



Note Number: **OTD/008/2021**

The Overseas Territories Directorate of the Foreign, Commonwealth and Development Office presents its compliments to the Secretariat of the Indian Ocean Tuna Commission (IOTC) and the 5th Special Session held virtually on 29 November 2021. For the benefit of the delegates the United Kingdom wishes to restate its position on the British Indian Ocean Territory (BIOT) and membership of the IOTC. This is with reference to Mauritius's statement of 26 November 2021 (No 12/2021 – 18570/46/142).

The United Kingdom has no doubt about its sovereignty over the Chagos Archipelago, which has been under continuous British sovereignty since 1814. Mauritius has never held sovereignty over the Archipelago and we do not recognise its claim. However, we have a long-standing commitment, first made in 1965, to cede sovereignty of the territory to Mauritius when it is no longer required for defence purposes. We stand by that commitment.

The United Kingdom was disappointed that this matter was referred to the International Court of Justice (ICJ), contrary to the principle that the Court should not consider bilateral disputes without the consent of both States concerned. Nevertheless, the United Kingdom respects the ICJ and participated fully in the ICJ process at every stage and in good faith. An Advisory Opinion is advice provided to the United Nations General Assembly at its request; it is not a legally binding judgment. The UK Government has considered the content of the Opinion carefully, however we do not share the Court's approach.

UN Resolution 73/295, adopted following the ICJ's Advisory Opinion, does not and cannot create any legal obligations for UN Member States. Neither the non-binding Advisory Opinion nor the non-binding General Assembly resolution alter the legal situation, namely that of a sovereignty dispute between the United Kingdom and Mauritius. The General Assembly is not the appropriate forum to resolve such a bilateral dispute.

The United Kingdom is aware of the judgment delivered on 28 January by the Special Chamber of the International Tribunal for the Law of the Sea (ITLOS) formed to deal with the Dispute concerning delimitation of a maritime boundary claimed by Mauritius to exist between Mauritius and Maldives in the Indian Ocean. The UK is not a party to these proceedings, which can have no effect for the UK or for maritime delimitation between the UK (in respect of BIOT) and the Republic of the Maldives.

The United Kingdom is a full member of the IOTC. The United Kingdom deposited instruments of acceptance to the IOTC Agreement on 31st March 1995 and 22nd December 2020 and has been a party to the Agreement since it entered into force. The Agreement for the Establishment of the Indian Ocean Tuna Commission provides that IOTC membership shall be open, inter alia, to FAO members that are situated wholly or partly within the IOTC's Area of Competence. As BIOT is situated wholly within the IOTC's Area of Competence, there can therefore be no doubt

that the United Kingdom, as the State with sovereignty over BIOT as aforementioned, is entitled to be a member of IOTC.

The United Kingdom requests that this statement be annexed to the report of the 5th Special Session and posted on the IOTC's website.

The Overseas Territories Directorate of the Foreign, Commonwealth and Development Office avails itself of the opportunity to renew to the Secretariat of the Indian Ocean Tuna Commission the assurances of its highest consideration.

FOREIGN, COMMONWEALTH AND DEVELOPMENT OFFICE
LONDON

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