



Her Majesty's Commissioner
British Indian Ocean Territory
Foreign and Commonwealth Office
London SW1A 2PA

21 April 2015

Mr Rondolph Payet
Executive Secretary
Indian Ocean Tuna Commission

By Email: secretariat@iotc.org

Dear Mr Payet,

I refer to the letter sent to you on 20 April by Mr A. K. Utchanah, of the Mauritian Ministry of Ocean Economy, Marine Resources, Fisheries, Shipping and Outer Islands. In that letter, Mr Utchanah requests that the Marine Protected Area of the British Indian Ocean Territory, "having been held to be legally invalid, should not be the subject of any discussions at the level of the IOTC, including the 12th Session of the Compliance Committee and the 19th Session of the IOTC".

With regards to Mr Utchanah's assertion that BIOT's MPA has been found legally invalid, the UK does not accept that. In particular, I would refer you to the Final Observation set out by the Arbitral Tribunal in its Award, which is as follows:

"In concluding that the declaration of the MPA was not in accordance with the provisions of the Convention, the Tribunal has taken no view on the substantive quality or nature of the MPA or on the importance of environmental protection. The Tribunal's concern has been with the manner in which the MPA was established, rather than its substance. It is now open to the Parties to enter into the negotiations that the Tribunal would have expected prior to the proclamation of the MPA, with a view to achieving a mutually satisfactory arrangement for protecting the marine environment, to the extent necessary under a "sovereignty umbrella".

It is clear that the Award does not have the effect of rendering the MPA void. Rather, the finding was that we should have consulted Mauritius more about the establishment of the MPA. The UK believes that establishing a Marine Protected Area continues to be the best way to protect the marine life around BIOT from the serious overfishing that takes place elsewhere in the Indian Ocean. As the Tribunal suggests, we do wish to work with Mauritius to achieve a mutually satisfactory arrangement for protecting the marine environment, and to that end, as recently as

last week, the UK repeated the offer, made at Ministerial level during and in the run up to that litigation, to discuss conservation matters of mutual interest under a "sovereignty umbrella".

Finally may we reflect on the purpose of this Commission and its Committees. What is at issue here is whether the IOTC resolutions are being applied, and the vital fight against IUU fishing, not the nature of the MPA. BIOT is an active and upstanding member of this important regional body, and as befits our status within it, have made submissions in respect of those same IOTC resolutions. We urge the Committee to now proceed with discussion about these matters without further delay, and to support that end, I would be happy for you to share this letter with members of the IOTC as you see fit.

Regards,

Peter

Peter Hayes
HM Commissioner, British Indian Ocean Territory