### **Crawford statement**

## Mauritius v United Kingdom

## **Reply of Mauritius**

# Speech 3: The United Kingdom is not the coastal State: Merits Professor James Crawford AC SC

## I. Introduction

Mr. President, Members of the Tribunal:

- 1. I will deal with three questions in this reply: first, the status of the Chagos Archipelago as part of Mauritius before 1965; secondly, the applicability of the law of self-determination at that time, and thirdly, the validity of Mauritius' purported consent to excision. Professor Sands, who follows me, will deal with your jurisdiction to decide these questions.
- II. The status of the Chagos Archipelago as part of Mauritius before 1965Mr. President, Members of the Tribunal:
- 2. The Chagos Archipelago formed part of the territory of Mauritius. You've only to read the documentary record to see that all parties proceeded on the basis that the Archipelago was being separated from the colony. To take only one example, the minutes of the meeting of the Defence and Overseas Policy Committee held on the 23<sup>rd</sup> of September 1965, at 4:00 p.m., produced by the United Kingdom last Friday, refer to the 'detachment of the islands' and to their being handed 'back' to Mauritius. You cannot detach something not previously attached whether

it's a retina or an archipelago. You cannot hand something back if it did not originate there – whether an island to a colony or a letter proposing marriage to a rejected suitor. No one at the time pretended that the excision was okay because it was not an excision.

- 3. The UK repeated last week its argument that the Archipelago was attached to Mauritius merely 'for reasons of administrative convenience, not because it was seen as part of a territorial unit.' I pause, at Ms. Macdonald's request, to correct Sir Michael's allegation that she mistakenly asserted that this argument was concocted for the purpose of the case. That's not what she said: she drew attention to the fact that the argument was, 'taken directly from the bygone world of 1960's British colonialism, and it is no more justified now than it was then.'
- 4. The burden of Sir Michael's remarks was that because the UK termed the Archipelago a dependency before 1965, you should not consider it a part of Mauritius for the purposes of the law of self-determination. In response I would make two points. First, the internal law and practice of the UK was not consistent: the UK regarded Mauritius as including the Archipelago for many purposes. Secondly, whatever the position under what Sir Michael himself describes as the 'finer points of British colonial constitutional law,'64 the reality was that the Archipelago was treated as a part of Mauritius by the UK so far as the outside world was concerned.
- 5. As to my first point, the status of the Archipelago under British colonial law and practice does not support the UK position. Even Sir Michael acknowledges that 'for certain purposes ... the Chagos Archipelago seems to have been treated as part of the territory of Mauritius.' 65
- 6. In fact, successive constitutions of the colony of Mauritius defined it as including its dependencies. For example, the Constitution of 1964 the last before the excision has a definition of Mauritius which reads: "Mauritius" means the island of Mauritius and the

<sup>&</sup>lt;sup>61</sup> Transcript, Day 5, p. 511, lines 10-11.

<sup>&</sup>lt;sup>62</sup> Transcript, Day 5, p. 511, line 1.

<sup>&</sup>lt;sup>63</sup> Transcript, Day 2, p. 84, lines 22-23.

<sup>&</sup>lt;sup>64</sup> Transcript, Day 5, p. 511, line 6.

<sup>&</sup>lt;sup>65</sup> Transcript, Day 6, p. 640, lines 23-25.

Dependencies of Mauritius. '66 Persons born in the Archipelago were citizens of Mauritius. This contrasts with the usual relationship between the UK and its direct dependencies, where a separate citizenship is provided for the dependency. Further, the law of the Archipelago was essentially the law of Mauritius: the Governor of Mauritius extended laws of Mauritius to the Archipelago, and there was no separate law-making body. After it was excised it had to be made into a separate colony.

- 7. In fact, the UK seems to have been liberal with the term 'dependency' even Rodrigues, itself a dependency, was given its own dependencies<sup>67</sup>- dependencies are dependencies, perhaps they should have been excised back to Mauritius- even though these were tiny uninhabited islands. Whether an island was determined a part of the main island or a dependency seems to have been fairly arbitrary. The convenience of administering the Archipelago together with Mauritius must have been real, since it was done for 150 years. But whether or not bureaucratic inertia contributed to that position, the close connection between Mauritius and the Archipelago for such a length of time would undoubtedly have resulted in the Archipelago becoming independent as part of Mauritius, but for the excision.
- 8. My second point is that in truth these subtleties of UK colonial constitutional law, even if they were real, which they're not, were not determinative. The UK treated the Archipelago as part of Mauritius in its dealings with the outside world. Sir Michael Wood conceded the distinction between what was done internally and what was done externally.<sup>68</sup> For example, when the UK extended the application of treaties to its overseas territories, a reference to Mauritius in the relevant list of territories would be taken as extending the treaty to the Archipelago and not simply the main island.<sup>69</sup> This is illustrated by the extension of the European Convention on Human

<sup>&</sup>lt;sup>66</sup>Section 90(1).

<sup>&</sup>lt;sup>67</sup> The Interpretation and General Clauses Ordinance 1957: section 3(1), "Rodrigues" means the Island of Rodrigues with the Dependencies thereof.

<sup>&</sup>lt;sup>68</sup>Transcript, Day 5, p. 517, lines 8-9.

<sup>&</sup>lt;sup>69</sup>Transcript, Day 6, p. 642, lines 9-11.

Rights to Mauritius. As the UK accepted in its pleading in the recent case in Strasbourg, the notification extending the Convention to Mauritius included the Archipelago though there was no express mention of it.<sup>70</sup>

9. Crucially, when the excision proposal was under consideration the UK continued to treat the Archipelago as a part of Mauritius. Indeed, otherwise, its actions were incomprehensible. While affirming the legal right to detach the Archipelago unilaterally and without the consent of the Council of Ministers, the UK went to great lengths to try and secure this consent. It gave Mauritius £3 million in compensation – compensation for loss of territory, not for resettlement of the residents, and certainly not for the purposes of 'securing a new source of income for their economy', as Sir Michael so unfortunately asserted; it gave undertakings with regard to fishing, mineral and oil rights. Most curious of all – if the UK did not regard the Archipelago as belonging to Mauritius – it promised that the Archipelago would 'revert' to Mauritius when it was no longer needed for defence purposes. It was in Mauritius that the majority of the inhabitants were resettled, and the UK made legal provision for them to become Mauritian citizens on independence. The reality was that the Archipelago was treated as part of the territory of Mauritius, and it is as an integral part of Mauritius that it must be regarded for the purpose of the law on self-determination. I turn to that law.

## III. Status and effect of the law of self-determination at the time

10. In his presentation last week, Sir Michael repeated the UK's contention that the right to self-determination in respect of colonial territories was not part of customary international law at the time of the excision or even at the time of Mauritius' independence. His view of custom, I must say, is static to the point of catalepsy. Sir Michael is now trying to persuade you that it was only in 1970, with the adoption of the *Friendly Relations Declaration*, that the right was established in international law.<sup>71</sup> He might have been tempted to push that arbitrary line even

<sup>&</sup>lt;sup>70</sup> Transcript, Day 6, from p. 641, line 25, to p. 642, lines 1-4.

<sup>&</sup>lt;sup>71</sup> Transcript, Day 6, p. 710, lines 4-6.

further into the future if the International Court's clear affirmation of the legal character of self-determination in the *Namibia* advisory opinion a year later (with its reference to previous practice) did not debar him from doing so.

- So Sir Michael adopted 24 October 1970 as the date on which self-determination emerged, 11. like Athena, fully formed and fully-armed into the world. The implication is that it only became a legal right applicable in the colonial context once decolonization was more or less over and the international community had little need for it – like an exhausted marathon runner arriving at the stadium to find only the cleaners cleaning it up. The creation of dozens of newly independent States through decolonization in the 1960s apparently had nothing to do with the law of self-determination. Indeed, he might add, the colonial powers – which he cutely reclassifies as 'specially affected States'<sup>72</sup> – only recognised the right to independence of peoples under their domination applies ex post facto. According to Sir Michael, independence was granted ex gratia - there speaks the colonial voice - because the right that everyone recognises today did not form part of the actual process of granting of independence to the great majority of non-self-governing territories. It was as if the non-self-governing territories gate-crashed a diplomatic reception, to which, it was afterwards conceded, they *should* have been invited!
- 12. Mr. President, I have addressed the Tribunal on this question in the first round, and I do not need to repeat myself. I will simply focus on a particular point that was central to the UK's case as put last week: the attempt to undermine Resolution 1514. I'll make three responses.
- 13. First, Sir Michael refers to the jurisprudence of the Court, especially the Wall opinion, to suggest that it was the Friendly Relations Declaration, not the Colonial Declaration, that fully articulated the right to colonial self-determination in international law. 73 Now, the *Wall* opinion concerned a situation of foreign occupation, the occupation of Palestine territories by Israel. It should come as no surprise that in a case concerning foreign occupation the Court and the

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

Transcript, Day 6, p. 707, line 22.
 Transcript, Day 6, p. 709, lines 1-18.

participants in the proceedings would find it more helpful to refer to the *Friendly Relations Declaration*, which is more general than the *Colonial Declaration* and had a quite different agenda.

14. In contrast, in the *Western Sahara* advisory opinion – a central case on decolonization – it was the *Colonial Declaration* that the Court applied as the main benchmark for its analysis. The Court begins by noting that '[t]he principle of self-determination as a right of peoples, and its application for the purpose of bringing all colonial situations to a speedy end, was enunciated in [the *Colonial Declaration*]'. The *Colonial Declaration*, the Court added at paragraph 57, 'provides the basis for the process of decolonization which has resulted since 1960 in the creation of many States which are today Members of the United Nations'. Sir Michael may try to persuade you that 'the basis' does not mean the 'legal basis': the judges in 1975 would have been perplexed by that suggestion. Later in the opinion, the Court also refers to the *Friendly Relations Declaration*, but this is only to reiterate the rules enunciated in the *Colonial Declaration* for colonial territories and to establish the continuity between the two instruments. The court also refers to the the colonial declaration for colonial territories and to establish the continuity between the two instruments.

15. Secondly, Sir Michael has pointed to 'substantive differences' between the *Colonial Declaration* and the *Friendly Relations Declaration*. These are said to demonstrate that, '[it] cannot be said that the customary law of self-determination became established in the course of the decade of the 1960s'. He first claims that while the *Colonial Declaration* is absolute in its prescription of independence, the *Friendly Relations Declaration* is flexible, envisaging different modalities for implementation of the right. But this is to ignore General Assembly Resolution 1541(XV), the twin sister of the *Colonial Declaration*, adopted on 15 December 1960. Resolution 1541 lays down in Principles VI to IX the modalities of the exercise of self-determination to which the *Friendly Relations Declaration* later referred – independence, free

<sup>&</sup>lt;sup>74</sup>Western Sahara, Advisory Opinion, ICJ Reports 1975, para. 55.

<sup>&</sup>lt;sup>75</sup>Ibid, para. 57.

<sup>&</sup>lt;sup>76</sup>Ibid, para 58.

<sup>&</sup>lt;sup>77</sup>Transcript, Day 6, p. 710, lines 10-11.

association, integration with an independent State. In 1970, the *Friendly Relations Declaration* added to this list the choice to adopt 'any other political status freely determined by a people'. But there's full continuity between the two instruments, a point the Court in *Western Sahara* made when it noted that the 'any other political status' proviso merely 'reiterates the basic need to take account of the wishes of the people concerned'. <sup>79</sup>

16. A further 'substantive difference' that Sir Michael identified in the *Friendly Relations Declaration* is 'remedial self-determination'. He was of course referring to the saving clause according to which self-determination is without prejudice to the territorial integrity of 'sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples'. The *Colonial Declaration* does not contain a similar reference, as Sir Michael pointed out.

17. But this only serves to demonstrate that the *Friendly Relations Declaration* was part of a very different agenda when compared to the *Colonial Declaration*. By the late 1960s, it was beyond question that self-determination applied in the colonial context so as to confer a right on peoples to decide on their political status including a right to independence. Hence the unequivocal reaffirmation in the *Friendly Relations Declaration* of the rules already proclaimed in the *Colonial Declaration*. By the late 1960s, the law of self-determination was facing a new question, whether the right to self-determination applied outside the colonial context. That saving clause hinting at remedial self-determination in the *Friendly Relations Declaration* does not cast any doubt on the rules laid down for non-self-governing territories in the *Colonial Declaration*.

18. Third, Sir Michael failed to remind you that the 1982 Convention itself makes no less than three references to the *Colonial Declaration*. The first of these is in Article 140, entitled 'Benefit of Mankind', which prescribes:

<sup>&</sup>lt;sup>78</sup> UNGA Res 2625(XXV).

<sup>&</sup>lt;sup>79</sup> Western Sahara, Advisory Opinion, ICJ Reports 1975, para 58.

<sup>&</sup>lt;sup>80</sup> Transcript, Day 6, p. 710, lines 22-23.

'[a]ctivities in the Area shall ... be carried out for the benefit of mankind as a whole, irrespective of the geographical location of States... and taking into particular consideration the interests and needs of developing States and of peoples who have not attained full independence or other self-governing status recognized by the United Nations in accordance with General Assembly Resolution 1514 (XV) and other relevant General Assembly resolutions.'

The other two references are in Article 305, which refers to 'all self-governing associated States which have chosen that status in an act of self-determination supervised and approved by the United Nations in accordance with General Assembly Resolution 1514, and 'all territories which enjoy full internal self-government, but have not attained full independence in accordance with General Assembly Resolution 1514'.

19. Then there is Resolution III appended to the Final Act of the Conference, which states in paragraph 1(a) that: 'In the case of a territory whose people have not attained full independence or other self-governing status recognized by the United Nations, or a territory under colonial domination, provisions concerning rights and interests under the Convention shall be implemented for the benefit of the people of the territory with a view to promoting their well-being and development.' [emphasis added]

Churchill and Lowe characterise this as a '[s]pecial provision ... concerning the beneficial ownership of the resources of maritime zones of non-independent territories'.<sup>81</sup>

20. Now, it's not necessary to go into the controversial history of Resolution III, which – in its prior incarnation as Article 136 of the ISNT – was in Rosenne's words 'a highly divisive issue'. Rauritius does not need to rely substantively on that proposal or on Resolution III; we rely on specific and binding commitments. We don't need general auditory phrases. But the totality of these provisions demonstrate that the drafters of the 1982 Convention did not share to any degree

<sup>&</sup>lt;sup>81</sup> R.R. Churchill & A.V. Lowe, *The Law of the Sea* (3rd. ed.), 1999, p. 157.

<sup>&</sup>lt;sup>82</sup> Center for Oceans Law and Policy, University of Virginia Law School, *United Nations Convention On The Law Of The Sea 1982: A Commentary*, Vol. V, p. 482.

Sir Michael's scepticism about the status and significance of the *Colonial Declaration*. They recognised that, as regards issues of decolonization and the self-determination of colonial peoples, the *Colonial Declaration* was and is the controlling text.

- 21. Before moving on, a quick word on territorial integrity, *uti possidetis* and persistent objection. In my presentation in the first round I established that the territorial integrity of colonial territories is a guarantee attached to the right of colonial self-determination. This is, of course, reflected in the *Colonial Declaration*, paragraph 6, and it was applied contemporaneously by the General Assembly in Resolution 2066(XX). Territorial integrity is a logical consequence of the right to self-determination if the law were to authorise colonial powers to dispose of colonial territory in the lead-up to independence as they please, the right to self-determination would be frustrated or denied to that extent. Sir Michael has not confronted this argument. He replied by challenging the resolutions which we invoked.<sup>83</sup> He referred you to a table included in the Rejoinder, displaying the voting records in those resolutions.<sup>84</sup>
- 22. Here two points must be made. The first, the table shows that the United Kingdom voted against only three of the relevant resolutions. These three concerned disputes in which the UK was involved or had a direct interest. Resolution 2238 on the situation in Oman, condemned the UK not only for breaching the principle of self-determination, but also for concessions given to foreign monopolies and the maintenance of military bases. Resolution 2353 (XXII) (1967) concerned the dispute between the UK and Spain over Gibraltar. Resolution 1899 involved the condemnation of South Africa for not implementing the Charter in relation to South West Africa. The inconsistency the UK sees in these voting records in no way implicates the integrity of territorial colonies, or suggests that, as a matter of principle, it was being called into question.
- 23. My second point is that the *Friendly Relations Declaration*, which Sir Michael is happy to recognise as restating customary international law, provides: 'The territory of a colony or

<sup>83</sup> Transcript, Day 6, pp. 711-713, paras. 37-38.

<sup>&</sup>lt;sup>84</sup> UKR, pg. 101.

other Non-Self-Governing Territory has, under the Charter, a status separate and distinct from the territory of the State administering it; and such separate and distinct status under the Charter shall exist until the people of the colony or Non-Self-Governing Territory have exercised their right to self-determination in accordance with the Charter, and particularly its purposes and principles.<sup>85</sup> The UK has given various examples of territories which were carved up by colonial administrators. 86 But our concern is not with administrative rearrangements during the long course of colonial rule; it's with the division of colonial territories for such purposes as the removal of the entirety of their population for the creation of military bases in the run-up to independence. As to these, the territorial integrity rule was applied, there was international scrutiny, and the UK was well aware of the constraints. They rushed to get the excision through in the days before the General Assembly could consider 'The Question of Mauritius,' and they were criticised precisely on the apprehended grounds in Resolution 2066.

25. With respect to uti possidetis, Sir Michael continues to insist that it 'fully supports the United Kingdom's position, '87 referring again to Burkina Faso/Mali. But uti possidetis, the Chamber then said, 'is logically connected with the phenomenon of the obtaining of independence, whenever it occurs, wherever it occurs': its 'obvious purpose is to prevent the independence and stability of new States being endangered by fratricidal struggles provoked by the challenging of frontiers following the withdrawal of the administering power'. 88 Uti possidetis may well be invoked by a newly-independent State against a self-determination claim made by another newly-independent State. But it cannot be invoked by a colonial power against a self-determination claim made by a former colony. The implication of the United Kingdom's argument is that by granting independence a colonial power ceases to be responsible for any

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

<sup>85</sup> UNGA Res 2625 (XXV).

<sup>&</sup>lt;sup>86</sup> Transcript, Day 6, pp. 643-645.

<sup>&</sup>lt;sup>87</sup> Transcript, Day 6, p. 698, lines 19-20.

Burkina Faso/Mali, ICJ Reports 1986, para. 23.

breaches of the law of self-determination that it may have committed before then. That is not the function of the *uti possidetis* doctrine.

26. As to persistent objection, Sir Michael has suggested that the UK 'did not then – that is in 1965 or 1968 – accept the right of self-determination as a rule of international law'. 89 But a State cannot avoid the application of a customary rule by simply saying that it doesn't 'accept' it. The burden of persistent objection – if it exists in international law, and that is controversial – is onerous. Sir Michael describes the points I made in the first round as 'pretty unconvincing', 90 but offered no response to them. The record speaks for itself, but I would just cite from a 1966 memorandum of an unnamed British official writing about the excision, and this is quoted in two of the Bancoult cases in the UK: 'We', that is the British Government, 'could not accept the principles governing our otherwise universal behaviour in our dependent territories; we could not accept that the interests of the inhabitants were paramount and that we should develop self-government there.' He's talking about Mauritius. 'We therefore consider that the best way in which we can satisfy these objectives [I interpolate that by objectives he meant the objectives of getting the Archipelago, removing its population and using it as a military base, when our action comes under scrutiny in the United Nations, would be to assert from the start, if the need arose, that this territory did not fall within the scope of Chapter XI of the United Nations Charter.'91 That's the language of evasion; it's not the language of persistent objection.

IV. The UK breached the law of self-determination by excising the Chagos Archipelago
Mr. President, Members of the Tribunal:

27. I turn now to the argument on the character of the 'consent' given to the excision –

ARBITRATOR GREENWOOD: Professor Crawford, before you do that, may I just ask a question. I understand that Mauritius' principal position is that, as of 1965, the principle

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

<sup>&</sup>lt;sup>89</sup> Transcript, Day 6, p. 707, lines 22-23.

<sup>90</sup> Ibid line 22

<sup>&</sup>lt;sup>91</sup> Cited in *R v. Secretary of State for Foreign and Commonwealth Affairs ex parte Bancoult* [2006] EWHC 1038 (Admin) para. 27, available at: <a href="http://www.bailii.org/ew/cases/EWHC/Admin/2006/1038.html">http://www.bailii.org/ew/cases/EWHC/Admin/2006/1038.html</a>.

stated in Paragraph 6 of Resolution 1514 already formed a part of customary international law and that the United Kingdom had not established itself as a persistent objector to that; that's right, is it not?

PROFESSOR CRAWFORD: That's right.

ARBITRATOR GREENWOOD: But let us suppose for the sake of this discussion that the critical date of which – perhaps "critical date" is not the right expression – the date at which 1514 Paragraph 6 comes to reflect customary international law is after 1965, but before independence in 1968. Did I understand you to be saying in the first round that even then it would apply to render the excision a breach of international law?

PROFESSOR CRAWFORD: Yes, I said that, sir, and I meant it. For example, the United Kingdom might have had second thoughts and returned the Archipelago to Mauritius or done other equivalent things. It did that with the three Seychelles islands which were taken away and then returned before independence. In that situation, there will be no breach of the principle because there was a *locus poenitentiae* in effect between 1965 and 1968. The crucial date is the date of independence because that's the date the excision has definitive effect.

ARBITRATOR GREENWOOD: Well, help me a little bit as to how that happens. I take your point about if the United Kingdom had had second thoughts, but, of course, the United Kingdom didn't have second thoughts. On the hypothesis I put to you, the excision of the Archipelago in 1965 would not have been a violation of international law. Therefore, at the time of independence, Mauritius would not have included the archipelago, so, how does – how is the excision retrospectively undone, as it were? Would you undo it so far back as the excision of the Seychelles from Mauritius in 1903? Obviously not. I'm just puzzled as to how that alternative line of argument works.

PROFESSOR CRAWFORD: Sir, customary international law doesn't develop by legislation. It develops by the instantiation of its principles in practice over time. The territorial

integrity rule was articulated as a rule of law as part of the law of self-determination in 1960, and it was applied consistently by the General Assembly in the sense that there was international scrutiny of every case to which it was applicable subsequent to that. The fact that on the first or second occasion when a situation arises and when a question of the application of a rule comes to be examined there might be doubts about it doesn't stop customary international law from working. Or in that case customary international law would be always there after the event, like the exhausted marathon runner. Customary international law is part of the practice of States which evolves through being done, the appetite comes through eating, if I could quote an Italian maxim, which is perhaps inapplicable. The situation is that the United Kingdom in 1965 apprehended very clearly, as you saw from the passage I just read, that the principle would be applied, and it was applied. There wasn't a date between 1965 and 1968 in which the law had changed. The law had been developing, in fact, ever since the enactment of the conclusion of the Charter being articulated through the fifties and coming to effective fruition in 1960.

So, my first response is to deny the hypothesis on which the question is put. My second response is to say it follows from the character of customary international law that you can't point to a precise day on which a particular rule is to be applied. The rule is part of the system, and it's applied through the way States respond to given situations, in the same way that you can't say that the Truman Proclamation was customary international law the day after, but you can't say it wasn't. The question is when the issue did arise.

ARBITRATOR GREENWOOD: Well, I understand that, Professor Crawford, and I grant you that you don't accept the hypothesis, but let's just stick with the hypothesis for a moment. It's also a well-established principle of international law that the legality of an action has to be judged by the law as it stood at the date that the action took place. So, surely the question has to be, was the excision a violation of international law at the time the excision took place, which is November 1965.

PROFESSOR CRAWFORD: Sir, the proposition that the law has to be applied at the date at which an event takes place assumes that you know for certain on the day that an event takes place what the law is. But with customary international law, because it evolves on a continuing basis, you can't know for certain what it is on the same day. You didn't know about the legality of the Truman Proclamation. If the Truman Proclamation was unlawful, then how could it produce legal effects? It was the first time the issue had been raised. What mattered in processing the legality of the Truman Proclamation was the reaction of States to that Declaration, and the reaction was generally favorable or not unfavorable, so we now say the Truman Proclamation was the beginning of a process. We don't have to say that for the territorial integrity rule because the territorial integrity rule had already been articulated in 1960, and when the issue arose in 1965 and then arose in some other cases in the 1960, the rule was applied.

So, in that situation, we can say in retrospect that the rule already existed in 1960, but you can say that because you know what States did at the time. Customary international law was applied as a process of doing things, and the things were done here, and they were apprehended. It was apprehended by the United Kingdom that it would be done. There is no question of reliance by the United Kingdom on the legality of conduct in 1965. There was no reliance at all. There was evasion.

ARBITRATOR GREENWOOD: Thank you. I'm grateful to you for clarifying what Mauritius' argument was. I wasn't clearly clear about it at the end of the first round.

PRESIDENT SHEARER: I'm sorry, Professor Crawford. Judge Wolfrum has a question, too.

ARBITRATOR WOLFRUM: Professor Crawford, I have a follow-up question, if you don't mind. You have so far spoken, if I understood you correctly, with the excision of the Chagos Islands and on the basis of territorial integrity referring to Resolution 1514, but you have not touched upon the taking away of the population from the island at that moment. How do you

see that? Shouldn't we separate between the territorial aspect and the aspect concerning the population?

Thank you.

PROFESSOR CRAWFORD: Sir, it was known at the time that the excision was being carried out for purposes of establishing a military base and for eliminating the population, and you see that in the passage I just took you to. It was an aspect of the illegality.

One might take another case where there was, say, a bona fide territorial dispute between two neighbouring colonies as you could have, and the metropolitan State corrected that situation prior to independence. It would be reacting bona fide in the interest of preventing a further future conflict. The situation was quite different, and the expulsion of the population, which was envisaged in 1965, was an aspect of the illegality. It wasn't a separate illegality. We have never pleaded it as a separate illegality because in that case it wouldn't, especially if it occurred at a later time, necessarily affect the sovereignty issue, and Mauritius' claim is to sovereignty over the Archipelago. Of course, there are associated questions of resettlement, and that was part of the agenda, and of the events, but the principal complaint was of the excision of the Archipelago and associated conduct.

ARBITRATOR WOLFRUM: Perhaps I didn't make myself fully understood. We are sitting here just by chance in an area where, after the First World War, actually in 1920, there was a huge repopulation/resettlement program took place — I don't want to go into that. Hasn't already since then a public international opinio iuris formed that such resettlements should not take place?

PROFESSOR CRAWFORD: There was a great deal of controversy about the exchange of Greek and Turkish populations. Of course, that was done pursuant to a Treaty at a time when that *opinio iuris* had not formed. The application of the rule in the post-1945 period is, of course, another question. We don't need to take a position for the purposes of this case on the

independent illegality of the expulsion of the population because that's not the question that's stated in this case. The question that's at stake in this case is the "MPA".

For the purposes of the Article 300 argument, it could be more relevant because the Article 300 argument implies that when you do something, you do it at least with some relationship to the stated purpose, and as I will say tomorrow, there exists some evidence that one of the stated purposes behind the "MPA" was to prevent the resettlement of the Archipelago under British rule, which would be an unlawful act because it affects Mauritius, independent of the sovereignty dispute. So, we would say that it's relevant, and I will make that point tomorrow in relation to Article 300.

But the Archipelago could be resettled, and the Attorney General said it might be resettled even under British rule, and Mauritius' primary case is that the excision was in itself unlawful, for reasons associated with self-determination in respect of the entire population of Mauritius, though the resettlement was an aspect of the conduct which made things worse, if I could put it in those terms.

ARBITRATOR WOLFRUM: Thank you.

PROFESSOR CRAWFORD: So, I return – perhaps I should say 'revert' – to Sir Michael's argument on the character of the 'consent' given to the excision. The strategy was to fixate on the single word 'duress' and to steer your attention away from the legal framework which applied to the events of 1965. He did not want you to think about the 'deal' that was reached in 1965 or the alleged 'consent' that was given from the perspective of the law of self-determination, because that makes it impossible to justify the 'deal' and the 'consent.' So he invited you to apply the strict standard of duress applicable in the law of treaties, notably under Articles 52 and 53 of the Vienna Convention. 92

-

<sup>&</sup>lt;sup>92</sup> Transcript, Day 6, pp. 714-715.

28. Replying to Judge Wolfrum's question, Sir Michael told you that Prime Minister Wilson's veiled threat of withholding independence on 23 September 1965 'doesn't begin to approach the kind of act ... that vitiates consent. Negotiations, after all, can be tough, things are said, threats are made.<sup>93</sup> He said that if pressure during the negotiation of a treaty could be subsequently raised to vitiate consent, 'that would be an extremely serious state of affairs' for the stability of treaties. <sup>94</sup> 29. Here the Tribunal should be – if I may say so with respect – extremely cautious. The Vienna Convention does indeed place great weight upon the stability of treaties. The grounds of invalidity it sets out are *numerus clausus* according to Article 42(1). The foundations of the treaty system are the principle of sovereign equality and the corollary pacta sunt servanda. States are very different from each other in reality, and we all know that powerful States such as the UK are in a position to put great pressure on newly independent States, especially small ones such as Mauritius, and even on not so newly independent states. They can even tell tribunals under Part XV what is acceptable to them and what is not. But as a matter of law, because States share the attribute of sovereign equality, it's only in the most extreme circumstances that the law will repudiate agreements between States. 30. But the events of 1965 did not concern two independent States. The negotiations did not take place in the realm of sovereign equality. When we look at the events of 1965, we are looking at the relations between a colony and its metropolitan State, a point made by you, Judge Kateka, on Friday. As to these relations, it is not the legal regime of the Vienna Convention that applied. International law has developed a protective regime in relation to colonial peoples. Under this protective regime, metropolitan States are not at liberty to 'frighten' their colonies with hope of

independence, nor are they at liberty to impose terms that compromise an ability to decide on the

political future of the colony. Under the law of self-determination, the position of the colonial

power is one of responsibility as well as authority. The UK emphasises its authority to the point

\_

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

<sup>93</sup> Transcript, Day 6, p. 715, lines 19-21.

<sup>&</sup>lt;sup>94</sup> Transcript, Day 6, from p. 715, line 25 to p. 716, line 1.

of denying entirely its responsibility, to the point indeed – you heard Mr. Wordsworth on Friday – of incoherence.

- 31. We must have clarity as to the applicable legal framework. The basis of our claim is not that consent was vitiated by duress as identified in Articles 52 and 53. Though we stand by the proposition that the term 'duress' provides an apt description of what happened, we have never suggested that the 'agreement' of 1965 was a treaty. You cannot make a treaty with yourself, which is why all of my promises to lose weight are completely ineffective. The Council of Ministers, which signed off on the excision (subject to conditions), was a body presided over by a British official, one which contained nominees as well as elected representatives. Our legal claim is that the 'consent' purportedly given by the Mauritian Ministers did not meet the requirements of the law of self-determination, and is therefore vitiated. Under the law of self-determination with its accompanying guarantee of territorial integrity, the people of Mauritius had the right to decide whether or not to relinquish the Archipelago by expressing its free and genuine will. Under the law of self-determination, the United Kingdom had the obligation to enable the people to make this decision freely and to respect it.
- 32. Now, our case rests on two factual premises. The first is that consent was given not in accordance with self-determination because the representatives were denied a choice whether or not to retain the Archipelago. Second, consent was not in accordance with self-determination because it was procured by threatening to withhold independence. These premises are interrelated, but they constitute independent grounds for our case. If either of them is true and we submit they both are you should conclude that the consent of the representatives was vitiated. Let me address each of them in turn.
- 33. A question of fact, which is not disputed by the parties the UK has conceded it over and over again is that the representatives of Mauritius were not given a choice whether to retain the Archipelago. Whether or not they agreed, the Archipelago would be detached unilaterally by

Order in Council. That was what Prime Minister Wilson told Premier Ramgoolam on 23 September 1965. That was what Colonial Secretary Greenwood reiterated that same afternoon at the meeting at Lancaster House. That's what the UK affirms in its Rejoinder. That's what Sir Michael told you last Thursday when he said in response to Judge Wolfrum's question, 'As a matter of pure law' –pure law means British law, the embodiment of everything that's excellent, I suppose –, 'As a matter of pure law, it was always possible for the United Kingdom under its legislation to divide territories, to adjust boundaries, to do whatever it liked.' That's pure law.

34. But reliance on pure law allowing the UK to do 'whatever it liked,' is incompatible with

- 34. But reliance on pure law allowing the UK to do 'whatever it liked,' is incompatible with the international law of self-determination. From the perspective of international law, it's not pure law. It's incompatible law.
- 35. The question before you is whether the consent given by the representatives of a colonial territory to the metropolitan State in a negotiation the outcome of which was predetermined satisfies the requirements of the genuine consent of the people under the law of self-determination. Was it open to the UK to deny a choice to the representatives of Mauritius regarding the excision? I posed these questions in the clearest terms during the first round. Sir Michael spoke about the law of treaties very largely.
- 36. If Mauritius had been offered the opportunity to retain the Archipelago, then it would be open for the UK to persuade you that the 'consent' was given in accordance with the law of self-determination. As things stand, the negotiations were doomed from the very beginning.
- 37. Sir Michael has instead repackaged the records and retold the story of the struggle for independence as a story of struggle for money. '[T]he meeting was all about money, all about compensation, and very understandably so.' Those were his words. He said: '[i]f sovereignty over the Chagos Archipelago was of concern to them' the Mauritian representatives 'they

<sup>&</sup>lt;sup>95</sup>Transcript, Day 5, p. 537, lines 22-24.

<sup>&</sup>lt;sup>96</sup>Transcript, Day 5, p. 529, line 11.

signally failed to mention it during the meeting'. This ignores the passages through which I took you during the first round. I'll refer you to Tab 3.2 of your folder, which is behind the gray tab, but you've seen it before. At page 34 of your folder, the red page number 34, last paragraph, Premier Ramgoolam says, 'we are not interested in the excision of the islands and would stand out for a 99-year lease. That's at page 34. On the next page, he says the alternative was to give Mauritius independence and let it negotiate the arrangements with the US directly(page 35). At page 37, he 'repeated that the matter should be considered on the basis of Chagos being made available on a 99-year lease. That's the position the representatives of Mauritius took from the very beginning as regards the Archipelago.

- 38. The account of the 20 September meeting given by Sir Michael is misleading. Mauritius came to the table suggesting a lease. It was not unsympathetic to the plans to establish a base on Diego Garcia. It is not unsympathetic even today. But it expected quite properly to receive continuing compensation for the use of its territory. That was what the 'money talks' to which Sir Michael refers were about they were 'development talks.' You can see going through the record the concerns by the Mauritian Ministers about the future of the colony.
- 39. Sir Michael referred you to page [8] of the record, which is at page 40 of your folder, and told you that 'the Colonial Secretary concluded' the meeting by summarising the points that are at the bottom of the page, the first one alluding to Mauritius' willingness to detach the Archipelago. Two clarifications must be made. First, the Colonial Secretary's view on the 'attitude' of the Ministers is not justified by what they had said. Sir Seewoosagur had firmly opposed excision twice at that same meeting. Nothing the Ministers said indicates that they were open to excision. And secondly, that was not the conclusion of the meeting there were three further pages of minutes in which the Mauritians try to improve the conditions for their agreement, and they were still talking about a lease. The only time that the possibility of excision is mentioned by the

<sup>97</sup> Ibid, lines 13-15.

<sup>&</sup>lt;sup>98</sup> MM, Annex 16.

Mauritians is at pages [10-11] of the record, pages 42 and 43 of the folder. Sir Seewoosagur suggested a figure for yearly payments to be made by the US, and then he added, at page 43, that he was 'talking in this connection in terms of a lease but if the islands were detached then different figures could easily be calculated'. In other words, if the talks were about excision rather than a lease, the compensation would have to be at a completely different dimension. The Mauritian leaders were simply doing their best in difficult circumstances to secure the economic survival of the new State. They did not freely consent to something as to which they were, explicitly, given no choice.

40. Well, you know how the negotiations ended. They received £3 million in return for the excision of the Archipelago, plus the undertakings given in 1965 – undertakings which, according to Mr. Wordsworth, the UK did not intend and didn't give and which are not binding on them! The 3 million they have claimed is less than half of the annual £7 million that the representatives of Mauritius had asked for a lease of the Archipelago, and less than half of what the Seychelles received for the excision of the three islands that were later reverted to them. It was not much more than the £1 million the UK had initially offered, a sum which vexed Sir Seewoosagur so much that he would prefer to give the islands *ex gratia* rather than take it. Does this outcome reflect the UK's portrayal of the Mauritian ministers as greedy politicians looking for money? There was *one* price that the representatives of Mauritius were ready to pay, when all the cards were put on the table. That was independence.

41. The negotiations that took place have to be viewed in their proper context. The Mauritians had been informed that excision would be carried out with or without consent. The only option that remained was to try to secure the greatest number of benefits that the UK was willing to agree to. Failing to give formal consent would not have prevented excision and would have resulted in the Ministers returning to Mauritius with empty hands, without the islands, without the undertakings. This was the deal of 1965.

42. Sir Michael said, 'there was hard bargaining on both sides, leading to agreement.' There was hard bargaining leading to certain conditions being accepted in relation to the outcome the UK had predetermined and which Mauritius had no possibility to oppose. Was any of this compatible with the obligation on colonial powers to respect the genuine will of the self-determination unit with regard to the dismemberment of colonial territory? The answer is emphatically 'no.'

43. I turn to deal with the threats to withhold independence.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

44. Sir Michael said last week that it appeared 'unambiguous' from the records 'that there were no conditions of independence'. 100 That's a remarkable claim. In my first presentation, I showed you that until the end of the Constitutional Conference the position of the Ministers was contrary to excision: 'unambiguous' might well apply here! Mauritius was - and remains sympathetic to the security interests of the UK and the US in the Indian Ocean, but it rejected the notion of detachment and it favoured instead a lease. This position did not change until the meeting at 10 Downing Street on the morning of 23 September. We reviewed the covering note prepared by the Private Secretary pointing out to Prime Minister Wilson that the object of the meeting was to frighten Premier Ramgoolam with hope of independence, and to make the point that the Archipelago could be excised unilaterally by Order-in-Council. We saw how Prime Minister Wilson not so subtly pointed to 'the number of possibilities' that the Premier faced, including the possibility of leaving the Conference with independence or without it. He did not fail to point out that the solution which would make everyone happiest would be for the Premier to leave London with the independence of his fractured homeland secured. And then Colonial Secretary Greenwood said: 'take it or leave it – before 4 p.m.'!

45. Sir Michael says that the record tells a different story. Never mind the note by the Private Secretary – it does not reflect State policy. Never mind the transcript of the meeting at which Prime Minister Wilson clearly connects the questions of independence and excision. Sir Michael

<sup>&</sup>lt;sup>99</sup> Transcript, Day 5, p. 536, lines 16-17.

<sup>&</sup>lt;sup>100</sup> Transcript, Day 5, p. 523, lines 9-10.

concedes that there was, it is true, a connection between independence and excision, but he says it was 'one of timing,' not one of 'substance'. 101 We respectfully disagree.

46. Sir Michael ignored a key document which I bring again to your attention, an omission which is eloquent. You should – with respect – consider this document carefully. It's the 'top secret' minute of the meeting of the Defence and Oversea Policy Committee – held on 25 May 1967, which is at Tab 3.3 of your folder. 102 The meeting concerned the upcoming disclosure of the US' contribution to the compensation paid to Mauritius and the Seychelles for dismemberment. At page 48 of the folder, first paragraph, second sentence, Herbert Bowden, then the Commonwealth Secretary, says the following: 'At the time when the agreement for the detachment of BIOT was signed in 1965, Mauritian Ministers were unaware of our negotiations with the United States Government for a contribution by them towards the cost of compensation for detachment. They were further told there was no question of a further contribution to them by the United States Government since this was a matter between ourselves [that is, the United Kingdom] and Mauritius [that's at page 48], that the £3 million was the maximum we could afford, and [I stress], that unless they accepted our proposals we should not proceed with the arrangements for the grant to them of independence.'

47. This is a candid account of a high-ranking British official of what happened in 1965. This meeting concerned specifically the excision of the Archipelago. There is no room to argue that 'our proposals' signifies guarantees for minorities or electoral reforms. Mr. Bowden was Anthony Greenwood's successor.

48. Of course, he didn't participate in the Constitutional Conference. But attending the meeting in 1967 was someone deeply familiar with the events of 1965, the Prime Minister himself.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

Transcript, Day 5, p. 527, line 4. Extract from Minutes of 20<sup>th</sup> Meeting of Defence and Oversea Policy Committee held on 25 May 1967 (MR, Annex 59).

He did not point out to the Commonwealth Secretary: 'you've got it wrong, I didn't frighten Sir Seewoosagur with hope of independence'.

49. Sir Michael makes much of Sir Seewoosagur's subsequent statements in parliamentary debates. I've explained to you in the first round what the context in which those statements were made was, and I won't repeat myself. To the present members of the Tribunal, since it falls within your jurisdiction, I leave it in your hands to weigh the evidence from the documents referring to the 'package deal;' the minutes of the parallel meetings at the Constitutional Conference; the covering note; and the unambiguous minutes of the 1967 Cabinet meeting against the speeches that Sir Seewoosagur made years later, in public in the highly politicised context of the legislative debates in Mauritius.

- 50. I've also explained the reasons why Mauritius did not formally protest against the excision in the first years of independence, and again I won't repeat them. I leave you to consider the lessons of the *Nauru* case in this regard: the International Court expressly took into account the character of relations between a former administering authority and a small island State and, we suggest, you should do likewise.
- 51. Finally, counsel referred to the General Elections held in Mauritius in 1967, which, they said, ratified the excision. But the excision was already a *fait accompli* so far as the electorate was concerned. They had many other issues to face, including the choice between independence and free association. The Mauritian opposition, which favoured free association, was equally opposed to excision. In the circumstances, if the Council of Ministers was not free to reject excision neither was the electorate.

### V. Conclusion

Mr. President, Members of the Tribunal:

<sup>&</sup>lt;sup>103</sup> Transcript, Day 6, p. 719, lines 11-17.

<sup>&</sup>lt;sup>104</sup> Cf. e.g. Extract from Minutes of 20<sup>th</sup> Meeting of Defence and Oversea Policy Committee held on 25 May 1967 (MR, Annex 59), p. 2.

52. You have the arguments on consent. You have experience in inter-colonial and international relations. You can assess for yourselves whether consent was truly given. But what is particularly remarkable is that the United Kingdom now treats the whole exercise as a charade. For we are told there cannot have been an agreement between Her Majesty's Government and the colonized, even in the negotiations for independence. The members of the Tribunal will be familiar with the 'clean slate' theory espoused by many African States at the end of decolonization and reflected to a degree in the 1978 Vienna Convention on Succession with respect of Treaties. This is perhaps the first time that the colonial power has argued for a clean slate! The UK now says it came free from Mauritius' independence. Independence was to make the colony free, but it made Britain free, free from any commitments it made, with a slate wiped clean of prior understandings. And the UK says that it is still free of them because, on the Nuclear Tests principle, there was no new undertaking after 1968. There didn't need to be. There was reaffirmation of a prior undertaking. 53. The true position, as we have said – and we said it in the first round, so that Mr. Wordsworth's incomprehension of the point is all the more surprising - is that these understandings or commitments were most certainly articulated by the United Kingdom as the quid pro quo for the 'consent' given. You may still judge that the 'consent' was not given in accordance with the applicable standards for the treatment of a colonizer towards an independence

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

understandings or commitments were most certainly articulated by the United Kingdom as the *quid pro quo* for the 'consent' given. You may still judge that the 'consent' was not given in accordance with the applicable standards for the treatment of a colonizer towards an independence movement. Even so, the conditions remain, and they are, as I have said, and as Mr. Reichler demonstrated in our first round, conditions that were repeatedly referred to with reference back to the events of 1965 in the subsequent inter-State relations of Mauritius and the United Kingdom. For the United Kingdom now to seek to deny them is nothing short of astonishing. Mr. President and Members of the Tribunal, that concludes this presentation.

ARBITRATOR WOLFRUM: Thank you, Mr. President.

Professor Crawford, let's leave aside for a moment that this consent was given, as you say, due to some pressure put upon the Mauritian Ministers. Let's just talk about the consent. How would you qualify the consent legally? That's the first part of my question.

Has it still, even today, an ongoing effect in international law?

Thank you.

PROFESSOR CRAWFORD: Sir, the consent was vitiated by the circumstances in which it was given. I use the word 'vitiated' carefully because, in the law relating to consent, you have degrees of consent, and that's for the Tribunal to assess. What is absolutely clear is that the consent was given, if it was given at all, on conditions – conditions which the United Kingdom now seeks to trivialize or deny or to remain silent about.

In a situation in which an excision has occurred, which is vitiated by conduct analogous to by, let's say, coercion—I won't use the word duress—or by circumstances amounting to a failure to allow people to make a real choice, it's possible for subsequent conduct of a person when it becomes *sui juris*, so to speak, for that defect to be repaired or to be waived. We say that nothing that happens subsequently, silence for a period of time and so on, amounts to waiver. As we said, nothing that Nauru did...Sorry, I've got the wrong 'we': as counsel argued in the Nauru case, nothing that happened after independence amounted to a waiver of a claim to rehabilitation of the lands. I have given you the standard to be applicable in determining whether there has been waiver, and it is for you to apply. We say there has been no waiver. There was no waiver by silence, and rights of this character which are very important rights are not to be deemed to have been waived by silence.

I'm not sure I can take matters further. We do not deny that the Council of Ministers gave a sort of consent, and I didn't deny that in the first round. What we said is the circumstances under which that consent was given and the very character of the Council of Ministers was that the consent was vitiated by the applicable law. It is for you to work out the

consequences of that in light of the subsequent relations between the States at a time when there was sui juris...

ARBITRATOR WOLFRUM: Mr. Crawford, this doesn't answer my second part of the question.

PROFESSOR CRAWFORD: Sorry, sir, I was focusing on the first.

ARBITRATOR WOLFRUM: Whether such a consent has an ongoing effect.

PROFESSOR CRAWFORD: Well, if the consent had no effect *ab initio*, it's that the only – I mean, it was part of what happened. It's part of the *res gestae*.

ARBITRATOR WOLFRUM: I was working under the assumption it had an effect at the beginning, that it was a theoretical case. Would it then have an ongoing effect.

PROFESSOR CRAWFORD: You might have a situation in which an entity under disability gave consent in circumstances where the consent was vitiated, but there is something written down. It remains defective until cured, and it can be cured in a variety of ways, so we would say that whatever deficiency existed in 1968, we say still exists because it hasn't been waived. But we say further to that, assuming *ex hypothesi* that you don't have jurisdiction to determine whether the consent was given because it's associated with a jurisdictional lacuna or gap in your competence, what is perfectly clear is that the conditions that were attached to the events as occurred and which were reaffirmed by the United Kingdom, reaffirmed on the multiple occasions are still binding, and we say you have jurisdiction to determine that in any event.

The case is difficult because of the interplay between questions of jurisdiction and questions of substantive law. And I will return to that tomorrow in various ways.

PRESIDENT SHEARER: Thank you very much, Professor Crawford. No further questions.

Oh, sorry, you have a question, Judge Greenwood.

ARBITRATOR GREENWOOD: Professor Crawford, it seems to me that this is a somewhat unusual case in that you are saying that – both parties are saying there was an agreement of some kind in 1965. I heard you say that you don't – in both rounds, you don't deny that some agreement was reached. That Mauritius' position appears to be that it is not bound by what it agreed to, but the United Kingdom is bound by its undertakings.

The United Kingdom is saying Mauritius is bound by what its Ministers agreed to and the United Kingdom is not bound by what its Ministers had said. You will appreciate, as I'm sure the United Kingdom does, that for the Tribunal, the path to either of those conclusions is going to be a rather difficult one. I just want to try and sort out precisely what the case is as a matter of law on each side without entering into the question of whether the rhetoric behind it is overblown.

It seems to me that in 1965, there could not have been an internationally binding – sorry, an agreement binding in international law concluded between a colony and a metropolitan power because Commonwealth and colonial law at that stage did not provide that agreements of that kind were treaties or equivalent treaties. And since both the Parties concerned were negotiating within the framework of the United Kingdom Commonwealth and colonial law, one has to start from that standpoint. But if I'm wrong in that, I'd be grateful if you'd explain the basis on which I'm wrong. If I'm right, then it must presumably follow that the character of the Agreement as binding in international law must derive from something that happened after independence in 1968.

Now, that, I suppose, could have been a reaffirmation after independence of what was said by the two Parties prior to independence, or it could have been a unilateral undertaking along what can loosely be described as the Eastern Greenland/Nuclear Tests line of authorities, and I'd just like you please to sketch out whether I'm wrong in my premise which is only a

provisional one, and if I'm right in my premise, which of the two courses you are relying on for the post-1968 period.

PROFESSOR CRAWFORD: With respect, sir, you're wrong on your premise. For the United Kingdom to say that consent could have been given which is legally effective in international law in relation to the excision of territory – because, as Judge Wolfrum pointed out earlier, we're talking about the sovereignty of the territory, we're not talking about the inconceivable possibility of a suit for breach of contract after 1968 –assuming that that's right, it was possible for the representatives of a non-self-governing territory to agree to a course of conduct in the context of the negotiation of independence provided they did so freely, and that agreement could have legal effects after independence. It's not a clean slate to the extent that nothing done before independence can have effect.

The United Kingdom, on independence, not after independence – on independence – retained the Archipelago. It therefore affirmed the conditions on which it had come to receive the Archipelago, even if the consent given was vitiated.

Let's assume I'm your grandfather, sir, and I live in a nice house, and you rather like my house, and I'm a bit frail and you come to me and you say 'I want to take over your house, but you can have the upstairs granny flat'. And I say 'this is very unfair', and I don't want to be thrown out in the streets, and you deny me access to my great grandchildren, so I sign the piece of paper and go and live in the granny flat. The position is, under any civilized system of law, that that agreement is vitiated by the circumstances in which it is made, undue influence, improper pressure or whatever you call it.

There is an agreement, but it's defective.

The United Kingdom's position is that they can throw me out of the granny flat and keep the house.

ARBITRATOR GREENWOOD: So, what you're saying is, irrespective of whether the Agreement is valid, to the extent the United Kingdom retains the benefit, it must also carry the burden.

PROFESSOR CRAWFORD: That's exactly right, sir.

ARBITRATOR GREENWOOD: Now, just explain – I understand that. Just explain to me, please, how you latch that on to public international law. Was that the case – was that an internationally – was that an agreement binding under international law between November 1965 and March 1968, or does it only acquire that character after the I think it's the 12th of March 1968?

PROFESSOR CRAWFORD: It was not a treaty, nor was it intended as a binding arrangement under British law for the reason stated by Mr. Wordsworth. It was an arrangement made in the context of negotiations for independence which take some time between persons who knew what they were doing in virtue of independence. It's a bit like a pre-incorporation contract, not nothing. The role of domestic analogies in this area is obviously an issue, but the example I've given you shows that there is something to the humanity of the situation, even if we're dealing with States.

At the very second of independence, when the excision was affirmed by the continued presence of the United Kingdom in the Archipelago, the United Kingdom disabled itself from denying the conditions attached to its presence. It would have been open, I suppose, for the representatives of the people in the period from 1965 to 1968 to try and reverse the excision. I don't know what efforts were made in that regard, but they certainly weren't bound to accept an agreement obtained in the circumstances in which it was obtained. After independence, they were *sui juris* and free to accept, but there's a presumption that they didn't do so, and there's some tolerance for silence in that period. So I would say this is a situation in which the colonial authority exercising its power assumed a responsibility which it affirms not after independence, but on

independence, the very second of independence, because otherwise it would have to hand the territory back. We don't suggest that there's an obligation of reversion after reversion has occurred, but we do say that, in the circumstances, the United Kingdom is bound by the obligations it assumed while it holds on to the territory in the same way that my hypothetical grandchild is obliged to allow me to occupy the granny flat while he occupies the house.

ARBITRATOR GREENWOOD: Of course, as I am a grandfather, I listen with great interest, and I will take it into account as planning advice for my own future.

PROFESSOR CRAWFORD: There is a law about these arrangements in many countries, which are quite common.

ARBITRATOR GREENWOOD: Let me see if I've understood the point all right because I think this is very important for this arbitration. Mauritius is not saying that there was a treaty or something akin to a treaty in 1965, nor is it basing its case on events that took place after independence, though they may be relevant in showing the nature of what had happened before. Essentially what you're saying is that where in the process of moving to independence the colonial power gives "undertakings" in exchange for "consent" to a territorial change, then on independence that, on those undertakings, assumed the character of a commitment binding under international law between the colonial State and the newly independent State.

PROFESSOR CRAWFORD: Sir, that's what we're saying, and we're saying that for various reasons, including the possibility of a reversal of the situation between the time the original consent is given and independence, as happened in the case of the Seychelles, but the very act of conferring independence in those circumstances affirms the obligations. There is a law of obligations beyond the law of treaties, just as there is in domestic law.

ARBITRATOR GREENWOOD: That's very helpful, Professor Crawford. Thank you.

ARBITRATOR WOLFRUM: Thank you, Mr. Crawford. Indeed, I join Sir Christopher's remark. That was extremely helpful as a discourse.

Let me just add a small point: What you're referring to after independence, is that a situation you would qualify under estoppel?

PROFESSOR CRAWFORD: Estoppel is, of course, an English law concept, and it's been received into international law more or less as it stands in English law. It has quite strict requirements: representation, reliance, detriment.

What we say happened after independence was reaffirmation, recognition, acknowledgment of an obligation already existing. It already existed at independence. There was no second after independence when it didn't exist. And, therefore, Mr. Wilberforce's analysis of the de novo in a *Nuclear Tests* situation is inappropriate.

I think that's probably all I need to say.

ARBITRATOR GREENWOOD: Mr. Wordsworth -

PROFESSOR CRAWFORD: We're talking about freedom, but probably not that sort of freedom. I apologize to Mr. Wordsworth.

PRESIDENT SHEARER: I'm sorry to extend this discussion on this, but as Judge Greenwood has said, this is a really vital question. I just wonder whether another possible interpretation is that when a self-determination unit approaches independence, there is a sort of a period of quasi-sovereignty that occurs. I think I mentioned before the practice in the Application of treaties as a self-determination, as internal self-government develops and one approaches independence, the colonial territory had a say in what Treaty should be applied to it and so on. Could that be any part of your argument, or is that irrelevant?

PROFESSOR CRAWFORD: Well, sir, we don't have to argue that there was a State *instatunascendi* in 1965. That would be going too far. But in some situations there is; in some situations there was national liberation, for example. But we do say that a government which

represented the people – the people who, after all, is the right holder in relation to self-determination – could give valid consent in the pre-independence situation, if it was not coerced. If there had been a free choice, they could have given valid consent, and that consent would have been binding on the people after independence. International law is, after all, fundamentally a system of representation, and it's not limited to the representation of States. PRESIDENT SHEARER: Very good, Professor Crawford. Thank you. That's

very helpful.

And now I gather that we will hear from Professor Sands; is that correct?

Yes, thank you. Thank you very much.

PROFESSOR SANDS: Sir, it is correct, by my watch, we've got only seven or eight minutes left. I'm in your hands. I can make a start on set of submissions that are essentially inviting you to continue the conversation over the next period because you have jurisdiction, we say, to have this conversation on this vitally important issue, but I'm not sure whether it's sensible for me to start now, run for a few minutes or break now and keep it coherent. I'm in your hands, whatever is convenient for the Tribunal.

PRESIDENT SHEARER: Thank you, Mr. Sands. I think probably, as you implied, it doesn't make much sense to make a short start and then have to break. So, I think it would be a good idea if we did adjourn at this point, and we return at 2:00 p.m. for the special procedures that we outlined at the beginning. Thank you very much.

PROFESSOR SANDS: Thank you very much, Mr. President.

PRESIDENT SHEARER: We'll adjourn until 2:00.

(Whereupon, at 12:22 p.m., the hearing was adjourned until 2:00 p.m., the same

day.) 23

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

## AFTERNOON SESSION

PRESIDENT SHEARER: Yes, well, the Tribunal meets at this point to consider the additional documents that have been tendered and admitted into evidence, these are documents tendered by the United Kingdom, and this is an opportunity for the United Kingdom's side to make submission in relation to these documents – there are five of them – and Mauritius will be given an opportunity to respond at their option either tomorrow or on Thursday. Yes, that's right.

Yes, Mr. Whomersley.

MR. WHOMERSLEY: Thank you. Thank you, Mr. President. Thank you, Members of the Tribunal.

I'm first just going to answer the, I think, three or four questions that were outstanding from the UK's presentation earlier last week, and then I will just go to the documents, if I may. I hope you've actually got the documents in the Judges' Folder.

The first question, I think, was a question that Judge Hoffmann asked about the scientific basis for the exclusion of Diego Garcia from the MPA. I'm not aware – we're not aware – of any report directed specifically at that issue. But in general terms, Diego Garcia and the lagoon are also covered by legislation in BIOT which governs prevention of pollution and environmental protection, so that's general legislation that applies to Diego Garcia and the lagoon as well.

The National Oceanography Centre's report notes that, and I quote, "seawater quality is exceptionally high, even in the Diego Garcia lagoon, with pollutant levels mostly below detection limits", and I will try and make a reference in the Transcript to where that document is. 105

The Facilitator's Consultation Report, Section 3 – so that's the lady who looked at all the responses to the consultation and gave a report – says "most of the lagoon areas and a large

<sup>&</sup>lt;sup>105</sup> UKCM Annex 102.

part of the land area of Diego Garcia, are already protected as restricted areas, four special conservation areas and a nature reserve."

Perhaps I should just make clear that commercial fishing has never been permitted in the lagoon, and limited recreational fishing only is allowed there.

Finally, in Paragraph 16 of Joanne Yeadon's submission of 1 September 2010, which is Mauritius' Reply Annex 164, she records that the Environmental Adviser to BIOT assesses this, namely the exclusion of Diego Garcia and its 3-mile territorial waters, to be "of no environmental significance." So, I hope that answers the question that Judge Hoffmann asked.

Now, there was also a question from Judge Greenwood about Colin Roberts' Witness Statement, where he referred to the question of private funding, and this possibly being, I think, in jeopardy if a no-take MPA was not established. The position is as follows: That the Contract with the Bertarelli Foundation – this is the public-private partnership that we've heard so much about – was concluded after the announcement of the MPA. At that point, there was a case still pending in the European Court of Human Rights, and the Contract had a provision in it which permitted Bertarelli to withdraw its funding if the ECHR found against the UK. So, that is a condition on which the continuation of the funding depended.

Perhaps I should just go on to say that the funding that Bertarelli has provided was and is used to pay for the enforcement vessel, the Pacific Marlin. That funding was necessary because the fishing income of around £900,000 per year from Taiwanese and other tuna fleets was lost under a no-take MPA. So, in other words, the Bertarelli funding made the no-take MPA possible. It wasn't – it didn't make it necessary, but it made it possible.

Let me make it clear that there is no question that Bertarelli was able to dictate the policy, but his foundation was in a position to facilitate the choice that was made.

Perhaps I should just say that, in Financial Year 2011-2012, the direct costs of maintaining the MPA were just over £1.2 million. That includes the funding for the patrol vessel,

fuel, and a Fisheries Protection Officer. The BIOT Administration received around £700,000 in the same period from the Bertarelli Foundation. So, that was a contribution but not the full cost of the MPA.

The next question which I think Judge Greenwood asked was about the report on the consultation, the facilitator's report on the consultation of what date it was provided. I'm afraid we can't, regrettably, give you an exact date for that. We haven't been able to find that. Clearly, the document was received in the Foreign Office well before the 30th of March 2010 because Joanne Yeadon's submission of that date refers to it, and I'm sure she must have had it and assimilated it before that, otherwise she wouldn't have been able to write the submission, but I can't, I'm afraid, give you a more accurate date than that.

Mr. President, Members of the Tribunal, if I could turn now to the application which the United Kingdom wished to make, and I'm grateful to the Tribunal for allowing me to do this, and we're grateful to our colleagues from Mauritius for their understanding. Let me recall the background. Judge Greenwood asked a question about the follow-up to the letter of the 30th of December from Mr. Boolell, the Foreign Minister of Mauritius, to Mr. David Miliband, who was then his United Kingdom opposite number. The five documents which have been the subject of this application are designed to enable the United Kingdom to give a full answer to Judge Greenwood's question.

Can I first take you to the document at Tab 75, and that is two e-mails from a gentleman called Mr. Ewan Ormiston, who is Deputy High Commissioner in Port Louis, to Andrew Allen, who is in the Overseas Territories Directorate in the FCO. Now, again unfortunately, dating is not, obviously, the Foreign Office's strong suit, but there is no date on the e-mail from Andrew Allen but I think when you look at it it's clear from the internal evidence that it must have been sent relatively shortly after 8 December.

You will see in the second paragraph of Andrew Allen's email that he says that he's received an oral response from Number 10, in other words, the Prime Minister's Office, and the oral response is "the PM did not say that the consultation/MPA proposal was over or that the issue had finished." In the copy you've got it has highlighting, actually we only have a hard copy of this document and the highlighting is in the hard copy, so that's why it's come out there, but I think that's nonetheless the key phrase there.

Then if you turn to the next document, which is Tab 76, and that is a short email from a gentleman called Tom Fletcher about halfway down, and again it's difficult to reconstruct exactly what happened, but clearly there was some delay in providing this, but you will see that the Prime Minister's Private Secretary records that, "the PM said that we would look at ways to ensure that Mauritians were more fully consulted on the development including by sending a delegation to discuss, if useful."

So, those are the two documents which we have relating to, as it were, the view from Mr. Brown as to what occurred at the meeting with Mr. Ramgoolam in Trinidad.

Now, the next document is at Tab 77, and perhaps it's worth just saying that, before we look at that, that, of course, going back to the documents which you've already seen, you will recollect that the Foreign Secretary, the British Foreign Secretary, wrote to his Mauritian opposite number Mr. Boolell on the 15th of December, and Mr. Boolell replied on the 30th of December – and this is, I think, the letter to which Judge Greenwood was referring. That letter – and I think it's quite important to bear this in mind – referred to the Prime Ministerial discussion, but also says that Mr. Boolell asked "this issue be addressed during the next round of Mauritius-United Kingdom bilateral talks," so I think it's a clear recognition there that the matter should be further discussed.

And at Tab 77, what you have is a record of an informal meeting between John Murton, whose name will come up a little bit – quite frequently in the next five minutes, and Mr.

Boolell. And if you read that, you will see that this was obviously an informal discussion between the two. You will notice that Mr. Boolell is recorded as making good friends with Digby, and I'm told that Digby is the High Commissioner's dog. I think when you read this record, you will see that it was clearly a very friendly discussion, and if I could characterize this, I think you will see that it's a genuine attempt by senior representatives of two States to resolve what they jointly perceived to be a rather awkward situation. Obviously, I invite you to read this in full, but perhaps I could just take you to the second paragraph, it says: "We were surprised by the Mauritians' negative reactions and had felt that the Miliband letter should have gone a long way to resolving any outstanding issues. Instead, it seems to have ignited the subject."

So, I think, perhaps wrongly, but I think clearly the intention on the UK side was that the letter of the 15th of December should try and move matters forward rather than create further problems.

Then perhaps I will leave you to read the rest of that, but I think this meeting is rather summed upon well if you look over the page, if you go over the page, the end of the paragraph at the top where John Murton records "we both scratched our heads," and I think that sums up rather well the tenor of this whole meeting.

Now, attached to that e-mail were two other documents, and they are following that e-mail in the tab that you've got, and the first one is headed "Engagement with Mauritius on the Issue of Marine Protection in BIOT," and that is quite a lengthy document, that is an internal UK document which seems to have been handed over to Mr. Boolell, but was an internal UK document. I would more, I think, draw your attention to the next attachment, and that is a draft letter, right at the end, last two pages in this tab. And the last two pages, and although it looks like a letter, it is, in fact, a draft of a letter, and you will see that it begins: "I refer to your letter of 30 December to David Miliband." It was drafted as a reply to the letter from Mr. Boolell of the 30th of December.

Now, it was not sent -I will come to the reasons for that, but that is the draft - and as you will see from the record of the discussion that, in the interim, between enjoying the wine and patting the dog, this draft was handed over to Mr. Boolell.

So, can I then move on to Tab 78.

Now, in the way of emails, this is rather unhelpfully set out. The first four or five paragraphs on the first page actually record something that happened after the record of what had happened earlier. So I was going to take you first, so we keep in order, to the Record of the Meeting which starts at the bottom of the first page, but the main meat of that is over the page.

Now, this records a meeting which was – took place on the 20th of January between John Murton, the High Commissioner there, and Mr. Ramgoolam and his Chief of Staff; and, as you'll see, it says: "We discussed BIOT issues at length."

Now, obviously, this is a rather key meeting, but has not been, I think, referred to before. I would again ask you to look through this very carefully. I think you will see when you read it that it is an important meeting. What I would draw your attention to specifically are two points. If you go to at the third paragraph there on Page 2 of the emails, so it's after dear Joanne, dear Colin, and then the third paragraph begins: "I went through our version of events." And you will see there that John Murton says: "I went through our version of events and explained the readout we had received from the meeting." And I think you will see from that that John Murton is making it quite clear that Gordon Brown, the then Prime Minister, did not accept the account of the meeting given by Mr. Ramgoolam.

And I would just add that – to say that John Murton also refers to David Miliband's letter, and this is the one of the 15th of December, and he says: "David Miliband's letter was written in good faith as a constructive gesture." So, I think it's, again, the reason for the letter is made clear.

Can I just also refer you to the last three sentences of that paragraph, where John Murton specifically suggests that there should be further discussions on the basis of there being without prejudice to sovereignty, and I think when you go back you will see that that was also a suggestion that John Murton had made in the previous meeting with Mr. Boolell, which I've taken you to.

And the third sentence says – the third sentence as following: "Mauritian non-participation at recent seminars wasn't helpful. They could have taken part under some form of disclaimer on sovereignty, more willingness to engage from them could have dispelled a lot of misunderstandings. He took these points." That's obviously referring to Mr. Ramgoolam.

So that's Document 78. I have to just, very briefly because I'm slightly running out of time, take you back, just so that you're aware, if you go back to the beginning of that e-mailing at the beginning, there is a reference to a telephone conversation between Mr. Boolell and Mr. Murton. This was about the proposed visit of the lady who was the facilitator who was proposing to visit Mauritius in order to get the views of the Chagossian community on the declaration of an MPA, and as you'll see Mr. Boolell is concerned about the possibility of this visit. I'm not sure how relevant it is but obviously it's part of the e-mail chain, but just to say that in the end the facilitator's visit was cancelled and didn't take place.

So, finally, in these documents, you've got the document number – Tab 78, and that's a record of a meeting between John Murton and Mr. Boolell, this time there was present the Deputy High Commissioner in the British High Commission and someone from the MFA – 79. Did I say 78? Sorry. Yes. 79.

And you will see – perhaps I just take you first to the bottom of the first page of that document, where the record says: "In discussing the way forward from here, Boolell suggested that we meet with Cabinet Secretary Seeballuck to request bilateral talks, we might do so using a 'short' letter. Our earlier draft had been too long and open to misinterpretation."

So, that, I think, is the reason why the draft letter which I took you to earlier on was not in the end sent. In other words, Mr. Boolell specifically asked that it not be.

Over the page you will see, and I don't necessarily think I need to take you to it, but there is quite a long discussion there about how to take matters forward and what issues might be discussed.

Now, after that meeting, the High Commission followed up with a Note Verbale of the 15th of February. Mr. Seeballuck replied to that Note Verbale on the 19th of February, indicating that Mauritius was only prepared to resume discussions on its own terms. And I think you will find that at Annex 162 to Mauritius' Memorial, and I would invite you to look again at that document. For example, one of the preconditions imposed by Mauritius was a withdrawal of the public consultation. Well, frankly, that was just not realistic, given that the public consultation had been running for around three months at that point. I think it was also a disappointing reply, given the discussions which John Murton had had with Mr. Ramgoolam and Mr. Boolell.

After that, there was a further letter from the High Commission and a further Note Verbale from the High Commission in March, but neither of those were responded to.

Can I just suggest a few conclusions to this pack of documents. I think the first is, it is clear and obvious that there was a misunderstanding between Mr. Brown and Mr. Ramgoolam and that no commitment of any kind was given by Mr. Brown. This was clear to Mauritius at an early stage, and in particular the position was made, I think, very clear at the meeting between the High Commissioner and Mr. Ramgoolam on the 20th of January 2010.

A reply to Mr. Boolell's letter of the 30th of December was prepared, but it was not sent because Mr. Boolell recommended that it not be sent.

Finally, the UK tried on several occasions to resume discussions with Mauritius and specifically suggested this be done under a sovereignty umbrella, but regrettably that did not happen.

1	Mr. President, I hope the Tribunal found that helpful, and obviously if I can assist the Tribunal
2	further, I will endeavor to do so.
3	PRESIDENT SHEARER: Thank you very much.
4	There appear to be no questions. Thank you very much, Mr. Whomersley.
5	MR. WHOMERSLEY: Thank you very much.
6	PRESIDENT SHEARER: Thank you very much for your answers to the
7	questions as well as to the explanations of these documents.
8	May I, just before I call on Professor Sands, point out that I don't think it's only in
9	relation to these documents, but there are some other documents, too, and that each side should,
10	before we finish, or sometime anyway in the near future, make sure that there is a consolidated list
11	of exhibits, Tab Numbers and so on, so that we can find our way around the documents when we're
12	deliberating.
13	MR. WHOMERSLEY: I'm sure that would be helpful.
14	PRESIDENT SHEARER: Very good. Thank you.
15	MR. WHOMERSLEY: Thank you.
16	PRESIDENT SHEARER: And I call upon Mr. Sands to continue his argument
17	from this morning.
18	ARBITRATION UNDER ANNEX VII TO 1982 UNCLOS
19	Republic of Mauritius
20	ν.
21	United Kingdom
22	SPEECH 4: JURISDICTION OVER THE 'COASTAL STATE' ISSUE
23	Professor Philippe Sands QC
24	Monday 5 May 2014
25	Mr. President, thank you. Members of the Tribunal, thank you.

1. We have taken careful note of the United Kingdom's statement and we will revert to the Tribunal as soon as we can as to whether we wish to respond tomorrow or on Thursday, with your permission. I will now turn to the subject that follows on very logically from the submissions of Professor Crawford and from the questions of the Tribunal and another way of casting my submissions is to invite the Tribunal to continue on the line of thinking that is reflected in those questions, we say, this Tribunal has jurisdiction to have that conversation amongst yourselves in perhaps a more private way. So my task is to respond to the United Kingdom which says that you are not entitled to have that conversation amongst yourselves, that you are not entitled to ask yourselves the question, you do not have competence to ask yourself the question as to whether the United Kingdom is or is not the "coastal State" such as to be entitled to establish the purported "MPA" around the Chagos Archipelago. You heard what Professor Crawford had to say on the merits and in our submission there is no impediment to this Tribunal exercising jurisdiction and giving Mauritius the relief that it seeks, and we said that it is indeed high time, after five decades, that this situation be regularized in accordance with the requirements of the Convention. We say that to decline to exercise jurisdiction would undermine the Convention, an instrument which is, as you have heard, infused by a desire on the part of the negotiators to give effect in some way to the requirements of resolution 1514 and the right of self-determination. Part XV was not put there to frustrate the object and purposes of the Convention by perpetuating a situation that is inconsistent with resolution 1514, yet that is exactly what the United Kingdom seeks. In presenting its case, it came as no surprise perhaps that the United Kingdom resorted to

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

In presenting its case, it came as no surprise perhaps that the United Kingdom resorted to the strategic and legal arguments as it did. The approach is well-worn and it's expected. It began with the use of fear to soften up the Tribunal (although I have to say we were surprised at quite how far they were willing to go). To accept jurisdiction over this part of the claim, the "coastal State" part of the claim, Sir Michael told you would be "at odds with the text of the

Convention." But neither he nor Mr. Wordsworth could provide you with any actual text to support that proposition. Then they said it would be at odds with the "intention of the negotiating" States", <sup>107</sup> although here too counsel for the United Kingdom was not able to point to a single line or word in the negotiating history that supported the claim. We have come to see it as the UK way, to argue by assertion, and we've just heard it again from Mr. Whomersley, without actually providing you with any evidence.

3. On the approach of the United Kingdom, it is not only the law of the sea that Mauritius has brought to the cusp of implosion, but indeed the entire international legal order and the settlement of disputes more generally: you were told that the Mauritius' arguments were, and I give the exact citations in the transcript version, "subversive", 108 abusive, 109 "perverse", 110 "utopian", 111 "unseemly", 112 "desperate" and really dredging the bottom of the barrel, "disagreeable", 114 and it was asserted that if you acceded to the arguments that we're making you will unleash forces of such strength that there will be caused a "grave set-back to the compulsory settlement of disputes under international law". 115 Not be said that they are prone to understatement but all of this, it is said, because we invite you to interpret and apply the words "coastal State". Curiously, as the Dictionary of Pejoratives was being hurled at us last week, counsel for the United Kingdom nevertheless managed to accuse us of being "simplistic" and "emotional". 116

Having sought to soften up the Tribunal in this way, counsel then reached for the final weapon in its armory, an argument of such devastating force that one must assume it was

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

<sup>&</sup>lt;sup>106</sup> Transcript, p. 646, line 24 (Wood).

<sup>&</sup>lt;sup>107</sup> Transcript, p. 646, line 24 - p. 647, line 1 (Wood).

Transcript, p. 648, line 12 (Wood).

<sup>&</sup>lt;sup>109</sup> Transcript, p. 648, line 10 (Wood).

<sup>110</sup> Transcript, p. 696, line 22 (Wood).

<sup>&</sup>lt;sup>111</sup> Transcript, p. 648, line 23 (Wood).

<sup>&</sup>lt;sup>112</sup> Transcript, p. 649, line 12 (Wood).

<sup>113</sup> Transcript, p. 649, line 12 (Wood).

<sup>&</sup>lt;sup>114</sup> Transcript, p. 649, line 20 (Wood).

<sup>115</sup> Transcript, p. 647, lines 8-9 (Wood).

<sup>116</sup> Transcript, p. 648, line 14 (Wood).

intended to simply cause the entire Tribunal and its membership to keel over or collapse: to take jurisdiction over the "coastal state" issue, you were told, would be "unacceptable to the United Kingdom". Now, that sounded rather more like a threat to us than legal argument. It is not a legal argument at all, and it's a striking approach for a State that rightly prides itself on a commitment to the rule of law and the presentation of proper legal argument. We are not going to take the bait, we are not going to respond with a barrage of pejoratives, we are not going to threaten you with anything, we will not tell you what is and is not acceptable to us. We will simply stick to legal arguments and we will stick to the text of the Convention, something the United Kingdom would prefer not to do.

- 5. So, I am going to respond to the points made by the UK by following the approach we set out in our first round. And you will recall that our submission identified three issues that we say you are bound to address:
- First, does the dispute over whether the UK is "the coastal State" concern the interpretation or application of the Convention? We say it does, and plainly so, and the argument by the UK that the words "coastal State" is nothing more than a factual description to be resolved in ten seconds, is wholly implausible.
- Second, if so, as we say, is the interpretation and application of the words "coastal State"
  excluded from the jurisdiction of this Tribunal by virtue of one of the exception clauses in the
  Convention because it requires the Tribunal to determine matters of sovereignty over land?
  No is the short answer to that.
- And third, notwithstanding our submission these two questions are sufficient to determine the question of jurisdiction and the end of the matter, is the UK correct that there is implicit in the Convention an unwritten exclusion of disputes touching on questions of sovereignty over territory that would preclude somehow the Tribunal from interpreting the words "the coastal"

<sup>&</sup>lt;sup>117</sup> Transcript, p. 735, lines 23-24 (Wood).

State" and descending into the forbidden area and then applying its interpretation to the facts of this case?

- 6. It remains our position, having heard everything the United Kingdom said, that this is the correct approach and these are the right questions to be asking. I can summarise our position by reaffirming quite simply Mauritius' contention of the first part of its claim, the subject addressed by Professor Crawford this morning, concerns the interpretation and application of the Convention. There is no basis for the Tribunal to import into the Convention the exception sought by the United Kingdom to exclude this claim from your jurisdiction, on the ground as the UK puts it that you simply are not competent to interpret the meaning of the words "coastal State", or the issues of self-determination that were discussed rather animatedly this morning, or whether the consent purportedly obtained by the UK in 1965 was genuine. All of these matters, we say, you are competent to address.
- 7. So, let's turn to the first question, whether this first part of Mauritius' claim is a dispute about the interpretation and application of the Convention within the meaning of Article 288. And I am going to respond here also to the United Kingdom's rather curious approach to the applicable law. I will deal with that first and then turn to the exclusion arguments and say something also about Mr. Wordsworth's remarks about the consequences of our claim. *Fiat justitia ruat caelum*, some may say. To take jurisdiction, we say, will cause neither the heavens to fall nor the international dispute settlement system to collapse.
- (1) Who is "the coastal State"? That, we say, is a question regarding the interpretation and application of the Convention.
- 8. And this part of the claim <u>is</u> a dispute about interpretation and application. In addressing this point, it is appropriate to start with the difference between the parties about the characterisation of Mauritius' claim and the dispute that is before you. The United Kingdom says

this is a "sovereignty dispute", not a dispute about the meaning of the words "coastal State". 118 And we stand accused of engaging in what they call an "artificial re-characterisation of the long-standing sovereignty dispute as a 'who is the coastal State' dispute". 119

With respect, the artifice, if there is one, is only in the mind and words of the United Kingdom. It cannot be denied obviously that there has been a longstanding dispute about sovereignty over the Chagos Archipelago. It is also true, however, that on 1 April 2010 the United Kingdom purported to act as "the coastal State" in relation to the Chagos Archipelago, when it purported to create an "Marine Protected Area" over more than half a million square kilometres of sea. That raised law of the sea issues, and to argue otherwise seems to us, in light of everything we have heard this week, to be hardly credible: the "MPA" is seen as a law of the sea issue for scientists, for the French and Mauritian negotiators of the Tromelin agreement, for Members of Parliament in London (as Ms. Macdonald's documents this morning made clear), and for British civil servants. It does also for the many international lawyers who have written blogs and articles about this issue. Mr. Wordsworth and Sir Michael would appear rather isolated, in our submission, in arguing otherwise.

10. The central question before this Tribunal is not whether the United Kingdom has sovereignty, it is whether the United Kingdom for the purposes of the Convention is "the coastal State" and was, as such, entitled to act as it does. That question necessarily requires the Tribunal to interpret the words "coastal State", and then to apply them to the facts of the case. There is nothing artificial about this dispute, you have seen all of the documents: it is obviously a genuine dispute – the British High Commissioner in part recognized it. The new documents you've just been taken to made that absolutely clear. And it is very obviously one that relates to maritime areas, and one that obviously raises questions under the Law of the Sea Convention. The meaning of "coastal State" and the issues of sovereignty are interwoven in this case: the artifice

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

Transcript, p. 663, lines 3-4 (Wordsworth).Transcript, p. 660, lines 19-20 (Wordsworth).

is to suggest, as the United Kingdom does, that these issues are somehow disconnected. The artifice is to take refuge in arguments about matters such as whether or not this dispute is a "mixed" dispute, a concept that finds no expression in the Convention. And we say the real question you should be asking yourselves as a tribunal is this: is there a genuine connection between the legality of an "MPA" that extends over half a million square kilometres of ocean, on the one hand, and the Law of the Sea Convention on the other hand? One only need ask the question to see that there is only possible answer to that question.

11. The UK has, in our respectful submission, inverted logic. It asserts that "It is self-evident ... that a dispute concerning sovereignty over land territory is not a dispute concerning the interpretation or application of the Law of the Sea Convention". 120 The approach assumes that the Convention has an implicit exception for sovereignty disputes, and it's a claim I am going to come back to, and it denies that this part of the claim by Mauritius relates to the interpretation or application of the Convention. Why might a dispute that involves land sovereignty not be a law of the sea dispute as well, we ask? Professor Boyle rather easily found an example of one in his 2007 article in relation to marine scientific research and Part XIII of the Convention. Mauritius has long told the United Kingdom of its view that it is not entitled to declare a "Marine Protected Area". The claim filed under UNCLOS raised the meaning of the words "coastal State" up front, and these are the words found in the Convention. Paragraph 11(2) of our Application of December 2010 asked the Tribunal to adjudge and declare that "the United Kingdom is not a 'coastal state' within the meaning of the 1982 Convention and is not competent to establish the 'MPA'". 121

12. That formulation is repeated in the first paragraph of the Relief sought in our Memorial, 122 it is repeated in the Relief sought in the Reply, 123 and it will be repeated tomorrow

<sup>&</sup>lt;sup>120</sup> Transcript, p. 654, lines 16-17 (Wood).

Mauritius Notification Under Article 287 and Annex VII, Article 1 of UNCLOS, 20 December 2010, p. 7.

<sup>&</sup>lt;sup>122</sup> MM, p. 155.

<sup>&</sup>lt;sup>123</sup> MR, p. 237.

by Mr. Dabee. This is not a question of shoehorning, as the United Kingdom counsel hopefully put it. 124 it is not an artificial claim. Having chosen to act as it did in relation to half a million square kilometres of sea, the UK can hardly complain when Mauritius challenges that act as incompatible with the Law of the Sea Convention. The central, vital part of Mauritius' claim concerns the interpretation of the term 'coastal State' and its application to the facts of this case.

13. We say this is a legal question and it involves both the meaning of the word 'State' and the meaning of the words 'coastal State'. The UK adopts a very different approach: it argues that the words "coastal State" are to be determined as a matter of fact and do not require the interpretation or application of the Convention. That is the central point of difference between the parties, and at the very heart of this case, and it is a difference, it is a dispute, over which the Tribunal has jurisdiction: it is, as the United Kingdom says, to be interpreted as a factual matter or is it to be interpreted as a matter of fact and law, as we say. And we say this Tribunal obviously can decide which approach is correct and whether the words "coastal State" are, as the United Kingdom says, nothing more than a matter of factual description, or whether they have a legal meaning under the Convention. So I want to take this point carefully, as it is very central to the case.

14. We listened very attentively to the United Kingdom, we always do, when they spoke last Thursday. And I want to unpack their words. Mr. Wordsworth began with the sovereignty dispute, and he submitted that, to make the "critical determination" as to whether Mauritius has retained sovereignty and is "the coastal State" in respect of the Chagos Archipelago, "you are not asked to apply UNCLOS". 125 With respect, he is entirely wrong to say that the analysis does not require the application of the Convention, and he has fallen into error in claiming that no issue of interpretation arises under the Convention.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

Transcript, p. 646, line 13 (Wood).
 Transcript, p. 665, line 13 (Wordsworth).

15. The starting point is not the a priori question of whether Mauritius does or does not have sovereignty, as he puts it. The correct starting point is whether or not this part of Mauritius' claim concerns the interpretation or application of the Convention. It does. It obviously concerns the interpretation, application of the words "coastal state". Let us take Mr. Wordsworth on his own approach and ask this question: can this tribunal resolve this dispute without interpreting the words "coastal state"? We say it cannot. Having interpreted those words and ascertained their meaning within the Convention, your conclusions are then to be applied before the facts before you. That is the subject that was addressed by Professor Crawford. The point I make is not a complicated one: you have to start with the interpretation of the words of the Convention. Counsel for the United Kingdom, I'm sorry to say, had engaged in muddled thinking, it is not accidental muddled thinking but it is muddled thinking. The consequence of which emerged in the obvious inability to answer the most straightforward of questions put by Judge Greenwood, then by Judge Kateka and then by Judge Wolfrum. So let's look at what he said carefully and properly, and you will find his words at pages 657 and 658 of the transcript, and we have put them in your Judge's Folder at Tab 4.1. And it's halfway down the page, I will just pause for a moment so that you can get that in front of you. I want to take this very slowly and carefully. It's Tab 4.1. This is the heart of the United Kingdom's argument. And you can see at Line 9 down on the left, after he submitted you're not asked to apply UNCLOS, he says this: "There was an emphasis last week on interpretation of the term 'coastal State,' but that should detain you no more than about 10 seconds." I'm just going to pause here to make sure that Judge Kateka has the right document in front of him. It is important, please bear with me. Judge Kateka, we are at Tab 4.1. It's the green insert. And halfway down is the statement of Mr. Wordsworth last Thursday I think it was. I

will just pause and take you through it again, Judge Kateka: "There was an emphasis last week

on interpretation of the term 'coastal State,' but that should detain you no more than about 10

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

seconds, as it means the State with the coast adjacent to the maritime zone with which the given provision of UNCLOS is concerned. The parties appear to be in agreement that this is indeed the correct interpretation of the term 'coastal State,' and only part company where it comes to Mauritius' case that it is the coastal State, or that there can somehow be two coastal States, the 'Mauritius is <u>a</u> coastal State' argument." <sup>126</sup> Now, that is central to the United Kingdom's argument and it is important that we go through it carefully. Let me be very clear: we do not agree that this is what the words "coastal State" mean in every circumstance, nor do we agree that this matter is something that can be resolved in 10 seconds. I rather suspect that Mr. Wordsworth is going to come to regret the suggestion of a 10 second job. The United Kingdom says baldly that the "Convention takes land territory as a fact". 127 Sir Michael Wood knows that's wrong: the location of the land boundary terminus was not "a fact" in the Guyana v Suriname dispute, in the end it was a legal consequence of the existence of an agreement as to the "boundary in the territorial sea" and "the terminus of the maritime boundary". 128 The location of the land boundary terminus in the dispute between Bangladesh and India – and I'm obviously going to be very careful what I say in the presence of Judge Wolfrum – an issue of and with consequences for land territory – is not an issue of "fact", as UK counsel puts it, but it is the result and the consequence of the application of the law to a situation of fact. So, let us unpack Mr. Wordsworth's definition of 'coastal State', as he puts it "the State with the coast adjacent to the maritime zone". 129 His definition you will immediately see raises a very large number of questions. What is a "State"? Is Abkhazia a "State" within the meaning of the Convention? Is Taiwan a "State" within the meaning of the Convention? On his definition, it's sufficient that the "State", assuming it to be that, is in *de facto* control? Is that the argument

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

\_

<sup>&</sup>lt;sup>126</sup> Transcript, p. 665, lines 13-19 (Wordsworth) (emphasis in the original).

<sup>&</sup>lt;sup>127</sup> Transcript, p. 654, lines 20-21 (Wood).

<sup>&</sup>lt;sup>128</sup> Guyana v Suriname, Award, footnote 361 and accompanying text at para. 308.

Transcript, p. 665, lines 15-16 (Wordsworth).

of the United Kingdom? Or is it the State that is recognised under international law as having sovereignty over the land territory? Let's take the analysis a bit further. Are Abkhazia and Taiwan to be treated as "coastal States" under the Convention? Let's take another current example as a hypothetical: the Russian Federation has taken control of Crimea, is it now a "coastal State" for the purposes of the Convention, or does the Ukraine retain that role? Taiwan has certain claims in relation to the South China Sea. Within the meaning of the Convention, is it to be treated as a "coastal state" under the Convention? These are not issues of fact. You can't resolve them in 10 seconds.

- 17. To be clear, and I want to be very clear here, at this stage the point that I'm making concerns not whether you have jurisdiction to resolve these matters, but simply to illustrate that these matters are not capable of being addressed as matters of fact. It is self-evident. A "State" is not a table, Professor Crawford reminded us. A "coastal State" is not a lobster. The words in question are the words of a treaty and they fall to be interpreted and applied in accordance with the applicable law. One need only look at various provisions of the Convention to see the difficulties, the immense difficulties that will arise if you were to adopt the approach taken by the United Kingdom, and apply the error into which it has fallen.
- 18. Let us take a few examples. There is the requirement of Article 91 of the Convention, "[t]here must exist a genuine link between the State and the ship". On the approach of the United Kingdom, it would seem that the requirement of such a link in determining whether a state is a flag state, is one of those 10 second issues of fact that you decide, no legal assessment is necessary. On the UK approach, the question of whether Taiwan is entitled to benefit from the rights set forth under Article 90 ("Every State, whether coastal or land-locked, has the right to sail ships flying its flag on the high seas"). On the UK approach that's not a matter for interpretation under the Convention, that's a question of fact. What about Article 5 of Annex II on the CLCS, which provides that "Nationals of the coastal State" making a CLCS submission

"shall not be a member of the [CLCS] sub-commission dealing with that submission". So, can the UK member be a member of the CLCS sub-commission that will deal with the Mauritius submission? On the UK approach the answer is not to be found in legal analysis, you treat it as a simple fact.

19. And of course, the same considerations apply in relation to the words "coastal State" more generally. There is inevitably a legal element, we say, in determining whether a State is or is not a "coastal State" for the purposes of the application of the Convention, and for many other Conventions to which I'm going to come back to. That legal element may raise issues of sovereignty over land, a point to which I will return, or it may not. For an example of where it does not, there comes to mind the dispute only recently resolved between Iceland, on the one hand, and Norway and the European Union on the other, as to whether Iceland was or was not a "coastal state" for the purposes of the regulation of mackerel fishing in relation to the North East Atlantic Fisheries Council (NEAFC). From 1999 Iceland sought to be accepted as a Coastal State under international law for the purposes of that Convention, but Norway and the EU said no you're not, and finally in 2010 Iceland managed to persuade them. But the crucial point is — was Iceland a "coastal State" — was not a factual matter that can be resolved in 10 seconds or in that case, in 10 years.

20. One might take as another example a dispute under Article 111 of UNCLOS, which allows hot pursuit of a foreign ship to be undertaken when "the competent authorities of the coastal State have a good reason to believe that the ship has violated the laws and regulations of that State". So let's test the proposition. Is the Russian Federation allowed to engage in hot pursuit of a Ukrainian vessel off the Crimean coast today? I will return to the question of jurisdiction in due course, I'm just here exploring the meaning of the words and their character in law and in fact. But is the United Kingdom really saying that the answer to that question is just a

<sup>&</sup>lt;sup>130</sup> See Iceland Ministry of Industries and innovation, Mackerel Fishing dispute Questions & Answers, available at: <a href="http://eng.atvinnuvegaradunevti.is/subjects/mackerel-fishing-dispute/news/nr/6903">http://eng.atvinnuvegaradunevti.is/subjects/mackerel-fishing-dispute/news/nr/6903</a>.

question of facts that can be resolved in 10 seconds? Obviously not, it is not a compelling argument.

1

2

3

4

5

6

7

8

10

11

12

13

14

15

16

17

18

19

20

21

22

23

- 21. So the words 'State' and 'coastal State' require interpretation in accordance with international law if their meaning is to be established in a particular case. Or as the United Kingdom says, these are not legal questions at all. And therefore, this is the false logic, they say and I will return to this it is simply *not open* to this tribunal or any UNCLOS Part XV court or tribunal to interpret the word "State" or 'coastal State'. That would have dramatic consequences if this Tribunal were to accept that approach.
- 22. I do believe, however, that it is difficult even for our friends on the UK side to deny that an UNCLOS court or tribunal may have to interpret and apply the term 'State' in some circumstances – and to use international law in so doing. To take a simple example, the ITLOS may one day have to determine as part of its *competence de la competence* whether a particular State party can seize the Tribunal in accordance with Article 20 of Annex VI. The Convention offers no definition of the word "State". It is not always that the depositary alone will be able to provide the answer as to whether an entity is or is not a "State". ITLOS may have to decide that question. What is ITLOS going to do? Oh, it's a question of fact, 10 second job, onto the next case please. Obviously not. The term 'States Parties' may include associated States and certain self-governing dependent territories, as listed in Article 305. In the days of associated states it is entirely conceivable that one of them might have signed and ratified the Convention and brought a dispute before ITLOS. If the respondent State challenged that category of State, the Tribunal would have had to reach a decision on whether the entity purporting to be a State Party did or did not qualify as such. Such a decision by the Tribunal would be based on factual and legal grounds. What is a State – of any kind – has to involve legal considerations and has, on occasion, going to have to be determined by UNCLOS Part XV courts or tribunals.

23. Whilst I am on the point, Mr. President, Members of the Tribunal, you will note that in relation to the entities mentioned in paragraphs (c) and (e) in Article 305 of the Convention, the Tribunal would have to decide the effect of General Assembly resolution 1514 in proceeding. So, the concept of self-determination is not as alien to the Convention as my friends opposite have suggested: Mr. Wordsworth told you that "you are asked to apply and determine controversial issues on a broad range of sources of general international law, that have nothing at all to do with the Convention, [and he singled out] [...] self-determination, [...] General Assembly resolution 1514(XV) [...] and [t]he competence of the General Assembly to pronounce on rights to self-determination". "Nothing at all to do with the Convention", he says. Well, this morning in my introductory remarks I took you to various provisions of the Convention that explicitly refer to those terms.

24. So, let me go beyond the, I hope, uncontroversial and simple case of establishing who is a State Party, and take another example where a court or tribunal under Part XV will have to determine who the relevant State is for the purpose of proceedings before it – and to determine it on the basis of international law. Is the United Kingdom really saying, to take a random case, that in interpreting and applying the obligations in Part III of the Convention on States bordering a strait, that an UNCLOS court or tribunal is to determine if one of the 'States' concerned has (or has not) been recognised as a "straits State" would ignore the situation under international law or proceed to treat it purely as a question of fact. Putting it another way, is an UNCLOS court or tribunal precluded, as the United Kingdom says, from making a determination because it cannot use international law to decide the question?

25. I could go on – since it has been mentioned during this hearing that there are at least 64 uses of the term 'coastal State' in the Convention, and more examples of the occurrence, obviously, of the word 'State'. But it seems the United Kingdom is encouraging UNCLOS

<sup>&</sup>lt;sup>131</sup> Transcript, p. 665, lines 21-23 and p. 666, lines 1-5 (Wordsworth).

tribunals to be very reticent indeed if it is claiming that the words "State" and "coastal State" and "flag State" and "straits State" and "archipelagic State" – and all of the rights that follow in the drawing of straight baselines and other matters – are pure matters of fact over which jurisdiction cannot be exercised. They are plainly mixed questions of fact and law, and as we have said, Part XV tribunals, and I will come back to this in a moment, have competence to decide them. To decide otherwise would hardly be consonant with the call in the Convention's Preamble that its purpose is to "settle ... all issues relating to the law of the sea" (I note both the use of the word "all" and the words "relating to", which suggests a broadening of the scope, not a limiting of it). Nor would it be consonant, we say, with the principle of "effectiveness" invoked by Judge Wolfrum in his 2006 speech, and a principle to which Mr. Wordsworth professed the United Kingdom's attachment. 132 How effective would dispute settlement be if you can't interpret all of those words? In our submission it is plain that the words "coastal State" are to be interpreted by reference to their meaning as words in a treaty, they are legal terms. As you have heard from Professor Crawford, it is our submission that a State that purports to control a territory in violation of the right of self-determination and otherwise than in accordance with the requirements of General Assembly resolution 1514 cannot be treated as "the coastal state" within the meaning of various provisions of the Convention including Articles 2(3), 56 and 76 of the Convention. The coastal State is not merely "the State with the coast adjacent to the maritime zone", as the United Kingdom puts it. 133 27. So, Mr. President, we believe that it is clear that there is a dispute between the parties as to the meaning of the words "coastal state". That dispute alone concerns the "interpretation or

application" of the 1982 Convention, and it is one over which you have jurisdiction. In

interpreting those words, and in applying them, the Tribunal is entitled to and must, in

2324

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

132 Transcript, p. 670, line 4 (Wordsworth).

Transcript, p. 665, lines 15-16 (Wordsworth).

accordance with Article 293, apply the Convention and "other rules of international law not incompatible with [it]".

Applicable law

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

I turn to the issue of applicable law, since I have just mentioned it. The United Kingdom 28. accuses Mauritius of seeking to extend the jurisdictional provisions of the Convention by the use of Article 293. On the contrary, it is the United Kingdom that seeks to *limit and constrain* Part XV and the jurisdiction of this Tribunal by reference to its particular approach to the interpretation of that Article. Let me reiterate the two limbs of the test under Article 293: first, is there a dispute under the Convention? We say, yes. And second, are there other sufficiently closely linked issues that are necessary to resolve the case? In this dispute, the term 'coastal State' cannot be interpreted except by reference to general rules of international law, including the rules on self-determination of peoples. As I have pointed out, the rules of self-determination were very much in the minds of the drafters. 134

29. The United Kingdom seems terribly exercised by the idea that in interpreting the words of a treaty one might seek the assistance of rules of international law arising outside of the treaty in question. They say that Mauritius is "not seeking the application of any provision of the Convention", 135 but that is plainly not right, as I suspect they well know, in their heart of hearts: we are seeking the interpretation and application of the words "coastal State". In interpreting those words, and then applying them to the facts of the case, in the dispute, we say recourse can be had to "other rules of international law that are not incompatible with the Convention", as Article 293 requires. Indeed in interpreting the provisions of a treaty in respect of which they have jurisdiction, international courts and tribunals frequently reach out to other rules of international law:

ITLOS did it in the Saiga No. 2 case, with regards to rules governing the use of force, despite

Final Act of UNCLOS, para. 42.
 Transcript, p. 674, lines 11-12 (Wordsworth).

the fact that there is no reference to Article 2(4) of the United Nations Charter in UNCLOS, 136 and it was followed by an Annex VII arbitral Tribunal, 137 as you well know, Mr. President (and as Judge Greenwood well knows). Indeed you heard argument, Mr. President, in that case from Professor Greenwood as he then was speaking not in a personal capacity of course, but as Counsel for Suriname (so it is Suriname you are hearing in that case). And Suriname told the Tribunal, through Professor Greenwood, as he then was, in response to a question from Judge Nelson, "Article 293 does not enlarge the jurisdiction of the Tribunal. It merely points you to the sources of law you may apply in the exercise of the jurisdiction created by Article 288. So, there is no jurisdiction, Counsel for Suriname told you, to decide a dispute about the application of Article 2(4) of the U.N. Charter, for example. Nor is there in my submission, jurisdiction to determine the location of a land boundary or a land boundary terminus". 138 That was Counsel for Suriname, argument well put but not accepted, at least in relation to the use of force provision by the Tribunal. And of course, as we know, the second submission did not in the end have to be decided by the Tribunal;

ITLOS did it in the *Libertad* case, in taking jurisdiction of a case at the provisional measures phase, when it noted a case between Argentina and Ghana, that "a warship is an expression of the sovereignty of the State whose flag it flies" and that "in accordance with general international law, a warship enjoys immunity, including in internal waters"; 139 (Counsel for the United Kingdom was very generous in referring to the argument put by Counsel for Ghana in that case, but of course he failed to mention that however well put the argument by Counsel for Ghana was, it did not in the end find favour with the judges of ITLOS); 140 but the point is, UNCLOS doesn't have a rule on immunity of warships in internal waters, one

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

The M/V "Saiga" (No. 2) Case, (Saint Vincent and the Grenadines v. Guinea), Judgment of 1 July 1999.

Guyana v Suriname, Judgment of 17 September 2007.

Guyana v Suriname, Transcript, Day 5, Wednesday 13 December 2006, pp. 716-717.

<sup>&</sup>lt;sup>139</sup> The "ARA Libertad" Case (Argentina v. Ghana), Provisional Measures, Order of 15 December 2012, paras. 94-95. Transcript, p. 651, lines 12-13 (Wood).

was found and it was applied.

- the ICJ did the same thing in the *Oil Platforms* case, in interpreting and applying the Treaty of Friendship between Iran and the United States as allowing it to have recourse to the rules of international law governing the use of force;<sup>141</sup>
- ICSID tribunals regularly do it in interpreting the rules of the ICSID Convention or bilateral investment treaties on, to take a random example, the rules of international law governing the issue of nationality, they are not set out in the ICSID Convention or in bilateral investment treaties. I came to this point late last night and by the time I got here this morning found the example. I was sitting next to Professor Greenwood and I asked him for a quick example and the example that he gave me was the Soufraki case, which of course Judge Greenwood will remember. Well, if you go to the Soufraki case, you will see that in that case the issue of nationality –

ARBITRATOR GREENWOOD: Mr. Sands, I think I should just make clear, you weren't sitting next to Professor Greenwood, as he then was or still is. You were sitting next to Professor Crawford, I suspect.

PROFESSOR SANDS: Well, I was sitting next to Professor Crawford.

ARBITRATOR GREENWOOD: While I am deeply flattered to be compared with Professor Crawford, I have not had conversations with counsel on either side that might assist them with their submissions in this case.

PROFESSOR SANDS: And I hope the record can show that I fell into error there. I was sitting next to that person on that part of the room, not next to that person on that part of the room this morning, in everyone's presence and I said to that person over there, I need a quick case where nationality rules applied by reference to international law, and Professor Crawford, without batting an eyelid, said *Soufraki*. I looked up *Soufraki* and there it is. And I

<sup>&</sup>lt;sup>141</sup> Oil Platforms (Islamic Republic of Iran v. United States of America), Judgment, I.C.J. Reports 2003, p. 161, at p. 183, para. 44 et seq.

will refer you to Pages 26 and 29 in the reference to Oppenheim in interpreting issues of nationality, in interpreting the Convention and dealing with this issue of nationality. You reach out to general international law, and you apply it in determining whether an individual is genuinely or not a national of a particular State.

- the WTO Appellate Body did it in the *Shrimp Turtles* case, when it ruled that migratory turtles were an "exhaustible natural resource" within the meaning of Article XX(g) of GATT 1994, and it's interesting to see how they came to that conclusion. They reached out to UNCLOS. UNCLOS is not referred to anywhere in the GATT rules, but they looked to Article 56(1) and interpreted and applied the words "exhaustible natural resource" by reference to practice in the Convention with which we are concerned. 142
- 30. I could go on and on and on with the examples. The UK says in response to that of course that the sovereignty issue is not incidental, but at the heart of the dispute. Well, it's no more at the heart of the dispute than the question of whether tuna, dolphins and turtles are to be treated as "exhaustible natural resources." Because if they are not, that case is over. It was absolutely central in that case too. And the United Kingdom says that these issues cannot be addressed, the sovereignty issue, because it does not concern the law of the sea. Well, I am very grateful to Mr. Wordsworth for reminding me of the practice under the ICAO, I'm going to come back to it in due course and I spent a bit of time over this over the past few days. But can I refer you to the next tab which is an extract from the judgment of the International Court of Justice in 1972 on the *Appeal relating to the Jurisdiction of the ICAO Council*. I appreciate it's really just for the saving of paper that we've just put in single pages, publicly available, you're of course be able to read the entire judgment if you wish to do so. The case concerned the jurisdiction of the ICAO Council to entertain a claim brought by Pakistan against India, a competence that the Court

<sup>&</sup>lt;sup>142</sup> United States - Import Prohibition of Certain Shrimp and Shrimp Products, AB-1998-4, Report of 12 October 1998, WT/DS58/AB/R, p. 49.

upheld. In so doing, the Court made a number of observations in relation to the jurisdiction of the ICAO Council that are pertinent to these proceedings. India arguing that the ICAO Council didn't have jurisdiction to deal with this matter. You will recall the ICAO Council has jurisdiction in relation to the interpretation and application of the 1944 Chicago Convention to which Mr. Wordsworth referred us the other day. Now, if you turn to Paragraph 27 you will see in the first line:

"The question is whether the [ICAO] Council is competent to go into and give a final decision on the merits of the dispute in respect of which, at the instance of Pakistan, and subject to the present appeal, it has assumed jurisdiction. The answer to this question [whether it has jurisdiction] clearly depends on whether Pakistan's case, considered in the light of India's objections to it, discloses the existence of a dispute of such a character as to amount to a "disagreement ... relating to the interpretation or the application" of the Chicago Convention or of the related Transit Agreement. If so, then prima facie the Council is competent. Nor could the Council be deprived of jurisdiction merely because considerations that are claimed to lie outside the Treaties may be involved if, irrespective of this, issues concerning the interpretation or application of these instruments are nevertheless in question. The fact that a defence on the merits is cast in a particular form, cannot affect the competence of the tribunal or other organ concerned – otherwise parties would be in a position themselves to control that competence, which would be inadmissible."

PRESIDENT SHEARER: I wonder how much longer you've got.

PROFESSOR SANDS: I would love a break. I accept one.

PRESIDENT SHEARER: Would this be a point for that?

PROFESSOR SANDS: It's highly convenient, Mr. President.

PRESIDENT SHEARER: Very well. We will break for 15 minutes.

<sup>&</sup>lt;sup>143</sup> Transcript, p. 678, lines 15-24 and p. 679, lines 1-2 (Wordsworth).

<sup>&</sup>lt;sup>144</sup> Appeal Relating to the Jurisdiction of the ICAO Council, Judgment, I.C.J. Reports 1972, p. 46, at p. 61, para. 27 (emphasis added).

(Brief recess.)

PRESIDENT SHEARER: Yes, Mr. Sands.

PROFESSOR SANDS: Mr. President, Members of the Tribunal.

- (2) The Tribunal is not explicitly precluded from interpreting or applying the words "coastal state"
- 32. I turn to my second point: is the Tribunal precluded from interpreting or applying the words "the coastal State" by virtue of one of the exception clauses in the Convention, because it requires the Tribunal to determine matters of sovereignty over land?
- 33. Last week I made the point that the interpretation of these words is not excluded by any of the express limitations and exceptions to jurisdiction set out in Articles 297 and 298. Article 288(1) does not say that a court or tribunal referred to in Article 287 shall have jurisdiction over any dispute concerning the interpretation or application of this Convention which is submitted to it in accordance with this Part, but not disputes concerning the interpretation or application of the words "coastal State". Article 297 is exclusively concerned with disputes that relate to the exercise by a coastal State of certain freedoms, rights and uses. It has nothing to say about the entitlement of a State to be able to claim that it is the "coastal State". Article 298, which concerns optional exceptions, could have been drafted to provide that "When signing, ratifying or acceding to this Convention or at any time thereafter, a State may ... declare in writing that it does not accept any one or more of the procedures provided for in section 2 with respect to .... disputes concerning the interpretation or application of the words "coastal State", but it doesn't do that.
- 34. In fact, the UK has not sought to argue that there is an express exception, and for obvious reasons it cannot do so. Subject to the third point of my presentation the UK somehow managing to persuade this Tribunal that there is an inherent but unwritten and unstated limitation, the obvious conclusion is that, on its face, there is no such limit on the ability of the Tribunal to

interpret words found on at least 64 occasions in the Convention.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

35. And with this conclusion, that really ought to be the end of the matter. But the UK has raised an argument that requires us to address a third point, because, notwithstanding these points, the dispute between the Parties does raise an issue on interpretation and application of the Convention that is not excluded by Article 297 or Article 298. There is something somewhere else that precludes this Tribunal from exercising jurisdiction. We might call it the implicit exclusion. So let's turn to that argument.

(3) There is no unwritten, implicit exclusion of jurisdiction

36. In making this argument the United Kingdom strikingly has few arguments of its own. What it seeks to, rather, is to knock down our arguments. The major part of its effort, having made the assertion, is to respond to Mauritius' legal argument, for example, about the a contrario interpretation of Article 298(1)(a)(i); and, in doing this, it seeks to invoke the travaux preparatoires and the views of some commentators.

37. Now, I can deal briefly with Mr. Wordsworth's preliminary few remarks regarding the a contrario interpretation because they just don't add anything to the UK's written pleadings. It's a restatement. Mauritius' reasoned underpinnings for its interpretation are to be found in its Reply<sup>145</sup> and I set them out in the first round of our interventions. 146 I'm not going to repeat them.

38. I don't therefore need to say much about the a contrario argument. The argument put forward by Mauritius is one which supports the position that an exclusion of land sovereignty disputes in interpreting the words "coastal State" cannot be written into the Convention by the UK. The UK position however – that there is no a contrario effect of the proviso in Article 298(1)(a)(i) – has the effect of leaving that proviso with no effect at all. If there was no necessity for it, because all sovereignty disputes were already automatically excluded, why was it put in?

<sup>&</sup>lt;sup>145</sup> MR, paras. 7.24-7.27.

<sup>&</sup>lt;sup>146</sup> Transcript, pp. 446-460 (Sands).

On the principle of effet utile - effective interpretation - of treaties, some meaning must be attached to the proviso. The meaning that we have argued for, and the one that is supported by the travaux and by the authorities referred to in our written and oral pleadings, is the natural and obvious one: the proviso was included because without it conciliation proceedings for the range of cases mentioned in that Article would have covered disputes over land sovereignty – and there was sufficient support in the negotiations to allow an opt-out for that matter. The proviso simply shows that there was no assumption, as the UK wishes to argue, that Part XV otherwise excludes disputes of the kind we have here: in fact the assumption is the other way. It has offered no evidence in the travaux to support its argument, literally nothing at all. The wording of Article 298(1)(a)(i) thus suggests that to the extent sovereignty disputes are not necessarily excluded, they may be resolved under Part XV to the extent that they form a necessary part, or have a "genuine link" to a dispute concerning the interpretation and application of any provision of the Convention. We reiterate that this plainly does not mean that every dispute touching on sovereignty automatically falls within the Convention. Mr. Wordsworth has said that if Mauritius is right in its a contrario interpretation, then there would also be an opt-out in the Convention for disputes on who is the "coastal state", but there is not, and this demonstrates that Mauritius is wrong in its interpretation. 147 And Mr. Wordsworth says that Mauritius has no answer on this point. But we have. And it's in the paragraphs of the Reply that I referred to the speech, paragraphs 7-24-7.27. What we have shown there from the *travaux* is that there was a failure at the conference to create a separate automatic exclusion from jurisdiction for sovereignty disputes despite the question being raised in the

negotiations. No broader opt-out was included because there was no consensus to be reached that

it was desirable, beyond the very narrow one contained in Article 298(1)(a). And that is the real

difficulty that the UK faces. The *travaux* do not support its case.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

<sup>&</sup>lt;sup>147</sup> Transcript, p. 682, lines 21-24 (Wordsworth).

40. The UK has thus misapprehended or failed to engage with our primary argument on Article 298, which is simply a textual argument. Mr. Wordsworth has gone to great pains to deal with our subsidiary argument based on the *travaux*, which we only put in to establish that there is no definite support in the *travaux* for the unwritten exclusion of sovereignty disputes for which the UK contends. Mr. Wordsworth suggested that he would take you to the *travaux* in some detail. In fact, as I'm sure you will have noticed, he never did in the end. In lieu of the *travaux* – and while claiming there was no particular magic to the *travaux* – he asked you to read a great many pages of Andronico Adede's book in your spare time, a book the endnotes to which strongly imply that Mr. Adede was often relying on various personal recollections rather than texts or documents. I hope to set you rather less homework and will return to how we see the value of Mr. Adede's volume in a moment.

41. It is worth remembering why the *travaux* have been discussed in relation to this question. We say you do have jurisdiction – by ordinary operation of the Convention: plain meaning and the fact that the words "coastal State" are an issue. The UK says you do not because the idea that State parties would not exclude such disputes is, as the United Kingdom puts it, *inconceivable* (as though they had taken the words from William Goldman's classic film *The Princess Bride* on the correct use of the term "You keep using that word – I do not think it means what you think it means"). <sup>148</sup>

42. But given the lack of any express provision in the Convention excluding sovereignty disputes, the UK has a very high burden to displace, and the onus, we say, is on the UK, not on us. It argues that there was a clear consensus on such an implicit exclusion in the negotiations, apparently recognising that in the absence of such a consensus it is bound to fail. We took you to the *travaux* only to show that the idea of sovereignty was within the contemplation of the negotiators; they thought about it, they talked about it. Despite this, no consensus was reached on

The Princess Bride (1987) directed by Rob Reiner, script by William Goldman, Shooting Draft, Scene 23. http://sfy.ru/?script=princess\_bride

an explicit exclusion. If they truly did not wish a Tribunal such as this to deal with the words that are before you, such an express exclusion, we say, could have been drafted and would have been included. Mr. Wordsworth says that to the extent there was any debate on questions of sovereignty, it only arose in the context of discussing the work of Negotiating Group 7, and this occurred in a silo. Negotiating Group 7 was primarily concerned with the issue of maritime delimitation, he says, and statements in the travaux must be read down in the light of that context. 149We say that claim is manifestly unpersuasive, and we invite you to take the time to read the material – all of it – that is set out at Annex 80 to our Reply. And there you will find the actual records of the 112th plenary meeting and the 57th and 58th meeting of the Second Committee of UNCLOS III.

- We are sure you have already read all of that material, so I only have the need to offer a 43. few observations on the travaux that are there available.
  - First, these are general debates; they're not the records of a narrowly focused working group. The record is replete with the parties noting the close linkages between the issue of maritime delimitation and other issues, and typically the references are to the work of negotiating group 4 (landlocked and geographically disadvantaged states), negotiating group 5 (dispute settlement regarding the exercise of sovereign rights in the EEZ) and negotiating group 6 (the outer limits of the continental shelf and revenue sharing). Indeed, the delegation of Canada, and you'll find that at paragraph 18 of the material, noted that "the settlement of disputes on maritime boundary issues could not be treated in isolation but had to be considered as part of a comprehensive package." <sup>150</sup>, and that view was supported by others, including Columbia <sup>151</sup> and Finland. 152

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

<sup>&</sup>lt;sup>149</sup> Transcript, pp. 685 and 689-691 (Wordsworth).

<sup>150</sup> MR Annex 80, 112<sup>th</sup> plenary, para 18; and 58<sup>th</sup> second committee meeting, para 1.
151 *Ibid.*, 112<sup>th</sup> plenary, para 31; and 57<sup>th</sup> second committee meeting, para 73.
152 *Ibid.*, 57<sup>th</sup> second committee meeting, para 45.

On these broader issues – my second point – States spoke for and against the idea that sovereignty disputes could or should fall within the Convention. Israel, for example, saw "no inherent difference between disputes relating to maritime boundaries and disputes relating to maritime frontiers" <sup>153</sup> and therefore was against compulsory dispute settlement at all. Venezuela, was similarly concerned that the dispute settlement system could "give international jurisdiction a blank cheque for settling questions affecting the sovereignty and vital interests" of Venezuela and therefore in the context of delimitation opposed binding procedures. The USSR, was concerned that delimitation disputes were a category of "disputes involving the sovereignty of States" not susceptible to legal resolution. 154

- On the other hand Chile, as I noted in our written submissions, objected to a dispute settlement system which did not include "settlement of disputes concerning territories and islands" and Columbia agreed with Chile's position, 156 and so did Pakistan even more plainly. And all the references are in the footnotes to the transcript that I'm giving you here. Pakistan said, and I quote, "there should be no differentiation between land-related disputes and sea-related disputes."157
- So, what did the *travaux* stand for? There was a lively debate. But the plain reading shows a record of a majority supporting compulsory dispute settlement system with no automatic exclusions, including none for any disputes related to the interpretation of the words "coastal State" and land sovereignty issues. No automatic exclusions at all. The point that this was

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

<sup>&</sup>lt;sup>153</sup> *Ibid.*, 112<sup>th</sup> plenary, para. 26.

<sup>154</sup> Ibid., 112 plenary, para 26.
154 Ibid., 112<sup>th</sup> plenary, para 39.
155 Ibid., 112<sup>th</sup> plenary, para 28; and 57<sup>th</sup> second committee meeting, para 49.
156 Ibid., 112<sup>th</sup> plenary, para 31.
157 Ibid., 112<sup>th</sup> plenary, para 43.

the majority view was expressed explicitly by Spain, <sup>158</sup> Chile, <sup>159</sup> Venezuela, <sup>160</sup> Greece, <sup>161</sup> and Malta. 162 That is what the *travaux* shows.

44. So let's for a moment presume the UK is right: let us presume that the only question on the table was incidental jurisdiction over island and land territory disputes in the context of maritime delimitations. The UK repeatedly claims that the issue of sovereignty was so sensitive that the islands opt out in 298(1)(a)(i) could only reflect a broader implicit exclusion. That's the nub of their argument. With respect, it makes no sense at all. Numerous States - indeed a majority according to Spain, Chile, Venezuela, Greece and Malta – advocated in the work of Negotiating Group 7 a compulsory dispute settlement system with no exclusion for maritime boundary disputes even when touching on questions of sovereignty over islands. These States – apparently a majority – were all willing to have the interpretation and application of all such questions fall within compulsory dispute settlement. If the issue of sovereignty was as sensitive as the UK suggests, why was a majority prepared – even on the UK's preferred narrow view of what was being discussed – to rule such mixed disputes in? The debates do not reflect any consensus that the concept of "coastal State" is an a priori fact beyond legal interpretation. A majority would clearly have allowed such questions to be asked, at least in the context of maritime boundary disputes.

45. The travaux plainly point to one conclusion. The issue of sovereignty over land was addressed, and a majority wanted a compulsory dispute settlement system capable of touching on such questions. A minority did not. All the minority got was the opt-out in Article 298(1)(a)(i), and that became part of the package deal. There is no basis to presume, therefore, that from Article 298(1)(a)(i) one can deduce a wider principle and apply it across the Convention. The Convention says what it says. And in light of this, claiming there was a universal consensus

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

<sup>&</sup>lt;sup>158</sup> *Ibid.*, 112<sup>th</sup> plenary, para 21; 57<sup>th</sup> meeting, para 59.

<sup>159</sup> Ibid., 57<sup>th</sup> meeting, para 49.
160 Ibid., 58<sup>th</sup> meeting, para 8.
161 Ibid., 58<sup>th</sup> meeting, para 11.
162 Ibid., 58<sup>th</sup> meeting, para 12.

that sovereignty disputes could never be agitated under Part XV – and that the issue was never considered – is without any historical foundation. It is plain wrong on the facts. The travaux simply confirm our submissions that the dispute settlement system - on the face of the Convention – begins with a presumption, a general presumption, that all disputes are in unless they are expressly out. 46. I will turn now to Adede's book. The UK put a great chunk of it into your folders, though apparently as no more than a convenient aid to understanding the negotiations, as Mr. Wordsworth claims there was no magic to his books, a sort of caveat. 163 We agree with that. Mr. Adede was indeed present during the negotiations and his book represents an interesting combination of legal history and diplomatic memoire. I once had occasion to hear him talk about this because we taught a course together at New York University many years ago. The difficulty, of course, with his book, perhaps also with his memory, is the paucity of the referencing on so many of the key points. As you will see, if you go to the book, there are often no citations to the record, no footnotes at all, no direct quotations offered, and the relatively sparse endnotes often include cross-references that are either missing, incomplete or, in some cases, still have the proofreader's markets inserted in the published volume. Certainly, we agree with some of Mr. Adede's views. He holds that from the outset there were those delegations which wanted an UNCLOS dispute settlement system with no exceptions whatever. 164 We agree. He contends that there was a deep difference of views as to whether sovereignty claims could fall within or

without the dispute settlement system in the maritime delimitation conversations. 165 We agree

with that. The United Kingdom makes much of Adede's recounting of the remark of the

President of the Conference that, in his view, the Convention was not intended to cover questions

of sovereignty over territory and that question would be left to general international law. 166 I

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

Transcript, p. 685, lines 3-4 (Wordsworth).

<sup>&</sup>lt;sup>164</sup> UK Folder, Tab 48 (Adede), pp. 57-8.

<sup>165</sup> *Ibid.*, p. 175.166 *Ibid.*, p. 132.

hesitate to use the word "mainstay", or I may be accused of plagiarism, but it has to be said that if I have to choose as my mainstay Mr. A or Professor B, I will choose Professor B. In any event, on this I simply observe that Mr. Adede provides no sources for what is essentially an anecdote. However, even if the UK could find a direct statement by the President to the same effect in the *travaux* – which it has not done – it would make no difference. It remains, at best, what Mr. Adede said it was: the personal view of the President of the Conference in negotiations, and such a personal view does not determine, and cannot determine, the authentic meaning of the Convention or its plain words.

47. Mr. Wordsworth also asks that we take a narrow, siloed or salami-sliced view of the academic commentary on what the UK has called "mixed disputes". He claims that all academic writings on point adopt one of three views. These are the questions touching upon sovereignty might be adjudicated under Part XV in the context of maritime boundary disputes because:

- maritime boundaries cannot be determined in isolation from land territory; or two
- given the existence of the Article 298(1)(a)(i) opt-out for maritime delimitation which also excludes certain questions of sovereignty, then *a contrario* such delimitation disputes are otherwise included; and three
- rejection of jurisdiction in such cases would deprive Articles 15, 74 and 83 of their full effect.

48. All the commentators, he says, can be classed under these three views. Well, even if we were to accept his narrow categorisation, Mr. Wordsworth would still be wrong. One commentary at least, and of course there are more, has plainly said and in terms that there is no bar to this Tribunal determining a "who is the coastal State dispute", and that is Professor Boyle. His 2007 book chapter resolves any ambiguity that the United Kingdom sought to rely upon in his 1997 article. Where two States both claim the same island, the question of which is the

<sup>&</sup>lt;sup>167</sup> Mauritius Folder (first round), Tab 13.5.

coastal State capable of taking enforcement action in the island's maritime zones is, Professor Boyle writes, a question "not easily avoid[ed]" by a court or tribunal; although an appropriate Article 298 declaration might render the dispute "no longer" subject to adjudication. 168

49. While few put the point with such admirable clarity, the fact that other authors principally discuss the questions in the context of boundary delimitations is neither here nor there. As I have previously submitted, the UK is wrong to argue the inference from these writings is that sovereignty questions could only arise under Part XV where they are "mixed" with a delimitation dispute. This is simply the most obvious case in which they could arise but not the only one. For example, Judge Rao writes, and I quote: "It is not uncommon to see the adjudicative forums referred to in article 287 deciding matters of general international law that are not strictly part of the law of the sea. A court or tribunal referred to in article 288 being thus empowered to apply general international law suffers from no inherent limitation even in resolving disputes involving the land element" 169

50. That appears as a statement of general principle and we say it is a correct understanding of the law. It does not matter that Judge Rao reached this conclusion having taken maritime boundary disputes as his point of departure. Similarly, when Judge Treves wrote the result of a proper *a contrario* understanding of Article 298(1)(a)(i) is not that disputes touching on sovereignty are automatically included under the Convention, but simply that they are not automatically excluded, a proposition with which we entirely agree. We would also agree with similar statements made by Judge Wolfrum in 2006. Jurisdiction does not arise because of the *a contrario* reading. The *a contrario* reading simply confirms the obvious role of Article 293: "closely linked or ancillary" questions of law related to a dispute arising under the Convention are themselves also questions "concern[ing] the interpretation or application of the

<sup>&</sup>lt;sup>168</sup> *Ibid.*, p. 529.

<sup>&</sup>lt;sup>169</sup> MR, Annex 114, p. 891.

<sup>&</sup>lt;sup>170</sup> UK Authority 104, p. 77.

<sup>&</sup>lt;sup>171</sup> See MR, para. 7.7.

Convention". We put it no higher than that. As Mr. Wordsworth was at pains to point out, the words "coastal State" appears some 64 times in the Convention. The only thing that strikes us as "inconceivable" is how it could possibly be said that the interpretation and application of the words "coastal State" is not a question arising under the Convention, but that is what the UK argues.

- 51. Before I pass entirely from the point, Mr. Wordsworth did make one last effort to put the frighteners on this Tribunal. He argued that if we are right, any time a coastal State exercises the powers of a coastal State, it may be challenged by State B as to whether it is the "coastal State" as regards State B. Well, yes, it might indeed if that question was sufficiently closely linked to the dispute under the Convention. That's the plain import of Professor Boyle's argument and the plain reading of the Convention. But, whether such a case fell within the jurisdiction would be a question of appreciation and characterisation on the particular facts of each case. And, in this case, we have very unique and special facts as I think by now we all recognise: facts arising from a situation of de-colonisation which fall to be determined under a Convention crafted with questions of self-determination and de-colonisation woven into its very fabric.
- 52. Mr. President, I need not detain you any longer on this point. The *a contrario* reasoning which we say is the only proper interpretation of this provision of the Convention renders untenable the UK argument that there is an implicit exception in the Convention for a dispute on the interpretation or application of the Convention that touches on land sovereignty.
- 53. What the UK is asking you to do is to write in an exception to the Convention to prevent yourselves from determining any dispute of this kind or this particular dispute. An example of what they are trying to keep from you is not difficult to imagine, because Professor Boyle has suggested one example to his readers in relation to the right of the coastal State to authorize marine scientific research in its territorial sea in accordance with Part XIII, although you will have noted how counsel for the United Kingdom skirt so very briefly over that article.

Incidentally, Mr. Wordsworth told you that we seemed to be backing away from Professor Boyle's 1997 article as we didn't include it in the Judges Folder<sup>172</sup>. Actually, we did, and you will find it in Folder 1, our first brown folder at Tab 2.15. In his 2007 paper, Professor Boyle invited his readers to imagine a territorial dispute over an island, and he concluded very plainly that you would have – or a tribunal under Part XV would have jurisdiction. Such a case is plainly not fanciful.

54. So the travaux don't assist the UK. The commentators don't assist the UK. What's decisive is what the Convention says. What is not decisive, and what is not relevant, is what the UK considers to be "inconceivable", or whether something is or is not acceptable to the United Kingdom: this is a court of law, not a political forum.

55. Counsel for the UK made the point that if our arguments were right, then "the same argument could presumably be run in respect of any treaty where a State exercises rights by virtue of its territorial sovereignty". <sup>173</sup> No doubt the same arguments could be made, although its prospects of success in any particular case would depend on the particular treaty and its provisions, and the facts in issue. Mr. Wordsworth claims that if you take jurisdiction in this case and decide who is the coastal State for the purposes of this case, you will endanger not only the dispute settlement provisions of the 1982 Convention but many other treaties. And he took you to the 1944 Chicago Convention – and I am extremely grateful to him that he did.

56. He directed you to Article 1 of the 1944 Chicago ICAO Convention, but he didn't take you the text. Article 1 is entitled "Sovereignty", and what it states is, and I quote, "The contracting states recognise that every State has complete and exclusive sovereignty over the airspace above its territory". And Article 2, which follows, is entitled "Territory", and it provides for the purposes of the Chicago Convention, quote, "the territory of a State shall be deemed to be the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

Transcript, p. 680, line 6 (Wordsworth).
 Transcript, p. 678, lines13-14 (Wordsworth).

or mandate of such State". Having regard to those provisions, Mr. Wordsworth told you that on our argument in this case "a Chicago Convention State could complain that any such exercise of rights over airspace was ill-founded and subject to challenge because the given State was not in fact sovereign over the underlying territory". And indeed it could, and indeed it often does. There are many such cases, as Mr. Wordsworth well knows.

57. For example, he was counsel for the United Kingdom Secretary of State for Transport in a case before the English Court of Appeal, Kibris Turk Hava Yollari & another v Secretary of State for Transport – and I've given you the citation in the footnotes – with the Republic of Cyprus intervening as an interested party. 175 The case concerned a judicial review application challenge to a decision by the UK Secretary of State for Transport, the British Government, not to grant permits for flights between the United Kingdom and Ercan Airport, in northern Cyprus, in the Turkish Republic of Northern Cyprus. And the reason the British Government did not grant the licences was because to do so would violate the rights of the Republic of Cyprus under the 1944 Convention, to which the United Kingdom was a party. So the essential argument was we need to respect the sovereignty of the Republic of Cyprus over the whole of the territory of Cyprus, and we are required to do that by the terms of the Chicago Convention. In other words, it might expose the United Kingdom to the risk of proceedings by the Republic of Cyprus under the dispute settlement mechanism in the 1944 Convention. The High Court and the Court of Appeal both ruled in favour of the Secretary of State. They ruled that the Republic of Cyprus had exclusive sovereignty over the airspace above the entirety of the island of Cyprus and the adjacent waters, <sup>176</sup> so that no scheduled international air service could operate from the UK to Ercan except with the permission or authorization of the Republic of Cyprus, and such permission which was not forthcoming. The Court of Appeal ruled, and I quote, "the grant of the

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

<sup>&</sup>lt;sup>174</sup> Transcript, p. 678, lines 22-24 (Wordsworth).

<sup>&</sup>lt;sup>175</sup> Kibris Turk Hava Yollari & another v Secretary of State for Transport, [2010] EWCA Civ 1093, Judgment of 12 October 2010, Lord Justice Wards and Richards, and Keene J, available at: http://www.embargoed.org/pdf/Flights\_Appeal\_Judgment\_Oct\_2010.pdf. <sup>176</sup> Ibid., para. 26.

permits sought would be in breach of the United Kingdom's obligation to respect the RoC's rights under the convention, if and in so far as the RoC remains entitled to exercise such rights in respect of northern Cyprus". 177 That conclusion is premised on a legal analysis. The United Kingdom Government didn't stand before the Court of Appeal and say it's just a question of fact; you can resolve in ten seconds. It's an issue of legal entitlement, as the Court of Appeal put it, of the Republic of Cyprus to exercise air rights in northern Cyprus under the Convention. Putting it another way, the Court of Appeal formed a view as to whose territory it was, who exercised sovereignty, under international law. Interestingly, and you'll read the judgment I'm sure, it was also presented with arguments on the distinction that lies at the heart of this case, the distinction that is drawn between sovereign rights and the entitlement to exercise those rights. It was an issue in the case, not in the end dispositive, and the Court noted the arguments "aptly described by Professor Lowe QC, for the RoC, as one of "ethereal subtlety". 178 But it was there nevertheless. 58. The British Government – in the form of the Secretary of State for Transport – did not

proceed on the basis that the issue of sovereignty or territory was a simple matter of "fact" under the 1944 Convention, as it invites you to do in this case. It's a matter of law. That was a case before a national court.

ARBITRATOR GREENWOOD: Mr. Sands – forgive me – isn't it a matter of United Kingdom law? Isn't there a British act of Parliament that defines what Cyprus is?

PROFESSOR SANDS: There is indeed such an act of Parliament, but they also had regard, as you will see when you read the judgment, to the situation under international law and the situation by reference to the Convention. They looked at that in the judgment.

What we do recognise is there may be a difference between a national court and an international court. It's essentially, I think, the same point because the English court, at the

1

2

3

4

5

6

7

8

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

177 *Ibid.*, para. 28.178 *Ibid.*, para. 31.

end of the day, is applying English law, and the issue arises as how international law is incorporated or part of English law. So we do recognise the difference between a national court and an international court.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

But it is plain that that is a case which could have gone to the "Chicago Convention dispute settlement" system, used to rule on a territorial dispute between Republic of Cyprus, on the one hand, and Turkey, perhaps, on the other hand, or, perhaps, the Turkish Republic of Northern Cyprus. Let us assume the Secretary of State had granted the operating permits. The UK would have been exposed to the possibility of a claim by Cyprus that it had acted in violation of the 1944 Convention, by failing to respect the sovereignty of Cyprus. There is an article that addresses precisely this point. I've referred it to you in the footnotes, by Professor Talmon, whom the United Kingdom seems to like. The article is entitled Air Traffic with Non-Recognised States: the Case of Northern Cyprus. <sup>179</sup> In fact, the article was originally written in German. Professor Wolfrum can read it. I've given the citation in the Archiv des Völkerrechts in 2005, but there is a publicly available English text. What does Professor Talmon say? I quote: "The Government of the Republic of Cyprus has several ways to ensure compliance with the Chicago Convention and Article 10 in particular: If disagreements arise between the Government of the Republic of Cyprus and another contracting state on whether that state's aircraft are allowed to land at airports in northern Cyprus, it may, if the matter cannot be resolved through negotiation, seek a decision from the ICAO Council in the formal dispute settlement procedure." We just pause there. An example of that is the India-Pakistan example that I took you to earlier. "An appeal may be lodged against that decision in an arbitral tribunal or the International Court of Justice (ICJ), whose decision is final and binding." <sup>180</sup> And

<sup>&</sup>lt;sup>179</sup> An English translation of an article published in (2005) 43 Archiv des Völkerrechts 1-42.

Available at: <a href="http://users.ox.ac.uk/~sann2029/FCO\_Paper%20by%20Dr%20Stefan%20Talmon.pdf">http://users.ox.ac.uk/~sann2029/FCO\_Paper%20by%20Dr%20Stefan%20Talmon.pdf</a>, at p. 8.

obviously I appreciate here, one has to be, I suppose, a little careful in the sense that we have a sitting ICJ judge and we do not wish to take you into a place you may not wish to go. Professor Talmon does not conclude that these bodies would somehow be precluded from deciding that Cyprus has sovereignty over the whole of the island, and we say he is right.

59. There is at least one case we know of in which a territorial dispute has been raised under the Chicago Convention, not under Article 84 but under the more informal dispute settlement mechanism under Article 54(n) of that Convention, which allows the ICAO to consider a dispute referred to it and it then produces a report. During the Nigerian civil war, flights were made from the then-Portuguese colony of São Tomé to Port Harcourt Airport in the Nigerian province of Biafra, to supply, it was said, the insurgents with military equipment. The Republic of Biafra, as you know, had declared independence from Nigeria on the 30th of May 1967. It was recognised by four States in 1968 and had *de facto* control over the province until the 12th of January 1970. On the 21st of December 1967, Nigeria lodged a protest against Portugal with the ICAO Council on the flights from São Tomé to Port Harcourt Airport. The complaint was that these flights violated its sovereignty and Articles 1 and 2 of the Chicago Convention, amongst other provisions. The flights to Biafra soon stopped after the Council started dealing with the matter. So there was no final report necessary. No one has ever suggested that the ICAO Council was not competent to take that matter forward or to decide upon Nigeria's sovereignty.

## (5) Conclusions

60. Mr. President, Members of the Tribunal, that brings me to my conclusions and I can be brief. The great merit of litigation over various rounds of written pleadings and then oral arguments is that the real issues narrow down, and the legal analysis that is needed to resolve those issues becomes a great deal clearer. For our part, it has become evident that the United Kingdom's approach to the issue of jurisdiction on this first limb is essentially premised on a presentational technique. In London, I think it is called "spin": it presents the dispute as being

one about sovereignty. It is not. What I hope I have shown is that if one approaches the matter in a way that is correct – namely that this is a dispute about the interpretation and application of the words "coastal State", much of the ballast that underpins the UK argument falls away. The first limb of Mauritius' case turns on the interpretation and application of those words. If a Part XV tribunal does not have jurisdiction to interpret the words "coastal State", there is a great deal over which it will not have jurisdiction. It is hard to see how dispute settlement could be said to be effective. To so decide would, in effect, be to cut off the legs of Part XV dispute settlement. We say that that those words "coastal State" are susceptible of legal interpretation, that there is no explicit bar to the exercise of jurisdiction, and the UK has rather obviously failed to prove an implicit or inherent exclusion. And so we conclude, and invite you to so conclude, that you have jurisdiction to decide this issue. The conversation that was being held in the form of questions and answers this morning is one that can continue, and you are entitled to reach a conclusion to that deliberation and rule that the United Kingdom is, as we submit, not "the coastal State" of the Chagos Archipelago. The skies will not fall if you so rule, although this "Marine Protected Area" will. The Tribunal will do no more than state that Mauritius is the "coastal State" in relation to the Chagos Archipelago and that the Chagos Archipelago forms an integral part of the Republic of Mauritius. The American base will not be affected, as we have shown. The British will leave. The former residents of the Chagos Archipelago who wish to return finally will be free to do so and their exile will come to an end. Contrary to the United Kingdom's submissions, we say those are the consequences that flow from applying the law, from exercising jurisdiction and interpreting and applying the words that sit in the Convention.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Mr. President, that concludes my submissions for this afternoon. If I can help further with any questions, I'd invite you to call Mr. Reichler to the bar.

PRESIDENT SHEARER: I think that will be all, Mr. Sands, and I invite Mr. Reichler to come to the podium.

Mr. Reichler, it says at the beginning Part V. You will be addressing us for 120 minutes. Is that correct?

MR. REICHLER: I'm afraid so, if you can stand it, Mr. President.

PRESIDENT SHEARER: Yes, certainly. It's a question of whether we take another break before you finish. I would request that you pause in a moment about half an hour from now.

MR. REICHLER: Will do, thank you very much.

## THE LEGALLY BINDING CHARACTER OF THE UNITED KINGDOM'S UNDERTAKINGS AND MAURITIUS' STATUS AS A COASTAL STATE PAUL S. REICHLER

## 5 MAY 2014

Mr. President, Members of the Tribunal, good afternoon!

- 1. As in the first round, I will address Mauritius' claims under the second limb of our argument, which is that regardless of whether you determine that Mauritius is the coastal State in respect of the Chagos Archipelago, it is our submission that Mauritius is at least a coastal State with regard to that territory, because it has been vested by the United Kingdom with the attributes of a coastal State through the legally binding undertakings given by the UK in 1965 and renewed repeatedly thereafter, and confirmed by its consistent practice over a period of more than 45 years.
- 2. In this round, I will respond to the arguments made by the UK's advocates last week on the character and the content of the undertakings given by the United Kingdom to Mauritius; on the subsequent practice, between 1965 and 2010, on what that practice demonstrates in regard to the intention of the United Kingdom to be bound by its undertakings; and on the specific attributes of a coastal State that have been attributed to Mauritius by virtue of the UK's undertakings.

3. I will not burden you again by taking you through anywhere near as many of the contemporaneous documents as I reviewed with you last week. I am sure you are, by now, very familiar with them. Because the United Kingdom chose not to engage with the vast majority of them, my reading and explanation of them has been left unchallenged. In fact, of the 34 contemporaneous *British* documents I reviewed last week as evidence of how the United Kingdom understood the legally binding character, and the contents of its undertakings, counsel for the UK avoided 21 entirely. Nor were they able to offer a plausible alternative explanation for any of the others.

- 4. Five of the documents which counsel for the UK *did* engage are from 1965, and it is there that I will begin, as we address, first, the character of the UK's undertakings to Mauritius. I would ask that you kindly go to Tab 5.1 of your Folders. For your convenience, I have placed all five of these 1965 documents, plus one document from that year that was introduced by the UK last week, behind the same Tab. I will refer to them by page numbers, our page numbers in the lower right corner, to assist you in referring back and forth among them.
- 5. In light of the questions posed by Members of the Tribunal last week, some of which were directed to both sides, I will focus on how the specific undertakings with which we are concerned in these proceedings on fishing rights, oil and mineral rights and reversion of sovereignty to Mauritius came to be given to Mauritius by the UK in September of 1965. I believe this review will be helpful to the Tribunal in its effort to determine both the character and the content of those undertakings.
- 6. But before proceeding any further, I want to recall that Professor Crawford has demonstrated to you that the consent purportedly given to the excision of the Chagos Archipelago was not sufficient to meet the law of self-determination and was therefore invalid; that is, the agreement on excision was invalid. But as he said, the UK cannot have it both ways: if they are relying on the validity of the excision and the "agreement" of which they consider it a

part and to retain possession of the territory on this basis, they cannot at the same time claim that the undertakings they made in relation to that excision are not binding upon them. Since the UK consistently, for 45 years, referred to the set of arrangements made at that time as an "agreement," I will, for the purposes of this presentation, refer to it as such, bearing in mind, as Professor Crawford explained, that Mauritius does not regard it as legally valid.

- 7. So, with that statement, let us turn now to the official record of the Lancaster House meeting of 23 September 1965, at Tab 5.1. I refer you in particular to our page 55, paragraph 2. At the end of that paragraph the Colonial Secretary is reported as saying that, "if Mauritius agreed to the detachment of the Chagos Archipelago," he would recommend to his colleagues, [that is, to the Cabinet] that the United Kingdom would provide the following benefits to Mauritius. They are then listed in items (i) through (iv), which carry over to page 56. You will see that none of the three undertakings with which we are concerned here is included in this list. Immediately after the list, the Colonial Secretary is recorded as saying: "This was the furthest the British Government could go."
- 8. But, as we now know, that was not far enough for the Mauritian Ministers; and in fact, the British Government did go further. Question: How did the undertaking on reversion of sovereignty to Mauritius come to be included in the agreement that was eventually reached? Let us turn to paragraph 3 of this document on page 56. "SIR S. RAMGOOLAM replied that the Mauritius Government were anxious to help play their part in guaranteeing the defence of the free world. He asked whether the Archipelago could not be leased. (THE SECRETARY OF STATE said that this was not acceptable). MR. BISSOONDOYAL enquired whether the Islands would revert to Mauritius if the need for defence facilities there disappeared. THE SECRETARY OF STATE said that he was prepared to recommend this to his colleagues." In fact, he did. We can see this from a document produced last Friday by the UK, in response to

Record of a Meeting held in Lancaster House at 2.30 p.m. on Thursday 23rd September [1965], Mauritius Defence Matters, CO 1036/1253, MM-Annex 19; UK Folder Tab 8.

a question posed by Judge Greenwood. This is also at Tab 5.1 beginning on page 61. <sup>182</sup> It is a Minute of the Cabinet meeting held on 23 September 1965, at 4:00 p.m., right after the Colonial Secretary's meeting with the Mauritian Ministers ended. You can see on the next page, page 62, that item 2 of the agenda was: "Mauritius and Defence Facilities in the Indian Ocean." On the sixth page of this document, which is our page 66, the Colonial Secretary informed his fellow Ministers of the conditions offered to Mauritius in return for its consent to the detachment of the Chagos Archipelago. In the middle of the carryover paragraph, it is recorded that these conditions included: "if the need for the islands by the United Kingdom and the United States disappeared we would be prepared to hand them back to Mauritius." At the end of the discussion you will see this: "The Committee – Took note with approval of the statements by the Colonial Secretary and the Prime Minister."

- 9. If I may refer you back to the record of the Lancaster House meeting, at page 58, you will see at paragraph 22, the Colonial Secretary is reported to have asked the Mauritian Ministers whether he could inform his colleagues that they "were prepared to agree to the detachment of the Chagos Archipelago on the understanding that he would recommend to his colleagues the following: and then there follows a list of eight numbered items. Item (vii) on page 59 reads: "that if the need for the facilities on the islands disappeared the islands should be returned to Mauritius."
- 10. Question: how did the other two undertakings find their way into this agreement? I explained this on 23 April, and my friends on the other side added some very helpful documentation last week, about which I will comment today. These undertakings were given at the insistence of the Mauritian Premier, Mr. Ramgoolam. Please turn to page 69, still behind Tab 5.1. You have been taken through this document before, and are familiar with its

<sup>&</sup>lt;sup>182</sup> Minutes of a Meeting held at 10 Downing Street, S.W.1, on Thursday, 23<sup>rd</sup> September, 1965, at 4 p.m. Mauritius Arbitration Folder page 61.

<sup>&</sup>lt;sup>183</sup> Manuscript letter of 1 October 1965, UKCM Annex 9, UK Arbitration Folder Tab 29.

language, to which I will return momentarily in answer to one of Judge Greenwood's questions to both sides. What I want to underscore now is that this, and particularly the list of conditions on the final page, page 71, is the source of the undertakings given by the United Kingdom on fishing rights (that is item viii in the Premier's list) and on mineral and oil rights (item x) on this list. About this the Parties are in agreement.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

11. Please turn next to page 72. 184 I am grateful to my friends on the other side, Mr. Wordsworth and Ms. Sander, in particular, for calling your attention to this document. It was described by Ms. Sander as: "Internal note dated 12 November 1965," and Annex 13 to the Rejoinder. Now, there are some reasons to be cautious about this document. It is obviously a draft, given all the handwritten cross-outs and insertions, and we don't know who authored it, or for what purpose. That said, the UK appears to place great reliance on it, so I am sure they would not object to me calling your attention to page 77, starting at the bottom of the fourth line. This is a passage that was not read out by Ms. Sander last week. "The principal meeting to discuss the detachment of the Chagos Islands was held at Lancaster House on 23 September. The Mauritian delegation consisted of Ramgoolam, Bissoondoyal, Paturau, and Mohamed. A list of conditions for the detachment of the Chagos Islands was drawn up. Ramgoolam took this back to his hotel to mull it over with Mohamed and added the following conditions in a manuscript letter of 1 October." There follows a list of the four conditions specified by Mr. Ramgoolam in his handwritten letter to Mr. Trafford Smith of 1 October. Then the document states: "The final list of conditions took account of Ramgoolam's additions, and the British Government's proposals were finally put forward in Colonial Office dispatch number 423 of 6 October 1965 to the Governor of Mauritius to which was attached the agreed record of the meeting of 23 September 1965."

<sup>&</sup>lt;sup>184</sup> Internal note dated 12 November 1965, UKR Annex 13, UK Arbitration Folder Tab 31.

12. Now, if we accept the reliability of this contemporaneous British document, the following conclusions can be drawn. First, as the British Government then understood it, Mauritius' "consent" to the detachment of the Chagos Archipelago was based on certain "conditions." Second, these "conditions" included those that were specified in the Prime Minister's note of 1 October, relating in particular to fishing rights and oil and mineral rights. Third, the UK accepted to these "conditions."

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

- 13. This, of course, is also reflected in the official record of the Lancaster House meeting, back at pages 58 and 59 behind this tab. And here I would refer you again to paragraph 22. And I simply wish to point out that item (vi) (a and b) are the same conditions as those set forth as items (vii and viii) of Mr. Ramgoolam's note, in exactly the same language. Item (vi)(c) is similar, but not identical to, item (ix) in the Premier's note. If you compare the texts, you will see that the UK accepted the condition that Mauritius be able to use the air strip at Diego Garcia for emergency landing and refueling, but not, as proposed by the Premier, "for development of the other islands." This shows that the UK was paying careful attention, and not blindly accepting the Premier's conditions; when they accepted them, they did so knowingly and deliberately. You will also see that item (viii) of paragraph 22 of the Lancaster House record closely tracks item (x) of the Prime Minister's note, but makes one significant change: what reverts to Mauritius is not, as the Premier proposed, "any mineral or oil discoveries on or near islands," but, as per the final and agreed Lancaster House record: "the benefit of any minerals or oil discovered in or near the Chagos Archipelago." And this change in language appears to have caused some disagreement between the parties, at least temporarily, a few years later in regard to the content of this particular undertaking. I will come to that in due course.
- 14. Now, if I understood Judge Greenwood's question correctly, he asked both sides whether the Mauritian Premier, by his note of 1 October, was intending to correct the written record of

the Lancaster House meeting by adding into it conditions that had already been accepted but were inadvertently left out by the drafters of that record; or whether, after the Premier, quoting from the UK's document, "took this back to his hotel to mull it over with Mohamed," he added new conditions not previously agreed by the UK. <sup>185</sup> Mr. Wordsworth's first response, on behalf of the UK, was to express uncertainty, but after the break he came back and, with conviction, he said that these were new items added by Mr. Ramgoolam as conditions for Mauritius' purported "consent" to the detachment of the Archipelago. <sup>186</sup>

15. We agree with the UK on this, but not exactly for the reasons given. We agree with them because we do not consider it likely that the UK drafters either deliberately or inadvertently left out of the original version of the Lancaster House record any items that had been accepted by the UK and the Mauritian Ministers on 23 September. Therefore, we can only draw the conclusion that these items had not been accepted as of 23 September, but were added on 1 October by the Mauritian Premier, after he considered – or mulled over – the terms that had been presented to him. These were additional conditions of which he required acceptance by the UK before Mauritius' "consent" to detachment, such as it was, could be given. The Premier's additional conditions were, in fact, accepted by the UK, as recorded in paragraph 22 of the final, agreed record. The significance of this is that it underscores that the final Lancaster House agreed record was the product of considerable bargaining, that the Mauritian Ministers insisted on certain specific conditions as a quid pro quo for the consent to detachment that was extracted from them, and that these conditions were carefully reviewed, in some cases modified, and ultimately accepted by the UK, and incorporated in the final official record.

Judge Greenwood, Day 7, pages 830 and 833.

<sup>&</sup>lt;sup>186</sup> Wordsworth, Day 7, page 840, lines 3-18.

16. Mauritius' supposed "consent" to detachment, as I had said such as it was, was not gratuitously given. Nor were the United Kingdom's undertakings gratuitously made to Mauritius. There was an exchange of commitments: the one set for the other. It was, as the UK's Legal Advisers were later to describe it: a "package deal" (Mr. Aust in 1971)<sup>187</sup>; an "agreement" (Mr. Watts in 1981)<sup>188</sup>; or, in the words of Mr. Steel in 2004, "It was during those discussions that Mauritian Ministers gave their consent to the detachment of the Chagos Archipelago from Mauritius for the purpose of their incorporation into the proposed BIOT. The record shows—I am still quoting from Mr. Steel—"that, in return for that consent, the British Government agreed to accept a number of obligations..." Now, I should point out here that to save time, I'm not making specific citations in this oral presentation to the record, but you will find citations to every document and every reference to these pleadings in the footnotes to my remarks. Now, I believe I still have a few more minutes before we come to the half hour point, if that's acceptable to you, Mr. President.

17. The Tribunal will have noted that my good friend Mr. Wordsworth chose not to engage with the legal opinions on the binding nature of the 1965 undertakings that were given by Mr. Watts or Mr. Steel. I trust he was not holding back, in order to save his response for the second round, and deprive us of an opportunity to respond to his views on these considered legal opinions. That would be unfair, and I know my good friend to be a fair man. But he did engage with the legal opinion rendered by Mr. Aust. Fortunately, he did not challenge it on the basis of Mr. Aust's age. The UK apparently have thought better of that line of attack. Instead, he challenged it on the basis of the age of the opinion. What difference does it make, he asked, what Mr. Aust thought in 1971? That's immaterial, he told us. And it would be just

<sup>&</sup>lt;sup>187</sup> Minute dated 26 February 1971 from A.I. Aust to Mr. D. Scott, "BIOT Resettlement: Negotiations with the Mauritius Government", MR Annex 73, Mauritius Arbitration Folder Tab 5.7.

<sup>&</sup>lt;sup>188</sup> Minute dated 13 October 1981 from A.D. Watts to [name redacted], "Extension of the Territorial Sea: BIOT", MR Annex 83, Mauritius Arbitration Folder Tab 5.12.

Note dated 2 July 2004 by Henry Steel, "Fishing by Mauritian Vessels in BIOT Waters", MR Annex 109, Mauritius Arbitration Folder Tab 5.19.

as immaterial if Mr. Aust had reached the opposite conclusion, that the UK was not bound by what it agreed to in 1965.

- 18. This calls for the following responses. First, Mr. Aust's legal opinion is material to the question of whether the United Kingdom intended to be bound, and understood itself to be bound, by the undertakings—and that's his word it gave to Mauritius in 1965. As our friends on the other side have themselves argued, the binding character of these commitments is determined in part by whether the UK intended itself to be bound by them. Of course it did! This is demonstrated most clearly by the contemporaneous documents from 1965, some of which those from September I have just finished discussing. I'll come to the ones from October and November 1965 shortly. Mr. Aust's legal opinion confirms what is already obvious from the 1965 documents themselves: that the UK undertook legally binding commitments in exchange for what it regarded as Mauritius' consent to the detachment of the Archipelago.
- 19. Second, it bears emphasis that Mr. Aust's legal opinion does not stand alone. It is neither outdated nor isolated. It was followed by Mr. Watts' legal opinion to the same effect in 1981, and Mr. Steel's in 2004. That is three opinions by the UK's Legal Advisors, spanning three decades, confirming that the undertakings given by the UK in 1965 as part of what it regarded as an agreement with Mauritius, were, and remained, legally binding. Where are the opinions of the UK's legal advisers concluding that the commitments undertaken in 1965 were not, or are not, legally binding? Where are they? The answer is: nowhere. They don't exist. The UK has submitted two elaborate written pleadings. It has spent three full days orally pleading its case, and they have failed to produce a single opinion, from any legal adviser, to the effect that any of the conditions agreed to by the UK in 1965 were not, or are not, legally binding.

20. To complete the review of the evidence from 1965, and then perhaps to take a break, to complete this evidence which help us establish the *character* of the UK's undertakings (I will come to their specific contents after the break), please follow me very briefly to two more documents at Tab 5. You have already seen these, and I will only use them to recall for you that, at page 82, <sup>190</sup> on 6 October 1965, the Colonial Office sent the official record of the Lancaster House meeting to the British Governor of Mauritius. At the end of paragraph 1, that record is termed: "an accurate record of what was *decided*." Paragraph 2 then reads: "I should be grateful for your early confirmation that the Mauritius Government is willing to *agree* that Britain should now take the necessary legal steps to detach the Chagos Archipelago from Mauritius *on the conditions enumerated* in (i) – (viii) in paragraph 22 of the enclosed record."

21. The early confirmation requested by the Colonial Office was supplied by the Governor of Mauritius in a telegram dated 5 November 1965, at page 83<sup>191</sup>: "Council of Ministers confirmed agreement to the detachment of Chagos Archipelago on conditions enumerated, on conditions enumerated on the understanding that," etc. Mr. President, we respectfully submit that there is no other plausible way to read and understand the contemporaneous written record but this: In the view of the United Kingdom, an "agreement" was reached between the UK and Mauritius. In that view, Mauritius gave its consent to the detachment of the Chagos Archipelago, in exchange for certain enumerated conditions. These conditions were set forth in paragraph 22, items 1 through 8, of the agreed official record of the Lancaster House meetings. The UK understood at the time that the undertakings it gave to Mauritius were in exchange for what it considered the Mauritian consent that it had sought. There is no plausible way for the United Kingdom to argue otherwise. As we have seen, every UK legal

<sup>&</sup>lt;sup>190</sup> Colonial Office Despatch to Governor of Mauritius No. 423 of 6 October 1965, MM Annex 21.

<sup>&</sup>lt;sup>191</sup> Telegram No. 247 from Mauritius to the Secretary of State for the Colonies of 5 November 1965, MM Annex 25.

adviser who opined on this question agreed that these undertakings were legally binding obligations.

Perhaps, Mr. President, this is an appropriate time to take a coffee break.

PRESIDENT SHEARER: Thank you, Mr. Reichler.

We will return at five to 5:00.

Thank you.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

(Brief recess.)

22. The last document we examined was the communication from 5 November 1965, which is at Tab 5.1, page 83, and I will refer to that now again. The UK's advocates focus your attention on paragraph 3 of this document. This is at Tab 5.1, page 83, and it is the communication from the Governor of Mauritius back to the Colonial Office reporting on what he called the agreement of the Council of Ministers to the conditions enumerated in the Lancaster House agreed official record. The UK's advocates direct you to paragraph 3, and particular to this sentence: "They were also dissatisfied with mere assurances about (v) and (vi)." The first question we have is: who are "They"? On this, there is a contradiction between Ms. Sander and Mr. Wordsworth. Ms. Sander agreed with my remarks <sup>192</sup> of 24 April, that "They" refers not to the Council of Ministers, but only to three Ministers representing the opposition PMSD party (which, by the way, opposed independence for Mauritius). 193 Mr. Wordsworth, however, told you that the entire Council of Ministers were dissatisfied with "mere assurances." <sup>194</sup> And I will read from the record what he said on this. "The basic point is that the Council of Ministers was dissatisfied." I'm compelled to say that Ms. Sander has read this document more carefully than Mr. Wordsworth. The reference in paragraph 3 is to the same opposition Ministers whose views are described in paragraph 2.

<sup>&</sup>lt;sup>192</sup> Sander, Day 5, page 602, lines 3-4.

<sup>&</sup>lt;sup>193</sup> Sander, Day 5, page 601, lines 19-21.

Wordsworth, Day 7, page 845, lines 21-22 ("The basic point is that the Council of Ministers was dissatisfied.")

23. Now, what about "mere assurances"? What is meant by the word "assurances"? This is the question that Judge Wolfrum asked Ms. Sander. She declined to answer, on the ground that Mr. Wordsworth would do so on Friday. When pressed for her own view, she wouldn't give it. Friday came and went, as did Mr. Wordsworth, but he never answered the question either. So, it falls to us to answer it as we did in our Reply at paragraphs 6.49 and 6.50.

ARBITRATOR WOLFRUM: Mr. Reichler, to put it straight, Mr. Wordsworth answered he would wait for your answer, and then he would come back to that. This is my recollection, I believe, if this is a correct interpretation.

MR. REICHLER: I'm sure you're correct, Judge Wolfrum, and I will proceed on that basis.

- 24. According to the Oxford English Dictionary, which advertises itself as the definitive record of the English language, an "assurance" is: "A promise or engagement making a thing certain; a formal engagement, pledge or guarantee." Apparently, the ICJ agrees. In the *Nuclear Test* cases, France's "assurance" that "1974 will see the end of atmospheric nuclear testing in the South Pacific," was found by the Court to be "a commitment in this respect ...entered into by France." <sup>197</sup>
- 25. So, as I said last week, there is an oxymoronic quality to the phrase "mere assurances." But counsel for the UK read it differently. For them, this is evidence that the UK's 1965 undertakings are necessarily non-binding. Both Ms. Sander and Mr. Wordsworth told you that by describing certain of these undertakings as "mere assurances," Mauritius Mauritius was reflecting its view that they are not binding. 198 Ms. Sander was especially emphatic

<sup>&</sup>lt;sup>195</sup> Sander, Day 5, page 602, lines 11-13.

<sup>&</sup>lt;sup>196</sup> Oxford English Dictionary (Oxford University Press, 2014), accessed online.

<sup>&</sup>lt;sup>197</sup> Nuclear Tests (New Zealand v France), Judgment, ICJ Reports 1974, p. 457, para. 54

<sup>&</sup>lt;sup>198</sup> Sander, Day 5, page 602, lines 6-7; Wordsworth, Day 7, page 845, lines 15-22.

about this. 199 Mr. Wordsworth agreed, but he was prudent enough not to go out as far on the limb as Ms. Sander.

- 26. Now, that limb is easily sawn off. First, as Ms. Sander herself acknowledged, the dissatisfaction with "mere assurances" was not that of *Mauritius*, but only that of some opposition Ministers. Second, as we have seen, assurances are not mere. They can be just as binding as any other formal engagement, pledge or guarantee. And third, there is no evidence none whatsoever that these opposition Ministers were dissatisfied because they considered the UK's undertakings non-binding; nor is it reasonable to jump to the conclusion, as Ms. Sander too eagerly does, that the only explanation for their dissatisfaction is their interpretation of the UK's undertakings as non-binding.
- 27. The truth is, we don't know why the opposition Ministers were, at least as reported by the Colonial Governor, dissatisfied with what they may have considered "mere assurances," and the evidence simply does not allow us to draw any conclusions about the reasons for their alleged dissatisfaction of those three Ministers. If counsel, including ourselves, want to be helpful to the Tribunal, I do think we need to avoid making unwarranted extrapolations from these historical documents, or straining to connect dots that are far removed from one another and may not have any line connecting them at all.
- 28. But while we're on the subject of "assurances," I would ask your indulgence in allowing me to speak about the meaning of the words "undertakings" and "understandings." Returning to the Oxford English dictionary, an "undertaking" is: "A pledge or promise; a guaranty or surety." An "understanding" is described as: "A mutual arrangement or agreement of an informal but more or less explicit nature."

<sup>&</sup>lt;sup>199</sup> Sander, Day 5, page 602, lines 6-7.

<sup>&</sup>lt;sup>200</sup> Sander, Day 5, page 601, lines 19-21.

<sup>&</sup>lt;sup>201</sup> Oxford English Dictionary (Oxford University Press, 2014), accessed online.

29. So, does it matter whether the conditions agreed to by the UK in 1965, in consideration for what it considered Mauritian consent to the detachment of the Archipelago, are "undertakings" or "understandings"? Counsel for the UK can't seem to decide. On the one hand they say that it makes no difference whether what the UK gave in 1965 were undertakings or understandings, that the only material question is whether they evidence an intention on the part of the United Kingdom to be bound. On the other hand, they refer uniformly, even robotically, to the conditions agreed by the UK in 1965 as "understandings," and accuse our side of a similarly strict attachment to the word "undertakings."

30. We agree with the United Kingdom that the critical question is whether there was an intention to be bound by its "undertakings" or, if you will, "understandings." But as lawyers we do know that words matter. To be sure, both undertakings and understandings are binding when there is an intention to be bound. But undertakings may be, as the Oxford dictionary shows, more formal in character than understandings. We refer to the conditions agreed by the UK in 1965 as undertakings because that is what the UK and its legal advisers called them in the vast majority of the documents in which it described them over the next 45 years, as I said, including especially, in the documents setting forth the UK's interpretation of its legal position. However, at the same time, the UK's intention to be bound is equally reflected in Mr. Watts' and Mr. Steel's use of the term "agreement" to describe what was done in 1965, and Mr. Steel's reference to the "obligations" that the UK "agreed to accept" "in return for" the Mauritian Ministers' consent to the detachment of the Chagos Archipelago.

31. Mr. Wordsworth admitted that the subsequent practice, over the 45-year period between 1965 and 2010, could be interpreted as reflecting that the United Kingdom considered itself legally bound by the conditions to which it agreed in 1965. We submit this conclusion is inevitable, from a review of the contemporaneous documentation covering that period,

<sup>&</sup>lt;sup>202</sup> Wordsworth, Day 7, page 835, lines 20-24.

including the 34 British-authored documents, some internal and some sent to the Government of Mauritius, that I examined with you during our first round.

- 32. But there is more than Mr. Wordsworth's acknowledgment of the susceptibility of this practice to that interpretation. There is his failure to give a direct response to the question posed by Judge Greenwood. In order to be precise, I will quote from the transcript quoting Judge Greenwood. Unfortunately, I do not have the distinct mellifluous voice of Judge Greenwood, but I will do my best: "Am I to understand, therefore, that the United Kingdom's position is that none of the undertakings given at Lancaster House I use the word undertakings without wishing to pre-judge their legal status that none of those undertakings is legally binding upon the United Kingdom today, so, for example, the United Kingdom would be free to cede the Chagos Archipelago to a third State. It's not legally as opposed to politically obliged not to do that." In response, Mr. Wordsworth didn't respond. What the transcript records him as saying is that he couldn't answer the question because he did not know what statements Mauritius was relying on. 204
- 33. This begets two questions on our part. First, where has he been the past two weeks, or, for that matter, the past three years, since we filed our Memorial? Our written pleadings make explicit precisely what undertakings, and what subsequent statements reaffirming those undertakings, Mauritius "relies on" for the conclusion that the UK is legally bound to ensure that sovereignty vests in Mauritius when there is no longer a need for defence facilities in the Archipelago. On 24 April I cited, and read aloud four statements by senior British officials to that effect.
- 34. The second question is: Why does the UK need to know what British statements Mauritius relies on to answer the question of whether it considers itself bound not to cede the

<sup>&</sup>lt;sup>203</sup> Judge Greenwood, Day 7, page 855, lines 23-25 and page 856, lines 1-4.

<sup>&</sup>lt;sup>204</sup> Wordsworth, Day 7, page 856, lines 6-14.

<sup>&</sup>lt;sup>205</sup> Reichler, Day 2, pages 156-159, 171.

Archipelago to a third State? The question was, if we understand it correctly, whether the UK considers itself bound not to do that. They shouldn't need Mauritius' help to answer the question.

- 35. But, of course, they *can* answer the question if they want to, and we know that because they already *have* answered it in their written pleadings. In their Counter Memorial they admitted at paragraph 8.20 that the undertaking on reversion of sovereignty to Mauritius is legally binding. They also admitted there that the undertaking on ensuring that Mauritius receives the benefits of any oil or mineral exploitation is legally binding. They argue only that the undertaking on fishing rights is not binding. But that is not a tenable position. All of these undertakings appear as conditions in the same instrument. All were given at the same time, and as part of the same *quid pro quo*. The undertaking on fishing rights originated in the same source the Premier's handwritten note as the undertaking on oil and mineral exploitation. If one of these undertakings is legally binding, as the UK appears to admit in its written pleadings, then so must be the others.
- 36. And that is, in our opinion, what caused counsel for the UK to filibuster, to make excuses, instead of answering Judge Greenwood's question, either before or after the break. The answer to that question, we submit, is that, of course, the United Kingdom is bound not to cede the Archipelago to a third State. But counsel knew that, to answer the question in that manner, would leave him no choice but to admit that all the 1965 undertakings are of the same character. If one is legally binding, so are the others.
- 37. Mr. President, Members of the Tribunal, Mauritius submits that, based on the evidence that is before you, the only reasonable conclusion to be drawn is that the obligations that the United Kingdom undertook in 1965, in return for what it regarded as Mauritius' consent to the detachment of the Chagos Archipelago, are legally binding.

<sup>&</sup>lt;sup>206</sup> UKCM, para. 8.20.

38. I turn next to the contents of these legally binding obligations.

ARBITRATOR WOLFRUM: Mr. Reichler, may I interrupt you just briefly. You understood Mr. Wordsworth correctly. He said they were not binding on the level of international law. Could you perhaps comment on that?

MR. REICHLER: Well, I would simply, Judge Wolfrum, if you will allow me, I would simply adopt what Professor Crawford said this morning, and in his remarks during our first round. As to how and when – that is, at the moment of independence – that these commitments which were made in the pre-independence period, became at that very moment, legally binding. And it doesn't take much humility on my part to say that I stand by what Professor Crawford said. We adopt that, that is Mauritius' position, and I cannot improve on it. 38. So, the contents of these legally binding obligations, there is, we submit, no real disagreement over the content of the undertaking that sovereignty will revert to Mauritius. This, despite the UK's sudden professed uncertainty over whether statements by senior British officials directly to senior Mauritian officials renewing and reaffirming this undertaking that Mauritius relies on in these proceedings.

39. Nor is there any dispute about the content of the undertaking on the benefits of oil and mineral exploration or exploitation. But here it is necessary to pause for a minute or two. At one time, until 1973, there were two different interpretations of this undertaking on the benefits of oil and mineral exploitation. You will recall that Premier Ramgoolam's handwritten proposal was that, "any mineral or oil discoveries ... revert to Mauritius," and that this was changed in the final record to, "the benefit of any minerals or oils discovered ... should revert to Mauritius." This apparently led to a short-lived dispute, which is reflected in three letters from the Prime Minister to the British High Commissioner, dated November 1969, September 1972, and March 1973, which I reviewed with you on 24 April, and the

citations will be in the footnotes to my presentation.<sup>207</sup> In these letters the Prime Minister expressly invoked the "undertaking" by the UK "given in 1965," and he referred to Mauritius' "prospecting rights" or "right of prospection" pursuant to that undertaking. Last week, the UK made reference to the last of these three letters, dated 24 March 1973. In that regard, they called your attention to another document, an internal British one, taking issue with the Prime Minister's claim to "prospecting rights."

40. And I would ask you, please turn to Tab 5.2 and specifically page 84 in our numbering system. 209 This is the internal British document to which both Mr. Wordsworth and Ms. Sander made reference. It was written to the British High Commissioner in Port Louis by Andrew Stuart of the FCO's Hong Kong and Indian Ocean Department on 27 April 1973, just a few days more than a month after the Prime Minister's letter. It merits an accurate reading, rather than a partisan interpretation, so I would propose to read the relevant part. Paragraph 2: "The Prime Minister's recollection of the meeting at Lancaster House does not agree with the official record. Our undertakings in regard to navigation and meteorological facilities, fishing rights, and the use of the airstrip were much less definite than his version indicates. The true form of these undertakings was set out in the agreed record of the Lancaster House meeting of 23 September, a copy of which I enclose. The Prime Minister may be modifying these undertakings in the hope of establishing his new version on the record for subsequent use, or he may simply be relying on his memory and the written note he sent to Trafford Smith of the Colonial Office on 1 October 1965. In either event, we clearly cannot allow the new version, with its unfounded assertion of *prospecting rights*, to

<sup>&</sup>lt;sup>207</sup> Note Verbale dated 19 November 1969 from the Prime Minister's Office (External Affairs Division), Mauritius to the British High Commission, Port Louis, No. 51/69 (17781/16/8), MM Annex 54, Mauritius Arbitration Folder Tab 8.1; Letter dated 4 September 1972 from Prime Minister of Mauritius to British High Commissioner, Port Louis, MM Annex 67, Mauritius Arbitration Folder Tab 8.2; Letter dated 24 March 1973 from Prime Minister of Mauritius to the British High Commissioner, Port Louis, MM Annex 69, Mauritius Arbitration Folder Tab 8.3.

<sup>&</sup>lt;sup>208</sup> Sander, Day 5, page 605, lines 6-10 and page 606, lines 1-2.

<sup>&</sup>lt;sup>209</sup> Internal Memorandum from Foreign and Commonwealth Office to British High Commission of 27 April 1973, UKCM Annex 23, UK Arbitration Folder 34.

supersede the agreed official record. The question of tactics is how to re-establish the authentic version of our undertakings." I invite you just for now to skip down to paragraph 3, third sentence, at the end of the fourth line: "A way round this might be for you to acknowledge his letter and discharge, ending up with something on the following lines, and then this is a quote within a quote: 'Referring to the third paragraph of your letter,"—that is the Prime Minister's letter of 24 March 1973—"we can assure you that there is no change in the undertakings given on behalf of Her Majesty's Government which are set out in the record, as then agreed, of the meeting at Lancaster House on 23 September 1965.' End of the internal quote, but continuing with quoting the letter, this document. "A reaffirmation in this form would be acceptable to the Legal Advisers. The use of 'assure' instead of 'confirm' would enable us to maintain that we had not concurred with the assertions contained in Ramgoolam's letter, and would therefore re-establish the original agreement for the record." 

- 41. Now, two observations can be made. First, there was a disagreement between the Prime Minister's understanding of the undertaking on oil and mineral benefits and that of the UK. The Prime Minister understood that, pursuant to that undertaking, Mauritius had the right immediately to licence prospecting for oil and minerals. The UK position was that Mauritius did not have that right, but it retained the discretion whether or not and when to allow prospecting, as long as the benefits from any such activities reverted to Mauritius. Now, that much is agreed by counsel. And Mr. Wordsworth added, correctly I would say, that the British position on the content of the oil and minerals undertaking appears to have been subsequently accepted by Mauritius. <sup>210</sup>
- 42. The second observation is that the document evidences a reaffirmation by the UK of the undertakings given at Lancaster House in 1965, "as then agreed." The recommendation, which is said to be supported by the Legal Advisers, is to "re-establish the original agreement

<sup>&</sup>lt;sup>210</sup> Wordsworth, Day 7, page 851, lines 22-25 and page 852, line 1.

for the record." This, of course, or at least in our view, is further evidence of an intention to be bound by the undertakings [the plural form is used] that were given in 1965. I would further call your attention to the follow-up by the Government—I'm sorry, at this point it was the High Commissioner dated 3 May 1973, which was within two weeks of this document we have been reviewing, and this is at Tab 5.8 which went along with my presentation on 23 April. It's very short, so I will just read it to you. And it says, and you can see that the language tracks the recommendations in the document that we've been reading. "I have been asked by my government formally to acknowledge your letter." I should state that in the previous paragraph it refers to the Prime Minister's letter of 24 March 1973, which is the same letter referred to in this document. "I have been asked by my government formally to acknowledge your letter and to add with reference to your paragraph 3 an assurance that there is no change in the undertakings given on behalf of the British Government and set out in the record as then agreed of the meeting at Lancaster House on 23 September 1965." So, we say this document and the follow-up by the High Commissioner support our position.

- 43. But the UK's counsel invoke this document for another purpose. Instead, they claim, based on this document, that the UK "rejected" Mauritius' understanding of its fishing rights under the 1965 undertaking, and that this, somehow, demonstrates that there was no common understanding of the content of that undertaking.<sup>211</sup>
- 44. We say that their interpretation is based on a huge leap away from what the document actually says. In the letter from the Prime Minister that provoked the UK's preoccupation, the Prime Minister wrote that the 1965 undertaking provides for, "Mauritius reserving to itself:

  (a) fishing rights, among other rights." This language does differ from that of the 1965 undertaking in its prefatory phrase, "Mauritius reserves to itself." But it is not clear that the Prime Minister was intending to assert anything different about the content or extent of its

<sup>&</sup>lt;sup>211</sup> Sander, Day 5, page 605, lines 14-15; Wordsworth, Day 7, page 850, lines 24-25 and page 851, lines 1-3.

45. Now, this brings us neatly to the matter of what the content of the undertaking in regard to Mauritius' "fishing rights" is. The Parties agree on one thing. The full content of this undertaking was not elaborated with any specificity in the Lancaster House official record, except insofar as it provides that the UK endeavoured to ensure these rights "as far as practicable." There is also an agreement on another point. As reflected in the contemporaneous documentation, via a consistent and uninterrupted subsequent practice over 45 years, Mauritius' "fishing rights" pursuant to the 1965 undertaking came to be understood by both parties as the right to fish in all the "BIOT" waters, out to 200 miles. This right was exercised, after 1984, subject to licences issued freely by the "BIOT" administration to Mauritian-flagged vessels without charge. We were told by the Attorney General in his opening statement that no Mauritian-flagged vessel was ever denied a licence to fish in "BIOT" waters<sup>212</sup>. And, of course, none ever had to pay for its license. As Ms. Yeadon, the "BIOT" Administrator, wrote in April 2009: "the Mauritians have got historic fishing rights,"<sup>213</sup> and in July 2009: "Mauritian fishing rights were never defined in the Lancaster House side meetings but what it boils down to is free access to BIOT waters,"214 and even as late as July 2010, Ms. Yeadon again: "Mauritius...has historical fishing rights in BIOT. ...HMG gave an undertaking to ensure that certain facilities, including fishing rights, would remain available to the Mauritian government as far as was practicable. This was written into

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

<sup>&</sup>lt;sup>212</sup> Attorney General Grieve, Day 1, page 55, lines 21-22.

MR Annex 130, in Round 1 Mauritius Arbitration Folder Tab 5.22.

<sup>&</sup>lt;sup>214</sup> MR Annex 138, in Round 1 Mauritius Arbitration Folder Tab 5.24.

the agreed record of the meeting. Since the establishment of the Territory's Fishing and Conservations Management Zone in 1991, [that is when the fishing zone was extended from 12 miles to 200 miles], these fishing rights have meant free licences to Mauritian-flagged vessels." Again, the cites to all of these statements will appear in the footnotes to my presentation. Mauritius shares the UK's understanding of its "fishing rights" pursuant to the 1965 undertaking. This is, it shares the understanding that the UK had of the fishing rights undertaking up until it adopted the "MPA". This is, of course, without prejudice to its claim of broader, including sovereign, rights in regard to fishing based on its claim of sovereignty over the territory of the Chagos Archipelago. In regard to Mauritius' fishing rights pursuant to the undertaking, even counsel for the UK acknowledged last Friday that the UK's subsequent practice could be interpreted to reflect an understanding that the 1965 undertaking on "fishing rights" was "a binding legal obligation," and that the rights extended to "increasingly larger zones."

46. This subsequent practice, over 45 years, makes it clear that the "fishing rights" that were promised in 1965 were not limited to the fishing that was carried on in 1965, that is, to artisanal fishing by Chagossians living on the islands of the Archipelago. On this, the UK's advocates contradict one another. Ms. Sander says "Yes," Mauritius got no more than the right to fish as fishing was practiced in 1965. <sup>217</sup> Mr. Wordsworth, however, conceded that this cannot have been the case based on the subsequent practice <sup>218</sup>. Ms. Sander relies on a question and answer in the Mauritius Legislative Assembly in 1965, but her reliance is misplaced. <sup>219</sup> The questioner did not ask what were the "fishing rights" that Mauritius secured under the 1965 agreement. The question was more limited: "Whether…all fishing

<sup>&</sup>lt;sup>215</sup> MR Annex 137 in Round 1 Mauritius Folder Tab 5.26.

<sup>&</sup>lt;sup>216</sup> Wordsworth, Day 7, page 835, lines 20-24.

<sup>&</sup>lt;sup>217</sup> Sander, Day 5, page 598, lines 6-7.

<sup>&</sup>lt;sup>218</sup> Wordsworth, Day 7, page 835, lines 20-24.

<sup>&</sup>lt;sup>219</sup> Sander, Day 5, page 597, lines 17-21.

facilities around Diego will be safeguarded."<sup>220</sup> The answer, by Mr. Forget, was in response to that particular question: "I am not clear what the Honorable Member means by the word "safeguarded." So far as I am aware, the only fishing that now takes place in the territorial waters of Diego Garcia is casual fishing by those employed there and as the Honorable Member is aware, they will be resettled elsewhere."<sup>221</sup> We submit that this cannot be taken to mean that Mauritius believed that the "fishing rights" the Premier conspicuously added as condition to be incorporated in the Lancaster House official record were intended by him to be exercised only and fleetingly by the Chagossians, whose resettlement was provided for in the same record. In any event, as was pointed out during counsel's presentation last Friday, this is not how either Party understood Mauritius' "fishing rights" in actual practice for the next 45 years.<sup>222</sup>

47. According to the evidence I reviewed with you on 23 April, starting at least as far back as April 1966, the documents show that the UK understood Mauritius' fishing rights much more broadly. At that time, the breadth of the territorial sea was just three miles. The UK used its good offices with the United States, successfully, to ensure Mauritius' right to fish not only within 3 miles of all the islands of the Archipelago, save those that would house defence facilities, but also in what were then considered the high seas separating the islands. This right was exercised from the very beginning. When a 9 mile fishery zone contiguous to the territorial sea was adopted, the UK used its good offices with the US to ensure Mauritius' fishing rights throughout the entire 12 miles. As a result, between 1968 and 1984, Mauritian-flagged vessels fished freely – and without even the need of obtaining licences – throughout the 3 mile territorial sea and the 9 mile contiguous zone. This was the case, even after adoption of a 1971 ordinance prohibiting foreign-flagged vessels, other than those of

<sup>&</sup>lt;sup>220</sup> Debate in Mauritius' Legislative Assembly of 21 December 1965, UKCM Annex 15, p. 14.

Debate in Mauritius' Legislative Assembly of 21 December 1965, UKCM Annex 15, p. 15.

<sup>&</sup>lt;sup>222</sup> Wordsworth, Day 7, page 775, lines 11-18.

Mauritius or Seychelles, from fishing anywhere within 12 miles of the Archipelago. At this point, I would like to correct a factual error that I made in my speech on 23 April. At that time, I said that licences were freely issued to Mauritian-flagged vessels after 1971. That was wrong. Licences came in with the 1984 ordinance, not the ordinance of 1971. Prior to 1984, it was not necessary for any vessel to obtain a license to fish in the 12 mile zone.

48. As we now know, from the contemporaneous documents that we reviewed on 23 April, when a 200 mile FCMZ was established in 1991, Mauritius was recognized by the UK to have fishing rights out to the 200 mile limit, pursuant expressly to the fishing rights undertaking of 1965. As was explained in the report on these events by the FCO's African Research Group Analysts: "re-examination of HMG's 1965 undertaking on fishing rights ruled out any alternative." This is one of the few contemporaneous British documents that counsel for the UK chose to engage with. Ms. Sander pointed to the cover page of that analysis, which refers to it as a "working draft," and which the author candidly states that he or she "is not confident of my grasp at all of [the aspects]" covered in this analysis, and asks "Mr. Christie of Legal Advisers," among others, "to let me know if they spot any errors or misconceptions." It is impressive for me as an American to see such humility in a British civil servant, which we rarely find in Washington. But what the UK's counsel failed to suggest, let alone demonstrate, is that any of the particular portions of the document relied on by Mauritius were in any way deemed to be erroneous. There is nothing in the record, for example, that anyone - let alone Mr. Christie of Legal Advisers - found any errors or objected to anything in this analysis. To the contrary, we know from Ms. Yeadon's correspondence with Mr. Roberts on 14 July 2009<sup>225</sup> that she forwarded this document to

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

<sup>&</sup>lt;sup>223</sup> Reichler, Day 2, page 173, lines 18-24, and page 174, line 1.

<sup>&</sup>lt;sup>224</sup> UK Foreign and Commonwealth Office, African Research Group, Research Analysts Paper,

<sup>&#</sup>x27;BIOT/Mauritius: Fishing Rights', 11 October 1996: MR, Annex 101, para. 15.

Email exchange between Colin Roberts, Director, Overseas Territories Directorate, and Joanne Yeadon, Head of "BIOT" & Pitcairn Section, UK Foreign and Commonwealth Office, 13-14 July 2009, MR Annex 138, Mauritius Arbitration Folder Tabs 5.23-24.

him in her response to his request of 3 July 2009 for "an authoritative statement of what we think are Mauritius' rights today to fish in BIOT waters."<sup>226</sup> The other document that she sent to Mr. Roberts on 14 July 2009 was the MRAG report of 9 July, prepared at her request, stating: "Mauritius has historical agreements to fish inside the BIOT FCMZ," and citing, inter alia, "the agreements made between UK and Mauritius in 1965."<sup>227</sup>

- 49. We say, one, there is no lack of clarity about Mauritius' fishing rights pursuant to the 1965 undertaking: the right to fish anywhere in the 200 mile FCMZ, subject to licences that were never denied to any Mauritian-flagged vessel and were given free of charge. This is the inevitable conclusion reached from a review of all the contemporaneous documentation and the actual practice. And we say, two, that the clarity requirement (although it is met in this case) does not affect the binding character of this undertaking. In the UK's view at least at all times prior to the commencement of these proceedings that undertaking was not a unilateral declaration, but was a condition of an agreement reached in 1965, an agreement that was repeated, renewed, and reaffirmed after Mauritius became an independent State. The obligation would be binding on the UK even if it were unclear, which it is not. In such case, of course, it would be for the Tribunal to determine its meaning, and therefore precisely to what commitments in regard to fishing rights the UK is bound.
- 50. Counsel for the UK suggests that the UK did all of this ensure fishing rights for Mauritius beyond those it exercised in 1965, extend them from 3 miles to 12 miles, forbid the vessels of any other State from fishing in that zone and ensure exclusive access by Mauritius, and then extend Mauritius' fishing rights to 200 miles, not based on a legally binding obligation, but out of the goodness of its heart. Now, as an American, I love the UK. They have been our

Email exchange between Colin Roberts, Director, Overseas Territories Directorate, and Joanne Yeadon, Head of "BIOT" & Pitcairn Section, UK Foreign and Commonwealth Office, 13-14 July 2009, MR Annex 138, Mauritius Arbitration Folder Tabs 5.23 at page 236.

Email dated 9 July 2009 from Development Director of MRAG to Joanne Yeadon, Head of "BIOT"& Pitcairn Section, UK Foreign and Commonwealth Office, & "MRAG Comments on the proposal to designate the BIOT FCMZ as a marine reserve", MR Annex 137, Mauritius Arbitration Folder 5.25 at page 247.

best friends for over 200 years, ever since they burned down the White House in 1812. But States have interests, not consciences. And it was not goodness of heart, or even, we submit, goodness of faith, that led the UK to pry out of Mauritius its "consent" to the excision of the Chagos Archipelago, in violation of its territorial integrity and the right of its people to self-determination; nor was it goodhearted for the UK to, at a stroke, abolish Mauritius' guaranteed fishing rights of 45 years by adopting, without proper consultation and for illegitimate reasons, which I will soon come to perhaps tomorrow morning, an MPA that included a complete ban on all fishing, except, of course, for the area around Diego Garcia that is the most vulnerable part of the ecosystem. States act on the basis of their interests, not their consciences, guilty or otherwise. The UK is no exception. It respected Mauritius' fishing rights for 45 years because it was legally obligated to do so. Period.

- 51. Another implausible argument made by counsel for the UK is that Mauritius' fishing rights were what they call "preferential only." By this they mean that Mauritius got rights only if other States got them, too. By this casuistry, if no other State could fish in "BIOT" waters, Mauritius could be excluded, too. This, of course, is the opposite of how the UK understood Mauritius' fishing rights between 1965 and 2010. As I mentioned earlier, only Mauritius and no other State (except Seychelles for a brief period) was considered to have rights to fish within 12 miles of the Chagos Archipelago during the 20-year period between 1971 and 1991. Thereafter, until 2010, licences were made available to other States in the area between 12 miles and 200 miles, but only Mauritius was deemed to have inshore fishing rights, that is, within 12 miles. And in the wider zone, only Mauritian-flagged vessels were issued licences free of charge. Mauritius' fishing rights during this entire period were not considered dependent, at any time, on the licencing of vessels of third States to fish in Chagos waters.
- 52. The UK's argument on so-called "preferential" rights is based on two documents from 1965, reporting on events before the final Lancaster House meeting. It should be noted here that

both are internal British documents. There is no direct evidence that any Mauritius official ever described the fishing rights that Mauritius sought, or obtained at Lancaster House, as "preferential." You have seen these documents, so I will only address them briefly. The first is the July 1965 telegram from the Governor of Mauritius to the Colonial Secretary reporting that "Mauritian Ministers" objected to detachment of the Archipelago, and proposed instead a 99-year lease, which they would then grant on certain conditions, including what the Governor described as "ensuring preference for Mauritius if fishing or agricultural rights were ever granted." We don't know whether the unnamed Mauritius Ministers expressly requested "preference ... if fishing ... rights were ever granted," or if this is the way the Governor interpreted or chose to characterize their proposal. That is the danger of trying to squeeze too much juice out of this lemon. What the Governor said, that unnamed Mauritius Ministers said, is plainly hearsay, and precisely the kind that should cause the Tribunal, and counsel, to be cautious in their interpretations from this of Mauritius' intentions.

53. The second document is the one introduced by Ms. Sander. It is the internal British document of 12 November 1965, which, as we saw earlier, is a draft with many handwritten changes. This is at Tab 5.1, and we looked at it earlier. As I said, the author is unidentified. There is no way of knowing if he or she was even present at the meeting of 13 September 1965 that is described, or relied on someone else's version of events. If you turn to page 76, which is the page that Ms. Sander quoted from, you will see that it appears to be the case, from the indented quote and the reference number (255), that the text that Ms. Sander read to you last week was from some other source, which, of course, is also unidentified. Thus, the words, "they would like preferences in any fishing rights in Diego Garcia waters," are at least double or triple hearsay. But you will note here the absence of the phrase: "if fishing rights were

MM Annex 13, Mauritius Telegram No. 175 to the Colonial Office, 30 July 1965, FO 371/184526, Mauritius Arbitration Folder 5.28.

Internal note dated 12 November 1965, UKR Annex 13, UK Arbitration Folder Tab 31.

ever granted," upon which the UK's argument is based, so it does them no good in any event. But prior to the part that Ms. Sander read for you last week is this language, where it says that what follows are the, "terms the Mauritian Government envisioned for a lease agreement," not for detachment of the Archipelago. Were these the terms that somebody in Mauritius may have envisioned for a detachment? We simply have no way of knowing nor, really, is there a reason why we should care.

54. But Ms. Sander thinks she knows. She tells you, with absolute certainty, that this is what the Premier of Mauritius proposed in his handwritten note of 1 October<sup>230</sup>. But that document does not support her construction of it. It describes the condition finally proposed by the Premier, and then accepted by the UK, simply as "fishing rights," not "preferential fishing rights if rights are ever granted." This does not appear to deter Ms. Sander. She places all her chips on the Premier's handwritten notation on the prior page that: "The matters to be added formed part of the original requirements submitted to HMG." <sup>231</sup> These "original requirements" are not identified, nor is there identified in this document a submission by Mauritius to HMG that is referred to. But Ms. Sander assures us that the original requirements included "preferential fishing rights if rights were ever granted." How does she know this? There are other possibilities apparently not considered by the UK's counsel. One, the Premier might have been referring to a set of terms, perhaps in writing, that Mauritius itself "submitted to HMG," setting forth its "requirements." Two, the Premier might have been attempting to increase the chances that the UK would accept the conditions he wished to add by characterizing them as nothing new, but similar to what had already been proposed. The truth is, we don't know; nor can we know. What we do know is that he did not ask for "preferential" fishing rights in his handwritten note, much less "preferences in the event that rights are ever offered." And we know, as well, that he could not have been referring to either

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

<sup>&</sup>lt;sup>230</sup> Sander, Day 5, page 601, lines 3-5.

<sup>&</sup>lt;sup>231</sup> Sander, Day 5, page 599, lines 4-10.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

of the two documents cited by the UK in which the word "preference" or "preferential" is used. In the first place, he could not have been aware of them. Both were internal UK documents, and the second was prepared more than a month after his handwritten note. And neither of these documents was "submitted to HMG" by Mauritius. So the Premier seems to have been referring to a different submission. In any event, it is no more than idle and partisan speculation, to presume, as the UK's counsel do, that what the Premier intended by his reference to "the original requirements submitted to HMG" were "preferential" fishing rights.

55. Now, that is all there is on so-called "preferential" rights. Over the next 45 years, neither the words nor the concept appear in the contemporaneous documentation. And, as I have said, the subsequent practice over the next 45 years completely contradicts the suggestion that Mauritius' fishing rights were ever regarded as limited to "preference if such rights were ever offered." They are the opposite of that.

Perhaps, Mr. President, this is a time to assess how far we should go today. I can reach a convenient stopping point in around 10 minutes, but if the you and the Tribunal wish me to, I can proceed to the end, but it will take me probably another hour.

PRESIDENT SHEARER: Mr. Reichler, it's really a matter for you and your colleagues on your side as to how much time you would like tomorrow morning. Certainly it would be convenient for the Tribunal to adjourn at 6:00, but I don't know how that will affect the timing of your arguments tomorrow if you take, what, another hour from then.

MR. REICHLER: Mr. President, if I may ask a question which would help us make our decision, there were – I was not present – I was working on my speech at the time, but I understand, of course, I read the Transcript from this morning, that there was a rather substantial time spent in questioning of my esteemed colleague Professor Crawford, and the Mauritius delegation has asked me if, in light of that questioning, we might benefit from an additional 30 minutes added on to our time, which we would propose, given the lateness of the hour today to tack on to our presentation tomorrow.

PRESIDENT SHEARER: I think that would be acceptable to the Tribunal, so if you go until six or thereabouts, then your side will have an extra half an hour tomorrow.

MR. REICHLER: Thank you very much, Mr. President and Members of the Tribunal, that certainly makes us feel very comfortable in finishing at 6:00 or within five minutes of 6:00 on either side.

- 56. Counsel for the UK have suggested that the practice of Mauritius itself demonstrates somehow that it did not regard itself as having fishing rights under the 1965 undertaking. But we know that this cannot be the case. During our first round, the three letters from the Prime Minister of Mauritius that I showed you and to which I have referred earlier in the presentation, from 1969, 1972 and 1973, expressly invoked Mauritius' fishing rights under the 1965 Lancaster House undertakings. At no time thereafter did Mauritius ever abandon this position.
- 57. Counsel for the UK claim to have found examples of Mauritius' purported abandonment of its fishing rights under the 1965 undertaking, or its alleged recognition that it has no such rights. The most prominent of their examples, cited both by Ms. Sander and Mr. Wordsworth during his speech on Article 283, was that, throughout the bilateral talks in 2009, Mauritius took its stance on fishing rights based solely on its sovereignty claims, and never invoked the 1965 undertaking on fishing rights. Well, we will let you be the judges as, if course, your role. Here are the words of Mr. Boolell, Mauritius' Parliamentary Counsel, at the bilateral talks held on 14 January 2009, precisely when Mauritius is alleged never to have invoked its

Note Verbale dated 19 November 1969 from the Prime Minister's Office (External Affairs Division), Mauritius to the British High Commission, Port Louis, No. 51/69 (17781/16/8), MM Annex 54, Mauritius Arbitration Folder Tab 8.1; Letter dated 4 September 1972 from Prime Minister of Mauritius to British High Commissioner, Port Louis, MM Annex 67, Mauritius Arbitration Folder Tab 8.2; Letter dated 24 March 1973 from Prime Minister of Mauritius to the British High Commissioner, Port Louis, MM Annex 69, Mauritius Arbitration Folder Tab 8.3.

<sup>&</sup>lt;sup>233</sup> Wordsworth, Day 7, page 780, lines 16-24.

fishing rights under the 1965 undertaking: "Chairman, a series of inducements was given in 1965. The Territory is to be ceded when no longer needed. This is clearly a commitment which the UK consistently honour. The second is fishing rights – This cannot be severed. Both have the same status. This should also be honoured. I invite you to reconsider the request."

- 58. Mauritius is also alleged to have accepted the nonexistence of its fishing rights when it failed to protest the "BIOT" Administration's closure of certain Chagos waters to fishing vessels. Please let me take you to the document relied on by the UK. The document relied on by the UK is at Tab 5.3. <sup>234</sup> It's their document, but we are including it today for your convenience at Tab 5.3.
- 59. As you can see, it talks about closure of a certain area. In its written pleadings, the UK states that this area was closed for marine protection because it is a grouper spawning area<sup>235</sup>. For that proposition, it cites only to this document, but the document itself provides no reason for the closure. It merely provides coordinates, or what appear to be coordinates, for the closed area.
- 60. The format is not consistent with the way geographical coordinates are normally given, but we had the area framed by them plotted on a chart as you now know. Because of their strange format, we derived two different possibilities from them. The results are now displayed on the screen, as version 1 and 2. Version 2 is so tiny, it amounts to a little red dot just above version 1, and here is a blowup. This is the massive area closed to Mauritian fishing in Chagos waters that is purported to constitute an admission by Mauritius because there's no documentary evidence as to whether it protests an admission by Mauritius that it has no

<sup>&</sup>lt;sup>234</sup> Letter from Foreign and Commonwealth Office to Mauritius High Commissioner of 8 July 2003, MM Annex 119, UK Arbitration Folder 36.

<sup>&</sup>lt;sup>235</sup> UKCM 3.18 and UKR A.94

rights under the 1965 fishing rights undertaking.<sup>236</sup> I think we need do no more by way of response than display this chart.

- 61. The UK's last line of defense against the overwhelming weight of the contemporaneous documentary evidence of its understanding of the character and content of the undertakings it made to Mauritius in 1965, is to suggest that all of its internal communications should be ignored. Even if this were justified, which it is not, it would not affect many of the documents I reviewed with you on 23 and 24 April, because they were external communications between senior British officials and senior Mauritian officials. But there is no reason to ignore the internal communications here. Mauritius does not rely on them for the purpose of claiming any legal entitlements derived from the documents themselves. It relies on them as evidence of British intention and understanding: an intention to be bound by the 1965 undertakings, and an understanding consistently expressed over more than 45 years of what those undertakings entailed. We are not here referring to a few isolated memos written by low-level servants of third States, not involved in the proceedings, expressing their personal views, such as those the arbitral tribunal addressed in the *Eritrea/Yemen* case. 238
- 62. What we have here, unlike in *Eritrea/Yemen*, is a huge volume of contemporaneous documentation authored by or for UK Legal Advisers, Cabinet Secretaries, Colonial Governors, High Commissioners, "BIOT" Administrators, and FCO Department Heads that reflect the UK's official views on the character and contents of its undertakings. These documents are not merely admissible. We respectfully submit that they are determinative. And what they determine is this. All three undertakings that concern us in these proceedings are legally binding. And their content was mutually understood and accepted by both Parties, including the undertaking on fishing rights, continuously and uninterruptedly until 1 April

<sup>&</sup>lt;sup>236</sup> Sander, Day 5, page 612, lines 6-12.

<sup>&</sup>lt;sup>237</sup> Wordsworth, Day 7, page 859, lines 8-22.

Eritrea/Yemen, Award of the Arbitral Tribunal in the First Stage of the Proceedings (Territorial Sovereignty and Scope of the Dispute), 9 October 1998, 114 ILR 1, p. 31, at paras. 93-94 (UKR Authority 7).

1	2010. On that date, while continuing to reaffirm the validity and obligatory nature of its
2	undertakings on reversion of sovereignty and oil and mineral rights, the UK declared an
3	MPA that blatantly violated its undertaking to ensure Mauritius' fishing rights in those
4	waters.
5	According to my watch, Mr. President, it's 6:00, and I have come to an especially
6	convenient point to stop for the evening.
7	PRESIDENT SHEARER: Very well. Thank you, Mr. Reichler, and thank you
8	for your cooperation.
9	We will adjourn until 9:30 tomorrow morning.
10	Thank you.
11	(Whereupon, at 6:00 p.m., the hearing was adjourned until 9:30 a.m. the following
12	day.)

## CERTIFICATE OF REPORTER

I, David A. Kasdan, RDR-CRR, Court Reporter, do hereby certify that the foregoing proceedings were stenographically recorded by me and thereafter reduced to typewritten form by computer-assisted transcription under my direction and supervision; and that the foregoing transcript is a true and accurate record of the proceedings.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to this action in this proceeding, nor financially or otherwise interested in the outcome of this litigation.

DAVID A. KASDAN

## **Index**

abolish, 1056 above, 1025-1026, 1061 absence, 921, 929, 1017, 1057 absolutely, 936 absolutely, 935, 978, 999, 1012 AC, 953 ac, 1028 academic, 1022 acceding, 1014 accept, 922, 936, 939, 951, 963, 2056 abolish, 1056 accidental, 1002 accidental, 1002 accompanying, accidental, 1002 accompanying, accidental, 1002 accompanying, accidental, 1042 accompanying, accidental, 1042 accompanying, acquire, 982 ac	on, <i>926</i> onal, <i>926,</i> . <i>986, 1037,</i>
--	--

998, 1031			
Adede, 1017,	advice, 983	ago, <i>925, 936, 1021</i>	alleged, <i>921, 968,</i>
1021-1022	advised, 936	agree, <i>949, 973,</i>	1043, 1060-1061
adhere, 918	Adviser, 987	981, 1003, 1021,	Allen, 930, 934,
adjacent, 1003,	adviser, <i>929, 1039,</i>	1023, 1034,	988-989
1008, 1025-1026	1041	1037, 1040,	allocated, 922
adjourn, 985, 1059,	Advisers, 1038,	1044, 1048, 1051	allow, <i>933, 978,</i>
1063	1049, 1054, 1062	agreeable, <i>924-925</i>	983, 1016, 1043,
adjourned, 985,	advisers, 1039,	agreed, 918, 933,	1047-1049
1063	1044	970, 980, 1033,	allowed, 987, 1005,
adjudge, 1000	Advisors, 1039	1035-1041,	1020, 1028
adjudicated, 1022	Advisory, <i>958-959</i>	1043-1044,	allowing, 971, 988,
adjudication, 1023	advisory, <i>957-958</i>	1048-1050, 1052	1011, 1043
adjudicative, 1023	advocated, 1020	Agreement, 980,	allows, 1005, 1029
adjust, 971	advocates, 948,	982, 1013	alluding, 972
Admin, <i>963</i>	1031, 1041, 1052	agreement,	alone, 1006, 1008,
administering, 955,	Affairs, <i>939, 943,</i>	924-925, 970,	1039, 1051, 1054
962, 976	963, 1048, 1060	972, 974-975,	aloud, <i>1045</i>
Administration,	affairs, 969	<i>977, 980-982,</i>	already, <i>929, 934,</i>
988, 1061	affect, <i>967, 1013,</i>	999, 1003, 1032-1035,	959, 964,
administration,	1055, 1059, 1062	1032-1033, 1038-1041,	966-967, 976,
929, 1051	affected, <i>957</i> , <i>1030</i>	1043-1044, 1049,	984, 987, 989,
administrative,	affects, 968	1051-1052, 1055,	1015, 1018,
954, 962	affiliations, 946	1058	1037, 1039-1040,
Administrator, 1051	affirmation, 957	agreements, 969,	1046, 1058
Administrators,	affirmed, <i>981-982</i>	980, 1055	altered, 917
1062	affirming, 956	agrees, <u>1042</u>	alternative, 920,
administrators, 962	affirms, <i>971,</i>	agricultural, 1057	964, 972, 1032,
admirable, 1023	982-983	ahead, <i>924, 934,</i>	1054
admissible, 1062	afford, <i>975</i>	937	Although, <i>929, 938</i>
admission, 940,	aficionado, <i>935</i>	aid, <i>1021</i>	although, <i>929, 935,</i>
1061	afraid, <i>988, 1031</i>	Air, <i>1028</i>	940, 948, 950, 990, 995,
admit, <i>1046</i>	Africa, <i>961</i>	air, <i>1026-1027,</i>	1023-1025, 1030,
admitted, 986,	African, <i>977, 1054</i>	1036	1025-1025, 1050, 1055
1044, 1046	afternoon, 917,	aircraft, 1028	ambiguity, <u>1022</u>
adopt, 959, 1004,	919, 924, 932,	Airport, <i>1026, 1029</i>	America, <i>1011</i>
1022, 1047	935, 971,	airports, <i>1028</i>	American, <i>1030</i> ,
adopted, 932, 940,	1030-1031	airspace, <i>1025-1026</i>	1054-1055
<i>957-958,</i>	afterwards, 957	airstrip, <i>1048</i>	among, <i>930, 1032,</i>
1052-1053	age, <i>1038</i>	akin, <i>983</i>	1050, 1054
adopting, 1056	agenda, <i>930,</i>	alia, <i>1055</i>	amongst, <i>925, 995,</i>
adoption, <i>956, 1053</i>	958-959, 967,	alien, <i>1007</i>	1029
adopts, 1001	1034	Alison, <i>928</i>	amount, <i>1013</i>
advanced, 949	Agent, <i>926, 939</i>	allegation, 954	amounted, <i>937</i> , <i>978</i>
advertises, 1042	agitated, <i>1021</i>	•	amounting, 978
•	· 9······	allegations, 925	amounting, 370

amounts, 978, 1061 analogies, 982 analogous, 978 analysis, 933, 942, 948, 950, 958, 984, 1001, 1004-1005, 1027, 1029, 1054 Analysts, 1054 ancillary, 1023 and, 923, 1018 Anderson, 949 Andrew, 988-989, 1048 Andronico, 1017 anecdote, 1022 anger, 945, 948 animatedly, 998 ANNEX, 920, 994 Annex, 932, 934, 938-941, 951, 972, 975-976, 986-987, 993, 1000, 1004, 1006, 1018, 1023, 1033-1035, 1038, 1040, 1048, 1051-1055, 1057, 1060-1061 announce, 947 announced, 944 announcement, 932, 934, 936, 942, 944, 987 announcing, 942 annual, 973 Another, 1056 another, 931, 944, 962, 967, 984, 995, 1004-1005, 1007, 1026-1028, 1031, 1043	923, 929-930, 936, 940-945, 974, 979, 986, 988, 997, 1000, 1002, 1005-1006, 1013, 1016, 1035, 1039, 1042, 1045-1046, 1052-1053 answered, 919, 922, 929, 940, 943, 946, 1042, 1046 answering, 1046 Answers, 1005 answers, 919, 928, 940, 942, 987, 994, 1030 Anthony, 975 anxious, 1033 anyway, 994 apologise, 943, apologize, 943, 946-947, 984 apparently, 930, 1042 apparently, 930, 1042 apparently, 947, 957, 1017, 1020-1021, 1038, 1047, 1058 Appeal, 1012-1013, 1026-1027 appeal, 1013, 1028 appear, 920, 947, 994, 999, 1003, 1046, 1052, 1058-1059, 1061 appeared, 974 appears, 921, 933, 935, 943, 949, 980, 1023-1024, 1035-1036, 1046,	appetite, 965 applicability, 953 Applicable, 1009 applicable, 957, 965, 968, 970, 977-978, 998, 1004, 1009 application, 984, 1000 application, 950, 955, 958, 963, 965, 967, 988, 997-998, 1000-1003, 1005, 1008-1009, 1013-1016, 1020, 1023-1024, 1026, 1030 applied, 949, 958-959, 961-962, 965-966, 968-969, 984, 1002, 1004, 1011-1012 applies, 957, 986 apply, 964, 968, 974, 978, 999, 1001-1002, 1004-1007, 1009, 1012, 1020, 1023 applying, 998, 1007-1009, 1011, 1014, 1028, 1030 appreciate, 980, 1012, 1029 appreciation, 1024 apprehended, 962, 965-966 apprised, 937 approach, 921,	1000-1002, 1004-1006, 1009, 1029  approaches, 921, 984, 1030  appropriate, 934, 937-938, 998, 1023, 1041  approval, 1034  approved, 960  April, 920, 923, 941-944, 947-948, 950, 999, 1034, 1041, 1045, 1047-1048, 1050-1051, 1053-1054, 1062  apt, 970  aptly, 1027  Arbitral, 1062  arbitral, 949, 1028, 1062  arbitrary, 955-956  ARBITRATION, 920, 994  Arbitration, 1034-1035, 1038, 1048, 1051, 1054-1055, 1057, 1060-1061  arbitration, 983  ARBITRATOR, 918, 934-936, 945-946, 953, 963-968, 977, 979-980, 982-984, 1011, 1027, 1042, 1047  Arbitrator, 923-924, 927  archipelagic, 1008  Archipelago, 921, 925-926, 931,
962, 967, 984,	935, 943, 949,	965-966	archipelagic, 1008
995, 1004-1005,	980, 1023-1024,	apprised, 937	Archipelago, 921,

067.060	005 007 000		
967-968,	995, 997-998,	1161 1 1 222 1221	
970-975,	1000, 1015,	artificial, <i>999, 1001</i>	assume, <i>922, 981,</i>
981-982, 995,	1025, 1027,	artisanal, 1052	1028
999, 1001,	1029, 1031, 1059	ascertain, <i>927</i>	assumed, <i>946,</i>
1030-1034,	arise, <i>965, 1004,</i>	ascertained, 1002	<i>982-983, 1013</i>
1036-1040,	1023, 1028	aside, <i>978</i>	assumes, 966, 1000
1044-1046,	arisen, <i>939</i>	asks, <i>929, 943,</i>	assuming, 979,
1052-1054,	arises, <i>965, 1001</i> ,	1022, 1054	981, 1003
1056-1058	1028	aspect, <i>923</i> , <i>933</i> ,	assumption, 979,
archipelago, <i>954,</i>	arising, <i>1009</i> ,	967-968	1016
964	1023-1024		assurance, 1042,
Archiv, <u>1028</u>	armed, <i>957</i>	aspects, <i>928, 1054</i>	1050
Area, 920-921, 925,	arose, <i>963, 966,</i>	aspersions, 920,	
930, 938, 942,	1018	925	assurances,
960, 999-1000,		Assembly, 923,	1041-1043
1030	around, <i>942,</i>	958, 960-962,	assure, <u>1049</u>
area, <i>919, 929,</i>	987-988,	965, 1007-1008,	assured, 939
944, 947-949,	993-995, 1053,	1052-1053	assures, <i>1058</i>
967, 982, 987,	1056, 1059	assert, <i>939, 963,</i>	astonishing, 977
998, 1056, 1061	arranged, 939	1050	Athena, <i>957</i>
areas, <i>986-987</i> ,	arrangement, 982,	asserted, <i>951, 954,</i>	Atlantic, 1005
999, 1025	1043	956	atmospheric, 1042
•	arrangements,	assertion, 1015,	attach, <i>929</i>
argue, <i>941</i> , <i>975</i> ,	972, 975, 983,	1048	attached, <i>953-954</i> ,
984, 999, 1014,	1033	assertions, 923,	•
1016, 1023,	arriving, <i>957</i>	933, 939, 1049	961, 979, 982,
1040, 1046	Article, <i>922-923</i> ,	asserts, <i>925</i> , <i>1000</i> ,	990, 1016, 1035
argued, 977-978,	925-926, 928,	1051	attachment, 990,
1016, 1024, 1039	930-931,		1008, 1044
argues, 1001,	948-952,	assess, <i>942</i> ,	attack, <i>923, 1038</i>
1017, 1024	<i>959-960,</i>	977-978, 1059	attained, 960
arguing, <i>949, 999,</i>	968-969, 998,	assesses, 987	attempt, <i>928,</i>
1013	1000, 1004-1007,	assessing, 950	939-940, 957, 990
argument,	1009, 1012,	assessment, <i>929,</i>	attempting, 936,
922-923,	1014-1017, 1020,	941, 944, 951,	1058
<i>925-926,</i>	1022-1023, 1025,	1004	attempts, 930, 949
933-934, 949,	1028-1029, 1060	assessments, 929	attended, 939
954, 961-964,	article, <i>931</i> , <i>949</i> ,	assimilated, 988	attending, 975
966, 968, 984,	1000, 1022-1025,	assist, <i>948</i> , <i>994</i> ,	attention, 935,
994, 997,	1028	1011, 1025, 1032	942, 949, 954,
1002-1003, 1006,	Articles, <i>925-926</i> ,	assistance, 1009	968, 975,
1015-1017, 1020,	968, 970, 1008,	assisted, 1064	990-991,
1024-1026,	1014, 1022, 1029	associated, 960,	1035-1036, 1041,
1030-1031, 1056,		967-968, 979,	1048, 1050
1058	articles, <i>950, 999</i>	1006	•
arguments, 917,	articulated, 957,		attentively, 1001
920-922,	965-966, 977	association, 959,	attitude, <i>948, 972</i>
925-926, 977,	artifice, 999-1000	976	Attorney, <i>939, 968,</i>
>,,			

1051 attribute, 969 attributed, 1031 attributes, 920, 926, 1031	962, 986, 992, 1053, 1059 away, 922, 964, 966, 968, 1025, 1030, 1050 awkward, 990	baselines, 1008 bases, 961-962 basic, 959, 1041 basing, 983 basis, 953, 958,	1005-1006, 1008, 1032, 1038, 1042 believed, 1053 believes, 938 belonging, 956 below, 942, 986
atvinnuvegaradune 1005 auditory, 960 August, 924 Aust, 1038-1039 Australia, 952 authentic, 1022, 1049 author, 1054, 1057 authored, 1035, 1045, 1062 authoritative, 1055 authorities, 945, 980, 1005, 1016 Authority, 950, 1023, 1062 authorization, 1026 authorize, 1024 authorize, 1024 authors, 1023 authorize, 1016 automatically, 1015-1016, 1023 Available, 1028 available, 919, 940, 951, 963, 972, 1005, 1012, 1018, 1026, 1028, 1051, 1056 avoid, 917, 946, 963, 1023, 1043 avoided, 1032 await, 929, 942 Award, 926, 952, 1003, 1062	back, 919, 921, 931, 935, 946-947, 951, 953-955, 964, 977, 983, 989, 992, 1000, 1005, 1008, 1012, 1032, 1034-1038, 1041-1042, 1053 background, 939, 988 backing, 1025 bailii, 963 bait, 997 baldly, 1003 ban, 932, 1056 Bancoult, 963 Bangladesh, 1003 ban, 932, 1056 Bancoult, 963 Bangladesh, 1003 bar, 927, 949, 1022, 1030 bargaining, 974, 1037 Baroness, 944-945 barrage, 997 barrier, 952 base, 963, 967, 972, 1030 based, 939, 1006, 1017, 1036,	5,	
aware, 939, 942, 944-945, 951,	1046, 1050, 1052, 1055-1056, 1058, 1060	belief, <i>922</i> believe, <i>945,</i>	big, <i>921</i> biggest, <i>941</i>

	1059, 1061		
bilateral, 933,	both, 918, 930,	briefed, <i>947-948</i>	
935-936, 938,	933, 936, 939,	briefing, 931	C
941, 989, 992,	942, 970, 974,	briefly, <i>920, 934,</i>	
1011, 1060	980, 990, 1001,	936, 950, 992,	
BINDING, 1031	1008, 1022,	1015, 1024,	Cabinet, 976, 992,
binding, <i>921, 960,</i>	1026, 1032,	1040, 1047, 1057	1033-1034, 1062
973, 979-980,	1035-1036, 1044,	bring, <i>975</i>	cable, <i>931</i>
982-983, 985,	1048, 1051,	bringing, <u>958</u>	caelum, <u>998</u>
1028, 1031-1033,	1057, 1060, 1062	brings, <i>1029, 1051</i>	calculated, 973
1038-1039,	bottom, 943, 972,	Britain, <i>977</i> , <i>1040</i>	call, <i>919, 927, 941,</i>
1041-1047, 1052,	991-992, 1035	British, <i>930</i> , <i>935</i> ,	952, 981, 994,
1055, 1062	bound, <i>980,</i>	940, 943-945,	999, 1008, 1015,
Biological, 928	982-983, 997,	948, 954, 963,	1030, 1050, 1056
BIOT, <i>928-931</i> ,	1017, 1031,	968, 970-971,	called, <i>920, 925,</i>
975, 986-988,	1039, 1044-1046,	975, 982, 989,	929, 938, 961,
990-991, 1038,	1050, 1055, 1062	992, 999,	988-989, 1022,
1051, 1054-1056,	boundaries, 971,	1026-1027, 1030,	1029, 1041,
1061-1062	1022	1032-1033,	1044, 1048,
BISSOONDOYAL,	boundary, 1003,	1035-1036, 1038,	1056, 1059
1033	1018, 1020,	1040, 1045,	calling, 1035
Bissoondoyal, 1035	1022-1023	1047-1050, 1054,	calls, <i>951, 1039</i>
bit, <i>927, 934, 936,</i>	Bowden, <i>975</i>	1057, 1060, 1062	came, <i>922, 932,</i>
964, 981-982,	Boyle, <i>923, 929,</i>	broad, 1007	934, 941, 972,
989, 1004, 1012	932-933, 937,	broadening, 1008	977, 995,
black, <i>933</i>	940, 1000,	broader, 1016,	1011-1012, 1032,
blatantly, 1063	1022-1025	1020, 1052	1037, 1042,
blindly, <i>1036</i>	breach, <i>964, 981,</i>	broadly, <i>1053</i>	1051, 1054
blogs, <i>999</i>	1027	broke, <i>948</i>	Canada, 1018
blowup, 1061	breached, 963	broken, <i>947-948</i>	cancelled, 992
bodies, 930, 1029	breaches, 963	brought, 936, 951,	candid, 975
Body, 1012	breaching, 961	1006, 1012	candidly, 1054
body, <i>944, 955, 970</i>	breadth, <i>1053</i>	Brown, <i>939</i> , <i>941</i> ,	cannot, 922,
boils, <i>930</i> , <i>1051</i>	break, <i>917, 927,</i>	989, 991, 993	953-954, 958,
bolster, 928	952-953, 985,	brown, <i>1025</i>	962-963, 970,
bona, <i>967</i>	1013, 1031,	Bryant, <i>943, 948</i>	977, 999, 1002,
book, <i>1017</i> ,	1037, 1040-1041,	buck, <u>927</u>	1007-1009,
1021-1022	1046	burden, <i>954, 963,</i>	1012-1015, 1022,
books, 1021	breaks, <i>917</i>	982, 1017, 1032	1028, 1032-1033,
Boolell, <i>923, 939,</i>	breakups, <i>917</i>	bureaucratic, 955	1047-1048,
988-993, 1060	Bride, <i>1017</i>	Burkina, <u>962</u>	1052-1053,
bordering, 1007	bride, <i>1017</i>	burned, <u>1056</u>	1060-1061
bore, <i>951</i>	Brief, <i>952, 1014,</i>	by, <i>1028</i>	canvassed, 936
born, <i>955</i>	1041	bygone, <i>954</i>	capable, <i>1004</i> ,
Both, <i>949, 1042,</i>	brief, <i>927, 938,</i>	bypass, <i>941</i>	1020, 1023
2001, 213, 2012,	1029, 1056	2, 5000, 5,1	cards, <i>973</i>

		000 1001	
caro 1050	catogorication	999, 1001, 1030-1036, 1038,	charge 1051
care, 1058	categorisation, 1022	1040, 1044-1046,	charge, <i>1051,</i> <i>1055-1056</i>
careful, <i>948</i> , <i>995</i> ,		1052, 1056, 1061	
1003, 1029, 1036	category, <i>1006</i>	Chagossian, <i>931</i> ,	chart, 1061-1062
carefully, <i>975, 978,</i>	cause, <i>997-998</i> ,	942-943, 992	Charter, <i>961-963</i> ,
991, 1001-1003,	1057	•	965
1037, 1041	caused, <i>922, 945,</i>	Chagossians, <i>931</i> ,	check, <i>946</i>
carried, <i>929, 960,</i>	1036, 1046	947, 1052-1053	checked, 946
967, 973, 1052	cautious, 969,	chain, <i>992</i>	Chicago, 1013,
carry, <i>950, 982,</i>	1035, 1057	chair, <i>942</i>	1025-1026,
1033	cavalier, 948	Chairman, <i>1061</i>	1028-1029
carrying, <i>930</i>	caveat, <i>1021</i>	challenge, 1026,	Chief, <i>991</i>
carryover, 1034	ceases, <u>962</u>	1038	Chile, <u>1020</u>
carved, <i>962</i>	cede, <i>921, 945,</i>	challenged, 1006,	China, 1004
Case, 1028	1045-1046	1024, 1038	chips, 1058
case, 918, 920-922,	ceded, 1061	challenges, 1001	choice, <i>924, 959,</i>
926, 928-929,	Center, 960	challenging,	970-971, 973,
931, 933-934,	central, <i>957-958</i> ,	961-962	976, 978, 985,
945, 948, 950,	999, 1001, 1003,	Chamber, 962	987, 1046
952, 954,	1012	chance, 928, 967	choose, 927, 1022
956-958, 960,	Centre, 986	chances, 1058	chose, <i>922</i> , <i>1032</i> ,
965, 967-968,	Certain, <i>1012</i>	change, <i>921, 945,</i>	1038, 1054, 1057
970, 976,	certain, <i>932, 935,</i>	952, 974, 983,	chosen, <i>960, 1001</i>
978-980,	954, 966, 974,	1036, 1049-1050	Christie, 1054
982-983, 987,	1004, 1006,	changed, <i>921</i> , <i>965</i> ,	Christopher, 984
995, 998-999,	1014, 1022,	1047	chronology, 928,
1001, 1003,	1036-1037, 1040,	changes, <i>1057</i>	933, 935
1005-1007, 1009,	1042, 1051,	Chapter, 963	chunk, <i>1021</i>
1011-1013, 1016,	1057, 1061	chapter, <i>923, 1022</i>	Churchill, 960
1023-1030, 1039,	Certainly, 1021,	CHARACTER, <i>1031</i>	•
1052-1053, 1055,	1059	character, 924,	circumstance, 1003
1057, 1060, 1062	certainly, 934-936,	957, 963, 965,	circumstances,
caselaw, <i>948-950,</i>	947, 956, 977,	968, 976, 978,	925, 937, 951,
952	982, 1031, 1060	980, 982-983,	<i>969, 973, 976,</i>
cases, <i>948-949</i> ,	certainty, 1058	1005, 1013,	978-979,
951, 963, 966,	CERTIFICATE, 1064	1031-1032,	981-983, 1006
1016, 1021-1022,	certify, <i>1064</i>	1031 1032, 1039-1040, 1044,	circumvent, 949
1026, 1037, 1042	cession, <i>921</i>	1046, 1055, 1062	citation, <i>923</i> , <i>1026</i> ,
cast, <i>920, 959, 1013</i>	•	characterisation,	1028
casting, 995	cetera, <i>935</i>	998-999, 1024	citations, 1021,
casts, <i>925</i>	Cf, <i>976</i>	characterise, 960	1038, 1048
casual, <i>939, 1053</i>	Chagos, <i>921,</i>	•	cite, <i>963</i>
casuistry, 1056	925-926, 928,	characterize, <i>990,</i> <i>1057</i>	Cited, <i>963</i>
catalepsy, 956	938, 942-943,		cited, <i>950, 1045,</i>
catch, 919	951, 953-954,	characterizing,	1059-1060
,	963, 966,	1058	cites, 1052, 1061
	971-972, 995,	charade, 977	

	945, 948-949,		
citing, <i>1055</i>	<i>951-952, 957,</i>	Colin, <i>987, 991,</i>	coming, <i>965</i>
citizens, <i>955-956</i>	966, 978-979,	1054-1055	commas, <i>925</i>
citizenship, 955	987-989, 991,	collapse, <i>997-998</i>	commencement,
Civ, <i>1026</i>	993, 999,	collapses, 923	1055
civic, <i>952</i>	1003-1004, 1008,	colleague, 1059	comment, 945,
civil, <i>999</i> , <i>1029</i> ,	1011, 1017,	colleagues, 988,	1034, 1047
1054	1050, 1052-1053	1033-1034, 1059	Commentary, 960
civilized, 981	clearer, 1029	collectively, 935	commentary, 1022
claim, <i>920, 926,</i>	clearest, 922, 971	Colonial, <i>957-959</i> ,	commentators,
939-940,	Clearly, 988	961, 971-972,	1015, 1022, 1025
950-951, 962,	clearly, <i>924,</i>	974, 1033-1035,	Comments, 1055
967, 970, 974,	933-934, 938,	1040-1041, 1043,	commercial,
978, 995, 998,	942, 965-966,	1048, 1057, 1062	929-930, 932, 987
1000-1002, 1012,	<i>974, 989-990,</i>	colonial, 924,	Commission, 921,
1014, 1018,	1013, 1020,	954-962, 969,	992-993, 1048,
1022, 1028,	1039, 1048, 1061	971, 974, 977,	1060
1033, 1048,	clock, <i>918, 922</i>	980, 982-984	commission, 1005
1050, 1052, 1060	close, <i>917, 955,</i> <i>1018</i>	colonialism, 954	Commissioner,
claimed, <i>973</i> , <i>1013</i>		Colonies, 1040	939, 988,
claiming, 941,	closed, <i>919,</i> <i>941-942, 947,</i>	colonies, <i>961, 967,</i>	990-993, 999,
1001, 1008,	1061	969	1047-1048, 1050,
1017, 1020, 1062	closely, <i>1009</i> ,	colonisation, 1024	1060-1061
claims, <i>928, 958,</i>	1023-1024, 1036	colonized, 977	Commissioners,
1004, 1020-1022, 1025, 1031, 1060	closure, <i>944</i> , <i>1061</i>	colonizer, 977	1062
clarifications, 972	CO, 1033	colony, <i>953-955</i> ,	commit, <i>940</i>
clarify, 946	coalition, 945	961-962, 969,	commitment, 939,
clarifying, 966	coast, <i>926, 1003,</i>	972, 977, 980,	943, 945,
clarity, <i>921, 950,</i>	1005, 1008	1029	947-948, 951,
970, 1023, 1055	COASTAL, 994,	Columbia, 1018	983, 993, 997, 1042, 1061
classed, <u>1022</u>	1031	combination, 1021	commitments,
classic, <i>1017</i>	Coastal, 1005	come, <i>917</i> , <i>921</i> ,	<i>926, 960, 977,</i>
clause, <i>959</i>	coastal, <i>920, 922,</i>	931 <i>-</i> 932, 934 <i>-</i> 935, 943,	1038-1039, 1047,
Clauses, <i>955</i>	925-926, 951,	947-948, 957,	1055
clauses, <i>997, 1014</i>	953, 995,	981, 989, 991,	committed, 923,
clausus, 969	997-1009,	1000, 1003,	963
CLCS, <i>921</i> , <i>926</i> ,	1014-1017, 1020,	1005, 1008,	Committee, 943,
1004-1005	1022-1025,	1012, 1030,	953, 975-976,
clean, <i>977, 981</i>	1030-1031	1033, 1036,	1018, 1034
cleaners, <i>957</i>	cobbled, <i>923</i> , <i>925</i>	1038-1040, 1042,	committee, 944,
cleaning, 957	coerced, 985	1056, 1063	1018
clear, <i>920, 924,</i>	coercion, 978	comes, <i>927</i> ,	common, <i>983, 1050</i>
928-929, 934,	coffee, 1041	963-965, 1003,	Commons, 946
936-940, 943,	cognisant, <i>947</i>	1005	Commonwealth,
222 2 10, 2 10,	coherent, 985	comfortable, 1060	919, 944, 953,

963, 975-976,	1028		1039
980, 1048,	complicated, 1002	conclusion, 922,	conflict, 967
1054-1055, 1061	complied, 949	965, 972, 1012,	confronted, 961
communicated, 924	comprehensive,	1014-1015, 1020,	confused, 922
communication,	1018	1023, 1027,	confusion, <i>917, 939</i>
942, 1041	compromise, 949,	1030, 1037,	
communications,	969	1039, 1043-1046,	congratulates, 952
937, 939, 950,		1055	connect, <i>1043</i>
1062	compulsory, <i>948,</i> <i>1020</i>	Conclusions, 1029	connected, 962
Communiqué, 933		conclusions, 980,	connecting, 1043
communities, 943	computer, 1064	993, 1002, 1029,	connection, 955,
•	conceded, <i>955</i> ,	1036, 1043	973, 975, 1000
community, <i>942</i> ,	957, 970, 1052	concocted, 954	connects, 974
957, 992	concedes, 975	concurred, 1049	consciences, 1056
Companion, 952	conceivable, 1006	condemnation, 961	consensus, 936,
company, <i>1003</i>	concept, <i>933</i> , <i>984</i> ,	•	1016-1017, 1020
compare, <i>1036</i>	1000, 1007,	condemned, <i>961</i>	consent, <i>924-925</i> ,
compared, 959,	1020, 1059	condescendingly,	953, 956, 963,
1011	concern, <i>947, 962,</i>	939	968-971, 973,
compatible, 974	969, 971, 997,	condition, 987,	977-979, 981,
compelled, 1041	1012, 1023, 1062	1036, 1053,	983, 985, 998,
compelling, 1006	concerned, 931,	1055, 1058	1032, 1034,
compensation,	935, 938, 954,	conditional, 919	1036-1040, 1044,
924, 956,	957, 959, 961,	conditions, 924,	1046, 1056
971-973, 975	975-976, 980,	929, 970, 972,	consequence, 961,
competence, 979,	992, 1003, 1007,	974, 977-979,	1002-1003
995, 1006-1008,	1012-1014, 1018,	981-982,	consequences,
1012-1013	1026, 1032-1033	1034-1037,	922, 979, 998,
competent, 998,	concerning, 951,	1039-1041, 1044,	1003, 1006, 1030
1000, 1005,	957, 960, 967,	1046, 1057-1058	conservation, 987
1013, 1029	1000, 1013-1014,	conduct, <i>966-968,</i>	Conservations,
complain, <u>1001</u> ,	1016	978, 981	1052
1026	concerns, 935,	conducting, 959	consider, <i>930, 943,</i>
complaint, <i>967</i> ,	972, 998,	confer, 959	945, 954,
1029	1001-1002, 1004,	Conference, 960,	962-963,
complaints, 933	1008, 1014	974-976,	975-976, 986,
complete, 944,	concessions, 961	1021-1022	1029, 1032, 1037
1025, 1040, 1056	conciliation, 1016	conference, 1016	considerable, <i>945</i> ,
	conclude, 970,	conferring, 983	1037
completed, 930,	1029-1030	confident, 1054	consideration, 956,
942	concluded, 926,	confirm, <i>922, 1021,</i>	960, 1044
completely, <i>934</i> ,	972, 980, 987,	1049	considerations,
970, 973, 1059	1025	confirmation, 1040	
completeness,	concludes, 927,	confirmed, 1031,	1005-1006, 1013
945, 947	952, 977, 1030	1040	considered, <i>930</i> ,
complex, <i>922</i> ,	concluding, <i>1039</i>		947, 972, 1013,
<i>950-951</i>	Conclusion, 976	confirming, 1039	1018, 1021,
compliance, 959,	Conclusion, 370	confirms, <i>1023</i> ,	1037-1038, 1040,

1043-1044, 1053,			939-940, 985,
1056, 1058	contacts, 933	contract, <i>981-982</i>	992, 995, 1030
considers, 1025,	contain, 959	contracting, 1025,	conversations,
1045-1046	contained, 970,	1028	1011, 1021
consisted, 1035	1016, 1049	contradict, 1052	conviction, 1037
consistent, 954,	contemplation,	contradiction, 1041	cooperation, 1063
1031, 1051, 1061	1017	contradictions, 921	coordinates, 1061
consistently, <i>965</i> ,	contemporaneous,	contradicts, 1059	copy, <i>946</i> , <i>989</i> ,
1033, 1061-1062	924, 1032, 1036,	•	1048
consolidated, 994	1039-1040, 1044,	contrario, 1015-1016,	Corbyn, <i>942-943</i>
consolidation, 930	1051, 1054-1055,	1013-1010, 1022-1024	corner, 1032
consonant, 1008	1059, 1062		corollary, 969
conspicuously,		Contrary, 1030	• •
1053	contemporaneously,	contrary, <i>974</i> ,	correct, <i>936</i> , <i>954</i> ,
constant, 921	961	1009, 1054	985, 997-998, 1001-1003, 1017,
•	contends, <i>1017</i> ,	contrast, <i>924, 958</i>	1001-1005, 1017,
constantly, 924	1021	contrasts, 955	1036, 1042, 1054
constitute, <i>924</i> ,	content, <i>941</i> ,	contribute, 950	corrected, <i>967</i>
<i>970, 1061</i>	1031-1032, 1036,	contributed, 955	correctly, 966,
constitutes, 1051	1047, 1049-1051,	contribution, 975,	1036, 1046-1047,
Constitution, 954	1062	988	1030, 1040-1047, 1049
Constitutional,	contention, 956,	control, 926,	correspondence,
974-976	998	1003-1004, 1008,	932, 935, 938,
constitutional,	contents, 1032,	1013, 1029	1054
954-955	1040, 1047, 1062	controlling, 961	cost, <i>975, 988</i>
constitutions, 954	context, <i>931</i> , <i>957</i> ,	controversial, 960,	costs, <i>987</i>
constrain, 1009	959, 973, 976,	963, 1007	couldn, <i>1045</i>
constraints, 962	981-982, 1018,	controversy, 967	Council, <i>956</i> ,
construction, 1058	1020, 1022-1023	convenience,	970-971, 974,
constructive, 991	contiguous, 1053	954-955, 1032,	976, 978, 1005,
consult, <i>931-932</i> ,	Continental, 921	1061	1012-1013,
949	continental, 920,	convenient,	1028-1029,
Consultation,	922, 1018	917-918, 948,	1040-1041
937-938, 943, 986	continuation, 987	985, 1013, 1021,	Counsel, 923,
consultation, 919,	continue, <i>918</i> , <i>941</i> ,	1059, 1063	1002, 1025,
931, 933,	985, 994-995,	Convention, <i>921</i> ,	1044, 1055, 1060
936-938,	1030	923, 925-926, 928, 948-949,	counsel, <i>921-922</i> ,
941-944, 947,	continued, 920,	952, 955-956,	940, 976, 978,
<i>986, 988-989,</i>	931, 956, 982	959-960,	1001, 1003,
993, 1056	continues, 962	968-969, 977,	1011, 1024,
consultations, 933,	continuing, 925,	995, 997-1009,	1026, 1032,
937-938, 944	930, 966, 972,	1011-1017,	1042-1043, 1046,
consulted,	1049, 1063	1020-1030	1049-1050,
930-931, 936,	continuity, <i>958-959</i>	convention, <i>1027</i>	1052-1054,
943-945, 989	continuously, 1062	Conventions, 1005	1056-1059, 1064
consulting, <i>937-938</i>	Contract, 987	conversation,	count, <i>931</i>
	•	/	

	963, 965-966,		1020, 1029-1030,
Counter, 951, 1046	978-980,		1038
counter, 934	983-985, 995,	D	dealing, 982, 1005,
countries, 983	998, 1002, 1004,		1012, 1029
country, <i>924-925</i> ,	1008, 1011,		dealings, 955
943	1032-1033, 1047,	Dabee, 926, 1001	dealt, <i>927</i>
course, <i>918</i> , <i>921</i> ,	1059	damned, <u>922</u>	dear, <i>991</i>
924, 928, 930,	create, 931, 990,	danger, <i>932, 1057</i>	debar, <i>957</i>
934-936,	999, 1016	date, <i>919</i> , <i>935</i> ,	Debate, <u>1053</u>
939-940, 942,	created, 923	938, 950, 957,	debate, <i>942-948</i> ,
948-950,	Creation, 928	964-966, 988,	953, 1018
<i>958-959</i> ,	creation, 920, 928,	1063	debated, <i>942</i> , <i>944</i>
961-962, 964,	932, 941,	dated, 923, 928,	debates, <i>942</i> , <i>948</i> ,
967, 975, 981,	957-958, 962	951, 1035, 1038,	976, 1018, 1020
983-984, 989,	credibility, <i>934-935</i>	1040, 1047-1048,	decade, <i>958</i>
1005, 1011-1012,	credible, 999	1050, 1055,	decades, <i>995</i> , <i>1039</i>
1021-1022, 1036,	Crimea, 1004	1057, 1060	December, <i>923</i> ,
1039, 1046,	Crimean, 1005	dates, 937	939-940, 951,
1050-1052,	critical, 932,	dating, <i>988</i>	958, 988-991,
1055-1057,	934-935, 964,	DAVID, <u>1064</u>	993, 1000, 1029,
1059-1060	1001, 1044	David, <i>988</i> ,	1053
courses, <i>981</i>	criticised, 962	990-991, 1064	decency, 923
Court, <i>944</i> ,	criticism, 947, 949	dawning, 923	decide, <i>927</i> , <i>929</i> ,
949-950,	criticisms, 950	Day, <i>924, 954-959,</i>	937, 947, 953,
957-959, 976, 987, 1012-1013,	cross, <i>935</i> , <i>946</i> ,	961-963,	959, 969-970,
1026-1028, 1042,	1021, 1035	968-969, 971,	1001, 1004,
1020 1020, 1042,	CRR, 1064	974-976, 1037,	1006-1008, 1025,
court, 1006-1007,	crucial, <i>964, 1005</i>	1041-1045,	1029-1030, 1044
1014, 1023,	Crucially, 956	1048-1054, 1058,	decided, 930, 1040
1025, 1027-1028	cryptically, 922	1060, 1062	deciding, 1023,
courts, 1006, 1009	ctivities, 960	day, <i>917, 938, 942,</i>	1029
cover, <i>1021, 1054</i>	culture, 940	965-966, 985,	Decision, 935
covered, <i>986</i> ,	cured, <u>979</u>	1006, 1013,	decision, 919, 928,
1016, 1054	curiosity, 946	1028, 1063	930-931,
covering, <i>974</i> , <i>976</i> ,	curious, <i>956, 998</i>	days, <i>917, 934-935,</i>	934-936, 941,
1044	current, <i>931, 1004</i>	937, 941-942,	943-944, 948,
covers, <i>929</i>	custom, <i>956</i>	962, 1006, 1012, 1039, 1048	970, 1006, 1013,
coy, <i>947</i>	Customary,	de, <i>984, 1003,</i>	1026, 1028, 1059
crafted, 1024	965-966	1006, 1024, 1029	decisions, <i>947-948</i>
crashed, <i>957</i>	customary, 956,	deal, 919, 927-928,	decisive, <i>1025</i>
CRAWFORD, 952,	958, 961, 963-966	934, 948, 950,	Declaration,
964, 966-968,	cut, <i>935</i> , <i>937</i> , <i>942</i> ,	953, 967-968,	956-959, 961, 966
978-979, 981-984	1030	973-974, 976,	declaration, 942,
Crawford, <i>925-926</i> ,	cutely, <i>957</i>	998, 1005, 1013,	992, 1023, 1055
931, 952-953,	Cyprus, <i>1026-1029</i>	1015, 1017-1018,	declare, 920, 951,
, == = == /	,, ,	,	1000, 1014

			998, 1001,
declared, 1029,	deliberations, 932	describe, 949,	1007-1009, 1024,
1063	delimitation, 1018,	1038, 1044	1032, 1056
declaring, 951	1021-1023	described,	determinative,
decline, 995	delimitations,	939-941, 945,	955, 1062
declined, 1042	1020, 1023	948, 980, 1027,	determine, 979,
decolonization,	demands, 924	1035, 1041,	997, 1006-1007,
957-958, 961, 977	Democrat, 944	1043-1044, 1057	1014, 1022,
decorum, 923	demonstrate,	describes, 930,	1031-1032, 1055,
deduce, 1020	958-960, 1054	939, 954, 963,	1062
deemed, 978,	demonstrated,	1058	determined, 955,
1025, 1054, 1056	977, 1032, 1039	describing, 948,	959, 1001, 1006,
deep, 1021	demonstrates,	1042	1022, 1024, 1039
deeply, 975, 1011	1016, 1031,	description, 939,	determining, 978, 1004-1005, 1012,
defect, 978	1050, 1060	970, 997, 1001	1022, 1024
defective, 979, 981	denied, <i>931-932</i> ,	designate, 1055	detract, <i>949</i>
Defence, 975-976,	940, 961, 970,	designed, <i>931, 988</i>	detriment, 984
1033-1034	999, 1051, 1055	desirable, <i>919,</i> <i>1016</i>	develop, <i>963-964</i>
defence, 923, 945,	denies, <i>925</i> , <i>1000</i>		developed, 952,
956, 1013, 1033,	deny, <i>922, 965,</i>	desire, <i>926, 951,</i> <i>995</i>	969
1045, 1053	971, 977-978,	Despatch, <u>1040</u>	developing, 960,
defend, <i>923, 925</i>	980-981, 1006	Despite, 1017	965
defense, 1062	denying, <i>970, 982</i>	despite, 927-928,	Development, 1055
defer, <i>934</i>	Department, 1048, 1062	1009, 1016, 1047	development, <i>960</i> ,
deficiency, 979	departure, <u>1023</u>	detach, <i>953, 956,</i>	972, 989, 1036
deficient, <i>929, 950</i>	depend, <i>1025</i>	972, 1040	develops, <i>964, 984</i>
defined, 954, 1051	depended, 987	detached, <i>970, 973</i>	devoted, 948
defines, 1027	Dependencies, <i>955</i>	detachment,	Dheeren, 926
definite, 1017, 1048	dependencies,	924-925, 953,	dialogue, 941
definition, 954,	954-955	974-975,	dictate, 987
1003, 1006	dependency,	1033-1040, 1044,	Dictionary,
definitive, 936,	954-955	1046, 1057-1058	1042-1043
964, 1042	dependent, 963,	detail, <i>938, 940,</i>	dictionary,
degree, <i>936</i> , <i>960</i> ,	1006, 1056	1017	1043-1044
977	depends, 1013	detailed, 923	Diego, <i>927, 972,</i>
degrees, 978	depositary, 1006	details, 946	986-987, 1036,
delay, <i>989</i>	deprive, 1022, 1038	detain, 1002, 1024	1053, 1056-1057
delayed, <i>937</i>	deprived, 1013	detection, 986	differ, 1050
delegation, 989, 1018, 1035, 1059	Deputy, <i>988</i> , <i>992</i>	deter, 1058	difference, 943,
delegations, 1021	derail, <i>924</i>	determination,	948, 959, 998,
deliberately,	derive, <i>980</i>	923, 925, 932,	1001, 1021-1022,
1036-1037	derived, 1061-1062	935, 953-954,	1027-1028, 1038, 1044
deliberating, 994	des, 1028	956-963, 965, 968-971, 974,	differences, 958,
deliberation, 1030	descending, 998	984-985, 995,	1051
aciiberation, 1000	5.	90 <del>1</del> 903, 993,	1031

different, 958-959,	discharge, 1049	1005-1006, 1008-1009, 1012-1016, 1018,	1039-1040, 1043-1045, 1051, 1053-1054,
967, 969, 973-974, 1001,	disclaimer, 992	1012 1010, 1010,	1056-1057, 1059,
1047, 1050-1051,	disclosed, 928	1028-1030, 1047	1062
1059, 1061	discloses, 1013	disputed, <i>970</i>	dog, <i>990-991</i>
differently, 1042	disclosure, 975	disputes, <i>961</i> , <i>997</i> ,	doing, <i>957, 966,</i>
difficult, <i>934</i> , <i>945</i> ,	disconnected, 1000	1000, 1014-1018,	973, 982, 1006,
950, 973,	discourse, 984	1020-1023	1013, 1015
979-980, 989,	discovered, 1036,	disregard, 950	dolphins, <i>1012</i>
1006, 1024	1047	dissatisfaction,	domestic, <i>982-983</i>
difficulties, 1004	discoveries, 1036,	1043	domination, 957,
difficulty, 1016,	1047	dissatisfied, 1041,	960
1021	discretion, 1049	1043	done, <i>917, 924,</i>
Digby, <i>990</i>	discuss, <i>989</i> , <i>1023</i> ,	distinct, 962, 1045	941, 950-951,
dilemma, <u>922</u>	1035	distinction, 955,	955, 964-967,
dimension, 973	discussed,	1027	981, 993, 1022,
diminished, 934	940-941, 989,	divide, <i>947, 971</i>	1044
diplomatic, <i>957</i> ,	991, 993, 998, 1017, 1020	Division, <i>1048</i> , <i>1060</i>	doomed, <i>971</i>
1021	discussing, <i>931</i> ,	division, 962	dot, <i>1061</i>
direct, 948, 955,	992, 1018, 1039	divisive, <i>924, 960</i>	dots, 1043
961, 987,	discussion,	doctrine, 963	double, 1057
1021-1022, 1041,	931-932, 945,	Document,	doubt, 959, 1025
1045, 1057	949, 964, 984,	937-938, 943, 992	doubts, <i>965</i>
directed, 986,	989-991, 993,	document,	down, 930, 935,
1017, 1025, 1032	1034	928-929, 931,	943-944,
direction, 1064	discussions, 932,	933, 975, 986,	958-959, 979,
directly, 954, 972,	992-993, 1038	988-990,	989, 1002, 1015,
1047	dismay, 945, 948	992-993, 1002,	1018, 1029,
Director, 1054-1055	dismemberment,	1032-1038, 1041,	1049, 1051, 1056
Directorate, 988,	924, 974-975	1048-1050,	Downing, <i>974, 1034</i>
1054-1055	dismissed, 951	1054-1055,	dozens, 957
disability, 979	dispatch, 1035	1057-1058, 1061	Dr, <i>1028</i>
disabled, 982	dispelled, 992	documentary, 953,	Draft, <i>1017</i>
disadvantaged,	displace, 1017	1061-1062	draft, <i>990-993,</i>
1018	display, <u>1062</u>	documentation,	1035, 1054, 1057
disagree, 975	displayed, <u>1061</u>	928, 1034, 1044,	drafted, 990, 1014,
disagreement,	displaying, 961	1051, 1055,	1018
949, 1013, 1036,	dispose, 961	1059, 1062	drafters, 960,
1047, 1049	dispositive, 1027	documents, <i>917-</i> 919, 923,	1009, 1037
disagreements,	Dispute, <i>1062</i>	917-919, 923, 932, 947,	dramatic, 1006
1028	dispute, 937, 948,	952, 947, 950-951, 976,	dramatis, <i>946, 953</i>
disappeared,	950-952, 961,	986, 988-990,	draw, <i>942, 949,</i>
1033-1034	967-968,	992-994, 999,	990-991, 1037,
disappointing, 993	997-1003,	1017, 1032,	1043
disarray, 922	<b>-</b>	- ,,	drawing, <i>935, 1008</i>

drawn, 1027, 1035-1036, 1046 drew, 954 DS, 1012 Dubai, 952 due, 942, 949, 978, 1005, 1012, 1036 duress, 968, 970, 978 During, 1029, 1060 during, 919, 921, 928, 932, 934, 940, 942, 944, 962, 969, 971-972, 989, 1007, 1021, 1038, 1045, 1047, 1053, 1056, 1060	economic, 973 economy, 924, 930, 956 ecosystem, 1056 ed, 960, 1023 EEZ, 1018 effect, 926, 945, 956, 964, 978-979, 981, 995, 1007, 1015, 1022, 1030, 1039, 1045 effective, 965, 981, 1008, 1016, 1030 effectiveness, 1008 effects, 928, 966, 981 effet, 1016 effort, 1015, 1024, 1032 efforts, 931, 982 eight, 985, 1034	Email, 1054-1055 email, 930, 932, 934-936, 989 emails, 934-936, 940-941, 943, 946, 991 embargoed, 1026 embodiment, 971 embrace, 925 emerge, 935 emerged, 957, 1002 emergency, 1036 emphasis, 960, 1002-1003, 1013, 1039 emphasised, 931 emphasised, 931 emphasized, 950 emphatic, 1042 emphatically, 974 employed, 1053, 1064	endeavor, 919, 994 endeavoured, 1051 ended, 973, 1034 ending, 1049 endnotes, 1017, 1021 enforce, 929, 944 enforcement, 929-930, 987, 1023 eng, 1005 engage, 992, 1005, 1017, 1032, 1038, 1054 engaged, 929, 932, 948, 1002 Engagement, 1042-1043 engaging, 999 English, 984, 1026-1028,
each, 931, 969-970, 980, 994, 1024 eagerly, 1043 earlier, 934, 946, 981, 986, 991-993, 1028, 1056-1057, 1060 early, 930, 932, 936, 938, 993, 1040 easier, 946 easily, 917, 973, 1000, 1023, 1043 East, 1005 Easter, 942, 944 Eastern, 980 eating, 965 ECHR, 987	eighth, 929 either, 919, 935, 950-951, 970, 980, 986, 1011, 1021, 1037, 1042, 1046, 1048, 1053, 1058, 1060 elaborate, 1039 elaborated, 1051 elaborates, 944 elected, 970 election, 945 Elections, 976 electoral, 975 electorate, 976 element, 1005, 1023 elements, 920, 923 eliminating, 967 eloquent, 975 elsewhere, 1053	empowered, 1023 empty, 947, 973 enable, 950, 970, 988, 1049 enacted, 929 enactment, 965 enclose, 1048 enclosed, 1040 encounter, 939 encouraging, 1007 End, 1049 end, 927, 929, 933, 939, 958, 966, 974, 977, 990, 992-993, 997, 1003, 1015, 1017, 1027-1028, 1030, 1033-1034, 1040, 1042, 1049, 1059 endanger, 1025 endangered, 962	1042-1043 enjoy, 960 enjoying, 991 enough, 932, 936, 939, 1033, 1043 enquired, 1033 ensure, 927, 932, 936, 947, 989, 1028, 1045, 1051, 1053, 1055, 1063 ensured, 932 ensuring, 1046, 1057 entailed, 1062 enter, 949 entered, 1042 entering, 980 entertain, 1012 enthusiasm, 936 entire, 924, 968, 997, 1012, 1041,

1053, 1056		1058-1059	1026, 1028,
entirely, <i>922, 938,</i>	essential, <i>930</i> , <i>1026</i>	events, <i>924-925</i> ,	1045, 1054
948, 950-951,	Essentially, 983	967-969, 975,	examples, 962,
970, 1001, 1006,	essentially, 931,	977, 979, 983,	1004, 1007,
1023-1024, 1032	955, 985, 1022,	991, 1054,	1012, 1060
entirety, <i>962, 1026</i>	1027, 1029	1056-1057	excellent, 971
entities, 1007	establish, <i>920</i> , <i>926</i> ,	eventually, 1033	except, 1009,
entitled, <i>920, 926,</i>	929, 958, 972,	everybody, 943	1026, 1051, 1056
959, 995,	995, 1000, 1017,	everyone, 957,	exception, 924,
999-1000, 1004,	1040, 1049	974, 1011	997-998, 1000,
1008, 1025,	established, 956,	everything, 950,	1014, 1024, 1056
1027-1028, 1030	958, 961,	971, 998-999	exceptionally, 986
entitlement,	964-965, 987,	evidence, <i>924</i> , <i>929</i> ,	exceptions, 1014,
921-922, 1014,	1006, 1054	934, 939-941,	1021
1027	establishing, 921,	949, 968, 976,	exchange, 949,
entitlements, 1062	967, 1007, 1048	986, 988, 1016,	967, 983,
entity, <i>979, 1006</i>	establishment,	1032, 1040,	1038-1040,
enumerated,	921, 944-945,	1042-1044, 1046,	1054-1055
1040-1041	1052	1050, 1053,	exchanges, 934,
enunciated, 958	esteemed, 1059	1057, 1061-1062	937, 949-951
environment, 931,	Estoppel, 984	evidences, 1049	excised, <i>955, 974</i>
943, 948	estoppel, 984	evident, <i>1000,</i>	excising, <i>963</i>
Environmental, 987	et, <i>935, 1011</i>	1004, 1029	excision, 924,
environmental,	etc, 1040	evidently, 951	953-956,
933, 941, 986-987	ethereal, 1027	evolves, 965-966	962-968,
envisaged, <i>938</i> , <i>967</i>	EU, 1005	ew, <i>963</i>	970-976, 978,
envisaging, 958	European, 944,	Ewan, <i>988</i>	981-982,
envisioned, 1058	<i>955, 987, 1005</i>	EWCA, <i>1026</i>	1032-1033, 1056
EPPZ, <u>929</u>	evasion, <i>963</i> , <i>966</i>	EWHC, <i>963</i>	excited, 935
equal, <i>959</i>	evasive, 943	ex, <i>957, 963, 973,</i>	exclude, <i>998, 1017</i>
equality, 969	Even, <i>954, 977,</i>	979	excluded, 997,
equally, <i>976, 1044</i>	1062	exact, <i>934, 988</i>	1014-1016, 1023,
equipment, 1029	even, <i>949, 951,</i>	exactly, <i>937, 941,</i>	1056
equivalent, <i>964</i> ,	955-956, 964,	982, 989, 995,	excludes, <i>1016</i> ,
980	968-969, 972,	1036-1037	1022
Ercan, <i>1026</i>	977-978,	examination, 933,	excluding, <i>927,</i>
Eritrea, <u>1062</u>	981-982, 986,	952, 1054	1017
erroneous, 1054	1006, 1020,	examine, <i>933-934</i>	exclusion, 930,
error, <i>1001</i> , <i>1004</i> ,	1022-1023, 1044,	examined, 965,	986-987,
1011, 1054	1051-1053,	1041, 1045	997-998, 1015-1018, 1020,
errors, 1054	1055-1057	example, <i>921-922</i> ,	1030
especially, 957,	evening, <i>1063</i>	941, 953-955,	exclusive,
967, 969, 1042,	event, <i>927</i> ,	964, 982, 984,	1025-1026, 1055
1044, 1063	<i>965-966, 979,</i>	993, 1000,	exclusively, <i>1014</i>
espoused, 977	1022, 1048,	1004-1007, 1011,	• •
- <sub>1</sub> <del> ,</del>	1051, 1053,	1015, 1023-1024,	excuses, <i>1046</i>

	1046-1047	1025	1039, 1054, 1061
exercise, 944, 958,	exploration, 1047	eyelid, <u>1011</u>	Failing, <i>973</i>
977, 995, 1014,	exploring, 1005	, ,	failing, <u>1028</u>
1018, 1026-1027,	expose, <i>1026</i>		fails, <i>941</i>
1030	exposed, <u>1028</u>		failure, <i>978, 1016,</i>
exercised, 962,	express, <i>918</i> , <i>956</i> ,	_	1045
1008-1009, 1027,	1014, 1017-1018,	-	fair, 921, 936, 1038
1051, 1053, 1055	1037	-	fairly, <i>943, 955</i>
exercises,	expressed, 924,		fait, <i>932, 936, 976</i>
1024-1025	937, 945, 948,	fabric, <i>923, 1024</i>	faith, <i>991, 1056</i>
exercising, 982,	1020, 1062	face, <i>951, 976,</i>	fall, <i>963</i> , <i>998</i> , <i>1004</i> ,
995, 1015, 1030	expressing, 947,	1014, 1021	1020-1021, 1024,
exhausted, 957,	970, 1062	faced, <i>974</i>	1030
965	expression, 964,	faces, 1016	fallen, 1001, 1004
exhaustible, 1012	1000	facie, <i>1013</i>	falls, <i>976</i> , <i>1016</i> ,
exhibits, 994	expressly, 949,	facilitate, 987	1030, 1042
exile, 1030	976, 1021, 1048,	Facilitator, 986	false, 1006
exist, <i>950, 962,</i>	1054, 1057, 1060	facilitator, <i>988, 992</i>	familiar, 922, 946,
984, 1004, 1039	expulsion, <i>967-968</i>	Facilities, 1034	975, 977, 1032,
existed, <i>966</i> , <i>979</i> ,	extend, <i>984, 1009,</i>	facilities,	1034
984	1055	1033-1034, 1045,	fanciful, 1025
existence, 1003,	extended, 943,	1048, 1051, 1053	far, <i>927, 938, 948,</i>
1013, 1022	955, 1052	facing, <i>959</i>	954, 964, 966,
existing, <i>929</i> , <i>984</i>	extending, <i>955-956</i>	fact, 929-930, 934,	976, 984, 995,
exists, <i>920, 963,</i>	extends, <u>1000</u>	937, 940, 942,	1027, 1033,
968, 979	Extension, 1038	947, 954-955, 965, 970, 990,	1043, 1051,
expectation, <i>927, 937</i>	extension, 955	1001, 1003-1008,	1053, 1059
	extensive, 950	1013-1014,	Faso, <i>962</i>
expected, <i>923,</i> <i>972, 995</i>	extent, <i>961</i> ,	1016-1017, 1020,	fathers, 924
expeditiously, 949	<i>981-982, 1016,</i>	1023, 1026-1028,	favorable, <i>966</i>
experience, 977	1018, 1050	1032-1033, 1037	favour, <i>1026</i>
explain, <i>918</i> , <i>942</i> ,	External, 1048, 1060	facto, 957, 1003,	favoured, <i>974</i> , <i>976</i>
980, 982		1029	FCMZ, 1054-1055
explained, 928,	external, 1062	facts, 922, 948,	FCO, 988, 1028,
948, 976, 991,	externally, 955	950, 998-999,	1048, 1054, 1062
1033-1034, 1054	extract 075 076	1001-1002, 1006,	fear, <i>995</i>
explains, 953	Extract, <i>975-976</i>	1009, 1021,	feature, <i>921,</i> <i>945-946</i>
explanation, 922,	extracted 1027	1024-1025	
<i>951, 1032, 1043</i>	extracted, 1037	factual, <i>937, 949,</i>	February, <i>931,</i>
explanations, 994	extraordinary, 942	951, 970, 997,	<i>940, 993, 1038</i> Federation
explicit, 1018,	extrapolations, 1043	1001, 1005-1006, 1054	Federation, <i>1004-1005</i>
1030, 1043, 1045		fail, <i>974, 1017</i>	feed, <i>937</i>
explicitly, 973,	extreme, <i>969</i> extremely, <i>940,</i>	failed, <i>940, 959,</i>	feel, <i>947, 1060</i>
1007, 1014, 1020	945, 969, 984,	972, 1017, 1030,	feeling, <i>944</i>
exploitation,	5 15, 505, 50 1,	5,2,101,,1030,	recinity, 511

		1035-1036, 1046,	1000 1040 1050
feet, <i>946</i>	fine, <i>935</i>	1048, 1050-1063	1008, 1040, 1050 followed, 917, 926,
•	•	fit, <i>940</i>	931, 993, 1039
fell, 940, 942, 1011, 1024	finer, <i>954</i>	·	
	finish, <i>994, 1031</i>	Five, 1032	Following, 925-926
fellow, <i>1034</i>	finished, <i>918</i> , <i>989</i> ,	five, 937, 941, 952,	following, <i>926,</i>
felt, <i>990</i>	1039	986, 988-989,	943, 945, 962,
few, <i>936</i> , <i>938</i> ,	finishing, 1060	991, 995, 1032,	975, 990, 992,
944-945, 985,	Finland, 1018	1041, 1060	997, 1033-1036,
993, 1004, 1012,	fired, 932, 934-936	fixate, <i>968</i>	1039, 1049, 1063
1015, 1018,	firmly, 972	fixed, <i>930</i>	follows, <i>950, 953,</i>
1023, 1036,	First, <i>954, 957,</i>	flag, 1004, 1008	965, 987, 995,
1038, 1048,	967, 972, 997,	flagged, <i>1051-1056</i>	1025, 1034-1035,
1054, 1062	1018, 1036,	flat, <i>981, 983</i>	1058
Fiat, <i>998</i>	1039, 1043,	flattered, 1011	footnote, 1003
fide, <i>967</i>	1045, 1049, 1062	fleetingly, 1053	footnotes, 929,
fifties, 965	first, 917, 919-920,	fleets, 987	1021, 1026,
figure, 973	922, 924-925,	Fletcher, 989	1028, 1038,
figures, <i>945, 973</i>	928, 930-931,	flexible, 958	1048, 1052
file, <i>921-922, 943</i>	934, 937-938,	Flights, 1026	for, <i>930</i>
filed, 1000, 1045	940, 942, 945,	flights, <i>1026, 1029</i>	forbid, <i>1055</i>
filibuster, 1046	949, 953-954,	flow, <i>917, 1030</i>	forbidden, 998
filing, <i>922, 926</i>	957-959, 961,	flying, <i>1004</i>	force, 921, 1009,
film, <i>1017</i>	963-966,	FO, <i>1057</i>	1011
Final, <i>935, 960,</i>	970-972,		forefront, 923
1009	974-979, 986,	focus, <i>921, 934,</i>	foregoing, 1064
final, <i>927, 934-936,</i>	988, 990-993,	957, 1032, 1041	Foreign, <i>919, 923,</i>
941, 944,	997-998, 1000,	focused, <i>1018</i>	931-932,
948-949, 1013,	1009, 1013,	focusing, 979	934-940,
1028-1029,	1015, 1022,	Folder, <i>923,</i>	942-945, 947,
1035-1037, 1047,	1025, 1029-1032,	928-933, 939,	953, 963,
1056	1037, 1041,	986, 1002,	988-989, 1048,
Finally, <i>976</i> , <i>987</i> ,	1045, 1047,	1021-1022, 1025,	1054-1055, 1061
993	1057, 1059-1060	1033-1035, 1038,	foreign, <i>957, 961,</i>
finally, <i>940, 992,</i>	Firstly, 928	1048, 1051-1052,	1005, 1053
1005, 1030,	firstly, <i>928</i>	1054-1055, 1057, 1060-1061	foremost, 920
1035, 1058	fish, 1051-1056		forever, 922
Financial, 987	fished, <i>1053</i>	folder, <i>928, 930,</i>	Forget, <i>1053</i>
financially, 1064	Fisheries, <i>988, 1005</i>	942, 947,	forgive, <i>1027</i>
find, <i>929-930, 946,</i>	fisheries, 930	949-950,	form, <i>923</i> , <i>939</i> ,
949, 957-958,	fishery, <i>1053</i>	972-973, 975, 1025	957, 992, 1013,
988, 993-994,	Fishing, <i>1005</i> ,		1016, 1027,
1002, 1018,	1038, 1052, 1054	Folders, 1032	1030, 1048-1050,
1022, 1025,	fishing, <i>920-921</i> ,	folders, <i>920, 1021</i>	1064
1034, 1038,	926, 929-932,	follow, <i>926</i> ,	formal, 931-932,
1051, 1054	951, 956, 987,	928-929, 947,	934-935, 939,
finds, <i>950, 1000</i>	1005, 1032,	966, 980, 988,	973, 1028,
,,			

1042-1044			986-987, 1036,
formalism, 925	framed, 1061	frontiers, 962	1053, 1056-1057
formalistic, 950	framers, 952	fruition, 965	gate, <i>957</i>
formally, <i>976</i> , <i>1050</i>	framework, 929,	frustrate, 995	gather, <i>927, 953,</i>
format, <i>1061</i>	938, 941, 950,	frustrated, 961	985
formative, 930	968, 970, 980	fuel, <i>988</i>	GATT, <i>1012</i>
formed, 953, 957,	France, <i>1042</i>	fulfill, 932	gave, <i>924-925</i> ,
964, 967, 1027,	frankly, 993	fulfilling, 950	929, 956,
1058	fratricidal, 962	full, <i>921, 926,</i>	978-979, 986,
former, <i>962</i> , <i>976</i> ,	free, 921, 943, 958,	959-960, 988,	1011, 1038-1040,
1030	970, 976-977,	990, 1022, 1039,	1044, 1051
forms, <i>949</i> , <i>1030</i>	982, 985, 1030,	1051	General, <i>923</i> , <i>939</i> ,
formulation, 1000	1033, 1045,	fully, <i>932, 936-937,</i>	955, 958,
forth, 1004, 1032,	1051-1052,	942, 951, 957,	960-962, 965, 968, 976,
1036, 1040,	1055-1056	962, 967, 989	1007-1008, 1051
1044, 1051, 1058	freedom, 984	function, 963	general, <i>958, 960,</i>
forthcoming, 929,	freedoms, 1014	functioning, 923	986, 1007, 1009,
1026	freely, <i>959, 970,</i>	fundamentally,	1012, 1018,
Fortunately, 1038	<i>973, 981, 1051,</i>	920, 985	1021, 1023
forum, <i>952, 1025</i>	1053-1054	funding, <i>919, 929,</i>	generally, 966,
forums, <i>1023</i>	French, 999	987	1005
forward, <i>921-922</i> ,	frequently, 989,	Further, 955	generation, 924
931-932, 944,	1009	further, 933, 940,	Gentleman, 943
990, 992-993,	fresh, <i>920</i>	943, 948, 951,	gentleman, <i>988-989</i>
1015, 1029, 1035	Friday, <i>917,</i>	<i>957, 959, 967,</i>	gentlemen, 917
forwarded, 1054	927-929, 932, 940, 947, 953,	<i>972, 975,</i>	genuine, <i>939</i> , <i>949</i> ,
found, <i>929</i> , <i>931</i> ,	969-970, 1033,	978-979, 989-990,	970-971, 974,
987, 994, 1000,	1042, 1052-1053	992-994, 1004,	990, 998-1000,
1005, 1011,	Friend, <i>943</i>	1030, 1032-1033,	1004, 1016
1015, 1042, 1054, 1060	friend, <u>1038</u>	1050-1051, 1064	genuinely, 936,
Foundation,	Friendly, <i>956-959,</i>	furthest, <i>1033</i>	947, 1012
987-988	961	futile, <i>951</i>	geographical, 960,
foundation, 987,	friendly, 990	future, <i>935, 957,</i>	1061
1021	friends, <i>990</i> ,	967, 969, 972,	geographically,
foundations, 969	1006-1007,	983, 994	1018
founded, <i>1026</i>	1034-1035, 1039,	,	Geological, 930
founding, 924	1056		Georgia, <i>949-950</i>
four, <i>930, 986-987,</i>	Friendship, 1011		German, 1028
991, 1029, 1035,	frighten, <i>969, 974</i> ,		gestae, <i>979</i>
1045	976	G	gesture, 991
fourth, <i>1035</i> , <i>1049</i>	frightened, 924		getting, 963
fractured, 974	frighteners, 1024		Gibraltar, 961
fragmentary, 941	front, <i>920</i> ,	gained, <i>932</i>	give, <i>918-919, 941,</i>
frail, <i>981</i>	946-947, 1000,	gap, <i>979</i>	972-973, 985,
, 501	1002	Garcia, <i>927, 972,</i>	988, 995, 1013,

1042, 1045		918, 934-936,	
given, <i>919, 921,</i>	government, 941,	945-946, 953,	halted, 937
925-926, 929,	945, 960, 963,	963-966, 980,	hand, <i>954, 983,</i>
938-939, 942,	984, 1050-1051	982-984, 1011,	1000, 1005,
944-945, 948,	Governments, 939	1027	1028, 1034, 1044
951, 955,	governments, 933	Greenwood,	handed, <i>953</i> ,
961-963, 965,	Governor, 924,	918-919,	990-991
968, 970-973,	955, 1035,	921-922, 927,	hands, <i>918, 973,</i>
977-979,	1040-1041, 1043,	929, 936,	976, 985
981-983,	1057	941-942, 953,	handwritten, 1035,
985-986, 991,	Governors, 1062	971, 974-975,	1046-1047,
993, 1003, 1017,	governs, <i>986</i>	979, 984,	1057-1059
1022, 1026,	•	987-989, 1002,	Hansard, <i>942, 946</i>
1028, 1031-1032,	grandchild, 983	1011, 1034-1037,	happen, <i>928, 993</i>
1034-1035,	grandchildren, <i>981</i>	1045-1046	• • • •
1037-1039,	grandfather, 981,	Grieve, 1051	happened, <i>923</i> ,
1045-1046,	983	ground, <i>998, 1042</i>	<i>970, 975,</i>
1048-1050, 1055,	granny, <i>981, 983</i>	grounds, 962,	978-980,
1060-1061	grant, <i>965, 975,</i>	969-970, 1006	983-984, 989, 991
gives, <i>983</i>	1026, 1057	Group, <i>942-943</i> ,	happening, <i>944</i>
giving, <i>940, 995</i>	granted, <i>957,</i>	1018, 1020, 1054	happens, <i>928, 964,</i>
Goldman, 1017	1028, 1057-1058	group, <i>930, 1018</i>	978
goodhearted, 1056	granting, <i>957, 962</i>	grouper, <i>1061</i>	happiest, 974
goodness,	graphically, 937	guarantee, 961,	happily, 952
1055-1056	grasp, <i>1054</i>	970, 1042-1043	happy, <i>961</i>
Googling, 946	grateful, <i>919, 927,</i>	guaranteed, 1056	Harcourt, 1029
Gordon, <i>991</i>	940, 966, 980,	guaranteeing, 1033	hard, <i>974, 989,</i>
got, <i>923, 936, 976,</i>	988, 1012, 1025,	guarantees, 975	1030
978, 985-986,	1035, 1040	guaranty, 1043	hardly, <i>931, 999,</i>
989-990, 992,	gratia, <i>957, 973</i>	•	1001, 1008
1011, 1013,	gratitude, 918	Guildford, <i>944-945</i>	Harold, 924
1020, 1051-1052,	gratuitously, 1038	guilty, <i>1056</i>	Hava, <i>1026</i>
1056	gray, <i>972</i>	gun, <i>923-924, 937</i>	Head, 1054-1055
Governing, 962	great, <i>924, 934,</i>	Guyana, <i>1003</i>	head, 923-924,
governing, 957,	956-957, 967,		937, 944
959-960, 963,	969, 981, 983,		headed, 928, 990
981, 1006, 1009,	1017, 1021,		Heads, <u>1062</u>
1011	1029-1030, 1035		heads, 990
Government, 924,	greatest, 973	H	hear, <i>926, 933,</i>
931, 933, 935,	greatly, <i>925, 940</i>		940, 985, 1021
938, 944,	Greece, <u>1020</u>	half 017 072	heard, <i>921, 931</i> ,
947-948, 952,	greedy, <u>973</u>	half, <i>917, 973,</i>	933, 970, 980,
963, 975, 977,	Greek, 967	999-1001, 1031,	987, 995,
1026-1028, 1033,	green, 1002	1038, 1060	998-999, 1008
1035-1036, 1038,	Greenland, 980	halfway, <i>944, 989,</i>	hearing, <i>921-922</i> ,
1040, 1045,	GREENWOOD,	1002	985, 1007, 1063
1049-1050, 1058	UNLLINVOUD,	Hall, <i>942</i>	, 11, 110

hearings, 917	historical, 1021,	Houses, <i>942</i>	identical, 1036
hearsay, <i>1057</i>	1043, 1051, 1055	Howell, <i>944-945</i>	identified, 927,
heart, 1001-1002,	history, <i>960, 1021</i>	However, 947, 949,	950, 959, 970,
1009, 1012,	HMG, 1051, 1054,	1022, 1044	997, 1058
1027, 1055-1056	1058-1059	however, <i>927, 938,</i>	identify, 950
hearts, 1009	Hoffman, <i>927, 947</i>	940, 999, 1006,	idle, <i>1059</i>
heated, 943	Hoffmann, 986-987	1015, 1041, 1052	ignited, 990
heavens, 998	hold, <i>939</i>	html, <i>963</i>	ignore, <i>949, 958,</i>
heavily, 949	holder, 985	http, <i>963, 1005,</i>	1007, 1062
height, <i>949</i>	holding, <i>1038</i>	1017, 1026, 1028	ignored, <i>933, 975,</i>
held, 953, 975-976,	holds, 983, 1021	huge, <i>967, 1050,</i>	1062
1030, 1033-1035,	hole, <i>942</i>	1062	ignores, 972
1060	Holyhead, 944	Human, <i>944, 955,</i>	II, <i>953, 1004</i>
help, <i>931, 950,</i>	homeland, 974	987	III, <i>923, 956, 960,</i>
964, 1030, 1033,	homework, 1017	humanity, <i>982</i>	1007, 1018
1040, 1046, 1059	hon, <i>943, 947-948</i>	humility, <i>1047</i> ,	ill, <i>1026</i>
helpful, <i>943, 949,</i>	Hong, <i>1048</i>	1054	illegality, <i>967-968</i>
958, 983-985,	honor, <i>952</i>	hurdle, <i>948-949</i>	illegitimate, 1056
992, 994, 1032,	Honorable, <i>1053</i>	hurry, <i>942, 944</i>	illustrate, 1004
1034, 1043	honour, <i>1061</i>	hypothesi, 979	illustrated, 955
Hence, <i>959</i>	honoured, <i>1061</i>	hypothesis,	ILR, 1062
Henry, 1038	hope, <i>917, 924,</i>	964-965	imagine, 1024-1025
Herbert, 975	927, 947, 969,	hypothetical, 983,	immaterial,
hereby, <i>1064</i>	974, 976,	1004	1038-1039
herself, 1043	986-987, 994,		Immediately, 1033
hesitate, 1022	1007, 1011,		immediately, 927,
High, <i>939, 988,</i>	1017, 1030, 1048		945, 1003, 1049
990-993, 999,	hoped, 940	T	immense, <i>1004</i>
1026, 1047-1048,	hopeful, <u>925</u>	1	imminent, 941
1050, 1060-1062	hopefully, <i>946</i> ,		impact, <i>945</i>
high, <i>949, 975,</i>	1001	Thid 050 062 072	impeccable, 923
986, 995, 1004,	hot, <i>927, 1005</i>	Ibid, <i>958, 963, 972,</i> <i>1018, 1020-1021,</i>	impediment, 995
1017, 1053	hotel, <i>1035, 1037</i>	1023, 1026-1027	implausible, 997,
higher, <i>948, 1024</i>	hour, <i>934, 1031,</i>	ICAO, 1012-1013,	1056
highest, 952	1038, 1059-1060	1025, 1028-1029	implementation,
highlighted, 921	hours, <i>917</i>	Iceland, 1005	958
highlighting, 989	House, <u>921</u> ,	ICJ, <i>958-959</i> , <i>962</i> ,	implemented, 960
highly, <i>950, 960,</i>	943-946, 971,	1011, 1028-1029,	implementing, 961
976, 1013	1033-1037,	1042	implicates, 961
himself, <i>929, 954,</i>	1040-1041, 1045,	ICSID, <u>1011</u>	implication, 957,
975	1048-1051, 1053,	idea, <i>927, 930-931,</i>	962
hinting, 959	1056-1057, 1060	941, 985, 1009,	implications, 933
his, <i>1022</i>	house, 981, 983,	1017	implicit, <i>949, 997,</i>
historic, 1051	1053	ideas, <i>931, 935</i>	1000, 1015,
		14C45, 551, 555	1000, 1010,

1017, 1020,	1008-1009, 1018,	959-960, 962,	963
1024, 1030	1043-1045,	968-970, 983,	inherent, 1014,
implied, <i>924, 985</i>	1051-1052, 1057,	1055	1023, 1030
implies, <i>939</i> , <i>968</i>	1061-1062	independently, 920	initial, 942
imply, <i>1017</i>	inclusion, 921, 934	India, 1003,	initially, 973
Import, <u>1012</u>	incoherence, 970	1012-1013, 1028	initiated, 951
import, <i>931, 998,</i>	income, <i>924-925</i> ,	Indian, <i>943-944</i> ,	initio, <i>979</i>
1024	<i>956, 987</i>	948, 974, 1034,	innovation, 1005
important, 947,	incompatible, 920,	1048	insert, <u>1002</u>
952, 978, 983,	938, 951, 971,	indicate, 949	inserted, 1021
985, 989, 991,	1001, 1009	indicated, 934	insertions, 1035
1002-1003	incomplete, 1021	indicates, 946, 949,	inshore, <i>1056</i>
impose, <i>926, 969</i>	incomprehensible,	972, 1048	inside, <i>1055</i>
imposed, <i>949</i> , <i>951</i> ,	956	indicating, 993	insist, <i>962</i>
993	incomprehension,	indication, 919,	insisted, <i>942</i> , <i>1037</i>
impossible, 922,	977	930, 943-944	insistence, 1034
968	inconceivable, 981,	individual, 941,	insofar, <i>1051</i>
impressive, 1054	1017, 1024-1025	1012	instance, <i>1013</i>
improper, <i>981</i>	inconsistency, 961	individuals, 925,	instantiation, 964
improve, <i>972, 1047</i>	inconsistent, 995	939, 941, 946	instatunascendi,
inability, 1002	incorporated,	inducement, 925	984
inaccurately, 938	1028, 1037, 1053	inducements, 1061	Instead, <i>949, 990,</i>
inadequate, 933	incorporation, 982,	indulgence, 1043	1038, 1050
inadmissible, 1013	1038	Industries, 1005	instead, <i>971</i> , <i>974</i> ,
inadvertently, 1037	increase, 1058	ineffective, 970	1046, 1049, 1057
inapplicable, 965	increasingly, 1052	inertia, <i>955</i>	instructed, 924
inappropriate, 938,	Indeed, 956-957,	inevitable, 924,	instrument, 950,
984	984, 1009, 1018	1044, 1055	995, 1046
incarnation, 960	indeed, <i>934</i> , <i>937</i> ,	inevitably, 1005	instruments,
incidental, 1012,	943, 945, 949-950,	inference, 1023	958-959, 1013
1020	969-970, 995,	influence, 981	insurgents, 1029
Incidentally, 1025	1003, 1008,	inform, <i>1034</i>	integral, <i>956, 1030</i>
include, <i>1006,</i>	1020-1021, 1024,	informal, <i>989-990,</i>	integration, 959
1021, 1025	1026-1027	1029, 1043	integrity, <i>925</i> , <i>959</i> ,
included, <i>942</i> , <i>944</i> ,	indented, 1057	information, 921,	961-962,
947-948, 956,	Independence, 977	926, 933, 940,	965-966, 970,
<i>961, 964, 1016,</i>	independence,	943, 948	1056
1018, 1022-1023, 1033-1034, 1036,	924, 956-962,	informed, 932,	intend, <i>947, 952,</i>
1055-1054, 1050, 1056, 1058	964, 967,	936, 944, 973, 1034	973
includes, <i>987</i>	969-978,	informing, 933	intended, <i>951, 982,</i>
including, 920,	980-985, 1029,	infused, <i>995</i>	997, 1021, 1039,
926, 932, 951,	1041, 1047	ing, <i>1023</i>	1053, 1059
954, 959, 974,	Independent, 931	ingeniously, 940	intending, <i>1036</i> ,
976, 983, 989,	independent, 920,	inhabitants, 956,	1050
	955, 957,	initiabitants, 300,	intention, 990,

1031, 1044,		932, 942, 990,	
1050, 1062	interpretation,	993, 995, 1018,	ISSUE, 994
intentions, 1057	932, 984,	1030, 1049, 1061	Issue, 990
inter, 977, 1055	997-998,	invited, 957, 968,	issue, <i>924</i> ,
interest, <i>925, 943,</i>	1000-1004, 1006,	1025	928-930, 932,
961, 967, 983	1008-1009,	invites, 1027	937-938, 945,
interested, 930,	1013-1016, 1020,	inviting, 985	951, 960,
942, 948, 972,	1023-1024, 1030,	invoke, <i>950, 1015,</i>	965-967, 982,
1026, 1064	1042-1045, 1048,	1050	985-986, 989,
interesting,	1050-1051	invoked, <i>961-962</i> ,	997, 999, 1001,
942-943, 1012,	interpretations,	1008, 1048, 1060	1003, 1009,
1021	1047, 1057	invokes, <i>1051</i>	1011-1012, 1015,
Interestingly, 1027	interpreted,	involve, <u>1006</u>	1017-1018,
interests, <i>924</i> , <i>926</i> ,	1001-1002, 1004,	involved, <i>932</i> , <i>936</i> ,	1020-1021, 1025,
930, 960, 963,	1008-1009, 1012,	945, 961, 1013,	1027-1030, 1048
974, 1056	1044, 1052, 1057	1062	issued, <i>1051, 1054,</i>
interim, 991	interpreting, 997,	involvement, 933,	1056
Internal, 1035,	1002, 1007-1009,	937	issues, <i>922, 930,</i>
1048, 1057	1011-1012,	involves, 1000-1001	938, 950, 961,
internal, <i>921, 954,</i>	1014-1015, 1030	involving, <i>941, 1023</i>	976, 990-991,
960, 984, 988,	interrelated, 970	Iran, <i>1011</i>	993, 997-1000,
990, 1045,	interrupt, <i>934, 945,</i>	irrelevant, <i>950, 984</i>	1004-1005,
1048-1049, 1057,	1047	irrespective, 926,	1007-1009,
1059, 1062	interruption, 943	960, 982, 1013	1012-1013, 1018,
internally, 955	intervening, 937,	Islamic, 1011	1029
International, 949,	1026	Island, <i>955</i>	Italian, <i>965</i>
957, 969, 976,	interventions, 1015	island, <i>954-955</i> ,	Item, 1034, 1036
985, 1012, 1028	interwoven, 999	966, 976, 1020,	item, <i>931,</i>
international, 921,	introduce, <i>917, 920</i>	1022-1023,	1034-1036
956-957,	introduced, 940,	1025-1026, 1029	items, 1033-1034,
961-967, 971,	1032, 1057	Islands, <i>966</i> , <i>1033</i> ,	1036-1037, 1040
977-978,	introducing, 931	1035	ITLOS, 1006, 1009
980-984,	INTRODUCTION,	islands, <i>942-943</i> ,	itself, <i>933</i> , <i>955</i> ,
998-999,	920	953, 955, 964,	959, 963-964,
1004-1007, 1009,	Introduction, 928,	972-973, 1020,	968, 982, 997,
1011-1012, 1021,	953	1034, 1036,	1039, 1042, 1044-1046, 1050,
1023, 1026-1028,	introduction, 927	1052-1053	1058, 1060-1061
1047	introductory, 927,	Isn, <i>1027</i>	iuris, <i>967</i>
internationally,	1007	isn, <i>934, 1027</i>	•
980, 982	invalid, <i>1032</i>	ISNT, 960	IV, 963
interplay, <i>922, 979</i>	invalidity, 969	isolated, 999,	iv, <i>1033</i>
interpolate, 963	invert, 917	1039, 1062	Ivan, <i>947</i>
interpret, 998-999,	inverted, 925, 1000	isolation, <i>1018</i> ,	IX, 958
1006, 1008,	investigate, 946	1022	ix, <i>1036</i>
1015, 1030	investment, 1011	Israel, <i>957</i>	
Interpretation, 955	invite, <i>925, 927,</i>		
	• • •		

James, 953 January, 930-931, 951, 991, 993, 1029, 1060 jeopardy, 987 Jeremy, 942 Joanne, 987-988, 991, 1054-1055 job, 1003, 1006 John, 989-993 join, 984 joining, 947 Joint, 933 jointly, 990 joke, 952 Judge, 918-924, 927-929, 936,	jumped, 949 juris, 978-979, 982 JURISDICTION, 994 Jurisdiction, 1012-1013, 1023 jurisdiction, 922, 925-926, 953, 976, 979, 985, 995, 997-998, 1001, 1004-1005, 1008-1009, 1012-1017, 1020, 1022, 1024-1025, 1029-1030 jurisdictional, 922, 925, 949, 979, 1009 jurisprudence, 957 Justice, 1012, 1026, 1028	991, 1017, 1024 keeping, 952 kept, 934, 936-937 key, 928, 942, 975, 989, 991, 1021 Kibris, 1026 kilometres, 929, 999-1001 kind, 969, 980, 993, 1006, 1016, 1024, 1057 kindly, 925, 1032 KINGDOM, 1031 Kingdom, 917-918, 920-928, 930, 937, 939-941, 946, 948, 951, 953, 961-962, 964-966, 970-971, 975, 977-983, 986, 988-989, 2021, 205	la, 1006 Labour, 942, 946-947 lack, 937, 1017, 1055 lacked, 951 lacuna, 979 ladies, 917 lady, 986, 992 lagoon, 986-987 laid, 959 Lancaster, 921, 971, 1033-1037, 1040-1041, 1045, 1048-1051, 1053, 1056-1057, 1060 land, 987, 997,
941-942, 947, 953, 966, 969, 971, 979, 981, 984, 986-989, 1002-1003, 1008, 1011, 1023, 1034-1037, 1042, 1045-1047 judge, 921, 977, 1029, 1045 judged, 941, 965 Judges, 986, 1025 judges, 958, 1060 Judgment, 1011, 1013, 1026, 1042 judgment, 951, 1012, 1027 judicial, 949, 1026 juice, 1057 July, 924, 932-936, 1038, 1051, 1054-1055, 1057, 1061 jump, 1043	justice, 951 justification, 925, 928 justified, 954, 972, 1062 justify, 968 justifying, 923 justitia, 998  KASDAN, 1064 Kasdan, 1064 Kateka, 924, 969, 1002 keel, 997 keen, 941 Keene, 1026 keep, 932, 936, 944, 981, 985,	994-995, 997-1009, 1012, 1015, 1017, 1021-1022, 1038-1040, 1044-1046 Kinnock, 944-945 knock, 1015 knowing, 1057-1058 knowingly, 1036 known, 967 knows, 1003, 1026, 1058 Kong, 1048 Kundasamy, 939	1000, 1003-1005, 1014-1016, 1020, 1022-1025, 1028 landing, 1036 landlocked, 1018 lands, 978 language, 921, 963, 1035-1036, 1042, 1050, 1058 large, 919, 929, 986, 1003 largely, 971 larger, 1052 Last, 1014, 1048 last, 917, 921-923, 930, 936, 939, 947, 952-954, 956-957, 971-972, 974, 986, 990, 992, 1001-1002, 1011, 1024, 1031-1035, 1041-1042, 1048, 1052-1053,

1057 1050 1062	070 000 1020	050 072 004	
1057-1058, 1062	978, 990, 1030, 1046	959, 973, 984, 1017, 1042	lineitations 1014
latch, <i>982</i>		1017, 1043,	limitations, 1014
late, 928-929, 935,	leaving, <i>932, 974,</i>	1048, 1058	limited, 985, 987,
940-941, 959,	1015	lessons, 976	1052, 1059
1011, 1051	led, 948, 1047, 1056	Letter, 951, 1048,	limiting, 1008
lateness, 1060	left, 925, 927, 931,	1060-1061	Limits, <i>921</i>
Later, <i>958</i>	953, 985, 1002,	letter, <i>923, 935,</i>	limits, <i>986, 1018</i>
later, 926-927, 931,	1021, 1032, 1037	939-941, 954,	Line, 1002
933-935, 945,	Legal, <i>1038-1039,</i>	988-993,	line, 920-924, 954,
<i>950, 957-958,</i>	1049, 1054, 1062	1034-1035,	956-957,
967, 973, 976,	legal, <i>921-922,</i>	1048-1050	963-964, 969,
1036, 1038	927, 932-933,	letters, <i>941, 947,</i>	971, 975, 980,
Law, <i>949, 960,</i>	948-950,	1047-1048, 1060	995, 1001, 1008,
999-1001	956-958, 966,	level, <i>935, 951,</i>	1013, 1025,
law, 921, 923, 926,	968-970, 981,	1047, 1062	1035, 1038,
950, 953-959,	995, 997, 1001,	levels, 986	1043, 1049,
961, 963-966,	1003-1006, 1008,	Lewis, 947	1054, 1062
968-971,	1015, 1020-1021,	Liberal, <u>944</u>	lines, <i>921-923, 927</i> ,
<i>978-985</i> ,	1027, 1029-1030,	liberal, <i>955</i>	943, 947,
997-1001,	1038-1040,	liberation, 984	954-959,
1003-1009,	1044-1045, 1052,	liberty, 969	962-963, 969,
1011-1012, 1021,	1062	• •	971-972, 974,
1023, 1025,	legality, <i>965-966,</i>	licence, <i>930, 1049,</i> <i>1051</i>	976, 997,
1027-1028, 1030,	1000		999-1000, 1003,
1032, 1047	LEGALLY, 1031	Licences, 1054	1007-1009, 1013,
laws, <i>955</i> , <i>1005</i>	legally, 921, 978,	licences, 929,	1016, 1021,
lawyers, 999, 1044	981, 1031-1033,	1026, 1051-1056	1025-1026, 1037,
lay, <i>924</i>	1039, 1041,	licencing, 1056	1041-1045,
lays, <u>958</u>	1044-1047,	license, <i>1051, 1054</i>	1048-1054, 1058,
lead, <i>945, 961</i>	1055-1056, 1062	lie, <i>1013</i>	1060, 1062
leaders, <i>924-925</i> ,	legible, 942	lies, <i>944, 1027</i>	link, <i>1004, 1016</i>
973	legislation,	lieu, <i>1017</i>	linkages, 1018
leading, 974	929-930, 964,	light, <i>926, 939,</i>	linked, 1009,
leap, <u>1050</u>	971, 986	979, 999, 1013,	1023-1024
-	Legislative,	1018, 1020,	list, 955, 959, 994,
learned, <i>931</i>	1052-1053	1032, 1059	1033-1035
lease, <i>972-974</i> ,	legislative, 976	lightly, <i>949</i>	listed, 1006, 1033
1057-1058	legitimate, 926	likely, <i>931, 1037</i>	listen, <i>983</i>
leased, 1033	legs, <i>936, 1030</i>	likewise, 976	listened, 1001
least, <i>935, 968,</i>	lemon, <i>1057</i>	limb, <i>920, 925-926,</i>	literally, 1016
1007, 1015,	length, <i>925, 955,</i>	1029-1031, 1043	• •
1020, 1022,	991	limbs, <u>1009</u>	literature, 928
1029, 1031,	lengths, <i>956</i>	limit, <i>1009</i> , <i>1014</i> ,	litigation, <i>1029</i> ,
1036, 1043,		1054	1064
1050-1051, 1053,	lengthy, <i>947, 949,</i>	limitation, 1014,	little, <i>925, 936,</i>
1055, 1057	990	1023	948, 951, 957,
leave, <i>974, 976,</i>	less, 917, 929, 957,	1010	964, 989, 1029,

1061			
live, <i>981</i>	lost, <i>922, 987</i>	magic, <i>1017, 1021</i>	Marine, <i>920-921</i> ,
lived, <u>1047</u>	lot, <i>936</i> , <i>992</i>	mail, <i>988, 990, 992</i>	925, 930, 938,
living, <i>943, 1052</i>	Louis, 952, 988,	mailing, 992	942, 990,
II, 921, 934, 942,	1048, 1060	mails, <i>988</i>	999-1000, 1030
947, 952, 957,	love, 1013, 1055	main, <i>947, 955,</i>	marine, <i>928, 933,</i>
972, 985,	low, 1062	958, 991	943-944,
991-992, 1018,	Lowe, <i>960, 1027</i>	mainstay, <i>1022</i>	947-948, 1000,
1027, 1039	lower, <u>1032</u>	maintain, 1049	1024, 1055, 1061
lobster, 1004	Lunch, <i>925</i>	maintaining, <i>987</i>	maritime, <i>926</i> ,
location, 960, 1003	lunch, <i>917</i>	maintenance, 961	951, 960, 999,
locked, 1004	•	Majesty, <i>944</i> , <i>977</i> ,	1003, 1008,
locus, <i>964</i>		1049	1018, 1020-1023
lodged, 1028-1029		major, <i>1015</i>	mark, <i>948</i>
Loewenstein, 926,	<b>.</b> .	majority, <i>956-957</i> ,	markets, 1021
933	M	1020, 1032, 1044	Marlin, <i>987</i>
logic, <i>1000, 1006</i>	<b>-</b> -	Mali, <i>962</i>	marriage, <i>954</i>
logical, <i>961</i>	MACDONALD	Malta, 1020	massive, 1061
logically, <i>962, 995</i>	MACDONALD,	man, <i>1038</i>	material, <i>929</i> , <i>933</i> ,
London, <i>939, 952,</i>	934-936, 945-946, 952	manage, 944	1018, 1039, 1044 materials, 932
974, 999, 1029	Macdonald,	managed, <u>1005</u>	matter, <i>918</i> ,
long, <i>924, 949,</i>	917-918, 925,	Management, 1052	926-927,
951-952, 962,	927-928, 934,	managing, 1014	940-942, 944,
990, 992-993,	945, 952, 954,	mandate, 1026	946, 950, 961,
999-1000, 1049	999	manifestly, 1018	969, 971-972,
longer, <i>945, 947,</i>	Mackerel, 1005	Mankind, 959	<i>975, 980, 989,</i>
952, 956, 1013, 1023-1024, 1045,	mackerel, <u>1005</u>	mankind, 960	997, 1001,
1023-1024, 1043, 1061	made, <i>919, 924,</i>	manner, 921, 928,	1003-1005, 1013,
longstanding, 999	926, 928, 930,	1046	1015-1016, 1023,
look, <i>928, 931, 933,</i>	932, 934-935,	Manuscript, 1034	1027-1030,
942, 947, 969,	938, 942-943,	manuscript, 1035	1044-1045, 1051,
988-991, 993,	945, 947-948,	many, <i>933, 937,</i>	1059
1002, 1004	950-951,	944-945, 951,	mattered, 966
looked, <i>986</i> ,	955-956, 959,	954, 958,	Matters, 1033
1011-1012, 1027,	961-963,	976-977, 983,	matters, <i>926-927</i> ,
1057	<i>968-969,</i>	999, 1005, 1017,	978, 990, 993,
looking, 922, 936,	972-973, 976-977,	1021, 1025-1026,	997-998, 1000, 1004, 1008,
969, 973	981-982, 987,	1032, 1057, 1062	1014, 1023, 1058
looks, <i>934, 990</i>	991-993, 997,	marathon, <i>957, 965</i>	Maundy, <i>944</i>
loosely, 980	999, 1013-1015,	March, <i>919,</i>	Mauritian, <i>924-925</i> ,
Lord, 944-945, 1026	1023, 1025,	934-935, 940-944,	931, 938-940,
Lords, <i>944-946</i>	1029, 1031,	940-944, 947-948, 982,	945, 956,
lose, <i>970</i>	1033, 1038,	988, 993,	970-973,
loss, <i>956</i>	1047-1049,	1047-1050, 1060	975-976, 978,
	1054-1056, 1062	,	

989, 992, 999,	1026, 1029		
1033-1038, 1040,	meet, <i>933, 970,</i>	mentioned, 928,	Miliband, 941, 988,
1044, 1047,	992, 1032	972, 984, 1007,	990-991
1051-1058,	Meeting, <i>975-976</i> ,	1009, 1016, 1056	military, <i>961-963</i> ,
1061-1062	991, 1033-1034	mere, 1041-1043	967, 1029
Mauritians,	meeting, <i>932-934</i> ,	merely, <i>954</i> , <i>959</i> ,	million, <i>956, 973,</i>
923-924,	939, 941,	1008, 1013,	975, 987,
<i>972-973</i> ,	952-953,	1061-1062	999-1001
989-990, 1051	971-972,	merit, <i>933, 1029</i>	mind, <i>920, 923,</i>
MAURITIUS, 1031	974-976,	Merits, <i>953</i>	927, 935, 966,
Mauritius, 917,	989-993, 1018,	merits, <i>922</i> , <i>925</i> ,	974, 989, 999,
919-926,	1020, 1033-1037,	933, 952, 995,	1005, 1033
928-941,	1040, 1048-1050,	933, 932, 993, 1013, 1048	minds, 1009
943-946,	1052, 1056-1057	met, <i>927, 951, 1055</i>	mine, <i>936</i>
948-951,	meetings, 976,		mineral, <i>920, 956,</i>
953-956, 960,	1040, 1051	meteorological, 1048	1032, 1035-1036,
962-964,	meets, 986		1046-1047, 1049,
966-977, 980,	Meg, <i>946</i>	metropolitan, 967,	1063
983, 986-990,	mellifluous, 1045	969, 971, 980	minerals, <i>921, 926,</i>
992-995, 998,	melted, <i>922</i>	MFA, <i>992</i>	1036, 1047, 1049
1000-1003, 1005,	Member, <i>942, 948,</i>	Michael, <i>921-922</i> ,	Minister, <i>923</i> , <i>935</i> ,
1009, 1015-1016,	1053	924, 954-959,	938-942,
1022, 1030-1043,		961-963,	944-945, 947,
1045-1063	member, 1005	<i>968-969,</i>	951, 969, 971,
maxim, <i>965</i>	Members, <i>917</i> ,	971-972,	974-975,
maximum, 975	920, 925, 928,	<i>974-976, 995,</i>	988-989, 991,
mean, <i>941, 946,</i>	942, 947-948,	999, 1003	1034, 1036,
950, 958, 979,	952-953, 958, 963, 976-977,	mid, <i>917, 924</i>	1047-1050, 1060
1003, 1016,	986, 988, 994,	middle, <i>1034</i>	Ministerial, 931,
1053, 1056	999, 1007, 1014,	might, <i>917,</i>	951, 989
meaning, 922, 925,	1029, 1031-1032,	919-920, 922,	Ministers, <i>924</i> ,
998-1006, 1008,	1046, 1060	924, 930, 934,	932, 935,
1012, 1016-1017,	members, <i>927</i> ,	936-937,	939-940, 956,
1022, 1043, 1055	942, 952, 976-977	956-957,	970, 972-976,
meaningful, 933	membership, <i>997</i>	964-965,	978, 980,
Means, 931	• •	967-968, 974,	1033-1034,
means, <i>949</i> ,	memoire, 1021	979, 992-993, 1000, 1005-1006,	1037-1038,
<i>954-955, 971,</i>	Memorandum,	1000, 1005-1006,	1040-1041,
1003, 1017, 1053	1048	1015, 1022-1024,	1043-1044, 1057
meant, 918, 923,	memorandum, <i>963</i>	1026, 1049,	ministers, 973
937, 963-964,	Memorial, <i>924,</i>	1058-1059	Ministry, 1005
1042, 1052	942, 951, 993,	migratory, 1012	minorities, <i>975</i>
measure, <i>947, 951</i>	1000, 1045-1046		minority, <i>1020</i>
measures, 931	memory, <i>1021,</i>	mile, <i>987,</i> <i>1053-1055</i>	Minute, <i>1034</i> , <i>1038</i>
meat, <i>991</i>	1048		•
mechanism, 938,	memos, <i>1062</i>	mileage, <i>929</i>	minute, <i>952, 975,</i> <i>1047</i>
	mention, <i>956, 972</i>	miles, 1051-1056	107/

		1048, 1051-1052,	
Minutes, 975-976,	Monday, 920, 994	1054, 1057-1058,	National, 986
1034	money, <i>971-973</i>	1060	national, 984,
minutes, 917-918,	monopolies, 961	much, <i>917,</i>	1012, 1027-1028
926, 936, 953, 972, 976, 985,	month, <i>1048, 1059</i>	929-930, 932, 935, 952, 973,	nationality,
989, 1013, 1031,	months, <i>931, 944,</i>	976, 979, 985,	1011-1012
1038, 1059-1060	993	987, 994, 1009,	Nationals, 1004 Nations, 921, 958,
misapprehended,	morning, <i>917, 926,</i> <i>974, 994</i> ,	1013, 1015,	960, 963
1017	998-999, 1007,	1021, 1030-1031,	natural, <i>1012</i> , <i>1016</i>
misconceptions,	1011, 1030,	1047-1049, 1053,	Nature, <i>928</i>
1054	1047, 1056,	1057-1060	nature, <i>928, 930,</i>
misinterpretation,	1059, 1063	muddled, 1002	983, 987, 1038,
992	Most, <i>956</i>	mull, <i>1035, 1037</i>	1043, 1063
misleading, 972	most, <i>925, 943,</i>	mulled, <i>1037</i>	Nauru, <i>976, 978</i>
misplaced, <u>1052</u>	969, 977, 986,	multiple, 979	navigation, 1048
misrepresentation,	1002, 1023,	Munn, <i>946, 953</i> Murton, <i>989-993</i>	NEAFC, 1005
<i>925</i> missing, <i>947, 1021</i>	1039, 1056, 1060	must, <i>940</i> , <i>942</i> ,	near, <i>935, 994,</i>
mistakenly, <i>954</i>	mostly, <i>922, 986</i> motivations, <i>925</i>	949-950,	1032, 1036
misunderstanding,	move, <i>924</i> ,	955-956, 961,	nearly, <i>938</i>
939, 993	931-932, 990-991	970, 972, 980,	neatly, <i>1051</i>
misunderstandings,	moved, <i>942</i>	982, 988, 1004,	necessarily, 936,
992	movement, 931,	1008, 1016,	967, 993, 999, 1016, 1042
mixed, 1000, 1008,	977	1018, 1046	necessary, 929,
1020, 1022-1023	Moving, 941	mutual, <i>1043</i>	933, 949, 960,
MM, <i>924, 938-941,</i>	moving, <i>961, 983</i>	mutually, <i>938, 1062</i>	987, 1004, 1009,
951, 972, 1000,	MP, <i>946</i>	myself, <i>957, 967,</i> <i>976</i>	1016, 1029,
1033, 1040,	MPA, <i>919-921</i> , <i>923</i> ,	970	1040, 1047, 1054
1048, 1057, 1060-1061	926-934,		necessity, 1015
modalities, <i>958</i>	938-939,		need, <i>919, 921,</i>
modern, <i>924</i>	941-942,		949-950, 957,
modest, 949	944-945, 951, 968, 986-989,	N	959-960, 963, 967, 977, 984,
modified, <i>1037</i>	992, 995,	• •	993, 1000, 1004,
modifying, 1048	999-1000, 1052,	024 046	1011, 1015,
Mohamed, <i>1035</i> ,	1056, 1063	name, <i>931, 946,</i>	1018, 1024,
1037	MRAG, 1055	<i>989, 1038</i> namely, <i>925-926,</i>	1026, 1033-1034,
moment, <i>934</i> ,	MS, <i>934-936</i> ,	938, 987, 1030	1043, 1045-1046,
965-966, 978,	945-946, 952	names, <i>945</i>	1053, 1062
1002, 1008,	Ms, <i>917-918</i> , <i>925</i> ,	Namibia, <i>957</i>	needed, <i>933</i> , <i>945</i> ,
1017, 1020,	927, 929-931,	narrow, <i>1016</i> ,	956, 1029, 1061
1031, 1047	934, 937-940, 942, 945-946,	1020, 1022, 1029	needs, <i>929, 960</i>
momentarily, 1035	952-954, 999,	narrowly, 1018	negative, 990
momentum, <i>932</i> ,	1035, 1041-1043,	nation, 924	negotiate, 972
934-936			Negotiating, 1018,

1020		1018, 1024,	
negotiating, 980,	NGOs, <i>931</i>	1027, 1038, 1056	Numbers, 994
1018	nice, <u>981</u>	notes, <i>929</i> , <i>952</i> ,	numbers, 1032
negotiation, 969,	Nigeria, <i>1029</i>	986	Numerous, 1020
971, 981, 1028	Nigerian, <u>1029</u>	Nothing, 972, 1007	numerous, 924
Negotiations, 969,	night, <u>1011</u>	nothing, 919, 923,	numerus, 969
1038	noble, <i>944</i>	931, 933, 936,	
negotiations, 969,	nominees, 970	948-950, 952,	
971, 973, 975,	Non, <i>962, 1028</i>	957, 977-978,	
977, 982,	non, <i>957, 959-960,</i>	981-982, 997,	
1016-1017,	981, 992,	999, 1001, 1007,	$\mathbf{O}$
1021-1022	1042-1043	1014, 1016,	
negotiators, 995,	none, <i>921-922</i> ,	1054, 1058	
999, 1017	939, 1033, 1043,	notice, 990	object, <i>940, 974,</i>
neighbouring, <i>967</i>	1045, 1051	noticed, <i>928, 1017</i>	995, 1035
neither, 976, 993,	nonetheless, 989	Notification, 1000	objected, <i>1054</i> ,
998, 1023, 1039,	nonexistence, 1061	notification, 956	<i>1057</i>
1059, 1064	Nor, <i>1008</i> , <i>1013</i> ,	noting, <i>958, 1018</i>	objection, 918,
Never, <i>974</i>	1032, 1038, 1047	notion, <i>974</i>	961, 963
never, <i>924, 939,</i>	nor, <i>939</i> , <i>951</i> , <i>969</i> ,	notorious, 921	objections, 926,
948, 967, 970,	982-983, 998,	notwithstanding,	935, 938, 1013
987, 1017, 1021,	1003, 1023,	943, 948, 997,	objectives, 963
1042, 1051,	1039, 1043,	1015	objector, 964
1055, 1060	1056, 1058-1059,	November,	obligated, 1056
nevertheless, 922,	1064	937-939, 941,	obligation, 932,
1013, 1027	normal, <i>917</i>	965, 982, 1035,	949, 970, 974,
Nevill, <i>929-931</i> ,	normally, <u>1061</u>	1039-1041,	983-984, 1027,
934, 937-940, 942	North, 1005	1047-1048, 1057,	1052, 1055
New, 1021, 1042	Northern, <i>1026</i> ,	1060	obligations, 983,
new, <i>918, 924,</i>	1028	novo, <i>984</i>	1007, 1038,
929, 940, 942,	northern,	nowhere, <i>1039</i>	1041, 1044,
952, 956, 959,	1026-1028	nr, <i>1005</i>	1046-1047
962, 973, 977,	Norway, <i>1005</i>	nub, <i>1020</i>	obligatory, 1063
999, 1037, 1048,	notably, 968	Nuclear, 977, 980,	obliged, <i>983, 1045</i>
1058	notation, 1058	984, 1042	observation, 1049
newly, <i>957, 962,</i>	Note, <i>938</i> , <i>940</i> ,	nuclear, 1042	observations, 918,
969, 983	993, 1038, 1048,	nullity, 922	930, 1013, 1018,
news, 1005	1060	Number, <u>989</u>	1049
next, <i>920, 925,</i>	note, <i>928, 931,</i>	number, <i>921, 938,</i>	observe, 1022
933, 937-938,	939-940, 974,	941, 943, 945,	observed, 931
945, 947, 972,	976, 995,	972-974,	observes, 940
985, 988-990,	1007-1008,	<i>988-989, 992,</i>	obtain, <i>1054</i>
1006, 1011-1012, 1034-1035, 1044	1034-1036, 1046,	1003, 1013,	obtained, 982, 998
1034-1035, 1044, 1047, 1051	1048, 1057-1059	1035, 1038, 1057	1057
1047, 1051, 1053, 1050	noted, <i>920-921</i> ,	numbered, 1034	obtaining, 925,
1053, 1059	924 927 959	numbering, 1048	941, 962, 1053

obvious, <i>921, 925,</i> <i>962, 993, 1002,</i>	offering, <i>929</i> offers, <i>951, 1006</i>	939, 941, 945-946, 948-949,	operation, <i>1017</i> opined, <i>1041</i>
1014, 1016,	Office, <i>919</i> ,	953-954,	opinio, <i>967</i>
1023, 1039	943-945, 947,	968-970,	Opinion, <i>958-959</i>
Obviously, 964,	953, 988-989,	972-973, 975,	opinion, <i>957-958</i> ,
990, 1006	1035, 1040-1041,	980-981, 984,	1038-1039, 1046
obviously, 919,	1048, 1054-1055,	990-991, 993,	opinions, <i>1038-1039</i>
923, 946-947,	1057, 1060-1061	997, 999-1000,	Oppenheim, <u>1012</u>
982, 988,	office, <i>934, 953</i>	1002, 1004-1009, 1013-1016, 1020,	opportunity,
990-992, 994,	Officer, 988	1022-1024,	918-919, 927,
999, 1001-1003,	offices, 1053	1027-1030, 1032,	940, 971, 986,
1007, 1029-1030, 1035	official, <i>963</i> , <i>970</i> ,	1035-1036, 1038,	1038
occasion, <i>917, 965,</i>	975, 1033,	1043-1044,	oppose, 974
1006, 1021	1036-1037,	1046-1048,	opposed, <i>924</i> , <i>972</i> ,
occasions, 924,	1040-1041, 1048-1049, 1051,	1051-1052,	976, 1041, 1045
927, 945, 979,	1053, 1057, 1062	1054-1055, 1057	opposite, <i>988-989</i> ,
993, 1015	Officials, <i>932</i>	onerous, 963	1007, 1039,
occupation, 957	officials, 933-936,	ones, <i>923, 969,</i>	1056, 1059
occupies, 983	939, 941, 1045,	1039	opposition, <i>924,</i> <i>938, 976, 1041,</i>
occupy, <i>983</i>	1047, 1062	ongoing, <i>978-979</i>	1043
occurred, 933, 967,	often, <i>935, 1017,</i>	online, 1042-1043	opt, <i>1016, 1020,</i>
978-979, 983,	1021, 1026	only, <i>917, 919,</i>	1022
989, 1018	Oil, <u>1011</u>	922, 924-926, 929, 933, 942,	option, <i>973, 986</i>
occurrence, 1007	oil, <i>920-921, 926,</i>	949, 953,	optional, <i>1014</i>
occurs, <i>962, 984</i>	956, 1032,	956-959, 961,	oral, <i>921, 926, 950,</i>
Ocean, <i>943-944</i> ,	1035-1036,	969, 972-973,	989, 1016, 1029,
948, 974, 1034,	1046-1047, 1049,	979-980, 982,	1038
1048	1063	985, 987, 989,	orally, <i>1039</i>
ocean, 1000	oils, <i>1047</i>	993-994,	Order, 952, 971,
Oceanography, 986	okay, <i>954</i>	999-1000,	974
Oceans, <i>960</i>	old, <i>923</i>	1003-1005,	order, <i>921, 948,</i>
Oct. 1026	Oman, <i>961</i>	1017-1018, 1020, 1023-1025, 1037,	991-992, 1038,
October, <i>953, 957, 1012, 1026,</i>	omission, <i>975</i>	1040-1041,	1045
1012, 1020, 1048,	Once, <i>924</i>	1043-1044, 1046,	Ordinance, 930,
1054, 1058, 1062	once, <i>924, 957,</i> <i>1021</i>	1053, 1056-1057,	955
odds, <i>995</i>	One, <i>923, 927, 941,</i>	1061	ordinance, <i>1053-1054</i>
of, <i>1021</i>	944, 967, 1000,	onus, <i>1017</i>	ordinary, <i>1017</i>
offer, <i>923, 1018,</i>	1004-1005, 1022,	open, <i>971-972</i> ,	org, <i>963, 1026</i>
1032	1058	982, 992, 1006	organ, <i>1013</i>
offered, 925, 937,	one, <i>917-918</i> ,	opened, <i>937</i>	organization, 925
963, 971, 973,	921-922, 924,	opening, <i>1051</i>	original, <i>983, 1003,</i>
1016, 1021,	926-927, 929,	operate, 1026	1037, 1049,
1034, 1058-1059	932, 934-935,	operating, 1028	100., 10.0,

1058-1059	1035-1038, 1043,		
originally, 1028	1048-1051,	overwhelming,	paper, <i>923, 931,</i>
originate, 954	1053-1057	1062	981, 1012, 1025
originated, 1046	outcome, 933, 947,	own, <i>921, 924,</i>	para, <i>925, 939,</i>
Ormiston, 988	971, 973-974,	942-943, 948,	950, 958-959,
ostensibly, 950	1064	955, 983, 993,	962-963, 1003,
other, <i>918</i> ,	outdated, 1039	1002, 1015, 1042	1009, 1011,
921-922, 927,	outer, <i>920, 922,</i>	ownership, 960	1013, 1018,
929, 933, 944,	1018	ox, <i>1028</i>	1020, 1023,
949, 959-960,	outline, 918	Oxford, 1042-1044	1026-1027, 1042,
962, 964, 966,	outlined, 985	oxymoronic, <i>1042</i>	1046, 1054
969, 973, 976,	outs, <i>1035</i>	oxymorome, 1012	Paragraph, 964,
987, 989-990,	outset, <i>1021</i>		987, 1000, 1013,
993-994, 1000,	outside, <i>938</i> ,		1040, 1048
1005, 1008-1009,	954-955, 959,		paragraph, 921,
1013, 1016,	1009, 1013	P	924, 942-943,
1018, 1023,	•		945, 947, 949,
1025-1026,	outstanding, 941,		958, 960-961,
1028-1029,	986, 990	Pacific, <i>987</i> , <i>1042</i>	972, 975,
1034-1036,	OVER, <i>994</i>	pack, <i>993</i>	989-992, 1000,
1038-1040,	Over, <i>920, 993,</i>	pack, 993 package, 948, 976,	1018, 1033-1034,
1043-1044, 1050,	1059	1018, 1020, 1038	1036-1037,
1053, 1055-1058	over, <i>917, 920,</i>		1040-1041, 1046,
others, 925, 927,	926, 934-935,	pacta, <i>969</i>	1049-1050
930, 943, 1018,	943-944, 946,	Page, <i>919, 991</i>	paragraphs, 991,
1032, 1046, 1054	949, 951, 957,	page, <i>924</i> ,	1007, 1016, 1042
otherwise, <i>949</i> ,	961, 964, 967,	927-928, 930,	parallel, 976
956, 963, 983,	970-971, 981,	942-944, 947,	paramount, <i>963</i>
988, 999, 1008,	985, 987,	972-973, 975,	paraphrase, 936
1013, 1016,	989-991, 995,	990-993, 1002,	paras, <i>924, 961,</i>
1022, 1040,	997, 999-1001,	1032-1035, 1037,	1015, 1062
1056, 1064	1004-1005, 1008,	1040-1045,	park, <i>944</i>
ought, <i>1015</i>	1011-1012, 1014,	1048-1055,	Parliament, <i>942</i> ,
ourselves, 940,	1016, 1020-1021,	1057-1058, 1060,	• •
975, 1043	1024-1026,	1062	944, 948, 999, 1027
out, <i>920, 924, 926,</i>	1029-1031, 1033,	Pages, 1012	
929-935, 938,	1035, 1037,	pages, <i>944</i> ,	parliamentarians, <i>947</i>
944, 948, 950,	1044, 1047, 1051-1052, 1056,	972-973, 990,	
959-960, 967,	1051-1032, 1030, 1059, 1062	1002, 1012,	Parliamentary,
969, 972-974,	overarching, <i>951</i>	1017, 1036-1037,	942, 944, 953,
976, 978,		1045	1060
980-981, 989,	overblown, 980	paid, <i>975</i>	parliamentary,
991-992, 994,	Oversea, <i>975-976</i>	pains, <i>1017</i> , <i>1024</i>	945, 976
997, 1007, 1009,	Overseas, <i>953,</i>	Pakistan,	Part, 969, 995,
1011-1012,	988, 1054-1055	1012-1013, 1028	1000, 1006-1009,
1014-1016, 1018,	overseas, 955	Palestine, 957	1014, 1016,
1020-1022, 1024,	overtake, 941	Paper, 1028, 1054	1021-1025,
, , , , , , , , , , , , , , , , , , , ,			

1030-1031		987, 1041, 1059	
part, <i>921, 925-928,</i>	Party, <i>942-943</i> ,	perhaps, <i>917</i> , <i>922</i> ,	picked, <i>923</i> , <i>947</i>
930, 933,	1006-1007, 1053	939, 943, 948,	picture, <i>935</i>
943-944,	party, <i>939,</i>	955, 964-965,	piece, <i>923, 929, 981</i>
948-949, 951,	946-947, 1006,	968, 977,	Pitcairn, <i>1054-1055</i>
953-957, 959,	1026, 1041	989-990, 992,	place, <i>923, 925,</i>
964-965, 967,	pass, <i>932</i> , <i>1024</i>	995, 1021, 1028,	933, 936-938,
978-979, 984,	passage, <i>942-943</i> ,	1040, 1047,	940-942, 944,
987, 992, 995,	965, 967, 1035	1056, 1058	947, 952,
998-1003, 1006,	passages, <i>942-943</i> ,	Period, <i>1056</i>	965-967, 969,
1011, 1015-1016,	972	period, <i>934, 936,</i>	973, 983,
1018, 1020,	passed, 927	950-951, 967,	991-992, 1029,
1023, 1028-1030,	past, <i>947, 952,</i>	978, 981-982,	1035, 1053, 1059
1033, 1039,	1012, 1045	984-985, 988,	placed, <i>950</i> , <i>1032</i>
1044-1048, 1056,	pasted, <i>942</i>	1031, 1044,	places, <u>1058</u>
1058	path, <i>922, 980</i>	1047, 1056	plagiarism, 1022
parte, <i>963</i>	patrol, <i>929, 987</i>	permission, 995,	plain, <i>1008, 1017,</i>
participants, 958	patting, <i>991</i>	1026	1021-1022, 1024,
participate, 975	Paturau, <i>1035</i>	permits, 1026-1028	1028
participation, 992	paucity, 1021	permitted, 987	plainly, <i>997</i> ,
particular, <i>948,</i>		perpetuating, 995	1008-1009, 1016,
957, 960, 965,	PAUL, <i>1031</i>	perplexed, 958	1020, 1022,
993, 1006, 1009,	Pause, <i>947</i>	persistent, 961,	1025, 1057
1012-1013, 1017,	pause, <i>932, 954,</i>	963-964	planning, 983
1024-1025, 1028,	1002, 1028, 1021, 1047	person, <i>978, 1011</i>	plans, <u>972</u>
1033, 1035-1036,	1031, 1047	personae, <i>946, 953</i>	Platforms, <u>1011</u>
1041, 1053-1054	pay, <i>973, 987, 1051</i>	personal, <i>1017</i> ,	plausible, 1032,
particularly,	paying, <i>1036</i>	1022, 1062	1040
934-935, 940,	payments, <i>973</i>	Persons, 955	play, <i>1033</i>
946, 962, 977, 1035	pdf, <i>1026, 1028</i>	persons, 982	pleaded, <i>967</i>
Parties, <i>936-937</i> ,	pecial, <i>960</i>	perspective, 968,	pleading, <i>956, 1039</i>
949, 980, 1006,	peer, <i>928, 944</i>	971	pleadings, <i>921</i> ,
1015, 1035,	pejoratives, 997	persuade, 938,	<i>926, 935,</i>
1051, 1062	penalties, 930	948, 956, 958,	950-951,
parties, <i>932</i> , <i>942</i> ,	pending, <i>944, 987</i>	971, 1005, 1014	1015-1016, 1029,
947, 949, 953,	people, <i>924, 941,</i>	pertaining, 920	1038-1039,
970, 980, 998,	945, 959-960,	pertinent, 1013	1045-1046, 1061
1001, 1003,	962, 970-971,	petitions, 941	Please, 1034-1035,
1008, 1013,	978, 982, 985,	Pew, <i>931</i>	1061
1017-1018, 1036,	1056	pg, <i>961</i>	please, <i>961, 980,</i>
1051, 1064	peoples, <i>957-961</i> ,	phenomenon, 962	982, 1002, 1006,
partisan, <i>1048</i> ,	969, 1009	Philippe, <i>920, 994</i>	1040, 1048
1059	per, <i>987, 1036</i>	phrase, <i>948</i> , <i>989</i> ,	pledge, 1042-1043
partly, <i>941</i>	perceived, 990	1042, 1050, 1057	plenary, <i>1018, 1020</i>
partnership, 987	perfectly, 979	phrases, 960	plotted, <u>1061</u>
parts, <i>928</i>	Perhaps, 918, 967,	prirases, 300	plural, <u>1050</u>
par 6, 520			piarai, 1000

plus, <i>973, 1032</i> PM, <i>989</i>	population, 962-963, 966-968 populations, 967	powerful, <i>969</i> powers, <i>930, 957,</i> <i>961, 974, 1024</i>	1046-1047, 1053, 1058-1059 premise, 980-981 premised, 1027,
PMSD, <i>1041</i> podium, <i>927, 1030</i>	Port, <i>952, 988,</i>	pp, <i>921</i> , <i>961-962</i> ,	1029
poenitentiae, 964	1029, 1048, 1060	968, 1015, 1018,	premises, 970
point, <i>923</i> , <i>927</i> ,	portion, 929	1021	preoccupation,
929-930, 932,	portions, 1054	PPS, <i>946</i>	1050
934-938, 940,	portrayal, 973	practicable, 1051	preparatoires, 1015
945-946, 948,	Portugal, 1029	practice, <i>954, 957,</i>	prepared, 974,
950-951,	Portuguese, 1029	964-965, 984,	993, 1020,
954-957, 959,	pose, 952	1012, 1031,	1033-1034, 1055,
961, 964-965, 968-970, 974,	posed, <i>928</i> , <i>936</i> ,	1044-1045, 1051-1052-1055	1059
976-977,	944, 971, 1032,	1051-1053, 1055, 1059-1060	prescribes, 959
983-987,	1034, 1045	practiced, 1052	prescription, 958
993-994, 998,	position, <i>921-922</i> ,	pre, <i>921, 939, 982,</i>	presence, <i>982,</i> <i>1003, 1011</i>
1001-1002,	926, 928-929,	985, 1045, 1047	present, <i>940, 976,</i>
1004-1005, 1007,	933, 937-938, 943, 947, 950,	Preamble, <u>1008</u>	992, 1013, 1021,
1011, 1013-1016,	954-955,	precise, <i>923</i> , <i>965</i> ,	1057, 1059
1020, 1022-1025,	962-963, 967,	1045	presentation, 926,
1027-1028, 1036,	969, 972, 974,	precisely, <i>962</i> , <i>980</i> ,	956, 961, 974,
1038, 1041,	977, 980-981,	1028, 1045,	977, 986, 997,
1050-1051, 1054, 1059, 1063	987, 993, 998,	1055, 1057, 1060	1014, 1033,
pointed, <i>929</i> ,	1013, 1015,	preclude, <i>941, 997</i>	1038, 1048,
958-959, 974,	1044-1047,	precluded, 1007,	1050, 1052-1053,
981, 1009,	1049-1050, 1060	1014, 1029	1060
1053-1054	possession, 1033	precludes, 1015	presentational,
pointing, 974	possibilities, 974,	preconditions, 993	1029
points, <i>940, 943,</i>	1058, 1061	predetermined,	presented, <i>938</i> ,
954, 961, 963,	possibility, <i>972</i> ,	971, 974	1027, 1037
972, 991-992,	974, 981, 983,	prefatory, 1050	presenting, 995
997, 1015, 1021	<i>992, 1028</i> possible, <i>919, 922,</i>	prefer, <i>973, 997</i>	presents, <i>939</i> , <i>1029</i>
Policy, 953, 960,	924, 931, 948,	preference, 1057,	presided, <u>970</u> PRESIDENT,
975-976	971, 978, 981,	1059	917-919, 927,
policy, <i>932, 974,</i>	984, 987, 1000	preferences,	952, 966, 979,
987	Possibly, 949	1057-1058	984-986, 994,
political, <i>947</i> , <i>959</i> ,	possibly, <i>987, 1024</i>	preferential,	1013-1014,
969, 1025	possidetis, <i>961-963</i>	1056-1059	1030-1031, 1041,
politically, 1045	post, <i>957, 967, 981</i>	preferred, 1020	1059-1060, 1063
politicians, 936,	potato, <i>927</i>	prejudice, <i>959,</i> <i>992, 1052</i>	President, 917-920,
947, 973	potentially, 924	preliminary, <i>921</i> ,	925, 927-929,
politicised, 976	power, <i>924</i> , <i>962</i> ,	926, 1015	942, 951-953,
pollution 086	969, 977, 980,	Premier, <i>971-972</i> ,	957, 963,
pollution, 986	982-983	974, 1034-1037,	976-977,
		,	

985-986, 988,	963-965, 969,		
994, 1007-1008,	977, 1008, 1016,	proclaimed, 959	promises, 970
1013-1014,	1020, 1023	Proclamation,	promoting, 960
1021-1022, 1024,	Principles, 958	965-966	prompted, 942
1029-1031, 1038,	principles, <i>950</i> ,	procured, 970	
1040-1041, 1046,	962-964	produce, <i>929, 942,</i>	pronounce, 1007
1059-1060, 1063	Prior, <i>1054</i>	949, 966, 1039	proofreader, 1021
Press, 1042-1043	prior, <i>960, 967,</i>		proper, <i>951, 973,</i>
pressed, <i>940, 943,</i>	977, 980, 1055,	produced, <i>922</i> ,	997, 1023-1024,
1042	1058	940, 953, 1033	1056
pressure, <i>969, 978,</i>		produces, <i>1029</i>	properly, <i>936, 946,</i>
981	priori, <i>1002, 1020</i>	product, <i>1037</i>	972, 1002
presumably, 925,	Private, <i>932</i> , <i>936</i> ,	Products, 1012	proportion, 929
980, 1025	974, 989	professed, 1008,	proposal, <i>917-918,</i>
presume, <i>1020</i> ,	private, <i>919</i> , <i>929</i> ,	1047	931-933,
1059	934, 939, 987,	PROFESSOR,	936-937, 956,
presumption, 982,	995	917-918, 952,	960, 989, 1047,
1021	pro, <i>977, 1037,</i>	964, 966-968,	1055, 1057
	1046	978-979,	proposals, <i>975,</i>
pretended, 954	probably, <i>922, 925,</i>	981-985, 1011,	1035
pretty, <i>917, 963</i>	928, 984-985,	1013-1014, 1027	propose, <i>932, 938,</i>
prevent, <i>931, 962,</i>	1059	Professor, 920,	951, 1048, 1060
968, 1024	problems, 990	923, 925-926,	proposed, 918,
prevented, 973	procedural, 919	928-929,	932, 938, 992,
preventing, 967	procedure, 940,	931-933, 937,	1036, 1038,
prevention, 986	1028	940, 952-953,	1057-1058
previous, <i>919</i> , <i>947</i> ,	procedures, 948,	963, 965-966,	proposing, <i>954, 992</i>
957, 992, 1050	985, 1014	978-980, 983,	proposition, 966,
previously, 939,	proceed, <i>937</i> , <i>947</i> ,	985, 994-995,	970, 1005, 1023,
953, 1023, 1037	975, 1007, 1027,	998, 1000, 1002,	1061
price, <i>973</i>	1042, 1059	1004, 1008,	propositions, 949
prides, <i>997</i>	proceeded, 953	1011, 1022-1025,	prospecting,
prima, <i>1013</i>	proceeding, 1007,	1027-1029,	1048-1049
primarily, <i>937</i> , <i>1018</i>	1032, 1064	1032-1033, 1047, 1059	prospection, 1048
primary, <i>968, 1017</i>	Proceedings, 1062		prospects, 1025
Prime, <i>938-941</i> ,	proceedings, 928,	program, <i>967</i>	Protected,
951, 969, 971,	940, 949, 951,	progress, 930	920-921, 925,
974-975, 989,	958, 1007, 1013,	prohibiting, 1053	930, 938, 942,
991, 1034, 1036,	1016, 1026,	Prohibition, 1012	999-1000, 1030
1047-1050, 1060	1032, 1047,	prohibition, <i>929</i>	protected, 944,
Princess, 1017	1055, 1062, 1064	project, <i>930-931</i> ,	947-948, 987
princess, 1017	process, 917, 919,	934, 944	Protection, <i>988</i> , <i>990</i>
principal, <i>963</i> , <i>967</i> ,	930, 932-933,	prominent, 1060	protection, 931,
1035	935, 938, 943,	promise, <i>948</i> ,	933, 941, 943,
principally, 1023	945, 957-958,	1042-1043	948, 986, 1025,
principle, 933,	966, 983	promised, 944,	1061
958-959, 961,	processing, 966	956, 1052	protective, 969
JJU JJJ, JUI,			

	926, 953, 995,		
protest, 976, 1029,	999, 1037,	_	quick, <i>961, 1011</i>
1061	1060-1061	$\mathbf{O}$	quickly, 943
protests, 1061	purportedly, 970,	Y	quid, <i>977, 1037,</i>
prove, <i>934, 1030</i>	998, 1032		1046
provide, <i>980, 1006,</i>	purporting, 1006	QC, <i>920, 994, 1027</i>	Quite, <i>933</i>
1014, 1033	purports, 1008	qualify, <i>978, 984,</i>	quite, <i>923,</i>
provided, 928, 947,	purpose, <i>929, 954,</i>	1006	935-936, 938,
955, 981,	956, 958, 962,	quality, <i>986, 1042</i>	943, 958, 967,
987-988, 1014,	968, 1007-1008,	quasi, <i>984</i>	972, 983-984,
1053	1035, 1038,	Question, 962,	989-991, 993,
provides, <i>929-930</i> ,	1050, 1062	1033-1034	995, 998
958, 961, 970,	purposes, 945,	question, 919-922,	quixotic, 936
1004, 1022,	951, 954, 956,	927-930, 933,	quo, <i>977, 1037,</i>
1025, 1050-1051,	962, 967-968,	936, 941-942,	1046
1061	995, 999,	944, 946, 950,	quotations, 1021
providing, 989	1004-1005, 1025,	953, 957, 959,	quote, <i>923-924,</i>
province, 1029	1033	961, 963,	927-929, 965,
provision, <i>956,</i>	pursuant, <i>967,</i>	965-971, 975,	986, 1023,
960, 987, 1003,	1048-1049, 1051-1052,	978-980, 984,	1025-1026, 1028,
1009, 1016-1017,	1051-1052, 1054-1055	986-988, 995,	1045, 1049, 1057
1024		997-1002,	quoted, <i>963, 1057</i>
provisional, 981	pursue, <i>931</i> pursuit, <i>1005</i>	1004-1007, 1009,	quoting,
provisions, 926,		1012-1013, 1016-1017,	1037-1038, 1045,
949, 960, 1004,	push, <i>956</i> put, <i>920-922,</i>	1020-1024, 1027,	1049
1007-1009,	924-925, 928,	1031, 1034,	
1025-1026, 1029	937, 939, 947,	1036, 1039,	
proviso, <i>959,</i> <i>1015-1016</i>	949, 957,	1041-1042,	
provoked, <i>962</i> ,	964-965,	1044-1046, 1049,	D
1050	968-969, 973,	1052-1053, 1059	
prudent, <i>1043</i>	978, 995,	questioner, 1052	
pry, 1056	1001-1002, 1012,	questioning, 1059	raft, <i>931</i>
public, <i>919</i> ,	1015, 1017,	Questions, 923,	raise, <i>918, 1005,</i>
936-938, 941,	1021, 1023-1024,	927, 1005	1015
967, 976, 982,	1027, 1035, 1042	questions,	raised, <i>924-925</i> ,
987, 993	puts, <i>998,</i>	918-919, 921,	940, 947, 966,
publicly, <i>1012</i> , <i>1028</i>	1002-1003, 1008,	923, 927-928,	969, 999-1000,
published, 919,	1017	936, 941, 944,	1015-1016, 1029
938, 1021, 1028	Putting, <i>1007, 1027</i>	952-953, 967,	raises, <i>999, 1003</i>
pull, <i>930</i>	putting, <i>922-923,</i>	971, 974, 979,	RAMGOOLAM, 1033
punch, <i>942</i>	937	<i>986, 994-995,</i>	Ramgoolam,
pure, <i>971, 1008</i>	puzzled, <i>964</i>	997-999, 1002-1003, 1006,	938-941,
purely, <i>1007</i>	puzzling, <i>953</i>	1002-1003, 1000,	971-972, 974,
purported,		1020-1024, 1030,	989, 991-993,
920-921, 924,		1032, 1035, 1045	1034-1037, 1047,
, - <del>-</del> -,		,,	

1049 random, 1007, 1011 range, 1007, 1016 ranking, 975 Rao, 1023 rarely, 1054 Rather, 950	1040-1042, 1045, 1048, 1050, 1057-1059 readers, 1024-1025 reading, 936, 938, 942-943, 1023-1024, 1032, 1048, 1050	reasons, 921, 937, 954, 968, 976, 983, 991, 1014, 1035, 1037, 1043, 1056 recall, 928, 931, 939, 944, 988,	recommended, 993 reconcile, 934 reconsider, 1061 reconstruct, 989 reconvene, 918 Record, 991, 1033
rather, 917, 920-922, 939,	readout, <i>942, 991</i> reads, <i>954, 1034,</i>	997, 1013, 1032, 1040, 1047	record, 924, 932, 934, 936, 940,
952, 973, 980-981,	1040	receive, <i>972, 981</i>	944, 947, 950-951, 953,
990-991,	ready, 973	received, 941, 973,	963, 972-974,
997-1000, 1003,	reaffirm, 1063	984, 988-989, 991	989-992, 1011,
1015, 1017,	reaffirmation, 959,	receives, 1046	1018, 1021,
1030, 1048, 1059	977, 980, 984,	recent, <i>930, 956,</i>	1033-1038,
ratified, <i>935, 976,</i>	1049	992 recently, 1005	1040-1042, 1047-1054, 1064
1006	reaffirmed, <i>979,</i> <i>1055</i>	reception, 957	1047-1054, 1064 recorded, 931,
ratifying, <i>1014</i> rd, <i>924, 938, 960,</i>	reaffirming, 998,	Recess, 944	933, 947, 990,
1033-1034	1045, 1047	recess, <i>942</i> , <i>952</i> ,	1033-1034, 1037,
rdDefence, 953	real, <i>922, 932, 946,</i>	1014, 1041	1064
RDR, <u>1064</u>	950, 955, 978,	reclassifies, 957	records, <i>933</i> , <i>961</i> ,
re, <i>918, 922, 930,</i>	1000, 1016,	recognise, 961,	971, 974, 987,
934-936, 947,	1029, 1047	1024-1025,	989-991, 1018,
955, 981-984,	realistic, 993	1027-1028	1045
986, 988, 992,	reality, <i>954, 956,</i>	Recognised, 1028	recounting, 1021
994, 999, 1002,	969	recognised, 922,	recourse, <i>924,</i> <i>1009, 1011</i>
1005, 1012,	realize, 935	957, 961, 1004,	recreational, 987
1018, 1042-1043, 1049, 1054	really, <i>923,</i> <i>935-936, 941,</i>	1007, 1029	red, <i>943, 947, 972,</i>
reach, <i>949, 1006,</i>	984, 1005, 1007,	recognises, 957	1061
1009, 1012,	1012, 1015,	recognising, <i>1017</i> recognition,	redacted, 1038
1030, 1059	1058-1059	922-923, 984,	reduced, <u>1064</u>
reached, 917, 968,	realm, <i>969</i>	989, 1060	refer, <i>932, 939,</i>
980, 1012,	rearrangements,	recognized, 960,	949-950, 953,
1016-1017, 1023,	962	999, 1054	958, 972, 990,
1033, 1039-1040,	reason, <i>917, 924,</i>	recollect, 989	992, 1007, 1012,
1055	929, 934, 936,	recollection, 939,	1032-1034, 1036,
reacting, 967	982, 991, 993,	1042, 1048	1041, 1044
reaction, <i>931, 966</i> reactions, <i>990</i>	1005, 1026, 1058, 1061-1062	recollections, 1017	reference, 921, 930, 946-947,
read, <i>926, 932-933,</i>	reasonable, <i>932</i> ,	recommend,	955, 957, 959,
953, 965,	936, 951, 1043,	1033-1034	977, 986, 992,
990-991, 1012,	1046	recommendation,	1008-1009,
1017-1018,	reasoned, 1015	1049 recommendations,	1011-1012, 1027,
1027-1028, 1035,	reasoning, 1024	1050	1038, 1041,

989, 993, 1033	1026, 1037	960, 1012	993
replies, 933	requirement, 949,	respect, 926, 956,	retain, <i>970-971</i> ,
Reply, 953, 987,	1004, 1055	962, 968-970,	1004, 1033
1000, 1015-1016,	requirements, 928,	974-975, 977,	retained, 981,
1018, 1042	948, 950-951,	981, 999, 1001,	1001, 1049
reply, <i>918, 928,</i>	970-971, 984,	1009, 1013-1014,	retains, 982
953, 990, 993	995, 1008,	1020, 1025-1028,	reticent, 1008
Replying, 969	1058-1059	1031, 1042	retina, <i>954</i>
repopulation, 967	requires, 997, 999,	respected, 1056	retold, 971
Report, 986, 1012	1009, 1014-1015	respectful, 1000	retrospect, 966
report, <i>941, 944,</i>	Res, 959, 962	respectfully, 975,	retrospectively, 964
986, 988, 1029,	res, <i>979</i>	1040, 1062	return, <i>921</i> ,
1054-1055	Research, 1054	respond, <i>919</i> , <i>921</i> ,	926-928, 968,
reported, 924,	research, 1000,	924-927, 940,	973, 979, 985,
1033-1034, 1043	1024	953, 965, 986,	1005-1006, 1017,
REPORTER, 1064	reserve, 928, 932,	995, 997-998,	1030, 1034-1035,
Reporter, 1064	987, 1055	1015, 1031,	1038, 1041,
reporting, 1041,	reserves, 1050	1038, 1045	1044, 1046
1056-1057	reserving, 1050	responded, 944,	returned, <i>964, 1034</i>
Reports, 958-959,	resettled, 956, 968,	993	Returning, 1043
962, 1011, 1013,	<i>1053</i>	respondent, 1006	returning, 973
1042	Resettlement, 1038	responding, 921	revenue, 1018
reports, 919	resettlement, 931,	response, <i>920-923</i> ,	reversal, 983
representation,	956, 967-968,	927, 940-943, 954, 963, 965,	reverse, 982
984-985	1053	971, 989, 1012,	reversion, 983,
representations,	resettlements, 967	1033, 1037-1038,	1032-1033, 1046,
933	residents, 956,	1045, 1053,	1063
representative, 944	1030	1055, 1062	reversionary, 920
representatives,	Resolution, 923,	responses,	revert, 956, 968,
970-973,	957-958,	941-942, 957,	995, 1033, 1047
981-982, 990	960-962, 964, 966	986, 1039	reverted, 973, 1049
represented, 985	resolution, 948,	responsibility, 947,	reverts, 1036
representing, 1041	995, 1007-1008	969-970, 982	review, 1026,
represents, 1021	resolutions,	responsible, 962	1032, 1040,
Republic, 920, 938,	960-961	rest, <i>937, 990</i>	1044, 1055
994, 1011,	resolve, <i>990, 1002,</i>	restatement, 1015	reviewed, 928,
1026-1030	1004, 1009,	restating, 961	974, 1032, 1037,
repudiate, 969	1027, 1029	restricted, 987	1047, 1053-1054,
request, 926-928,	resolved, <i>952, 997,</i>	rests, 970	1062
954, 992, 1031,	1003, 1005-1006,	result, <i>926, 1003,</i>	reviewing, 1050
1055, 1061	1016, 1028	1023, 1053	rhetoric, 980
requested, 917,	resolves, 1022	resulted, <i>955, 958,</i>	Richards, 1026
1040, 1057	resolving, <i>990, 1023</i>	973	rightly, 997
require, 1001, 1006	resorted, 995	results, <i>1061</i>	Rights, 944, 956,
required, 931, 933,	resource, 1012	resume, <i>917, 952,</i>	987, 1054
	resources, 920,	10001110, 517, 552,	

rights, 920-922, 926, 931, 951, 956, 959-960, 978, 1004,	ruled, 1012, 1026, 1054 rules, 958-959, 1009, 1011-1012	1060, 1062 SANDS, 917-918, 985, 1011, 1013-1014, 1027 Sands, 917-920,	School, 960 scientific, 925, 927-929, 986, 1000, 1024
1007-1008, 1014, 1018, 1025-1027, 1032, 1035-1036, 1046, 1048,	run, <i>917, 921, 962, 985, 1025</i> runner, <i>957, 965</i> running, <i>951-952,</i>	927-928, 953, 985, 994, 1011, 1014-1015, 1027, 1030	scientists, 933, 999 Scope, 1062 scope, 963, 1008 Scott, 1038
<i>1050-1063</i> risk, <i>1026</i>	992-993	sann, <i>1028</i>	scratched, 990
Rob, <i>1017</i>	runs, <i>934</i>	São, <i>1029</i> satisfactory, <i>948</i>	screen, 1061
Roberts, 919,	rush, <i>944</i> rushed, <i>951, 962</i>	satisfied, 939	script, 1017
931-932, 934,	Russia, <i>949-950</i>	satisfies, 971	scrutiny, <i>962-963,</i> <i>965</i>
987, 1054-1055	Russian, <i>1004-1005</i>	satisfy, <i>949, 963</i>	Sea, <i>949, 960,</i>
robotically, <i>1044</i> RoC, <i>1027</i>		Saturday, 940	999-1001, 1004,
Rodrigues, <i>955</i>		save, 1038, 1053	1038
role, <i>982, 1004,</i>		saving, <i>959, 1012</i>	sea, <i>999-1001,</i>
1023, 1060	S	saw, <i>922-923, 937,</i> <i>965, 974, 1057</i>	1003, 1008, 1012, 1023-1024,
room, <i>975, 1011</i>	<b>5</b>	sawn, <i>1043</i>	1053
rooms, <i>952</i>	C 1 004	saying, <i>930-931,</i>	seas, 1004, 1053
Rosenne, 960	safeguard, 924	933-935,	seawater, 986
Round, <i>928,</i> <i>1051-1052</i>	safeguarded, <i>1053</i> Sahara, <i>958-959</i>	937-938, 944,	Second, <i>928</i> , <i>970</i> ,
round, <i>917</i> ,	Saiga, 1009	947-948, 963-964, 980,	997, 1018, 1036, 1039, 1043
919-920, 922,	sail, 1004	982-983, 989,	second, <i>917</i> ,
925, 930,	sake, <u>964</u>	1005, 1007,	919-920,
933-934,	salami, <u>1022</u>	1033, 1045	<i>925-926, 930,</i>
936-941, 949, 957, 961,	Saltaire, 944	says, <i>940, 942-944,</i>	942, 947, 955,
963-964, 966,	same, <i>922-923</i> ,	949, 972, 974-975, 977,	961, 964-965,
971-972,	931, 935,	986, 989-992,	975, 979, 982-984,
976-978, 989,	937-938, 944, 965-966,	995, 998,	989-990,
997, 1015, 1022,	<i>971-972, 983,</i>	1001-1003,	1003-1004, 1006,
1031, 1038, 1045, 1047,	985, 988, 1005,	1006-1007, 1012,	1009, 1014,
1049, 1060	1011, 1022,	1016-1018, 1020, 1022, 1025,	1018, 1031,
rounds, <i>921</i> , <i>938</i> ,	1025, 1027,	1022, 1023,	1038, 1045, 1049, 1057,
980, 1029	1032-1033, 1036, 1039, 1041,	1052, 1058	1059, 1061
ru, <i>1017</i>	1044, 1046,	SC, <i>953</i>	Secondly, <i>954, 958</i>
ruat, <i>998</i>	1050, 1053, 1061	Scene, 1017	secondly, 928, 953,
Rüdiger, <i>923</i>	Sander, 1035,	scepticism, 961	972
rule, <i>925, 962-963,</i> <i>965-968, 997,</i>	1041-1043, 1048,	schedule, <i>917</i>	seconds, <i>997</i> ,
1020, 1028, 1030	1050, 1052, 1054, 1057-1058,	scheduled, <i>932,</i> <i>1026</i>	1002-1006, 1027 secret, 975
1020, 1020, 1000	1037, 1037-1030,	1020	300101, 3/3

Secretaries, 1062 SECRETARY, 1033 Secretary, 923,	seems, 931, 935-937, 941, 943, 950,	Separately, 938 separately, 941 separating, 1053	sfy, 1017 shall, 960, 962, 1005, 1014, 1025
931-932,	954-955, 980,	September, 953,	shape, <i>936</i>
934-938, 942,	990, 999, 1007, 1009, 1028, 1059	969, 971-972,	shaped, <i>952</i>
944, 953, 963, 971 <i>-</i> 972,	seen, <i>934</i> ,	974, 987, 1032-1035, 1037,	share, 960, 969
974-976, 989,	937-938,	1032-1033, 1037, 1039, 1039, 1047-1050,	shares, <i>1052</i> sharing, <i>1018</i>
992, 1026-1028,	940-942, 945,	1057, 1060	SHEARER,
1033-1034, 1040,	947-948, 954,	seq, <i>1011</i>	917-919, 927,
1057 Section, 955, 986,	972, 989, 999, 1040, 1043, 1057	series, <i>923, 940,</i>	952, 966, 979,
1054-1055	sees, <i>961</i>	<i>1061</i> serious, <i>935</i> ,	<i>984-986, 994,</i>
section, <i>955</i> , <i>1014</i>	Seewoosagur,	940-941, 945,	1013-1014, 1030-1031, 1041,
secure, <i>925, 948,</i>	972-973, 976	947, 969	1059-1060, 1063
956, 973	seize, <i>1006</i>	seriously, 923	Shearer, 927
secured, <i>974</i> , <i>1052</i>	selection, <i>950</i> Self, <i>962</i>	seriousness, 933	Shelf, <i>921</i>
securing, <i>924, 956</i> security, <i>974</i>	self, <i>923, 925, 951,</i>	servanda, 969	shelf, <i>920, 922,</i>
sedentary, 943	953-954,	servant, <i>1054</i> servants, <i>999, 1062</i>	1018 Sheppard, 929
See, <i>923</i> , <i>1005</i> ,	956-963, 965,	serves, <i>959</i>	ship, <i>1004-1005</i>
1023	968-971, 974,	service, <i>1026</i>	ships, 1004
see, <i>920, 929-933,</i>	981, 984-985, 995, 998, 1000,	sessions, 920	shoehorning, 1001
935-936, 940, 942-947, 953,	1004, 1006-1009,	set, 920, 924, 936,	Shooting, 1017
967, 972, 983,	1024, 1032, 1056	985, 991, 997,	short, <i>977, 985,</i>
989-993, 1000,	seminars, 992	1004, 1011, 1014-1015,	989, 992, 997, 1047, 1050
1002-1004,	send, <i>946</i>	1017-1018, 1033,	shortly, <i>988, 1039</i>
1011-1013, 1017, 1021, 1023,	sending, <i>922, 989</i> senior, <i>990, 1045,</i>	1036, 1038,	Shouldn, 967
1027, 1030,	1047, 1062	1040, 1048-1051,	shouldn, 1046
1033-1034, 1036,	sense, <i>920, 922,</i>	1058 sets, 969	show, <i>923-924</i> ,
1042, 1050,	943, 948, 965,	setting, <i>1044, 1058</i>	934, 937, 1011,
1054, 1057, 1061 Seeballuck, 992-993	985, 1020, 1029	settle, <u>1008</u>	<i>1017, 1053</i> showed, <i>949, 974,</i>
seeing, <i>921</i>	sensible, <i>950, 985</i> sensitive, <i>945, 1020</i>	settlement, 949,	1060
seek, <i>920, 926,</i>	sent, <i>930, 988,</i>	998, 1008, 1018,	showing, <i>932, 983</i>
939, 977, 1009,	991, 993, 1040,	1020-1021, 1025-1026,	shown, <i>949</i> , <i>1016</i> ,
1028	1045, 1048, 1055	1028-1030	1030
seeking, <i>936</i> , <i>1009</i>	sentence, <i>975,</i>	seven, <i>985</i>	shows, <i>932, 934,</i> <i>951, 961, 982,</i>
seeks, 929, 978, 995, 1009, 1015	992, 1041, 1049 sentences, 992	several, <i>993, 1028</i>	1016, 1020,
seem, 1004, 1044	separate, <i>955</i> , <i>962</i> ,	severed, 1061	1036, 1038, 1044
seemed, <i>928-929</i> ,	967, 1016	Seychelles, <i>943</i> , <i>964</i> , <i>973</i> , <i>975</i> ,	Shrimp, 1012
1025	separated, 953	983, 1054, 1056	side, 919, 927, 980,
		•	

986, 990, 994,	975-976, 980,		1062
1006, 1011,	1007, 1009,	Smith, 1035, 1048	sovereignty, 951,
1034-1035, 1039,	1045, 1056	So, <i>929</i>	967-968, 971,
1044, 1051,	sincerity, 923	soften, <i>995</i>	981, 984,
1059-1060	single, <i>922-923</i> ,	solely, <u>1060</u>	992-993, 997,
sides, <i>933, 974,</i>	968, 1012, 1039	solution, 974	999-1002,
1032, 1035-1036	singled, 1007	somebody, <i>1058</i>	1004-1005, 1012,
sign, <i>981</i>	SIR, 1033	somehow, <i>997,</i>	1014-1018,
signally, 972	Sir, <i>921-922, 924,</i>	1000, 1003,	1020-1030,
signals, 922	952, 954-959,	1014, 1029,	1032-1033,
signed, <i>935</i> , <i>941</i> ,	961-964,	1050, 1060	1045-1047, 1052,
970, 975, 1006	966-969,	someone, <i>947</i> ,	1060, 1063
significance, 961,	971-976, 978,	975, 992, 1057	Spain, <i>961, 1020</i>
987, 1037	983-985, 995,	sometime, <i>919, 994</i>	spanning, 1039
significant, 921,	999, 1003	sometimes, 935,	spare, <i>1017</i>
936, 1036	sir, <i>964, 979,</i>	946	sparse, <i>1021</i>
signifies, 975	981-982, 984	somewhat, 917,	spawning, 1061
signing, 1014	sister, 958	922, 925, 938,	speaking, 917,
silence, <i>927, 978,</i>	sit, <i>1030</i>	980	946-947
982	site, 942	somewhere, 1015	speaks, <i>957, 963</i>
silent, 978	sitting, <i>942</i> , <i>967</i> ,	soon, <i>995, 1029,</i>	special, <i>985, 987,</i>
silo, <i>1018</i>	1011, 1029	1056	1024
siloed, <i>1022</i>	situation, <i>931</i> , <i>957</i> ,	Sorry, <i>978-979, 992</i>	specially, 957
similar, <i>959</i> , <i>1023</i> ,	961, 964-967,	sorry, <i>918-919</i> ,	specific, 921,
1036, 1058	978-979,	934, 945-947,	949-951, 960,
Similarly, 1023	982-985, 990,	966, 979-980,	1031-1032,
similarly, 1044	995, 1003, 1007,	984, 1002, 1050	1037-1038, 1040
simple, <i>921-922</i> ,	1024, 1027	sort, <i>978, 980, 984,</i>	specifically, 936,
1005-1007, 1027	situations, 958,	1021	943, 950-951,
simply, <i>917</i> ,	965, 984	Soufraki, <i>1011</i>	975, 986,
929-932, 935,	six, <i>934-935, 1060</i>	sought, <i>926, 941,</i>	991-993, 1048
938-940, 947,	sixth, <i>1034</i>	949, 998, 1000,	specificity, 1051
949-951, 955,	sketch, 980	1005, 1014,	specified,
957, 963, 973,	sketched, 950	1022, 1027,	1035-1036
997-998, 1004,	skies, 1030	1040, 1057	speculation, 1059
1006, 1016-1017,	skip, <i>943, 1049</i>	sounded, 997	SPEECH, <i>920, 994</i>
1021-1023, 1036,	skipping, <i>943</i>	source, <i>924</i> , <i>931</i> ,	Speech, 953
1043, 1047-1048,	skirt, <i>1024</i>	956, 1035, 1046,	speech, <i>932, 948,</i>
1058	slate, <i>977, 981</i>	1057	1008, 1016,
simultaneously,	sliced, <i>1022</i>	sources, 1007, 1022	1054, 1059-1060
950	slightly, <i>943, 992</i>	South, <i>961, 1004,</i>	speeches, 917,
Since, 940, 1033,	slot, <i>919</i>	1042	<i>950-951, 976</i>
1052	slowly, <u>1002</u>	sovereign, 951,	speed, <i>942</i>
since, <i>929, 938,</i>	slur, <i>924</i>	959, 969, 1018,	speedy, <i>958</i>
952, 955, 958,	small, <i>969, 976, 984</i>	1026-1027, 1052	spend, <i>946</i>
965, 967,	3111a11, 303, 370, 304	Sovereignty, 1025,	spent, 926, 938,

1012, 1039, 1059	969, 971,		1044
spin, <i>1029</i>	973-974,	Status, 956	strictly, 1023
spoke, <i>971, 1001</i>	976-977,	status, <i>921, 926,</i>	strike, 946
spoken, <i>966</i>	983-984, 995,	952-954,	strikes, 1024
spot, <i>1054</i>	997-1009, 1012,	959-962, 1045,	striking, <i>921, 997</i>
square, <i>929</i> ,	1014-1015, 1017,	1061	strikingly, 1015
999-1001	1020, 1022-1028,	Steel, 1038-1039,	strip, <i>1036</i>
squeeze, <i>1057</i>	1030-1031, 1040,	1044	stroke, <i>1056</i>
st, <i>920, 923, 928,</i>	1045-1046,	steer, <i>968</i>	strong, <i>924-925</i> ,
935, 941-943,	1055-1056	Stefan, 1028	936, 988
950, 1029	state, 969, 997,	stenographically,	strongly, <i>1017</i>
stability, <i>962, 969</i>	1000, 1002, 1004-1005, 1008,	1064	struggle, <i>971</i>
stadium, 957	1014, 1016,	stepped, 933, 949	struggled, 924
Staff, <i>991</i>	1028, 1030, 1050	steps, 1040	struggles, 962
Stage, 1062	stated, 921, 933,	stick, <i>965, 997</i>	Stuart, <i>1048</i>
stage, <i>930,</i>	938-939, 964,	still, <i>929, 935, 938,</i>	study, <i>928</i>
933-934, 940,	968, 982	941, 944, 951,	sub, <u>1005</u>
947, 951, 980,	Statement, 919,	972, 977-979,	Subject, <i>1014</i>
993, 1004	941, 987	987, 1011,	subject, <i>941, 950,</i>
stages, 930	statement, 919,	1021-1022, 1034,	970, 988, 990,
stake, <i>968</i>	939, 941-943,	1038	995, 998, 1002,
stakeholders, 930	953, 995, 1002,	stock, <i>945</i>	1013, 1023,
stance, 1060	1022-1023, 1033,	stone, <i>936</i>	1026, 1043,
stand, 970-972,	1051, 1055	stood, <i>965</i>	1051, 1055
999, 1027, 1031,	statements, 921,	stop, <i>965, 1063</i>	subjects, 1005
1039, 1047	976, 1018, 1023,	stopped, <i>922, 1029</i>	submission, 922,
standard, <i>968, 978</i>	1034, 1045,	stopping, 1059	928, 932,
standards, 977	1047, 1052	story, <i>971, 974</i>	937-938, 941,
standing, 999	States, <i>932, 948,</i>	straight, <i>1008, 1042</i>	949-950, 952,
standpoint, 980	957-960, 962,	straightforward,	986-988, 995,
stands, 917, 984	965-966, 969,	940, 1002	997, 999-1000,
start, 917, 933,	975, 977, 979, 982, 985, 990,	straining, 1043	1004-1005, 1008,
963, 980, 985,	1003-1004,	strait, <i>1007</i>	1031, 1058-1059
998, 1002	1006-1007,	straits, 1007-1008	submissions, 926,
started, 1029	1011-1012, 1020,	strange, <i>1061</i>	928, 930, 934,
starting, 1002,	1022, 1028-1029,	Strasbourg, 956	941, 949-950, 952, 985, 995,
1035, 1053	1034, 1053,	strategic, 995	1011, 1021, 1030
starts, <i>947, 991</i>	1056, 1062	strategy, 968	submit, <i>926, 948,</i>
STATE, <i>994, 1031,</i>	states, 960, 969,	streamlined, 930	951, 970, 1030,
1033	1006, 1018,	Street, 974, 1034	1040, 1044,
State, <i>920-923</i> ,	1025, 1035,	streets, 981	1046-1047, 1053,
925-926, 931,	1054, 1061	strength, 950	1056, 1062
944, 949-951,	static, <i>956</i>	stress, 975	submits, <i>1046</i>
953, 959,	stating, <i>1055</i>	stretching, 935	submitted, 917,
962-963, 967,	STATUS, <u>1031</u>	strict, <i>968, 984,</i>	1001-1002, 1014,

1023, 1039,			940-941,
1058-1059	suggesting, 972	Survey, <i>930</i>	<i>972-973, 989,</i>
subsequent, 933,	suggestion, 958,	survival, 973	992, 1060-1061
937, 939, 965,	992, 1003, 1059	survive, 930	Talmon, 1028-1029
976-979, 1031,	suggests, <i>961, 992,</i>	susceptibility, 1045	task, <i>930, 940, 995</i>
1044-1045, 1048,	1008, 1016,	susceptible, 1030	taught, <i>1021</i>
1051-1052, 1059	1020, 1055	suspect, <i>947</i> , <i>1003</i> ,	taut, <i>932, 936</i>
subsequently, 919,	sui, <i>978-979, 982</i>	1009, 1011	team, <i>927, 933</i>
952, 969, 978,	suit, <i>981, 988</i>		technique, 1029
1049	suitor, <i>954</i>	suzerainty, 1025	• •
subsidiary, 1017	sum, <i>973</i>	sympathetic, 974	Telegram, <i>1040,</i> <i>1057</i>
substance, 975	•	system, <i>935</i> , <i>965</i> ,	
substantial, 941,	summarise, 998	969, 981, 985,	telegram, <i>1040,</i>
1059	summarised, 922	998, 1020-1021,	1057
substantive, 935,	summarising, 972	1028, 1048	telephone, <i>941</i> , <i>992</i>
958-959, 979	summed, <i>990</i>		tells, <i>974</i> , <i>1058</i>
substantively, 960	sums, <i>990</i>		temporarily, 1036
subtleties, 955	sunt, <i>969</i>		tempted, 956
subtlety, <i>1027</i>	supersede, 1049	T	ten, <i>997, 1027</i>
subtly, <i>974</i>	supervised, 960		tenable, <i>1046</i>
success, 1025	supervision, 1064		tender, 918
•	supplement, 951	Tab, <i>923, 928-933,</i>	tendered, 986
successfully, 1053	supplied, <i>940, 1040</i>	939, 942, 947,	tends, <i>948</i>
Succession, 977	supply, <i>1029</i>	949-950, 972,	tenor, <i>990</i>
successive, <i>940,</i> <i>954</i>	support, 928-930,	975, 988-989,	tension, 937
	950, 954,	991-992, 994,	term, <i>924, 926,</i>
successor, 975	1016-1017, 1050,	1002, 1021-1022,	936, 955, 970,
sudden, <i>1047</i>	1058	1025, 1032-1035,	1001-1003,
suffers, 1023	supported, 931,	1038, 1040-1041,	1006-1007, 1009,
sufficient, 929,	1016, 1018, 1049	1048, 1050-1052,	1017, 1044
932, 947, 950,	supports, 962, 1015	1057, 1060-1061	termed, <i>954, 1040</i>
997, 1003, 1016,	suppose, <i>964, 971,</i>	tab, <i>945, 947, 972,</i>	terminus, 1003
1032	980, 982, 1029	990, 1012, 1036	terms, 919, 921,
sufficiently, 1009,	supposed, 925,	table, <i>961,</i>	924, 940,
1024	935, 937, 941,	972-973, 1004,	968-969, 971,
suggest, <i>929,</i>	1038	1020	973, 986, 993,
932-934, 936,	surely, <i>965</i>	tabled, <i>942, 944</i>	1007-1008, 1022,
939-940, 946, 040, 051, 052	surety, <i>1043</i>	tables, <i>944</i>	1026, 1037, 1058
949, 951-952, 957, 976, 983,	Suriname, 1003	Tabs, 1054-1055	terribly, 1009
993, 1000, 1054,	surprise, <i>957, 995</i>	tack, 1060	Territorial, 961,
1062	surprised, <i>933-934</i> ,	tactics, 1049	1038, 1062
suggested, 939,	941, 990, 995	Taiwan, <i>1003-1004</i>	territorial, 954,
963, 970, 973,	surprising, <i>925</i> ,	Taiwanese, 987	959, 961-962,
992-993, 1007,	932, 935, 940,	talked, <i>935</i> , <i>1017</i>	964, 966-967,
1017, 1024,	977	talks, <i>930</i> , <i>932-933</i> ,	970, 983, 987,
1029, 1060	surreptitiously, 930	935-938,	1003, 1024-1025,
1025, 1000		555 556/	

1028-1029, 1053,		972-973, 986,	983, 991-993,
1056	theory, 977	992-993, 997,	1007, 1017,
Territories, 988,	thereabouts, <i>919</i> ,	1022, 1033,	1025, 1028,
1054-1055	1060	1039, 1041,	1035, 1037, 1060
territories,	Thereafter, 1056	1043, 1045,	top, <i>975, 990</i>
955-963, 971,	thereafter, 936,	1047-1048, 1053,	totality, 960
1006	1014, 1031,	1060, 1062	touch, <i>934, 940</i>
Territory, <i>943-944</i> ,	1014, 1031, 1060, 1064	threshold, 949	touched, <i>927, 936,</i>
948, 962, 1025,	•	throughout, 940,	966
1052, 1061	Therefore, <i>964,</i> <i>1037</i>	1053, 1060	touches, 1024
territory, <i>924</i> ,		throw, <i>981</i>	· ·
944-945,	therefore, 921-922,	thrown, <i>981</i>	touching, <i>997</i> ,
<i>953-954, 956,</i>	941, 947, 950,	Thursday, <i>924</i> ,	1016, 1020,
960-963,	963, 970, 981,	944, 971, 986,	1022-1023
971-972, 974,	984, 1006, 1015, 1020, 1032,	995, 1001-1002,	tough, <i>969</i>
981, 983-984,	1020, 1032, 1045, 1049, 1055	1033-1034	towards, <i>924, 941,</i>
997, 1000,		tightrope, <i>922</i>	975, 977
1003-1004, 1008,	thereof, 955	• •	trace, <i>943</i>
1020-1022,	thereto, 1025	timelines, <i>932, 936</i>	tracks, 1036, 1050
1025-1027, 1031,	thinking, <i>923, 936,</i>	timely, <i>932</i>	Traffic, 1028
1033, 1052	945, 995, 1002	timescale, 932	Trafford, 1035,
terse, <i>929</i>	thinks, <i>1058</i>	timetable, <i>917-918</i>	1048
Test, 1042	Third, 919, 959,	timing, <i>975, 1059</i>	Transcript,
test, 1005, 1009	1036	tiny, <i>955, 1061</i>	920-924, 927,
testing, <i>1042</i>	third, <i>920-921, 926,</i>	today, <i>917</i> ,	929-934,
<u> </u>	932, 936, 938,	919-921, 927,	936-940, 942,
Tests, 977, 980,	941, 943,	942, 957-958,	948, 950,
984, 1042	991-992, 997,	972, 978, 1005,	954-959,
text, 923, 942, 961,	1014-1015, 1043,	1034, 1045,	961-963,
995, 997, 1003,	1045-1046, 1049,	1055, 1059-1061	968-969, 971,
1025, 1028, 1057	1056, 1062	together, 923, 925,	974-976, 986,
texts, 1017, 1036	thirdly, <i>953</i>	928, 930, 955,	997, 999-1001,
textual, <i>950, 1017</i>	Though, <i>970</i>	1021	1003, 1007-1009,
th, <i>919, 923-924,</i>	though, <i>934, 946,</i>	tolerance, 982	1013, 1015-1016,
931-932,	955-956, 968,	Tom, <i>989</i>	1018, 1021,
934-937,	983, 1017, 1021	Tomé, 1029	1025-1026, 1059
939-943,	thoughts, 964	Tomorrow, 926	transcript, 919,
947-948,	threat, <i>969, 997</i>	tomorrow,	923-924, 927,
<i>975-976, 982,</i>	threaten, 997	920-921, 968,	943-944, 974,
988-991, 993,	threatening, 970	979, 986, 995,	1002, 1045, 1064
1018, 1020, 1029	threats, <i>969</i> , <i>974</i>	1000, 1056,	transcription, 1064
the, <i>931, 939, 955,</i>	Three, <i>921</i>	1059-1060, 1063	transcripts, 932
961, 968	three, 917,	Took, 1034	Transit, 1013
themselves, <i>932</i> ,	920-921, 926,	took, <i>925, 931-933,</i>	translation, 1028
959, 1013, 1023,	931, 944, 947,	936, 938, 942,	Transport,
1039, 1062	953, 957, 959,	965, 967,	1026-1027
theoretical, 979	961, 964,	<i>972-973, 976,</i>	travaux,
	* * *		

1015-1018,		969-970,	
1020-1022, 1025	Trinidad, 989	980-981,	unable, <u>921</u>
treat, 956, 1005,	triple, 1057	988-991, 997,	unacceptable, 997
1007	trivialize, <u>978</u>	1003, 1009,	unaffected, 945
treated, 926,	Tromelin, 999	1022, 1034,	unambiguous, 974,
954-956, 1004,	troubled, 940	1039-1040, 1045,	976
1008, 1012, 1018	true, <i>925, 970, 975,</i>	1047, 1049-1050,	unanswered, 927
Treaties, 977, 1013	977, 999, 1048,	1055-1056, 1059,	unaware, 975
treaties, 955,	1064	1061	uncertain, 926
968-969, 971,	truly, <i>977, 1018</i>	typewritten, 1064	uncertainty, 1037,
980, 983-984,	Truman, 965-966	typically, 1018	1047
1011, 1016, 1025	trust, 1038		unchallenged, 1032
treatment, 977	truth, 951, 955,		unclear, <u>1055</u>
treats, <i>977</i>	1043, 1058		UNCLOS, 920, 949,
Treaty, <i>967, 984,</i>	try, <i>919, 923, 929,</i>	U	994, 1000-1003,
1011	946, 956, 958,	U	1005-1007, 1009,
treaty, <i>949-950</i> ,	972-973, 980,		1012, 1018, 1021
<i>955, 969-970,</i>	982, 986, 990	UK, 919, 921,	uncommon, 939,
982-983, 1004,	trying, <i>931, 938,</i>	923-924,	1023
1008-1009, 1025	946, 956, 1024,	927-934,	uncompleted, 944
Treves, 1023	1057	936-942,	uncontroversial,
Tribunal, <i>917-918</i> ,	tuna, <i>987, 1012</i>	945-946,	1007
920-921,	Turk, <i>1026</i>	948-951,	unconvincing, 963
925-928, 936, 939-941, 949,	Turkey, <i>1028</i>	953-957,	UNDER, 920, 994
952-953, 957,	Turkish, 967, 1026,	961-963,	Under, 953,
963, 969,	1028	969-971,	969-970, 1000
<i>976-978, 980,</i>	turn, <i>925, 930,</i>	973-974, 977,	under, <i>920-921</i> ,
985-986, 988,	948-949, 956,	986-987, 990,	924, 926, 954,
994-995,	963, 970, 974,	993, 997-998,	956-957, 960,
997-1001,	988-989, 995,	1000-1001,	962-963,
1006-1009,	998, 1009,	1003-1006, 1012,	968-969, 971,
1014-1015, 1018,	1013-1015, 1021,	1014-1017,	978-979,
1022, 1024,	1033-1035,	1020-1026, 1028, 1030-1063	981-984, 987,
1029-1032, 1038,	1047-1048, 1057	uk, <i>1028</i>	992-993,
1043, 1046,	turned, 948	-	999-1001,
1055, 1057,	turns, <i>948, 1030</i>	UKCM, <i>932</i> , <i>934</i> ,	1004-1005, 1007,
1059-1060, 1062	Turtles, 1012	938, 950, 986, 1034, 1046,	1009, 1012,
tribunal, 1000,	turtles, 1012	1048, 1053, 1061	1016, 1021-1027,
1002, 1006-1007,	twice, 972	UKR, <i>938</i> , <i>961</i> ,	1029, 1031,
1013-1014, 1023,	twin, <i>958</i>	1035, 1057,	1050, 1052,
1025, 1028,	Two, <i>972, 1058</i>	1035, 1057, 1061-1062	1060-1062, 1064
1030, 1062	two, <i>917, 919, 921,</i>	Ukraine, <u>1004</u>	underline, <i>940</i>
tribunals, <i>949</i> , <i>969</i> ,	927-928, 933,	Ukrainian, 1005	underlines, 930
1006, 1008-1009,	938-940, 945,	•	underlying, <u>1026</u>
1011	954, 958-961,	ultimately, 1037	undermine, 957,
tried, 940, 993	963 967	umbrella, <i>993</i>	<i>995</i>

	1038-1046,	994-995,	1049-1050, 1052
underpinnings,	1048-1050, 1060,	997-1009,	upcoming, 975
929, 1015	1062-1063	1011-1012, 1015,	upheld, <u>1013</u>
underpins, 1030	undertook, 1039,	1017, 1021-1022,	upshot, <i>922</i>
underscore, 1035	1046	1024-1035,	upstairs, 981
underscores, 1037	underway, 938	1038-1040,	urgency, 942
understand, 917,	undo, <u>964</u>	1044-1046, 1053	urgent, <i>942</i>
921, 929, 935,	undone, <i>964</i>	universal, <i>963, 1020</i>	useful, <i>989</i>
941, 946,	undoubtedly, 955	University, 960,	users, 1028
963-965, 982,	undue, <i>981</i>	1021, 1042-1043	uses, <i>939, 1007,</i>
1040, 1045-1046,	unequivocal, 959	unlawful, <i>921, 966,</i>	1014
1059	unfair, <i>981, 1038</i>	968	using, <i>963, 992,</i>
understandably,	unfavorable, 966	unless, <i>937, 975,</i>	1017
971	Unfortunately, 1045	1021	usual, <i>955</i>
understanding,	unfortunately, 956,	unlike, <i>1062</i>	Uti, <i>962</i>
918, 921, 939,	988	unlikely, <i>949</i>	•
988, 1021, 1023,	unfounded, <u>1048</u>	unnamed, <i>963,</i>	uti, <i>961-963</i>
1034, 1040,	UNGA, <i>959, 962</i>	1057	utile, <i>1016</i>
1043, 1049-1050,	· ·	unpack, <i>1001, 1003</i>	
1052, 1062	unhappy, <i>925</i>	unpersuasive, 1018	
understandings,	unhelpful, <i>939</i>	unrealistic, 950	
921, 977,	unhelpfully, <i>991</i>	unreasonable,	<b>\</b> /
1043-1044	unidentified, 1057	923-924, 937	V
understatement,	uniformly, 1044	unstated, 1014	
940	unilateral, 947,	unsubstantiated,	vain, <i>938</i>
understood, 929,	980, 1055	924	valid, <i>982, 985,</i>
938, 946,	unilaterally, 951,	unsympathetic, 972	1033
966-967, 983,	956, 970, 974	untenable, <u>1024</u>	validity, <i>953, 1032,</i>
1032, 1036,	uninhabited, 955	until, <i>917, 931-932,</i>	1063
1039-1040, 1047,	uninterrupted, 1051	934-936, 962,	value, <i>1017</i>
1049, 1051,	uninterruptedly,	974, 979, 985,	variety, <i>979</i>
1053, 1056, 1062	1062	1029, 1047,	• •
undertaken, 929,	Union, <i>1005</i>	1052, 1056,	various, <i>926, 946,</i> <i>962, 979, 983,</i>
1005, 1039	unique, <i>1024</i>	1060, 1062-1063	1004, 1007-1008,
undertaking, 921,	unit, <i>954, 974, 984</i>	unusual, 980	1017, 1029
939, 941-942,	UNITED, 1031	unwarranted, 1043	vast, <i>929</i> , <i>1032</i> ,
977, 980, 1033,	United, 917-918,	unwritten, <i>997,</i>	1044
1036, 1043,	920-923,	1014-1015, 1017	ve, <i>936, 941-942,</i>
1046-1052, 1054-1055,	925-928, 930,	up, <i>923, 927, 929,</i>	944-946, 948,
1054-1053, 1060-1063	937, 939-941,	931-932,	953, 972, 976,
	946, 948, 951,	934-936, 939,	978, 982-983,
UNDERTAKINGS,	953, 958,	945-947, 949,	985-987,
1031	960-966,	957, 961-962,	989-990, 992,
undertakings, 921,	970-971, 975,	966, 988-990,	999, 1012-1013,
925-926, 956, 973, 980, 983,	977-983, 986,	993, 995, 1000,	1026, 1028, 1050
1031 <i>-</i> 1035,	988-989,	1011, 1035,	veiled, 969
1001 1000/			•

Venezuela, <i>1020</i>	<i>1028, 1056</i> violations, <i>925-926</i>	1025-1026, 1051, 1053, 1055-1057,	whenever, 962
Verbale, 938, 940, 993, 1048, 1060	Virginia, <i>960</i> virtue, <i>982, 997,</i>	<i>1061, 1063</i> Watts, <i>1038-1039,</i>	Whereupon, <i>985,</i> 1063
verse, <i>923</i>	1014, 1025, 1031	1044	wherever, 948, 962
Version, 1061	visit, <i>992</i>	way, <i>919-922,</i>	Whether, 937, 955,
version, 923, 991,	vital, <i>984, 1001</i>	932-933, 935,	970, 979, 1052
1037, 1048-1049,	vitally, 985	938, 941,	whether, 918,
1057, 1061	vitiate, 969	949-950, 961, 963, 965, 983,	921-922,
vessel, <i>929</i> , <i>987</i> ,	vitiated, 970,	990-992,	926-927, 933,
1005, 1051,	978-979, 981	994-995, 1007,	940, 943,
1054-1055	vitiates, 969	1016, 1027,	951 <i>-</i> 955, 959, 970-971,
Vessels, 1038	voice, <i>957, 1045</i>	1030, 1034,	977-980, 982,
vessels, <i>1051-1056, 1061</i>	Vol, <i>960</i>	1040-1041, 1049,	984-985, 995,
vested, 1031	Völkerrechts, 1028	1054, 1057-1058,	997-1002,
vested, 1031 vests, 1045	volte, <i>951</i>	1061-1062	1004-1006,
vexed, <i>973</i>	volume, <i>1017</i> ,	ways, <i>979, 989,</i>	1012-1013, 1021,
VI, <i>958, 1006</i>	1021, 1062	1028, 1032	1024-1025, 1028,
vi, <i>1036</i> , <i>1041</i>	voted, <i>961</i>	We, <i>930</i>	1031, 1033-1034,
via, <i>1051</i>	voting, <u>961</u> vulnerable, <u>1056</u>	weaken, <i>931</i> web, <i>942</i>	1036-1037, 1039, 1044-1047, 1049,
Vienna, <i>968-969,</i>	vulliciable, 1030	week, <i>917, 921,</i>	1057, 1061
977		923, 936,	Whilst, 1007
view, <i>927, 932-933,</i>		938-939, 954,	White, <u>1056</u>
936, 943, 948,		956-957, 974,	white, <i>933</i>
951, 956, 960,	W	986, 999, 1002,	whole, <i>932, 943,</i>
972, 989, 1000,		1014, 1031-1032,	945, 948, 951,
1018, 1020-1022,		1034-1035, 1042,	960, 977, 990,
1027, 1040, 1042, 1050-1051,	wait, <i>921, 1042</i>	1048, 1057-1058	1026, 1029
1055	waived, <i>978-979</i>	weekend, <i>917, 946</i>	wholly, <i>937, 997</i>
viewed, <i>932, 973</i>	waiver, <i>978</i>	weeks, <i>938</i> , <i>943</i> ,	whom, 1028
views, <i>933</i> , <i>941</i> ,	walking, <i>922</i>	<i>945, 1045, 1050</i> weigh <i>, 976</i>	WHOMERSLEY,
949, 992, 1015,	Wall, <i>957</i>	weight, <i>969-970,</i>	918-919, 986, 994
1021-1022, 1038,	Wallace, <i>944</i> wanted, <i>1020-1021</i>	1062	Whomersley, <i>919, 986, 994</i>
1041, 1062	War, <i>967</i>	welcomed, 933	wider, <i>1020, 1056</i>
VII, 920, 994, 1000	war, <i>1029</i>	weren, <i>982, 1011</i>	Wikileaks, 931
vii, 1034, 1036	, Wards, <u>1026</u>	West, 961	Wilberforce, 984
viii, <i>1035-1036,</i> <i>1040</i>	Washington, 1054	Western, 958-959	Will, <u>1031</u>
violate, <i>951, 1026</i>	wasn, <i>923,</i>	Westminster, 942	will, <i>917-920, 923,</i>
violated, <i>921</i> ,	935-936,	whatever, 954,	925-929,
925-926, 1005,	965-967, 987, 992	971, 979, 981,	931-933, 937,
1029, 1063	watch, <i>985, 1063</i>	985, 1021	939-940,
violation, 951,	Waters, 1038	whatsoever, 1043	942-947,
964-965, 1008,	waters, <i>931</i> , <i>987</i> ,	Whenever, 917	951-953, 957,

064 060 070	1000 1002 1002	071 072 007	1050
964, 968-970, 074, 077	1000, 1002-1003, 1008, 1012,	971, 973, 987,	1058
974, 977,	•	989, 993, 007, 1006	writings, 1022-1023
979-980, 983,	1016-1017,	997-1006,	written, <i>921, 926,</i>
985-986,	1020-1021, 1024,	1008-1009, 1012,	928-929, 935,
989-995,	1049-1050,	1014-1015,	940, 950-951,
997-998, 1000,	1053-1054, 1056,	1017-1018, 1022,	979, 991, 999,
1002-1008,	1060	1024, 1026,	1015-1016,
1011-1013,	without, <i>921</i> , <i>924</i> ,	1030, 1038,	1028-1029, 1036,
1017-1018,	930, 937, 956,	1043-1044, 1057,	1039-1040,
1021-1022,	959, 973-974,	1059-1060	1045-1046, 1048,
1024-1025, 1027,	980, 992, 1002,	Wordsworth,	1051, 1061-1062
1030-1036, 1038,	1011, 1016,	921-923, 940,	wrongly, <i>990</i>
1040-1042,	1021, 1045,	949-950, 970,	wrote, <i>938, 989,</i>
1044-1045,	1051-1053, 1056	973, 977, 982,	1023, 1050-1051
1047-1048, 1050,	Witness, 919, 941,	984, 998-999,	WT, <i>1012</i>
1052-1053,	987	1001-1003,	WTO, 1012
1056-1057,	witness, 941	1007-1009,	www, <i>963, 1026</i>
1059-1060, 1063	WOLFRUM,	1012-1013,	, ,
William, 1017	966-968, 977,	1015-1018,	
willing, <i>973, 995,</i>	979, 984, 1042,	1021-1022,	
1020, 1040	1047	1024-1026, 1035,	
willingness, 918,	Wolfrum, 920, 923,	1037-1038,	X
972, 992	928-929, 966,	1041-1045,	
Wilson, <i>924, 969,</i>	969, 971, 981,	1047-1050,	
971, 974	1002-1003, 1008,	1052-1053, 1060,	XI, <i>963</i>
wine, <i>991</i>	1023, 1028,	1062	XIII, 1000, 1024
wiped, <u>977</u>	1042, 1047	work, <i>930, 978,</i>	XV, 958, 960, 969,
wish, <i>940, 995,</i>	won, <i>976, 978</i>	1018, 1020	995, 1006-1009,
1012, 1018,	wonder, 984, 1013	worked, 944	1016, 1021-1023,
1029-1030, 1036,	wondering, 918	working, <i>930, 965,</i>	1025, 1030
1059	Wood, <u>921-922,</u>	979, 1018, 1054,	XX, 961, 1012
wished, 988, 1058	924, 948-949,	1059	•
wishes, <i>959</i> , <i>1016</i>	955, 997,	works, <i>964</i>	XXII, <i>961</i>
wishing, <i>921</i> , <i>1045</i>	1000-1001, 1003	World, <i>967</i>	XXV, <i>959, 962</i>
with, <i>1023</i>	word, <i>921-922</i> ,	world, <i>937, 943</i> ,	
•	943, 950, 961,	954-955, 957,	
withdrawal 063	968, 978, 1001,	<i>1033</i>	
withdrawal, 962,	1006-1008, 1017,	worn, <i>995</i>	V
993	1022, 1039,	worse, <i>968</i>	Y
withdrawn, 938	1042, 1044-1045,	worth, <i>989, 1017</i>	
withhold, <i>970, 974</i>	1053, 1059	wouldn, <i>967, 988,</i>	Vandan 020 024
withholding, 969	wording, <i>1016</i>	1042	Yeadon, <i>930, 934,</i>
Within, <i>1004</i>	words, <i>923-924</i> ,	woven, <i>1024</i>	987-988, 1051,
within, <i>922, 925,</i>	930-931,	·	1054-1055
929, 932, 936,	933-935,	writes 1023	Year, <i>987</i>
941, 952, 963,	938-939, 945,	writes, 1023	year, <i>926, 938,</i>
976, 980, 998,	948-949, 960,	writing, <i>963, 1014,</i>	957, 972, 987,
	570 575, 500,		

```
1032, 1044,
   1056-1057
yearly, 973
years, 921, 925,
   930, 951, 955,
  976, 1005, 1021,
  1031, 1033,
   1036, 1044-1045,
  1051-1053, 1056,
   1059, 1062
Yemen, 1062
Yollari, 1026
York, 1021
yourself, 970, 995
yourselves, 922,
  977, 995, 1000,
   1024
```

## Z

Zealand, 1042 Zone, 1052 zone, 1003, 1008, 1052-1056 zones, 926, 951, 960, 1023, 1052