



Note Number: **OTD/005/2022**

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 Chair of the IOTC Compliance Committee from 8 to 12 May 2022. With reference to the four statements issued from the Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius on 5 May, the United Kingdom wishes to reiterate its position on the British Indian Ocean Territory (BIOT) and membership of the IOTC.

The United Kingdom rejects the claims contained in these statements regarding BIOT. The United Kingdom's full position in respect to our continued sovereignty over BIOT is set out in the United Kingdom's submission to the report of the Secretary General (A/74/834) dated 18 May 2020. The United Kingdom has no doubt about its sovereignty over the territory of BIOT, which has been under continuous British sovereignty since 1814. Mauritius has never held sovereignty over the territory 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 IOTC is not a forum to discuss issues of sovereignty. The United Kingdom regrets the continued use of this important multilateral forum by Mauritius to address a bilateral matter. This only serves to distract from the important work of IOTC members, including at this Compliance Committee.

Despite clear reservations, the United Kingdom participated fully in the advisory proceedings in good faith and out of respect for the International Court of Justice (ICJ). However, we do not share the Court's approach and have made known our views on the content of the Advisory Opinion, including the insufficient regard for significant material facts and legal issues. In any event, it is undisputed that the Advisory Opinion issued by the ICJ is not legally binding. The UN General Assembly, in its resolution 73/295, adopted following the Court's Advisory Opinion, does not and cannot create any legally binding obligations for UN Member States. Neither the non-binding Advisory Opinion nor the non-binding General Assembly resolution alter the legal situation that of a sovereignty dispute between the United Kingdom and Mauritius.

The United Kingdom also wishes to reiterate its position regarding the judgment delivered on 28 January 2021 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 United Kingdom is not a party to these proceedings, which can have no effect for the United Kingdom or for maritime delimitation between the United Kingdom (in respect of BIOT) and the Republic of the Maldives.

The United Kingdom completely rejects Mauritius's claim that it does not respect the international rule of law. We have been a long-standing supporter of international courts and a staunch defender of human rights institutions and norms.

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 has no doubt over its sovereignty over BIOT and remains concerned over Mauritius' continued stance. Nevertheless, the United Kingdom remains open to dialogue with Mauritius on matters of shared interest, including the marine protected area and implementation of the 2015 UN Convention on the Law of the Sea (UNCLOS) Arbitral Award.

The United Kingdom requests that this statement be annexed to the report of the Compliance Committee 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

5 May 2022

