



REPUBLIC OF MAURITIUS

Ministry of Foreign Affairs, Regional Integration and International Trade

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The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius presents its compliments to the Secretariat of the Indian Ocean Tuna Commission (IOTC) and with reference to the Note Verbale (No. OTD/002/2020) dated 28 September 2020 from the Overseas Territories Directorate of the Foreign, Commonwealth and Development Office of the United Kingdom of Great Britain and Northern Ireland, has the honour to state as follows:

The Republic of Mauritius is deeply disappointed that the United Kingdom has chosen to ignore the determinations of international law made by the International Court of Justice (ICJ) in its Advisory Opinion of 25 February 2019, and the provisions of Resolution 73/295 of the UN General Assembly in recognition of and in conformity with the Court's legal determinations. The United Kingdom's claim, notwithstanding the determination to the contrary made by the ICJ, that it is "sovereign" over the Chagos Archipelago – which the Court expressly found to be an integral part of the Republic of Mauritius' territory – is unsustainable as a matter of law, disrespectful of the Court, and ignores the decision of the United Nations.

The ICJ carefully examined all the arguments presented by the United Kingdom and other UN Member States as well as the African Union before reaching the conclusion that the questions put to it by the General Assembly relate to the decolonization of Mauritius and not to a territorial dispute between two States. The purpose of the request for an Advisory Opinion, as has been pointed out by the ICJ, "is for the General Assembly to receive the Court's assistance so that it may be guided in the discharge of its functions relating to the decolonization of Mauritius". The ICJ also concluded that:

- (a) the Chagos Archipelago is and has always been part of the territory of the Republic of Mauritius;
- (b) the process of decolonization of the Republic of Mauritius was not lawfully completed when that country acceded to independence in 1968, following the separation of the Chagos Archipelago;
- (c) the United Kingdom's continued administration of the Chagos Archipelago constitutes a wrongful act entailing the international responsibility of the United Kingdom and is an unlawful act of a continuing character which arose as a result of the separation of the Chagos Archipelago from Mauritius;
- (d) the United Kingdom is under an obligation to bring an end to its administration of the Chagos Archipelago as rapidly as possible, thereby enabling the Republic of Mauritius to complete the decolonization of its territory in a manner consistent with the right of peoples to self-determination;
- (e) since respect for the right to self-determination is an obligation *erga omnes*, all States have a legal interest in protecting that right; and
- (f) all Member States are under an obligation to co-operate with the United Nations in order to complete the decolonization of the Republic of Mauritius.

Furthermore, the United Kingdom misstates the law and sows confusion when it insists that the Court's Opinion is not binding. While Advisory Opinions are not themselves legally binding in the same sense as Judgments in contentious cases, the Court's determinations of questions of law in its Advisory Opinions are authoritative. When the Court determines, in resolving those questions, that States have "obligations" under international law to perform or refrain from certain acts, those "obligations" are binding on the States concerned. This is universally accepted and well documented.

The Republic of Mauritius therefore considers it of paramount significance that the Court determined that "the United Kingdom is under an obligation to bring an end to its administration of the Chagos Archipelago as rapidly as possible, thereby enabling Mauritius to complete the decolonization of its (that is, Mauritius) territory in a manner consistent with the right of peoples to self-determination"; and that the Court further determined that "all Member States are under an obligation to co-operate with the United Nations in order to complete the decolonization of Mauritius". This obligation applies, of course, to the UN Member States which are members of the IOTC.

The Republic of Mauritius further wishes to point out that the conclusions of law reached by the ICJ were upheld in their entirety by UN General Assembly Resolution 73/295. That Resolution, which was adopted by an overwhelming majority of votes, *inter alia*, called upon the United Nations and all its specialized agencies as well as all other international, regional and intergovernmental organizations, including those established by treaty, to recognize that the Chagos Archipelago forms an integral part of the territory of the Republic of Mauritius, to support the decolonization of the Republic of Mauritius as rapidly as possible, and to refrain from impeding that process by recognizing, or giving effect to any measure taken by or on behalf of, the so-called "British Indian Ocean Territory". It follows that Resolution 73/295 is binding on all United Nations bodies and entities, including the FAO, under which the IOTC falls. In this regard, at the direction of the UN Secretary-General, since February this year, the new, official United Nations map depicts the Chagos Archipelago as an integral part of the Republic of Mauritius. A copy of the map is attached herewith.

In these circumstances, the United Kingdom's position with regard to the Advisory Opinion of the ICJ and General Assembly Resolution 73/295 constitutes, in the view of the Republic of Mauritius, a flagrant disregard of the rule of law. Moreover, it challenges the highest court of the world and the very institution that the United Kingdom helped to create 75 years ago.

The Republic of Mauritius reiterates that in the light of the foregoing, the United Kingdom is not and cannot be the coastal State in relation to the Chagos Archipelago and is therefore not entitled to be a member of the IOTC as a coastal State.

The Republic of Mauritius would be grateful if a copy of this Note Verbale could be annexed to the report of the 24th Session of the IOTC scheduled for 2-6 November 2020.

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius avails itself of this opportunity to renew to the Secretariat of the Indian Ocean Tuna Commission the assurances of its highest consideration.



Port Louis, 09 October 2020

**Secretariat
Indian Ocean Tuna Commission
Victoria
Seychelles**

THE WORLD

