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Troubled Waters: a call for action, 1998

TROUBLED WATERS: A CALL FOR ACTION

We, the undersigned marine scientists and conservation biologists, call upon the world's citizens and governments to recognize that the living sea is in trouble and to take decisive action. We must act quickly to stop further severe, irreversible damage to the sea's biological diversity and integrity.

Marine ecosystems are home to many phyla that live nowhere else. As vital components of our planet's life support systems, they protect shorelines from flooding, break down wastes, moderate climate and maintain a breathable atmosphere. Marine species provide a livelihood for millions of people, food, medicines, raw materials and recreation for billions, and are intrinsically important.

Life in the world's estuaries, coastal waters, enclosed seas and oceans is increasingly threatened by: 1) overexploitation of species, 2) physical alteration of ecosystems, 3) pollution, 4) introduction of alien species, and 5) global atmospheric change. Scientists have documented the extinction of marine species, disappearance of ecosystems and loss of resources worth billions of dollars. Overfishing has eliminated all but a handful of California's white abalones. Swordfish fisheries have collapsed as more boats armed with better technology chase ever fewer fish. Northern right whales have not recovered six decades after their exploitation supposedly ceased. Steller sea lion populations have dwindled as fishing for their food has intensified. Cyanide and dynamite fishing are destroying the world's richest coral reefs. Bottom trawling is scouring continental shelf seabeds from the poles to the tropics. Mangrove forests are vanishing. Logging and farming on hillsides are exposing soils to rains that wash silt into the sea, killing kelps and reef corals. Nutrients from sewage and toxic chemicals from industry are overnourishing and poisoning estuaries, coastal waters and enclosed seas. Millions of seabirds have been oiled, drowned by longlines, and deprived of nesting beaches by development and nest-robbing cats and rats. Alien species introduced intentionally or as stowaways in ships' ballast tanks have become dominant species in marine ecosystems around the world. Reef corals are succumbing to diseases or undergoing mass bleaching in many places. There is no doubt that the sea's biological diversity and integrity are in trouble.

To reverse this trend and avert even more widespread harm to marine species and ecosystems, we urge citizens and governments worldwide to take the following five steps:

- 1) Identify and provide effective protection to all populations of marine species that are significantly depleted or declining, take all measures necessary to allow their recovery, minimize bycatch, end all subsidies that encourage overfishing and ensure that use of marine species is sustainable in perpetuity.
- 2) Increase the number and effectiveness of marine protected areas so that 20% of Exclusive Economic Zones and the High Seas are protected from threats by the Year 2020.
- 3) Ameliorate or stop fishing methods that undermine sustainability by harming the habitats of economically valuable marine species and the species they use for food and shelter.
- 4) Stop physical alteration of terrestrial, freshwater and marine ecosystems that harms the sea, minimize pollution discharged at sea or entering the sea from the land, curtail introduction of alien marine species and prevent further atmospheric changes that threaten marine species and ecosystems.
- 5) Provide sufficient resources to encourage natural and social scientists to undertake marine conservation biology research needed to protect, restore and sustainably use life in the sea.

Nothing happening on Earth threatens our security more than the destruction of our living systems. The situation is so serious that leaders and citizens cannot afford to wait even a decade to make major progress toward these goals. To maintain, restore and sustainably use the sea's biological diversity and the essential products and services that it provides, we must act now.

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ANNEX 71

White Paper 'Partnership for Progress and Prosperity: Britain and the Overseas Territories'
Command Paper CM 4246 (March 1999)



Partnership for Progress and Prosperity

Britain and the Overseas Territories

Presented to Parliament by the Secretary of State

for Foreign and Commonwealth Affairs

by Command of Her Majesty March 1999

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Foreword by the Foreign and Commonwealth Secretary

Soon after becoming Foreign Secretary I announced a thorough review of the relationship between Britain and what were then called the Dependent Territories. The review has been a recognition of the importance which the Government places on that relationship, and a sign of our determination to get it in the best possible shape for the future.

During the review we have consulted widely. We have spoken with governments, opposition leaders and governors of the Overseas Territories. We have taken advice from Parliamentary Select Committees and others.

At the Dependent Territories Association Conference last February I gave a progress report and listened carefully to the concerns of other delegates. I made clear that we wanted to make our relationship work better.

The review is now complete. Its aim is a renewed contract between Britain and the Overseas Territories. Its recommendations are contained in this White Paper. They cover a range of issues fundamental to both Britain and the Overseas Territories – the constitutional link; citizenship; the environment; financial standards; good governance and human rights.

The basis for our partnership remains the same as it has for generations – the deep bond of affection and respect that exists between the people of Britain and the peoples of the Overseas Territories.

It is a bond that Britain values highly. It shows how a modern and effective partnership can be built on the foundation of ties that go back centuries.

The principles that underlie our partnership are clear:

- First, our partnership must be founded on self-determination. Our Overseas Territories are British for as long as they wish to remain British. Britain has willingly granted independence where it has been requested; and we will continue to do so where this is an option. It says a lot about the strength of our partnership that all the Overseas Territories want the constitutional link to continue. And Britain remains committed to those territories which choose to retain the British connection.
- Second, the partnership creates responsibilities on both sides. Britain is pledged to defend the Overseas Territories, to encourage their sustainable development and to look after their interests internationally. In return, Britain has the right to expect the highest standards of probity, law and order, good government and observance of Britain's international commitments.
- Third, the people of the Overseas Territories must exercise the greatest possible control over their own lives. We are proud that our Overseas Territories are beacons of democracy. We applaud their achievements, and want them to have the autonomy they need to continue to flourish.

- Fourth, Britain will continue to provide help to the Overseas Territories that need it. It is a source of much pride that the effectiveness of their governments' policies has meant that budgetary help is necessary only for Montserrat and St Helena – both for special circumstances.

It is against the background of these four principles that we have conducted our review. I believe many of its recommendations will be welcomed by the people of the Overseas Territories.

We are offering British citizenship to those who do not wish to retain their present status, which will give them proper recognition of their British connection.

We are reforming the way that we handle the needs of the Overseas Territories, making sure they have proper points of contact and a clear voice in London and Brussels.

We have appointed a Minister in the Foreign and Commonwealth Office who has specific responsibility for looking after Overseas Territories' issues, and we will be setting up a Consultative Council with the territories.

We have set out the ways in which the Overseas Territories can ensure good government, a flourishing environment and a growing economy.

Britain welcomes the economic prosperity and development built up by many of the Overseas Territories. Some are among the world leaders in the financial industry. We want those Overseas Territories with financial industries to operate and regulate them to internationally accepted standards. This will enable Britain to meet its own international obligations. It will ensure that we put up a common front against fraudsters, tax evaders, money launderers, regulatory abuse and the drugs trade. And by doing so, we will be securing the future strength of the financial industries of Britain and the Overseas Territories and safeguarding the global financial system.

The publication of this White Paper is a milestone in Britain's relationship with the Overseas Territories. There is still some detail to be worked out on the proposals it contains, particularly where legislation will be needed to put its ideas into effect.

We are looking forward to continuing our dialogue with the governments and peoples of the Overseas Territories. Working together to implement the proposals in this White Paper, I believe we can lay the basis for a modern partnership.



A handwritten signature in black ink that reads "Robin Cook".

Robin Cook
Secretary of State for Foreign and Commonwealth Affairs
March 1999

Executive summary

A new partnership

- Britain and the Overseas Territories need a new partnership for progress and prosperity.
- The new partnership should reflect not only the close and long-standing links between the Overseas Territories and the UK – but also the new dynamics of a changing and forward-looking relationship.
- Modernisation is the key to the new partnership: modernisation of the structures and practices of the relationship in both Britain and the Overseas Territories.
- But fundamental to the new partnership will remain the right of each territory to remain British if that is the wish – freely and democratically expressed – of their people.
- New structures to reflect that new partnership are being put in place within the UK Government: Overseas Territory governments need to examine their own structures to make the new partnership effective.

British citizenship

- British citizenship – and so the right of abode – will be offered to those citizens of the Overseas Territories who do not already enjoy it, and who meet certain conditions. Those who do not wish to have it will be able to say so and remain British Dependent Territories citizens.

Encouraging good government

- Some of the Overseas Territories need to make progress in reforming and modernising human rights provisions – notably judicial corporal punishment, capital punishment and laws affecting homosexual conduct. We would prefer to see Overseas Territory governments enact the necessary reforms themselves.
- Regulation of offshore financial service industries in the Overseas Territories needs to be improved to meet internationally accepted standards and to combat financial crime and regulatory abuse. Other measures are needed to ensure that regulators and law enforcers in the Overseas Territories are able to cooperate properly with counterparts elsewhere, and to provide for tighter audit and financial accountability.

Sustainable development

- We shall continue to help the Overseas Territories achieve sustainable development in ways which contribute effectively towards the elimination of poverty.
- We will work with Overseas Territory governments increasingly to conserve, manage and protect the rich natural environment of the territories. An Environment Charter will be negotiated to clarify the roles of the partners in this important work.

Chapter One

Britain and the Overseas Territories – a modern partnership

1.1 Britain's links with the Overseas Territories are long-standing and important. The relationship is rooted in a shared history: but it moves forward, too, in partnership. For Britain, the Overseas Territories are a significant element in its national and international identity, and an important responsibility. For the Overseas Territories, their links with Britain are significant too: but so is their individual character and diversity. This intertwined relationship is strong and constant. But it is subtle and changing too. A new and modern partnership between Britain and the Overseas Territories must reflect this relationship. It must be a partnership for progress and prosperity.

1.2 The Government is committed to modernisation. Modernisation is at the core of its vision, its direction, and its policies. We are applying this process of modernisation systematically – to the economy, to the health service, to education, to crime prevention and to jobs. Modernisation is at the heart of our approach to renewing the framework of Britain: to new representational arrangements in Scotland, Wales, Northern Ireland and London, and to new administrative arrangements in England. We are recasting the constitutional settlement to bring power closer to people.

Hamilton, Bermuda: International 10 km race



Government of Bermuda Information Service

1.3 We are also reforming our relations with the rest of the world. We have ended Britain's isolation in Europe, with increasingly tangible results. We have re-established Britain as a leading international player, prepared to take tough decisions to deal with complex and pointed international difficulties – and where necessary, to back them up with action.

1.4 Britain's mutual relationship with the Overseas Territories must be seen in this context: within the overall framework of modernisation and reform, and within Britain's new international role. As participants in the new global order and the new global economy, the Overseas Territories themselves must embrace reform and modernisation. And in its relationships with the Overseas Territories, Britain must ensure that its structures and its practices are reformed and modernised. The relationship between Britain and the Overseas Territories needs to be effective and efficient, free and fair. It needs to be based on decency and democracy. Both Britain and the Overseas Territories have much to contribute to each other. They have done so in the past. They must continue to do so now, and in the future.

The territories

1.5 The British Overseas Territories comprise Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, the Falkland Islands, Gibraltar, Montserrat, the Pitcairn Islands, St Helena and its dependencies Ascension and Tristan da Cunha, and the Turks and Caicos Islands; the territories of the British Antarctic Territory, the British Indian Ocean Territory and South Georgia and the South Sandwich Islands, which have no indigenous population; and the Sovereign Base Areas of Akrotiri and Dhekelia in Cyprus

1.6 The Overseas Territories retain their connection with the UK because it is the express wish of their peoples that they do so. They have a substantial measure of responsibility for the conduct of their own affairs. Local self-government is generally provided by an Executive Council and elected legislature. Governors or Commissioners are appointed by the Crown on the advice of the Foreign Secretary, and retain responsibility for external affairs, defence and, usually, internal security and the public service.

A new partnership

1.7 In August 1997 we began a review of Britain's relationships with what were then called the Dependent Territories. In addition to the arrival of a new government following the election result of May 1997, a number of specific factors combined to prompt this fresh look. These included:

- escalating volcanic activity on Montserrat;
- increased awareness of the isolation and economic problems of some of the poorer territories – notably St Helena;
- the growing significance of the offshore financial centres in some territories – in particular, Bermuda, the Cayman Islands and the British Virgin Islands.

1.8 The purpose of the review was to ensure that the relationship reflected the needs of the territories and Britain alike, and to give the territories confidence in our commitment to their future. The review covered policy towards all the remaining territories, although particular circumstances applied in the cases of Gibraltar and the Falkland Islands. The Sovereign Base Areas in Cyprus were excluded from the review because of their specific character as military bases and are therefore not included within the scope of this White Paper.

1.9 The basis of the review was that Britain's links to the Dependent Territories should be based on a partnership, with obligations and responsibilities for both sides. The territories should administer themselves in accordance with their constitutions and in full respect for those of the UK's international obligations relevant to them. Within that framework the UK should uphold the right of the individual territories to determine their own future and to enjoy a high degree of autonomy, while assuring their defence and external relations and providing governance of high quality.

(From left to right) Pippa Lang, Mark Gilbert, Chris Rogers (*Newsround* presenter), Sian Davies and Bonnie Curtis. The students 'guest-edited' the BBC news programme for children, *Newsround*.



Falkland Islands Community School students turn BBC editors for a day

Students at the Community School in Stanley won the International section of the *Times Educational Supplement (TES)* Newsday Competition for the second year running. This involved producing a newspaper, *Falkland Focus*, in just one day.

In August 1998, four of the editorial team, Bonnie Curtis, Sian Davies, Mark Gilbert and Pippa Lang flew the 8,000 miles to the UK to be shown around the TES offices. They also featured on the BBC children's news programme, *Newsround*, where they acted as guest editors for the day.

The day of the programme was spent with the production team selecting items for inclusion and deciding which pictures were to be used.

All thoughts of a leisurely day vanished as deadlines quickly approached and last minute decisions had to be taken. But five o'clock came and the whole day was condensed into eight minutes of live, seamless and exciting airtime.

1.10 The last major review of policy towards the territories took place in 1987, but was limited to the Caribbean Dependent Territories and Bermuda. The review concluded that the UK should not seek to influence opinion in the territories about independence, but should remain ready to respond positively when independence was the clearly and constitutionally expressed wish of the people. The reasonable needs of the Dependent Territories would continue to be a first charge on the UK's aid funds.

1.11 We sought views on three principal issues:

Citizenship

Whether people in the Dependent Territories who did not have it wanted British citizenship (carrying with it the right of abode in the UK) and if so on what basis – whether or not people in Britain and people in the territories should have reciprocal rights, including the right of abode? The consultation found that there was interest in British citizenship – but only on the basis of non-reciprocity.

Constitutional status

What degree of interest was there in changing the territories' constitutional relationship with the UK? Apart from some limited reference to Crown Dependency status similar to that of the Channel Islands, there was no widespread interest in a change in the current constitutional relationship.

Name

Was there significant support for changing the name of the countries concerned from 'British Dependent Territories'? The consultation found there was support for a change of name to British Overseas Territories, or something similar.

1.12 A number of other exercises have contributed to the preparation of this White Paper.

NAO Report on Contingent Liabilities in the Dependent Territories

1.13 On 30 May 1997 the National Audit Office (NAO) published an updated *Report on Contingent Liabilities in the Dependent Territories*. The report identified a wide range of areas in which there had been progress since its last report in 1992, but called for continuing action to minimise future risks to the Exchequer.

1.14 As in 1992, the Public Accounts Committee (PAC) held hearings on the basis of the NAO report. The Permanent Under Secretary of the FCO, Sir John Kerr, gave evidence. The PAC published its conclusions and recommendations in a report to Parliament on 21 May 1998.

1.15 The timing and substance of this review were a considerable help in the preparation of this White Paper. Its recommendations – particularly those relating to financial regulation and the control of public borrowing – have been addressed.

Foreign Affairs Select Committee enquiry into the Overseas Territories

1.16 Separately, the House of Commons Select Committee on Foreign Affairs (FAC) embarked on its own review of the territories. It took evidence from Baroness Symons on 25 November 1997. The FCO also submitted two memoranda to the FAC. The Committee published its interim report on 3 February 1998, recommending that:

- the Government's review should cover the difficulties Dependent Territory passport holders experience when travelling and others related to education and training;
- coordination in Whitehall should be strengthened;
- good governance and the rule of law in the territories should be promoted and their constitutions revised;
- the proposal to change the name to Overseas Territory was right.

The Government's response to the enquiry was published on 13 May 1998.

Select Committee on International Development enquiry into Montserrat

1.17 In the light of the continuing threat to Montserrat from volcanic activity, the International Development Committee of the House of Commons announced in August 1997 its intention to conduct an enquiry into the Government's conduct of the crisis. The Committee published its conclusions on 27 November 1997.

The Government's response was forwarded to the Chairman of the Committee by the International Development Secretary on 2 February 1998. The Committee produced a further report on 28 July 1998.

The Government's response was published on 29 October 1998.

A new partnership – the new way forward

1.18 We announced the interim findings of the review in February 1998. In a speech to the then Dependent Territories Association – now known as the UK Overseas Territories Association – the Foreign Secretary set out the principal elements of the new relationship between Britain and the Overseas Territories.

1.19 The new relationship would be a modern partnership tailored to the needs of both sides, and based on four fundamental principles:

- self-determination;
- mutual obligations and responsibilities;
- freedom for the territories to run their own affairs to the greatest degree possible;
- a firm commitment from the UK to help the territories develop economically and to assist them in emergencies.

1.20 The key areas for change in the new relationship would be:

Coordination

The Foreign Secretary would work with the International Development Secretary on the details of new arrangements to ensure the best possible management of the UK's links with, and responsibilities for, its territories. A Minister for the Overseas Territories would be appointed. There would be a new structured dialogue between the Overseas Territories and the Government.

Name

The territories would in future be known as United Kingdom Overseas Territories – for short, Overseas Territories.

Citizenship

The sense of injustice felt in many Overseas Territories from not enjoying British citizenship was understood. We would look sympathetically at the possibility of extending citizenship.

Financial regulation

A check-list of regulatory measures for the territories to bring their financial regulation up to internationally accepted standards would be drawn up. The Overseas Territories would be invited to present proposals for independent and properly resourced regulatory authorities.

Human rights

The record of many Overseas Territories was positive, but further work would be needed to ensure compatibility with the commitments which Britain has made on their behalf.

1.21 We said we would press ahead with action in priority areas, like better regulation of offshore activities. Separately, it was decided that action would also be taken to deal with harmful tax competition issues, which were attracting increased international attention. The Foreign Secretary said that the next stage would be to develop the details of these proposals in a White Paper.

Chapter Two

Partnership for progress and prosperity

2.1 Britain's policy towards the Overseas Territories rests on the basis that it is the citizens of each territory who determine whether they wish to stay linked to Britain or not. We have no intention of imposing independence against the will of the peoples concerned. But the established policy of successive British governments has been to give every help and encouragement to those territories which wished to proceed to independence, where it is an option. The issue was most recently reviewed in Bermuda in August 1995, when a referendum produced a 73 per cent vote in favour of retaining the link with Britain.

2.2 Britain is helping to develop the Overseas Territories, both economically and politically. This is a high priority for the Government, and is in line with Britain's commitments under the terms of the UN Charter.

2.3 To improve the links between the UK and the territories, we have for the first time appointed a dedicated Minister for the Overseas Territories in the FCO to oversee and develop the new partnership.

2.4 The partnership will be based on consultation and mutual understanding. A new political forum, the Overseas Territories Consultative Council, will be set up bringing together British Ministers and Chief Ministers and, where there is no ministerial system, elected members of Legislative Councils from the Overseas Territories to discuss matters of common concern. It will meet annually. Every other year, the Council will meet immediately before the Commonwealth Heads of Government Meeting, to allow our representatives to attend in full knowledge of the views of the governments of the Overseas Territories. We plan to hold the first meeting of the Council in September/October 1999.

Constitutional relations

2.5 We are committed to ensuring good government, sustainable political, economic and social development in the Overseas Territories and to guaranteeing their security and defence. The commitment to the defence of the Overseas Territories was reiterated in the *Strategic Defence Review* published in July 1998. It has substance: a garrison in the Falklands, for example, and guard-ships in the Caribbean and South Atlantic. In return, we expect high standards of probity, governance and adherence to the international agreements to which the UK and the Overseas Territories are party; and we expect to minimise the extent to which the UK is exposed to contingent liabilities.



Stanley, Falkland Islands

2.6 Consultation with the territories showed a clear expression of their wish to retain the connection with Britain. We concluded that neither integration into the UK, nor Crown Dependency status, offer more appropriate alternatives to the present arrangements. But these arrangements need to be revisited, reviewed and where necessary revised.

2.7 The link between the UK and the Overseas Territories is enshrined in the constitution of each territory. The Overseas Territories believe that their constitutions need to be kept up to date and where necessary modernised. Each Overseas Territory is unique and needs a constitutional framework to suit its own circumstances. Suggestions from Overseas Territory governments for specific proposals for constitutional change will be considered carefully.

2.8 The governance of the territories must have a firm base. Democracy, human rights and the rule of law are all as relevant in the Overseas Territories as elsewhere. The principles which should underlie modern constitutions are clear. There must be a balance of obligations and expectations, and both should be clearly and explicitly set out. Future action will focus on:

- measures promoting more open, transparent and accountable government;

- improvements to the composition of legislatures and their operation;
- improving the effectiveness, efficiency, accountability and impartiality of the public service;
- the role of Overseas Territory Ministers and Executive Councils and their exercise of collective responsibility for government policy and decisions;
- respect for the rule of law and the constitution;
- the promotion of representative and participative government;
- freedom of speech and information;
- the provision of high standards of justice;
- adoption of modern standards of respect for human rights.

2.9 Discussion of constitutional change is already under way. We are planning, for example, to consult the people of St Helena and its Dependencies about how to develop the democratic and civil rights of people living on Ascension Island. Some territories are already actively modernising the machinery of government: in the Cayman Islands, for example, an extensive programme of public sector reform and rejuvenation is in place.



BW Turner Board

Devil's Bay, the British Virgin Islands

Making partnership work

2.10 Important changes have already been introduced to make the new partnership work. The Foreign and Commonwealth Office (FCO) and the Department for International Development (DFID) have put in place new administrative arrangements to ensure better management of the UK's links with, and responsibilities for, the Overseas Territories.

2.11 After close consultation between the two Secretaries of State, it was decided that there should be parallel departments for the Overseas Territories in both the FCO and DFID. These have been set up. A ministerial joint liaison committee has also been established to coordinate the departments' activities and policies towards the aid-receiving Overseas Territories.

2.12 In the FCO, the new Overseas Territories Department is responsible for all issues relating to the Overseas Territories and reports to the Minister for the Overseas Territories. Special arrangements apply for issues relating to Gibraltar and the Falkland Islands. Because Gibraltar is within the European Union (EU) as part of the UK membership under the Treaty of Rome – the only Overseas Territory with this status – it will continue to be handled principally by the FCO's European Departments, reporting to the Minister responsible for Europe.

2.13 Following a review of the management of the aid programme in the Caribbean region, DFID decided early in 1998 to concentrate all support work for the Overseas Territories in London and the Parliamentary Under Secretary of State in DFID was given specific responsibility for overseeing the aid relationship with the Overseas Territories. At the same time, the FCO decided to transfer back to London responsibility for its Good Government funding and most of the other work hitherto done by the joint FCO/DFID Dependent Territories Regional Secretariat in Bridgetown. The Secretariat consequently has been closed. To reflect changing organisational and structural needs the Overseas Territories Department is, however, keeping some advisory expertise in Barbados.

2.14 These new arrangements are already providing greater coherence in policy making, raising the profile of the UK Government's work on behalf of the Overseas Territories in Britain, and helping to create a better dialogue with the Overseas Territories themselves.

2.15 There is great diversity within the Overseas Territories in terms of their size, their populations, their economic development and other factors. But there is a degree of coherence and similarity in the constitutional and institutional arrangements in place for their government and administration. We would like to see individual territories review their own structures and arrangements in line with the idea of a new partnership. Local changes may be needed to make the partnership work fully, and to improve the dialogue between the territories and the UK.

2.16 In response to representations from several Overseas Territory governments, we have reviewed the arrangements in Brussels for ensuring that Overseas Territory interests are properly looked after within the EU, given the direct impact of many Brussels-based decisions and regulations on their economies. The EU Command in the FCO will continue to liaise closely with the Overseas Territories Department and Southern European Department as well as other government departments over issues which affect the territories. A First Secretary in the office of the UK Permanent Representative to the EU in Brussels has been designated as a point of contact for the Overseas Territories covered by the Overseas Countries and Territories (OCT) Decision. The UK Permanent Representation to the EU remains in close touch with the Government of Gibraltar through the latter's office in Brussels.

All UK Overseas Territories except Bermuda, Gibraltar and the Sovereign Base Areas, enjoy an association with the EU under Articles 131 to 136 of the EC Treaty and the Overseas Countries & Territories (OCT) Decision. These provisions offer very favourable market access to the Community for Overseas Territory products, aid allocations and a dialogue with the EU on areas of mutual interest. The current Decision expires in 2000; the Government will consult the Overseas Territories and reflect their concerns in the renegotiation of the Decision.

2.17 We were also asked by leaders of the Overseas Territories whether closer links might be possible between the territories and the Commonwealth. Full membership of the Commonwealth is open only to independent countries, which limits the scope for Overseas Territory participation in Commonwealth affairs. However, members of the legislatures of the Overseas Territories have long enjoyed membership of the Commonwealth Parliamentary Association on an equal footing with full Commonwealth members. We will work to extend this collaboration to Overseas Territory participation in other Commonwealth organisations. Bermuda and other Overseas Territory governments are regular participants, as members of the UK delegation, in Commonwealth Finance Ministers' meetings. The Cayman Islands will host the 1999 meeting. Overseas Territory representatives have also attended meetings of Commonwealth Law Ministers. In 1998, for the first time, Overseas Territory representatives were included as members of the British delegation to the Commonwealth Senior Officials' meeting and the Commonwealth Health Ministers' meeting in Barbados. In collaboration with the Commonwealth Secretariat, we are exploring the scope for extending the practice of representatives from the Overseas Territories attending Commonwealth meetings as members of the British delegation.

Chapter Three

Citizenship

3.1 Access to Britain for people from the Overseas Territories is governed by a range of legal controls. The Government's review has examined closely whether this legal framework should now be modernised, as a key element of the new partnership.

3.2 The Commonwealth Immigrants Acts of 1962 and 1968 introduced controls which greatly restricted the ability of Commonwealth citizens and citizens of the United Kingdom and Colonies from the Dependent Territories to settle in the UK.



Swimming gala:
Cayman Islands

3.3 These Acts were succeeded by the Immigration Act 1971, introducing the concept of the right of abode in the UK and ending the right of free movement to the UK of Commonwealth citizens, including people from the Dependent Territories.

3.4 A 1977 consultative paper on British nationality proposed that the status of citizenship of the United Kingdom and Colonies be divided into two new categories: British citizenship for citizens of the UK and Colonies with the right of abode in the UK, and British Overseas citizenship for those who were subject to control under the Immigration Act 1971. Following representations received on behalf of the Overseas Territories, it was agreed that an additional category should be introduced in recognition of their special status.

3.5 The British Nationality Act 1981 accordingly replaced citizenship of the UK and Colonies with three new forms of status:

- British citizenship, for those with the right of abode in the UK;
- British Dependent Territories citizenship, for those belonging to the Dependent Territories;
- British Overseas citizenship, for people not connected with either the UK itself or any of the remaining Dependent Territories.

The 1981 Act also made provision for people from Gibraltar to acquire British citizenship, and a separate Act gave British citizenship to Falkland Islanders in 1983.

The people of St Helena harbour a sense of injustice about their citizenship status. They point to a Royal Charter granted by King Charles II in 1673. This gave the people of St Helena liberties

'... as if they had been abiding and borne within this our realme of England...'

St Helenians feel a strong sense of British identity by birth, language, history and culture. They have never known any other sovereignty. They consider that modern immigration and nationality legislation has cut them off from the UK and has added to their isolation. Some say that St Helena has become as much a prison for them as it was for Napoleon. They want to be able to travel freely to and from Britain.

Such was the strength of local sentiment that the Bishop of St Helena set up the 'Bishop's Commission on Citizenship' in 1992 '... to support restoration of the full rights of citizenship of those British subjects who are St Helenians'.

In 1997 a Bill to give British citizenship (and thereby right of abode in the UK) to St Helenians was introduced in the House of Lords. But the House of Commons considered that the issue of British citizenship for residents of all UK Overseas Territories who do not already have it was best considered as part of the review of Overseas Territories.

New rights of citizenship

3.6 Many people in the Overseas Territories who have British Dependent Territories citizenship but who do not have the status of British citizens, and thus the right of abode in the UK, clearly feel a sense of grievance. For some people this is an irritant affecting the ease with which they can travel.

For others the issue goes deeper. Some territories have only ever known British sovereignty. They feel British, and their populations have never been anything other than British. But legislation enacted in the 1960s and 1970s imposed controls on their entry to the UK either for settlement or for visits.

There is a strong desire for these controls to be relaxed and rights restored. We sympathise with those in the Overseas Territories who feel this sense of grievance, and intend to address it.

3.7 We have examined the options carefully. We have decided that British citizenship – and so the right of abode – should be offered to those British Dependent Territories citizens who do not already enjoy it and who want to take it up (but see paragraphs 3.12 and 3.13). Any who do not want to take it up will be able to say so and remain British Dependent Territories citizens. This is a significant step forward for people in the Overseas Territories. It will offer them the opportunity many have sought for many years. The Government considers this is the right thing to do as a point of principle. We will introduce, when parliamentary time allows, the legislation required to put this principle into practice.

3.8 In making this decision the Government has taken into account representations made by people in many territories – not least those made on behalf of the people of St Helena (see box).



Government Information Services, Cayman Islands

Cayman high school graduates

What new citizenship rights will mean

3.9 We have considered carefully the argument that a grant of British citizenship to people with British Dependent Territories citizenship would lead to a new wave of primary immigration. We expect few people from the Overseas Territories would wish to emigrate permanently to Britain. Roughly 70 per cent of the total population of the Overseas Territories live in territories with a higher income per head than Britain, and residents of the larger and richer territories such as Bermuda, the British Virgin Islands and the Cayman Islands might well be more likely to want to stay where they are. But some, for example, may like to come to Britain for training and work experience, and will be welcome. We would not expect large numbers of those currently resident in the less prosperous, smaller territories to take up the option of coming to live and work permanently in the UK. Effective and sustainable development within the Overseas Territories will continue to provide opportunity and choice and reduce the need for people to seek these elsewhere.

3.10 Another point made by some governments of the Overseas Territories is that they would not welcome a grant of British citizenship if this came with conditions attached to it, such as an

obligation to introduce British tax rates and regimes. There are no such conditions attached to the Government's proposal on citizenship. Nor will this offer of British citizenship imply in any way a threat to the right of the people of these territories to determine their own constitutional relationship with the UK. The new grant of British citizenship will not be a barrier, therefore, to those Overseas Territories choosing to become independent of Britain. Nor will British Dependent Territories citizenship status be abolished.

3.11 Many people from the Overseas Territories have made it clear that they want British citizenship so that they can travel more freely. It is right that they should be able to do so. They should be able to enter Britain through our ports through the same channels as British citizens and other European Union (EU) nationals – who at present include inhabitants of French and Dutch territories, but not those of our own except Gibraltar and the Falkland Islands.

3.12 We do not intend to offer British citizenship to British Overseas Citizens. Many have access to or have acquired dual nationality. Many have access to the UK through our voucher scheme. Moreover we have a particular responsibility to people in areas for which we have sovereign responsibility.

3.13 Nor does the Government propose to extend the offer of citizenship to British Dependent Territories citizens who owe their status to their association with the Sovereign Base Areas in Cyprus or with the British Indian Ocean Territory. Both are special cases. British usage of these territories is defence-related.

Reciprocity

3.14 It is our intention that the offer of British citizenship should be on a non-reciprocal basis as far as the right of abode is concerned. Our consultations with the territories showed that there is a fear among these mostly small communities that reciprocity would give unrestricted access to not only British but also other EU citizens. This would, potentially, make possible an inflow of people on a scale that could dramatically alter the social cohesion and character of the communities. The Government regards this concern as legitimate. Precedents have already been set for British citizenship being offered without reciprocity in the case of the Falklands and Gibraltar: Within the EU, neither France nor the Netherlands nor Portugal require reciprocity in exchange for full metropolitan citizenship.

3.15 A non-reciprocal offer of British citizenship would be wholly consistent with the importance the Government attaches to the emergence of a vibrant multiracial and multicultural Britain.

3.16 Under European Community law, giving British Dependent Territories citizens British citizenship will mean giving them certain European Community rights of free movement and residence in EU and European Economic Area member states.

3.17 Once the appropriate legislation has been passed, all those who were British Dependent Territories citizens by connection with any qualifying Overseas Territory (see paragraph 3.13 above) at the time the legislation entered into force would automatically become British citizens.

We shall make provisions for children born to qualifying parents to become British citizens at birth or adoption. But we shall also make it possible for those who do not want to become British citizens to give up that status and remain British Dependent Territories citizens.

3.18 As now, newcomers to the Overseas Territories will be subject in the first instance to regulations on rights of residence in the Overseas Territory in which they wish to live. These regulations differ from territory to territory and often prescribe lengthy periods of legal residence and other qualifications for the grant of 'belonger status'. We shall put in place arrangements which will make it possible for any such people who acquire British Dependent Territories citizenship through legal residence in an Overseas Territory to be granted British citizenship.

UK Overseas Territories – population*

Anguilla	11,915
Bermuda	61,545
British Virgin Islands	19,107
Cayman Islands	36,600
Falkland Islands	2,221
Gibraltar	27,192
Montserrat (pre-volcano 11,000)	4,500
Pitcairn, Henderson, Ducie and Oeno Islands	54
St Helena and its Dependencies	6,397
Turks & Caicos Islands	20,000
Total	189,531

* For a full list of Overseas Territories see paragraph 1.5.

Chapter Four

Encouraging good government – human rights

4.1 We regard the establishment and maintenance of high standards of observance of human rights as an important aspect of our partnership with the Overseas Territories. Our objective is that those territories which choose to remain British should abide by the same basic standards of human rights, openness and good government that British people expect of their Government. This means that Overseas Territory legislation should comply with the same international obligations to which Britain is subject, such as the European Convention on Human Rights and the UN International Covenant on Civil and Political Rights. The Overseas Territories have a well-deserved reputation for their respect for and observance of human rights, but changes are still necessary in some territories to ensure consistency.

Pitcairn Police Officer
Meralda Warren with WPC
Gail Cox, seconded to
advise on law and order

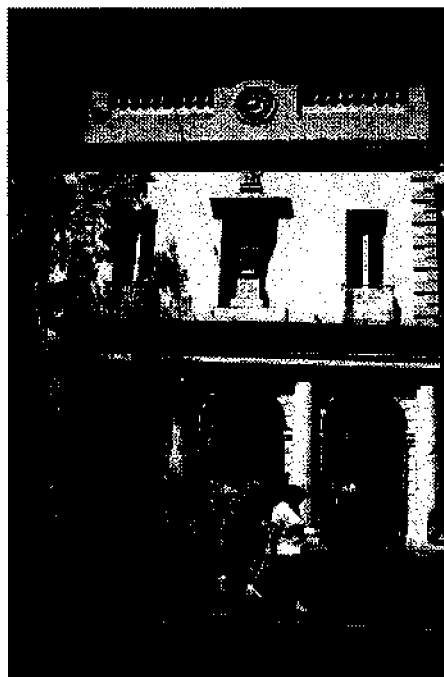


4.2 There are three human rights issues on which we have indicated we would like to see reforms in some of the Overseas Territories:

- judicial corporal punishment, which remains on the statute books of two Overseas Territories;
- legislation in some of the Overseas Territories which outlaws homosexual acts between consenting adults in private;
- capital punishment, which is still available to the courts in Bermuda.

4.3 While its territories retain this legislation the Government risks being in breach of important and fundamental international agreements, including the European Convention on Human Rights and the International Covenant on Civil and Political Rights. In addition, this exposes the UK to an avoidable contingent liability of costs and possibly damages. In keeping with our commitment to a modern relationship with the Overseas Territories based on partnership and responsible self-government, our preference is that the Overseas Territories should enact the necessary reforms themselves. But in the absence of local action, legislation could be imposed on the Caribbean territories by Orders in Council.

House of Assembly, Gibraltar



Judicial corporal punishment

4.4 Judicial corporal punishment remains on the statute books of the British Virgin Islands and Bermuda. It was abolished in Montserrat in 1991 and in Anguilla and the Turks and Caicos Islands in 1998. In the Cayman Islands abolition was begun in 1995 and completed in 1998. There is a belief in those territories which retain it that it provides a deterrent, particularly against hooliganism and juvenile crime. But in recent years, it has only been handed down as a sentence in the British Virgin Islands, the last time in 1996.

Homosexuality

4.5 We believe that all of the Overseas Territories should enact legislation similar to the UK Sexual Offences Act 1967, which legalised homosexual acts between consenting adults in private. None of the Caribbean Overseas Territories has brought its legislation into line with the Act, though prosecutions in recent years have been rare. In some of the Caribbean communities there is particularly strong opposition to homosexuality, based upon firmly held religious beliefs.

Capital punishment

4.6 In 1991 the UK abolished capital punishment for murder in the Caribbean Dependent Territories by Order in Council. Subsequently the UK has abolished capital punishment for treason and piracy in domestic legislation.

The only Overseas Territory which has retained the death penalty for murder is Bermuda, though the last time it was carried out there was in 1977 (twice). Since then, of a small number of death sentences handed down for premeditated murder, only one was not reduced on appeal to a lesser conviction not carrying the death penalty; and that case was subsequently commuted to life imprisonment.

4.7 We have raised our concerns with the Government of Bermuda about the continuing existence of capital punishment for murder. We hope that the Bermuda legislature will take early steps towards removing this punishment from the statute book. Bermuda's degree of constitutional autonomy prevents us from imposing the abolition of the death penalty there by Order in Council. But if local action is not taken, we will consider whether to impose abolition by means of an Act of Parliament.

4.8 We also expect all Overseas Territories to remove capital punishment for treason and piracy from their statute books.

Encouraging good government – finance

5.1 We see several reforms as essential to improving standards in this key area of government activity:

- financial services;
- auditing;
- borrowing;
- tax issues.

Financial services – development and regulation

5.2 The international financial services industry has grown dramatically in recent decades. A significant number of the Overseas Territories, especially those in the Caribbean but also Bermuda and Gibraltar, have developed successful offshore financial sectors, and so diversified their economies. In some, the earnings from this sector now contribute significantly to government revenue and to GDP.

5.3 The success of the Overseas Territories has been built upon by their reputation for sound administration, effective legal systems, political stability and public order, and their association with the UK. These provide reassurance to would-be investors and business partners. It is essential for the future of the sector that this reputation for honest administration and probity be preserved and enhanced.



Overseas Territories Handbook

Business district,
Bermuda

5.4 The development of sizeable financial sectors brings risks of abuse. There have already been a number of problems. Where these have surfaced, they have been dealt with, and steps taken to strengthen the systems to prevent any recurrence. The process of building suitable defences against abuse is dynamic. As markets develop and techniques for laundering money, fraud, tax evasion and regulatory abuse evolve, so financial regulatory systems must improve, be updated, and be responsive to ever tighter international standards.

5.5 The Caribbean Overseas Territories in particular are a potential target for money launderers because of their offshore financial business, their proximity to major drug producing and consuming countries and, in some cases, their inadequate standard of regulation and strict confidentiality rules. They are also at risk from attempted fraud. In some cases, the small size of their public sectors makes it difficult to provide adequate regulation, particularly if the offshore sector has grown more rapidly than regulatory capacity. International financial crime and regulatory abuse arising in the Overseas Territories is mainly targeted at other countries.

Since 1988 the UK has had a regional intelligence unit gathering and disseminating information among the Caribbean Overseas Territories to assist in the prevention, detection and investigation of major crime, particularly fraud, money laundering and drugs-related crime.

In 1994 a joint UK/US team was established to investigate and assist in the prosecution of cases of financial crime (except drugs-related) which occur principally in the US and Caribbean Overseas Territories.

All the Caribbean Overseas Territories are members of the Caribbean Financial Action Task Force (CFATF), the regional anti-money laundering body, of which the Cayman Islands is the current chair. A number of Caribbean Overseas Territory financial, legal and law enforcement experts have participated as examiners in the CFATF's mutual evaluation process.

5.6 In the wake of problems in the banking sector in Montserrat in 1989, and the BCCI banking scandal in 1991, the regulation of financial sectors has been tightened. Regulators with relevant overseas experience have been recruited, and more comprehensive financial legislation introduced. Revised banking guidelines have been issued which restrict the granting of offshore licences to branches or subsidiaries of international banks which are supervised in their home country. Provisions have been made to allow improved cooperation with overseas regulators and law enforcement agencies; and modern all crimes money laundering legislation has been enacted or will be adopted shortly in the Caribbean Overseas Territories, Bermuda and Gibraltar. The focus should now be on using these powers effectively.

5.7 None the less, as the May 1997 National Audit Office *Report on Contingent Liabilities in the Dependent Territories* noted, overall progress in the Caribbean Overseas Territories in introducing regulatory legislation has been slow. Many Overseas Territories do not yet fully meet internationally acceptable standards.

Failure to tighten regulation could affect the stability of and confidence in financial markets and expose the UK to international criticism and to potential contingent liabilities. Furthermore, it could undermine our ability to combat financial fraud, money laundering, terrorist funding and tax evasion, and undermine the effectiveness of financial sanctions. It could also undermine the UK's ability to press for higher standards of global financial regulation, and to encourage greater regulatory cooperation.

5.8 Any participants in the international financial services industry must meet the corresponding international standards of good practice. The globalisation of international finance means that the whole system has to be protected. It is in all our interests to ensure that the Overseas Territories are not the subjects of complaints and that they have proper regulatory regimes in place. In the long run, it is the quality jurisdictions that will prosper best. There must be no weak links which can help to undermine the international financial system.

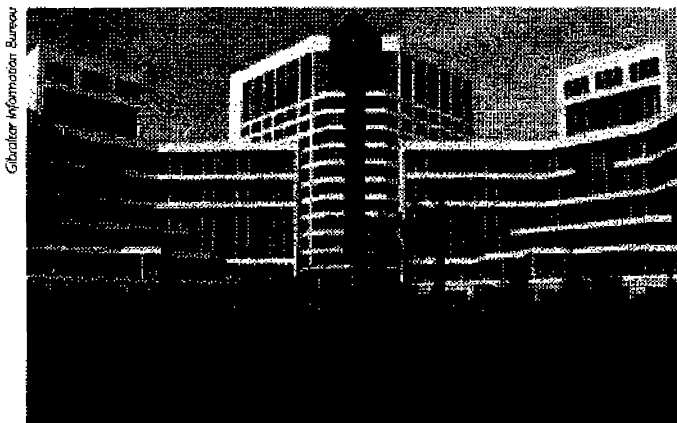
5.9 Gibraltar is required to implement all European Community Directives related to financial regulation. Gibraltar has made a commitment not just to implement the necessary measures to the minimum standard required within the European Union (EU), but also to match UK standards of financial regulation. Gibraltar's standards of financial regulation are assessed formally and rigorously by the UK Government on a regular basis. This should ensure that Gibraltar will match the regulatory requirements set out in this White Paper.

5.10 Action is necessary in all Overseas Territories with financial centres or ambitions to develop such a sector, to improve standards. Overseas Territory governments must speed up the work they have in hand so that all measures are in place by the end of 1999. We shall be asking Governors to provide regular progress reports. We shall conduct an in-depth independent review by regulatory experts in 1999 to assess progress made in implementing these measures and make recommendations on how to deal with issues outstanding and to what timetable. This is essential to ensure both adequate regulation and that the same conditions apply in all Overseas Territories.

5.11 The key components of the regulatory package (see Appendix Two) we wish to see in place by the end of 1999 are:

- legislation for the effective regulation of the offshore sector which fully meets accepted international standards;
- comprehensive measures to combat money laundering, which extend to all financial institutions, and the introduction of legislation to improve regulation of company formation agents and managers;
- powers to ensure that, whatever the secrecy laws, regulators and law enforcement in those Overseas Territories with financial sectors can cooperate properly with their overseas counterparts, including on investigation and enforcement matters;
- licensing and regulatory regimes for all financial activity that creates conditions for fair competition between the Overseas Territories;
- the establishment of independent regulatory authorities meeting accepted international standards.

5.12 In most Overseas Territories the offshore finance sector is the responsibility of the Governor. We have considered whether there would be an advantage in having uniformity of powers. We have decided that this is not essential. Where authority has been devolved, it is the responsibility of those concerned to ensure that the jurisdiction achieves the highest standards. We will monitor all Overseas Territories concerned and indicate what standards are expected. If, when the implementation of the check-list is monitored, some territories are found to have been inactive and to be behind, we will consider seriously whether to use our powers to ensure that the required standards are met.



Europort Finance Centre, Gibraltar

Auditing and financial accountability

5.13 The existence of proper financial procedures and controls, including the availability of timely audited accounts of public sector activities, is necessary for the proper administration of public expenditure. The Overseas Territories' past record with both the standard and timeliness of draft and audited accounts has been mixed.

5.14 We will give high priority to ensuring that Overseas Territories have in place sound procedures for administering government finances, with adequate internal audits. Overseas Territories will be required to produce timely, independently audited annual accounts for all public sector activities to UK standards, with full identification of contingent financial liabilities. The accounts should be subject to scrutiny by the territory's legislature, and where appropriate by a fully functioning Public Accounts Committee. In some Overseas Territories, accounting and auditing legislation will need to be updated to underpin this process. We stand ready to give expert advice and assistance to help the Overseas Territories bring their audit and statistical systems up to the required standard.

Financial control – borrowing

5.15 Borrowing is a legitimate tool of government policy but must be used prudently. We therefore intend to agree strengthened procedures and guidelines with Overseas Territory governments.

This will ensure borrowing is properly used, within sensible prudent limits and will assist Overseas Territory governments to obtain the greatest economic benefit from their borrowing and to borrow on the best terms. Many of the guidelines will be based on existing practice and will cover all means of raising finance.

5.16 In general, borrowing should only be considered for discrete capital investment projects. It should be restricted to investments which have a calculable and reasonably certain financial and economic rate of return. All investment projects, however financed, should be appraised by suitably qualified professionals against technical, economic, financial, social and (where appropriate) environmental criteria. Concessional sources of funding should be sought first and, in principle, projects with social objectives and low financial returns should be financed from recurrent budget surpluses.

5.17 In considering particular projects due attention should be given to the impact of new commitments on overall levels of borrowing, and to the territory's debt management record. While a rigid framework should not be applied, each territory wishing to borrow will be required to agree with us an overall level of borrowing, and in the case of some territories approval will be required for individual loans. Borrowing in excess of agreed limits would only be approved in exceptional circumstances, or if the economic situation had changed substantially since the limit was set.

Leaders, politicians and officials from the Overseas Territories attended a seminar in London on harmful tax competition on 7 September 1998. Baroness Symons opened the seminar. The seminar's objective was to examine the EU, OECD and G7 harmful tax competition initiatives. By the end of a wide-ranging discussion representatives from the territories and UK officials had a clearer understanding of each other's concerns and interests in the initiatives. The seminar was part of a continuing dialogue on harmful tax competition between the UK Government and the Overseas Territories to ensure that mutual interests are understood and promoted.

5.18 Overseas Territory governments take on contingent liabilities themselves when they guarantee loans to other organisations, and these should be given only when the risk of default has been properly evaluated. Our approval for such guarantees will be required case-by-case.

5.19 We will provide neither explicit nor implicit guarantees for commercial borrowing by Overseas Territory governments. When negotiating borrowing arrangements Overseas Territory governments should not say or do anything which is likely to be interpreted as suggesting anything to the contrary.

Tax issues

5.20 There is growing international concern about the economic side-effects of harmful tax competition between states. Work on this has recently been undertaken by the Organisation for Economic Cooperation and Development (OECD) and the EU, and endorsed strongly by the G7. Given the international mobility of capital, both organisations concluded it was hard to tackle this issue on a purely regional basis. A global approach was needed, as for tax evasion, fraud and money laundering.

5.21 The Government supports the initiatives taken by the EU, OECD and G7. Promoting economic stability and fairness, as well as improving the integrity and security of financial markets, are high priorities. Irrespective of size, all jurisdictions are potential beneficiaries from a healthier world economy. They have a responsibility to ensure that their regulatory regimes are effective, transparent and offer adequate accessibility for the legitimate investigation of criminal activity, including tax fraud and evasion.

5.22 These initiatives have implications for some Overseas Territories. It is important, therefore, that Overseas Territory governments cooperate with them. We will continue to consult closely with Overseas Territory governments over the initiatives, and ensure that international discussions of harmful tax competition take account of their interests. We stand ready to offer advice and expertise to the Overseas Territories in connection with these initiatives.

5.23 In the EU Code of Conduct for business taxation agreed on 1 December 1997, member states committed themselves not to introduce harmful tax measures and to re-examine laws and practices with a view to eliminating existing harmful measures. Member states with associated or dependent territories are committed, within the framework of the constitutional arrangements, to ensuring the principles of the Code are adopted in those territories.

5.24 The EU is also considering a draft directive which would require member states to operate a withholding tax on cross-border income from savings by individuals, or to provide information on savings income to other member states. It is proposed that member states should commit themselves within the framework of their constitutional arrangements to ensure equivalent measures are applied in dependent or associated territories.

5.25 Following the publication of a report by the OECD on 28 April 1998 on harmful tax competition, a Forum on Harmful Tax Practices has been established to consider how the OECD report's recommendations can be implemented. The Forum invited a number of jurisdictions, including some Overseas Territories, to provide details of their tax regimes. The Forum, through dialogue with the jurisdictions concerned, will assess whether their tax regimes match the OECD criteria for defining a tax haven. Those jurisdictions which meet the OECD criteria will be included on an OECD list of tax havens. The list will guide OECD members' efforts to persuade tax haven jurisdictions to modify their fiscal regimes and increase their international cooperation on fiscal matters.

5.26 In a recent communiqué, the G7 urged the OECD to give particular attention to the development of a comprehensive programme to improve the availability of information to tax authorities to curb international tax evasion and avoidance through tax havens and preferential regimes. It also encouraged action to ensure that suspicious transaction reporting requirements apply to tax offences and for money laundering authorities to pass information to tax authorities in support of the investigation of tax related crimes in ways which would allow it to be shared internationally. The G7 also committed itself to further these objectives in all territories for which it has international responsibilities.

5.27 Work in this area is at an early stage. There are still issues, including some of definition, to be resolved. Overseas Territory governments need, and are entitled to, clear guidance as to which aspects of their offshore financial industries are likely to continue to be able to flourish, and which may be subject to change. We will work closely with them as the initiatives unfold. These initiatives will require greater international cooperation through, for example, the exchange of information on tax matters and improved transparency. A study of the possible economic impact of the initiatives on some of the Overseas Territories will be undertaken to help us determine the best way forward. Our interest is to ensure that offshore financial industries in the Overseas Territories flourish, and do so on the basis of compliance with standards and practices consistent with internationally agreed norms.

Chapter Six

Encouraging good government – combating drug trafficking and drugs-related crime

6.1 Drug trafficking and drugs-related crime are a serious threat to stability in the Caribbean: our Overseas Territories in the region are targeted by drug traffickers as potential trans-shipment points. This type of crime knows no boundaries. We are pleased therefore to support the territories in the Caribbean as they collaborate in regional efforts to counter the drugs trade. Amongst our other Overseas Territories the only significant problem had been drug trafficking using fast boats based in Gibraltar: but local legislation in 1995 and 1996, including banning such boats, has solved the problem.

6.2 Drug trafficking affects the Caribbean region as a whole, not just our Overseas Territories. The geography of the region makes it particularly vulnerable to trafficking and the associated problems of crime and violence, corruption and economic distortions. The UN International Drugs Control Programme (UNDCP) estimates that some 400 tonnes of cocaine transit through the Caribbean each year. Most of the cocaine transiting our Overseas Territories is believed to be destined for the US.

6.3 Each of our Caribbean Overseas Territories has taken steps to tackle drugs issues including both domestic narcotics consumption and the threat from drug trafficking and money laundering. They have also made arrangements to ensure that their anti-drugs strategies are coordinated properly.

Typical is the Turks and Caicos Islands where a National Drugs Coordinator has been appointed and a National Drugs Committee coordinates the efforts of all the agencies involved in tackling trafficking and money laundering. In the Cayman Islands a National Drugs Council contributes to the working up of policies, while a Joint Police and Customs Drugs Task Force leads the enforcement action.

6.4 A regionwide Plan of Action was launched at a UNDCP meeting in Barbados in May 1996. The EU's substantial contribution to this five year programme has become known as the EU Caribbean Drugs Initiative – worth some £25 million.

The initiative is designed to help Caribbean governments, including the Overseas Territories, address the problems of drugs trade through improved regional cooperation and greater capacity to tackle all aspects of the control of drugs. We have played a leading role in the initiative and will continue to work to ensure that our territories are fully involved. Programmes under the initiative, many part-funded by the UK or with British experts participating in them, include maritime cooperation, judicial training, countering money-laundering, law enforcement training, chemical precursor control and demand reduction.

6.5 We also provide considerable bilateral assistance to the Caribbean for counter-drugs work from which the Caribbean Overseas Territories directly benefit:



Cairn Blair, Government Information Services

Overseas Territories Minister Baroness Symons being briefed by a member of the Drugs Task Force aboard the Royal Cayman Islands' police vessel, *Protector*.

- The Royal Navy's West Indies Guard-ship (WIGS), supported by a fleet auxiliary vessel, conducts counter-drugs patrols. Joint operations involving ourselves, the Overseas Territories and the United States have enjoyed recent successes: in February 1998 cocaine worth at least US\$200 million was seized by the Turks and Caicos Islands marine police.
- There is a network of Drugs Liaison Officers in the Caribbean and neighbouring countries. These officers have conducted many successful operations with the law enforcement authorities in the region.
- We are considering ways of developing the British Military Advisory and Training Team in the Eastern Caribbean into an even more effective counter-drugs asset.
- The Caribbean Customs Law Enforcement Council, which is partly funded by the UK, operates a regional training and information system.
- We are helping the Association of Caribbean Commissioners of Police to establish a regional secretariat.
- Since 1998 we have had a regional intelligence system (the Overseas Territories Regional Criminal Intelligence System – OTRCIS) gathering and disseminating information among the Caribbean Overseas Territories to assist in the prevention, detection and investigation of major crime, particularly fraud, money-laundering and drugs-related crime. OTRCIS works closely with other regional jurisdictions and with United States agencies (it is based in Miami).

- As part of our contribution towards the counter-narcotics programmes in the British Virgin Islands and the Turks and Caicos Islands, Royal Navy personnel assist with maritime operations, along with RAF flight and maintenance personnel who operate two UK-donated aircraft for anti-smuggling activities.
- We are funding a training vessel for counter-drugs training by coast guards in the Caribbean. The vessel will be based in Antigua and should be delivered by the middle of 1999.
- In July 1998, Baroness Symons signed a maritime cooperation agreement between the US, UK, the Caribbean Overseas Territories and Bermuda. This provides the framework for law enforcement officers to ship-ride on other parties' vessels. Simplified procedures allow vessels and aircraft engaged in counter-drugs operations to pursue drugs traffickers as they cross territorial and international waters. Implementing legislation is required in the Overseas Territories.

6.6 But we cannot be complacent. There is a need for our Overseas Territories in the Caribbean to take an even more active approach to the promotion of their counter-drugs programmes, to enhance their capability to defend themselves against this pernicious threat and make best use of resources available. We will continue to provide help, but we will also encourage and support the efforts of Overseas Territory governments to benefit from international assistance offered to them. Effective cooperation with their neighbours is the key to effective action by the Overseas Territories in the battle against the drugs menace in the Caribbean.

Chapter Seven

Sustainable development – economic and social development

7.1 Many of the Overseas Territories are financially independent of the United Kingdom. But six of them still receive UK development assistance: Anguilla, the British Virgin Islands, Montserrat, and the Turks and Caicos Islands in the Caribbean; Pitcairn, and St Helena. Even in these six territories, standards of living – as measured by social indicators and by conventional per capita income measures – are relatively high in comparison with other countries receiving development assistance. Most have already surpassed the international development targets in many areas.



New housing project, Montserrat

7.2 We recognise responsibility to help them achieve sustainable development, targeting the needs of the poorest and the vulnerable, and the special considerations that apply to the small island territories – for example their very limited resource base; their dependence on a limited range of economic activity; the fragility of their natural environments; the problems of physical access and isolation which apply in some cases; and the potential exposure to natural disasters, particularly in the Caribbean. We also recognise that we have a particular responsibility to ensure the well-being of sovereign British territories.

7.3 We have three objectives in providing development assistance to the Overseas Territories:

- to maximise economic growth and self-sufficiency through sensible economic and financial management, leading to graduation from such support where this objective is feasible;
- to ensure in the meantime that basic needs are met, including the provision of essential infrastructure;
- to support the good governance of the territories, including the proper management of contingent liabilities and the fulfilment of the UK's international obligations – particularly human rights and the multilateral environment obligations.

Selected social indicators for aid-recipient Overseas Territories

	Life expectancy (years)	Infant mortality (per 1,000 live births)	Adult illiteracy (%)	GDP per capita (£)
Anguilla	74	26	5	4,432
British Virgin Islands	72	13	1.5	17,226
Montserrat	76	12	3	N/K
St Helena	72	17	3	2,536
Turks & Caicos	75	19	1.5	3,602
Developing Countries	62	64	36	
Industrialised Countries	74	14	>5	

Sources: Pan American Health Organisation Basic Indicators, 1996; St Helena Government Statistics. Comparable figures are not available for Pitcairn.

7.4 The Government, acting through the Department for International Development (DFID), will continue to help the Overseas Territories to achieve sustainable development in ways which contribute effectively towards the elimination of poverty. The principles of social justice which we are pursuing at home should apply in the Overseas Territories too, including the achievement of better opportunities and security for all. We shall therefore support the development of sound policies for economic growth to benefit the whole population, on the basis of efficient and well regulated markets and access for all people, especially poor and marginalised people, to resources and sustainable livelihoods. We shall also continue to provide support for improving the efficiency, transparency and accountability of government in the territories, and for strengthening their planning and policy-making capacities, on the basis of the principles of partnership set out in the November 1997 White Paper on International Development.

7.5 One indicator of sustainable development is economic self-sufficiency. For some of the aid-recipient Overseas Territories this is an attainable objective in the foreseeable future: for others, continued reliance on the UK for development finance is likely to be required. The Government recognises its responsibility to provide necessary and appropriate development support to these territories, up to the stage when they can be said to have achieved economic self-sufficiency. In pursuit of this objective, we will help the Overseas Territories to mobilise their own resources for economic development and investment in infrastructure, and to attract inward investment. The provision of an appropriate legislative, regulatory and fiscal framework will be an important element in this process.



The Victoria Public Library on Grand Turk

7.6 The importance of this can be seen in the field of aviation safety. Bermuda and the Cayman Islands, who have both achieved US Federal Aviation Administration Category I status, have shown how high standards in aviation safety regulation can help in the development of a successful tourist industry. But there is a need to improve standards in other Caribbean Overseas Territories to ensure that foreign airlines can continue to operate services to those territories. The Civil Aviation Authority has agreed individual action plans with the territories that should help them reach and maintain minimum International Civil Aviation Organisation safety standards and, ultimately, UK standards.

7.7 Similarly it is important that Overseas Territories with shipping registers should meet best international standards, both for safety reasons and to maintain an important source of revenue.

7.8 The White Paper on International Development explained that 'the reasonable assistance needs of the Dependent Territories are a first call on the development programme'. The main mechanism for establishing a partnership between the UK Government and individual territories to promote sustainable development is the agreed Country Policy Plan. In countries still in receipt of development assistance the Plan is generally linked to a specified UK commitment on development assistance.

7.9 This assistance, provided by DFID, takes a number of different forms:

- in the poorer Overseas Territories, help towards economic and social infrastructure – including schools, hospitals, roads, water, and power;
- skilled personnel to fill key administrative or technical posts for which no suitable local candidates are available, and training of their local successors;
- specialist skills and knowledge to support the development and implementation of policy and legislation, and help the Overseas Territories develop their own capabilities;
- for the two most economically dependent Overseas Territories – Montserrat and St Helena – budgetary support to meet the financing gap between recurrent government expenditure and locally generated resources.

Funds are also available from the Foreign and Commonwealth Office (FCO) to provide support for improved governance in the Overseas Territories. We have made substantial commitments to support those territories with the greatest needs, particularly Montserrat and St Helena.

7.10 We have committed £75 million to Montserrat for the three-year period 1998/99–2000/01. This is additional to the £59 million spent in the three years since the volcanic crisis started in 1995. Our support finances budgetary aid and the rebuilding of the north of the island where the remaining population live (4,500). We are also providing support for evacuees in the Caribbean region and have financed passages for evacuees to the Caribbean, the UK and North America. The costs of supporting evacuees once they arrive in Britain are met by the relevant Home Departments. We agreed with the Government of Montserrat in November 1998 a Sustainable Development Plan setting out the broad policies needed for economic and social recovery of the island. This formed the basis of the joint Country Policy Plan agreed in January 1999 which includes an indicative investment programme for the period to March 2001.

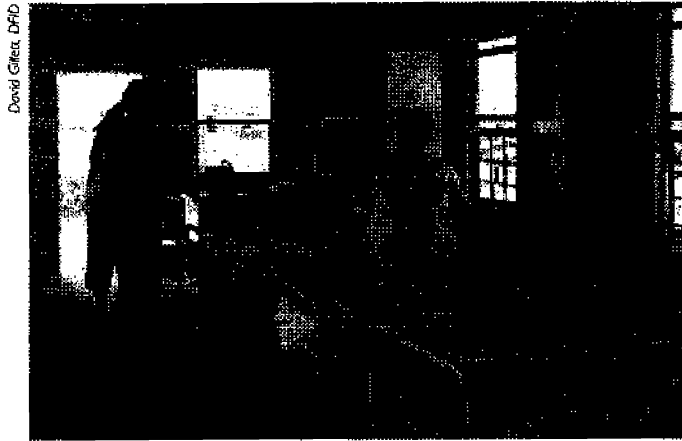


The RMS *St Helena*, providing passenger, mail and freight services to St Helena

7.11 For St Helena, our present three-year commitment amounts to £26 million. This finances infrastructure projects, expert personnel, and budgetary aid. We also finance the operating subsidy of the RMS *St Helena*, at present the sole regular means of physical access to the island (an examination of the economic feasibility of developing an eventual air link is currently under way, alongside our discussions with the US Government about opening up Wideawake Airfield on Ascension to civilian charter flights). We shall continue to look for other ways of expanding economic activity on St Helena, in partnership with the private sector.

7.12 DFID support to the other Overseas Territories is of a lower order of magnitude (£7–8 million a year in total). This is underpinned by a regional Caribbean Overseas Territories allocation which provides support for issues of regional importance and assistance with the efforts of those territories in regional integration.

7.13 Efforts will be made to diversify sources of assistance to the Overseas Territories. There is a potentially important role for the private sector in stimulating development, and we will work to establish mutually beneficial partnerships between the private and public sectors in the Overseas Territories, with particular emphasis on the tourism and financial services industries.



David Gilbert, DFID

New hospital at St John's, Montserrat

7.14 The Overseas Territories also benefit from EC development assistance under the Overseas Countries and Territories (OCT) regulation of the Lomé Convention, financed from the European Development Fund. Our Overseas Territories are due to receive just over 19 million ecu (some £13 million) from this source for the present five year period up to 2000. European Community (EC) assistance has been used to help finance important infrastructure projects such as roads and water supply schemes in Anguilla and the Turks and Caicos Islands. Discussions are now under way for EC support for a number of projects including the proposed new wharf development in St Helena and for infrastructure support in Montserrat and Pitcairn. Funds are also available under the OCT regulation for Stabex payments (compensation for price fluctuations in basic export crops) and emergency aid.

The European Investment Bank has agreed recently to finance an important airport development scheme in the British Virgin Islands. The Overseas Territories also benefit from other sources of EC funding (for example emergency aid) and from trade opportunities arising from the preferential access granted in the OCT Decision.

7.15 We will continue to support efforts to attract additional non-EU donor support to the Overseas Territories. Montserrat, for example, is currently also receiving assistance from the Caribbean Development Bank, the Caribbean Community, the United Nations Development Programme, the United Nations Children's Fund, the United Nations Volunteer, and the Organisation of Eastern Caribbean States, and from the Canadian, Jamaican, and Japanese bilateral programmes.

7.16 The Overseas Territories need to be able to compete in the global economy. DFID, the FCO and other Government departments will continue to work closely together on a range of policy issues to help the Overseas Territories adapt to, and take advantage of, the global opportunities, and obligations, which now confront them.

Chapter Eight

Sustainable development – the environment

The natural history of the Overseas Territories

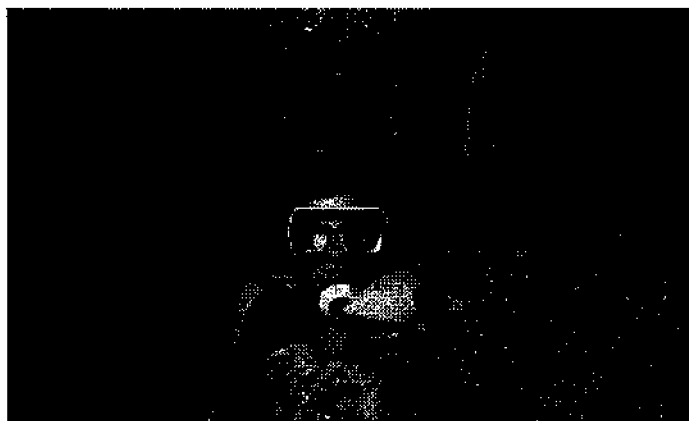
- So far about 500 endemic invertebrates are known to science from the Overseas Territories. Of the 256 beetle species on St Helena 61 per cent are endemic.
- Around the Falkland Islands 22 species of whales, porpoises and dolphins have been recorded.
- The Cayman Islands has 19 endemic taxa of reptiles including two sub-species of rock iguana which are subjects of a conservation programme.
- The British Indian Ocean Territory contains the Great Chagos Bank, one of the world's largest and richest atolls.
- There are more than 200 endemic plant species in the Overseas Territories. Most occur on St Helena (46) including olive, rosewood and ebony trees which are some of the rarest in the Overseas Territories.
- The Green Turtle nests in seven Overseas Territories: Anguilla, Ascension Island, the BIOT, the British Virgin Islands, the Cayman Islands, Henderson Island (Pitcairn), and the Turks and Caicos Islands.

Source: UK Overseas Territories Conservation Forum

8.1 The natural environment of the Overseas Territories is a rich heritage, but a responsibility too. Henderson Island in the Pitcairn group is the Pacific's best large raised coral atoll. Gibraltar is a key migration route for birds of prey. The British Antarctic Territory is a sensitive barometer for the effect of human actions on the world's climate and atmosphere. The Overseas Territories contain a range of habitats and wildlife of global significance: many more species of animals and plants are found in the territories, and nowhere else in the world, than are found in Britain. Indeed, they contain at least 10 times as many endemic species as Britain.

8.2 The natural environment also provides a source of economic livelihood for many people in the Overseas Territories. The Cayman Islands, for example, relies heavily on the tourist industry, which in turn depends on the richness of the marine environment. The Falkland Islands and Tristan da Cunha, in particular, rely on sustainable fisheries.

Diving in the Cayman Islands



Cayman Islands Department of Tourism

United Nations Convention on the Law of the Sea (UNCLOS)

As Islands, the Overseas Territories have wide ranging maritime interests. Britain's accession to UNCLOS in 1997 extended to all the territories. The Convention includes an important framework providing for the protection of the marine environment and conservation of living marine resources. Examples are:

- rights to exploit, and duties to conserve, living resources up to 200 miles from coastlines;
- obligations to prevent and control pollution from land-based sources, dumping or the operation of vessels;
- enforcement powers for states in respect of vessels which fly their flag, and those which enter their ports, territorial sea or exclusive economic zones.

8.3 But these habitats and environments are under pressure. Some are threatened by uncontrolled development of the economic activities they help to sustain; others by introduced species of animals and plants; still others by changing conditions such as rising sea temperature linked to global warming. And these pressures rarely exist in isolation – sea temperature rise, for example, can kill coral reefs, which in turn means the loss of marine animals and plants. This disrupts ecosystems and exacerbates damage to resources on which people rely, such as fish stocks – often already under pressure.



Low lying coral atoll: British Indian Ocean Territory

8.4 The environment of the Overseas Territories is of global significance. Overseas Territory governments, civil society groups, the private sector and the UK Government already work together to protect it. But there is more to be done. The common objective must be to use the environment of the Overseas Territories to provide benefits to people in them, and to conserve our global heritage by managing sustainably all the Overseas Territories' natural resources.

8.5 We support specific aims as part of this overall objective:

- to promote sustainable use and management of the Overseas Territories' natural and physical environment, for the benefit of local people;
- to protect fragile ecosystems such as coral reefs from further degradation and to conserve biodiversity in the Overseas Territories;
- to promote sustainable alternatives to scarce resources or species which are used for economic purposes;
- to enhance participation in and implementation of international agreements by Overseas Territories.



Anguillian making the most of his Chevening Scholarship

Karl Hodge of Anguilla is doing a three year BSc degree course in Environmental Science at the University of Plymouth, courtesy of the British Chevening Scholarship programme:

'I was interested in pursuing this degree to enable me to return home to Anguilla and work for the Anguilla National Trust as staff scientist and environmental specialist.

'Anguilla's future depends on making informed decisions about the natural environment and how we choose to use it. Training in this field in the United Kingdom gives me direct access to international organisations, as well as first hand experience and knowledge of recent global environmental issues and other trends which can be tailored to fit small islands such as Anguilla.'

Mr Hodge has been employed by the Anguilla National Trust since 1985, and as Special Projects Coordinator, has played a key part in the continuing Iguana Monitoring and Conservation Programme. The main goal of the project is to establish a conservation strategy for the island's iguana population.

Role of the Overseas Territories

8.6 The role of Overseas Territory governments, supported by the UK Government, is to develop appropriate, applicable and affordable environmental policies, legislation and standards. These are the basis for integrated environmental management systems to enable them to monitor and evaluate progress towards achieving their environmental objectives; and lessons learnt can then be fed back into policy development. Industrial and other developments need effective environmental screening and appraisal so that benefits can be maximised and potential damage minimised early in the project design process. Some hotels, for example, pride themselves on developing safe disposal of waste matter; others create pollution. Tourism can benefit the local economy, but can also deplete and damage local natural resources (and development companies often look for pristine natural areas). Sustainable tourism must be the goal. Some Overseas Territories develop independent Environmental Impact Assessments (EIAs), ensuring that the public are fully consulted, before making decisions on new developments.

Endemic fern on St Helena



Colin Fiddlers

8.7 Policy decisions by Overseas Territory governments can affect the local, regional and even global environment, so they need to participate in appropriate international arrangements. Our ratification of the Convention on Biological Diversity has already been extended to the British Virgin Islands, the Cayman Islands, Gibraltar and St Helena (and other Overseas Territories are preparing to join). Most Overseas Territories have joined the Ramsar Convention on Wetlands of International Importance. At present, on the other hand, the UN Climate Change Convention has not been extended to any Overseas Territory. Overseas Territory governments may have to introduce laws and set up bodies to enforce the treaty obligations before extension takes place. For example, each Overseas Territory in which the Convention on International Trade in Endangered Species (CITES) applies, requires a national Management Authority.

Britain's role

8.8 We aim to integrate sustainable environmental management into the Government's decision-making. This policy is reflected in many agreements, from the 1992 Rio Declaration to the communiqué of the European Council in Cardiff in June 1998. But in Overseas Territories as elsewhere, short-term economic pressures can be severe and can undermine the goal of sustainable development. That makes it all the more important for the Government to give guidance and support on how to develop policies and practices to ensure that practice in the Overseas Territories is consistent with the objective of sustainable development.

8.9 We provide financial support for environmental work in the Overseas Territories, through the Department for International Development (DFID), the Department of Environment, Transport and the Regions (DETR) and the Foreign and Commonwealth Office (FCO). Since 1996 we have spent some £4.3 million on environment-related development assistance projects in the Overseas Territories; and around £850,000 has been committed under the Darwin Initiative (in support of biodiversity) and contributions to other environmental projects.

Some regional expenditure also benefits Overseas Territories: in October 1998 the UK arranged (in cooperation with Jamaica) and funded a Marine Biodiversity Workshop in Jamaica for all Caribbean countries and Overseas Territories. At the workshop we announced that we will ratify the Protocol concerning Specially Protected Areas and Wildlife in the Wider Caribbean Region (SPAW Protocol) of the Cartagena Convention; and will extend its ratification, in the first instance, to include the Cayman Islands.

8.10 We ensure that the interests of Overseas Territories are adequately represented and promoted in international environmental fora. The UK provides advice and encouragement to Overseas Territories to have international environmental agreements extended to them.

8.11 We achieve these aims by:

- helping to make sure Overseas Territories have the legislation, institutional capacity and mechanisms they need to meet their international obligations;

- using UK, regional and local expertise to give advice and improve knowledge of technical and scientific issues. This includes close and open consultation with interested Non-Governmental Organisation (NGO) groupings such as the UK Overseas Territories Conservation Forum;
- providing financial assistance to the Overseas Territories for integrated environmental management;
- promoting effective communication, exchange and dissemination of information with UK Overseas Territories;
- promoting sustainable development strategies, including commitments to clear environmental and sustainability targets.

Other partners

8.12 The limited resources available to the governments of most Overseas Territories mean that local communities, the private sector, the scientific community and NGOs have important roles in cooperation with us and the Overseas Territories themselves. These stakeholders have a wealth of experience, specialist knowledge and network of contacts for Overseas Territories and us to draw on. Some businesses and larger NGOs such as the World Wide Fund for Nature (WWF) help fund environmental projects in Overseas Territories. The private sector also plays an important role by trading and investing in an environmentally responsible way. We are keen to support projects and partnerships whose objective is sustainable development in the Overseas Territories.

C / Gilbert, British Antarctic Survey



Krill – *Euphausia superba* – the staple diet of baleen whales, and many fish, seal and seabirds in the Southern Ocean, abound in the seas around South Georgia and the South Sandwich Islands.



P. Birkhead, British Antarctic Survey

British Antarctic Territory – a global laboratory

- Scientists from the British Antarctic Survey (BAS) working in the British Antarctic Territory discovered the ozone hole in 1985, so triggering international concerns about the effects of atmospheric pollution.
- Antarctic's pristine environment is a critical barometer of the world's climatic health.
- Antarctica contains 70 per cent of the world's fresh water, and covers 10 per cent of the globe's surface. It drives world weather, ocean currents and has effects as far away as in the northern hemisphere (on the Gulf Stream and on the UK's weather, for example).
- Understanding the Polar Seas, ice sheets and atmosphere is crucial to the study of key global processes – climate change, ozone depletion, sea level rise and atmospheric pollution.
- The Antarctic ice sheets, kilometres thick, provide millions of years of history of past climatic change, and record more recent man-made pollution.
- Monitoring change in Antarctica allows us to predict possible changes in global conditions; if the West Antarctic ice sheet melts, sea level worldwide would rise six metres, wipe out some countries and cause major flooding elsewhere in the world.
- The continent acts as an early warning system; the UK, through BAS, is a key contributor to international science in Antarctica – a natural reserve devoted to peace and science.
- Antarctica is controlled by the 27 Parties to the Antarctic Treaty, an arrangement which for 40 years has maintained the Antarctic environment and the continent as the most important laboratory in the world.

Rothera, Britain's southern-most research station in the British Antarctic Territory, has laboratories and accommodation for 100 scientists and support staff. Direct flights from the Falkland Islands take five hours using the BAS 'Dash-7' aircraft.

Priorities for action

8.13 To reinforce sustainable environmental management in the Overseas Territories, we intend to:

- assist them to review and update environmental legislation;
- help build capacity to support and implement integrated environmental management which is consistent with the Overseas Territories' own development planning goals, for example by consultation with local communities, NGOs and the private sector, and by supporting training and public education and awareness programmes;
- help the Overseas Territories identify additional funding partners for environmental projects, including through donors/private sector/NGO partnerships;
- take account of their interests in regional and international environmental negotiations and agreements;
- promote better cooperation and lesson learning between Overseas Territories and small island states which face similar environmental problems.

8.14 We will encourage the Overseas Territories, for their part, to:

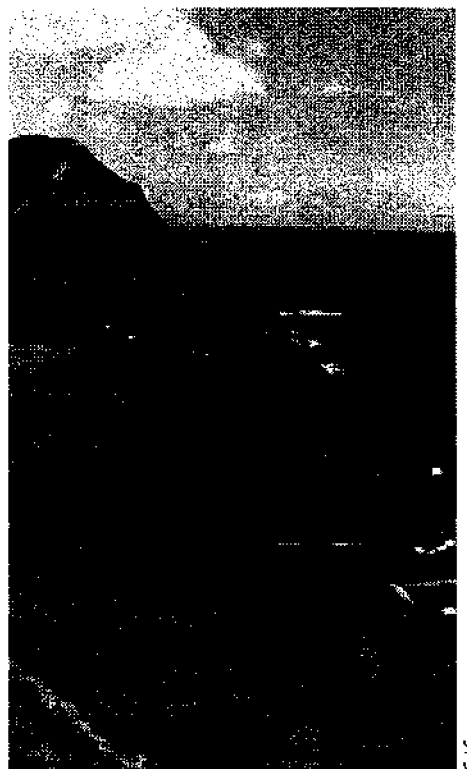
- integrate environmental concerns into all sectors of government work and develop strategies for sustainable development;
- consider economic incentives and mechanisms to encourage sustainable environmental management, such as cost recovery mechanisms to offset the cost of regulatory measures;

Overlooking the settlement at Adamstown –
Pitcairn Island's 'capital' – from Ships' Landing Point

- identify environmental priorities and integrate them into their sustainable development strategies: for example Biodiversity Action Plans to monitor changes to species and habitats. These plans should specify individual environmental protection targets, including endangered species and restoration of damaged ecosystems.

8.15 These responsibilities already exist, but the UK and its Overseas Territories have not always addressed these issues sufficiently consistently or systematically. Examples include damage to coral reefs and the effects of introduced species on native species and habitats. We intend bringing together the responsibilities, common objectives and cooperative approaches of the UK Government, Overseas Territory governments, the private sector, NGOs and local communities by drafting and agreeing an Environment Charter with the Overseas Territories. The Charter will clarify the roles and responsibilities of these stakeholders, set out in a shared vision which also takes account of the wide variety of circumstances and local resources in each territory. The exact form of the Charter and variations between territories will be determined in consultation with them.

8.16 To help address new problems and opportunities identified through the Charter, and to augment support from other donors and partners, we plan to enhance the funding available through the FCO for activities in support of the Charter. At the same time, the Government will provide additional assistance through DFID to support poorer Overseas Territories in addressing global environmental concerns.



This is in part a reflection that such Overseas Territories, unlike independent developing country states, are not eligible for funding from the Global Environment Facility.

8.17 Failure to put the best arrangements in place now could mean that early in the next millennium much remaining human and natural diversity will be lost. A shared concern for discharge of our environmental responsibilities will be a key element in our new partnership. As a maritime nation Britain was central to the process of creating global markets, spreading industrialisation and developing distant territories, many of them ecologically fragile and vulnerable islands. Some elements of environmental degradation and reduced biodiversity have been a result of that history. Today we have the opportunity to set a new agenda for our stewardship of the rich natural heritage of the Overseas Territories.

Chapter Nine

A new partnership

9.1 Britain and the Overseas Territories face a new challenge as we enter the new millennium. We both need a new partnership to take our relationship forward – building on the best of what has gone before, but charting a new course for progress and prosperity for the future.



Primary school children – Anguilla

9.2 We believe that the proposals in this White Paper setting out that new relationship – and especially the new moves on rights of citizenship – will command widespread support. They offer a new direction for the relationship between Britain and the Overseas Territories which is modern, forward-looking, fair and effective. We now need to work together to put this new vision into place – to the benefit of the UK, and of the Overseas Territories. Together this new, modernised relationship will meet the challenge of the future: a new partnership for progress and prosperity.

Appendix One

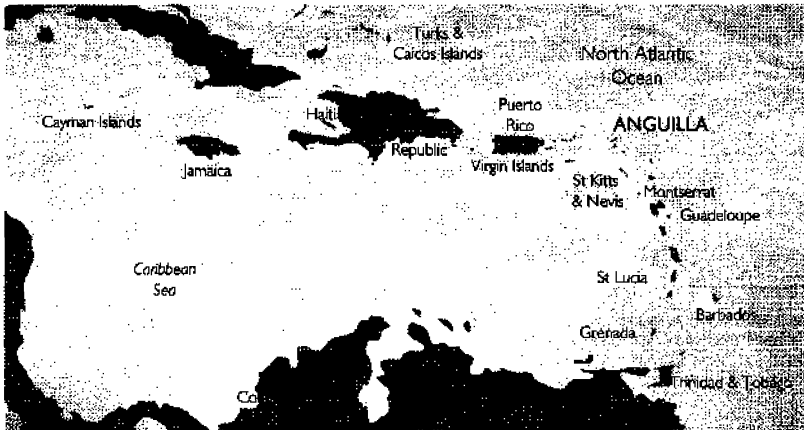
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Anguilla



General

Anguilla, a 90 sq km island, flat with limited natural resources, is the most northerly of the Leeward Islands in the Eastern Caribbean. Colonised by British and Irish settlers in 1650, Anguilla was administered as a single federation with St Kitts and Nevis from 1958 to 1962 but sought separation in the 1960s, came under direct UK administration in the 1970s, and eventually became a separate British Dependent Territory in 1980.

The estimated population of Anguilla is 11,915. Several thousand Anguillians live and work outside Anguilla on adjacent Caribbean islands, in Britain and in the USA.

Anguilla has one of the most important largely unbroken coral reefs in the Eastern Caribbean. Its coastal and marine biodiversity (including fish, seabirds and marine turtles) is the island's most important natural asset.

Constitutional status

Elections are held every five years, the last of which took place in March 1994. The three main parties – the Anguilla National Alliance (ANA), Anguilla Democratic Party (ADP) and Anguilla United Party (AUP) – won two seats each of the seven contested in the House of Assembly. The remaining seat was won by an independent candidate. The AUP leader was elected Chief Minister of a coalition AUP/ADP Government. The next election is expected in March 1999.

Law and order

The law of Anguilla is the common law of England and locally enacted legislation. It is administered by a Magistrates' Court and the Eastern Caribbean Supreme Court. The incidence of violent crime in Anguilla is low.

Economy

Anguilla is an up-market tourist destination with high standard, expensive hotels. Tourism provides about 31.5 per cent of revenue. The island has experienced rapid economic development over the last decade. Economic prospects are relatively good but dependent on tourism and a nascent international financial services sector.

The international financial services industry is small but growing (approximately £2 million revenue annually). The British Government is supporting the development of the financial services sector through the provision of the Director of Financial Services and the development of a computerised online registration network.

Fishing is one of the most important economic activities in Anguilla. Fishermen produce annually between 300 and 500 tonnes of fish, lobster and crayfish, the latter being exported to neighbouring islands. The UK is helping to support the Longline Fisheries Development Project aimed at improving Anguilla's fishing industry while relieving pressure on inshore fish stocks. In a bid to modernise fishing techniques, a jetty at Island Harbour has recently been constructed.

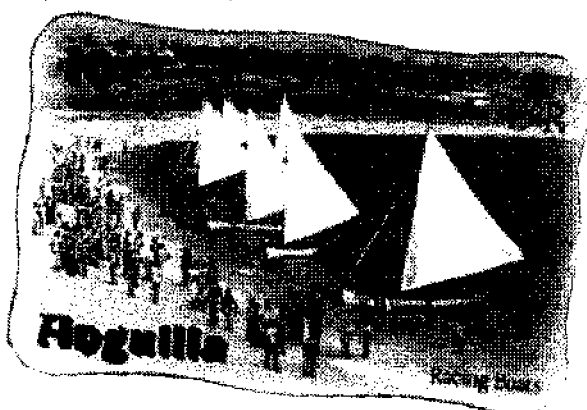
UK development assistance

The main aim of the current UK development assistance programme to Anguilla is to support economic growth and self-sufficiency through sensible economic and financial management and, in the meantime, to help to ensure their basic needs are met, including the provision of essential infrastructure in the education sector.

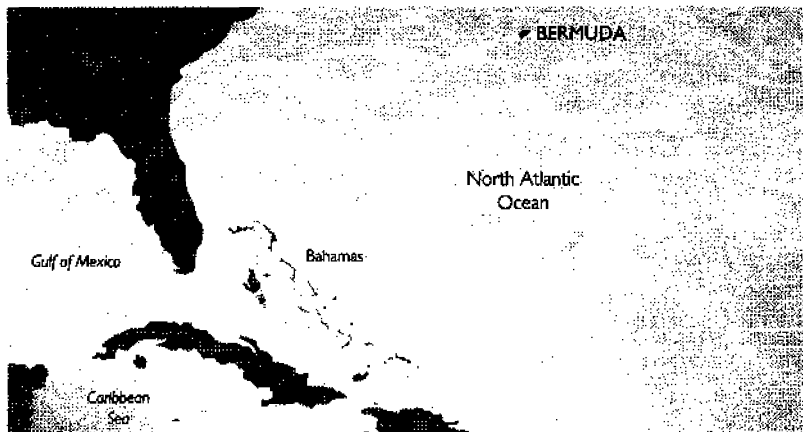
The future development strategy for Anguilla will be discussed in the context of the Country Policy Plan which will be negotiated in 1999. This will be directed at Anguilla's graduation from UK capital assistance by financial year 2001/02 with continued support for sound economic and financial management and good government.

Key Facts

Currency	Eastern Caribbean Dollar US\$ = EC\$2.7 (fixed rate)
GDP per capita	US\$7,383 (1997)
GDP growth	7.1% (projected 1998)
Government revenue	EC\$72.3 million (1998)
Government expenditure	EC\$71.0 million (1998)
UK exports	£5.7 million (1998)
UK imports	£0.02 million (1998)
Population	11,915 (estimated 1998)
Unemployment rate	7% (1998)
Capital	The Valley



Bermuda



General

Bermuda, a group of about 150 islands and islets, lies 917 km east off the coast of North Carolina. The total land area is 53.33 sq km. The warming effect of the Gulf Stream makes Bermuda the most northerly group of coral islands in the world. The small areas of natural habitat which survive support 14 endemic plants and the Bermuda Cahow, the only endemic bird in Bermuda.

The population of Bermuda is 61,545 (at 1997) with approximately 60 per cent of African descent and the remainder of European extraction (including expatriates). Portuguese settlers from the Azores have been coming to Bermuda for about 150 years. The climate is generally humid, with a mean annual temperature of 21° centigrade. Average annual rainfall is 146.3 cm (57.6 inches), distributed throughout the year.

Constitutional status

Bermuda is Britain's oldest colony and its Parliament, which first met in 1620, is the oldest legislature in the Commonwealth outside the British Isles. It is a self-governing territory with a high degree of control over its own affairs. The Premier has complete responsibility for choosing the Cabinet and allocating portfolios, though the Governor retains responsibility for external affairs, defence, internal security and the police.

Bermuda has two legislative chambers, the House of Assembly and the Senate. There are two main political parties, the United Bermuda Party (UBP) and the Progressive Labour Party (PLP).

Law and order

Bermuda's legal system is based on English common law and principles of equity, English statute law in force since 1612 and Acts of the Bermuda Parliament passed since then. The judiciary is a separate body from the Government and its members are appointed on the advice of the Chief Justice. There are three courts presiding in Bermuda – the Magistrates' Courts, the Supreme Court and the Court of Appeal, which sits only at certain times of the year.

Recent developments

A referendum on independence was held in Bermuda on 16 August 1995, when polling was delayed for 24 hours due to the passage of Hurricane Felix. Over 58 per cent of the electorate took part in the referendum; 25 per cent voted for independence and over 73 per cent voted against. On 9 November 1998 the PLP defeated the UBP in a General Election, winning 26 of the 40 seats. This was the first time that the PLP have held power since Bermuda's parliamentary system of government was introduced in 1968.

Economy

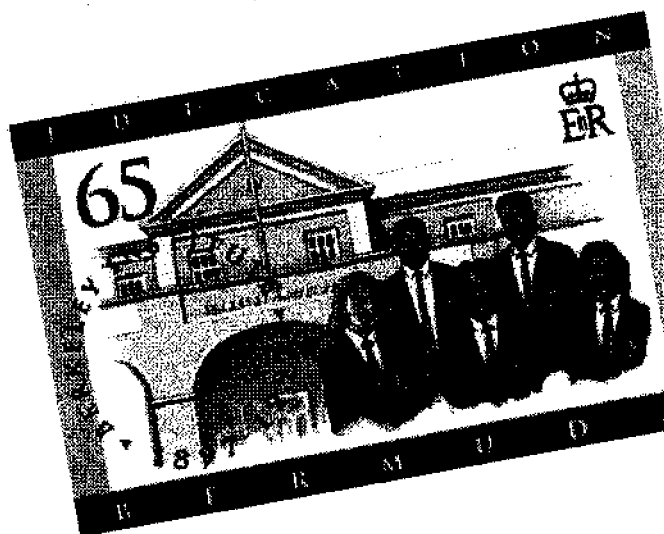
Bermuda's per capita income is one of the highest in the world at US\$35,600 per annum, with offshore finance (especially reinsurance) and tourism being the two main pillars of the economy. More than 10,000 international companies are based in Bermuda, including subsidiaries of 75 per cent of the Fortune 100 and their European equivalents. In insurance and reinsurance, Bermuda has an industry capital base exceeding US\$35 billion and gross premiums of US\$24 billion. In this sector, Bermuda ranks with London and New York as a global leader. Tourism accounts for just under 50 per cent of Bermuda's overseas earnings, but has been in decline in recent years. There is virtually no structural unemployment, though there are few natural resources and little manufacturing activity.

UK development assistance

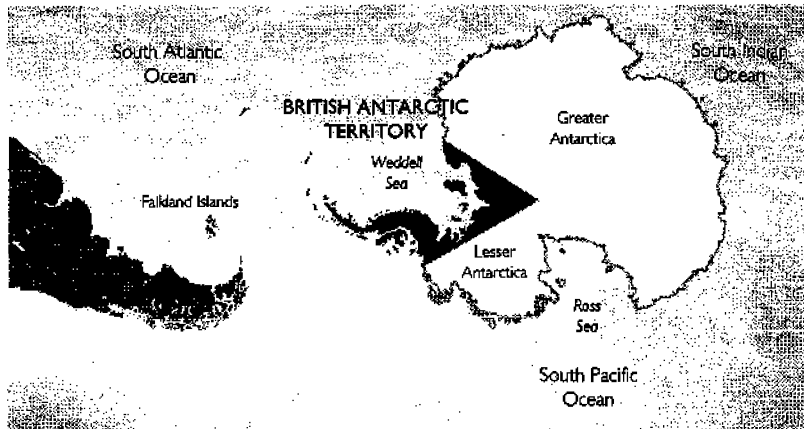
Bermuda receives no financial aid from Britain.

Key Facts

Currency	Bermuda Dollar (parity with the US\$)
GDP per capita	US\$35,600 (1997)
GDP growth	5.3% (1997)
Government revenue	US\$477.5 million (1997)
Government expenditure	US\$515.1 million (1997)
UK exports	£40.22 million (1998)
UK imports	£3.70 million (1998)
Population	61,545 (1997 estimate)
Unemployment rate	Negligible
Capital	Hamilton



British Antarctic Territory (BAT)



General

The British Antarctic Territory comprises that sector of the Antarctic south of latitude 60°S and bounded by longitudes 20°W and 80°W. It is the UK's largest Overseas Territory covering some 1,709,400 sq km, but it has no indigenous population. Although most of the BAT is counter-claimed by both Chile and Argentina, the disputes over territorial sovereignty are held in abeyance by the Antarctic Treaty, which provides an internationally agreed regime for Antarctica. Article IV of the Treaty imposes a freeze on all territorial claims and disputes while the Treaty, which is of indefinite duration, remains in force. As well as the British Antarctic Survey (BAS) presence in the BAT, 10 other states under the terms of the Antarctic Treaty have permanently manned scientific stations in the territory.

The Antarctic Peninsula was first sighted by Edward Bransfield RN in 1820 and was taken into the possession of Great Britain by John Biscoe in 1832. The UK's claim to the BAT is the oldest in Antarctica and dates from the Falkland Islands Dependencies' Letters Patent of 1908.

The UK's permanent presence in Antarctica dates from 1943 with the establishment of the wartime 'Operation Tabarin', mounted by the Admiralty on behalf of the Colonial Office. This provided reconnaissance and meteorological information in the South Atlantic. This year-round presence was taken over at the end of the war by the Falkland Islands Dependencies Survey which subsequently became the BAS in 1962.

Constitutional status

By means of an Order in Council which came into force on 3 March 1962, the BAT ceased to be a Dependency of the Falkland Islands and became a British Dependent Territory in its own right. However, the territory continued to be administered from the Falkland Islands until, under the British Antarctic Territory Order, 1989, responsibility for its administration was assumed by a Commissioner appointed by the Foreign Secretary. The Commissioner resides in London, is concurrently Head of the Foreign and Commonwealth Office's Overseas Territories Department and appoints such officers as he sees fit, for example, Chief Justice, Senior Magistrate, etc. He has powers to make laws, subject to certain conditions, and the BAT has a comprehensive set of its own laws, together with both judicial and postal administrations.

Legislation enacted by the BAT takes full account of the international regulations under the Antarctic Treaty System which govern Antarctica (ie the Antarctic Treaty and its Environmental Protocol, the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR) and the Convention for the Conservation of Antarctic Seals), as well as other relevant international legislation.

In recognition of the environmental importance of the BAT, activities in Antarctica are regulated by the Antarctic Act 1994. This enacts into UK law the strict provision of the Environmental Protocol to the Antarctic Treaty which entered into force in January 1998.

UK presence in the BAT

While the BAT has no indigenous population, the UK's presence in the territory is provided primarily by the BAS. The BAS maintains a year-round presence at two permanent scientific research stations (Halley and Rothera) and a summer-only presence at Signy Station in the South Orkney Islands. BAS's mission from the Government is to undertake a programme of first class science in Antarctica into areas of crucial concern such as global climate change, ozone depletion and atmospheric pollution. During the austral winter, around 40 BAS personnel are present in the BAT. This figure rises to approximately 250 (including visiting personnel) in the austral summer. Duly appointed magistrates administer the BAT judicial system from these stations, which also act as post offices. The BAT releases, on average, two commemorative stamp issues each year from these Antarctic stations.

There are no passenger airports in the BAT and no scheduled shipping services but the Royal Research Ships *Bransfield* and *James Clark Ross* resupply and restaff the British scientific stations. BAS also operates five aircraft out of Rothera during the austral summer.

The Ice Patrol vessel *HMS Endurance* spends five months each austral season on deployment in the BAT undertaking hydrographic surveying, assisting the BAS and supporting Britain in furthering its commitment to the Antarctic Treaty System (for example through undertaking CCAMLR Inspections, assisting with Inspections under the Antarctic Treaty, etc).

Economy (revenue and tourism)

The BAT's main source of revenue is from the sale of postage stamps. BAT funds are, as far as possible, re-invested into programmes which directly benefit the territory. In 1996/97, the BAT funded environment related projects in the territory to the sum of £74,398 and in 1997/98 it is anticipated that this figure will rise to approximately £113,400 out of a total estimated revenue of £211,550.

Independent auditors review the annual accounts of the territory.

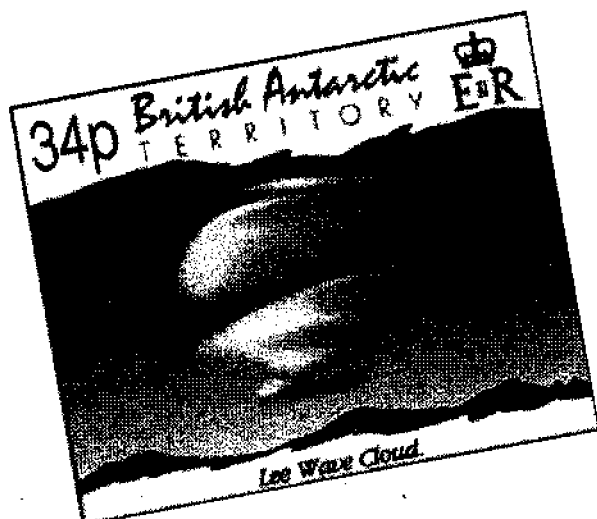
Tourism in the BAT is a growing industry. The BAT is the most accessible sector of the Antarctic and public interest in the continent generally is attracting up to 9,000 tourists to the Antarctic Peninsula each year. A growing number of tour operators now visit the BAT and some 97 per cent of this tourism is ship-based. Approximately 60 per cent of tourists to the BAT visit the UK restored research station of Port Lockroy which, along with three other former bases, was declared an Historic Site under the Antarctic Treaty in 1995. The Environmental Protocol includes provision for the management of the growing tourism industry to minimise environmental impact.

UK development assistance

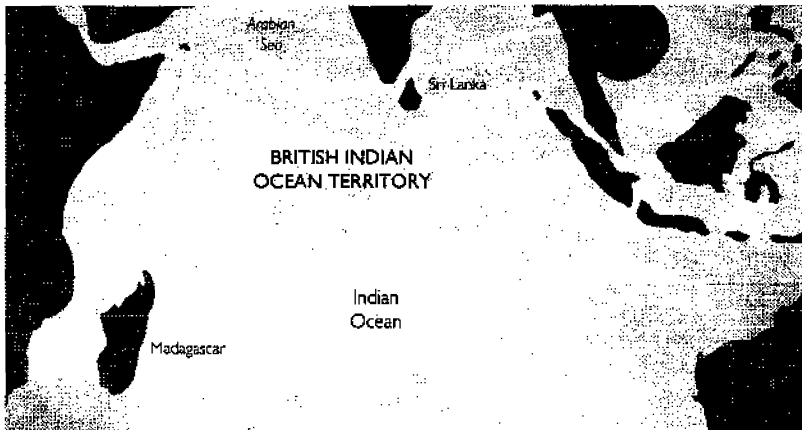
The BAT receives no aid from Britain. The BAS is funded by the Department of Trade and Industry, through the Office of Science and Technology.

Key Facts

Government expenditure (1996/97)	£130,396
Government revenue (1996/97)	£193,908
Administration centre (within territory)	Rothera Air Facility (BAS-run)



British Indian Ocean Territory (BIOT)



General

The islands of the Chagos Archipelago have been British territory since 1814 when they were ceded to Britain with Mauritius (which then included the Seychelles). For administrative convenience, and following French practice, they were administered as a dependency of Mauritius until 1965 when, with the full agreement of the Mauritian Council of Ministers, they were detached to form part of the newly established colony of the British Indian Ocean Territory. At the same time Britain paid £3 million to Mauritius in consideration of the detachment of the islands. Three other island groups, formerly part of the Seychelles, made up the rest of the territory, but these were returned to the Seychelles when it gained independence in 1976.

The BIOT lies about 1,770 km east of Mahé (the main island of the Seychelles). The territory covers some 54,400 sq km of ocean but the islands have a land area of only 60 sq km, with Diego Garcia, the most southerly island, the largest at 44 sq km. The near pristine coral reefs of the Chagos Archipelago support a wealth of marine flora and fauna of global significance.

The Chagos islands were exploited for copra from the late eighteenth century onwards. After emancipation in the nineteenth century, the former slaves on the islands became contract employees and some chose to remain on the islands, and had children who also stayed.

In 1966 it was agreed to make the BIOT available for the defence purposes of the US and Britain. The Crown purchased the freehold title to land in the islands in 1967. The copra plantations were run down as their commercial future was already becoming unviable, and the last of the contract workers and their children left the territory in 1972/73. Britain made £650,000 available to the Government of Mauritius in 1973, and a further ex gratia sum of £4 million in 1982 to the Ilois Trust Fund, in order to assist in the resettlement of the contract workers in Mauritius. Those who settled in Mauritius are now Mauritian citizens.

The BIOT has no permanent population, only military personnel and the civilian employees of contractors to the military. It is governed by a Commissioner, assisted by an Administrator and other officials, including the Commissioner's Representative (the officer in charge of the RN complement on Diego Garcia, which is the principal island and the one where a large US defence facility is situated). Before the independence of the Seychelles in 1976, it was the practice for the Governor of the Seychelles to be appointed, concurrently, to hold the office of Commissioner for the BIOT. But since 1976 the Foreign Secretary has appointed a Commissioner based in London. The current Commissioner is concurrently Head of the Foreign and Commonwealth Office's Overseas Territories Department. The Administrator and some of the other officials are also concurrently Foreign and Commonwealth Office officials or other persons outside the territory.

Constitutional status

The constitutional arrangements of the BIOT are set out in the British Indian Ocean Territory Order in Council 1976 and various related instruments. The 1976 Order gives the Commissioner full power to make laws for the territory and these largely regulate the civil and criminal law in force there and establish procedures for enforcing it. A series of UK/US Agreements regulate matters arising from the use of the territory for defence purposes, such as jurisdiction over US military and other personnel, funding, access, etc.

Law and order

The BIOT has its own comprehensive set of laws and its own legal system which is administered through its Magistrates' Court, its Supreme Court and its Court of Appeal. The Justices of Appeal, the Chief Justice (who sits in the Supreme Court) and the Senior Magistrate are all non-resident, as is the Principal Legal Adviser (who performs similar functions to those of an Attorney General). In the territory, the Commissioner's Representative holds the office of Magistrate and is responsible for handling routine cases and also, through his subordinate officers, for the enforcement of the territory's laws – both the ordinary criminal law and the laws regulating such specific matters as import and export control, immigration, conservation, etc.

Current issues

The Government of Mauritius has asserted a sovereignty claim to the territory since 1980. Britain does not recognise this claim but successive governments have given undertakings to the Government of Mauritius to cede the territory to Mauritius when it is no longer required for defence purposes.

Economy

The population consists solely of military personnel and persons employed to support the defence facility; there are no commercial, industrial or agricultural activities in the BIOT. However, foreign vessels are licensed to fish in the territory's waters and this is regulated by a fisheries management and conservation regime.

The British military presence is funded by the Ministry of Defence. The civil administration of the BIOT is financed primarily from fisheries licence fees but some revenues are also derived from stamp sales and other fees and charges.

UK development assistance

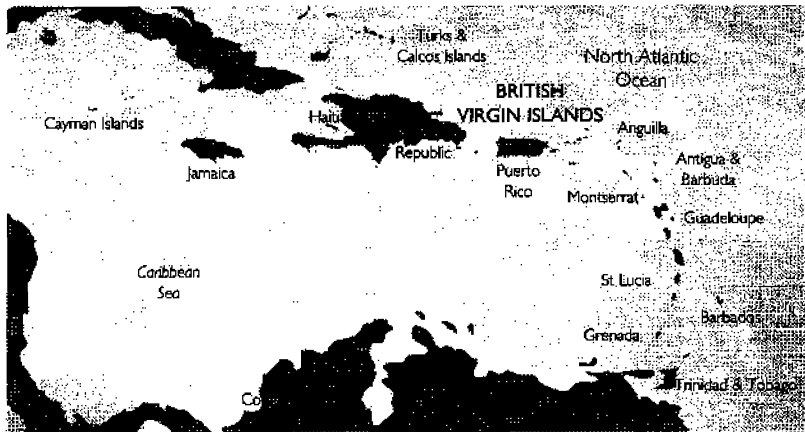
The BIOT receives no aid funds from Britain.

Key Facts

Government recurrent revenue	£1.71 million (1997/98)
Government recurrent expenditure	£1.57 million (1997/98)
Administrative centre	Diego Garcia



British Virgin Islands (BVI)



General

The British Virgin Islands comprise over 40 islands, islets and cays with a total land area of only 153 sq km scattered over some 3,445 sq km of sea. Sixteen of the islands are inhabited, the largest being Tortola (54 sq km), Anegada, Virgin Gorda and Jost van Dyke. Discovered by Columbus in 1493, the islands came into British possession in 1666 when planters took control from the original Dutch settlers, and have been a British colony since 1672.

The BVI population is predominantly of African descent. The remainder are of European, American and Asian extraction. Approximately half the population are immigrants from St Kitts and Nevis, the Dominican Republic, St Vincent and other Caribbean islands. Several thousand native BVI Islanders live outside the territory, mostly in the United States Virgin Islands (USVI) and mainland USA. The majority of the population are Christian. English is the only language in general use.

Constitutional status

The BVI enjoys a large measure of internal self-government. The Governor has direct responsibility for external affairs, defence and internal security (including the police), the public service and the administration of the courts. The Constitution provides for a ministerial system of government headed by the Governor, who presides over the Executive Council which includes the Chief Minister and three other Ministers. The Legislative Council comprises 13 elected Members, nine representing individual districts and four elected by a territory wide vote. The Attorney General, an appointed official, is an Ex Officio Member of both Executive and Legislative Councils. Elections are held at least every four years and the last election took place in February 1995.

Law and order

The law of the BVI is the common law of England and locally enacted legislation. It is administered by Magistrates' Courts and the Eastern Caribbean Supreme Court. Although violent crime does occasionally spill over from the USVI, which has one of the highest per capita murder rates in the US, the level of violent crime remains low and is among the lowest in the region.

Current issues – drugs

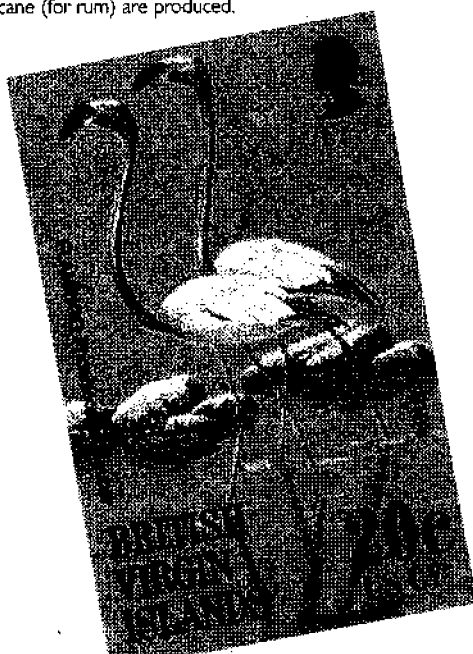
Problems associated with drug trafficking are the most serious threat to stability in the BVI. The territory is a major target for traffickers because of its numerous small uninhabited islands and close proximity to the USVI and Puerto Rico, which serve as gateways to the US mainland. Britain has provided expatriate police personnel, a police launch, a surveillance aircraft and other anti-narcotics equipment to assist with control. Two Royal Navy personnel and two Royal Air Force crew are funded by the Foreign and Commonwealth Office to assist in operating these assets. The BVI has achieved considerable success in drug interdiction with seizure of 1,765 kg of cocaine in 1996.

The BVI has a full Mutual Legal Assistance Treaty with the US and enjoys close cooperation with US law enforcement agencies.

Economy (tourism and offshore finance)

A rich vegetation, unspoilt beaches, yachting marinas and fine coral reefs make the islands a natural tourist destination, and tourism is the main contributor to GDP and source of employment. In 1997 there were 365,668 visitors to the islands, most of them from the US.

The financial services sector has been growing rapidly in recent years and now generates half of total government revenue. The BVI specialises in international business companies and is believed to have a dominant share of around 45 per cent of the global market for this product. By the end of 1998 there were in excess of 300,000 registrations. The BVI also offers financial services in the areas of banking, insurance, trusts, mutual funds, etc. Agriculture and manufacturing each account for less than five per cent of GDP. Fruit, vegetables and sugar cane (for rum) are produced.



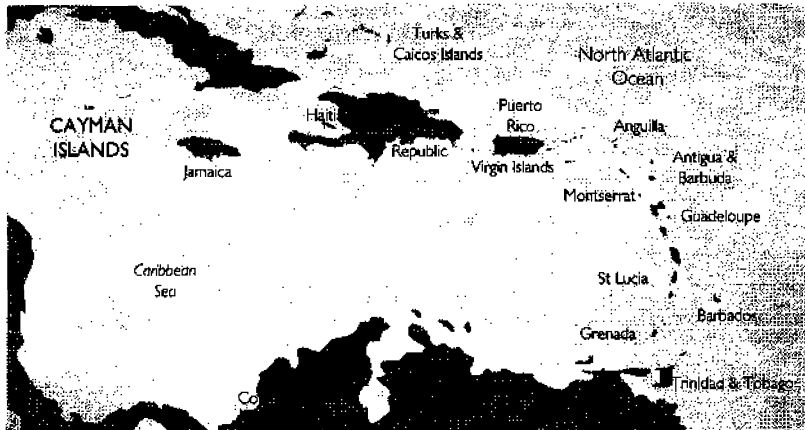
UK development assistance

The BVI graduated from capital aid at the end of the 1995/96 financial year. It has since then been receiving a declining modest bilateral technical cooperation programme. It will continue to benefit from the UK's Caribbean Overseas Territories regional development programme.

Key Facts

Currency	US Dollar
GDP per capita	US\$28,434 (1997)
GDP growth	6.81% (estimated 1998)
Government revenue	US\$138 million (estimated 1998)
Government expenditure	US\$123 million (estimated 1998)
UK exports	£10.48 million (1998)
UK imports	£3.65 million (1998)
Population	19,107 (1997)
Unemployment rate	3.3% (1995)
Capital	Road Town (Tortola)

Cayman Islands



General

Discovered by Columbus in 1503 the three Cayman Islands (Grand Cayman, Cayman Brac and Little Cayman) are situated 268 km north-west of Jamaica in the Caribbean Sea. The islands have an area of about 260 sq km. 'Cayman' comes from a Carib word meaning crocodiles, which were found on their shores by the Spanish. The islands have been in British possession since 1670. The vast majority of the population live on the largest of the three islands, Grand Cayman. English is the only language.

Constitutional status

The Cayman Islands are an Overseas Territory with a large measure of self-government. The Governor retains responsibility for the civil service, defence, external affairs and security. The Constitution, which came into effect in 1972, provides for a system of government headed by a Governor, an Executive Council and Legislative Assembly. Unlike other Caribbean Overseas Territories there is no Chief Minister.

The Legislative Assembly comprises the Speaker, who acts as President, three Official Members (the Chief Secretary, the Financial Secretary and the Attorney General) and fifteen elected Members. Elections are held every four years, most recently in November 1996. However, there are no organised political parties.

The Constitution also provides for an Executive Council consisting of the Governor as Chairman, three Official Members and five Members drawn from the elected Members of the Assembly. As Ministers, the five elected Members of Executive Council have responsibility for the conduct of such government business as is allocated to them by the Governor.



Law and order

The judicial system is based on English common law. There are two courts: the Summary Court (a lower court) and the Grand Court, which has unlimited civil and criminal jurisdiction. There is a Court of Appeal.

Current issues – conservation

The mangrove wetlands of the Caymans give the area an importance for biodiversity much greater than their small area would suggest.

The Cayman Islands will also be the first Overseas Territory to have the Protocol on Specially Protected Areas and Wildlife extended to it. The Islands have 25 endemic species of plants and reptiles.

A botanical park and bird sanctuary on Grand Cayman provide safe environments for endangered species of birds and lizards.

The National Trust is engaged in long-term projects to preserve the unique wildlife and flora indigenous to Cayman Brac. Little Cayman is host to a wide variety of flora, fauna, and birdlife.

It also has its own bird sanctuary which is a designated Ramsar site.

Over 200 species of birds have been recorded in the Islands.

The Cayman Islands Government has set world standards in marine conservation. The Cayman Islands Turtle Farm serves as a breeding ground for the Green Turtle. After being bred and hatched on the farm they are released into the ocean. This has led to an increase in the previously diminishing sea turtle population.

Economy (tourism and offshore finance)

The Cayman Islands have one of the highest standards of living in the Caribbean. GDP per capita was US\$30,120 in 1998. The economy is based on tourism – there were over 1.2 million visitors in 1997 (most from the US) – and on the Cayman Islands' status since 1966 as an international offshore finance centre. At the end of 1998 there were 585 bank and trust companies, 475 captive insurance companies, 1,978 licensed or registered mutual funds and 41,173 registered companies. The Cayman Islands Monetary Authority and the Cayman Islands Stock Exchange were established in 1997.

The principal sources of government revenue are import duties, company, bank and trust licence fees and stamp duties. There is no income tax, company tax, estate or excise duty. Although imports outstrip exports by about 100:1, the visible trade gap is more than offset by invisible earnings from the tourism and financial services sectors.

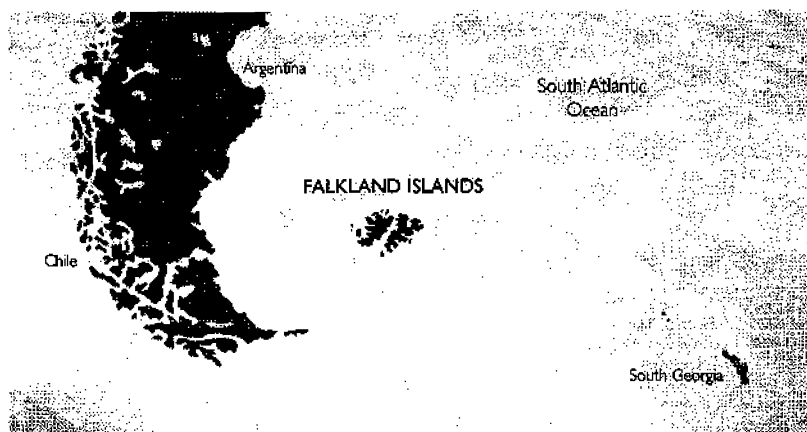
UK development assistance

The Cayman Islands receive no direct financial aid from Britain.

Key Facts

Currency	Cayman Islands Dollar
Rate of exchange	CI\$ = US\$1.20 (fixed rate)
GDP per capita	US\$30,120 (estimated 1998)
GDP growth	5.5% (1997)
Government revenue	CI\$249.9 million (estimated 1998)
Government expenditure	CI\$195.25 million (estimated 1998)
UK exports	£9.76 million (1998)
UK imports	£0.32 million (1998)
Population	36,600 (1997)
Unemployment rate	4.2% (1997)
Capital	George Town (on Grand Cayman)

Falkland Islands



General

The Falkland Islands are an archipelago situated in the South Atlantic about 770 km north east of Cape Horn and 483 km from the nearest point on the South American mainland. The Islands have a total land area of 12,173 sq km (more than half the size of Wales).

The distinctive coastal and inland habitats of the Falklands, such as stands of tussock grass, support a rich variety of flora and fauna including several endemic species.

The Islands were first sighted in the sixteenth century, but the first known landing was made in 1690 by British naval captain John Strong, who named them after Viscount Falkland, First Lord of the Admiralty at the time. A British settlement was established in 1766 and, although this was withdrawn in 1774 on economic grounds, British sovereignty was never relinquished. There was no indigenous or settled population on the Islands before 1833, when British occupation of the Islands was resumed and this has continued until the present day.

The population is almost all of British birth or descent and many can trace their origins in the Falklands back to the early nineteenth century. English is the national language and 99 per cent of the population speak English as their mother tongue. There are Anglican, Roman Catholic and non-conformist churches on the Falklands.

The Falklands were invaded and illegally occupied by Argentine military forces on 2 April 1982. A British task force was dispatched immediately. Following a conflict in which over 1,000 British and Argentine lives were lost, the Argentine forces surrendered on 14 June 1982.

Constitutional status

Supreme authority is vested in HM the Queen and exercised by a Governor on her behalf, with the advice and assistance of the Executive and Legislative Councils and in accordance with the Falkland Islands Constitution Order (1985) as amended.

Universal adult suffrage was introduced in 1949. The voting age is 18. The Legislative Council has eight Members elected every four years and is chaired by the Governor. It also has two Ex Officio Members (the Chief Executive and the Financial Secretary), who do not have the right to vote.

The Executive Council comprises three Members of the Legislative Council elected annually by the eight elected Members of that Council from among their own number, and the same two Ex Officio Members who sit on the Legislative Council. In addition the Attorney General and Commander of British Forces in the Islands attend by invitation. The Governor is obliged to consult the Executive Council in the exercise of his functions except in specified circumstances (for example on defence and security issues, where he must consult and follow the advice of the Commander of the British Forces in the Islands).

Law and order

The judicial and legal systems consist of a Supreme Court, a Magistrates' Court presided over by the senior magistrate and a Court of Summary Jurisdiction, presided over by a bench of two or more magistrates.

The Court of Appeal hears appeals from the Supreme Court. In some cases there is a final appeal to the Judicial Committee of the Privy Council. Both the Court of Appeal and the Judicial Committee of the Privy Council sit in London.

Current issues

Argentina asserts a claim to sovereignty over the Falklands. But the British Government has no doubt about British sovereignty over them and does not regard this as negotiable. The British Government remains committed to defend the Islanders' right of self-determination. In exercise of this right the Islanders have repeatedly made known their wish to remain British.

Economy

In the past economic development was hindered by the lack of natural resources on the Falklands, the small size of the population, and the remoteness of external markets. Wool was the traditional mainstay of the economy and principal export.

Since 1982 the pace of economic development has accelerated dramatically. This rapid growth resulted initially from the influx of aid from Britain but more recently from the development of fisheries. The size of fisheries revenues and their subsequent careful investment has enabled much-needed improvements to be made in infrastructure and the promotion of tourism and other enterprises which will assist in the diversification of the economy.

Offshore oil exploration is now also under way in the North Falklands Basin. In October 1996 the Falkland Islands Government awarded licences to five consortia for oil exploration and exploitation in Falklands waters. Exploratory drilling started on 27 April 1998 and ended 20 November 1998.

UK development assistance

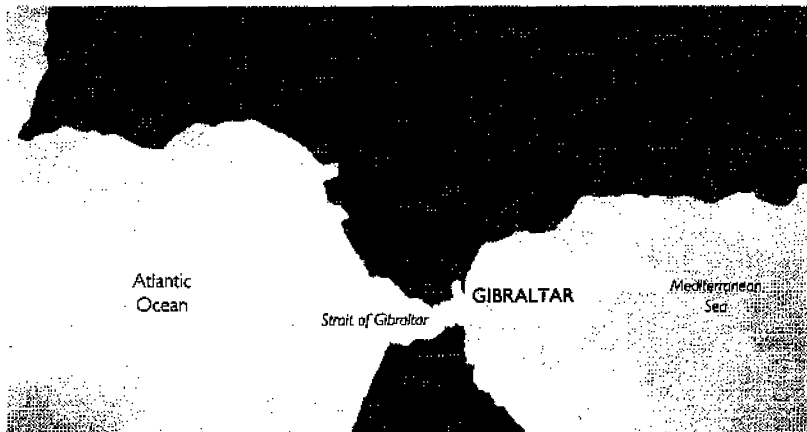
Following the 1982 conflict, Britain announced the provision of £31 million of financial aid. The final part of this was spent in 1992. Since then no further financial aid has been provided. The Islands are now self-sufficient in all areas except defence.

Key Facts

Currency	Falkland Islands Pound (at par with UK£)
GDP per capita	£12,202 (1995/96 Coopers & Lybrand estimate)
GDP growth (real)	1% (1995/96 Coopers & Lybrand estimate)
Government revenue	£36 million (financial year ended December 97)
Government expenditure	£51 million (financial year ended December 97)
UK exports	£42.24 million (1998)
UK imports	£12.64 million (1998)
Population	2,221 (1996 Census)
Unemployment rate	Negligible
Capital	Stanley



Gibraltar



General

Gibraltar is a narrow rocky peninsula which rises steeply from the adjoining low-lying coast of south-western Spain. It has a total area of 5.8 sq km and is nearly 5 km long from north to south. British title to the Rock of Gibraltar is based on Article X of the Treaty of Utrecht, signed in 1713. Our title to the southern part of the isthmus connecting the Rock to Spain is based on continuous possession over a long period.

According to the most recent figures (1997) the population was 27,192 of whom 20,772 were Gibraltarians. The population claims descent mostly from the British, Genoese or Maltese. English is the official language, but Spanish is widely spoken. About four-fifths of the population are Roman Catholic, but there are also Protestant, Jewish, Hindu and Muslim communities.

Gibraltar is a crossroads for bird migration and important for international studies of birds of prey and seabirds. The famous Barbary macaques are prospering – almost to pest proportions – as is a dolphin colony in the Bay. There are threats to biodiversity from invasive plant species.

Constitutional status

Gibraltar's legislature, the House of Assembly, consists of a Speaker and 15 elected and 2 Ex Officio Members (the Financial and Development Secretary and the Attorney General). Elections take place every four years. The territory consists of a single constituency with a block voting system under which each elector may vote for up to eight candidates.

The last elections were held in May 1996 and were won by the Gibraltar Social Democrats with an absolute majority in the House of Assembly.

Sovereignty

Under the Treaty of Utrecht, Spain has right of 'first refusal' should Britain decide to relinquish sovereignty over Gibraltar. The Spaniards have campaigned vigorously for Gibraltar to be returned to them. The British Government has reaffirmed that it stands by the commitment enshrined in the preamble to the 1969 Constitution: Her Majesty's Government will never enter into arrangements under which the people of Gibraltar would pass under the sovereignty of another state against their freely and democratically expressed wishes.

Over the years, the Gibraltarian people's sense of identity has been strengthened and the right of self-determination has become a theme in the territory. The British Government's policy is clear and long-standing: it supports the principle or right of self-determination, but this must be exercised in accordance with the other principles or rights in the United Nations Charter as well as other treaty obligations. In Gibraltar's case, because of the Treaty of Utrecht, this means that Gibraltar could become independent only with Spanish consent.



Law and order

The law of Gibraltar is the common law of England and locally enacted Ordinances and subsidiary legislation. The Courts of Law consist of a (non-resident) Court of Appeal, a Supreme Court, the Court of First Instance and the Magistrates' Court.

Gibraltar and the European Union

Gibraltar is within the European Union (EU) as part of UK membership by virtue of Article 227(4) of the Treaty of Rome. British Dependent Territory citizens from Gibraltar are defined as British nationals for EU purposes, thus giving them the right of free movement within the EU. Gibraltar has exemptions from Community policy in four areas: the Common Agriculture and Fisheries Policies, the Common Customs Tariff, the free movement of goods (but not services) and the levying of VAT. Although the Gibraltar Government is responsible for giving effect to European Community (EC) legislation in the territory, the UK is answerable to the European Court of Justice for the implementation and enforcement of EC obligations in Gibraltar. Gibraltarians do not have the vote in elections to the European Parliament. The UK has made clear that, as a result of a recent European Court of Human Rights ruling, it will seek amendment of the 1976 EC Act on Direct Elections which requires the unanimous agreement of all member states.

Economy

In the past, the economy of Gibraltar was highly dependent on Ministry of Defence employment. However, in recent years it has undergone major structural change from a public sector to a private sector economy. Gibraltar is keen to secure its economic future by diversifying through increased tourism, the provision of financial services, and through the development of niche sectors which require little land, but offer high added value, for example satellite communications.

In February 1997, the Government of Gibraltar announced a package of measures to boost tourism, including grants and soft loans for hotels. This doubled the tourism sector's allocation in the May 1997 budget. Attracting more visits by cruise liners is one of Gibraltar's major objectives, and a new passenger terminal opened in October 1997.

Gibraltar's financial sector is regulated by a Financial Services Commissioner who reports to a Commission made up of senior UK and Gibraltar financial experts. In March 1997 the British Government gave the Financial Services Commission permission to 'passport' (i.e. authorise) Gibraltar-based insurance firms to operate elsewhere in the European Economic Area.

Money laundering

Tough anti-money laundering legislation, on an all-crimes basis, came into force in Gibraltar on 1 January 1996. This legislation is to UK and EU standards. Gibraltar has also recently signed up to the recommendations of the Financial Action Task Force and has agreed to undergo mutual evaluation process within the Overseas Group of Banking Supervisors, of which it is a member. Gibraltar attaches importance to meeting internationally accepted standards.

Illicit trafficking

Drug smuggling from Morocco to Spain, using fast launches based in Gibraltar, and tobacco smuggling directly to Spain, were matters of great concern in the mid-1990s. However, firm measures were taken by the previous and present Governments of Gibraltar to ban the fast launches and to licence the tobacco trade. As a result, smuggling using boats based in Gibraltar has almost completely disappeared.

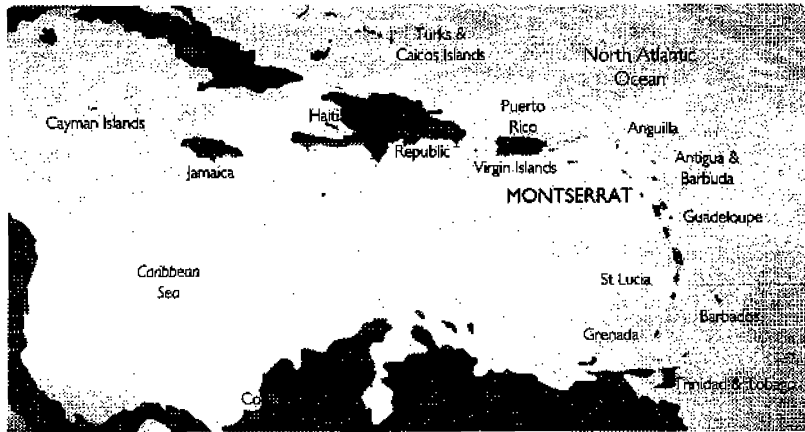
UK development assistance

Gibraltar receives no programme or structural aid from the UK.

Key Facts

Currency	Gibraltar Pound (at par with UK£)
GDP per capita	£11,680 (1995/96)
GDP growth	0.34% (1995/96)
Government revenue	£122.1 million (1998/99)
Government expenditure	£122.8 million (1998/99)
UK exports	£81.08 million (1998)
UK imports	£10.08 million (1998)
Population	27,192 (1997)
Unemployment rate	13% (1997)

Montserrat



General

Montserrat is one of the Leeward Islands in the Eastern Caribbean, lying 43 km south-west of Antigua and 64 km north-west of Guadeloupe. The island is 17 km long and 11 km wide, occupying an area of 102 sq km, entirely volcanic and very mountainous. The coastline is rugged and offers no all-weather harbour, although there are several anchorages in the lee of the island sheltered from the prevailing trade winds.

Named after a monastery in Spain by Columbus during his second great voyage in 1493, the island became a British Colony in 1632. The first settlers were largely Irish. Montserrat was captured twice by the French for short periods but was finally restored to Britain in 1783.

English is the only language in general use. Christianity is the principal religion and the main denominations are Anglican, Roman Catholic and Methodist.

Constitutional status

Montserrat is an internally self-governing Overseas Territory. Government is executed through a Governor appointed by the Crown, and Executive and Legislative Councils. The Governor retains responsibility for internal security (including police), external affairs, defence, the public service and offshore finance. Elections are held every five years on the basis of universal adult suffrage.

Law and order

The law of Montserrat is English common law together with locally enacted legislation. It is administered by the Eastern Caribbean Supreme Court. The Royal Montserrat Police Force is presently headed by a British Commissioner who, together with his staff officer (a senior Superintendent), is funded from the Technical Cooperation Programme. Only 60 per cent of the 51-strong force are Montserratian.

Since the reactivation of the volcano in July 1995, there has been a small increase in the frequency of crimes of violence and burglary. Some evacuated areas have been looted. But Montserrat's crime rate remains one of the lowest in the Caribbean.



Current issues

On 18 July 1995, the Soufriere Hills volcano in the south of the island became active for the first time in 350 years. By April 1996, increased pyroclastic activity had forced the evacuation of the capital Plymouth and most of the south of the island. Eruptions increased in vigour until a large explosion on 17 September 1996 destroyed a village to the east of the volcano: the village had been evacuated. The situation changed dramatically for the worse on 25 June 1997 when a large pyroclastic flow led to the deaths of 19 people in an area long designated as unsafe. In the following month, the centre of Plymouth, the capital, was destroyed by pyroclastic flows. The largest pyroclastic flow so far occurred on Boxing Day 1997, destroying several villages in the Exclusion Zone. Dome growth stopped in early March 1998 and activity has diminished. Close monitoring of the volcano continues. Scientists advise that given the enormous amount of material in the dome, collapses could occur over the next two years. Half of the island has been evacuated and much of it will probably remain uninhabitable for the next decade or more. The effects of the eruptions on the island's plants and animals are being studied where circumstances allow.

Since volcanic activity began, the population on the island has declined from approximately 11,000 and is currently about 4,500. Some 3,500 Montserratians have relocated to the UK. Of the rest, the majority have resettled in the Caribbean region, principally Antigua.

Economy

By 1981, Montserrat no longer needed budgetary support from the UK. However, following Hurricane Hugo in 1989, which damaged around 90 per cent of all property on the island, around £16 million in UK aid was required to rebuild the infrastructure. By 1995 Montserrat was on the road to recovery from Hugo and was in budgetary surplus with the economy relying heavily on revenue from residential tourism (luxury villas) and associated services, and on some light engineering. The island suffered a further major set-back when volcanic activity began in July 1995, since when the Government has relied on UK budgetary aid to meet its recurrent costs. Economic activity has begun to recover from a low point in early 1998.

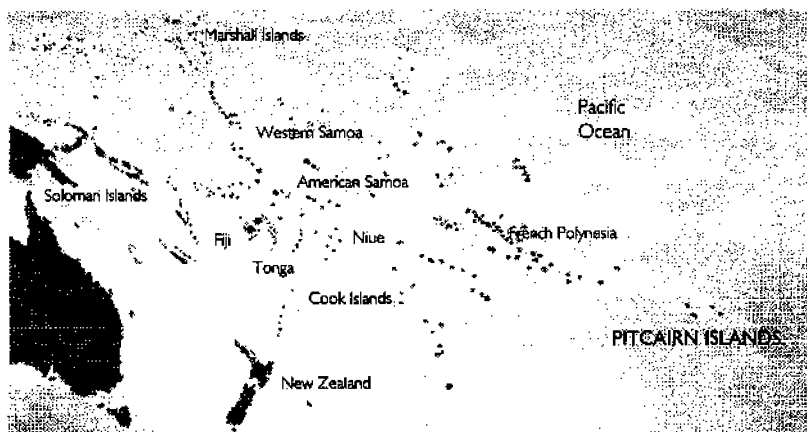
UK development assistance

Hurricane damage and volcanic activity have combined to seriously undermine Montserrat's economic development and have implications for future planning. From the start of the volcanic crisis (in 1995) to March 1998, Britain provided £59 million in assistance. A further £75 million has been allocated for the period April 1998 to March 2001 to help meet the Government of Montserrat's recurrent costs and to implement the policies set out in the Sustainable Development Plan to develop the north of the island. The Plan formed the basis of the joint Country Policy Plan agreed in January 1999 which includes an indicative public sector investment programme for the period to March 2001. Assistance includes provision of infrastructure and housing, a hospital, schools, a ferry and helicopter service, assistance to small-scale private sector companies, and expertise to assist the Government over a wide range of public service activities.

Key Facts

Currency	Eastern Caribbean Dollar (US\$ = EC\$2.7)
GDP growth	minus 21% (1997)
Government revenue	EC\$27.5 million, plus UK grant of EC\$37.7 million (1997)
Government expenditure	EC\$63.5 million (1997)
UK exports	£2 million (1998)
UK imports	£0.06 million (1998)
Population	4,500
Unemployment rate	6% (Feb 1998)
Capital	Plymouth (abandoned and largely destroyed)

Pitcairn Islands



General

The Pitcairn Islands comprise Pitcairn Island itself and three uninhabited islands, Henderson, Ducie and Oeno. Pitcairn is approximately 3 km long and 1.5 km wide. It was first settled in 1790 by some of the HMS *Bounty* mutineers and their Tahitian companions. Pitcairn was left uninhabited between 1856 and 1859 when the entire population was resettled on Norfolk Island. The present community are descendants from two parties who, not wishing to remain on Norfolk, returned to Pitcairn in 1859 and 1864 respectively.

The population totals only 54, all living in the only settlement, Adamstown. The official languages of Pitcairn are English and Pitkern, the latter becoming an official language by declaration of the Island Council in 1997. This is a mixture of English and Tahitian with the former predominating.

Constitutional status

Pitcairn is a British settlement under the British Settlements Act of 1887, although the Islanders usually date their recognition as a British territory to a constitution of 1838 devised with the help of a visiting Royal Navy officer. In 1893, 1898, 1904 and 1940 further changes were made in the Islands' government. In 1952 responsibility for Pitcairn was transferred from the High Commissioner for the Western Pacific to the Governor of Fiji. When Fiji became independent the Pitcairn Order and Pitcairn Royal Instructions, both of 1970, were the instruments that embodied the modern constitution of Pitcairn, establishing the office of the Governor and regulating his powers and duties. In practice, the British High Commissioner to New Zealand is appointed concurrently as Governor (Non-Resident) of Pitcairn and is assisted by the Pitcairn Island Administration Office in Auckland.

Pitcairn Islanders manage their internal affairs through the Island Council, for which elections are held annually.

Law and order

The Law of Pitcairn is covered by the Pitcairn Order 1970 together with the Pitcairn Royal Instructions 1970. Under these the Governor is the legislature for Pitcairn and is empowered to make laws on any subject. Prior approval of the Foreign Secretary must be sought for the enactment of certain classes of law.

Current issues

The dwindling population and the decrease in the number of ships stopping at Pitcairn has become a concern during the 1990s. There is no airfield. Ways of overcoming the isolation are being investigated.

The conservation of Henderson Island – the best example in the Pacific of a large raised coral atoll – as a World Heritage Site and the control of the environmental impact on all of the islands are being monitored and strengthened.

Economy

The economy of Pitcairn is largely based on subsistence fishing and gardening, and the sale of handicrafts. Pitcairn's primary source of income is through the sale of postage stamps and interest on the proceeds which are invested to help defray the costs of administration. The value of the Pitcairn Islands Investment Fund has declined in recent years, reflecting the draw-down of funds and the current state of the stamp market. The Administration is exploring ways of increasing revenue and containing costs.

The population of the territory is self-employed. Although there is no formal taxation, every person between the age of 15 and 65 is required to perform public work each month, in lieu of taxation. Allowances and wages are paid to members of the community who participate in local government activities and who perform communal services.

Handicrafts, fruit and vegetables are traded with visiting ships. Pitcairn's handicrafts are also marketed by mail order through the Internet.

UK development assistance

Pitcairn is critically dependent upon certain key items of infrastructure (including the jetty, long boats and boat shed, and the road from the jetty up to the main settlement). These items are routinely maintained by the Islanders but major refurbishment or replacement have been carried out with the help of Department For International Development (DFID) funding. DFID also funds a range of small-scale developmental activities on Pitcairn from its regional programme for the Pacific. There is a notional allocation of £150,000 per annum, but actual expenditure varies from year to year.

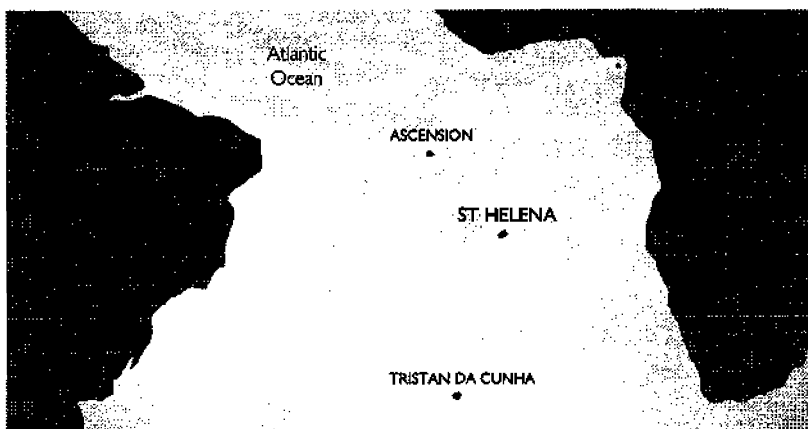
Pitcairn receives a Good Government Fund allocation of £30,000. This is directed towards improving the quality and self-sufficiency of the Islands' administration. The Foreign and Commonwealth Office also funds Pitcairn's £15,000 annual membership contribution to the Pacific Community.

Key Facts

Currency	NZ Dollar
Government revenue	NZ\$599,902 (1996/97)
Government expenditure	NZ\$601,665 (1996/97)
Population	54 (December 1998)
Administrative centre	Adamstown



St Helena



St Helena and its Dependencies

St Helena, Ascension and Tristan da Cunha are three UK Overseas Territories which together form a single territorial group under British sovereignty known as 'St Helena and its Dependencies'.

General

St Helena is a small island of volcanic origin in the South Atlantic with an area of 122 sq km. It is 1,930 km from the west coast of Africa and 2,900 km from South America. The nearest land is Ascension Island, 1,125 km away.

St Helena was discovered by the Portuguese navigator, Juan da Nova, on St Helena Day (21 May) 1502. Its existence was kept secret until the English seafarer Thomas Cavendish found it in 1588.

It was then used for water and rest by ships of many nations. In 1633, the Dutch claimed, but did not occupy, the island. In 1658, a Charter from Richard, Lord Protector, authorised the British East India Company to colonise and fortify the island, which it did the following year. Napoleon was exiled on St Helena from 1815 until his death there in 1821. It became a Crown Colony in 1834.

The population of 5,000 is of mixed ethnic origin. English is the only language.

The island has a distinctive flora and fauna, with many rare or endangered species. Systematic efforts are being made to re-introduce some of the endemic plants throughout the island.

Constitutional status

The St Helena Constitution Order provides for a Legislative Council consisting of the Speaker, twelve elected Members and three Ex Officio Members (the Chief Secretary, the Financial Secretary and the Attorney General). The last general election took place on 9 July 1997. The Governor enacts laws with the advice and consent of Legislative Council and receives advice from an Executive Council of five elected Members of Legislative Council and the Ex Officio Members. The Attorney General does not vote in Executive Council or Legislative Council.

The Governor of St Helena is also Governor of the Dependencies of Ascension Island and Tristan da Cunha.

Law and order

St Helena has its own legislation. The law of England as at 1 January 1987 is in force in St Helena in so far as it is applicable and suitable to local circumstances and subject to such modifications, adaptations, qualifications and exemptions as local circumstances render necessary. The law of England only applies in so far as it is not inconsistent with any Act of Parliament or Order in Council which extends to St Helena, or with any of the laws of St Helena. Magistrates' Courts deal with minor issues, while more serious cases are tried in the St Helena Supreme Court. A Court of Appeal was held on St Helena for the first time in 1998.

The Attorney General is responsible for legal matters relating to the St Helena Government. A Public Solicitor advises lay advocates and the public.

The St Helena Police Force has an authorised establishment of 29 officers. Their duties include running the small prison. A further detachment of six officers is stationed on Ascension. Crime rates are low.

Current issues

St Helenians have a strong cultural and economic connection with the UK. The imposition of immigration control was felt keenly and the Bishop of St Helena established a Citizenship Commission to promote the case for St Helenians to be granted British citizenship.

Communications with the outside world are by sea only. There is no airport.

Economy

In 1995 the St Helena Government embarked on a programme of structural adjustment, based on both public sector reform and private sector development. At that time the public sector employed 68 per cent of the working population and unemployment was 11.4 per cent. The Public Service now accounts for some 45 per cent of the working population. Unemployment totals about 15 per cent of the resident population with the underlying trend now downwards.

Fishing licences for waters around Ascension produce about £1 million for the St Helena economy and a Falklands company is setting up a fish freezing facility on St Helena.

About 1,000 St Helenians are employed offshore, mainly in Ascension and the Falklands: their remittances are worth over £1 million a year.

In 1997 8,698 tourists visited St Helena but without an airport, no safe anchorage for yachts in heavy seas and the limited capacity of the passenger/cargo ship RMS *St Helena*, tourism is unlikely to develop rapidly.

UK development assistance

The St Helena Government undertook a Strategic Review in 1996. This formed the basis of a three year Country Policy Plan (CPP), agreed in 1997, committing the British Government to provide a package of development assistance totalling some £26 million over the period 1997/98 to 1999/00. The second annual review of the Plan took place in December 1998.

The development assistance agreed under the CPP consists of direct budgetary aid for St Helena (approximately £3.2 million a year), an annual subsidy for the operation of the RMS *St Helena* (approximately £1.3 million) and support for bilateral development assistance – including the provision of some 24 long term personnel in key posts and of short term expertise, UK training awards and a number of infrastructure development projects (for example roads rehabilitation and improvement project, cargo handling projects, etc). Future development assistance will be discussed in the context of the next CPP due to be negotiated at the end of 1999.

Key Facts

Currency	St Helena Pound (at par with UK£)
GDP per capita	£2,536
Government revenue	£10.3 million (1997/98)
Government expenditure	£10.03 million (1997/98)
UK exports	£6.99 million (1998)*
UK imports	£0.65 million (1998)*
Population	5,000
Unemployment rate	15%
Capital	Jamestown

*Includes UK trade with St Helena's Dependencies Ascension Island and Tristan da Cunha



Ascension Island (Dependency of St Helena)

General

Ascension Island is in the South Atlantic, some 1,125 km north-west of St Helena. It covers an area of 90 sq km and is of volcanic origin. The last eruption was about 600 years ago.

Ascension Island was discovered in 1501 by the Portuguese and 'found' again on Ascension Day 1503 by Alphonse d'Albuquerque, who named the island. In 1815, when Napoleon was a prisoner on St Helena, a small British naval garrison was stationed on Ascension. The Island remained under Admiralty supervision until 1922 when it was made a Dependency of St Helena.

During the Second World War the US Government built 'Wideawake' airstrip on the Island. In 1957 a US Air Force presence was re-established and the airstrip and ancillary facilities enlarged. It is now an ICBM and space missile tracking station. In 1982 it became the intermediate stop for Royal Air Force flights to and from the Falklands.

Ascension is also used by Cable and Wireless, the BBC and the Composite Signals Organisation. These 'User' organisations, together with the Royal Air Force, finance all non-military activities on the Island. There is no indigenous population.

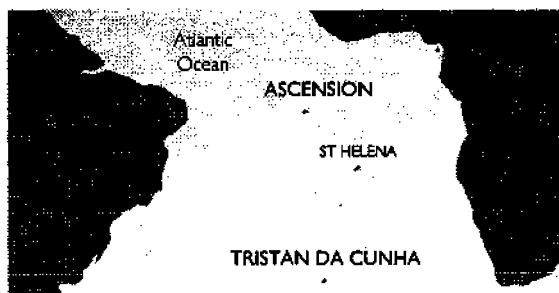
Constitutional status

Executive authority for the territory is exercised by the Governor of St Helena. A resident Administrator is responsible to the Governor. The 'Users' organisation on Ascension, The Island Customer Board, oversees the management of the Island's public and common services. The Administrator is advised on an informal basis by a 'Forum' of employees, most of whom are St Helenians.

Law and order

Ascension Island has a limited range of its own legislation. But English law applies to the extent that it is not inconsistent with local law, in so far as it is suitable for local circumstances and subject to such modifications as local circumstances make necessary.

There is a small unit of the St Helena Police Force seconded to Ascension. The Administrator is Chief Magistrate and six Justices of the Peace have been appointed.



Current issues

Aircraft may only land at Wideawake Airfield with the permission of the US authorities. Negotiations are under way to allow civilian charter flights. It is hoped that this will encourage a modest tourist industry on Ascension and improve access to St Helena. Studies will be conducted to establish how the governance of the Island should be organised for the future.

Environment

Ascension has globally important populations of seabirds (especially on Boatswain Bird Island) and turtles. A current issue is the prospect of eradicating introduced cats and rats.

UK development assistance

Ascension receives no aid from Britain.

Key Facts	
Currency	Pound Sterling and St Helena Pound
Cost of Government, net of revenue	£1,863,720
Population	1,100
Unemployment rate	nif
Capital	Georgetown



Tristan da Cunha (Dependency of St Helena)

General

Tristan da Cunha is a small island of volcanic origin in the South Atlantic, mid-way between South America and South Africa.

It is almost circular in shape and has an area of 98 sq km.

The neighbouring islands of Gough, Inaccessible and Nightingale make up the Tristan da Cunha Group. A team of South African meteorologists live on Gough. Inaccessible and Nightingale are uninhabited. The islands have a very distinctive endemic flora and fauna and are important breeding grounds for many seabirds. Gough Island is a World Heritage Site.

Tristan da Cunha was discovered in 1506 by the Portuguese navigator Tristao da Cunha who did not land but named the island after himself. It was garrisoned and possessed by the British in 1816. The current population is about 300 people of mixed descent. English is the only language.

Constitutional status

Executive authority for Tristan da Cunha is exercised by the Governor of St Helena. A resident Administrator is responsible to the Governor. The Administrator is advised by an Island Council, led by the Chief Islander and comprising eight elected Members (including at least one woman) and three appointed Members. Elections are held every three years. The last was on 23 October 1997.

Law and order

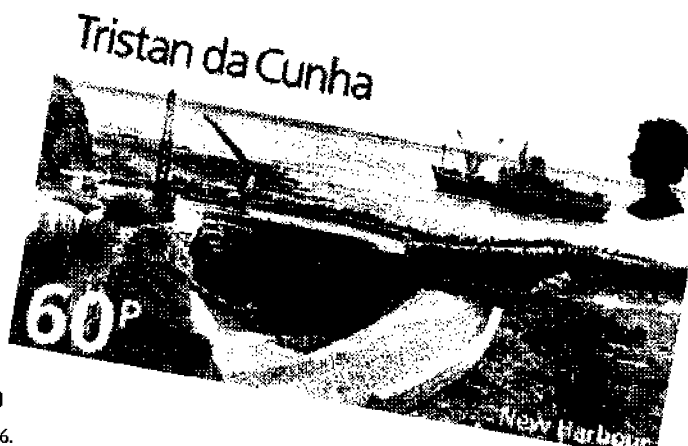
Tristan da Cunha has its own legislation but St Helena law applies to the extent that it is not inconsistent with local law, in so far as it is suitable for local circumstances and subject to such modifications as local circumstances make necessary. There is one full time police officer and three special constables. The Administrator is the Magistrate and he heard only one case (drunken driving) in 1997.

Current issues

Tristan da Cunha is an isolated island. Its nearest neighbour is St Helena, 2,100 km to the north. Cape Town is 2,400 km to the east. There are no air services. Transport to and from the island is provided by the yearly call of the RMS *St Helena*, the occasional passenger ship, two crayfish concession vessels and the South African research vessel, SA *Agulhas*. Due to heavy seas the harbour is only accessible for 60 to 70 days a year. Improvements to the harbour are vital to Tristan da Cunha's future. Tourism offers limited potential for economic development.

The volcano is still active and last erupted in October 1961.

The population were evacuated to the UK, but returned in 1963.



Economy

Tristan da Cunha has been largely self-sufficient. The economy relies predominantly on the income from crayfishing and returns on investments. However, the downturn in demand in the Far East, the main market for Tristan crayfish, will mean that in 1999 the economy will run at a substantial deficit. Other sources of current income – a limited tourist industry based on three or four tourist ships per annum and the sale of postage stamps – cannot realistically be increased significantly. Other potential economic developments, such as the sale of mineral water, will require considerable capital investment.

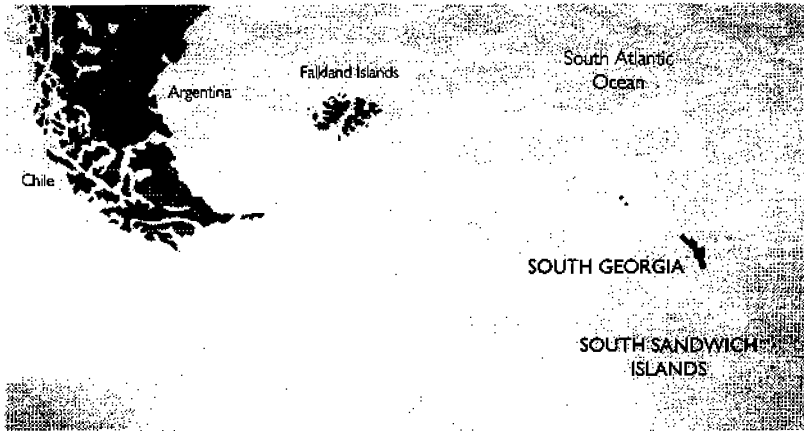
UK development assistance

Bilateral assistance to Tristan da Cunha is modest and consists of support for the provision of medical care on the island and continuing support for the Fisheries Management Project.

Key Facts

Currency	Pound Sterling
Government revenue	£744,534 (estimated 1998)
Government expenditure	£618,839 (estimated 1998)
Population	297 (1998)
Unemployment rate	Negligible
Capital	Edinburgh of the Seven Seas

South Georgia and the South Sandwich Islands (SGSSI)



General

South Georgia lies 1,290 km east-south-east of the Falkland Islands, and the South Sandwich Islands some 760 km south east of South Georgia. South Georgia, with an area of 3,755 sq km, is some 160 km long with a maximum breadth of 32 km. The land is mountainous, rising to 2,933 m, and the valleys filled with glaciers. The climate is severe and the mountains largely ice and snow covered throughout the year. There is no indigenous population.

The South Sandwich Islands consist of a chain of active volcanic islands some 240 km long. The climate is wholly Antarctic. In the late winter the islands may be surrounded by pack ice. The prevalent westerly storms and lack of sheltered anchorages make landing difficult.

The first landing on South Georgia was that of Captain James Cook in 1775. Thereafter, South Georgia was much visited by sealers of many nationalities who reaped a rich harvest from the immense number of fur seals and elephant seals which frequented the shores. Britain annexed South Georgia and the South Sandwich Islands by Letters Patent in 1908. Since then the Islands have been under continuous British administration, apart from a short period of illegal Argentine occupation in 1982. Through most of this century South Georgia was the centre of land-based whaling in the Southern Hemisphere and whaling stations operated under licence from the Government of South Georgia. Although commercial whaling ended in the 1960s, the remains of the whaling stations such as at Grytviken, Stromness and Leith still exist.

The territory is of great importance for sub-antarctic flora and fauna. The South Sandwich Islands represent a maritime ecosystem scarcely modified by human activities. South Georgia is the breeding ground for some 85 per cent of the world's Southern Fur Seal population as well as globally significant populations of albatrosses, petrels and penguins.

The Governor of the Falkland Islands has been appointed concurrently Commissioner for SGSSI. Under the SGSSI Constitution he consults the Falkland Islands Executive Council on matters relating to the territory which might affect the Falkland Islands. He liaises with the Commander British Forces on matters concerning defence or internal security of the Islands. There has been a small garrison at King Edward Point on South Georgia since the Argentine occupation in 1982.

The First Secretary at Government House Stanley is concurrently Assistant Commissioner and Director of Fisheries. The Attorney General and Financial Secretary from the Falkland Islands fulfil parallel roles in SGSSI.

Law and order

The Senior Magistrate from the Falkland Islands presides over the Magistrates' Court. A Court of Summary Jurisdiction exists on the Islands, presided over by the Officer Commanding the British garrison on the Islands.

No separate Court of Appeal for South Georgia has been established. Falkland Islands legislation in 1989 made provision whereby the Court of Appeal in the Falkland Islands should, in effect, operate additionally as the Court of Appeal for South Georgia.

Current issues

Argentina asserts a claim to sovereignty over SGSSI. But Britain has no doubt about its sovereignty and does not regard this as negotiable. Illegal fishing in SGSSI waters poses a threat to the conservation of fish stocks, and to populations of sea birds which may be caught inadvertently in such fishing operations.

The decision has been taken to replace in 2000 the military garrison with a civilian presence provided by the British Antarctic Survey. BAS will occupy a newly constructed research station at King Edward Point, and will conduct scientific research there primarily into the sustainable utilisation of South Georgia marine fisheries resources.

Economy

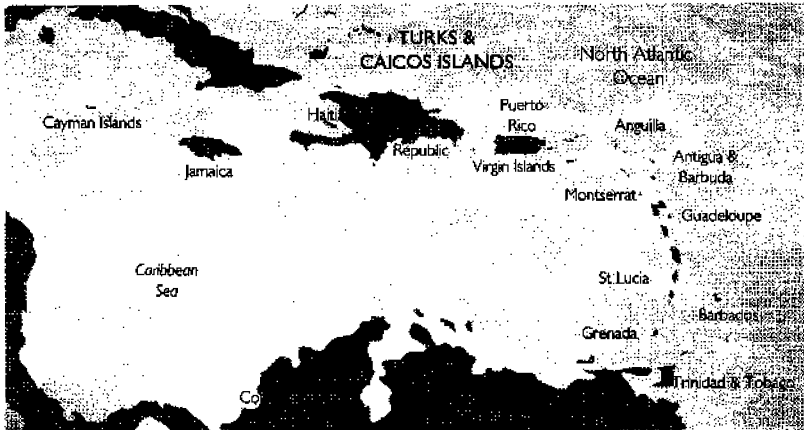
The main sources of revenue are fishing licences, sale of stamps, customs and harbour dues, landing fees and trans-shipment fees.

Main items of expenditure are fisheries administration costs and research, fisheries protection, production of stamps and support for the South Georgia Whaling Museum.

Key Facts	
Currency	Pound Sterling
Government revenue	£1.373 million (estimate financial year 1997)
Government expenditure	£0.66 million (estimate financial year 1997)
Administrative centre	King Edward Point



Turks and Caicos Islands (TCI)



General

The Turks and Caicos Islands form the south-eastern extremity of the Bahamas chain and lie 145 km north of Haiti and the Dominican Republic and 925 km south-east of Miami. The territory comprises some 40 islands and cays split into two groups by a deep water channel, with a total land area of 500 sq km. Of these islands only six are permanently inhabited: Grand Turk – the capital; Salt Cay; South Caicos; Middle Caicos; North Caicos; and Providenciales. In addition there are a number of hotel developments and holiday homes on smaller cays. Limited rainfall, coupled with poor soils and a limestone base, restrict the possibilities for agricultural development. The Islands have important wetland and reef habitats and provide a home for 14 endemic plants and reptiles.

The population is currently estimated to be around 20,000. This includes about 10,000 foreigners, especially from Haiti and the Dominican Republic. Most of the people are of African descent, the rest being of mixed or European origin. English is the main language with some Creole spoken by Haitian immigrants. The religion is Christianity; the Anglican Communion predominates. Education is compulsory between the ages of 5 and 14, and is provided free in 10 primary schools and 4 secondary schools run by the Government.

Constitutional status

The TCI is an internal self-governing Overseas Territory with a ministerial system of government. The 1988 Constitution provides for a Governor appointed by HM the Queen, an Executive Council and an elected Legislative Council. The Governor is responsible for external affairs, defence, internal security, offshore finance, and certain other matters, but is otherwise normally required to act on the advice of Executive Council. There are two main political parties, the People's Democratic Movement (PDM) and the Progressive National Party (PNP). Parliamentary elections are held at intervals of not more than four years. The last elections were held in January 1995. The PDM overturned the PNP's 8–5 majority and won 8 of the 13 elected seats on the Legislative Council; the PNP is in opposition. The next election is expected in March 1999.

Law and order

The legal system, based on English common law, includes a Supreme Court and a Court of Appeal, and has provision for appeal to the Privy Council in London. The Attorney General and Chief Justice are currently British technical cooperation officers, as are the Senior Crown Counsel, the Legal Draftsman, the Deputy Commissioner of Police and the Head of the CID. The Police Development Project will support the provision of a further two technical cooperation officers; an Assistant Commissioner of Police and a Financial Crimes Investigation Officer. Royal Navy and Royal Air Force attachments to the Police Force have enhanced the TCI's ability to combat drug trafficking. The Islands enjoy close cooperation with the US and Bahamian narcotics agencies under an agreement extended to the TCI in 1990, thus allowing for combined US/TCI/Bahamas interdiction operations. In one operation in February 1998 the TCI authorities seized over two tonnes of cocaine.

Recent developments

The TCI lies directly in the path of Haitian boat people attempting to reach the United States or the Bahamas. As a result, many have arrived illegally in the territory in recent years (having also been attracted by employment opportunities on fast-developing Providenciales). A 15-month long programme to repatriate them voluntarily or regularise their stay, under the auspices of the International Organisation for Migrants and with assistance from the United Nations High Commissioner for Refugees, began in January 1997. This programme provided for the processing of approximately 1,000 migrants who qualified for permanent residence in the TCI, and assisted some 3,500 with their return and reintegration into Haiti. The immigration authorities have tightened the regulations governing the migrant work force.

Economy

The TCI economy is based primarily on tourism and offshore finance. The opening of a Club Méditerranée village on Providenciales at the end of 1983 and accompanying provision of an international airport under the British aid programme gave the Islands a considerable boost. Tourist arrivals in 1997/98 fell just short of 100,000.

Foreign investors, mainly from Canada, the UK and the USA, play a significant role in the Islands' economic life. The main areas of private investment are tourism, property development, real estate, international finance and fishing, focused on the island of Providenciales.

Constitutional responsibility for the TCI's offshore finance sector rests with the Governor. Offshore finance is the TCI's second largest source of external revenue after tourism. The mainstays of the industry are trusts and insurance companies: seven banks are licensed to operate in the TCI. The UK Technical Cooperation Programme currently supports the sector through the provision of the Superintendent and Deputy Superintendent of the Financial Services Commission.

UK development assistance

The current bilateral assistance programme was agreed as part of the first TCI Country Policy Plan and focused on the development of the civil service, the provision of technical cooperation officers and expertise to assist the Government over a wide range of public service activities, the development of 'gateways' legislation on financial services and the strengthening of the judiciary and democratic institutions. The programme is increasingly focused on the provision of support in the education sector, while further assistance will be considered in the health sector. The future development strategy for the TCI will be discussed in the context of the next Country Policy Plan, to be negotiated in 1999.

Key Facts

Currency	US Dollar
GDP per capita	US\$6,000 (estimated 1998)
GDP growth	5.0% (1997/98)
Government revenue	US\$41,223,672 (1996/97)
Government expenditure	US\$34,782,781 (1996/97)
UK exports	£1.53 million (1998)
UK imports	£0.03 million (1998)
Population	20,000 (1998 estimate)
Unemployment rate	10% (rate varies: full employment in Providenciales, up to 25% unemployment on some islands)
Capital	Cockburn Town (Grand Turk)



Financial regulation check-list – notes

1. Legislation will be needed which fully meets relevant international standards such as those set by the Basle Group on Banking Supervision and the International Organisation of Securities Commissions. Where necessary the legislation and associated regulations should cover credit institutions (banks and building societies), stock exchanges, insurance and investment services sectors, investment trusts and collective investment schemes. The regulation of private trusts, company formation and management will also be covered.

2. Following the review in 1999 we shall consult Overseas Territory governments and regulators before setting individual targets to ensure that the requirements are appropriate, reflect the size and type of the financial sector and any plans to develop it further, and take into account the existing regulatory structure.

3. Good progress has been made on introducing legislation to combat money laundering. Legislation must be enforced, and implementation reviewed regularly. We shall review with the Overseas Territories the extent to which the updated 1996 recommendations of the Financial Action Task Force, the Caribbean Financial Action Task Force and the Offshore Group of Banking Supervisors can be implemented (some territories have already participated in mutual evaluations).

4. We shall also press Overseas Territory governments to introduce legislation to improve regulation of company formation and management because, for example, in the absence of proper regulation, complex company structures can be used to disguise the proceeds of crime and other regulatory abuse as well as providing limited liability. There is increasing evidence that companies, incorporated in an Overseas Territory but based elsewhere, have been used as vehicles to disguise money laundering and financial fraud. Company formation agents and company managers need to be required by law to hold key information about the companies for which they have responsibility and to disclose that information to a regulator on request. This will help ensure a properly documented paper trail for criminal and regulatory investigations.

5. The Caribbean Overseas Territories already have certain 'gateway' provisions which allow the local regulator to provide information to an overseas regulator. We have asked Overseas Territories to introduce, in addition, 'investigative powers' to allow an Overseas

Territory regulator to conduct an investigation on behalf of an overseas regulator, and to compel the production of evidence needed by the overseas regulator (subject to proper safeguards). These powers would be supported by Memoranda of Understanding with each Overseas Territory. The Memoranda would formalise the procedures under which information can be obtained and passed to other regulators. Overseas Territory governments should also introduce equivalent legislation to the Criminal Justice (International Cooperation) Act 1990 so that they can provide similar assistance for criminal investigations as they can – and do – already for drugs and money laundering investigations.

6. A sound, transparent regulatory environment is necessary to maintain investor confidence and the reputation of that jurisdiction's financial sector. This is only possible if the regulatory authority is, and is seen to be, independent, and free from business or political interference. Regulatory authorities should not become involved in the marketing and promotion of financial services. They need to be properly staffed and budgeted for, with ring-fenced funding, if necessary raised independently by the regulatory body through an industry levy. The regulatory authority should have the power and ability to supervise, set standards, investigate and take relevant enforcement action, take disciplinary action, grant and withdraw licences, make proposals for legislation and generally regulate all financial institutions under its control. It should also have the powers, including compulsory powers, to cooperate with authorities in other jurisdictions. It should keep the Governor and board members of the regulatory authority informed of developments on a regular basis. It should produce an annual report on progress made, problems encountered and where action is still needed in order to meet the required standards; and a plan of action for doing so.

7. All financial sector activity in the Overseas Territories should be subject to appropriate regulation, enforcement, and licensing regimes. Licensing applications should be formalised. Proper records of the application process need to be kept, and rigorous procedures for the conduct of investigations and routine on-going supervision should be introduced relating to both people and firms in the industry. Regulatory standards should be re-evaluated annually to ensure they take into account progress on the international regulatory front. The aim is for the same overall standards of regulation and licensing to apply in all the territories.

ANNEX 72

RAMSAR Information Sheet for the wetland “Diego Garcia”, February 2001

RAMSAR INFORMATION SHEET

FOR WETLANDS OF INTERNATIONAL IMPORTANCE

Site reference number

- 1 Compilation date February 2001
2 Country British Indian Ocean Territory
3 Name of wetland Diego Garcia
4 Site centre location: Latitude: 07 19 00 S Longitude: 72 28 00 E
5 Altitude (m) Min: 0.0 Max: Mean 2.0m
6 Area (ha) 35424.05 ha

7 Overview

Diego Garcia is the southernmost atoll of the Laccadive-Maldives-Chagos atoll chain. The archipelago possesses an exceptionally low level of pollution and provides a standard for measuring the impact of human pressures on other reef systems. The World Heritage quality of the territory is recognised in the BIOT Conservation Policy Statement (October 1997) which specifies that BIOT will be treated in accordance with the requirements of the Convention subject only to defence requirements.

8 Wetland type **Marine and Coastal Wetlands**

Code	Name	% Area
B	Marine beds (eg. sea grass beds)	0.5
C	Coral reefs	99
P	Freshwater lakes: seasonal / intermittent	0.5

- 9 Ramsar Criteria **1, 3, 4, 5, 6, 7, 8**
10 Map of the site
11 Compiler Joint Nature Conservation Committee
Monkstone House
City Road
Peterborough
Cambridgeshire PE1 1JY
UK
Telephone/Fax : +44(0) 1733 562626 / +44(0) 1733 555948

12 Justification of criteria

Ramsar Criterion 1.

The site is a particularly good example of a relatively unpolluted coral reef system in a near natural state which provides a valuable link in the marine ecology of the Indian Ocean.

Ramsar Criterion 3 and 4.

The site is of special value for maintaining the genetic and ecological diversity of the region, especially its marine life. The site provides a habitat for marine flora and fauna at a critical stage of their biological cycle including the endemic coral *Ctenella chagius* and the threatened Hawksbill and Green Turtles, *Eretymochelys imbricata* and *Chelonia mydas*. The site is also important for breeding seabirds.

Ramsar Criterion 5.

The site regularly supports 20,000 or more waterbirds including Greater frigate *Fregata minor*, Red-footed Boobies *Sula sula*, Greater crested-tern *Thalasseus bergii*, Black-naped tern *Sterna sumatrana*, White (fairy) tern *Gygis alba*, Brown (common) noddy *Anous stolidus*, Lesser noddy *Anous tenuirostris*. There are 28,410 individuals estimated to occur on Diego Garcia (Sheppard C.R.C and Seaward M.R.D. eds 1999).

Ramsar criterion 6

The site supports a breeding colony of approximately 9,000 Red-footed Boobies *Sula sula* and 320 Greater frigate *Fregata minor*.

Ramsar Criterion 7 and 8.

The site supports a large number of fish species including some endemics and is also a valuable nursery for fish stocks.

13 General location

Diego Garcia (outside the specific area)

Nearest Town/City: Diego Garcia.

The Chagos Archipelago is located in the central Indian Ocean.

Administrative Region: British Indian Ocean Territory

14 Physical Features

Soil & Geology	biogenic reef, sand
Geomorphology and Landscape	coastal, island, lagoon, subtidal rock (including rocky reefs), subtidal sediments (including sandbank/mudbank)
Nutrient status	oligotrophic
pH	alkaline
Salinity	saline / euhaline
Soil	mainly mineral, mainly organic
Water permanence	usually seasonal / intermittent
Summary of main climatic features	Diego Garcia has a tropical maritime climate. The average temperature is 27C, average maximum 30C, average minimum 25C. Mean relative humidity 80%. Mean annual rainfall is 102.5 inches.

15 Hydrological values

No special values known

16 Ecological features

Diego Garcia is a mid-ocean coral reef and the southernmost atoll of the Chagos Archipelago which contains about 220 zooanthellate species of 58 genera and is rich in marine life.

17 Noteworthy flora

Species at levels of national importance

Sea grass beds

These are not widespread, and the only known area of seagrasses of significant size lies on the eastern side of the lagoon at Diego Garcia. A number of fish species have been recorded in these seagrasses which have not yet been seen anywhere else in the Archipelago.

18 Noteworthy fauna

Species occurring at levels of international importance.

Invertebrates

Coconut crab *Birgus latro*.

Species occurring at levels of national importance.

Birds

Lesser noddy tern *Anous tenuirostris*, Black-naped tern *Sterna sumatrana* and White (fairy) tern *Gygis alba*.

Fish

At least two species of endemic fish.

Invertebrates

There is one, possibly two species of endemic coral: *Ctenella chagius*.

19 Social and Cultural Values

Aesthetic

Current scientific research

Fisheries production

Non-consumptive recreation

20 Land tenure/ownership

Ownership category	On-Site	Off-Site
National/Crown estate	+	+

21 Current land use

Activity	On-Site	Off-Site	Scale
Nature conservation	+	+	Large-Scale
Research	+	+	Large-Scale
Fishing: recreational/sport	+	+	Large-Scale
Harbour/port	+	+	Large-Scale
Military activities	+	+	Large-Scale

22 Adverse factors affecting the ecological character of the site

Activity	On-Site	Off-Site	Scale
Introduction/invasion of exotic animal species	+	+	Large-Scale

23 Conservation measures taken

Conservation measure	On-site	Off-site
NNR	+	
Longstanding legislation already in place – please refer to Annex	+	+

24 Conservation measures proposed but not yet implemented

see below

Site vulnerability and management statement

There is a fully comprehensive Natural Resources Management Plan for Diego Garcia (NRMPDG). It was issued in 1997 and is currently being revised. Nature and Strict Nature Reserves have also been established and these are shown on the map attached. Diego Garcia has feral cats and rats but the three islands at the entrance of the lagoon are free of both. There is a cat eradication programme being undertaken and a rat eradication programme is planned. The enforcement of conservation measures is the responsibility of the Commissioner's Representative. He is assisted by the BIOT Police and fisheries officers.

25 Current scientific research/survey/monitoring and facilities

Scientific expeditions and visits were conducted in 1967, 1973, 1975 1978/9, 1996, 1999 and 2001. Surveys of recreational fishing are regularly conducted. The BIOT Conservation Consultant has visited annually for about a month from 1993 onwards and reports to the Commissioner.

26 Current conservation education

The Friends of Chagos is a registered charity whose objectives are to promote conservation, scientific and historical research and to advance education concerning the Chagos Archipelago. The Friends have produced 4 booklets on The Sea Shores of Chagos, the Reef Fishes of Chagos, the Plants of Chagos and the Birds of Chagos. They have also produced CDs with several hundred photographs about the nature of the Chagos Archipelago past and present. There is turtle recording and awareness activity and recording of red footed boobies. The NRMPDG contains measures to protect wildlife and

efforts are made with local television and a locally produced news sheet to make the community interested in nature and aware of the need to protect the environment.

27 Current recreation and tourism

Nil.

28 Functional jurisdiction

British Indian Ocean Territory Administration
Foreign and Commonwealth Office
London SW1A 2AH

29 Management authority

Commissioner's Representative
NP 1002 BFPO 485
Diego Garcia
British Indian Ocean Territory

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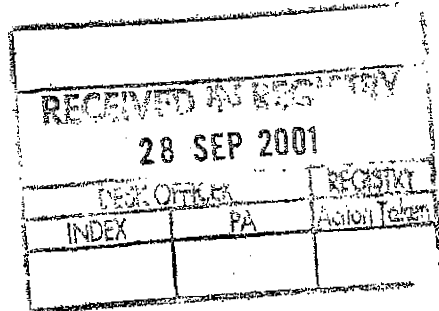
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ANNEX 73

Environment Charter for the BIOT, 26 September 2001

Environment Charter

BRITISH INDIAN OCEAN TERRITORY



Guiding Principles

For the UK government, for the government of the British Indian Ocean Territory.

- 1 To recognise that all people need a healthy environment for their well-being and livelihoods and that all can help to conserve and sustain it.
- 2 To use our natural resources wisely, being fair to present and future generations.
- 3 To identify environmental opportunities, costs and risks in all policies and strategies.
- 4 To seek expert advice and consult openly with interested parties on decisions affecting the environment.
- 5 To aim for solutions which benefit both the environment and development.
- 6 To contribute towards the protection and improvement of the global environment.
- 7 To safeguard and restore native species, habitats and landscape features, and control or eradicate invasive species.
- 8 To encourage activities and technologies that benefit the environment.
- 9 To control pollution, with the polluter paying for prevention or remedies.
- 10 To study and celebrate our environmental heritage as a treasure to share with our children.

Alan Huckle
BRITISH INDIAN OCEAN TERRITORY
26 September 2001

Valerie Amos
UNITED KINGDOM
26 September 2001

Commitments

The government of the UK will:

- 1 Help build capacity to support and implement integrated environmental management which is consistent with the BIOT's own plans for sustainable development.
- 2 Assist the BIOT in reviewing and updating environmental legislation.
- 3 Facilitate the extension of the UK's ratification of Multilateral Environmental Agreements of benefit to the BIOT and which the BIOT has the capacity to implement.
- 4 Keep the BIOT informed regarding new developments in relevant Multilateral Environmental Agreements and invite the BIOT to participate where appropriate in the UK's delegation to international environmental negotiations and conferences.
- 5 Help the BIOT to ensure it has the legislation, institutional capacity and mechanisms it needs to meet international obligations.
- 6 Promote better cooperation and the sharing of experience and expertise between the BIOT, other Overseas Territories and small island states and communities which face similar environmental problems.
- 7 Use UK, regional and local expertise to give advice and improve knowledge of technical and scientific issues. This includes regular consultation with interested non-governmental organisations and networks.
- 8 Use the existing Environment Fund for the Overseas Territories, and promote access to other sources of public funding, for projects of lasting benefit to the BIOT's environment.
- 9 Help the BIOT identify further funding partners for environmental projects, such as donors, the private sector or non-governmental organisations.
- 10 Recognise the diversity of the challenges facing Overseas Territories in very different socio-economic and geographical situations.
- 11 Abide by the principles set out in the Rio Declaration on Environment and Development (See Annex 2) and work towards meeting International Development Targets on the environment (See Annex 3).

The government of the British Indian Ocean Territory, so far as is appropriate in the circumstances of the territory, will:

- 1 Bring together representatives of government of local users, of the scientific community and of environment and heritage organisations in a forum to formulate a detailed strategy for action. (See Annex 1).
- 2 Ensure the protection and restoration of key habitats, species and landscape features through legislation and appropriate management structures and mechanisms, including a protected areas policy, and attempt the control and eradication of invasive species.
- 3 Ensure that environmental considerations are integrated within social and economic planning processes; promote sustainable use of natural resources within the territory.
- 4 Ensure that environmental impact assessments are undertaken before approving major projects.
- 5 Commit to open and consultative decision-making on developments and plans which may affect the environment; ensure that environmental impact assessments include consultation with stakeholders.
- 6 Implement effectively obligations under the Multilateral Environmental Agreements already extended to the BIOT and work towards the extension of other relevant agreements.
- 7 Review the range, quality and availability of baseline data for natural resources and biodiversity.
- 8 Ensure that legislation and policies reflect the principle that the polluter should pay for prevention or remedies; establish effective monitoring and enforcement mechanisms.
- 9 Promote the value of our environment as a part of the world's natural heritage of regional and global significance.
- 10 Promote publications that spread awareness of the special features of the environment in the BIOT; promote within the BIOT the guiding principles set out above.
- 11 Abide by the principles set out in the Rio Declaration on Environment and Development (See Annex 2) and work towards meeting International Development Targets on the environment (See Annex 3).

OTs Environment Charter

Illustrative Paper: Topics for consideration by environment committees as components of environmental action strategies.

Note: The circumstances of each OT vary considerably from those with no resident population (eg. SGSSI), very small populations (eg. Pitcairn) to those with bigger populations and a wider range of local resources and skills. Some already have groupings that bring together a variety of stakeholders in the main local environmental issues. It is for each territory to establish/develop the most suitable framework to develop action plans that link the shared principles of the OTs Environment Charter to the needs of each territory. The headings just suggest some areas which each territory may wish to consider – some may be clearly applicable or more important in some territories than in others.

Issue specific examples

1 Environment/Development Interface

- Sustainable development strategies
- Participatory approaches to environmental and conservation management
- Ensuring environmental planning and management do not disadvantage the poor
- Promotion of sustainable livelihoods
- Rio Declaration and International Development Targets
- Agenda 21 groups
- Consideration of the built environment

2 Habitat & Species Conservation/Restoration; Invasive Species

- Establishment of baseline information
- Documentation of local ecosystems, fauna & flora
- Priorities – working from baseline information
- Significance for local livelihoods, including tourism
- Key institutions, people and external linkages
- Action planning – implementation of plans, setting targets
- Priorities for monitoring, reporting, disseminating and applying knowledge

3 Pollution

- A mechanism for monitoring pollution
- Awareness of international (and regional) pollution agreements and standards

4 Energy and Technology Issues

- Sustainable energy policies – eg. transport, renewable energy sources, energy conservation
- Appropriate new green technologies – UK help with technology transfer

5 Natural Disasters

- Inclusion of hazard management within development planning
- Vulnerability assessments for habitats and species
- Precautionary measures
- Slow onset disasters (degradation of habitats, climate change)

Examples of response mechanisms

1 Local Legislation

- Local implementation of Multilateral Environmental Agreements (MEAs)
- Regional agreements/co-operation
- Identification & examination of key items of legislation (eg. Planning permission, Designation of protected areas or species, Environmental Impact Assessments (EIAs), Control of pollution, Regulation of natural resources based industries: fisheries, forestry, agriculture, tourism)
- Effectiveness of implementation – support of local community
- Scope for adopting ideas from other OTs, other countries/territories in the region and the UK.

2 Environmental Impact Assessments

- Capacity building for EIA production
- Early identification of stakeholders
- Environmental Assessment in planning procedures: Strategic Environmental Assessment and National Physical Plans

3 Multilateral Environmental Agreements (MEAs)

- Effectiveness of implementation of those MEAs already extended
- Costs and benefits of extending other MEAs
- Reporting and requirements
- Dissemination of information about MEAs & their relevance
- Support needed from UK Departments, Government Agencies and NGOs on international MEA conferences of parties, regional meetings & new negotiations
- Use of international secretariat, UK government and agency, & NGO websites
- Possible contribution to global/regional benefits of MEAs – eg. sharing best practice, being host for workshops and research projects of more than purely local significance

4 Funding for Environmental Work

- Budgetary and staffing provisions
- Environmental taxes
- Identification of potential sources of funding for environmental projects
- Identification of projects and prioritisation
- Preparation of applications to funding sources
- Monitoring of progress towards outcomes of funded projects
- Reviewing programme and priorities
- Publicising results locally and wider (in concert with funding agencies)

5 Education and Youth Activities; Media and Public Attitudes

- Disseminating the guiding principles contained within the charter.
- Environmental education programmes in schools
- Information on websites in the territory and links to regional, UK and international websites
- Media strategies
- Conservation volunteer schemes
- Procedures for public inquiries on major developments

6 Regional and International Links

- Networking with other OTs
- Environmental links to other small island states, territories and communities
- Links to residents and friends of the territory in the UK and elsewhere (also as source of funds, tourists, expertise)

The Rio Declaration on Environment and Development (1992)

Preamble

The United Nations Conference on Environment and Development,

Having met at Rio de Janeiro from 3 to 14 June 1992,

Reaffirming the Declaration of the United Nations Conference on the Human Environment, adopted at Stockholm on 16 June 1972, and seeking to build upon it,

With the goal of establishing a new and equitable global partnership through the creation of new levels of co-operation among States, key sectors of societies and people,

Working towards international agreements which respect the interests of all and protect the integrity of the global environmental and developmental system,

Recognizing the integral and interdependent nature of the Earth, our home,

Proclaims that:

Principle 1

Human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature.

Principle 2

States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.

Principle 3

The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.

Principle 4

In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it.

Principle 5

All States and all people shall cooperate in the essential task of eradicating poverty as an indispensable requirement for sustainable development, in order to decrease the disparities in standards of living and better meet the needs of the majority of the people of the world.

Principle 6

The special situation and needs of developing countries, particularly the least developed and those most environmentally vulnerable, shall be given special priority. International actions in the field of environment and development should also address the interests and needs of all countries.

Principle 7

States shall cooperate in a spirit of global partnership to conserve, protect and restore the health and integrity of the Earth's ecosystem. In view of the different contributions to global environmental degradation, States have common but differentiated responsibilities. The developed countries acknowledge the responsibility that they bear in the international pursuit of sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command.

Principle 8

To achieve sustainable development and a higher quality of life for all people, States should reduce and eliminate unsustainable patterns of production and consumption and promote appropriate demographic policies.

Principle 9

States should cooperate to strengthen endogenous capacity-building for sustainable development by improving scientific understanding through exchanges of scientific and technological knowledge, and by enhancing the development, adaptation, diffusion and transfer of technologies, including new and innovative technologies.

Principle 10

Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.

Principle 11

States shall enact effective environmental legislation. Environmental standards, management objectives and priorities should reflect the environmental and developmental context to which they apply. Standards applied by some countries may be inappropriate and of unwarranted economic and social cost to other countries, in particular developing countries.

Principle 12

States should cooperate to promote a supportive and open international economic system that would lead to economic growth and sustainable development in all countries, to better address the problems of environmental degradation. Trade policy measures for environmental purposes should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade. Unilateral actions to deal with environmental challenges outside the jurisdiction of the importing country should be avoided. Environmental measures addressing transboundary or global environmental problems should, as far as possible, be based on an international consensus.

Principle 13

States shall develop national law regarding liability and compensation for the victims of pollution and other environmental damage. States shall also cooperate in an expeditious and more determined manner to develop further international law regarding liability and compensation for adverse effects of environmental damage caused by activities within their jurisdiction or control to areas beyond their jurisdiction.

Principle 14

States should effectively cooperate to discourage or prevent the relocation and transfer to other States of any activities and substances that cause severe environmental degradation or are found to be harmful to human health.

Principle 15

In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

Principle 16

National authorities should endeavour to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment.

Principle 17

Environmental impact assessment, as a national instrument, shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority.

Principle 18

States shall immediately notify other States of any natural disasters or other emergencies that are likely to produce sudden harmful effects on the environment of those States. Every effort shall be made by the international community to help States so afflicted.

Principle 19

States shall provide prior and timely notification and relevant information to potentially affected States on activities that may have a significant adverse transboundary environmental effect and shall consult with those States at an early stage and in good faith.

Principle 20

Women have a vital role in environmental management and development. Their full participation is therefore essential to achieve sustainable development.

Principle 21

The creativity, ideals and courage of the youth of the world should be mobilized to forge a global partnership in order to achieve sustainable development and ensure a better future for all.

Principle 22

Indigenous people and their communities, and other local communities, have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognize and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development.

Principle 23

The environment and natural resources of people under oppression, domination and occupation shall be protected.

Principle 24

Warfare is inherently destructive of sustainable development. States shall therefore respect international law providing protection for the environment in times of armed conflict and cooperate in its further development, as necessary.

Principle 25

Peace, development and environmental protection are interdependent and indivisible.

Principle 26

States shall resolve all their environmental disputes peacefully and by appropriate means in accordance with the Charter of the United Nations.

Principle 27

States and people shall cooperate in good faith and in a spirit of partnership in the fulfilment of the principles embodied in this Declaration and in the further development of international law in the field of sustainable development.

International Development Targets on the Environment

The International Development Targets have been agreed by the entire United Nations membership, following a series of summit meetings held by the UN and its specialised agencies over the last ten years or so. The meetings discussed progress in poverty reduction and sustainable development and set targets for measuring that progress.

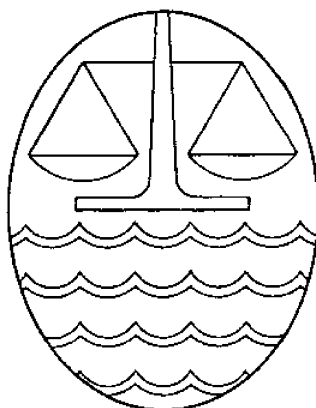
The target for the environment is as follows:

There should be a current national strategy for sustainable development in the process of implementation, in every country by 2005, so as to ensure that current trends in the loss of environmental resources are effectively reversed at both global and national levels by 2015.

ANNEX 74

Introduction to the DOALOS/OLA Official Text of UNCLOS

Division for Ocean Affairs and the Law of the Sea
Office of Legal Affairs



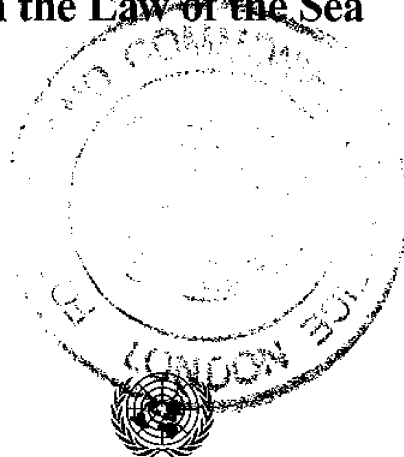
The Law of the Sea

Official Texts of the

**United Nations
Convention on
the Law of the Sea**

and of the

**Agreement relating to the
Implementation of Part XI of the
United Nations Convention
on the Law of the Sea
with Index and excerpts
from the Final Act of the
Third United Nations Conference
on the Law of the Sea**



United Nations • New York, 2001

UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

Introduction

On 10 December 1982, the United Nations Convention on the Law of the Sea was opened for signature at Montego Bay, Jamaica. This marked the culmination of over 14 years of work involving participation by more than 150 countries representing all regions of the world, all legal and political systems, all degrees of socio-economic development. They comprised coastal States, States described as geographically disadvantaged with regard to ocean space, archipelagic States, island States and land-locked States. These countries convened for the purpose of establishing a comprehensive regime "dealing with all matters relating to the law of the sea, . . . bearing in mind that the problems of ocean space are closely interrelated and need to be considered as a whole." The fruits of their labours are embodied in the United Nations Convention on the Law of the Sea.

The Convention is multifaceted and represents a monument to international cooperation in the treaty-making process: the need to elaborate a new and comprehensive regime for the law of the sea was perceived, and the international community expressed its collective will to cooperate in this effort on a scale the magnitude of which was unprecedented in treaty history. The elaboration of the Convention represents an attempt to establish true universality in the effort to achieve a "just and equitable international economic order" governing ocean space.

These ideals were transformed through the treaty-making process into the substance of the text, which itself is of unique nature. It comprises 320 articles and nine annexes, governing all aspects of ocean space from delimitations to environmental control, scientific research, economic and commercial activities, technology and the settlement of disputes relating to ocean matters. An examination of the character of the individual provisions reveals that the Convention represents not only the codification of customary norms, but also and more significantly the progressive development of international law, and contains the constituent instruments of two major new international organizations.

It is, however, the conceptual underpinnings of the Convention as a "package" which is its most significant quality, and has contributed most distinctly to the remarkable achievement of the Convention. Its quality as a package is a result of the singular nature of the circumstances from which it emerged, including the close interrelationship of the many different issues involved, the large number of participating States and the vast number of often conflicting interests which frequently cut across the traditional lines of negotiation by region. In addition, the strong desire that the Convention allow for flexibility of practice in order to ensure durability over time to

ANNEX 75

Note dated 20 August 2003 from the British High Commission in Port Louis

Charles Hamilton OTD o-r (16)

1. Your e-mail of 12 Aug. refers.
2. As this is routine govt. business, I turned your text into a Note Verbale, despatched today.

P/A 051264/003 [93]

Regards

Michael Phelan

20/8

NOTE NO. 28

The British High Commission presents its compliments to the Ministry of Foreign Affairs and Regional Co-operation of the Republic of Mauritius and has the honour to inform the Ministry of the following.

The Great Chagos Bank, which lies within the waters adjacent to the outer islands of the Chagos Archipelago (British Indian Ocean Territory, BIOT), is an exceptional example of a submerged coral atoll, providing a valuable contribution to the marine ecology of the Indian Ocean.

The UN Convention on the Law of the Sea (UNCLOS) permits States to establish an exclusive economic zone (EEZ), extending 200 nautical miles from the territorial sea baselines, within which they may exercise certain sovereign rights and jurisdiction. They may do so for the purpose, among other things, of conserving and managing the natural resources of the waters, seabed and subsoil, and also for the protection and preservation of the marine environment of the zone. In 1991, in reliance on that provision of UNCLOS, the United Kingdom Government established a Fisheries (Conservation and Management) Zone (FCMZ) for BIOT. This was done by formal Proclamation, issued by the Commissioner for BIOT in Her Majesty's name. The United Kingdom subsequently enacted BIOT legislation to regulate all fishing within the FCMZ.

The Government of Mauritius will wish to be aware that in order to help preserve and protect the environment of the Great Chagos Bank, the British Government proposes to issue a similar Proclamation by the Commissioner for BIOT, but this time establishing an Environmental (Protection and Preservation) Zone. This will be defined so as to have the same geographical extent as BIOT's FCMZ. It will not involve any change in the land areas comprised within BIOT. A copy of the Proclamation, together with copies of the relevant charts and co-ordinates, will be deposited with the UN under Article 75 of UNCLOS later this year.

The British High Commission avails itself of this opportunity to renew to the Ministry of Foreign Affairs and Regional Co-operation of the Republic of Mauritius the assurance of its highest consideration.

British High Commission, PORT LOUIS
20 August 2003

ANNEX 76

Chagos Conservation Management Plan, for the BIOT Administration, FCO, by Dr Charles Sheppard & Dr Mark Spalding, October 2003

Chagos Conservation Management Plan

for

British Indian Ocean Territory Administration
Foreign & Commonwealth Office
London

by

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and

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October 2003



Top: Salomon atoll,
Bottom: the Chagos Anemonefish

Chagos Conservation Management Plan

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Acknowledgements

We gratefully acknowledge the help of many people. The following offered comments on earlier drafts of this CCMP: **Dr Geoff Hilton**, Royal Society for the Protection of Birds; **William Marsden**, former Commissioner for BIOT and Chairman of the Chagos Conservation Trust; **Dr Paul Pearce-Kelly**; Royal Zoological Society of London; **Dr Mike Pienkowski**; Chairman, Overseas Territories Forum, **Dr Andrew Price**; Warwick University; **Nigel Wenban-Smith**, former Commissioner for BIOT and past-Chairman of the Chagos Conservation Trust.

Several people generously gave information on specific aspects: **John Hooper**, **Chris Mees**, **Catherine O'Neill** and **John Pearce** of Marine Resources Assessment Group, Ltd, London provided substantial help with fisheries matters, and then provided extensive comment on a draft.

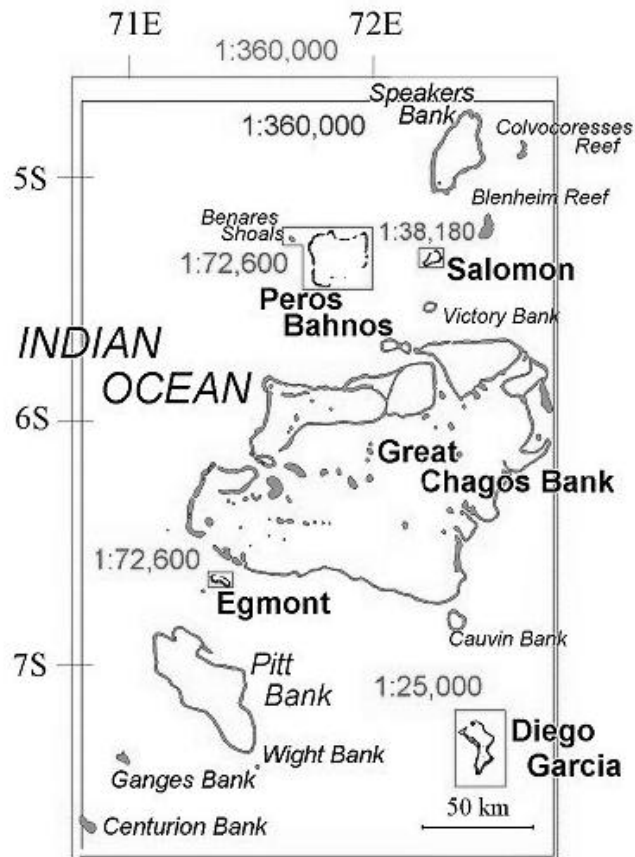
Andy Watson, Fisheries Officer in the late 1990s provided details on offshore banks. **Trish Bailey**, **Lena Maun**, **Nancy Woodfield** (BVI), **David Rowat** (Seychelles), **Dr. Alain Jedy de Grissac** (Egypt) and **Kenny Buchan** (Saba and Bahamas) gave advice on moorings and related visitor management. **Linda Corpus** and **Nestor Guzman** in Diego Garcia

supplied copies of the Natural Resources Management Plan and Final Governing Standards for Diego Garcia.

Grateful acknowledgement is also due to **Mr Charles Hamilton** and **Ms Ann Furey** of BIOT Administration, **Cdr Adam Peters** and **Cdr Neil Hinch**, British Representatives in BIOT, for providing numerous, sometimes obscure documents. **Mr Henry Steel** reviewed the legislative matters.

Most essentially, **John Topp**, former British Representative in BIOT and Conservation and Environmental Consultant to BIOT for 10 years, has been involved heavily in all aspects of the conservation of this exceptional archipelago. His advice and help in all aspects have always been invaluable, as was his review of a draft of this document.

We recognise that not all those named here will agree with all the contents, or on the necessity of particular elements. We have not steered what we saw to be an unsatisfactory course of greatest compromise but, while heeding advice, have outlined a course which we believe this large region needs in order to be conserved over the years ahead.



Charts available for the Chagos Archipelago

Diego Garcia: Admiralty Charts and Publications, chart No. 920. 1:25,000 Transverse Mercator, UK 1996.

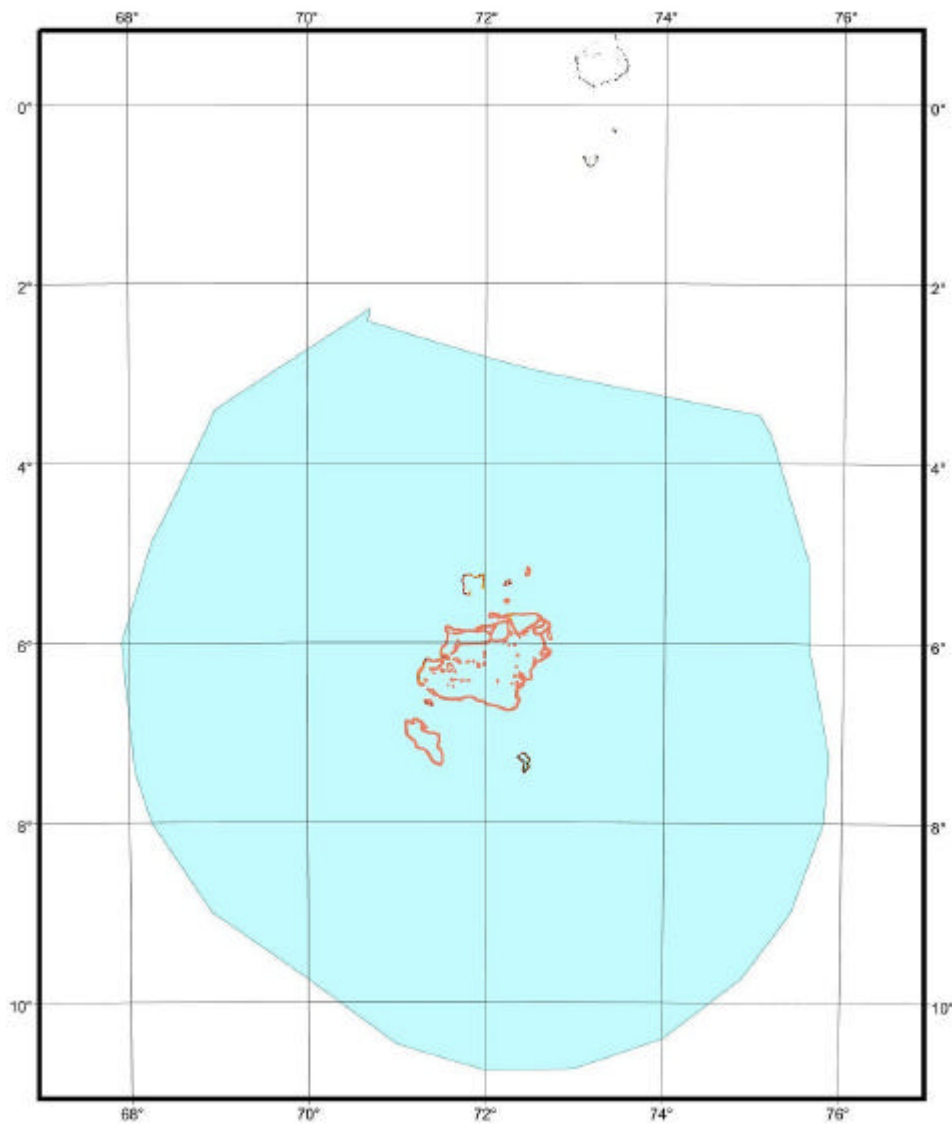
Salomon Islands, Admiralty Charts and Publications, chart No. 4. 1:38,180 Gnomonic Projection, UK 1994,

Egmont Islands, Admiralty Charts and Publications, chart No. 4. 1:72,600 Transverse Mercator, UK 1994;

Peros Bahnos, Admiralty Charts and Publications, chart No. 4. 1:72,600 Mercator, UK 1994;

Great Chagos Bank, Hydrographic Office, UK, chart No 3, 1:360,000, Mercator Projection, 1976.

Great Chagos Bank, Defense Mapping Agency, USA, chart No. 61610, 1:360,000, Mercator Projection, Washington DC, 1976.



The British Indian Ocean Territory Exclusive Economic Zone. The EEZ area is approximately: 160,000 square nautical miles, or 209,000 square miles, or 544,000 square km.

This is also approximately the outer boundary of the Environment (Preservation and Protection) Zone.

1 Summary

This Chagos Conservation Management Plan (CCMP) takes a fresh look at the conservation of the biodiversity and natural resources of the British Indian Ocean Territory (BIOT). Various legal and management interventions already exist, but the government has recognised the need for a more comprehensive approach to ensure the long-term protection and sustainable use of this region. This document does not aim to replace existing management but rather seeks to complement it, and add to it in matters relating to good environmental governance of the region. The archipelago is arguably the most important island and coral reef wilderness area in the Indian Ocean, and with its vast reefs (Figure 1.1) and about 50 small islands (Figure 1.2), it is a place of unrivalled conservation interest.

To date Chagos has suffered relatively little in terms of direct human impacts. Its location makes it a place of

critical value regionally, providing a connection or stepping stone between east and west. It is an unusual site in the increasingly pressured Indian Ocean, whose surrounding shores are over-exploited and degraded.

Implementation of this CCMP will go some way to implementing the UK Government's conservation objectives, including the targets for 2012 of the World Summit on Sustainable Development. It takes into account:

- ? The existing legal framework, existing protected areas and current management practices,
- ? The particular conditions of the area, namely its remoteness and difficulty of access, the small size of most islands, and the vast and widely dispersed reefs,
- ? The inappropriateness of many aspects of con-

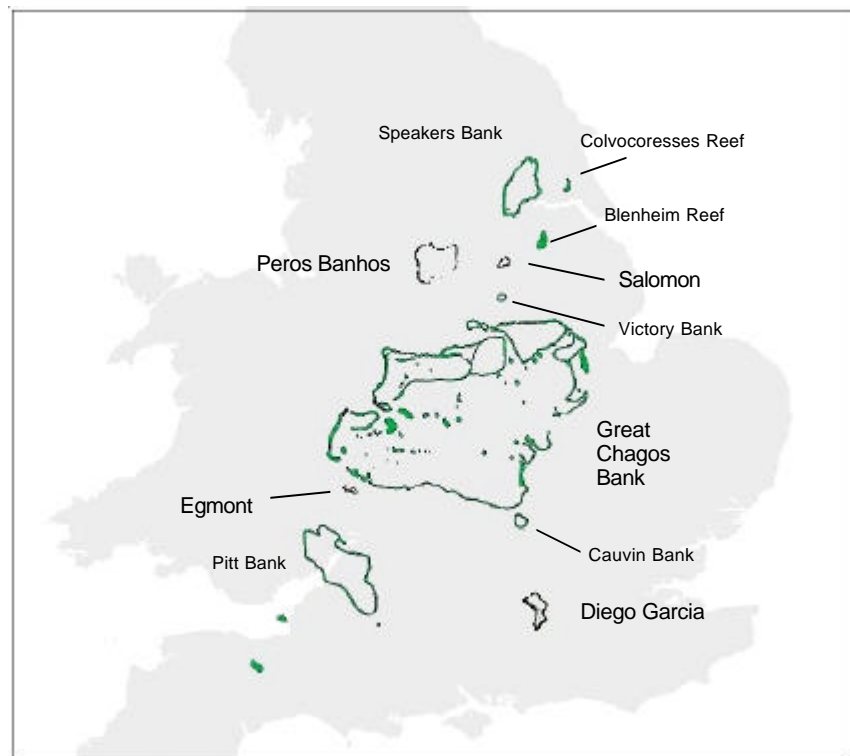


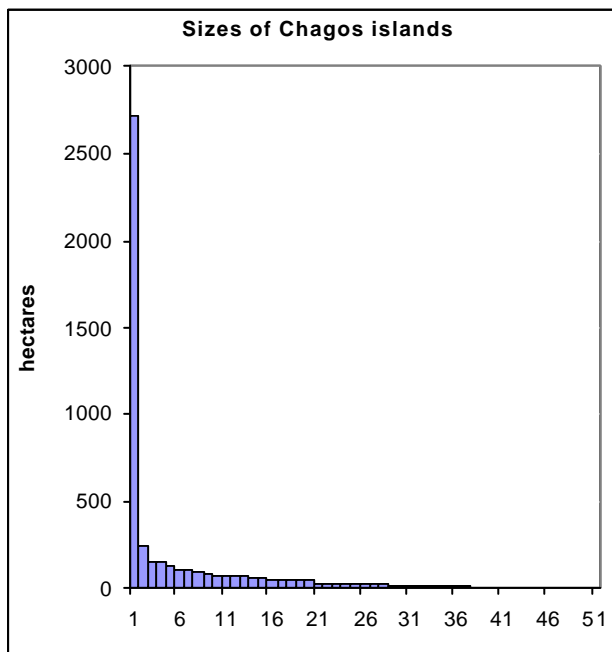
Figure 1.1 British Indian Ocean Territory and part of England and Wales, to same scale, illustrating the size of BIOT. Green shows shallow, submerged reefs. Islanded atolls, and major or referenced submerged atolls and banks are named, the latter in smaller print.

ventional management plans, given the absence of a local population which needs managing and the lack of simple facilities in most of it from which to carry it out, and

- ? The need for up-to-date management methods despite the above, to ensure its long term conservation.

This document brings together activities of all sectors which impact on natural resources, over the whole archipelago, in an integrated approach. Chapters following this provide review and explanation for the plan. The CCMP is also set against the background of, firstly, the massive mortality of most reefs in the Indian Ocean in 1998 and the increasing probability that this kind of warming event will recur and, secondly, of islands which have low elevations and increasing vulnerability to climate change. This CCMP provides a set of actions that would achieve the conservation of the archipelago as a whole.

The CCMP is simple. It **must** be so due to access problems, but it **can** be simple due to the lack of complex human / interactions over most of the area. Its generally excellent condition can be attributed to this



lack of human pressures. Where there are people (visitors to northern atolls as well as the special case of Diego Garcia), separate sections address important issues there. The CCMP suggested here can largely bypass many of the classic sectorial issues, and does so by use of three key actions. Specifics are important, but if these three actions are implemented, many of the details will automatically be accounted for.

1. Extensive, fully protected areas. Much is made of the simplicity of this measure which is gaining wide success around the world. BIOT already has extensive protection on land, but its marine waters are largely unprotected. The area needed to be covered is one third. This proportion may seem large, but is based on recent scientific argument. Protection under this scheme need not mean exclusion from all access, in the case of reefs at least, but does mean exclusion of all extractive activity, construction or other interference, including anchoring on coral-rich areas. The 30% proportion has been shown to allow: recovery of damaged areas; supply of juveniles to areas which are exploited; increased and restored catches in adjacent exploited areas; and maintenance of enough protected habitat to allow a 'natural' ecosystem to persist, particularly in the face of changing climate and increasing exploitation elsewhere. In the case of special islands, it does mean general exclusion (as at present).
2. Scientific advisory group and a programme of regular monitoring and rapid managerial response. It is imperative to build up the base-

Figure 1.2 Areas of all Chagos islands (excluding seasonal bars or those dry only at low water). In order of size, those larger than 100 hectares are, from left to right:

Diego Garcia (2,720 ha), Eagle (Great Chagos Bank) 245 ha, Ile Pierre (Peros Banhos) 150 ha, Eastern Egmont ~150 ha, Ile de Coin (Peros Banhos) 128 ha, Ile Boddam (Salomon) 108 ha.

Figure 1.3 Ile Yéyé, northeast Peros Banhos, and an un-named islet.

This photo captures many issues of the northern reefs and atolls. The seaward reef flat (left side) is narrow and, following the mortality of 1998 caused by warming, currently has very reduced coral growth. Yéyé is only 60 ha yet is one of the larger islands. It used to be farmed for coconuts. The smaller islet shows signs of erosion, breaches of its rim, and 'inland' flooding. Island elevations are very low, yet sea level is rising. Island rims are generally the highest points of the islands, whose interiors tend to be near or even below water levels. In lagoons (right side) coral survival was much better, so lagoons may help restock damaged areas. The remoteness of the area is evident.



line knowledge of BIOT, but also to actively commence monitoring changes over time. It is only through such work that we will be able to determine change, which may result from fisheries impacts, anchor damage, introduced species or climate change. Key aspects include coral reef biota and condition, including fish-stocks, and assessment of coastline erosion. Coupled to monitoring, rapid managerial and legal response must follow. For example, boundaries of protected areas may need adjusting if and when rich sites are discovered - an example would be the discovery by fishermen of a spawning aggregation of grouper, which could be extinguished in very short time if not immediately protected. Another example would be discovery of reef locations where coral survival was high - such areas need protection if they are to serve as potential sites for future recovery. On islands, increasing erosion is likely to become important; here, monitoring is the only way to estimate severity and timing of problems. To attain these, a scientific advisory group is recommended. This would follow 'Guidelines 2000' and 'The Code of Practice for Scientific Advisory Committees' issued by the Office of Science and Technology.

3. A practical mechanism for information gathering. The present fisheries protection vessel already supports regular patrols to the northern atolls for BIOT administrative tasks, and has supported several scientific projects over the years. While its role remains primarily fisheries protection and sovereignty issues, continued use of this vessel for necessary information gathering will be required on occasion. No greater size or cost of vessel would be needed, and nor would there be any conflict with present use.

These three points appear throughout this document. One problem is that, despite several scientific visits, many huge areas remain unobserved, and the approach taken here reflects this limitation. Management must be flexible.

Diego Garcia.

A perfectly sound management regime already exists for Diego Garcia in terms of its 'human environment'. Nothing is added to this. What is added concerns long term conservation of the atoll, focusing on shoreline erosion, the potential problem of the excavated west-

ern reef flat, and sources and use of material for future land fill.

Resettlement and Chagossian access

Consequences of possible resettlement was subject to a separate study. Settlement would require environmental and pollution management, for each atoll, of the sort which currently exists for Diego Garcia in its NRMP. The present document addresses the archipelago as a whole, in its present condition with respect to population and visitors. This is an overall conservation plan and presents mechanisms to make it work.

Whether or not resettlement occurs, Chagossians have access to all islands except Diego Garcia. However, Chagossians are subject to conservation controls on islands in the way that applies to other visitors.

Future climate changes

Changing climate means that the past is no longer a good guide to the future; coral death, rising fishing pressure, rising sea level, coastal erosion and the rest, are already having profound effects on all Indian Ocean reefs. If these measures are implemented,

Chagos stands the best possible chance of escaping the worst effects, perhaps for decades.

In conclusion:

This CCMP is deliberately simple due to logistical constraints, and it **can** be simple due to its unusual nature. Much of the detail normally found in CMPs of inhabited areas can be side-stepped here, and its simplicity will allow it to work well in these conditions.

Time is not on the side of the Chagos ecosystem. If these measures are to work in this rapidly changing part of the world, they should be implemented rapidly. The purpose of the scientific committee would be to suggest timely actions for issues which arise.

The archipelago is also exceptionally beautiful. Such considerations regrettably are omitted from many scientific documents, though scenic and aesthetic considerations do form key components, and even the main basis, of many protected area designations worldwide. This archipelago merits protection for this alone, in the view of many. Indeed, its government correctly alludes to this aspect in several documents such as its annual conservation reports and statements.



Figure 1.4 Seaward reef slopes of northern Chagos atolls. Both illustrate approximately the same site. Left: A thriving reef in 1996. Right: the site in 2001, three years after the near-total mortality of corals and soft corals down to about 10-20 m depth, resulting from the warming of 1998. In the right photo, the dead corals have eroded, so that the sea bed is covered with bare rock and by mobile dead coral rubble.

2 The Management Plan

An inability to effectively police and manage most of BIOT except Diego Garcia has long been cited as the reason for the lack of active conservation management. However, several important Strict Nature Reserves have been declared, and improved management is possible with some relatively modest changes

Long term objectives

The following long term objectives should be pursued to the greatest extent compatible with current and future constraints relating to the use and occupation of the Chagos islands, including Diego Garcia, and with the resources available.

Aims are:

To maintain or restore BIOT as an intact, functioning coral reef / atoll system dominated by native species, and to maintain the resilience of the Chagos ecosystem.

To ensure that all human uses of the natural resources of BIOT are sustainable and set within the context of an ecosystem and precautionary approach.

To conserve or restore to carrying capacity the populations of globally threatened or regionally and locally significant populations of native species.

To eradicate, control at non-damaging levels and prevent further establishment of populations of non-native species which could threaten biodiversity.

Three cornerstones underpin this Management Plan. Following these three, Paragraph 4 details key aspects

which should be undertaken as soon as possible.

1. To conserve within BIOT a representative and viable sample of all terrestrial and marine habitats (The 30% Protected Area scheme).

1.1 Designate a representative sample, comprising c.30% by area, of all terrestrial and marine habitats within the archipelago. Within these areas, no extractive activity of any kind should be permitted, including fishing to the extent feasible. The need for this proportion of protected area is now well documented. Figure 2.1 shows boundaries for recommended Protected Areas, with explanations.

1.2 The ability is needed to expand boundaries or add sites according to new information. This will be swift and simple given the scientific management advisory group described below.

1.3 Include in the protected area system areas with newly discovered rare or endangered species, or important, newly discovered populations.

2. Establishment of a scientific advisory group

This essentially formalises a practice which already takes place and which follows *Scientific Advice and Policy Making* guidelines from the Office of Science and Technology (www.ost.gov.uk/policy/advice/index.htm). Participants on this group should include tropical island and reef scientists, fisheries scientists and others as needed. Formalisation will allow members

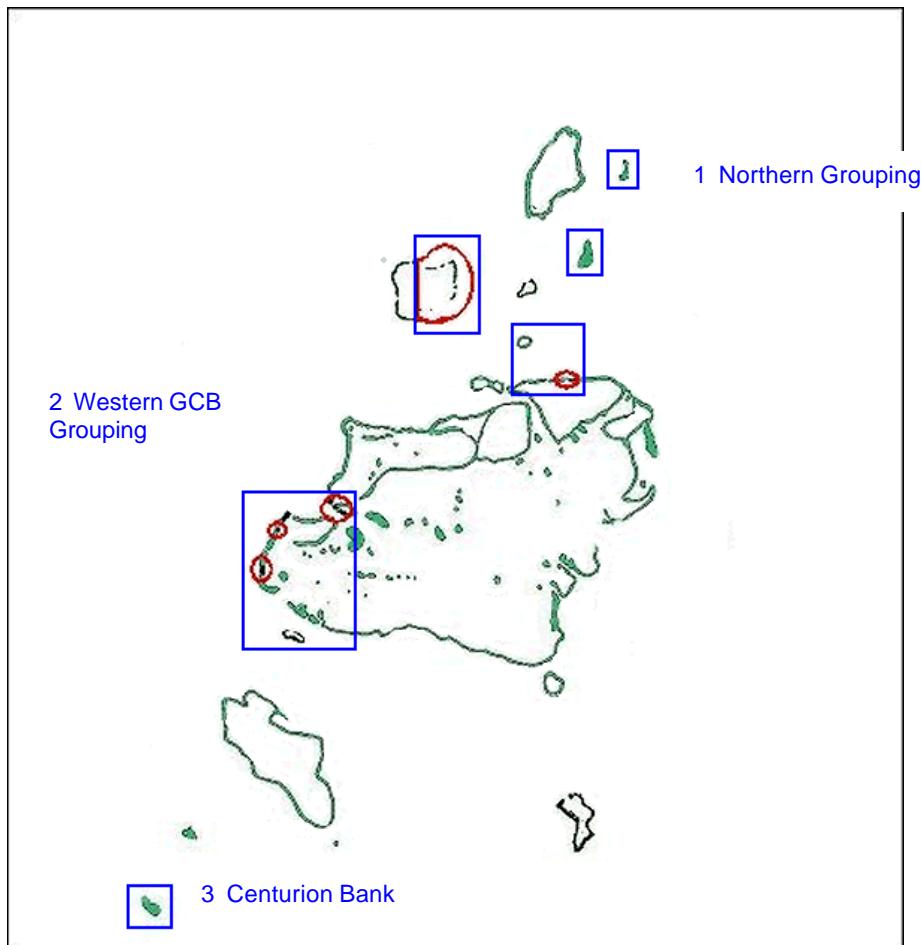


Figure 2.1. Blue boxes indicate recommended Protected Areas for Chagos Archipelago (other than Diego Garcia which is separately commented upon) based on present knowledge. Red lines enclose existing Strict Nature Reserves. This has three groupings.

The Northern Grouping. of four boxes cannot simply be enclosed into one, because of use and presumed continued use of the atolls. Some of its components (Blenheim, Colvocoresses, Victory, northern GCB adjacent to Nelson Island) appear lightly fished at present (see figure 3.5). Colvocoresses is exceptionally rich (A. Watson, personal communication).

The western GCB. Reefs of this section of the Great Chagos Bank is the only section of this huge atoll which has been well studied, and are known to be extremely biodiverse. This box includes extensive bird islands. It is, however, well fished at present. The box is drawn south to include Egmont atoll, which appears not to be heavily fished.

Centurion Bank. This small area is included for three reasons. It is not a heavy focus of fishing. It is diametrically opposite the Northern Grouping (ref the explanation earlier that geographically widespread sites are highly desirable), and it is apparently (in 2000) possibly the richest site of all (A. Watson, personal communication).

to bring matters to the attention of BIOT, at an early stage. This body should:

2.1 Establish by end 2004, monitoring protocols and a planned programme for priority features.

2.2 Encourage, enable and ask the BIOT Government to commission visits by scientists to undertake monitoring and survey, or to ask the BIOT Government to lend support to relevant scientific research proposals. Assist where possible applications from scientists for funding from conventional bodies for research in the area.

2.3 Include a conservation adviser and ensure annual visits by him/her to BIOT.

2.4 Disseminate the results of research and monitoring widely to decisions makers, the scientific community and wider general public.

2.5 Determine the future conservation and nature protection needs of BIOT with the BIOT Administration.

3. Support for information gathering

Any conservation management or scientific work to support it requires information gathering, and this requires some inter-island transportation. There is at present a Fisheries Protection Vessel which previously has supported a few scientific visits in addition to its primary roles. While this appears to be the most cost effective means of securing essential information and scientific data, there should not and need not be a conflict with its current essential fisheries role.

4. Details of specific needs

(Reference to later sections provides background to most items.)

1. Monitoring and research

1.1 There is a need for a regular programme of monitoring of islands (seabirds, turtles), and reefs (corals, reef fish), both within and outside designated areas. These can be viewed as 'sentinel' species.

1.2 A monitoring programme of reefs should be undertaken as directed by the scientific advisory group.

1.3 More substantial programmes (e.g. as in 1996 with 18 people) should be mounted when needed, in response to identified needs, not expected to be more frequent than every 5-8 years.

1.4 The scientific advisory group would be expected to form links with other UK research groups. E.g., the Natural Environment Research Council whose ships occasionally visit other parts of the Indian Ocean.

2. Protected areas (Background in Section 3)

2.1 The initial boundaries of protected areas shown on Figure 2.1 should be declared.

2.2 Recognising that much of the region has never been surveyed, boundary changes or additions would be recommended by the Scientific Advisory Group following results obtained from monitoring visits or by the conservation adviser on annual visits.

3. Plant conservation (Background in Section 4)

3.1 Vegetation cutting other than that authorised should be prohibited. Several species should be 'named' as is the case with fauna, specifically the high shoreline bush *Scaevola*, and all hardwood with the exception of *Casuarina*.

3.2 Exceptions required for conservation projects (e.g.

removal for access in a rat eradication project) should require specific authority of the BIOT Administration or local authority.

4 Species introductions (Background in Section 4)

The requirement to not introduce species is adequately clear in the Notice to Visitors, as are penalties for violations. The practice may fall short.

4.1 Ballast water discharge is a major source of introduced species in many parts of the world. This should be specifically prohibited in all BIOT waters.

4.2 The importance of preventing species introductions into Diego Garcia needs to be continually emphasised. Effective quarantine remains essential. This has been highlighted in several annual reports of the conservation advisor (113).

5 Eradication of introduced species to aid natural restoration of turtles, birds and vegetation (Background in Section 4)

The BIOT government is committed to continuing efforts of control and eradication of some important alien species.

5.1 Eagle Island has been selected as being a priority for rat eradication. This island is remote from other rat infested islands, minimising risk of reintroduction. Its size would mean that success would approximately double the rat-free habitat in the archipelago, with probably extremely beneficial consequences to birds, which are largely absent at present, and to turtles. Investigation and exploration of the feasibility of this has started, and should continue.

5.2 Monitoring of rats from any islands targeted for eradication should be annual (by visits by the conser-

vation adviser) who also will monitor any bird recovery. If possible, additional 6 monthly checks should be made on an opportunistic basis.

6 Fisheries (Background in Section 5)

The intent is to ensure that commercial & recreational fisheries in BIOT are harvested sustainably, reflect international obligations & collaboration, and incorporate an ecosystem and precautionary approach.

Fisheries management provides a good example of successful management in BIOT. BIOT waters are one of the very few large areas of the Indian Ocean with demonstrable and beneficial husbandry.

Responses to changes have been implemented, and this flexibility remains essential. Notable have been the responses to the 1998 mass coral mortality when the number of fishing licences was reduced, measures concerning sharks, and measures concerning spawning aggregations were introduced.

6.1 The BIOT government should remain actively engaged in the Indian Ocean Tuna Commission, recommending precautionary measures, to ensure the sustainable management of migratory species. BIOT should argue for a ban on steel trace within the IOTC area. This would greatly reduce shark by-catch in the long-line fishery.

6.2 The observer system is effective and studies on incidental mortality carried out since 2001 should be continued. Turtle and seabird by-catch should continue to be monitored. Findings should be made widely available.

6.3 A shark plan is required under the IPOA for the Conservation and Management of Sharks, which should consider a total ban on shark fishing. Even unilaterally declared, this would have a major impact

on shark by-catch in the tuna fishery.

6.4 The drift netting prohibition should continue.

6.5 Purse seining around cetaceans should be prohibited.

6.7 The definition of "lagoon" as held in the current license agreement should be clearly stated to include atoll channels up to 500 m offshore, to avoid likely sites for spawning aggregations.

6.8 Fishing of spawning aggregations should be expressly prohibited within the license agreements. When location of aggregations become known, they should be quickly incorporated into the protected area network, giving permanent legal protection.

7 Recreational fishing in Diego Garcia (Background in Sections 5, 7)

7.1 All areas included in the Ramsar designation should exclude fishing.

7.3 The log-sheet system should be applied to all fishers. Completion of logs for the recording scheme, should be encouraged.

8. Visitors to northern atolls (Background in Section 6)

8.1 The present 'anchor at will' system should be changed to one of anchoring in clearly defined areas or depths.

8.2 The feasibility of moorings should be examined, with a view to adopting a mooring system as soon as possible. Moorings would result in greatly reduced damage.

8.3 Current levels of charging are very low. Once (or

if) moorings are in place, BIOT Administration will look at the fee structure and the desirability of setting a maximum stay duration of 1 month.

8.4 Notice boards should contain the text found in the new handout to visitors. The latter is clear.

9 Enforcement

9.1 Enforcement is possible, in exactly the same way as is currently applied to illegal fishing vessels. The new handout explains clearly that expulsion is possible, which could be chosen as a simpler alternative to confiscation and fines by the local officers according to local judgement.

9.2 As noted by the conservation consultant four years ago: "Never has it been so important to establish a permanent BIOT Patrol vessel... It is for consideration that when the FPV is not engaged on fisheries duties, the ship could be employed on Chagos research" (114). The value of the FPV in this respect in the past has been clear.

9.3 The effectiveness of policing is related to considerable degree to the extent to which a policing party is aboard the fisheries patrol vessel. The new BIOT guidelines to visitors make clear the penalties of infringing the conservation rules, and only such a presence could impose them.

10. Diego Garcia (Background in Section 7)

10.1 A Conservation Consultant should continue annual visits which focus on Diego Garcia. These visits should, where possible, coincide with visits by other scientists. The consultant should be a key member of the scientific advisory group.

10.2 Monitoring of the natural environment is the responsibility of the UK government, but support should be sought from the US government—the main users.

10.3 Provision should be made for the inclusion of UK government appointed scientists on all monitoring activities to ensure consistency with other ongoing work, and adequate data transfer.

10.4 A 15 year material requirement study is needed, or if done, made available to BIOT Administration.

10.5 There should be a prohibition of lagoon extraction unless essential to existing channel maintenance.

10.6 A study should commence to examine 'restoration' of the western, trenched seaward reef. It has not and will not recover as some hoped, so traditional concrete strengthening and new 'electrolysis' methods should be examined. The Natural Resources Management Plan's request for 'artificial reef' work is most sensibly directed here.

10.7 Surveys are needed of progressive shoreline erosion to better than 10 cm accuracy.

10.8 Investigations should be made regarding active replacing of shoreline *Scaevola* and / or *Tournefortia* in all areas where previously it was removed, with a view to replacing the concrete debris used to repair the gaps.

10.9 All environmental reports and studies should be made available to BIOT Government.

10.10 The NRMP recommends several series of 'baseline surveys' followed by annual or near annual follow-up studies. These can all be consolidated into one series. This would best be planned and coordinated by the scientific advisory group in conjunction with the USA. These should be carried out.

10.11 The NRMP recommended annual monitoring. The need for this has increased, due to recent massive changes to the condition of the reefs. Changes should be measured using standard methods for both the coral reefs and the seagrass beds. These would be designed by the scientific advisory group.



Figure 2.2 Left: Middle Brother, western rim of the Great Chagos Bank. This island is part of a tiny atoll-shaped 'ring reef' with a remarkable lagoon of 10 metres deep, and with one channel cut through the reef flat. It is the only structure of its kind in Chagos, and resembles some 'faros' found in Maldivian atolls. This reef sits in a larger ring of reefs, the latter in turn being part of the western rim of the largest ring of coral of all, the Great Chagos Bank - the atoll with the largest area in the world. Aerial photo from 1970s, taken by 'Eyes of the Fleet'.

Right: Middle Brother, the shore seen from the little lagoon. All the dots on the shore are terns.

3 Protected Areas

Protected areas were recognised by the UN Economic and Social Council in 1959 as providing a means of conserving nature and natural resources, and providing benefit. Substantial work since then has confirmed that, in many cases, it provides the only or best means of doing so. Many have been designated, but in many, a lack of subsequent monitoring means their effectiveness and benefits remain unknown.

Today, estimates of what proportion should be protected to ensure preservation of many marine ecosystems, has risen to 30%. In the recent *Troubled waters: a Call to Action* (176), over 1,600 scientists called for the protection of 20% of marine areas, to be set aside for reserves. A recent review (177) cites 26 separate scientific studies on optimum reserve areas and conclude that 20-40% should be set aside for no-take.

The mean figure of 30% should be the target for Chagos. It cannot be prescribed completely at present because over half of the archipelago has never been surveyed in even a rudimentary way, though this CCMP proposes a substantial start to this process through its monitoring recommendations. This proportion has, moreover, already been achieved in Diego Garcia lagoon and islands.

It is now recognised that no-take zones are critical for fisheries management (this has been endorsed by the British Mauritian Fisheries Commission, Section 5), as well as for general reef conservation. Examples of benefits from such protection include the increased availability of these species to fisheries operating outside the protected areas. Such benefits may become more urgently required as vessels increasingly use the

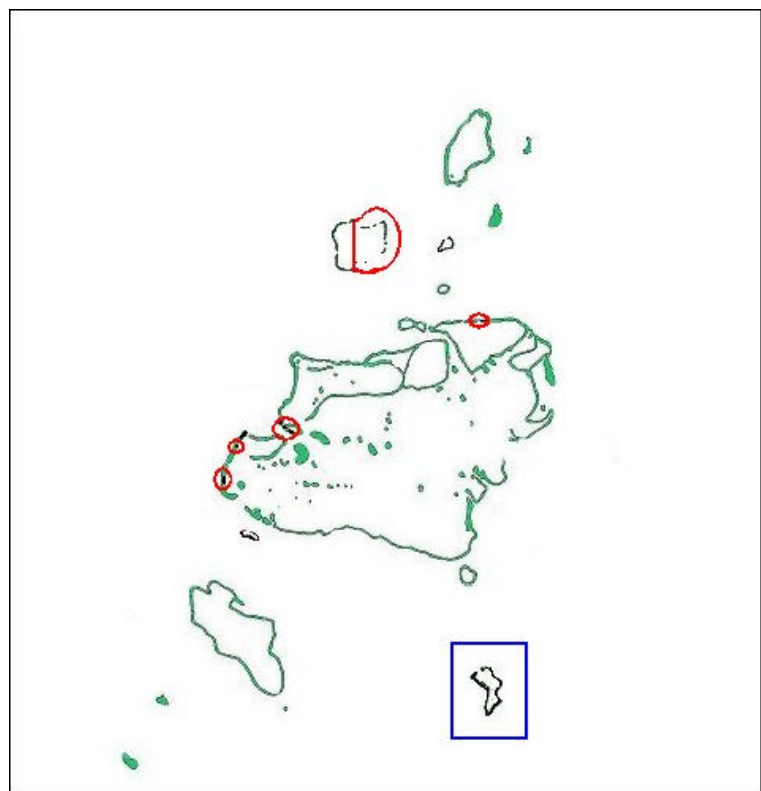
Figure 3.1 Existing protected areas. In Chagos. Red boundaries are all Strict Nature Reserves. For Diego Garcia (blue box) see Figures 3.2 and 3.3 for detail. From North to South:

Peros Banhos Atoll Strict Nature Reserve

(All islands to the east of a line drawn between the easternmost point of land on Moresby Island and the easternmost point of land on Fouquet Island).

- Nelson Island Strict Nature Reserve**
- The Three Brothers and Resurgent Islands Strict Nature Reserve**
- Cow Island Strict Nature Reserve**
- Danger Island Strict Nature Reserve**

These categories are probably equivalent to the IUCN **category Ia** "Strict Nature Reserve: protected area managed mainly for science... Area of land and/or sea possessing some outstanding or representative ecosystems, geological or physiological features and/or species, available primarily for scientific research and/or environmental monitoring".



Indian Ocean, as other oceans become depleted. The existence of effective protected areas also allows for the accurate monitoring of recovery of areas. Finally, marine protected areas also provide an important security measure against potential future climate change. During periods of high mortality of corals and other species, there is considerable geographic variation in the extent of the impacts; if areas of higher survival are discovered by monitoring and are then protected (e.g. from anchoring), they will serve an important role in future recovery.

Existing protected areas

Figures 3.1 - 3.3 show existing protected areas, created under various instruments. Areas in other atolls are called 'Strict Nature Reserves' into which entry is

prohibited and activities are clearly proscribed by BIOT (129, 130, 148). Note however that any commercial fishing within parts of some could substantially downgrade their effectiveness. Captions to Figures 3.1 - 3.3 also show the IUCN (international) equivalent in terms of protection afforded.

Environment Zone

In addition, an Environment (Preservation and Protection) Zone was declared in 2003 (shown in page v). This has as its outer boundary the 200 mile limit of the Fisheries EEZ and has an inner limit which borders the outer limit of the Territorial Seas.

Size and representation of existing system

The total areas currently under some protection are

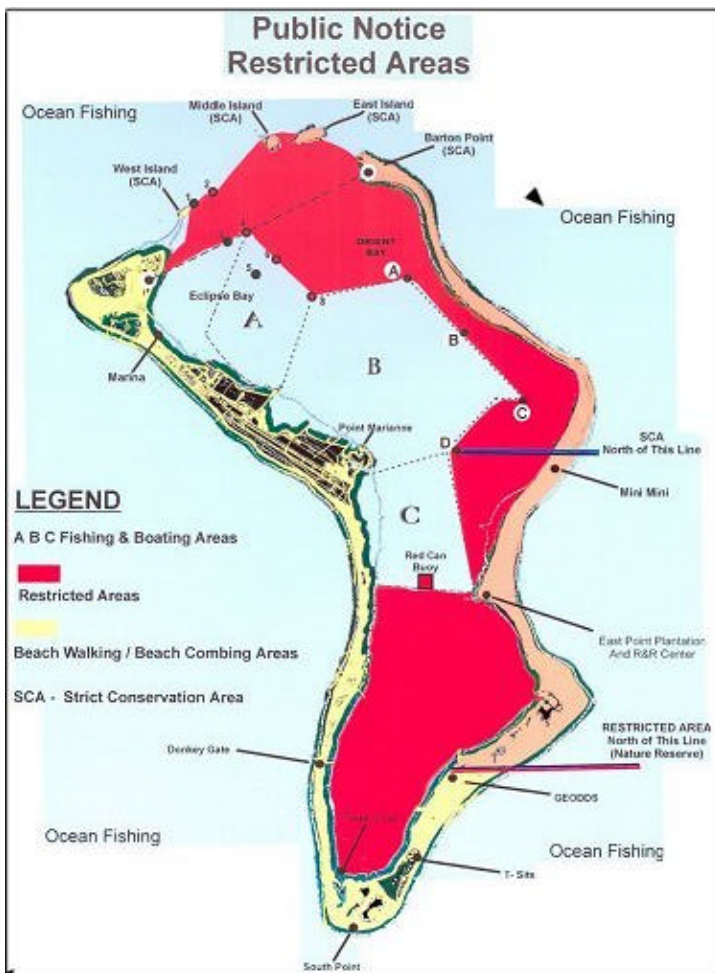


Figure 3.2 Protected areas in Diego Garcia. Diego Garcia Restricted Area includes:

Nature Reserve Area

Lagoon area: from Rambler Bay to Main Passage

These are probably equivalent to IUCN Category V.

Special Conservation Areas: Barton Point, East Island, Middle Island, West Island

These are probably equivalent to IUCN Category 1a.

Diego Garcia Ramsar Site (see next figure)

IUCN **category 1a** "Strict Nature Reserve: protected area managed mainly for science... Area of land and/or sea possessing some outstanding or representative ecosystems, geological or physiological features and/or species, available primarily for scientific research and/or environmental monitoring". **Category V** is "Protected Landscape/Seascape: protected area managed mainly for landscape/seascape conservation and recreation") and probably equates to the Nature Reserve Area. Marine areas within the lagoon are probably equivalent to IUCN category V.

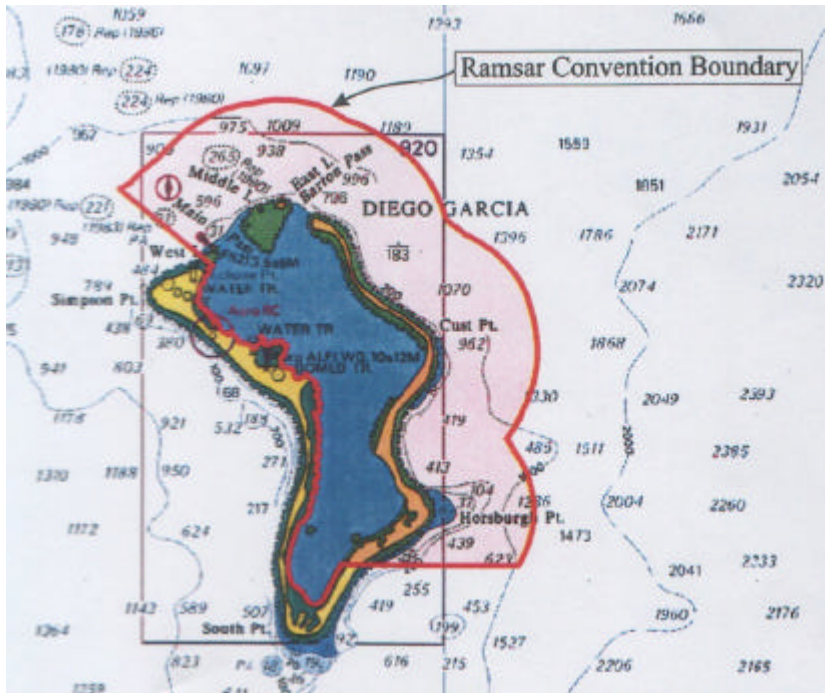


Figure 3.3 Diego Garcia Ramsar site. (Map supplied by Joint Nature Conservation Committee.)

c.19 sq km of land, and c.377 sq km of shallow reef. These represent about 35% of the total land area, and 3 % of reefs to 60m depth (21).

For the islands this is suitable, especially since the rat-free islands are included with their seabird populations and, in some cases, native hardwood stands.

For the reefs, much too little is protected: fishing of some kinds is allowed in several of these zones, and additionally, too little is known about huge swathes (eastern Great Chagos Bank) to know how representative the present small protected zones actually are. Currently, marine protection is confined to lagoon areas in Diego Garcia and to the Strict Nature Reserve areas of the northern atolls. Although these would appear extensive, commercial fishing within some renders protection of the marine component of these sites effectively meaningless. No protection is provided to reef or shallow benthic areas away from these reserves. Thus while about 3% of the shallow waters of the Chagos Archipelago appear to fall within protected areas, the area of real protection is less.

Most of the outer protected areas (Strict Nature Reserves) are defined by their islands, with access prohibited within 200 metres of the islands, as stated in the handout given to yachts. This distance would not exclude walking on several of the reef flats surrounding these islands (e.g. Middle Brother).

At present, commercial vessels may fish in lagoon channels, though not in the lagoon. Channels are a part of lagoons in ecological terms, and generally are some of their richest parts, and are used by several commercially important species as spawning grounds. At present fishing in these areas appears to be slight with the exception of a recent targeting of a spawning area.

Several atolls have to date been excluded because they have no permanent islands or are more deeply submerged, yet these atolls have similar marine biological characteristics to islanded atolls.

The 30% Protected Areas system

Of great importance in any protected areas system is the need to include a representative selection of all habitats. Much of Chagos remains unknown, so boundaries are proposed based on existing information. It thus has a more modest scope in terms of area than is desirable. The intent is mainly conservation, but is also designed to accommodate fisheries, which have continued here for decades, with as little disruption as possible. It is believed that reef fishery capture is currently below sustainable yields (38), and it is also possible to determine areas which are relatively little fished (38, 40) but which past surveys have shown to contain rich reefs. Rich but little fished sites are prime candidates for protection.

Figure 3.5 shows existing commercial fishing locations (38). It also shows several locations, known to support rich reefs, where fishing is apparently not high: Blenheim, Colvocoresses and Victory Banks in the North, much of the northern Great Chagos Bank near Nelson (though further south into the lagoon is heavily targeted), and Egmont atoll.

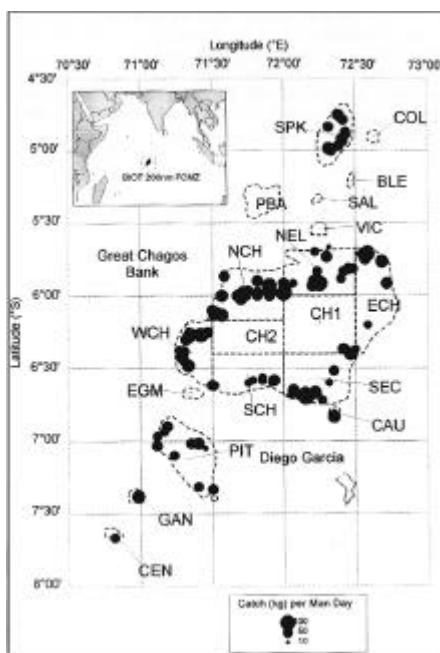


Figure 3.4 Table corals and staghorn corals were almost entirely killed in 1998. A few large survivors of these kinds were discovered in 2001 in Peros Banhos near the jetty of Ile de Coin. This is a site where anchoring currently takes place. Rapid management would be needed to protect this site from anchor damage.

Other vital considerations for determining the boundaries shown in Section 2 are:

- ? Protected sites must be geographically widespread, incorporating representative areas of all habitats as they become known, and will include isolated banks. Future monitoring would add to or modify boundaries .
- ? The size of areas should bear in mind requirements of management. Fewer, larger and contiguous areas are preferable to many small ones, though some fragmentation may be needed where existing use can be accommodated without detriment.
- ? Particularly vulnerable communities, or locations, should be singled out. Notably, this would include areas where spawning aggregations of commercially important fish were observed, or where corals were found to have survived mortality from warming. Rapid response to extend or designate new boundaries should be permitted to capture such essential core areas as they are discovered.

Figure 3.5 Chagos Archipelago, indicating statistical fishing sectors and average dory catch rate information per mother-vessel relative to the anchoring position of the mother-vessel, recorded in log-books during 1997. (Figure and caption from reference 38 by Mees et al).

The protected area boundaries shown in Figure 2.1 reflects these factors. These areas should have complete biological protection. Passage need not be affected. As at present, there should be no access to the included islands which are Strict Nature Reserves. With regard to Diego Garcia, current protection provided to marine areas is largely restricted to lagoon waters. The restricted area coverage on this island should be extended to cover 30% of the reef flats and outer reef slopes. To accommodate present use, most suitable for this would be the seaward side of the eastern side of that atoll. With regard to terrestrial protection in Diego Garcia, there may be a need to give the Restricted Area a stronger legal instrument than the current Public Notices.

Management and enforcement

The declaration of protected areas must be accompanied by the means to manage and to enforce legisla-

tion. This is addressed in other Sections (especially 6 and 9).

International protected areas

The above is independent of any international designations. Declaration of protected areas under international legislation confers prestige and recognition of the international importance of a site. In 1999 the UK government extended its commitments under the Ramsar Convention to include BIOT. So far, a large site has been declared in Diego Garcia. Two main areas marked in Figure 3.6 (the northern grouping of reefs and banks, and the western Great Chagos Bank area), would be preferred follow-up areas (based on current knowledge of their biodiversity).

4 Species: protection and eradication

Chagos is host to as many as 60 species which are included in the IUCN Red List. Some 19 of these are defined as threatened, while many others are insufficiently known for a clear threat category to be assigned. Most species protection is achieved by proper protection of habitat, as outlined in Section 3 though special cases may require specific regulations. The Convention on International Trade in Endangered Species (CITES) governs trade of several species, local regulations prohibit access to most bird breeding sites, and other local ordinance prohibits collection of or interference with several other species groups. This section notes those which need special attention, whether or not they already are listed in CITES conservation appendices or BIOT regulations. The question of introduced invasive species is included here. Fish and fish spawning assemblages are covered in Section 5.

Of particular note is the fact that this region is especially rich, partly because of very limited exploitation to date by humans. It is a key 'stepping stone' for marine

species in the Indian Ocean, and one of few and a diminishing number of areas which can continue to serve as nurseries, or sources, for other increasingly pressurised parts of the Indian Ocean. Its importance comes partly from the fact that it still does have rich and biodiverse habitats of kinds which are decreasingly common in the Ocean as a whole.

Existing measures

Current provisions to protect wildlife in Chagos forbid the killing or harming of any animal, with the exception of fish and marine products specified under fisheries legislation, pests or vermin. It is illegal to destroy or damage any nest or eggs belonging to turtles and birds. It is not permitted to be in possession of any coral, alive or dead, or of any seashell which is alive or which was taken alive. Prohibitions regarding the Coconut crab receive special mention. Trade restrictions prevent the export of almost all animal materials with the exception of seashells not taken alive. International regulations under CITES are strictly enforced. Turtles,

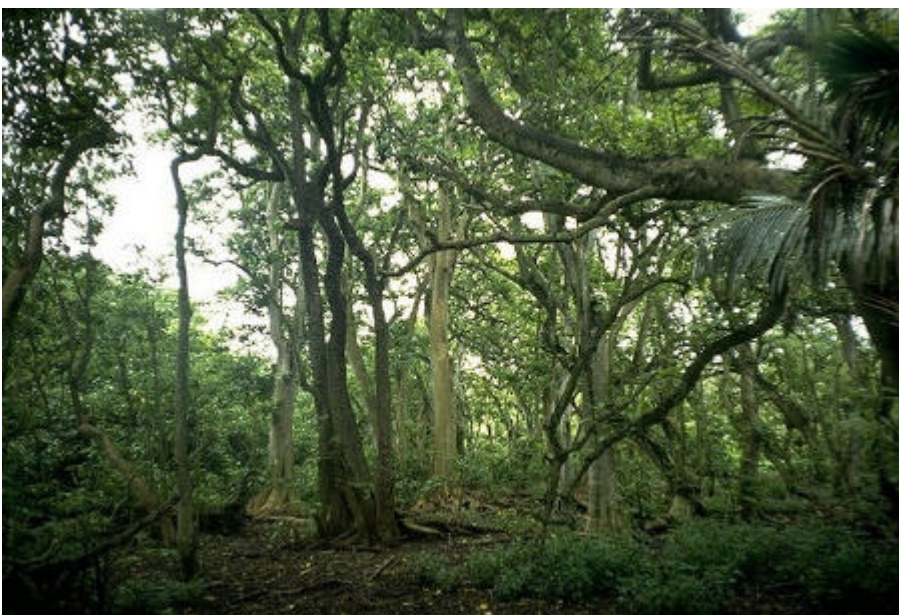


Figure 4.1 The tiny hardwood forest of *Pisonia* in the Three Brothers is a rare remnant of this vegetation in the Indian Ocean.

giant clams and most hard corals are listed under CITES appendices also. These are all sufficient.

There is little specific legislation preventing damage to plant-life. Prohibitions on forestry and on lighting unauthorised fires provide some protection to plants. Clearer wording is needed with respect to plants. Most hardwoods are extremely limited and their extraction is likely to be non-sustainable.

Introduced species

One of the biggest problems facing life on remote islands is that of introduced species. About 45 plant species are thought to be native to these islands (112, 113), amongst a list which now stands close to 280. Over 100 plants have arrived in the last 40 years. Many pose a threat to native species, and to the island ecology.

Introduced animals can be an even greater problem. Rats are present on 36 islands, including all the largest. Rats regularly feed on birds eggs and chicks and can severely reduce the populations of breeding seabirds. However, around the world successful rat eradication has now become commonplace, and there is no reason to suppose that it would not succeed if tried on Chagos islands



Figure 4.2 Coconut crab *Birgus latro*. Endangered in much of the world, Chagos islands are home to significant populations. They are under threat from illegal poaching by visitors.

Rat eradication. For this reason rat eradication is proposed for Eagle Island. The island is large enough to be significant, is the only island on the Great Chagos Bank which has rats, and there is evidence that eradication here could significantly improve habitat for birds, turtles and, eventually, some native vegetation. Examination of the feasibility of this has commenced.

Marine introductions are a global problem. Although there is currently no evidence for marine introductions, this relates simply to the lack of knowledge here. Ma-



Figure 4.3 Many of the smaller islands have enormous densities of seabirds. This is Nelson Island, Great Chagos Bank, where about 22,000 nests were counted in its 80 hectares in 1996 (111). The archipelago has possibly the most important seabird diversity in Indian Ocean islands. Part of Nelson is well elevated compared with most islands (about 3-4 m above sea level in parts), but is very narrow (only about 200 m wide at one point). With the other islands of the Great Chagos Bank, mostly smaller than this, this atoll is the most important for birds in the archipelago.

Figure 4.4 Birds, birds eggs and fledglings, especially of ground-nesting birds, are vulnerable to rats. Eagle Island is the preferred island to eradicate rats because of its size (it is the second largest island in the group), its position (it is in the Great Chagos Bank many of whose islands have prohibited access already) and is least likely to become re-infested (due to its location and distance from other infested islands).



rine introductions regularly occur in other areas; on any one day an estimated 3000 different species are transported alive around the world in ballast waters of ocean-going vessels. In some cases, their release has had devastating social and economic impacts and far-reaching consequences for marine ecosystems.

Ballast water discharge is a potential problem within the BIOT EEZ. This may be covered under existing provisions of the Environment Protection (Overseas Territories) (147) which aims “to replace the Dumping at Sea Act 1974 (c. 20) with fresh provision for controlling the deposit of substances and articles in the sea...”.

Pollution is a threat to many groups of species in many coral reef areas, especially enclosed lagoons. Emptying of effluents from vessels in lagoon areas, including sewage and paint scrapings, may come under this provision, though clarity to vessels would possibly help. Sewage in particular should not be discharged into lagoon areas of enclosed lagoon of Diego Garcia due to its exceptionally enclosed nature.

By-catch reduction. Efforts to reduce by-catch, especially of threatened species must be strongly encouraged, and targeting of spawning aggregations should be prohibited; these and other measures are addressed under Fisheries (Section 5).

5 Fisheries

The Chagos Archipelago supports offshore tuna fisheries and a commercial near-shore fishery on the northern reefs. These are covered here. A recreational fishery off Diego Garcia is covered in Section 7. Each operates under different management regimes.

Tuna

These oceanic fishes range widely. Details of the main species are available on request. Many are migratory, and large schools may contain several species. Globally, most tuna stocks are intensively fished, fully-fished or already over-fished. Indian Ocean stocks are being increasingly targeted: catches are "half those of the Atlantic or the Eastern Pacific Oceans, but they have increased rapidly and now account for more than a quarter of world tuna landings. The value of the annual catch of 1.2 million tonnes in the Indian Ocean is also very high (estimated to be between US\$2 billion and US\$3 billion), as there is a

large proportion of valuable fish caught by longlines" (28). Different fishing methods target different species and size classes. Purse-seining, which targets schools containing immature or young fish, has much greater impact on recruitment to the adult population. Long-lining targets larger individuals. Levels of by-catch also vary considerably.

Since the BIOT Fisheries Conservation Management Zone was declared in 1991, monitoring and licensing of the tuna fishery has been managed by MRAG Ltd for BIOT. Since 1993, scientific observers have been placed on some vessels to provide independent information on fishing methods, by-catch, verification of catch statistics, and to undertake sampling. These observations are added to the ship-book records and supplied to the government.

BIOT is the only State in the Indian Ocean region to routinely deploy observers on commercial longline and

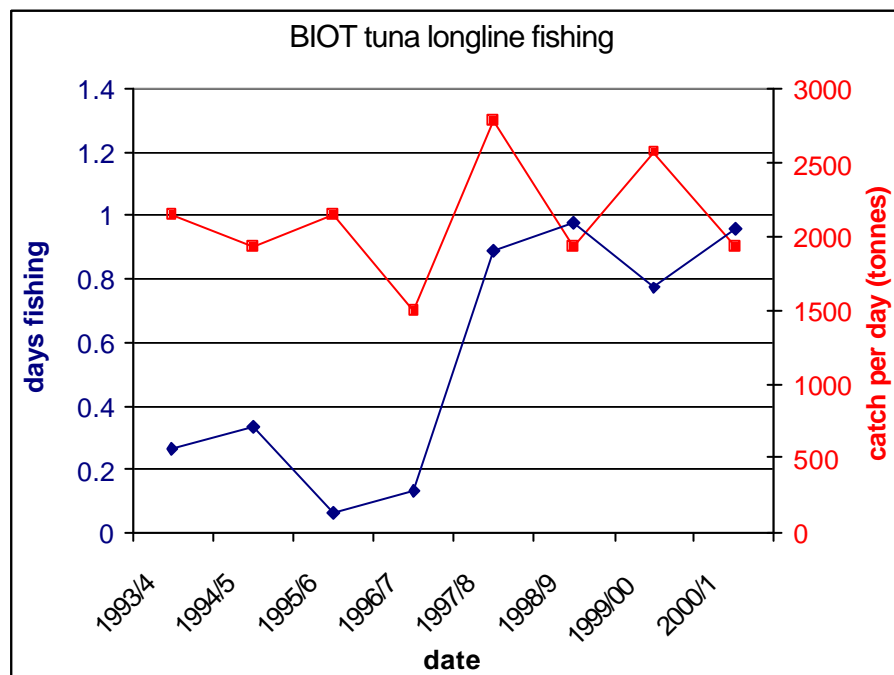


Fig 5.1: Fishing effort and catch per day for the longline fishery. Diamonds (bottom line) are days fishing. Squares (top line) are catch per day.

purse seine vessels targeting tuna. Their information on this fishery and its by-catch is thus of regional importance (J. Pearce, pers. comm., 28/8/02).

Longline fishery

Dominated by vessels operating out of Taiwan RoC (though some under flags of convenience), since 1997/8 about 20% of licences are now taken by Japanese vessels. Longlines may extend over 120 km in length, with 3000 hooks. Lines are set at different depths depending on target species (to below 300m for bigeye tuna). Setting and recovery takes a day, and fish are frozen on board. This fishery targets larger, higher value individuals of yellowfin and bigeye tuna, but there is a broad by-catch.

Over the past eight seasons, this fishery yielded broadly equal quantities of yellowfin and bigeye tuna (Figure 5.1). In 2000/01, 9% (by weight) was made up of billfish (marlin and swordfish), which have a high commercial value and are kept. Sharks make up a further 7%. These may be kept, but the 2000/01 observers noted that only mako sharks (0.23% of the total catch by weight) were kept, the remainder being

'finned', and the bodies discarded.

The 2001/02 observer programme lasted only 4 days on one vessel. Tuna made up 55% of the catch by weight, with billfish a further 15% and sharks 9%. Lancetfish made up a further 15% by weight (Figure 5.3). This common by-catch had not been counted previously. Lancetfishes are soft tissue, unpalatable, and usually are jerked off the lines before being landed, in which case they are not recorded (unless by an observer). This group has probably suffered a high and usually unreported mortality. Other by-catch is low but varied.

Purse seine fishery

This is dominated by Spanish and French vessels, with others from Seychelles and Mauritius, some under flags of convenience. Many follow the yellowfin tuna migration patterns, which means that, from December to mid-February, a large proportion of the western Indian Ocean purse seine fleet may enter BIOT waters.

Purse seiners locate dense schools of tuna, sometimes using fish attracting devices (FADs). The latter

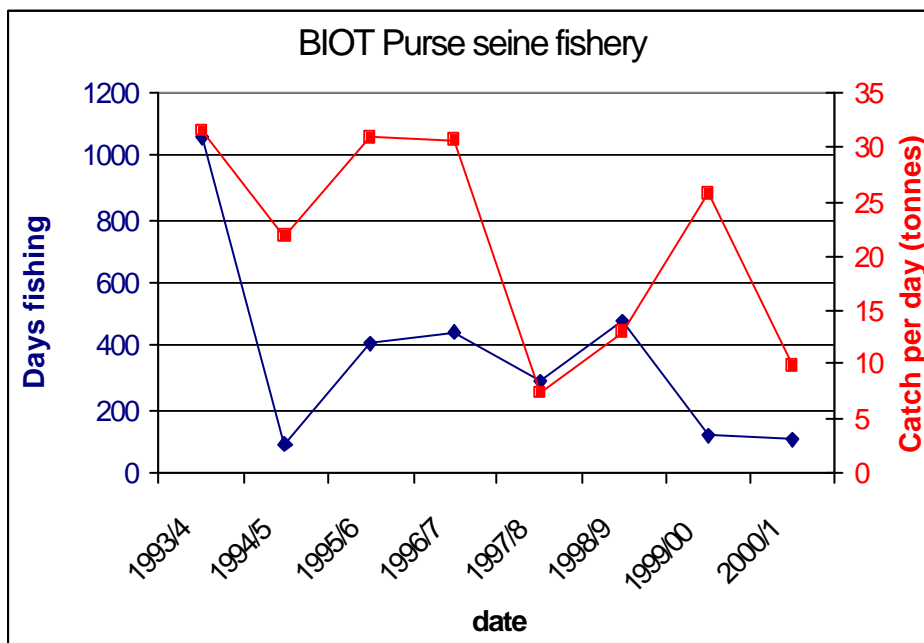


Figure 5.2 Summary of the fishing effort and catch per day for the purse seine fishery. Diamonds (bottom line) are days fishing. Squares (top line) are catch per day.

may be natural objects floating in the water, or rafts, with GPS locating units and fish detection sonar, deployed by the vessel. Nets of over 1.5 km long and 250m deep are set around the school, and the bottom is then drawn in.

Access to this fishery, its licences and fees, are negotiated annually between MRAG Ltd and the fishing companies (two Spanish, and one French) which control the fleet.

BIOT waters are one of few places in the Indian Ocean where free-swimming schools of large yellow-fin tuna can be regularly caught by purse seines. For this reason, FADs are not widely deployed, and vessels are prepared to invest more time in trying to locate these schools (J. Pearce, pers. comm., 28/8/02).

Catch composition has varied significantly over eight years. In 1997/8 the valuable yellowfin were scarce, while the following year they formed 55-75% of the catch. In 2000/01 the catch was mainly (60-75%) skipjack. By-catch is generally <1% from the free schools according to the observer programme in 2000/01.

Sets have sometimes been cast around whales, which may only be reported if observers are present, though there is a code for this on logsheets. The risk of whales damaging valuable nets, however, means that fishers generally avoid capturing the whale. Dolphins associate with tuna, but there are few records of purse seiners targeting such schools here.

Commercial nearshore fisheries

Demersal fisheries have long existed on all Chagos' banks except Diego Garcia. These focus mainly on reef slopes of 30-70 m depth and catch mainly emperors, groupers and snappers. Year 2000 figures show that Lethrinids form 48% of the catch, Serranids 35%,

Lutjanids 16% and others 1%.

Coral reef fisheries are complex, and are still poorly understood. Their productivity ranges from about 0.4 to 44 tonnes per km² per year. These estimates are mostly based on shallow water studies in more nutrient rich areas, with multi-species targets. In BIOT's waters, which are nutrient poor, the fishery is in deeper waters and more focussed on few species, hence productivity might lie towards the lower end of this range.

Target species are all predators, so form a small part of the total biomass. Many aggregate for spawning, commonly at dawn or dusk, or at night, and individuals may travel some distance to join such aggregations. In other parts of the world, uncontrolled fishing of spawning aggregations has led to some dramatic declines or local extinction of the fish.

Several of these target species begin their sexually mature life as a female, but become male after a number of years. From a fisheries perspective, heavy fishing of larger individuals can significantly impact sex ratios and reduce the reproductive potential of a population. These targeted species live to 17 or 25 years or longer. There is now evidence, at least among groupers, of dominance by particular age-classes with different reproductive ability. This has important fisheries implications: if a stock is heavily dependent on recruitment which is only occasionally successful, dramatic stock-declines could result.

Existing fishery

The current fishery in the northern atolls is a licensed, Mauritian, mother-ship dory operation. Mother-ships are capable of blast-freezing up to 10 tonnes of fish per day, deploying up to 20 dories, each with three fishermen, whose hand-lines each have 35 baited hooks. In 1998 one vessel used four dories equipped with 23 electric reels which targeted snapper and sharks. To date, licences have only been granted to

Table 5.1: Summary of fishing effort

Year	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
Licences used	3	5	4	4	3	4	6	2	2	2
Days in zone	120	183	105	159	117	159	163	61	65	104
Fishing effort (man-days)	5,602	7,893	3,910	6,710	4,569	5,798	5,607	1,532	2,174	4,314
Total catch (tonnes)	299	305	200	305	217	320	295	82	127	309
Catch rate (kg/man day)	53.4	38.6	51.2	45.5	47.5	55.2	52.6	53.5	58.4	71.6

Mauritian applicants, and only in 1997 were all six licences taken up.

This fishery is allowed in The Strict Nature Reserves (Section 1), along their seaward reefs and reef channels, though not in lagoons of Peros Banhos, Salomon, and Egmont (but lagoons of Blenheim and Great



Figure 5.3 The lancetfish *Alepisaurus ferox*. These are caught in large numbers, but usually are not landed, so generally do not count in the by-catch figures. (Photo Andy Watson.)

Chagos Bank may be fished). However, one-off restrictions can be placed on individual licenses.

From a stock conservation perspective, the number of licences or total fishing effort are less important than the total catch (Table 5.1). As methods or equipment, change, catch per unit effort can increase considerably, and effects can be masked (such as when targeting spawning aggregations). The current management regime based on effort controls is appropriate, and there should be an automatic review of the level of effort if recorded catches reach certain levels.

An observer programme has been run for several years. Typically observers have covered up to 50% of vessel fishing days, though in 1999 and 2000 observers were present on 96% and 65% of days respectively. Observers provide good independent verification, and additionally measure numerous statistics, as well as by-catch details which are not otherwise recorded.

The total catch appears well within sustainable limits, with two concerns:

Sharks are widely hunted world-wide, where numbers have collapsed. Even in Chagos an unlicensed fishery was reported in 1996 when it was estimated that numbers of sharks had fallen by 85% (1). In 1998,

over 5,400 sharks were caught (as by-catch) by one licensed vessel, and their fins sold for \$6-12 / kg. This was halted next year by banning steel trace on fishing lines, an example of rapid and relevant management intervention. Sharks are a very vulnerable group, yet essential in the ecosystem. There is evidence that numbers in Chagos have increased slightly since 1996, attributable at least in part to the presence of the effective Fisheries Protection Vessel (100).

Spawning aggregations have been fished. In 2000, massive catches of grouper were linked to a spawning aggregation in Peros Banhos, between Ye-Ye and Manoel islands. Catches have been repeated there in 2001 and 2002, with markedly fewer caught in 2002 (C. Mees pers comm., 28/8/02). The danger in targeting these is that they may contain a large proportion of the breeding stock from an area of tens of square kilometres. In some parts of the world entire regional stocks have been fished out in two or three years, and the lower numbers caught in 2002 may have been the result of this. In BIOT, the most recent BSFC SSCM stated:

"The UK delegation indicated that due to the relatively low level of fishing effort significant changes to the management strategy in BIOT were not required. However, the recommendation to the Commission for protection of spawning aggregations was discussed and closed area management was considered by the delegations to be the most appropriate management action (via extension of the Strict Nature Reserve around Peros Banhos to encompass fisheries)." The simple closed area system proposed in this CCMP should adequately encompass this. Enforcement, as always, is a key issue, whatever closed area management system is applied.

Note on turtle and bird by-catch

Leatherback turtles are widely reported as victims to longline fishing in other areas. There is a record of one

individual being caught in 2001/02, and they are generally thought to be rarely caught here, although their capture would only be recorded by observers. It is impossible to ascertain whether this is due to their general rarity in these waters, or of the fact that longlines do not represent a significant threat.

Longline fishing is also reported to impact seabirds, but this impact is largely or entirely thought to relate to larger species such as albatross, where these fisheries are operating in the Southern Ocean.

In general it would appear that by-catch is much lower with the purse seines fishery than with the longlines, although there are slightly higher levels of by-catch associated with FADs. From the observer programme in 2000/01, tuna made up over 99% of the catches from the free schools (the majority of sets), and some 90% of the FAD catches. The remainder of the catch from the FADs is mostly comprised of kawakawa, bullet tuna, and rainbow runner, with sharks making less than 1%. Data from the observer records in 2001/02 season show even lower rates of by-catch (less than 0.5%).

In 2001/02, two sets watched by the observers were carried out around whales (the species was not recorded, and it not clear if these were individuals or small groups). A similar observation was reported in 1998/9. As these are only reported when observers are present, and it is possible that the presence of observers may actually discourage this activity, it should be assumed that such setting has occurred on other occasions. The very high risk that a whale could damage the nets (often worth up US\$0.5 million) means that it is in the fishers interest to place the set after the whales have made off, or to ensure the whale can easily escape before the nets are fully closed.

Note on UN Agreement

The United Nations Agreement for the Implementation of the Provisions of UNCLOS (United Nations Convention on the Law of the Sea) relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks entered into force as from 11 December 2001, and the Overseas Territories, including BIOT were specifically included in this agreement. This particular agreement aims at the "long-term conservation and sustainable use" of these marine living resources. The agreement is centred upon three conservation principles: the precautionary approach, protection of biodiversity in the marine environment, and sustainable use of fisheries resources. Participating states are called to

- ? Protect biodiversity in the marine environment.
- ? Take into account the interest of artisanal and subsistence fishers.
- ? Adopt measures to ensure the long term sustainabil-

ity of the fish stocks and promote their optimum utilization.

- ? Ensure that the measures taken are based on the best scientific evidence available.
- ? Take account of environmental and economic factors, such as the special requirements of developing States.
- ? Apply the precautionary approach.
- ? Adopt an ecosystems approach, whereby dependent or associated species are taken into account.
- ? Take measures to prevent or eliminate over-fishing and excess fishing capacity.
- ? Give a high priority to the collection and sharing of data, and
- ? Implement and enforce conservation and management measures through effective monitoring, surveillance, and exchange of information.

6 Visitors

The number of yachts spending several months in Chagos, especially Salomon lagoon, has risen to several score each year. This has led to two problems. First is the discrepancy between the illegality of this with the fact that it is permitted to the point of charging modest fees. Regulation and conservation here has had a rather low priority in the past. Secondly, these yachts and occupants can cause damage.

The lagoon

In no other part of the world where there is concern about conservation or management are yachts permitted to drop anchors on coral reefs. The extensive damage known to occur from this is well known (Figure 6.2). This matters in proportion to both the quality of the reefs and numbers of anchors. As far back as 1996, the BIOT conservation advisor recom-

mended that the number of yachts in Salomon be restricted to 10 or less, for stays of 1 month or less, requiring permission in advance. This could have been achieved without further legislation (114). In 1997, the issue was raised again, with the comment that the situation “makes our claim that ‘the islands will be treated with no less strict regard for natural heritage conditions, than places actually nominated as World Heritage Sites’ rather hollow... and... a position hard to defend.” (114). Since then, yacht numbers have increased further. Each yacht anchoring probably damages over 100 square metres of seabed.

There is a clear difference between anchoring and mooring, and BIOT legislation refers to ‘mooring’ repeatedly, where it actually means ‘anchoring’. No mooring occurs, and yachts drop their own anchors in various parts of the two northern lagoons, according to

Figure 6.1 Salomon lagoon in the 1980s showing nine anchored yachts. Many more than this now anchor here. By swinging around its anchor, each yacht’s chain can destroy over 100 square metres of coral.

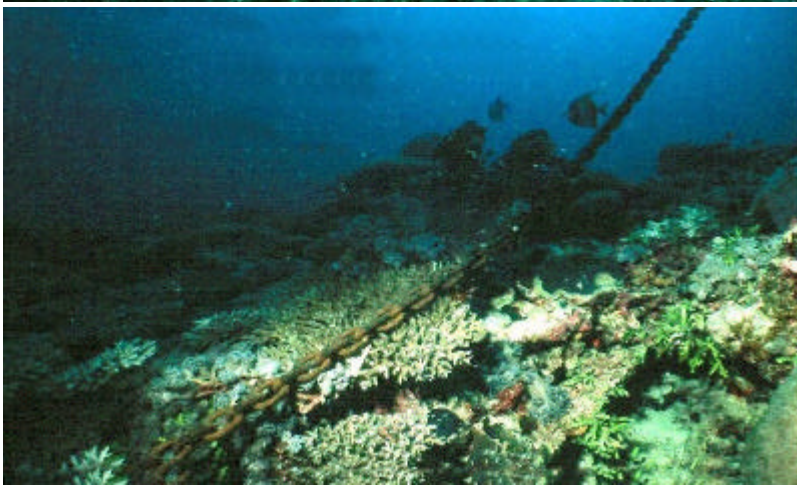
Salomon lagoon is unusual in that almost its entire bed is a rich coral garden, and there are few natural sand patches.





Fig 6.2 Top: Damage to branching corals typical of anchoring in lagoon habitats. Sheltered lagoons support vast stands of fragile branching corals. Following 1998, the lagoons contain almost the only surviving, mature branching corals of these types.

Bottom: Anchor chains, not the anchors themselves, cause the most damage, in circles around the anchor with a radius of many metres.



convenience and shelter. Anchor damage is severe near Ile Boddam in Salomon atoll. Mostly, damage comes from mobile anchor-chain leaders, though one huge 400 yr. old coral around which is tied several ropes, for example, has died since 1999, from abrasion.

Two methods can constrain yacht numbers and damage to the lagoon. The first allows anchoring only within an area which is buoyed and defined by compass fixes from land. This would be satisfactory if the area had been a sandy bottom, but in Salomon this preferred area is, or was and remains potentially, a coral-rich sea bed. To date the southern part of the lagoon has been described as a 'sacrificial area', but this area is clearly expanding to accommodate the greater numbers. Second, the preferred method in

most valued areas, is use of moorings. With this method, usually no anchoring is allowed anywhere.

BIOT Administration will consider supporting legislation regarding moorings. Meanwhile, unless or until moorings are installed, it is recommended that an anchoring area be declared, fixed by bearings to islands, outside of which no anchoring is allowed. This area would be fixed, and would be located roughly where yachts are visible in Figure 6.1. Regarding the size and capacity of the anchorage, the number recommended repeatedly by the conservation consultant (ten yachts) could be provisionally and reasonably set, as should his suggested residence time (up to one month). Once moorings are in place, BIOT Administration will look at the fee structure and the setting of a maximum duration of stay.

In Peros Banhos lagoon, unlike Salomon, there are many sand patches below 15 m depth, above which in any case shelving is generally too steep to anchor. Thus anchoring here (Figure 6.2, lower photo) generally has taken place on the shallower slopes, which are more coral rich. Here, more flexibility could be allowed regarding location, providing depth was greater than 15 m, otherwise a similarly defined 'sacrificial area' should be defined.

Islands

While most visitors may respect the wildlife, enough do not. Coconut crab collection and spearfishing are known to occur, for example. Very recently, leaflets for visitors have been updated. These make abundantly clear all important issues about staying on islands, removal of vegetation or wildlife, growing crops, and other basic conservation activities. Complete exclusion from particularly sensitive areas remains a key point of this conservation policy, and will help ensure that, for example, rats are not introduced to more islands, and that bird disturbance is minimal.

Enforcement

No further laws or regulations seem to be needed to apply the above. The present 'Guidance to Visitors' is perfectly clear: "Breaking the law could lead to your expulsion, to your being fined or imprisoned and to your vessel being seized", "Failure to pay mooring

fees on demand by a VVCO is an offence for which you may be prosecuted and/or expelled from the Territory", and: landing on some islands is already "strictly prohibited... Any person doing so is liable to prosecution and/or expulsion from the Territory." Furthermore, "property left unattended on the islands, is liable to confiscation without compensation." Regarding species, capture or interference with many is prohibited (Section 2) and in several cases is a "criminal offence". While it is accepted that far from all violators will be caught, the knowledge that some could be, and subjected to the above, would be a strong deterrent. It has proved to be so in many other sparsely inhabited and poorly guarded marine protected areas.

Notices

Notices on key points on islands should be revised. They are not 'yacht-friendly' and could be improved to convey better several key environmental messages. They state only 'do not' messages and should briefly explain 'why'. A 'carrot and stick' approach would work better. Text from the new guide to visitors is perfectly clear for this purpose and could be used. The purpose of restrictions should be clear, as this helps improve compliance.

7 Diego Garcia

Half the land area of Chagos is contained in the main island of Diego Garcia (Figure 1.2 in Summary). In the case of this atoll, it is important to note that there is no expectation that occupants are even slightly sustainable in an environmental way. For example, in the 1980s 40,000 lbs of fresh produce was flown in weekly, and more was imported by sea each month. Diego Garcia is sustained entirely from another hemisphere, which emphasises its 'special case' compared to other atolls of Chagos. To many, its 'environment' has meant primarily the 'human environment', or living conditions.

The *Natural Resources Management Plan Diego Garcia* (118) is the main document for environmental management in that atoll. Together with procedural and technical data in the *Final Governing Standards Diego Garcia* (170) it has ensured that Diego Garcia now has one of the best managed communities living on coral atolls in the world. This did not come automatically: in 1993 the conservation consultant to BIOT found a paper which said "Being located overseas, the US EPA (Environmental Protection Agency) regulations do not apply on Diego Garcia" (114). It was emphasised that EPA standards did apply, even if EPA was not the regulator. The *Final Governing Standards* now apply those standards.

The standards largely deal with the 'built environment': the immediate, human environment of emissions, pollution, drinking water quality and the like, and rarely cover the 'greater environment'. Of the latter, it was said in 1996: "During all this time there has been no

known significant contribution from the USA who of course have caused significant ecosystem disturbance in developing Diego Garcia. The UK has even undertaken some NRMP items which should have been funded by the USA. ... The USA is not pulling its weight" (114). The military base itself touches many sensitivities in the region, so that: "Conservation is about the only field of endeavor in which we can earn credit for being in the Indian Ocean where other countries do not want us." (114). This has not noticeably changed in the last six years.

The NRMP went some way in suggesting how to put this right. It includes examples of where environmental best practice conflicts with operations, and

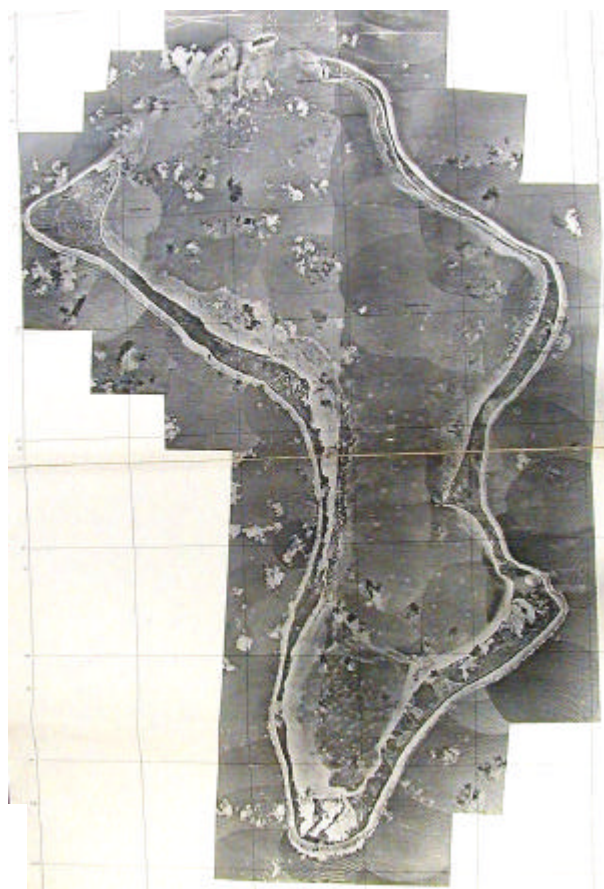


Figure 7.1 Probably the first aerial photomosaic of Diego Garcia (1965). This will be important in monitoring change. Photo kindly supplied by Kirby Crawford.

considers several future needs. It lists US regulations which locally supplement those of BIOT / UK. It does, however, have sections which need updating or which now seem wrong, and a revision is underway.

Its generalised objectives were to:

- ? Provide a multiple use management program for fish, wildlife and plants,
- ? Identify wetlands and sensitive or protected species and reduce conflicts between these and the operational requirements of the base,
- ? Improve land management practices, in which are included water and soil pollution and alien species introductions, and
- ? Enhance recreational elements.

Issues relating directly to personnel are well covered, but broader issues (e.g. the first item listed above) are less so. It lacks adequate guidance on some aspects, as its authors recognised by listing several "...principal opportunities for improvement of natural resources management and use...".

Its details are not repeated here. Instead this section focuses on development or change which are less well covered. The intent is to look forward. The NRMP is dated 1997 (*Final Governing Standards* is December 2001). The following focuses on significant issues needing to be addressed, on changes needed partly as a result of greater knowledge, on issues resulting from continued use, and on wider environmental aspects. It does not mean to diminish the NRMP's areas of considerable achievement.

Marine issues

Marine issues in Diego Garcia mostly have not been adequately addressed despite being highlighted in the NRMP:

- ? Use of excavated reef flat material seaward of the runway vs. need for landfill (this was viewed as an

- unresolved and ongoing conflict of requirements),
- ? Shoreline erosion issues,
- ? Monitoring of coral and sand dredging from the lagoon ,
- ? Recreational fish catch and its monitoring programme has been started, but requires continual attention,
- ? The need to carry out marine surveys of lagoon and seaward reefs and compile species inventories,
- ? Establishment of permanent moorings,
- ? Protection of turtles, especially nesting areas.

Terrestrial issues

Terrestrial issues generally are easier to manage and have a more obvious, visible and direct bearing on the population, so are much better addressed, some in ongoing programmes. The NRMP highlighted:

- ? Fresh water and water lens conservation ,
- ? Alien weed and animal control,
- ? Species protection,
- ? Wetland habitat protection and maintenance,
- ? Awareness and education enhancement,
- ? Inter-agency co-ordination,
- ? Waste disposal issues,
- ? Greater use of native trees,
- ? Implement environmental awareness programmes including brochures, nature trails etc.,
- ? Bird habitat near runways vs. bird strike on aircraft (now resolved by controlling egrets, the main species involved),
- ? Historical preservation and scenic locations.

Priorities and past work

Unusually and constructively, the NRMP noted responsibility for implementing various plans, and prioritised tasks. Diego Garcia is classed, apparently, as a small facility in US military terms and was entered for the small installation environmental award, whose docu-



Figure 7.2 Sections of the seaward reef flat along the western side of the runway.
Left: The rectangles are excavations of reef rock to about 1 m deep, made for the purpose of obtaining landfill. The reef crest is located where the waves are breaking. The much smaller perpendicular striations to seaward of the white water are the natural spur and groove system. Photo taken in 1966 by Prof. A. Eisenhauer.
Right: Closer view of the northernmost extent, shortly after excavation. These perpendicular trenches extend right into the beach.

mentation (168) also provides useful information. UK / BIOT and US environmental regulations were noted, and it observed that sometimes priorities were partly selected for reasons of legal compliance. But some sections are rather 'light'. Those on Fish and Wildlife, for example, contain little more than a summary of regulations, with many photos and lists of species, to no apparent end. Tabular information on e.g. artificial reefs, recreational fisheries intentions and others are mentioned but not amplified. Missing also is a useful review, even a bibliography, of presumably numerous environmental impact assessments and studies done over the past 25 years prior to major works. Some subsequently found on lagoon water and sediment patterns (31, 42, 43, 120) have value beyond their original and immediate purpose. Many others may exist, or may now be lost.

Dredging, landfill and reefs

Construction material is in short supply, as in many atolls. Lagoon sand and rock are commonly excavated for this purpose. In Diego Garcia, unusually, trenches were dug over four miles of seaward reef flat adjacent to the runway, obtaining material "for pouring over 150,000 cubic yards of concrete..." (118) (Figure

7.2). It was hoped that the reef would grow back: "The excavated basins... were designed so that, in theory, they would recapture sediments and erosion would be minimised. It is also possible that such dredged basins may recover biologically and would become more diverse than they had been previously."

This never could have been the case, which should have been known. Such excavations are of relict material, not actively growing coral. It is now confirmed that reef flats in Chagos are 2,800 – 4,300 years old (24). And the mobile sediments that the designers hoped to trap act as liquid sandpaper, which kills rather than encourages new coral growth.

There was no new reef growth seen in a very brief look in the late 1990s, and few corals had settled in the trenches. Trenches had accumulated a film of sand.

This may turn out to be especially unfortunate. Sea level is rising and storms may increase (Section 8), and seaward reef flats are a primary defence to shoreline erosion. It was suggested in 1996 (82) that a study be made of this excavation, its recovery or increased erosion; the NRMP said: "This suggestion is in concert with the dredging policy which is strongly

endorsed – that no new dredging be authorised without having careful investigations conducted by coastal engineers and marine ecologists” . There has been no proper examination of erosion or growth here.

The NRMP then recommended that, if it was confirmed that excavation of the primary sea defence was ill-advised, “excavation in on-land areas and importation may be necessary” instead. “On-land areas” certainly should be ruled out. Given the low-lying nature of the atoll, it may not be sensible to take material from anywhere on the atoll or its lagoon. Diego Garcia does have exceptionally high (for Chagos) dune systems in certain small locations. But some of these dunes line the shore along the trenched reef flat. This may be very fortunate - the dunes may be all the more required because of this.

Consideration should be given to strengthening the trenched seaward reef. Two processes should be assessed. First is filling the trenches with concrete blocks secured to prevent movement. This is an obvious measure to investigate, but should include blocks which stand proud of existing surfaces to further break wave energy (something which will eventually be needed). But concrete is colonised poorly compared

with limestone. Thus a second method gaining momentum, or at least publicity, is the ‘electric reef’ whereby electrodes (large sheets of wire mesh serve well) are fixed on the reef and applied with about 5 volts. Little scientific information exists for this as yet, though its proponents claim vastly increased deposition of ‘natural’ limestone given very modest electrolysis. Increased growth of live coral on the precipitated limestone is also reported .

The lagoon. Extraction from Diego Garcia lagoon is also inadvisable, for different reasons. Parts of the lagoon include the only known reefs in this atoll where coral cover remains significant. Diego Garcia was especially badly hit by the 1998 warming (100); coral mortality on seaward reefs was extreme to 40 m deep, and was similar in the eastern lagoon’s Strict Nature Reserve. But in 2001, lagoon reefs in the Northwest still supported 50% live coral. These and any other patches require the greatest protection.

Shoreline erosion in the northwest

It has been repeatedly noted (114) that shoreline erosion is evident and will deteriorate with continued coastal development and vegetation clearing. It was



Figure 7.3. Use of concrete for shore protection in northwest Diego Garcia, needed in place of removed vegetation. Taken from (172).

Note the narrow width of the reef flat to seaward of the concrete.

Note also that this island has rims which have higher elevations than much of the interior (see Section 8).

stressed in 1995 and subsequently, that a 5 m width of the shoreline bush *Scaevola* needs to be maintained to prevent erosion. As a consequence of its loss, erosion control in the inhabited area has so far involved the unsightly replacement of the shrub by “over 500 tons of construction and demolition debris, and planting *Scaevola* ...” (168). With rising frequency of storms and sea level, and if coral recovery continues to be impaired (Section 8), much more shoreline protection than this may become needed over the next few years. It is understood that a survey using light aircraft was conducted in 2002, though details are unavailable.

Active replanting of *Scaevola* and / or *Tournefortia* should take place where previously it was replaced by the concrete debris. A method of adequately measuring shoreline erosion is needed, either Differential GPS in selected locations on both the inhabited (west) and uninhabited (east) arms of the atoll, or continuation of aerial mapping techniques commenced in 2002. Either way, a 10 cm accuracy or better will be needed for best forewarning of problems.

Survey of lagoon and seaward reefs

The NRMP notes in its 10 year plan under Reef Dredging: ‘Conduct baseline survey’ in year 3, followed by ‘Annual monitoring’ in years 4-8. This does not appear to have been done. The NRMP also discusses designing and installing artificial reefs, in year 3, with maintenance of them in two further years. It is not known what these artificial reefs would be for, or where they would be.

These ‘Baseline surveys’ (meaning better knowledge of the locations of all marine habitats and of biological inventories) have now become essential. A brief study of corals in the lagoon 23 years ago (74) showed it to be healthy then, and little different from conditions in

the northern atolls. Since that date, the small boat harbour and other lagoon construction may have changed conditions, and the 1998 warming also severely damaged coral in Diego Garcia (100). Several parts of the lagoon were also dredged to obtain landfill.

Diego Garcia is the least known of the islanded atolls as regards reef life. All large studies from the 1970s excluded it, though its terrestrial aspects are amongst the best known (109). There have been investigations on current flows (31, 42, 43, 120), and brief observations more recently (88, 100). Reefs in the eastern lagoon’s Strict Nature Reserve were almost totally killed, but 50% or more are alive in the North-western lagoon, and anecdotal reports further suggest good coral in some deeper areas where ships anchor.

Determination of what coral exists, and where, is necessary for making any conservation progress at all. It is especially needed if any further extraction of materials or dredging takes place.

The NRMP recommends another survey: its estimated budget for 10 years includes sums to “Conduct baseline survey” in year 2, “If required, establish additional monitoring stations on reef” in year 3, followed by “Continue monitoring / maintain stations” from years 4-10. There were good reasons for these recommendations, which are even more valid today, but if any of this was done, it is not known what the results were. It also notes that in year 1 (1997) there would be the activity “Conduct baseline survey (UK action)”. This may refer to the 1996 programme, though the latter excluded Diego Garcia. The NRMP also suggests an annual census from years 2-10. These activities should be consolidated into one series of work, in the near future. This should be allied to similar work proposed for the northern atolls.

ing oceanic species, notably tuna and marlin.

Recreational fishing

The NRMP notes allocation of \$13,000 for conducting a catch monitoring programme and then a licensing and permit programme in the first two financial years, but then shows nothing for the following 8 years. In its 'Milestones' tables, however, it refers to annual catch monitoring, and to a licensing programme including 'training as necessary for staff and customers' for a full 10 years.

The fisheries ordinance 1998 (148) allows sport fishing in Diego Garcia, and limited fishing for non-profit purposes across BIOT (except in protected areas). This fishery comprises:

- ? a shore-based fishery, primarily in reef flat and lagoon areas. This includes sharks, jacks, snapper, grouper, mullet, rudderfish, parrotfish, damselfish, bonefish and mojarras;
- ? a demersal near-shore fishery on outer reef slopes. Catches are mainly top predators: groupers, snappers and emperors;
- ? a demersal and semi-pelagic fishery operating mostly from fishing barges and vessels at anchor, mostly in the lagoon. Top predators are again the primary target; and
- ? a pelagic fishery from sport-fishing boats, target-

Top predators are targeted, so sustainable limits will be broadly similar to those of the northern atoll reef fishery (Section 5, though little is known about the smaller yacht-based fishery there, Section 6). Since 1998, MRAG Ltd has been responsible for monitoring this fishery and has established a system of log-sheets to be filled by individual fishers. Log-sheet returns are now good from some of the boat-based fisheries, but remain poor for shore-based fishers. The only other information available comes from a creel survey undertaken in 1999 by a BIOT observer.

Information on catches is thus most accurate for the pelagic fishery and the demersal/semi-pelagic fishery from one boat-type (Mako). Using this data, combined with either extrapolation or direction assumption of no-change from the 1999 creel survey, overall fish-yields have been estimated (Table 7.1).

MRAG Ltd have also calculated yields per unit area for the reefs (Table 7.1). They considered these figures were "well within the sustainable limits for both reef and lagoon habitats". While they are certainly not high, they indicate the highest levels of fishing pressure in the Archipelago. While within sustainable limits set by some authors for some waters, they are higher

Table 7.1: Combined catch by ecosystem for the recreational fisheries in Diego Garcia, in tonnes.

	1988	1999	yield/km ² 1999	2000	yield/km ² 2000
Lagoon	36.35	63	0.47	42	0.31
Reef flats		12	2.02	12	2.02
Drop-off		18	1.24	18	1.24
Reef flats plus drop-off	21.59				
Pelagic	45.8	46		48	
TOTAL	103.74	139		120	

than sustainable limits set in others. Also, because Chagos lies in nutrient poor waters and many of these fisheries are restricted to a subset of predatory species, it seems likely that sustainable limits here will be lower than for reefs in continental waters.

Total catches in some of these fisheries could be reduced through encouraging the practise of tagging in game fishing. This is already in place for sharks and billfish, and the scheme has reduced landings of these successfully. Following initial resistance this is now accepted. In 2000 sharks represented 13% of the landed catch from pelagic fisheries, but this had reduced to 3% in 2001; landed billfish catches reduced from 2.4% to 0.2% over the same period, suggesting the scheme is having a positive effect. Annual or monthly maximum targets for particular species could be established, with tagging alone permit-

ted after set totals are reached. It may be possible to further encourage tagging through the introduction of reduced licence fees.

At present, the only control on fishing on the outer reefs is in the Strict Conservation Area where it is at the discretion of the Commissioner's Representative. There is no land-based fishing in the Strict Conservation Area. Permanent no-take zones covering 30% of the reef flat and drop-off (Sections 3, 9) would greatly protect stocks; fishing is currently not widely undertaken over large areas already so such measures could be easily implemented.

8 Climate change: timing and consequences

Climate change will have serious consequences to small tropical islands and reefs (166). The most recent data and climate models suggest that four main issues will become important (92, 107): temperature rise leading to reef mortality, sea level rise, greater extremes of storm activity, and changes in rainfall.

Temperature change

The most important effect of temperature rise, as understood at present, lies in the fact that corals in Chagos, on which the entire reef system is based, are killed when it rises above about 29.8 °C for a few weeks. This occurred in Chagos in 1998, when sea surface temperatures (SST) of almost 30 °C caused heavy mortality to corals to at least 30 m depth in the south, including Diego Garcia, and to 15 m depth in northern atolls (88, 100). It was not temperature alone which caused that mortality (increased light and UV penetration are important) but temperature is the most easily measured variable. The rising trend between

1871 and 2100 is shown in Figure 8.1.

Presently, SST is rising at over 0.25 °C per decade. The rise began in the 1960-70s and previously noted reductions of shallow coral in the 1996 research visit (85) might be explained by this rising temperature. The rate of SST warming is also accelerating.

These data allow statistical treatments which estimate the frequency of a repeat occurrence of the lethal 1998 temperature. This model projects that temperatures reached in 1998 will occur annually beginning sometime between 2025 and 2030. However, repeat occurrences of much less than annually will lead to a permanent crisis in reef condition. It is possible, and it is hoped, that corals and other reef life may adapt, acclimate or evolve to resist this, and this is an active area of research. It seems unlikely that they can: they did not adapt to resist 1998 despite the gradual start of warming 30 years earlier, for example.

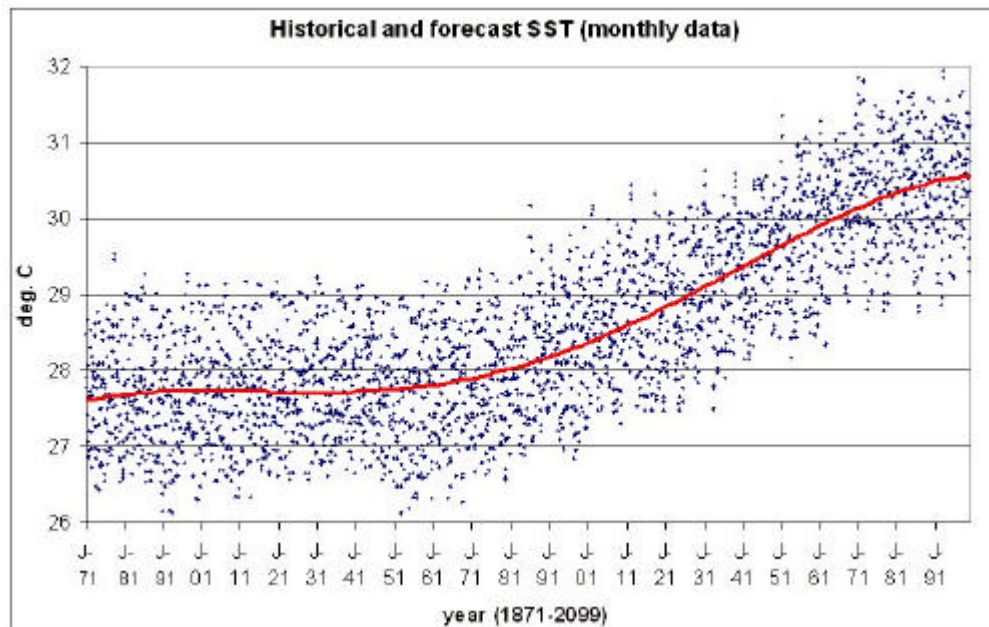


Figure 8.1 Blended temperature series from historical (HadISST 1871-1999) and forecast (HadCM3 (1950-2099) data. Red line is a best fit average annual temperature.

Overlapping dates were used to adjust forecast data to intercept historical data. Statistical methods using normalisation and residuals corrected annual oscillation of forecast data. HadISST data have extensive verification (101) though the method of combining them is work still in progress.

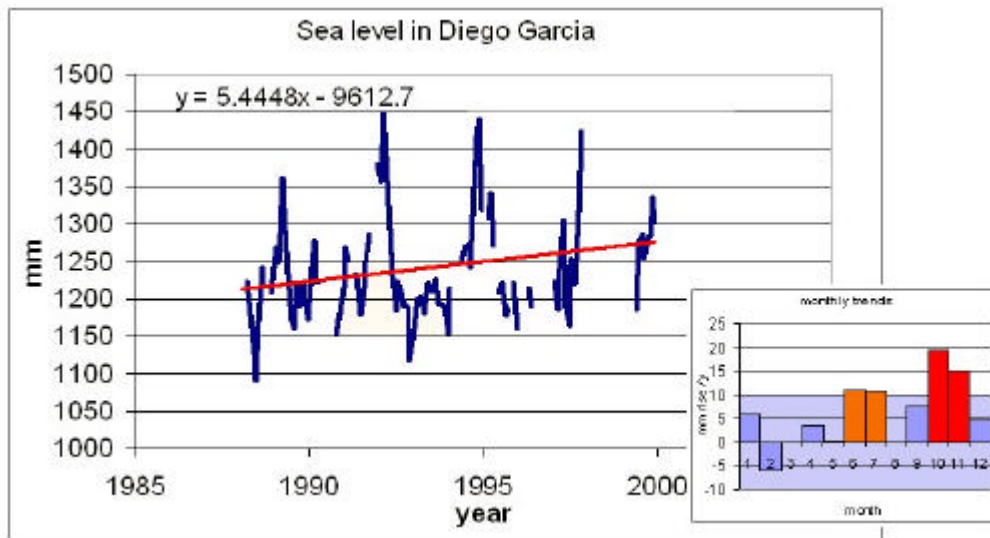


Figure 8.2 Sea level rise in Diego Garcia (167). Red line is the linear best fit. The equation indicates an average 5.44 mm rise per year since 1985.

Inset: Monthly pattern of sea level rise; most takes place in October / November (red). June / July (orange) is also a time of rise (actually less variable annually than October / November). Pale blue is a region of statistical uncertainty.

Consequences are likely to be widespread conversion of thriving and accreting reefs to dead coral platforms and rubble, the latter derived from coral colonies as continuing storms and naturally occurring eroding organisms break them down (89, 100). Reef growth rate is likely to fall behind reef erosion rate, and may already have done so in some places. Also, most of the shallow, thick stands of staghorn coral which provided an initial breakwater in many areas, were eliminated in 1998, so these shallow seaward areas (mainly on southwest and northwest facing reefs in Chagos) almost certainly now provide much less resistance to waves, whose energy is thus dissipated nearer shore. The caveat, as noted, is that corals may adapt rapidly to these rising temperatures.

Sea level rise

Average sea level (SL) is predicted to rise by 0.2 – 0.5 cm per year globally (166). In Diego Garcia it has been a little greater than this (Figure 8.2), averaging 0.54 cm annually since 1986 (167), which is similar to values from the nearby Maldives (102). Sea level rise is accelerating, however (165, 166). Greatest rises appear to occur during the Southeast Trades and during its switch to North-westerly winds in October and November (inset, Figure 8.2).

Reef flats are positioned at the mean low tide level, so as sea level rises, the flats will become less effective in attenuating waves, whose energy will increasingly become dissipated on island shores.

Reef flats here probably will not grow upwards to match sea level as the latter rises. For many islands, height above high tide level is minimal (Figure 8.3). For unknown reasons, there are more submerged or 'drowned' atolls in this group than there are islanded atolls (90) despite the past 11,000 years of apparently healthy coral growth. We should not assume that reef growth will be any faster in the future if their corals are



Figure 8.3: Ile Gabrielle and Ile Monpatre in Peros Banhos, at high tide on a calm day. These islands are separated from each other along their length (i.e. along the atoll circumference). Clearance above high tide is small.

killed by repeated warming events. This is likely to lead to erosion of island shores.

Maximum elevation of the islands in the northern atolls, Egmont, and Great Chagos Bank is only 1-2 metres in most cases, and less in several small islands. Some substantially higher dunes exist in Diego Garcia. These maximum elevations are restricted mainly to relatively narrow rims around island perimeters; most islands have a central depression which dips near to sea level or even below it. Nine examples of island profiles were shown in (94, 95), with two new examples (Figure 8.4) in Salomon and Peros Banhos (56). Diego Garcia also has generally similar concave profiles (34, 118). Thus island erosion is not likely to be a gradual attrition of island edge as would be the case on typical convex islands. In Chagos, erosion of the rim, which effectively serves as a dam for central parts, would likely lead to breaching, followed by flood-

ing of disproportionately large areas. Early examples of the likely effects may be seen in Figure 8.5.

Timing and rates of erosion of island rims is impossible to estimate at present, especially along sections facing storms. The monitoring of rates of erosion may be one of the most crucial elements of all.

Storm activity

Modelling of storm events has recently shown that storms and overtopping by waves of these islands will increase the risk of flooding (57). With their concave profiles, increased overtopping onto Chagos islands would flow centrally, sinking into water tables. The study concluded that with respect to future inhabitation: "... overtopping and the subsequent flooding is potentially a very serious problem..." (57). It also showed, in several graphs, the volumes of overtopping

Figure 8.4 Profiles of two previously settled islands of the northern atolls (from 56).

Top: Ile de Coin (Peros Banhos atoll), and

Bottom: Ile Boddam (Salomon atoll).

These profiles have a general similarity to 9 examples from Egmont and Great Chagos Bank shown in (93, 94).

Note also the island area liable to salt water flooding from wave overtopping (dotted blue lines). Rims of these islands are 1-2 m above mean high tide as profiled here. As these islands are similar to other better surveyed islands, some parts of these rims will be higher, some lower. It is the lowest (seaward) parts which are likely to be the critical or weakest points. Certain meteorological conditions can increase high tide substantially.

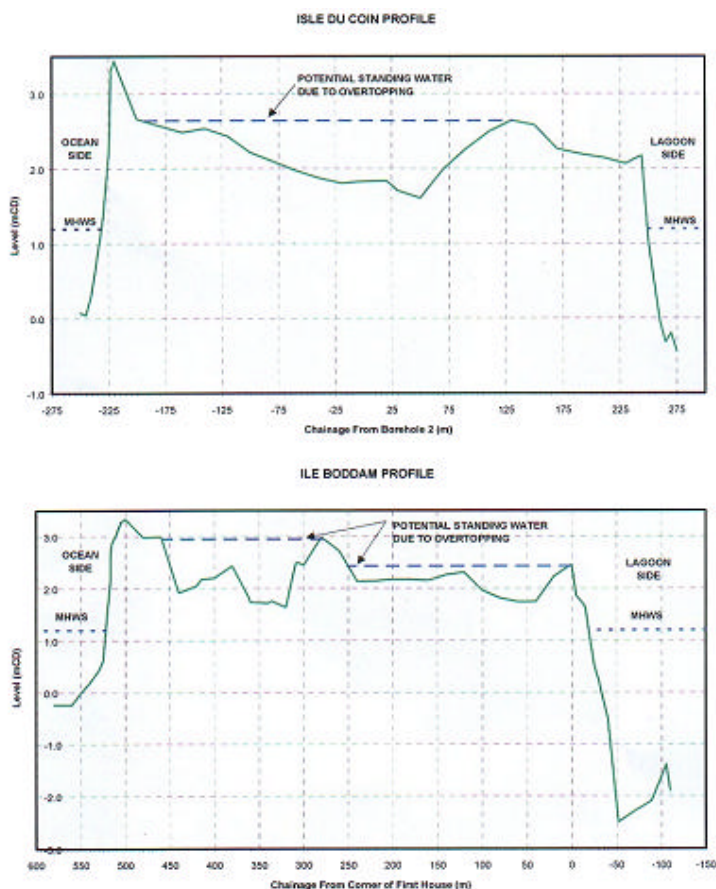




Figure 8.5 Depressions in two Chagos islands, filled with water.

Top: Ile Anglais, Salomon, this may be fresh water following heavy rain, and indicates a depression to, or possibly below, present sea level.

Bottom: Diego Garcia islet with a breached rim and sea-water ponds.



water under different scenarios, including during 1:50 and 1:1000 year storm events. These authors suggest that much of the islands can be considered at risk, and that much of any development would need to be confined along their rims.

Rainfall and water tables

These atolls are extremely wet, with 2,500 to 4,000 mm rainfall each year. Rainfall is currently impossible to model accurately, but models suggest little gross change, possibly with greater variability (166). The maintenance of water tables, and the length of time they may be sustained, might depend much more on sea water encroachment if erosion of island rims takes place. The turnover time of fresh water in water lenses of Ile Boddam and Ile de Coin in the northern

atolls is about one year (57), so island vegetation may readily survive some periods of drought, based on fresh water input alone, though smaller islands will have a smaller buffering capacity. The southernmost Diego Garcia may well become drier than the other atolls, but its lens is much larger.

Changes of annual rainfall by, say, 2020 or 2040 are likely to be small, though annual fluctuations may increase.

The main climatic controls

In general, rising sea surface temperatures which kill the reef life, sea levels and storm overtopping will probably be the main climate controls on Chagos. The temperature rise will lead to progressively deteriorating

reef condition and island erosion. The results may first be seen by a continued decline in reef quality and by erosion of shorelines. These are all active areas of research at present in several parts of the world, as well as in Chagos itself.

Relevance to BIOT

It could be argued that the issues addressed here are global, and lie outside the ability of BIOT government (indeed any single government) to manage in ways other than by, for example, 'plugging holes'. This is partly correct, but two important issues arise.

First is not to underestimate change that can be made or manipulated in future. 'Plugging holes' provides immediate (even if temporary) solutions. Buying time is extremely important in the present context.

Second is the need to respond quickly, to minimise problems and provide protection where it lies within the managing regime's ability to do so.

Monitoring and protected area designation

Expansion of the system of protected areas has been proposed (Section 3). This is not an exercise of drawing static lines on a map; it must be flexible and responsive to new observations, which would only be possible given a continuance of bi-annual (at least) monitoring and observation in several fields. This exactly parallels, and should co-ordinate with, suggestions made for Diego Garcia in the NRMP (Section 7).

Where these field surveys discover surviving areas of

corals, for example, or spawning aggregation of certain fishes, adaptation or expansion of the protected area boundaries needs to be made quickly. In this way much more habitat can be preserved, and elimination of the species avoided. In some cases, lagoon corals showed good survivorship and their strict protection may be critical. Another example, noted in 2001, was that deeper parts of reefs in the two northern atolls survived the ravages of 1998 much better than did their shallow areas, and much better than areas of any depths seen in the southern atolls (including Diego Garcia). The prime need is to include those surviving, deeper seaward reef slopes in the north into protected areas, to afford maximum protection. These will be the nursery grounds needed for the future.

Such actions will ease future problems and prolong survival considerably. For them to work, monitoring remains key.

Changes to our response to climate effects are perfectly possible and, given human ingenuity, nothing should be written off now. It has been unusual for a management plan to adopt very much flexibility, and where they have, they may stand accused of being 'fire-fighting plans' rather than management plans. 'Fire-fighting', however, is proving to be a valuable element in our response to global changes. Knowledge of where and how to fire-fight is needed, and this comes from regular monitoring and from ability to manage.

9 Legal provisions

This summarises BIOT law which is concerned with, or touches on, conservation. It is arranged by topic. Annex 1 (on disk) contains more detail, and a summary by Instrument of the legally binding provisions.

International agreements and BIOT

The Convention on Biological Diversity, was signed by the UK government in 1992. This is a key Convention, but has not yet been extended to BIOT.

Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention) (162) was extended to BIOT in January 1999 when the UK announced at the Conference of the Parties to Ramsar its intention to designate most of the archipelago as a Ramsar site. Diego Garcia's lagoon, Restricted Area and the atoll's territorial waters were designated in 2001. The government has indicated that it cannot give a timescale for other areas at present.

International Convention for the Regulation of Whaling. The Indian Ocean Sanctuary was established by the IWC in 1979, covering the entire Indian Ocean, including BIOT waters. Commercial whaling is prohibited irrespective of any decisions of the IWC which may call for the resumption of whaling.

The UN Convention on the Law of the Sea (UNCLOS) of 1982, entered into force in 1994 (169). It provides the legal basis for establishment of territorial seas (to 12 nautical miles), contiguous zones (to 24 nm) and EEZs (to 200 nm). States must make a claim to extend its territorial sea from 3 to 12 nm; BIOT has not claimed this, but has claimed the 200 nm EEZ. Foreign fishing vessels have right of passage, but not to fish while doing so. States may determine catches

and must ensure that stocks are not endangered. States must preserve and protect the marine environment and promote scientific research.

The UN Agreement for the Implementation of the Provisions of the UNCLOS relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks entered into force from 11 December 2001. BIOT was specifically included. States must protect biodiversity as well as accommodate artisanal and subsistence fishers, based on best information and economic requirements, taking an ecosystem approach. Effective monitoring, surveillance, and exchange of information is required through regional arrangements, and other States within a region may board and inspect vessels should the flag State fail to act on a notified likely violation.

The Indian Ocean Tuna Commission (153), established within the FAO, aims to promote cooperation among its Members and ensure sustainable tuna fisheries. Resolutions to date deal with observers, statistical reporting, and mechanisms to promote compliance by non-Contracting Party vessels.

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) restricts trade in species listed in three Appendices (157). Appendix I covers endangered species, II species that may become endangered unless trade is regulated; III covers species that any party wishes to regulate, so requires international cooperation to control trade. A permit is required for trade in species listed in Appendix I or II (see Annex).

The Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention) (159) also lists

species in two Appendices: I for species requiring strict protection, and II for those which would benefit from international collaboration. States are encouraged to co-operate in and support research on migratory species; to provide immediate protection for species in Appendix I, and to conclude Agreements for species in Appendix II. For BIOT the most significant group is marine turtles, thus a Memorandum of Understanding on the Conservation and Management of Marine Turtles and their Habitats of the Indian Ocean and South-East Asia was signed by the UK in March 2002. A Conservation and Management Plan linked to this contains 24 programmes and 105 specific activities aimed at reducing threats, conservation, exchanging data, increasing public awareness, promoting regional cooperation, and seeking resources for implementation. Regarding birds, Chagos lies at the extreme end of a migration pathway from central and northern Asia to India and the Indian Ocean Islands. Thus current discussions regarding creation of a Central Asian – Indian Flyway Agreement are relevant, and the BIOT government is considering partaking in such an agreement.

BIOT Legislation

Protected areas

Present legislation designates Strict Nature Reserves, Special Reserves and Restricted Areas under national legislation, and Ramsar Sites under international legislation (Table 2.1). The Protection and Preservation of Wild Life Ordinance 1970, empowers the Commissioner to designate Strict Nature Reserves and Special Reserves.

Strict Nature Reserves are defined by The Protection and Preservation of Wild Life Ordinance 1970 and by the Strict Nature Reserve Regulations 1998. The latter gives effect to the former. No person may:

- a – enter, traverse, camp in or reside...;
- b – fly...at an altitude lower than is...specified...;
- c – engage in...any form of hunting or fishing; any un-

dertaking connected with forestry; agriculture; any excavations, levelling of the ground or construction; any work involving the alteration of the configuration of the soil or the character of the vegetation; any act...which pollutes any source of water...or sea area within the reserve; or any act...likely to harm or disturb the fauna or flora...

d – knowingly introduce...any non-indigenous wild life” The 1998 Regulations expand the term “island” to include “the internal waters of that island and to the territorial sea appurtenant to that island and to any reef or bank situated therein”. However Gazette Notice No 13 of 1998 (see page 11) grants exemptions to activities licensed under the fisheries legislation, effectively removing any protection this “territorial sea” definition may have provided.

Special Reserves are defined under The Protection and Preservation of Wild Life Ordinance 1970 as “areas in which any particular species of wild life requires protection and in which all other interests and activities shall, whenever possible, be subordinate to that end.” No areas have been designated to date.

Restricted areas are defined under the Diego Garcia

Table 2.1 List of presently protected areas. See also maps in section 3.

Diego Garcia Restricted Area

(includes Diego Garcia Nature Reserve Area and the following Special Conservation Areas: Barton Point, East Island, Middle Island, West Island, and the lagoon areas from Rambler Bay to the Main Passage)

Diego Garcia Ramsar Site

The Three Brothers and Resurgent Islands Strict Nature Reserve

Danger Island Strict Nature Reserve

Cow Island Strict Nature Reserve

Nelson Island Strict Nature Reserve

Peros Banhos Atoll Strict Nature Reserve

(All islands to the east of a line drawn between the easternmost point of land on Moresby Island and the easternmost point of land on Fouquet Island).

Conservation (Restricted Area) Ordinance 1994. They may not be entered without a permit. Clearer definitions and restrictions were first provided in a Public Notice of 1997 which established the Restricted Area of Diego Garcia, defined as “all of the main island outside the Specific Area, the four Islets at the mouth of the lagoon and the areas within the lagoon as shown” (on an attached map). This Notice further defines a Nature Reserve Area and a Strict Conservation Area. All access requires permits, but these are to be routinely given for “a – sightseeing, b – swimming Lagoon Side during daylight hours, c – wading Oceanside, d – Collection of DEAD shells and DEAD coral” in the Nature Reserve Area. A broader set of activities may be undertaken in the Nature Reserve Area with additional written permission: “a – overnight stays, b – swimming or Surfing Oceanside, c – fishing, d – camping away from the Rest and Recreation site, e – Arrival and Departure by boat”. Access is more strictly controlled in the Strict Conservation Area, and is only to be given for a limited set of activities including sailing in lagoon areas (but not anchoring or mooring), and for observation of wildlife by bona fide naturalists/environmental observers. The Public Notice establishing this area is regularly re-released to ensure its continued profile.

Fisheries

Commercial fisheries are restricted in some parts of the archipelago via the licensing system. Tuna vessels may not operate within 12 nm of land, and nearshore commercial vessels are not permitted to fish in the lagoons of the islanded atolls.

Commercial fisheries require licensing. Legislation covers access to the fishery, and gear, and there is provision for restrictions by season, location (restricted areas) and fishing gears.

The Fisheries (Conservation and Management) Ordinance 1998 (148) repealed and revised much previous legislation. It defines fishing waters as “the internal waters of the Territory; the territorial sea of the Territory; and the Fisheries Conservation and Management Zone”. Effectively this is all areas to the EEZ. It states the Director of Fisheries, appointed by the Commissioner “has charge of the administration of this Ordinance and of any regulation made under section 21 and...is responsible for : a –conservation of fish stocks, b –assessment of fish stocks..., c – development and management of fisheries; d – monitoring, surveillance and control of fishing... h – making of such reports to the Commissioner as he may require”.

Enforcement is the duty of Fisheries Protection Officers who will include persons appointed by the Commissioner, every Peace Officer, every Import and Export Control Officer and senior military personnel (S4)

Specific provisions prohibit: “any explosive, poison or other noxious substance for the purpose of killing, stunning or disabling fish” or of having such substances. (S5) and use, or possession with intent to use, “prohibited fishing gear”, including “a - any net whose mesh size is smaller than the prescribed minimum...; b - any other type of fishing gear which does not conform to the standards prescribed for that type of gear; and c - any fishing gear which is prohibited by regulations made under section 21.” (S6). “Fishing by a fishing boat within the fishing water is prohibited unless carried out in accordance with a licence” (S7-1). Licences may place restrictions on “the area within which fishing is authorised;...the period;” the catch in terms of “description, quantities, sizes or presentation”; and on “the method of fishing”.

These provisions do not apply “to persons who are lawfully present in the Territory if...the fishing is for sport and not for sale, barter or other profit; the fishing is...carried out by an attended line...; there is...no

more than two such lines in use under the control of any one person, each line having no more than three hooks attached to it...; and the fishing is not...carried out in any area of the Territory which is specified...to be an excepted area...". These exceptions do not apply "to any fishing carried out by a fishing boat (other than one based in and operating around Diego Garcia) in circumstances where the persons fishing from that boat have paid...for the right to do so or to be on board the boat..." (S7 – 10,11)

Several rules exist regarding notification of fishing, reporting of catches, stowage of non-permitted fishing gear, transshipment of fish to other vessels (which must also be licensed), powers of enforcement and seizure of vessels and goods.

Section 21 enables the Commissioner to "make such regulations as he considers necessary for the purposes of this Ordinance", including "the conditions subject to which licences are to be...granted; the fees to be charged for licences...; the equipment to be carried on board fishing boats;..." and various measures covering reporting, observing and licensing.

Fishing Regulations 1993 provide details on the reporting of catches and for the appointment of an "observer" to join vessels and take details of catches.

The Fishing (Prohibited Gear) Regulations 2000 prohibits: "a – any net which, for the purpose of fishing, is set or operated otherwise than by a fishing boat...; b – any trap, including...any pot, barrier or fence; c – any gear for grappling or wounding, including...any harpoon, spear or arrow;..." Permits may be issued for using nets in other circumstances, and a general provision permits use of hand-held cast nets for the purpose of bait fishing in Diego Garcia. These may only be used away from areas of actively growing coral and their use must be approved by the Moral, Welfare and Recreation organisation of the US Forces.

Current restrictions under the licensing regime

The licensing regime of the above may be used to limit and control this fishery. A number of regulations have been developed by MRAG Ltd, within the context of Licensing Briefings with the BIOT government which have taken place most years.

The main provisions regarding tuna and near-shore commercial fisheries licenses are that fishing gear be deployed to target only the stated target species (either "tunas, tuna like species and those species that are generally caught incidental thereto" or "inshore water species and those species that are generally caught incidental thereto"); and that fishing gear is deployed in a manner that avoids or minimises by-catch.

For tuna, fishing vessels may not operate within 12 nm from the nearest land.

Current policy and regulation of the commercial near-shore fishery, based on the licensing regime, include some controls developed in consultation with the bilateral British Mauritian Fisheries Commission (BMFC):

- ? Up to six 80-day licenses may be issued each season;
- ? Fishing is restricted to 1 April to 31 October;
- ? Fishing is only permitted with hooks and lines, though hand-held cast-nets may be used for catching fish bait;
- ? The use of steel wire on fishing lines is prohibited;
- ? Fishing is prohibited within any lagoons (Diego Garcia, Egmont, Salomon, and Peros Banhos);
- ? Officers or crew may not land on any island without a permit (excepting the case of bona-fide Chagossians who may land).

There is no clear definition of the boundary of the "lagoon", which could lead to quite extensive fishing in lagoon channels.

Commercial fishing is allowed in Strict Nature Reserve areas. This is based on an agreement from the BMFC stating that changes to the fishery regime should be undertaken after consultation with the fishing communities (not the BMFC). This was not done when the Strict Nature Reserves were established so it was decided not to apply this legislation to this fishery (C. Mees, pers. comm., 28/9/02). This informal minuted agreement may conflict with the Strict Nature Reserves regulations.

Gazette Notice No 13 of 1998 states: "On Oct 17 1998 the Commissioner granted written permission under section 5 of Protection and Preservation of Wildlife Ordinance 1970 for any person, notwithstanding any other provisions of that Ordinance, or any provisions of the Strict Nature Reserve Regulations 1998, to do any act which he is authorised to do by, or by virtue of, a license granted, or having effect as if granted, under the Fisheries (Conservation and Management) Ordinance 1991." In effect, this counters the intent of the Strict Nature Reserve legislation and to date the licensing procedure has ignored the Strict Nature Reserve restrictions.

Voluntary fishing agreements and BIOT

There have been several UN Resolutions and "soft law" agreements. One is a drift-nets moratorium on all "large-scale pelagic driftnet fishing" at the end of 1992.

The FAO Code of Conduct for Responsible Fisheries is voluntary, but often cited. It sets out "principles and international standards of behaviour for responsible [fishing] practices with a view to ensuring the effective conservation, management and development of living aquatic resources, with due respect for the ecosystem and biodiversity". To this end a number of International Plans of Action (IPOAs) have been made.

The IPOA for the Conservation and Management of

Sharks is one such: "States should adopt a national plan of action for conservation and management of shark stocks (*Shark-plan*) if their vessels conduct directed fisheries for sharks or if their vessels regularly catch sharks in non-directed fisheries". This Shark-plan should ensure, *inter alia* that "shark catches...are sustainable", it should "assess threats to shark populations; identify...vulnerable or threatened shark stocks; ...minimize unutilized incidental catches of sharks; contribute to the protection of biodiversity and ecosystem structure and function; minimize waste and discards from shark catches...(for example, requiring the retention of sharks from which fins are removed);..."

There is also an IPOA for Reducing Incidental Catch of Seabirds in Longline Fisheries, which states that countries should investigate this problem and, if necessary, establish a National Plan of Action to address it.

Non-fisheries species and BIOT

Further provisions provide protection for species not subject to conventional harvest, and injunctions against species introductions.

The Protection and Preservation of Wild Life Ordinance 1970 (131) empowers the Commissioner to enact legislation to protect wildlife [including coral], prohibit the purchase, sale or export of wild life, and prohibit the introduction of wildlife.

The Wild Life Protection Regulations of 1984 (135) makes it an offence to:

- ? "intentionally to kill, injure or attempt to kill or injure, or to take or be in possession of, any animal" with the exception of "any fish or marine product lawfully taken in accordance with the [Fisheries Ordinance 1991 or subsequent laws replacing this] ...or vermin or other pest or insect in the interests of public health"
- ? "to take or be in possession of any live seashell,

live coral...or any...which has been taken alive”

? “intentionally to destroy, damage or take any bird’s nest while the nest is in use or being built, or any bird’s egg or turtle’s egg”

The Wild Life Protection (Amendment) Regulations 2000 extends this list to include possession of “a dead animal or any part of an animal or of a dead animal”.

The Green Turtles Protection Regulations 1968 apply although turtles are also covered under the above, and state that “No person shall harpoon, kill, destroy or take possession of any turtle [means the green turtle or *tortue de mer*] for any reason whatsoever.”

Trade of species in BIOT

The Prohibited Imports and Exports Order, 1984 (136) prohibits the exportation of: “wild animals, whether alive or dead; Live seashells or seashells which have been taken alive; Live coral or coral which has been taken alive; Wild birds’ nests; Birds’ eggs; Turtles’ eggs; Flora, coral or seashells specified under the Wild Life Protection Regulations, 1984”. Restrictions on coral were further altered by the Prohibited Imports and Exports Control (Amendment) Order 1999 to read “Coral, whether alive or dead”.

The Trade in Endangered Species (Control) Ordinance 2001 (151) provides for the application of CITES, appointing the Administrator as the “Management Authority”, and requiring that advice be taken from a scientific “...person or authority as the Commissioner may from time to time appoint”.

Species introductions in BIOT

The introduction of species does not appear to be expressly prohibited other than in Strict Nature Reserves.

Marine pollution in BIOT

The prevention of oil pollution, and the finance to support clean-up, are covered under several laws.

The Oil Pollution (Compulsory Insurance) Regulations, 1976, (133) which refers back to the Merchant Shipping (Oil Pollution) Act 1971 and requires certification of insurance against liability for oil pollution.

The Prevention of Oil Pollution Ordinance 1994, (142) makes it an offence to cause an oil spill, and it is also a duty to report any discharge.

The Merchant Shipping (Oil Pollution) (British Indian Ocean Territory) Order 1997 (144) extends sections of the Merchant Shipping Act 1995 to BIOT. It assigns liability for oil spills, and the costs of their control and clean-up. A certificate of insurance is required for “any ship carrying in bulk a cargo of more than 2000 tons of oil”. This Order also ensures compliance with the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1992, and establishes conditions under which that Fund may be used.

The Merchant Shipping (Liability and Compensation for Oil Pollution Damage) (Transitional Provisions) (Overseas Territories) Order 1997 (145) extends those sections of the Merchant Shipping Act 1995 to all Overseas Territories, giving effect to the rules governing liability and compensation linked to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1992

Other marine pollution is covered under The Environment Protection (Overseas Territories) Order 1988, extended to BIOT by The Environment Protection (Overseas Territories) (Amendment) Order 1999. “This Order extends...the provisions of Parts II and IV of the

Food and Environment Protection Act 1985” which aims “to replace the Dumping at Sea Act 1974 (c. 20) with fresh provision for controlling the deposit of substances and articles in the sea...[and] under the seabed, and for connected purposes”.

A licence is required for:

- ? depositing substances or articles within the territorial waters or fisheries zone;
- ? scuttling vessels in these waters;
- ? loading of vessels in territorial waters with substances or articles for depositing in the sea.

A licence is required for incineration at sea on any British vessel, or on any vessel within territorial waters. The Governor has responsibility for granting licences and charging fees, but will make provision for the protection of the marine environment and human health.

Although not clearly specified, this legislation might cover the emptying of ballast water. It may also be used to address land-based sources of pollution, notably sewage outfalls and the release of hot water or brine e.g. from desalination plants.

Atmospheric pollution in BIOT

Penal Code: Ordinance No. 5 of 1981 (134) includes, among its offences, pollution of the atmosphere “making it noxious to the health”.

The Ozone Layer Protection Ordinance 1994 (140) brings the Montreal Protocol into effect controlling “the manufacture, importation and exportation of certain substances and products”, namely man-made, ozone-depleting substances.

Landscape protection in BIOT

Penal Code: Ordinance No. 5 of 1981 lists activities including pollution of “any river, stream, spring or reservoir”; the lighting of “a fire in any forest, plantation or

field...without having previously obtained written permission”; the carrying of “fire or a lighted naked torch or candle...in any street, road, way, lane, track, footpath, square or open space...or in any forest, plantation or field, except...with the permission of the Commissioner’s Representative”; and disposal of “any litter or refuse...on the foreshore or in any public place”

Restrictions on access in BIOT

Although not necessarily conceived for conservation purposes, restrictions on access may benefit the natural environment. Aside from restrictions on fishing vessels, a number of regulations restrict access or activities in BIOT waters, particularly to the Strict Conservation Areas. As noted, the Immigration Ordinance of 2000 permits Chagossians to land on any island except Diego Garcia.

The Outer Islands (Services for Visiting Vessels) Ordinance 1993 (139) covers all vessels apart from government or UK or US military vessels, and any others certified exempt by the Commissioner’s Representative. Under this “no vessel shall moor at any place in the outer islands without the consent of the Commissioner’s Representative”, but “consent...shall be deemed to have been given in any case where the master of the vessel has, in response to a demand made by a Visiting Vessels Control Officer, paid in full the mooring-charge payable in respect of that mooring.”

Note that the term ‘moor’ is used, but ‘anchoring’ is meant, as moorings are not provided.

British Indian Ocean Territory Waters (Regulation of Activities) Ordinance 1997 (143) regulates activities, which include “any form of exploration or survey of, or research into, any aspect of the waters of the Territory or the seabed or subsoil beneath those waters or the living or non-living resources of those waters or of that seabed or subsoil, whether...for reward or in pursuit

of scientific knowledge, or for pleasure...". Any such activities require the consent of the Commissioner or of an authorised officer.

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 133. The Oil Pollution (Compulsory Insurance) Regulations, 1976 (Refers back to the Merchant Shipping (Oil Pollution) Act 1971)
 134. Penal Code: Ordinance No. 5 of 1981
 135. The Wild Life Protection Regulations 1984 (S.I. No 6 of 1984)
 136. The Prohibited Imports and Exports Order, 1984 (S.I. No 7 of 1984)
 137. Imports and Exports Control Ordinance, 1984 (Ordinance No 13 of 1984)
 138. Fishing Regulations, 1993 (S.I. No 3 of 1991)
 139. Outer Islands (Services for Visiting Vessels) (Ordinance No 4 of 1993)
 140. Ozone Layer Protection Ordinance 1994 (Ordinance No 3 of 1994)
 141. Diego Garcia Conservation (Restricted Area) (Ordinance No 6 of 1994)
 142. Prevention of Oil Pollution Ordinance 1994 (Ordinance No 7 of 1994)
 143. British Indian Ocean Territory Waters (Regulation of Activities) (Ordinance No 3 of 1997)
 144. The Merchant Shipping (Oil Pollution) (British Indian Ocean Territory) Order 1997 (Extends sections of the Merchant Shipping Act 1995 to BIOT)
 145. The Merchant Shipping (Liability and Compensation for Oil Pollution Damage) (Transitional Provisions) (Overseas Territories) Order 1997
 146. Public Notice 1997. Updated in Annex A to Public Notice 14/02 dated 9 August 2002
 147. The Environment Protection (Overseas Territories) Order 1988. [As originally legislated this did not cover BIOT, but was extended to BIOT by The Environment Protection (Overseas Territories) (Amendment) Order 1999].
 148. The Fisheries (Conservation and Management) (Ordinance No 4 of 1998)
 149. Strict Nature Reserve Regulations 1998 (S.I. No 4 of 1998)
 150. The Fishing (Prohibited Gear) Regulations 2000 S.I. No 3 of 2000)
 151. The Trade in Endangered Species (Control) (Ordinance No 3 of 2001)
 152. Convention on Wetlands of International Importance especially as Waterfowl Habitat (RAMSAR)
- ### Web sites
153. Agreement for the Establishment of the Indian Ocean Tuna Commission <http://www.seychelles.net/iotc/>
 154. Convention concerning the Protection of the World Cultural and Natural Heritage http://whc.unesco.org/toc/toc_index.htm
 155. Convention for the Protection of the Ozone Layer <http://www.unep.ch/ozone/treaties.shtml>
 156. Convention on Biological Diversity <http://www.biodiv.org/>
 157. Convention on International Trade in Endangered Species of Wild Fauna and Flora <http://www.cites.org/>
 158. Convention on Long Range Transboundary Air Pollution

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159. Convention on the Conservation of Migratory Species of Wild Animals <http://www.unep-wcmc.org/cms/index.htm>
 160. Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal <http://www.unep.ch/basel/>
 161. Convention on Transboundary Effects of Industrial Accidents <http://www.unece.org/env/teia/intro.htm>
 162. Convention on Wetlands of International Importance especially as Waterfowl Habitat (RAMSAR). [Http://www.ramsar.org](http://www.ramsar.org)
 163. Framework Convention on Climate Change <http://unfccc.int/>
 164. International Coral Reef Initiative (ICRI) <http://www.icriforum.org/secretariat/pdf/icri-framework.pdf>
 165. Hadley Centre: Climate Predictions <http://www.metoffice.gov.uk/research/hadleycentre/models/modeldata.html>
 166. Intergovernmental Panel on Climate Change. <http://www.ipcc.ch>
 167. Mean sea level data. http://www.pol.ac.uk/psmsl/psmsl_individual_stations.html
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172. Spalding, M 1999. *Fishes of Chagos*. Friends of the Chagos. 16 pp
173. Symens, P. 1999. *Birds of Chagos*. Friends of the Chagos. 16 pp
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ANNEX 77

The British Indian Ocean Territory (Constitution) Order 2004

At the Court at Buckingham Palace

THE 10th DAY OF JUNE 2004

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY

IN COUNCIL

Her Majesty, by virtue and in exercise of all the powers in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:--

Citation and commencement

1. This Order may be cited as the British Indian Ocean Territory (Constitution) Order 2004 and shall come into force forthwith.

Interpretation

2. - (1) The Interpretation Act 1978(a) shall apply, with the necessary modifications, for the purpose of interpreting this Order, and otherwise in relation thereto, as it applies for the purpose of interpreting, and otherwise in relation to, Acts of Parliament.

(2) In this Order, unless the contrary intention appears-

"the Commissioner" means the Commissioner for the Territory and includes any person for the time being lawfully performing the functions of the office of Commissioner;

"the *Gazette*" means the Official Gazette of the Territory;

"the Territory" means the British Indian Ocean Territory specified in the Schedule.

Revocation

3. - (1) The British Indian Ocean Territory Orders 1976 to 1994(b) ("the existing Orders") are revoked.

(a) 1978 c.30.

(b) S. I. 19761893; 1981 III, p.6524; see also the British Indian Ocean Territory (Amendment) Order 1994 made on 8th February 1994.

(2) Without prejudice to the generality of sections 15, 16 and 17 of the Interpretation Act 1978 (as applied by section 2(1) of this Order)-

- (a) the revocation of the existing Orders does not affect the continuing operation of any law made, or having effect as if made, under the existing Orders and having effect as part of the law of the Territory immediately before the commencement of this Order; but any such law shall thereafter, without prejudice to its amendment or repeal by any authority competent in that behalf, have effect as if made under this Order and be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring it into conformity with this Order;
- (b) the revocation of the existing Orders does not affect the continuing validity of any appointment made, or having effect as if made, or other thing done, or having effect as if done, under the existing Orders and having effect immediately before the commencement of this Order; but any such appointment made or thing done shall, without prejudice to its revocation or variation by any authority competent in that behalf, continue to have effect thereafter as if made or done under this Order.

Establishment of office of Commissioner

4. - (1) There shall be a Commissioner for the Territory who shall be appointed by Her Majesty by instructions given through a Secretary of State and who shall hold office during Her Majesty's pleasure.

(2) During any period when the office of Commissioner is vacant or the holder thereof is for any reason unable to perform the functions of his office those functions shall, during Her Majesty's pleasure, be assumed and performed by such person as Her Majesty may designate in that behalf by instructions given through a Secretary of State.

Powers and duties of Commissioner

5. The Commissioner shall have such powers and duties as are conferred or imposed on him by or under this Order or any other law and such other functions as Her Majesty may from time to time be pleased to assign to him and, subject to the provisions of this Order and of any other law, shall do and execute all things that belong to his office according to such instructions, if any, as Her Majesty may from time to time see fit to give him.

Official stamp

6. There shall be an Official Stamp for the Territory which the Commissioner shall keep and use for stamping all such documents as may be required by any law to be stamped

therewith.

Constitution of offices

7. The Commissioner, in Her Majesty's name and on Her Majesty's behalf, may constitute such offices for the Territory as may lawfully be constituted by Her Majesty and, subject to the provisions of any law for the time being in force in the Territory and to such instructions as may from time to time be given to him by Her Majesty through a Secretary of State, the Commissioner may likewise-

(a) make appointments, to be held during Her Majesty's pleasure, to any office so constituted; and

(b) terminate any such appointment, or dismiss any person so appointed or take such other disciplinary action in relation to him as the Commissioner may think fit.

Concurrent appointments

8. Whenever the substantive holder of any office constituted by or under this Order is on leave of absence pending relinquishment of his office- -

(a) another person may be appointed substantively to that office; and

(b) that person shall, for the purposes of any functions attaching to that office, be deemed to be the sole holder of that office.

No right of abode in the Territory

9. - (1) Whereas the Territory was constituted and is set aside to be available for the defence purposes of the Government of the United Kingdom and the Government of the United States of America, no person has the right of abode in the Territory.

(2) Accordingly, no person is entitled to enter or be present in the Territory except as authorised by or under this Order or any other law for the time being in force in the Territory.

Commissioner's powers to make laws

10. - (1) Subject to the provisions of this Order, the Commissioner may make laws for the peace, order and good government of the Territory.

(2) It is hereby declared, without prejudice to the generality of subsection (1) but for the avoidance of doubt, that, in the exercise of his powers under subsection (1), the Commissioner may make any such provision as he considers expedient for or in connection with the administration of the Territory, and no such provision shall be deemed to be invalid except to the extent that it is inconsistent with the status of the Territory as a British overseas territory or with this Order or with any other Order of Her Majesty in Council extending to the Territory or otherwise as provided by the Colonial Laws Validity Act 1865(a).

(3) All laws made by the Commissioner in exercise of the powers conferred by subsection (1) shall be published in the *Gazette* in such manner as the Commissioner may direct.

(4) Every law made by the Commissioner under subsection (1) shall come into force on the date on which it is published in accordance with subsection (3) unless it is provided, either in that law or in some other such law, that it shall come into operation on some other date, in which case it shall come into force on that other date.

Disallowance of laws

11. - (1) Any law made by the Commissioner in exercise of the powers conferred on him by this Order may be disallowed by Her Majesty through a Secretary of State.

(2) Whenever any law has been disallowed by Her Majesty, the Commissioner shall cause notice of the disallowance to be published in the *Gazette* in such manner as he may direct, and the law shall be annulled with effect from the date of that publication.

(3) Section 16(1) of the Interpretation Act 1978 shall apply to the annulment of a law under this section as it applies to the repeal of an Act of Parliament, save that a law repealed or amended by or in pursuance of the annulled law shall have effect as from the date of the annulment as if the annulled law had not been made.

Commissioner's powers of pardon, etc

12. The Commissioner may, in Her Majesty's name and on Her Majesty's behalf-

- (a) grant to any person concerned in or convicted of any offence against the law of the Territory a pardon, free or subject to lawful conditions; or
- (b) grant to any person a respite, either indefinite or for a specified period, of the execution of any sentence passed on that person for any such offence; or
- (c) substitute a less severe form of punishment for any punishment imposed by any such sentence; or

- (d) remit the whole or any part of any such sentence or of any penalty or forfeiture otherwise due to Her Majesty on account of any such offence.

Courts and judicial proceedings

13. - (1) Without prejudice to the generality of section 3(2), all courts established for the Territory by or under a law made under the existing Orders and in existence immediately before the commencement of this Order shall continue in existence thereafter as if established by or under a law made under this Order.

(2) All proceedings that, immediately before the commencement of this Order, are pending before any such court may be continued and concluded before that court thereafter.

(3) Without prejudice to the generality of section 3(2), the provisions of any law in force in the Territory as from the commencement of this Order that relate to the enforcement of decisions of courts established for the Territory or to appeals from such decisions shall apply to such decisions given before the commencement of this Order in the same way as they apply to such decisions given thereafter.

(4) The Supreme Court may, as the Chief Justice may direct, sit in the United Kingdom and there exercise all or any of its powers or jurisdiction in any civil or criminal proceedings.

(5) Subject to subsection (6), the Chief Justice may make a direction under subsection (4) where it appears to him, having regard to all the circumstances of the case, that to do so would be in the interests of the proper and efficient administration of justice and would not impose an unfair burden on any party to the proceedings.

(6) A direction under subsection (4) may be made at any stage of the proceedings or when it is sought to institute the proceedings and may be made on the application of any party to the proceedings or of any person who seeks to be or whom it is sought to make such a party or of the Chief Justice's own motion.

(7) Subject to any law made under section 10 (and without prejudice to the operation of section 3(2)), the Chief Justice may make rules of court for the purpose of regulating the practice and procedure of the Supreme Court with respect to the exercise of the Court's powers and jurisdiction in the United Kingdom.

(8) Without prejudice to the operation of section 3(2), a sub-registry may be established in the United Kingdom for the filing, sealing and issue of such documents relating to proceedings in the Supreme Court (whether or not they are proceedings in which the Court exercises its powers and jurisdiction in the United Kingdom) as may be prescribed by rules of court made by the Chief Justice.

(9) Anything done in the United Kingdom by virtue of subsections (4) to (8) shall

have, and have only, the same validity and effect as if done in the Territory.

(10) In this section, "the Supreme Court" means the Supreme Court of the Territory as established by or under a law made, or having effect as if made, under section 10 and "the Chief Justice" means the Judge (or, if there is more than one, the presiding Judge) of that Court.

Disposal of land

14. Subject to any law for the time being in force in the Territory and to any instructions given to the Commissioner by Her Majesty through a Secretary of State, the Commissioner, in Her Majesty's name and on Her Majesty's behalf, may make and execute grants and dispositions of any land or other immovable property within the Territory that may lawfully be granted or disposed of by Her Majesty.

Powers reserved to Her Majesty

15. - (1) There is hereby reserved to Her Majesty full power to make laws for the peace, order and good government of the Territory, and it is hereby declared, without prejudice to the generality of that expression but for the avoidance of doubt, that- -

- (a) any law made by Her Majesty in the exercise of that power may make any such provision as Her Majesty considers expedient for or in connection with the administration of the Territory; and
- (b) no such provision shall be deemed to be invalid except to the extent that it is inconsistent with the status of the Territory as a British overseas territory or otherwise as provided by the Colonial Laws Validity Act 1865.

(2) Without prejudice to the generality of the power to make laws reserved to Her Majesty by subsection (1), any such law may make such provision as Her Majesty considers expedient for the purposes for which the Territory was constituted and is set aside, and accordingly and in particular, to give effect to section 9(1) and to secure compliance with section 9(2), including provision for the prohibition and punishment of unauthorised entry into, or unauthorised presence in, the Territory, for the prevention of such unauthorised entry and the removal from the Territory of persons whose presence in the Territory is unauthorised, and for empowering public officers to effect such prevention or, as the case may be, such removal (including by the use of such force as is reasonable in the circumstances).

(3) In this section- -

- (a) "public officer" means a person holding or acting in an office under the Government or the Territory; and

(b) for the avoidance of doubt, references in this section to the prevention of unauthorised entry into the Territory include references to the prevention of entry into the territorial sea of the Territory with a view to effecting such unauthorised entry and references to the removal from the Territory of persons whose presence there is unauthorised include references to the removal from the territorial sea of the Territory of persons who either have effected an unauthorised entry into the Territory or have entered the territorial sea with a view to effecting such an unauthorised entry.

(4) There is hereby reserved to Her Majesty full power to amend or revoke this Order.

A. K. Galloway

THE SCHEDULE

Section 2(2)

Diego Garcia	Three Brothers Islands
Egmont or Six Islands	Nelson or Legour Island
Peros Banhos	Eagle Islands
Salomon Islands	Danger islands

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes new provision for the Constitution and administration of the British Indian Ocean Territory.

ANNEX 78

R. Wolfstrum, Statement to the Informal Meeting of Legal Advisers of Ministries of Foreign Affairs, New York, 23 October 2006

INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA



Statement by

H.E. JUDGE RÜDIGER WOLFRUM,

President of the
International Tribunal for the Law of the Sea

to the Informal Meeting of Legal Advisers
of Ministries of Foreign Affairs

New York

23 October 2006

Statement by

**H. E. Judge Rüdiger Wolfrum,
President of the International Tribunal for the Law of the Sea,**

**to the Informal Meeting of Legal Advisers
of Ministries of Foreign Affairs**

New York, 23 October 2006

Mr. Chairman

Excellencies,

Ladies and Gentlemen,

It is a great honour for me to address this meeting of distinguished Legal Advisers for the second time as President of the International Tribunal for the Law of the Sea. I am sincerely grateful for your kind invitation and I very much appreciate the possibility to exchange views on issues of mutual interest.

I feel that it would be useful to take this opportunity to discuss with you two recurring questions of great importance; namely, the competence of the Tribunal in maritime delimitation cases and the Tribunal's advisory function.

The competence of the Tribunal in maritime delimitation cases

A fundamental innovation of the United Nations Convention on the Law of the Sea of 1982 was the establishment of a comprehensive system for the settlement of disputes consisting of both voluntary and compulsory procedures. This system, which constitutes an integral part of the Convention - namely Part XV - applies to the vast majority of the provisions of the Convention, including those concerning sea boundary delimitation.

The procedures for the settlement of disputes are set out in Part XV of the Convention. According to Part XV, parties to a dispute concerning the Convention who fail to resolve their dispute through voluntary procedures are obliged to resort to compulsory procedures entailing binding decisions provided for in section 2 of Part

XV. It is noteworthy that, under the Convention, States Parties have accepted compulsory procedures by the mere fact of adhering to the Convention.

As you know, following complicated negotiations, consensus on a dispute settlement system was reached at the Third United Nations Conference on the Law of the Sea through the so-called "Montreux Compromise", which is reflected in article 287. This provision gives States Parties the possibility to choose, by means of a written declaration, one or more means for the settlement of disputes concerning the Convention, namely, the International Tribunal for the Law of the Sea, the International Court of Justice or arbitration. The adjudicating bodies referred to in article 287 have equal standing under the Convention. The jurisdiction of an adjudicating body becomes compulsory when the parties to a dispute have accepted it by virtue of a declaration. Of the present 149 States Parties, so far only 38 have filed declarations, of which 22 have chosen the Tribunal as their preferred means, or one of the means, for the settlement of maritime disputes. In the absence of a declaration, parties are deemed to have accepted arbitration, and this has proven to be the general rule, while selecting the Tribunal or the ICJ remains the exception. I wonder whether this development was anticipated when the Convention was adopted or whether arbitration was meant to be the exception rather than the rule, which it is *de facto* at the moment. It is therefore to be hoped that an increasing number of States will make declarations with regard to the choice of procedure, as is repeatedly recommended by the General Assembly.

In accordance with article 288 of the Convention, the Tribunal, the ICJ or an arbitral tribunal has jurisdiction over any dispute concerning the interpretation or application of the Convention. In this regard, disputes relating to maritime boundaries are – as a general rule – to be considered disputes concerning the interpretation or application of the Convention. Allow me to explain this point.

First of all, there is a specific reference to Part XV procedures in the provisions governing the delimitation of the exclusive economic zone and the continental shelf. In effect, articles 74 and 83 explicitly provide that, failing agreement on delimitation within a reasonable period of time, the States concerned shall resort to Part XV procedures.

Secondly, even without an explicit reference of this nature, there can be no doubt that disputes concerning the interpretation or application of other provisions, that is, those regarding the territorial sea, internal waters, baselines and closing lines, archipelagic baselines, the breadth of maritime zones and islands, are disputes concerning the Convention (see articles 3 to 15, 47, 48, 50, 57, 76 and 121).

Thirdly, if a State wishes to exclude certain maritime delimitation disputes from compulsory procedures it has to make a declaration opting out of such means, in accordance with article 298, paragraph 1(a) of the Convention. This declaration can be made in relation to disputes concerning the delimitation of the territorial sea (article 15), the exclusive economic zone (article 74) and the continental shelf (article 83) as well as those involving historic bays or titles. A small number of States have made use of this possibility. Some of these States have excluded delimitation disputes from all of the compulsory procedures while others have made a declaration excluding such disputes from one procedure only.

The fact that a State has excluded maritime delimitation disputes from compulsory procedures by virtue of article 298, paragraph 1(a) of the Convention does not mean that the dispute is entirely exempted from settlement under the Convention. The State concerned will be bound to refer the dispute to compulsory conciliation if the following conditions are met:

- the dispute must be one that has arisen subsequent to the entry into force of the Convention;
- conciliation will be mandatory only where no agreement between the parties is reached within a reasonable period of time;
- any dispute that necessarily involves the concurrent consideration of any unsettled dispute concerning sovereignty or other rights over continental or insular land territory is excluded from the submission to conciliation;
- also excluded from conciliation is any dispute finally settled by an arrangement between the parties.

Certainly, these conditions are peculiar to the compulsory conciliation procedure; they do not apply to adjudication by the Tribunal, the ICJ or arbitration. This is of particular relevance to the condition regarding "mixed" delimitation cases; namely cases in which a maritime dispute involves the concurrent consideration of any dispute concerning sovereignty or other rights over continental or insular land territory. I will come back to this point in a moment. In addition, it should be noted that, if mandatory conciliation has proven unsuccessful, the dispute may revert to the compulsory system, unless agreed otherwise by the parties.

The general rule that, under the Convention, all maritime delimitation disputes are subject to compulsory binding settlement – unless a declaration to opt out is made – applies to the Tribunal, the ICJ and arbitration. The adjudicating bodies referred to in article 287 are equal in terms of their jurisdiction over sea boundary disputes under Part XV of the Convention. The ICJ may, however, decide maritime delimitation cases beyond Part XV of the Convention on the basis of its jurisdiction as provided for in the Statute of the Court.

A fundamental principle of international adjudication is the consent of the parties. Accordingly, States are free to choose the procedures for resolving their disputes. In line with this principle, the Convention authorizes the parties to a dispute on issues of maritime delimitation, at any time, to agree jointly to submit the dispute to the Tribunal, or any other court or tribunal, by the notification of a special agreement. Through a special agreement, the parties can also overcome any limitations or exceptions to compulsory jurisdiction. Further, the parties to a dispute can always bring the dispute to the Tribunal even when they have chosen other compulsory means under article 287 of the Convention.

With regard to jurisdiction based on a special agreement, the area to be delimited will normally be determined in the special agreement between the parties and nothing prevents them from submitting to the Tribunal any maritime delimitation case involving issues regarding land boundaries or cases involving disputed sovereignty over islands.

As to compulsory jurisdiction – and by this I mean jurisdiction of the Tribunal or

any other court or tribunal on the basis of article 287 of the Convention - this covers disputes regarding the delimitation of the various maritime zones. In this respect, it may be noted that the competence of the Tribunal, or any other court or tribunal, to deal with the main claim that maritime delimitation be effected according to articles 15, 74 or 83 includes the associated question of delimitation over land or islands. I have indirectly alluded to this point already. This approach is in line with the principle of effectiveness and enables the adjudicative body in question to truly fulfil its function.

It is apparent that maritime boundaries cannot be determined in isolation without reference to territory. Moreover, sea boundaries are associated with issues of sovereignty, such as the determination of entitlements over maritime areas, the treatment of islands, the identification of the relevant basepoints - whether they are located at sea, in river mouths or on terra firma – or the fixing of baselines including archipelagic baselines. Such issues of sovereignty and the inter-relation between land and sea are addressed in several provisions of the Convention, for instance, those concerning internal waters, the territorial sea, baselines, archipelagic States and the continental shelf. The presence of islands is a frequent factor in maritime delimitation and the regime of islands is provided in article 121 of the Convention.

Issues of sovereignty or other rights over continental or insular land territory, which are closely linked or ancillary to maritime delimitation, concern the interpretation or application of the Convention and therefore fall within its scope. This may be evidenced by a reading *a contrario* of article 298, paragraph 1(a), namely, in the absence of a declaration under article 298, paragraph 1(a), a maritime delimitation dispute including the necessarily concurrent consideration of any unsettled dispute concerning sovereignty or other rights over continental or insular land territory is subject to the compulsory jurisdiction of the Tribunal, or any other court or tribunal.

In this connection, I would like to draw your attention to the fact that – apart from contentious proceedings - the parties to a maritime delimitation dispute may also take advantage of the Tribunal's advisory functions. Accordingly, they may request the Tribunal to determine the principles according to which the dispute can

be settled through direct negotiation. This brings me to the second part of my presentation, namely: the advisory function of the Tribunal.

The advisory function of the Tribunal

I will deal briefly with this topic.

The advisory function of the Tribunal is twofold. On the one hand, the Seabed Dispute Chamber has jurisdiction to give an advisory opinion with regard to matters pertaining to Part XI of the Convention. On the other hand, the Tribunal may give advisory opinions on the basis of other international agreements. I will explain this in more detail.

Under article 138 of its Rules, the Tribunal may be requested to give an advisory opinion on a legal question if an international agreement related to the purposes of the Convention specifically provides for the submission of a request for such an opinion. The Tribunal's advisory function is based on article 21 of the Statute, which states that the jurisdiction of the Tribunal comprises "all disputes and all applications submitted to it" and "all matters specifically provided for in any other agreement which confers jurisdiction on the Tribunal." Accordingly, future international agreements, for instance, between States or between States and international organizations, could provide for recourse to the Tribunal's advisory procedures. A request for an advisory opinion before the Tribunal is transmitted to the Tribunal by the body or entity so designated in accordance with the international agreement in question. For instance, States could consider submitting an advisory opinion directly to the Tribunal or through an international "body" such as the Meeting of States Parties to the Convention. The rules applicable to advisory proceedings before the Tribunal are set out in the Tribunal's Rules. Interested delegations will find detailed information on the Tribunal's proceedings, including its advisory function, in the *Guide to proceedings before the Tribunal*, copies of which are available here.

The advisory function of the Tribunal is a significant innovation in the international judicial system and may offer an interesting alternative to contentious proceedings, in particular, in view of its non-binding nature. Through an advisory

opinion, the requesting body may obtain legal guidance from the Tribunal on a specific question but the requesting body is not bound to accept the conclusions of the Tribunal. This could be advantageous for those seeking an indication as to how a particular dispute may be solved through direct negotiations. As mentioned earlier, the parties to a delimitation dispute could ask the Tribunal to determine the principles and rules of international law applicable to the dispute and undertake thereafter to establish the boundary on that basis. Although advisory procedures have not been used yet, they can certainly assist conflicting parties in reaching a settlement and even prevent them from engaging in a dispute.

Mr. Chairman

Excellencies,

Ladies and Gentlemen,

I conclude by expressing my appreciation to you for the opportunity given me to address this meeting. I thank you for your kind attention.

ANNEX 79

BIOT Ordinance No. 5 of 2007

THE BRITISH INDIAN OCEAN TERRITORY.

THE FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 2007

Ordinance No. 5 of 2007.

An Ordinance to consolidate, with amendments, existing provisions relating to the regulation, conservation and management of the fishing waters of the British Indian Ocean Territory and to provide for matters connected therewith or incidental thereto.

Arrangement of sections.

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Enacted by the Commissioner for the British Indian Ocean Territory

..... 2007

.....
Commissioner

THE BRITISH INDIAN OCEAN TERRITORY

Ordinance No. 5 of 2007

An Ordinance to consolidate, with amendments, existing provisions relating to the regulation, conservation and management of the fishing waters of the British Indian Ocean Territory and to provide for matters connected therewith or incidental thereto.

- Short title and commencement. 1. This Ordinance may be cited as the Fisheries (Conservation and Management) Ordinance 2007 and shall come into operation on such date as the Commissioner may appoint by notice which shall be published in the *Gazette*.
- Interpretation. 2. (1) In this Ordinance, unless the contrary intention appears -
- "the Director" means the Director of Fisheries appointed under section 4(1);
- "fish" means any marine animal (other than a bird but including shellfish), irrespective of whether it is fresh or cured, and any marine plant; and references to fish include references to any part of a fish;
- "a Fisheries Protection Officer" means any person declared by section 4(5) to be such an Officer and includes the Director;
- "fishing" means -
- (a) the catching or taking of fish;
 - (b) any activity which can reasonably be expected to result in the catching or taking of fish;
- or
- (c) any operation at sea in support of or in preparation for any activity mentioned in paragraph (a) or paragraph (b),
- and, for the avoidance of doubt, includes exploring or prospecting for the presence of fish and the collecting or taking by any means of sea cucumbers (all species of *Holothuria*) or molluscs;
- "fishing boat" has the meaning assigned to that term in subsection (2);
- "a fishing licence" means a licence granted under section 7;
- "the fishing waters" means the fishing waters of the Territory, as defined in section 3;
- "the Fisheries Conservation and Management Zone" means the zone of that name which was established by the Proclamation made by the Commissioner on 1 October 1991 (Proclamation No.1 of 1991) and

whose extent is defined in that Proclamation (as it may be amended from time to time by further such Proclamation);

"the internal waters of the Territory" means the sea-waters on the landward side of the baselines from which the territorial sea of the Territory is measured;

"a licence" means a fishing licence or a transshipment licence;

"the master", in relation to a fishing boat, includes any person for the time being in command or in charge of the boat and any person in charge of fishing operations on board the boat;

"prescribed" means prescribed by or under regulations made under section 21;

"shark" means all species of shark (elasmobranchii taxon)

"shellfish" includes crustaceans and molluscs of any kind, any (or any part of any) brood, ware, half-ware or spat of shellfish, any spawn of shellfish and the shell (or any part of the shell) of any shellfish;

"a transshipment licence" means a licence granted under section 10 and includes a fishing licence operating as a transshipment licence by virtue of section 10(4); and

"transshipment", in relation to fish, means the passing of the fish from one boat to another, whether or not it was first caught or taken by the boat from which it is passed.

(2)(a) In this ordinance, unless the contrary intention appears, the term "fishing boat" means, subject to paragraphs (b) and (c), any vessel of whatever size and in whatever way propelled which is for the time being employed in fishing or in the processing, storage or transport of fish or in any operations (including the transshipment of fish) ancillary to any of the foregoing; and, for the avoidance of doubt but subject as aforesaid, the term includes any vessel, of whatever size and in whatever way propelled, which is for the time being operating as an independent support vessel in support of one or more other vessels that are themselves engaged in fishing.

(b) The term "fishing boat" does not, in this Ordinance, include a vessel (such as, but not limited to, a net tender) whose principal use is in support of, and is integral to, the fishing operations of a larger vessel (being itself a fishing boat) and which, when not being so used, is normally stored on board that larger vessel as part of its fishing gear; but the term does include any vessel, whether or not normally stowed as aforesaid, which is itself employed in the catching or taking of fish.

(c) For the purposes of section 7(11), the term "fishing boat" has the meaning provided in that subsection.

(3) Unless the contrary intention appears, any provision of this ordinance, or of any regulations made under section 21, that confers

powers on a Fisheries Protection Officer or on a person acting under his direction in relation to a fishing boat that is within the fishing waters, or in relation to a person or thing connected therewith, shall be construed as conferring those powers also in relation to a fishing boat that is outside the fishing waters, or in relation to a person or thing connected therewith, in any circumstances in which, in international law, those powers may properly be exercised as a incident of the right of hot pursuit for an offence or suspected offence against any provision of this ordinance or any such regulations.

The fishing waters of the Territory.

3. The fishing waters of the Territory comprise -

- (a) the internal waters of the Territory;
- (b) the territorial sea of the Territory; and
- (c) the Fisheries Conservation and Management Zone.

Director of Fisheries and Fisheries Protection Officers.

4. (1) There shall be a Director of Fisheries for the Territory who shall be appointed by the Commissioner.

(2) The Director has charge of the administration of this Ordinance and of any regulations made under section 21 and, in particular and without prejudice to the generality of the foregoing, is responsible for -

- (a) the conservation of fish stocks;
- (b) the assessment of fish stocks and the collection of data (including statistics) and other information relevant thereto;
- (c) the development and management of fisheries;
- (d) the monitoring, surveillance and control of fishing and of operations ancillary to fishing;
- (e) the regulation of the conduct of fishing and of operations ancillary to fishing;
- (f) the grant, suspension, revocation and variation of licences under this Ordinance;
- (g) the collection of fees for licences; and
- (h) the making of such reports to the Commissioner as he may require.

(3) This Ordinance and any regulations made under section 21 shall be enforced by Fisheries Protection Officers who, for the purposes of their functions, have the powers conferred on them by this Ordinance and by or under any regulations made under section 21.

(4) In the exercise of their function Fisheries Protection Officers shall be subject to the direction of the Director:

Provided that in acting as a public prosecutor in relation to any proceeding arising under this Ordinance or under any regulations made under section 21 a Fisheries Protection Officer shall be subject to the direction of the Principal Legal Adviser.

(5) The following persons shall be Fisheries Protection Officers:

- (a) every person appointed as such by Commissioner;
- (b) every Peace Officer;
- (c) every person for the time being appointed to be an Imports and Exports Control Officer for the purposes of the Imports and Exports Control Ordinance 1984;
- (d) all commissioned officers of Her Majesty's ships; and
- (e) any person for the time being in command or in charge of any aircraft or hovercraft of the Royal Navy, the Army or the Royal Air Force.

Prohibited
fishing and
fishing
methods.

5. (1) Any person who within the fishing waters or within the Territory-

- (a) uses or permits to be used any explosive, poison or other noxious substance for the purpose of killing, stunning or disabling fish with a view to its being caught or taken or to rendering it more easily caught or taken; or
- (b) carries or has in his possession or control any explosive, poison or other noxious substance which is intended for any of the purposes mentioned in paragraph (a); or
- (c) uses, permits to be used or has in his possession any wire trace line; or
- (d) fails to release live into the fishing waters any shark or other large game fish caught while fishing; or
- (e) collects, takes by any means, or has in his possession any sea cucumber (which expression includes all species of Holothuria) or mollusc;

is guilty of an offence; and where a contravention of this subsection is committed on or from a fishing boat, the owner, master and charterer of the boat is each guilty of an offence.

(2) Any explosive, poison or other noxious substance which is found on board any fishing boat in the fishing waters shall be presumed, unless the contrary is proved, to be intended for a purpose mentioned in subsection (1)(a).

(3) Any person who lands, tranships, sells, buys, receives or is

found in possession of fish which has been caught or taken by the use of an explosive, poison or other noxious substance in contravention of subsection (1)(a) and who, at the time when he did so or was so found, knew or had reasonable cause to believe it to have been so caught or taken is guilty of an offence; and where a contravention of this subsection is committed on or from a fishing boat or by any member of the crew of a fishing boat, the master, the owner and the charterer of the boat is each guilty of an offence.

(4) In any proceedings for an offence under subsection (3) a certificate signed by a Fisheries Protection Officer stating the cause or manner of the death of, or of any injury suffered by, any fish shall be accepted as prima facie evidence of that matter, and any certificate purporting to be so signed shall be received in evidence as such unless credible evidence to the contrary is adduced.

(5) A person who is convicted of an offence under this section is liable to imprisonment for 6 months, or a fine of £50,000 or to both such imprisonment and fine.

Possession of prohibited fishing gear.

6. (1)(a) Any person who uses any prohibited fishing gear for fishing within the fishing waters is guilty of an offence.

(b) Any person who is found in possession other than on a fishing boat of any prohibited fishing gear, whether or not with the intention to use it within the fishing waters, is guilty of an offence.

(2) The master, the owner and the charterer of any fishing boat on which there is found, within the fishing waters, any prohibited fishing gear is each guilty of an offence.

(3) In this section "prohibited fishing gear" means -

(a) any net whose mesh size is smaller than the prescribed minimum size for nets of that type;

(b) any other type of fishing gear which does not conform to the standards prescribed for that type of gear; and

(c) any fishing gear which is prohibited by regulations made under section 21.

(d) any net which, for the purpose of fishing, is set or operated otherwise than by a fishing boat unless it is so set or operated in accordance with a permit issued by the Commissioner's Representative or a Fisheries Protection Officer;

(e) any trap, including (without prejudice to the generality of that term) any pot, barrier or fence;

(f) any gear for grappling or wounding, including (without prejudice to the generality of those terms) any harpoon, spear or arrow;

(g) in relation to fishing otherwise than by a fishing boat, any line unless the use of that line satisfies the conditions specified (in relation to fishing by a fishing boat) in paragraphs (a) to (d) of section 7(10).

(h) any diving equipment or underwater swimming equipment unless the person in possession of that equipment has a permit to use it issued by the Commissioner.

(4) A permit issued for the purposes of sub-sections (3)(d) or (h) may be unconditional or may be made subject to such conditions as the Commissioner or the officer issuing it thinks fit.

(5) The Director of Fisheries may impose, or authorise the imposition of, fees for the issue of permits for the purpose of subsection (3)(d) and, without prejudice to the generality of section 43 of the Interpretation and General Provisions Ordinance 1993, different fees may be imposed for different permits or for different categories of permits.

(6) Sub-section (3)(d) does not apply to the use of nets for fishing under arrangements, approved for the purposes of this paragraph, made by the Morale, Welfare and Recreation organisation of the United States Forces ("MWR") and if all of the following conditions are satisfied: -

(a) the nets used are hand-held cast nets;

(b) they are used only for fishing for bait fish; and

(c) they are used only in the waters of Diego Garcia and its environs and are not used in areas of actively growing coral.

(7) Arrangements made by MWR are approved for the purposes of sub-section (6) if they provide, to the satisfaction of the Director of Fisheries, for MWR to collect, and to make available to any Fisheries Protection officer on request and to the Director at such intervals as may from time to time be notified to MWR by or on behalf of the Director, accurate data (in such form as may be so notified to MWR) giving the following information: -

(a) the total catch, in weight, of the major species of fish caught on each occasion when nets are used as specified in sub-section (6);

(b) the number of nets so used on each such occasion; and

(c) the locations in which nets are so used on each such occasion.

(8) Where, in any proceedings for an offence under sub-section (2), it is proved that prohibited fishing gear was found on a fishing boat within the fishing waters, the onus of proof that no person had used or intended to use that gear for fishing within the fishing waters shall lie on the accused person.

(9) (a) A person who is convicted of an offence under sub-sections 1(a) or 2 is liable to a fine of £50,000.

(b) A person who is convicted of an offence under sub-sections 1(b) is liable to a fine of £5,000.

7. - (1) Fishing within the fishing waters is prohibited unless carried out in accordance with a licence (a "fishing licence") granted by the Director under this section.

(2)(i) Where sub-section (1) is contravened by fishing by a fishing boat, the master, the owner and charterer of the boat is each guilty of an offence and is liable, on conviction, to a fine of £500,000.

(ii) Where sub-section (1) is contravened by a person fishing other than by a fishing boat such person shall be liable upon conviction to a fine of £5,000.

(3) (i) Every fishing licence for fishing by a fishing boat shall be granted in respect of a single fishing boat specified in it and may be granted to the master, the owner or the charterer of the boat.

(ii) Every fishing licence for fishing other than by a fishing boat shall be granted in respect of the person specified in it.

(iii) No fishing licence may permit fishing for marine mammals.

(4) The authority to fish in the fishing waters that is conferred by a fishing licence may be unlimited or may be limited by reference to such matters as the Director thinks fit, including (but not confined to)-

(a) the area within which fishing is authorised;

(b) the period, times or particular voyages during which fishing is authorised;

(c) the descriptions, quantities, sizes and presentation of the fish that may be caught or taken or, conversely, that may not be caught or taken, whether as by-catch or otherwise; and

(d) the method of fishing and the type or construction of the fishing gear to be used.

(5) Within any limitation imposed under subsection (4) and subject to any regulations made under section 21, a fishing licence may be unconditional or may be made subject to such conditions as the Director thinks fit, including (but not confined to) conditions as to -

(a) the landing of any fish caught or taken;

(b) the use to which any fish caught or taken may be put;

(c) the marking of the licensed fishing boat in accordance with accepted international practice, or as directed by a Fisheries Protection Officer, including the display of its assigned international radio call sign;

(d) the installation on the licensed fishing boat of any equipment specified in the condition, including equipment for monitoring the position or operation of the boat;

(e) the records of fishing operations to be kept on board the licensed fishing boat;

(f) the records of fish caught to be kept and maintained by a person licensed to fish other than by a fishing boat.

(6) (i) Where a condition to which a fishing licence is subject is contravened in respect of fishing by a fishing boat, the master, the owner and the charterer of the fishing boat in respect of which the licence was granted is each guilty of an offence and is liable, on conviction, to a fine of £200,000.

(ii) Where a condition to which a fishing licence is subject is contravened by a person fishing otherwise than by a fishing boat such person shall be liable upon conviction, to a fine of £5,000.

(7) Fees may be charged for fishing licences in accordance with regulations made under section 21.

(8) The master, the owner or the charterer of a fishing boat in respect of which he intends to apply for a fishing licence and each person applying for a licence to fish other than by a fishing boat shall, before so applying, supply to the Director such information as the Director may require or as may be prescribed by or under regulations made under section 21; and a person who, for the purpose of obtaining a fishing licence or in purported compliance with any such requirement or prescription, supplies information which he knows to be false or misleading in any material particular or recklessly supplies information which is so false or misleading is guilty of an offence and is liable, on conviction, to a fine of £50,000.

(9) The Director may at any time suspend or revoke a fishing licence or vary it in any respect; but no part of any fee that was charged for the licence shall, in any such case, be refunded unless the Director considers that it is appropriate, in all the circumstances of the case, to make such a refund.

(10) Subsection (1) does not apply to fishing, by persons who are lawfully present in the Territory, including but not limited to United States personnel and United Kingdom personnel lawfully present in Diego Garcia, if the following conditions are satisfied: -

(a) the fishing is, or is to be, for a reasonable amount for personal consumption within 3 days by the person fishing, and not for sale, barter or other profit;

(b) the fishing is, or is to be, carried out by an attended line

(whether or not with a rod);

(c) there is, or there is to be, at any one time no more than two such lines in use under the control of any one person, each line having no more than three hooks attached to it (or such other lesser number of hooks as may, for that occasion, have been specified to that person by a Fisheries Protection Officer); and

(d) the fishing is not, or is not to be, carried out in any area of the Territory which is specified, by a notice signed by the Commissioner and published in the Gazette, to be an excepted area for the purposes of this subsection.

(11)(a) The exception to subsection (1) that is provided by subsection (10) does not apply to any fishing carried out by a fishing boat (other than one based in and operating out of Diego Garcia in circumstances where the persons fishing from that boat have paid, or have contracted to pay, for the right to do so or to be on board the boat); and any boat that is being used in such circumstances is deemed to be a fishing boat for the purposes of that subsection.

(b) No fish caught by fishing in accordance with the provisions of subsection 10 may be frozen, and the burden of proving that frozen fish was not caught within the fishing waters of the Territory or was caught from a licensed fishing boat shall lie on the person in possession of such frozen fish.

(12) (a) Subsection (1) does not apply to fishing, by persons who are lawfully present in the Territory, if such fishing is part of a fishing tournament, the limitations and conditions for which have been arranged or approved in writing by the Commissioner's Representative not less than seven days before the tournament.

(b) No such tournament may last more than one day.

(13) The foregoing provisions of this section are without prejudice to -

(a) any prohibition, restriction, condition or requirement imposed by or under a regulation made under section 21; and

(b) any other law for the time being in force in the Territory with respect to the protection and preservation of wildlife or with respect to the conservation of the natural resources of the Territory or with respect to the regulation of activities within the waters of the Territory or with respect to visitors and visiting vessels.

Notification of
fish on board
fishing boats.

8. - (1) The master of a fishing boat that has fish on board shall -

(a) before the boat enters the fishing waters; and

(b) before the boat leaves an area of the fishing waters in which it is licensed to fish,

notify a Fisheries Protection Officer of the quantities, sizes, descriptions and presentation of the fish on board.

(2) A master who, without reasonable excuse, contravenes subsection (1) or who, in pursuance of that subsection, gives a notification which he knows to be false or misleading is guilty of an offence and is liable, on conviction, to a fine of £50,000.

(3) The giving of a notification under this section is not a defence to a prosecution for an offence under section 17(8).

Stowage of gear.

9. - (1) At any time when a fishing boat is in any area of the fishing waters and either -

(a) it is not authorised by a fishing licence to fish in that area; or

(b) it is so authorised to fish only for certain descriptions of fish in that area,

its fishing gear, or so much of it as is not required for the fishing which it is authorised to carry out, shall be stowed in such manner as is prescribed or, if no manner is prescribed, in such manner that it is not readily available for use for fishing.

(2) If subsection (1) is contravened, the master of the fishing boat in question is guilty of an offence and is liable, on conviction, to a fine of £100,000.

Transshipment.

10.- (1) The transshipment of fish from a fishing boat within the fishing waters or the transport from the territorial sea of the Territory or the internal waters of the Territory by any fishing boat of fish transhipped from another fishing boat is prohibited unless it is carried out in accordance with a licence (a "transshipment licence") granted by the Director under this section in respect of every fishing boat concerned.

(2) Where subsection (1) is contravened, the master, the owner and the charterer of each boat which took part in the contravention is each guilty of an offence and is liable, on conviction, to a fine of £500,000.

(3) Every transshipment licence shall be granted in respect of a single fishing boat specified in it and may be granted to the owner or the charterer of the boat.

(4) If (but only if) it purports to do so, a fishing licence may also operate as a transshipment licence and may accordingly include, in addition to conditions or other provisions relating to fishing by the fishing boat specified in it, such conditions or other provisions relating to the transshipment or transport of fish as are authorised by this section.

(5) The authority to carry out the transshipment or transport of fish that is conferred by a transshipment licence may be unlimited or

may be limited by reference to such matters as the Director thinks fit, including (but not confined to) -

- (a) the area within which fish may be transhipped;
- (b) the periods or times within which fish may be transhipped or may be transported by a fishing boat authorised by the licence to do so;
- (c) the descriptions and quantities of fish that may be transported by a fishing boat authorised by the licence to do so; and
- (d) the number of times that fish may be transported by a fishing boat authorised by the licence to do so.

(6) Within any limitation imposed under subsection (5) and subject to any regulations made under section 21, a transshipment licence may be unconditional or may be made subject to such conditions as the Director thinks fit, including (but not confined to) conditions as to the treatment of transhipped fish on board the fishing boat to which it has been passed.

(7) Where a condition to which a transshipment licence is subject is contravened, the master, the owner and the charterer of the fishing boat in respect of which the licence was granted is each guilty of an offence and is liable, on conviction, to a fine of £100,000.

(8) Fees may be charged for transshipment licences in accordance with regulations made under section 21.

(9) The Director may require the master, the owner or the charterer of a fishing boat in respect of which a transshipment licence has been granted, or any person who is for the time being designated to the Director, under regulations made under section 21, as the agent of the owner or charterer in respect of that boat, to provide him with such information, relevant to the licence or to the operation of the boat, as he may direct; and any person to whom such a requirement is addressed who fails without reasonable excuse to comply with it is guilty of an offence and is liable, on conviction, to a fine of £20,000.

(10) Any person who, for the purpose of obtaining a transshipment licence or in purported compliance with a requirement under subsection (9), provides information which he knows is false or misleading in any material particular or recklessly supplies information which is so false or misleading is guilty of an offence and is liable, on conviction, to a fine of £50,000.

(11) The Director may at any time suspend or revoke a transshipment licence or vary it in any respect; but no part of the fee that was charged for the licence shall, in any such case, be refunded unless the Director considers that it is appropriate, in all the circumstances of the case, to make such a refund.

powers.

regulations and subject to subsection (3), be exercised by him in his absolute discretion to such extent, in such manner and in such cases as he considers necessary or expedient for the regulation of fishing or of the transshipment of fish, for the conservation or management of fisheries or for the economic benefit of the Territory.

(2) Without prejudice to the generality of subsection (1) but subject as provided in that subsection, the Director may, in exercising his powers as aforesaid, make different provision or impose different requirements (including provision or requirements as to fees) for different boats or boats of different descriptions and may impose different limitations on or attach different conditions to licences granted in respect of different boats or boats of different description, and he may in particular exercise his powers as aforesaid for the purpose of limiting the number of boats, or boats of any particular description, that may engage in fishing, transshipping fish or transporting fish within the fishing waters; and the references in this subsection to the description of a boat include references to the country in which is registered.

(3) In the exercise of his powers and duties under this Ordinance or under any regulations made under section 21, the Director shall be subject to the direction of the Commissioner, who, in giving him any such direction, shall enjoy the same discretion as is vested by this section in the Director:

Provided that in acting as a public prosecutor in relation to any proceedings arising under this Ordinance or under any regulations made under section 21 the Director shall be subject to the direction of the Principal Legal Adviser.

(4) The exercise of the Director's power to grant licences shall be sufficiently signified if signified under the hand of a person authorised by the Director in writing to signify on his behalf.

General
enforcement
powers of
Fisheries
Protection
Officers.

12.- (1) For the purpose of enforcing the provisions of this Ordinance and of any regulations made under section 21, a Fisheries Protection Officer and any person acting under his direction may exercise the following powers with respect to any person whom he believes to have committed an offence in contravention of any provision of this Ordinance, and with respect to any fishing boat within the fishing waters or with respect to any boat within the fishing waters which he believes to be, or to have been, employed as a fishing boat within those waters: -

- (a) he may stop the boat;
- (b) he may require such person, or in respect of a boat the master of the fishing boat to cease fishing and take back on board the boat's fishing gear;
- (c) he may require such a master to facilitate the boarding of the boat by all appropriate means;
- (d) he may go on board the boat and take with him such other persons as he may require to assist him in the exercise of his powers;

- (e) he may require any person (including the master or any member of the crew of a boat) to produce, and he may examine and take copies of, any document relating to the person, the boat or to any person that is in that person's possession or control, including (without prejudice to the generality of the foregoing) any certificate of registry, licence, official logbook, official paper, article of agreement, passport, or record of fish caught or taken;
- (f) he may muster the crew of the boat;
- (g) he may require the master of the boat to appear and give an explanation of any matter that he may put to the master concerning the boat or concerning any such person or any such document as is mentioned in paragraph (e);
- (h) he may make any search, examination or enquiry which he considers necessary to establish whether there has been an contravention of any provision of this Ordinance or of any regulations made under section 21;
- (i) he may take, or require the master to take, the boat (together with the crew and any other person on board) to such place within the Territory as he may appoint for the purpose of enabling any such search, examination or enquiry to be carried out;
- (j) where he suspects any person or master or member of the crew of a fishing boat of having committed an offence under this Ordinance or under any regulations made under section 21, he may, without warrant, summons or other process, take the suspected offender and take, or require the master to take, the boat (together with the crew and any other person on board) to such place within the Territory as he may appoint, and he shall then bring the suspected offender before a competent court; and, subject to section 13 and to any order made by the court, he may cause the suspected offender, the master, the crew and any other such person as aforesaid, and also the boat, to be detained in the Territory until the suspected offence has been adjudicated upon;
- (k) in the case of a boat which, in the exercise of his powers under this Ordinance or under any regulations made under section 21, he has taken or caused to be taken to any place in the Territory or has caused to be detained in the Territory or has seized, he may take such steps as he considers necessary, while having regard to the safety of the boat, to immobilise it for the purpose of preventing it from departing from that place before the completion of the search, examination or enquiry for which it was taken there or, as the case may be, before it is released from detention or seizure under the provisions of this Ordinance or by order of a court;
- (l) in any case where he suspects that an offence under section 6(1), 6(2), 7(2), section 7(6), section 10(2) or section

10(7) has been committed, he may -

(i) seize any fishing gear, equipment or boat which he believes to have been involved in the commission of that offence;

(ii) seize the equipment and fishing and other gear of any such person or boat, and also any instruments, appliances, stores and cargo;

(iii) seize any fish which he believes to have been caught or taken or transhipped or transported in the commission of that offence or any fish products produced from any such fish; and

(iv) seize, or take copies of, any documents which he believes to be relevant to that offence.

(2) In relation to any action which, under paragraph (i) or paragraph (j) of subsection (1), a Fisheries Protection Officer may take, or may require to be taken, in respect of a fishing boat, the references in that paragraph to the boat include references to its fishing or other gear, to its instruments and appliances, to its stores and cargo and to any fish or fish products on board it.

(3) In exercising the powers conferred on him by subsection (1), a Fisheries Protection Officer or any person acting under his direction may use such force as is reasonably necessary.

(4) The powers conferred by this section may be exercised irrespective of whether any person or fishing boat in respect of which, or in respect of whose operations or suspected operations, they fall to be exercised is, at the time when they fall to be exercised, engaged in fishing or in operations ancillary to fishing.

(5) Upon any person, including, but not limited to the master or a member of the crew of a fishing boat, refusing or failing to comply with any order or direction given by a Fisheries Protection Officer in the exercise of his powers under this or any other section of this Ordinance or obstructing such an officer in relation to the exercise of his said powers, and upon such officer reporting such refusal, failure or obstruction to the Director, any licence held by such person, or held by some other person in respect of the fishing boat of which such person is master or a member of the crew shall forthwith be revoked, and the holder of such licence shall not be entitled to any refund of fees paid in respect of such a revoked licence.

Disposal of
detained or
seized boats,
etc.

13.- (1) Where, in exercise of a power conferred by section 12 or by any regulation made under section 21 or in pursuance of a requirement imposed in the exercise of such a power, a boat is seized or is taken to a place within the Territory and there detained, then, if no proceedings for an offence under this ordinance or under such regulations, being an offence alleged to have been committed in connection with that boat, have been instituted within 14 days after the boat is brought to Diego Garcia following the seizure or, as the case may be, within 14 days after the arrival of the boat at that place and if the master, the owner or the charterer or the agent of the owner

or the charterer so demands, the boat, together with any person on board it and any thing seized with it or on board it at the time when it was seized or was so taken, shall be released.

(2) Where any thing is seized under section 12(1)(l)(ii), (iii) or (iv) and the boat concerned (that is to say, the boat from which it was seized or to which the court is satisfied that it belongs) is not itself either seized under section 12(1)(l)(i) or taken by a Fisheries Protection Officer or a person acting under his direction to a place within the Territory under section 12(1)(j), then, unless the master of that boat has, within the specified period, taken his boat to the appointed place within the Territory in pursuance of a requirement laid on him under section 12(1)(j) or, if he is not subject to such a requirement, unless he has, within the specified period, otherwise taken it to Diego Garcia or such other place within the Territory as a Fisheries Protection Officer or a person acting as aforesaid may appoint and has there reported its arrival to a Fisheries Protection Officer, the thing seized may, subject to the following provisions of this section, be ordered by a court to be forfeited to the Crown and shall then be disposed of as the Commissioner may direct.

(3) A court may not make an order for forfeiture under subsection (2) save on application made by or with the authority of the Principal Legal Adviser.

(4) Where any thing has been seized in the circumstances referred to in subsection (2) and, within the specified period, the fishing boat concerned has been taken to a place within the Territory as specified in that subsection, then, if no proceedings in respect of the suspected offence in connection with which the seizure was made have been instituted within 14 days after the arrival of the boat at that place and if the master, the owner or the charterer of the boat or the agent of the owner or the charterer so demands, the thing shall be released.

(5) In this section "the specified period" means the period of 14 days after the seizure of the thing in question or such longer period as a court may allow in any particular case.

(6) Notwithstanding any other provision of this Ordinance, where any perishable goods (that is to say, fish or fish products or other goods which are subject to decay unless kept in storage facilities specially designed or adapted for that purpose) have been seized under any provision of this Ordinance and -

(a) before the elapse of any period after which, under any provision of this Ordinance, those goods must, on demand, be released; or

(b) before any such demand is made; or

(c) before the conclusion of any proceedings pending which those goods are being held,

a court is satisfied that, because of the deteriorating condition of the

goods, it is no longer practicable to keep them, the court may order them to be destroyed or otherwise disposed of; and no compensation therefor shall be payable to the owner of the goods or to any other person claiming an interest in them.

Security for
release of
seized or
detained boat,
etc.

14.- (1) Where a fishing boat is seized or detained under this Ordinance or under any regulations made under section 21 in connection with a suspected offence under this Ordinance or under any such regulations and proceedings for that offence are instituted against the master, the owner or the charterer of the boat or the agent of the owner or the charterer, the master, the owner or the charterer may, at any time before the conclusion of those proceedings, apply to the court which is, or will be, seised of the proceedings for the release of the boat on the provision of security in accordance with this section.

(2) If, on an application under subsection (1), the court is satisfied that adequate security has been given to the Crown as specified in subsection (3), it may order the release of the boat.

(3) The security which is to be given to the Crown for the purposes of subsection (2) is security for the aggregate of -

(a) the maximum fine that may be imposed on the defendant for the offence with which he is charged;

(b) a sum representing the value (as estimated by the court) of anything that may in due course be ordered under section 17(3) to be forfeited to the Crown; and

(c) such sum by way of costs and expenses as the court estimates may in due course be ordered by the court to be paid to the Crown under section 17(6),

or for such lesser aggregate sum as the prosecution agrees to and the court approves.

(4) If, on an application under subsection (1), the court is not satisfied as mentioned in subsection (2), it may order the release of the boat on the execution by one or more suitable persons approved by it of a bond, in the prescribed form (or in such form as it may specially approve) and conditioned in accordance with subsection (5), in an amount corresponding to the aggregate of the sums specified in paragraphs (a), (b) and (c) of subsection (3) or in such lesser amount as the prosecution agrees to and the court may fix having regard to any special circumstances of the case; but the order for release shall not have effect until the bond is executed to the satisfaction of the court.

(5) The condition of a bond executed for the purposes of subsection (4) shall be that if -

(a) at the conclusion of the proceedings, the defendant is not convicted of the offence with which he was charged; or

(b) having been convicted of that offence, he pays in full and

within 14 days (or such longer period as the court may, on application by him, allow) the fine imposed on him by the court, the sum specified in subsection (3)(b) (or such lesser sum as the court may allow, having regard to such order for forfeiture as has in fact been made) and the amount of any costs and expenses ordered by the court to be paid to the Crown,

the bond shall then be of no effect, but that it shall otherwise, on the expiry of the said 14 days (or such longer period as aforesaid), be of full effect and enforceable.

(6) Without prejudice to any remedy available for the enforcement of any fine imposed, or any other order made, by the court, the sum for which a bond is executed for the purposes of this section is, when the bond has become enforceable, due to the Crown as a civil debt owed by the person, or owed jointly and severally by the persons, who executed the bond, and is recoverable as such.

(7) In this section references to the release of a boat that has been seized or detained include references to the release of any person on board it and any thing seized with it or on board it at the time when it was seized or detained.

Fisheries
Protection
Officers'
immunity form
process.

15. No civil suit or criminal process shall be brought against any Fisheries Protection officer, or against any person acting under the direction of a Fisheries Protection Officer, in respect of any act performed by him, in good faith and with reasonable cause, in the exercise or purported exercise of his functions under this Ordinance or under any regulations made under section 21.

Obstruction of
Fisheries
Protection
Officers.

16. Without prejudice to any other provision in that behalf contained in this Ordinance or in any regulations made under section 21, any person who wilfully obstructs a Fisheries Protection Officer, or any person acting under the direction of a Fisheries Protection Officer, in the exercise of his functions under this ordinance or under such regulation or who, without reasonable cause (the onus of proof of which lies on him), refuses or neglects to comply with any order, direction or requirement lawfully given to him or laid on him by a Fisheries Protection Officer, or by any person acting as aforesaid, or to answer any question reasonably put to him by a Fisheries Protection Officer, or by any person acting aforesaid, or who prevents another person from so complying or so answering is guilty of an offence and is liable, on conviction, to a fine of £100,000.

Offences,
penalties,
evidence and
proceedings,
etc.

17.- (1) Any person who commits a contravention of any provision of this Ordinance or of any regulations made under section 21 (being a contravention which is not, by any such provision other than this subsection, specifically declared to be an offence) commits an offence under this subsection and is liable, on conviction, to a fine of £100,000.

(2) Without prejudice to section 319 of the Penal Code, any person who attempts to commit an offence under this Ordinance or under any regulations made under section 21 commits an offence under this subsection and is liable, on conviction, to the same fine as

if he had committed the attempted offence.

(3) Without prejudice to any provision of this Ordinance authorising the imposition of a fine in any such case, where a person is convicted of any offence under this ordinance or under any regulations made under section 21 (being an offence in respect of the use or operation of a fishing boat), the court may, in addition to imposing a fine but subject to subsection (4), order that any fishing or other gear, or instruments or appliances, on board the boat (whether or not used in the commission of the offence), and any fish or fish products on board the boat (whether or not the offence related thereto), shall be forfeited to the Crown; and anything so forfeited shall then be disposed of as the Commissioner may direct.

(4) A court may not make an order for forfeiture under subsection (3) save on application made by or with the authority of the Principal Legal Adviser.

(5) Notwithstanding any provision of law limiting the time within which proceedings may be commenced, proceedings for an offence under this Ordinance or under any regulations made under section 21 may be commenced at any time after the commission of that offence.

(6) Notwithstanding section 194(1) of the Criminal Procedure Code 1986, the Magistrates' Court, on convicting any person of an offence under this Ordinance or under any regulations made under section 21, has jurisdiction to impose on him any fine to which he is liable under this Ordinance or under those regulations for that offence; and notwithstanding section 226(1) of that Code, any court may, in such a case, order that person to pay to the Crown such costs and expenses incurred by the Crown in preparation for or otherwise in connection with the proceedings as it thinks proper (including the expenses incurred, whether before or after the commencement of the proceedings, in the exercise of any of the powers vested in a Fisheries Protection Officer).

(7) Every Fisheries Protection Officer shall be ex officio a public prosecutor in proceedings for offences under this Ordinance or under any regulations made under section 21.

(8) Without prejudice to any liability for an offence under section 7(2) or under section 10, the master of a fishing boat on which there is found fish that has been caught or taken within the fishing waters otherwise than in accordance with a fishing licence or that has been transhipped to the boat within the fishing waters otherwise than in accordance with a transhipment licence is guilty of an offence and is liable, on conviction, to a fine of £200,000; and in any proceedings in any such case, whether for an offence under this subsection or for an offence under section 7(2) or section 10 or under regulations made under section 21, it shall be sufficient for the prosecution to prove that the fish was found on the boat and the onus of proving -

(a) that the fish was not caught or taken within the fishing waters; or, alternatively,

(b) that it was caught or taken in accordance with a fishing

licence; or, alternatively,

(c) that it was transhipped to that boat outside the fishing waters or in accordance with a transshipment licence,

shall then lie on the accused.

(9) A certificate signed by the Director or by any person authorised by him to sign such a certificate -

(a) as to whether or not, at any material time specified in the certificate, a fishing boat so specified was licensed under this Ordinance; or

(b) as to the nature of any such licence; or

(c) as to any limitations imposed on, or conditions attached to, any such licence;

(d) as to who was the person to whom any such licence was granted,

shall, if tendered in evidence in any proceedings under this Ordinance or under any regulations made under section 21, be sufficient evidence of that matter unless the contrary is proved.

(10) Any certificate which purports to be such a certificate as is mentioned in subsection (9) shall, in any such proceeding as aforesaid, be received in evidence as such, without proof of signature or of authorisation to sign, unless credible evidence to the contrary is adduced; and a facsimile copy of such a certificate shall be received in evidence as if it were the original certificate.

Revocation of
licences of
repeated
offenders.

18.- (1) Where any person has once been convicted of any offence to which this section applies and is, within the period of five years following the date of that conviction, convicted of the like or any other such offence committed after that date, then, subject to subsection (3), any licence which he then holds is thereupon revoked and he shall, for the period of three years following the date of that subsequent conviction, be disqualified from being granted any further licence.

(2) Where a licence is revoked in accordance with subsection (1), no part of any fee that was charged for the licence shall be refunded unless the Director considers that it is appropriate, in all the circumstances of the case, to make such a refund.

(3) If any person whose licence is revoked in accordance with subsection (1) applies to the Director within 30 days of the conviction by virtue of which it is revoked or within such longer period as the Director may allow, the Director, in his discretion and having regard to all the circumstances of the case, may restore the licence, with effect from such date and with such variations and subject to such conditions as he thinks fit, and may remove, or reduce the duration of, or vary in such other respect as he thinks fit, the disqualification

imposed by that subsection.

(4) The offences to which this section applies are any offences under this Ordinance (or under any Ordinance repealed by this Ordinance) or under any regulations made (or deemed to be made) under section 21.

Fixed penalty
notices and
procedure

19. (1) Where, on any occasion, a Fisheries Protection Officer finds a person who he has reason to believe is committing or has on that occasion committed an offence under this Ordinance or under any regulations made under section 21, he may give that person a fixed penalty notice in respect of that offence.

(2) In this section "fixed penalty notice" means a notice offering the opportunity of the discharge of any liability to be convicted of the offence to which the notice relates by payment of a fixed penalty in accordance with this section.

(3) A fixed penalty notice must –

- (a) give such particulars of the circumstances alleged to constitute the offence to which it relates as are necessary for giving reasonable information about the alleged offence;
- (b) be issued from an authorised sequentially numbered official pad of notices in the form prescribed in the schedule;
- (c) state the amount of the fixed penalty;
- (d) state that the fixed penalty may be paid forthwith to the Fisheries Protection Officer,

and a copy of the provisions of this section shall be attached to the notice.

(4) The fixed penalty for an offence is -

- (a) £5000 for an offence relating to fishing from a fishing boat and £200 for an offence relating to a person fishing other than from a fishing boat or relating to a person fishing from a fishing boat based in and operating out of Diego Garcia in circumstances where the persons fishing from that boat have paid, or have contracted to pay, for the right to do so or to be on board the boat; or
- (b) one-half of the maximum fine to which a person committing the offence would be liable on conviction of that offence by the Magistrates' Court,

whichever is the less.

(5) Where a fixed penalty notice has been given to a person no proceedings may be brought against him for the offence if he has forthwith paid the penalty to the Fisheries Protection Officer.

(6) A Fisheries Protection Officer shall issue to the recipient an official receipt for every payment made to him in respect of a fixed penalty and every Fisheries Protection Officer shall account to the Commissioner for each fixed penalty notice form and receipt form issued to him and for all payments received by him.

(7) For the avoidance of doubt, nothing in this section obliges an officer to issue a fixed penalty notice when he decides that the alleged offender should be prosecuted for the alleged offence.

(8) Where the fixed penalty notice relates to the unlawful possession of prohibited fishing gear, in addition to the payment of the penalty, the recipient shall surrender to the officer the prohibited fishing gear for destruction.

Non-payment of fines, etc: detention and forfeiture of boat.

20.- (1) When any fine is imposed on the master, the owner or the charterer of a fishing boat for an offence under this Ordinance or under any regulations made under section 21, or where any sum is ordered by a court to be paid by him to the Crown by way of costs or expenses incurred in connection with the proceedings for that offence, then, if no security therefor has been given, or bond for the payment thereof has been executed, under section 14, or if the court considers that any such security or bond is inadequate to secure the payment of the sums due from him in consequence of his conviction (including the value of anything ordered to be forfeited to the Crown that is not already being detained under this Ordinance), it may order that, in default of payment forthwith of all such sums, he shall give security (or additional security) therefor to the satisfaction of the court; and, subject to subsection (2), his fishing boat may then be detained (or continue to be detained) in such place within the Territory as the court may order until all such sums are paid (and anything ordered to be forfeited but not already detained has been surrendered to the court) or until security is given as aforesaid.

(2) If any such fine as is referred to in subsection (1) or any such sum by way of costs and expenses as is there referred to remains unpaid for more than 30 days (or such longer period as the court may allow) after it was imposed or was ordered to be paid, the court may, subject to subsection (3), order that the fishing boat concerned shall be forfeited to the Crown; and it shall then be disposed of as the Commissioner may direct.

(3) A court may not make an order for forfeiture under subsection (2) save on application made by or with the authority of the Principal Legal Adviser.

(4) An order for the forfeiture of a fishing boat under this section may extend to such of its fishing and other gear, its instruments and appliances, its stores and cargo and any fish and fish products on board it as the court may direct.

Regulations.

21.- (1) The Commissioner may make such regulations as he considers necessary for the purposes of this Ordinance.

(2) Without prejudice to the generality of subsection (1), regulations made by the Commissioner may provide for or may authorise the Director to provide for or to determine -

(a) anything which is to be, or which may be, prescribed under this Ordinance;

(b) the forms to be used for the purposes of this Ordinance;

- (c) all questions relating to the procedures for applying for licences;
- (d) all questions relating to the procedures for granting licences;
- (e) the conditions subject to which licences are to be, or may be, granted;
- (f) the fees to be charged for licences and the method of computing such fees;
- (g) the equipment to be carried on board fishing boats;
- (h) the reports and notifications to be made, and the records and logs to be kept, in respect of fishing boats or in respect of fishing or otherwise for the purposes of this ordinance or for the purposes of any regulations made under this section (and the procedures relating thereto);
- (i) the designation, by applicants for licences or by licensees, of authorised agents, and the authority to be attributed to, and the obligations and liabilities to be assumed by or imposed on, such agents;
- (j) the place or places where persons who are to be designated as authorised agents may reside or have their place of business;
- (k) the execution, by applicants for licences or by licensees or by other persons, of bonds (or the provision by them of other forms of security) for securing compliance with obligations arising under a licence or otherwise arising under the provisions of this Ordinance or of any regulations made under this section;
- (l) the placing on board fishing boats of Fisheries Protection Officers or of observers, and the facilities and conditions to be accorded to them while on board;
- (m) the conferment on Fisheries Protection Officers, or persons acting under their direction, of such powers, additional or supplementary to those conferred by this Ordinance, as the Commissioner considers necessary or expedient for the regulation of fishing boats or of fishing or otherwise for the purposes of this Ordinance or for the purposes of any regulations made under this section.

(3) Regulations made under this section may make different provision for (and the Director, in exercising an authority conferred by such regulations to make provision for any matter or to determine any matter, may make different provision for or a different determination in respect of) different parts of the fishing waters or different boats or boats of different descriptions (including descriptions which differ by reference to the countries in which the boats are registered) or different licences or different descriptions of

licences.

(4) Regulations made under this section may provide that the contravention of any provision thereof shall constitute an offence, and may prescribe, as the penalty for any such offence, a fine not exceeding £100,000.

Saving for laws
regulating
access to
Territory, etc.

22.- For the avoidance of doubt, nothing in this Ordinance shall be construed as in any way derogating from the provisions of the British Indian Ocean Territory (Immigration) Order 2004, the British Indian Ocean Territory Waters (Regulation of Activities) Ordinance 1997, or the Visitors and Visiting Vessels Ordinance 2006.

Repeal and
savings.

23.- (1) The Fisheries (Conservation and Management) Ordinance 1998 ("the 1998 Ordinance") is repealed.

(2) Without prejudice to section 21(1) or section 22(2) of the Interpretation and General Provisions Ordinance 1993, the repeal of the 1998 Ordinance does not affect the continuing operation, according to its tenor, of any licence granted or other instrument made under or for the purposes of that ordinance; and any such instrument shall thereafter be deemed to have been granted or made under the relevant enabling provision of this Ordinance or, as the case may require, for the purposes of this Ordinance, and any reference therein to a particular provision of the 1998 Ordinance shall thereafter be construed as if it were a reference to the corresponding provision of this Ordinance.

(3) Notwithstanding subsection (1) and without prejudice to subsection 21(1) of the Interpretation and General Provisions Ordinance 1993, proceedings may be instituted after the commencement of this Ordinance for an offence alleged to have been committed before that commencement under any provision repealed by subsection (1), and any such proceedings shall be dealt with for all purposes as if this ordinance had not been enacted and the repealed provision remained in force; and any proceedings that were instituted before the commencement of this ordinance by virtue of any provision repealed by subsection (1) may be continued thereafter and may likewise be dealt with for all purposes as if this Ordinance had not been enacted and the repealed provision remained in force.

Fixed Penalty
Notice form

THE SCHEDULE



BRITISH INDIAN OCEAN TERRITORY

Section 19 The Fisheries (Conservation and Management) Ordinance 2007

FIXED PENALTY NOTICE

Notice official number

1. To (Here set out name and details of recipient)

2. Circumstances constituting offence.

It is alleged that you have committed an offence under section of the Fisheries (Conservation and Management) Ordinance 2007/regulation of the Fishing Regulations 2007.

The circumstances alleged to constitute that offence are as follows:
(Here set out sufficient particulars of the offence alleged, including date and approximate time, to give the recipient reasonable information about what he is alleged to have done)

3. You have the opportunity to discharge any liability to be convicted of the above offence if you immediately pay the fixed penalty which is specified in paragraph 4 below to the Officer who gave you this notice. If you fail to do so you may be detained and

prosecuted for the offence.

4. Fixed penalty (insert £5000/£200 or half the maximum penalty for offence, whichever is the least amount)

.....
.....
(Date of Notice)

.....
.....
(Signature and name of officer
issuing notice)

**Section 19 The Fisheries (Conservation and Management)
Ordinance 2007.**

Fixed penalty
notices and
procedure

19. (1) Where, on any occasion, a Fisheries Protection Officer finds a person who he has reason to believe is committing or has on that occasion committed an offence under this Ordinance or under any regulations made under section 21, he may give that person a fixed penalty notice in respect of that offence.

(2) In this section "fixed penalty notice" means a notice offering the opportunity of the discharge of any liability to be convicted of the offence to which the notice relates by payment of a fixed penalty in accordance with this section.

(3) A fixed penalty notice must –

- (a) give such particulars of the circumstances alleged to constitute the offence to which it relates as are necessary for giving reasonable information about the alleged offence;
- (b) be issued from an authorised sequentially numbered official pad of notices in the form prescribed in the schedule;
- (c) state the amount of the fixed penalty;
- (d) state that the fixed penalty may be paid forthwith to the Fisheries Protection Officer,

and a copy of the provisions of this section shall be attached to the notice.

(4) The fixed penalty for an offence is-

- (a) £5000 for an offence relating to fishing from a fishing boat, and £200 for an offence relating to a person fishing other than from a fishing boat or relating to a person fishing from a fishing boat based in and operating out of Diego Garcia in circumstances where the persons fishing from that boat have paid, or have contracted to pay, for the right to do so or to be on board the boat; or
- (b) one-half of the maximum fine to which a person committing the offence would be liable on conviction of that offence by the Magistrates' Court,

whichever is the less.

(5) Where a fixed penalty notice has been given to a person (in this section referred to as "the recipient") under section 53, no proceedings may be brought against him for the offence if he has forthwith paid the penalty to the Fisheries Protection Officer.

(6) A Fisheries Protection Officer shall issue a to the recipient an official receipt for every payment made to him in respect of a fixed penalty and every Fisheries Protection Officer shall account to the Commissioner for each fixed penalty notice form and receipt form issued to him and for all payments received by him.

(7) For the avoidance of doubt, nothing in this section obliges an officer to issue a fixed penalty notice when he decides that the alleged offender should be prosecuted for the alleged offence.

(8) Where the fixed penalty notice relates to the unlawful possession of prohibited fishing gear, in addition to the payment of the penalty, the recipient shall surrender to the officer the prohibited fishing gear for destruction.

ANNEX 80

Fishing Regulations 2007 (S.I. No. 4 of 2007)

THE BRITISH INDIAN OCEAN TERRITORY

(Came into force 01.01.08)

Amended

08.12.2008

Ord. 3 of 2008 (effected)

The Fisheries (Conservation and Management) Ordinance 2007

The Fishing Regulations 2007

IN EXERCISE of the powers conferred on me by section 21 of the Fisheries (Conservation and Management) Ordinance 2007:

**PART 1
INTRODUCTORY**

Citation and commencement.

1. (1) These Regulations may be cited as the Fishing Regulations 2007.
(2) These Regulations shall come into force on 01 January 2008 and replace all Regulations made or deemed to have been made under the Fisheries (Conservation and Management) Ordinance 1998

Interpretation.

2. (1) In these Regulations, unless the contrary intention appears -
"agent", in relation to the owner or charterer of a licensed fishing boat or a licensed transshipment boat, means the person for the time being engaged as his agent in pursuance of regulation 5;
"the Convention of 1969" means the International Convention on Tonnage Measurement of Ships, 1969;
"the Director" means the Director of Fisheries;
"fee", in relation to a fishing licence or a transshipment licence, means the fee therefor that is prescribed by Regulations made under the Ordinance or, if there are no such Regulations prescribing that fee or subject to any such Regulations, the fee therefor that is determined by the Director;
"fishing boat notification application" means an application for a fishing boat notification number made in accordance with regulation 4(2);
"fishing licence application" means an application for a fishing licence made in accordance with regulation 4(1);
"the International Tonnage Rules" means the Regulations for Determining Gross and Net Tonnages of Ships annexed to the Convention of 1969;
"Khz" means kilohertz, that is to say, one thousand cycles per second;
"licence" means a fishing licence or, as the case may require, a transshipment licence;

"licensed fishing boat" means a fishing boat which is specified in a fishing licence;

"licensed transshipment boat" means a fishing boat which is specified in a transshipment licence (whether or not it is also a licensed fishing boat);

"licensee" means a person granted a fishing licence or, as the case may require, a transshipment licence;

"to lodge", in relation to an application to the Director made under these Regulations, means to cause that application to be actually delivered to the Director at the address specified in regulation 4(3) and in a manner approved by him;

"mhz" means megahertz, that is to say, one million cycles per second;

"the Ordinance" means the Fisheries (Conservation and Management) Ordinance 2007;

"patrol vessel" means a vessel for the time being engaged in the surveillance and policing of the fishing waters for the Government of the Territory;

"period of validity", in relation to a licence, means the period specified in the licence as the period during which the activity authorised by the licence may lawfully be carried out;

"shark" means all species of shark (elasmobranchii taxon)

"surveillance aircraft" means an aircraft for the time being engaged in the surveillance of the fishing waters for the Government of the Territory;

and

"VHF" means very high frequency, that is to say, a single radio frequency or band lying between 300 mhz and 30 mhz.

(2) Where these Regulations require any form or other document or thing or any procedure or other matter to be as approved by the Director, it shall be deemed to be as so approved if it conforms with what is for the time being specified or otherwise indicated in that behalf in or under the relevant Administration Documentation and Guidance or other similar document (by whatever name called) issued by or on behalf of the Director for the purposes of the administration of the Fisheries Management and Conservation Zone (including any guidance issued under regulation 36.)

(3) Where, under these Regulations, any communication or requirement relating to the operation, navigation or other handling of a fishing boat falls to be made by the Director to the master of the boat or by the master to the Director, it may be made by or to any Fisheries Protection Officer on behalf of the Director.

(4) In these Regulations, or in any licence or in other documents issued in pursuance of these Regulations, "prescribed" means prescribed by or under these Regulations and includes specified or otherwise indicated as referred to in paragraph (2) or otherwise specified or indicated by the Director.

PART II

FISHING LICENCES AND LICENSED FISHING BOATS

Application of this Part.

3. This Part applies to applications for fishing licences, to the grant, content and incidents of such licences, to operations undertaken under such licences and to the obligations of persons in relation to licensed fishing boats.

Applications for fishing licences and fishing boat notification numbers.

4. (1) Subject to the following provisions of this regulation, every application for a fishing licence shall be made in a form approved by the Director and shall be lodged with the Director, in a manner approved by him, not less than 7 days before the date specified in the application as the date on which the licence is required.

(2) Subject to the following provisions of this regulation, before a fishing licence application is lodged with the Director in respect of any fishing boat, there shall have been lodged with him, not less than 7 days previously and in a manner and form approved by him, an application for a fishing boat notification number specific to that boat; and that number, when notified to the applicant by the Director, shall thereafter be cited in all communications with the Director relating to that boat, including any fishing licence application in respect thereof.

(3) Fishing licence applications and fishing boat notification applications shall be lodged with the Director at the following address:

"The Director of Fisheries,
British Indian Ocean Territory,
c/o MRAG Limited,
18 Queen Street,
LONDON, W1J 5PN,
ENGLAND."

(4) The Director may, in his discretion, accept a fishing licence application or a fishing boat notification application that has been lodged with him after the time specified therefor in paragraph (1) or, as the case may be, paragraph (2).

(5) Subject to paragraph (6), each fishing boat notification application shall be accompanied by the International Tonnage Certificate (1969), issued pursuant to the Convention of 1969, relating to the fishing boat in

respect of which the application is made.

(6) If any fishing boat in respect of which a fishing boat notification application is made is not registered in a country whose Government is a Party to the Convention of 1969, the Director may, in his discretion, accept such evidence as he thinks fit of the dimensions and other relevant features of that boat and, using such method of calculation as he thinks fit, calculate therefrom the gross tonnage of that boat; and the tonnage so calculated shall be deemed to be the gross tonnage for the purposes of determining any fee payable for a licence in respect of that boat.

(7) Notwithstanding that the Director has issued a fishing boat notification number in respect of a fishing boat, he may, then or at any time thereafter, require, as a condition of his granting a fishing licence in respect of that boat, that the fishing licence application -

- (a) be lodged with him by a date specified by him; and
- (b) subject to paragraph (8), be accompanied by the deposit of such sum as he may specify.

(8) The sum that is payable by way of deposit under paragraph (7) shall be paid in such manner as the Director may direct, but the Director may instead accept security for such payment either in the form of irrevocable letters of credit or in any other form satisfactory to him.

(9) The sum that has been paid by way of deposit under paragraph (7) (less a processing fee of One Hundred pounds) shall be refunded to the applicant (or the security that has been given therefor shall be returned or cancelled, as the case may require) if no licence is granted; but if a licence is granted, that sum (or the sum so secured) shall be applied towards the payment of the fee for the licence.

Agents.

5. (1) The owner or the charterer, as the case may be, of a fishing boat shall, before a fishing boat notification application is lodged in respect of that boat, engage a person as his agent in respect of that boat for the purposes of these Regulations and that person shall be so designated to the Director in the application.

(2) The owner or the charterer of a fishing boat who has, in accordance with this regulation, engaged a person, and designated him to the Director, as his agent in respect of that boat may, at any time thereafter, engage, and designate to the Director, another person as his agent in respect of that boat for the purposes of these Regulations and, if the Director approves that designation, that other person shall, for all such purposes, replace the person previously so designated.

(3) A person who is for the time being designated under paragraph (1) or, with the approval of the Director, under paragraph (2) as the agent of the owner or charterer in respect of a fishing boat shall be deemed for the purposes of these Regulations to have the full and irrevocable authority of his principal in connection with any fishing operations of that boat or any related activity (including any proposed such operations or activity), and such authority shall include, without prejudice to the generality of the foregoing, authority (for the purposes aforesaid) to incur financial or other legal liability on behalf of his principal in connection with any such operations or activity and authority (for the purposes aforesaid) to receive service on behalf of his principal of any notice, summons or other document issued in or for the purposes of any legal proceedings arising out of or otherwise connected with any such operations or activity.

(4) The designation of a person as the agent of the owner or charterer of a fishing boat shall not be effective for the purposes of this regulation unless that person resides or has his place of business in a country approved in that behalf by the Director.

(5) The designation of a person under this regulation as the agent of the owner or charterer of a fishing boat shall be made to the Director in such manner and with such details as may be approved by the Director or otherwise be directed by him.

Bond or security.

6. The licensee or the agent of the licensee shall, if so required by the Director before or after the grant of a fishing licence, either -

- (a) execute and maintain a bond, in an amount and form satisfactory to the Director, to guarantee compliance with the Ordinance, with these and any other Regulations made thereunder and with any conditions to which the licence is subject; or
- (b) provide such other financial or other security for that purpose as the Director may approve.

Fishing licences and conditions on licences.

7. (1) A fishing licence may be granted in respect of only one named person for fishing other than by a fishing boat, or one fishing boat for fishing by a fishing boat, which name or boat shall be specified in it, and shall not be transferable.

(2) Every fishing licence shall bear its own serial number allocated by the Director, and the holder of a licence for fishing other than by a fishing boat and the master of a licensed fishing boat shall, on demand by any Fisheries Protection Officer, inform him of the number of the licence granted.

(3) The Director may, before granting a fishing licence in respect of a fishing boat –

(a) require that there shall be produced to him the ship's papers of the boat and such drawings and diagrams relating to its construction as he may specify;

(b) require the master to permit a Fisheries Protection Officer to inspect the boat and to take measurements and photographs of it and of any equipment or apparatus carried on board it.

(4) A fishing licence shall be granted for such fixed period or fixed periods as the Director may decide.

(5) A fishing licence, when granted, shall be issued to the named person or to the master of the fishing boat specified in it in London or, at the request of the applicant, in such other place as the Director may agree.

(6) Every fishing licence shall contain, or have endorsed on or annexed to it, or refer to, the conditions subject to which it is granted.

(7) Without prejudice to regulations 5(2) and 5(5), if, at any time when a fishing licence is in force, a change takes place in any circumstance or respect which was required, by or under these Regulations, to be notified to the Director in or together with the application for that licence, that change shall, within 30 days of the day on which it took place (or such longer period as the Director may in any particular case allow), be notified to the Director by the named person or by the owner or charterer of the boat, or by his agent, in a manner and form approved by the Director.

(8) Every fishing licence shall be granted subject to the following conditions-

(1) No person shall on board a fishing boat or elsewhere in the Territory remove fins from sharks;

(2) No person shall keep in the Territory or on board a fishing boat or tranship or land therefrom shark fins removed contrary to condition (1);

(3) The master of a licensed fishing boat shall upon inspection under regulation 12 declare the quantities of shark fins and shark products on board the boat;

(4) The named person in a fishing licence for fishing other than by fishing boat, and the master of a fishing boat shall record all catches of shark in the log book kept by him under regulation 13(2).

Compulsory radio equipment.

8. Every licensed fishing boat engaged in fishing in the fishing waters shall be equipped with radio equipment capable of providing radio telephony (voice) communications using maritime frequencies in the High Frequency and VHF bands.

International Code of Signals and flags to be carried and Code to be used.

9. (1) Every licensed fishing boat, at all times when it is within the fishing waters, shall carry a copy of the International Code of Signals published by the International Maritime Organisation and an appropriate set of flags and shall at all such times carry persons competent to exchange messages by means thereof with a Fisheries Protection Officer embarked in any vessel or aircraft.

(2) In every communication by radio, flag or light between any licensed fishing boat in the fishing waters and a Fisheries Protection Officer, the signals specified in the International Code of Signals shall be used.

Navigational charts and aids to be carried.

10. Every licensed fishing boat, at all times when it is within the fishing waters, shall carry appropriate navigational charts and publications and be fitted with such electronic navigational aids as will enable the master accurately to ascertain its position in the fishing waters.

Notification of entry into and departure from fishing waters, and related matters.

11. (1) The master of a licensed fishing boat who intends his boat to enter the fishing waters shall, not more than 48 hours or less than 12 hours before the entry of the boat into the fishing waters, notify the Director of that intention, of the time when his boat will enter the fishing waters and of the purpose for which it will so enter.

(2) The master of a licensed fishing boat who intends his boat to leave the fishing waters shall, before the boat leaves the fishing waters and in sufficient time for the carrying out, if the Director so requires, of the procedures provided for by regulation 12, notify the Director of that intention; and he shall likewise notify the Director of the time when his boat does leave the fishing waters.

(3) A licensed fishing boat in respect of which the intention notified to the Director in accordance with paragraph (1) is that it is to fish within the fishing waters shall be deemed, for the purpose of the computation of any fees for its licence, to have been engaged in fishing throughout the period beginning with the time notified to the Director as the time when it will enter the fishing waters and ending with the time notified to the Director as the time when it leaves the fishing waters; but any fishing within the fishing waters by that boat outside that period, or by any licensed fishing boat whose master has not notified an intention as aforesaid, shall not be authorised by its licence and is accordingly

unlawful.

(4) Notifications required by this regulation to be given to the Director shall be given in such form and manner, and shall be accompanied or supplemented by such further information, as he may, either generally or specifically, prescribe or direct or approve

(5) A prescription made or a direction given by the Director in pursuance of paragraph (4) may provide, and an approval given by him may be so expressed as to have the effect, that notifications and other information required by this regulation to be given to the Director shall be treated as not having been validly so given unless and until their receipt is acknowledged by him and unless his acknowledgement is evidenced in such manner as he may, either generally or specifically, prescribe or direct or approve.

(6) In this regulation "non-fishing day", in relation to a licensed fishing boat, means a day when that boat is engaged in fishing in the fishing waters but does not set gear; and "fishing day" means any such day when the boat does set gear.

(7) Where, whether under the license for a licensed fishing boat or by agreement between the Director and the master, owner or charterer of the boat, the daily fee payable for the boat's licence is to be computed at different rates for fishing days and non-fishing days respectively, the boat may not set gear on any day until the master has notified the Director that he intends it to do so.

(8) The master of every licensed fishing boat that is engaged in fishing in the fishing waters shall, at the conclusion of its fishing operations on each day, notify the Director whether that day has been a fishing day or a non-fishing day.

(9) For the purposes of the computation of the daily fee for a licence as referred to in paragraph (2), any day during the time when a licensed fishing boat is engaged in fishing while within the fishing waters that has not been validly notified as a non-fishing day in accordance with paragraph (3) shall be deemed to be a fishing day.

(10) The provisions of regulation 11(4) apply in relation to notifications required to be given under this regulation as they apply in relation to notifications required to be given under regulation 11, and regulation 11(5) shall have effect accordingly.

Post-fishing
inspection and
delivery of log.

12. (1) The master of a licensed fishing boat whose boat is about to leave the fishing waters shall, if so required by the Director, bring the boat to such place within the Territory as the Director may designate for the purpose of its being inspected by a Fisheries Protection Officer or other person authorised in that behalf by the Director.

(2) The master of a licensed fishing boat whose boat is about to leave the fishing waters shall, if so required by the Director, deliver to the Director, before leaving the fishing waters, the fishing log referred to in regulation 13(2).

Log books.

13. (1) The master of every licensed fishing boat in the fishing waters shall keep a radio log in a form approved by the Director.

(2) The named person in a fishing licence for fishing other than by fishing boat, and the master of every licensed fishing boat engaged in fishing in the fishing waters shall keep a fishing log in a form approved by the Director.

(3) The radio log and the fishing log shall, on demand by a Fisheries Protection Officer, be produced to him for inspection and copies thereof or copy extracts therefrom shall also, on demand, be given to him, without payment.

If radio is unusable.

14. If the main radio equipment of a licensed fishing boat becomes unusable while the boat is within the fishing waters, the master shall make adequate arrangements for all information which he is required, by or under these Regulations, to furnish to the Director to be relayed to the Director through another vessel.

Display of radio call signs.

15. (1) The International Radio Call Sign of each licensed fishing boat within the fishing waters shall be prominently displayed on that boat in accordance with international standards as set out in the publication of the Food and Agriculture Organisation entitled "The Standard Specifications for the Marking and Identification of Fishing Vessels."

(2) The letters and numbers of the Call Sign shall be painted in black on a white background or in white on a black background and the paintwork where they are painted shall be maintained in good condition so that they are clearly visible at all times.

English-speaking crew-member.

16. The master of each licensed fishing boat shall ensure that, while it is within the fishing waters, there shall be at least one member of its crew who is able to speak English, and understand spoken English, with reasonable fluency.

Radio listening watches.

17. The master of each licensed fishing boat shall cause a continuous listening watch to be maintained on VHF marine band Channel 16 and 2182 Khz while the boat is within the fishing waters, but these frequencies shall be used as calling and distress frequencies only and shall not be used for inter-ship communications.

PART III

TRANSHIPMENT LICENCES AND TRANSHIPMENT OF FISH

Application of this part.

18. This Part applies to applications for transhipment licences, to the grant, content and incidents of such licences, to operations undertaken under such licences and to the obligation of persons in relation to licensed transhipment boats.

Each fishing boat taking part in transhipment to be licensed.

19. (1) No transhipment of fish shall take place within the fishing waters unless a transhipment licence is in force with respect to each fishing boat taking part in the transhipment, that is to say, the fishing boat from which the fish is passed, the fishing boat which receives the fish and any fishing boat which transports from the territorial sea or internal waters of the Territory any fish previously transhipped.

(2) If (but only if) it purports to do so, a fishing licence may also operate as a transhipment licence and may accordingly include, in addition to conditions or other provisions relating to fishing by the fishing boat specified in it, such conditions or other provisions relating to the transhipment of fish by that boat as are authorised under section 7 of the Ordinance.

Applications for transhipment licences.

20. (1) An application for a transhipment licence may be made by the owner or charterer of the fishing boat in respect of which the licence is required or by the master of that boat on behalf of the owner or charterer.

(2) An application for a transhipment licence shall be made in a form approved by the Director or as otherwise directed by him and shall be lodged with the Director, not less than 72 hours before the date specified in the application as the date on which the licence is required, in a manner approved by him or as otherwise directed by him:

Provided that, unless and until the Director directs otherwise, the lodging of an application may be effected by causing it to be actually delivered to him, at the address specified in paragraph (3), by post, telex, telegram or facsimile transmission.

(3) Applications for transshipment licences shall be lodged with the Director at the following address:

"The Director of Fisheries,
British Indian Ocean Territory,
c/o MRAG Limited,
18 Queen Street,
LONDON, W1J 5PN,
ENGLAND."

(4) The Director may, in his discretion, accept an application for a transshipment licence that has been lodged with him after the time specified therefor in paragraph (2).

(5) Without prejudice to the foregoing provisions of this regulation, where the fishing boat in respect of which a transshipment licence is applied for does not already have a fishing boat notification number, the provisions of regulations 4, 5 and 6 (relating to applications for and the grant of such numbers, to the appointment of agents and to the execution and maintenance of bonds or the provision of other security) have effect in relation to the application for and the grant of the transshipment licence as they have effect in relation to an application for and the grant of a fishing licence.

Transshipment
licences.

21. (1) A transshipment licence shall be valid only -

- (a) in respect of the fishing boat specified in the licence;
- (b) for a fixed period or for fixed periods, as specified in the licence;
- (c) for a fixed number or a fixed quantity, or for both a fixed number and a fixed quantity, of transshipments of fish, as specified in the licence; and
- (d) for a fixed place or for fixed places of transshipment, as specified in the licence.

(2) A transshipment licence, when granted, shall be issued to the master of the fishing boat specified in it in London or, at the request of the applicant, in such other place as the Director may agree.

(3) Every transshipment licence shall contain, or have endorsed on or annexed to it, or refer to, the conditions subject to which it is granted.

(4) Every separate transshipment licence (that is to say, a transshipment licence other than a fishing licence which also operates as a transshipment licence by virtue of regulation 19(2)) shall bear its own serial number allocated by the Director, and the master of a licensed transshipment boat shall, on demand by any Fisheries Protection Officer,

inform him of the number of the licence (whether a fishing licence or a separate transshipment licence) granted in respect of that boat.

(5) Without prejudice to regulations 5(2) and 5(5), if, at any time when a transshipment licence is in force, a change takes place in any circumstance or respect which was required, by or under these Regulations, to be notified to the Director in or together with the application for that licence, that change shall, within 30 days of the day on which it took place (or such longer period as the Director may in any particular case allow), be notified to the Director by the owner or charterer of the boat, or by his agent, in a manner and form approved by the Director.

Fees. 22. Where a fee is payable for a transshipment licence, the Director may, as a condition of his granting the licence, require -

- (a) that the fee is first paid in full; or
- (b) that payment thereof is first secured by irrevocable letters of credit or by other means satisfactory to him.

Application of certain regulations in Part II. 23. Without prejudice to regulation 24, regulations 8, 9, 10, 13, 14, 15, 16 and 17 apply to all licensed transshipment boats as they apply to licensed fishing boats.

PART IV

PROVISIONS APPLYING TO ALL FISHING BOATS

Application of this Part. 24. This Part applies to the operations of all fishing boats within the fishing waters and to the obligations of persons in relation to all such boats within those waters.

Compliance with instructions from patrol vessels. 25. (1) The master of a fishing boat within the fishing waters shall comply with any instruction, order or requirement given from a patrol vessel by or at the direction of a Fisheries Protection Officer.

(2) The instruction that a fishing boat in the fishing waters should stop for boarding and inspection by a Fisheries Protection Officer will be conveyed by VHF radio marine band on the ship-to-ship calling channel (Channel 16) or by the international code signal "SIERRA QUEBEC 3" or by flashing, by a signal lamp from a patrol vessel, the morse code symbol "LIMA" (that is to say, "You should stop your vessel instantly"); but if contact cannot be made by any of these means, the patrol vessel will direct a series of flashing white lights towards the fishing boat and this shall be interpreted as an instruction to the master of the fishing boat that it must forthwith desist from any previous manoeuvre, course or action and follow that patrol vessel.

Compliance with instructions from surveillance aircraft.

26. (1) The master of a fishing boat within the fishing waters shall comply with any instruction, order or requirement given from any surveillance aircraft by or at the direction of a Fisheries Protection Officer.

(2) A Fisheries Protection Officer on board a surveillance aircraft who wishes to communicate on Channel 16 of VHF radio marine band with a fishing boat in the fishing waters will cause the aircraft to signal the Morse code symbol "KILOG" with a yellow light or to signal by switching its navigation and landing lights on and off.

(3) If the fishing boat does not make radio contact with the aircraft in response to a signal given in accordance with paragraph (2), the Fisheries Protection Officer will cause the aircraft to waggle its wings from side to side and then to settle on a steady course; and this shall be interpreted as an instruction to the master of the fishing boat that it must forthwith desist from any previous manoeuvre, course or action and immediately proceed in the direction indicated by the aircraft (that is to say, following the course adopted by the aircraft after waggling its wings) and that he must at the same time attempt to make radio contact with a Fisheries Patrol Vessel or the fisheries authorities in the Territory (call sign CHAGOS FISHERIES 5144 mhz).

Accommodation and facilities for observers and Fisheries Protection Officers.

27. (1) The master of a licensed fishing boat shall, when requested to do so by the Director, permit one or more official observers (being persons designated as such by the Director in writing) to board the boat and remain on board it, while it is within the fishing waters, for all or any of the following purposes, that is to say: -

- (a) recording scientific data and observations;
- (b) inspecting the boat's radio log and fishing log; and
- (c) taking samples;

and he shall permit any such observer to retain and remove from the boat any records, notes and samples taken by him.

(2) Where an official observer is on board a licensed fishing boat for a period of more than four hours, the master shall provide him with food and accommodation of the same standard as is provided to officers on board the boat.

(3) The master of a licensed fishing boat shall also provide the facilities referred to in paragraph (2) to any Fisheries Protection Officer who is compelled for any reason to remain on board the boat for a period of more than four hours.

(4) The master of a licensed fishing boat shall, at the request of a Fisheries Protection Officer or official observer who is on board the boat in pursuance of this regulation -

(a) arrange for him to be able (to) send or receive messages by means of radiotelegraph or radiotelephone facilities on board the boat; and

(b) provide all reasonable assistance within his power to enable him to carry out his duties and functions.

Action on receiving instruction to stop for inspection.

28. (1) The master of a fishing boat which receives an instruction, in accordance with regulation 25(2), to stop for boarding and inspection shall cause the boat, so far as is consistent with the safety of navigation, to heave to and take all way off and shall, if instructed to permit a Fisheries Protection Officer to board, take such steps as, in accordance with good seamanship, are requisite or most convenient to facilitate such boarding.

(2) A fishing boat which has hove to and taken way off in accordance with paragraph (1) shall not, without the permission of a Fisheries Protection Officer, again put on way.

Powers in relation to stopped fishing boats.

29. (1) On instructing a fishing boat to stop in accordance with regulation 25(2), a Fisheries Protection Officer may also require the master -

- (a) to haul in his nets or discontinue the use of fishing gear;
- (b) to take such steps as the Fisheries Protection Officer may specify to desist from taking or catching fish;
- (c) to stow his fishing gear.

(2) Having boarded a fishing boat which has stopped pursuant to an instruction given in accordance with regulation 25(2), a Fisheries Protection Officer may -

- (a) require the master -
 - (i) to cause radio communication to be maintained with a patrol vessel on such frequency or channel as he may direct;
 - (ii) to permit him to speak, by means of the boat's radio equipment, with a patrol vessel or with the Director or any other person;
 - (iii) in the case of a licensed fishing boat or a licensed transshipment boat, to produce any document or thing required to be carried on such a boat;
 - (iv) to produce the boat's navigation log, radio log and fishing log, any charts carried on the boat and any documents relating to its registration and tonnage;

(b) inspect and take copies, or require the master to furnish him with copies, of any documents produced to him pursuant to a requirement imposed under subparagraph (a);

(c) search and inspect and take photographs of the boat, any fish on board it and any fishing gear, apparatus or equipment on board it;

(d) impose any such requirement as, in the circumstances referred to in paragraph (1), might be imposed under that paragraph.

(3) The master of a fishing boat which has stopped pursuant to the instructions of a Fisheries Protection Officer -

(a) shall comply with any requirement imposed on him by a Fisheries Protection Officer under paragraph (1) or paragraph (2);

(b) shall furnish every assistance requisite to enable a Fisheries Protection Officer to do anything which he is authorised to do under paragraph (2);

(c) shall not obstruct or hinder a Fisheries Protection Officer, or cause or permit him to be obstructed or hindered, in the performance of his duties.

Power to direct fishing boat to proceed to place within Territory

30. (1) If a Fisheries Protection Officer -

(a) has reason to believe that an offence under the Ordinance, or under these or any other Regulations made under the Ordinance, has been committed in relation to a fishing boat; or

(b) considers it necessary or expedient so to do for the better carrying out of any search, examination or enquiry in relation to a fishing boat;

he may, whether or not he is then on board the boat, direct the master to bring or take it to such place within the Territory as he appoints.

(2) A direction under paragraph (1) may be modified or withdrawn by a Fisheries Protection Officer.

(3) The master of a fishing boat to whom a direction has been given under paragraph (1) shall comply with it or cause it to be complied with and shall cause the crew of the boat to take all steps necessary for that purpose.

Fishing boat brought to Territory under regulation 30 to remain moored as directed.

31. (1) The master of a fishing boat that has been brought or taken to a place within the Territory under regulation 30 shall ensure that the provisions of this regulation are complied with.

(2) On arrival at the appointed place within the Territory and at all times thereafter, the boat shall moor, anchor or make fast in such manner and in such anchorage, berth or other position as a Fisheries Protection Officer from time to time directs.

(3) After mooring, anchoring or making fast in accordance with paragraph (2), the boat may not be unmoored or up-anchor, nor may it slip its moorings or anchor or otherwise move from its mooring, berth or position, without the prior consent of a Fisheries Protection Officer.

(4) Paragraph (3) shall not prevent a fishing boat from being moved, without the prior consent of a Fisheries Protection Officer, within the confines of the port or harbour in which it is for the time being directed to moor, anchor or make fast to the extent that such movement is necessary, in accordance with the dictates of good seamanship, by reason of some emergency of tide, wind or water or other like emergency and to the extent that, in those circumstances, the boat or the safety of its crew would be hazarded by the delay attendant on obtaining such prior consent.

(5) Nothing in this regulation shall be construed as authorising any person on or connected with a fishing boat which is moored, anchored or made fast at any place within the Territory to land in the Territory, or in any other way to enter the Territory, unless he is in possession of a permit, or his name is endorsed on a permit, issued under the British Indian Ocean (Immigration) Order 2004.

Saving for powers conferred by the Ordinance.

32. The powers conferred on a Fisheries Protection Officer by regulations 29 to 31 are without prejudice to the powers vested in him by the Ordinance.

PART V

ADMINISTRATIVE AND GENERAL

Records etc. to be in English.

33. All records (including logs), reports and notifications required to be made or maintained by or under these Regulations shall be made or maintained in English.

Maintenance of records by Director

34. (1) The Director shall make and maintain records of the following matters:-

- (a) all licences granted;
- (b) the date on which each licence was granted;
- (c) the name and address of each licensee;
- (d) the conditions, if any, subject to which each licence was granted;
- (e) the name of the fishing boat in respect of which each licence was granted and its country of registry, port of registry, registration number, fishing boat notification number and International Radio Call Sign;

- (f) the type of licence granted in each case;
- (g) in each case where the licence is a fishing licence -
 - (i) any limitation (in terms of species) on the fish that may be caught or taken;
 - (ii) any limitation (in terms of quantity or size) on the amount of fish, or fish of any species, that may be caught or taken;
 - (iii) if the licence is limited to fishing in a part or parts of the fishing waters, a sufficient description of that part or those parts, which description shall be by reference to longitudinal and latitudinal co-ordinates except where the licence is limited to fishing in the internal waters of the Territory in which case the description may be by reference to a chart or map;
 - (iv) the period or periods of validity of the licence;
- (h) in each case where the licence is a transhipment licence (whether or not it is also a fishing licence) -
 - (i) the period or periods of validity of the licence to tranship;
 - (ii) the number or quantity, or (as the case may be) the number and quantity, of transhipments of fish specified in the licence;
 - (iii) the place or places of transhipment specified in the licence;
 - (iv) whether the transhipment that is licensed is the transhipment of fish caught or taken in the fishing waters or is the transhipment of fish caught or taken elsewhere or is the transhipment of fish wherever caught or taken;
- (i) all notifications and communications of any kind made to the Director by or on behalf of any person pursuant to the Ordinance, these Regulations or the conditions of any licence;
- (j) if any licence has been varied, the details of the variation, the date when it was made and the date when it was to take effect;
- (k) if any licence has been revoked, suspended or surrendered, the date when the revocation, suspension or surrender was made and the date when it was to take effect;
- (l) all fines or other penalties imposed on any person by any court or by way of administrative penalty for an offence under the Ordinance or under these or any other Regulations made thereunder,
- (m) all deposits and fees paid or owing by any applicant for a licence or any licensee pursuant to the Ordinance or to these or any other Regulations made thereunder or, where any such fees have not been paid in full, any security that has been given or any arrangements that have been made for the payment of those fees.

(2) The records required by paragraph (1) shall be made and maintained in such manner as the Director may determine and may be so made or

maintained wholly or partly on a computer.

Identity documents.

35. (1) The Director shall issue to each Fisheries protection Officer an identification document which shall -

(a) bear the name and a photograph of the person to whom it is issued;

(b) state that that person is a Fisheries Protection Officer; and

(c) state its date of issue and period of validity.

(2) Every Fisheries Protection Officer shall produce his identification document whenever any person reasonably requests him to do so in relation to his performance of any of the functions of a Fisheries Protection Officer.

(3) Paragraphs (1) and (2) do not apply to a person who is a Fisheries Protection Officer by virtue of being any of the following, that is to say, a Police officer or an Imports and Exports Control Officer or a commissioned officer of any of Her Majesty's ships or the person in command or charge of any aircraft or hovercraft of the Royal Navy, the Army or the Royal Air Force.

Notes of Guidance.

36. (1) The Director may from time to time issue to masters of fishing boats and other persons such written guidance or advice as he thinks fit relating to the observance, implementation and administration of the Ordinance and of these and other Regulations made thereunder or generally for the purposes of the administration of the Fisheries Management and Conservation Zone.

(2) Non-compliance with any such written guidance or advice shall not in itself constitute an offence (unless made an offence by, or by virtue of, some other provision of these Regulations) but the guidance or advice shall be admissible in evidence in any proceedings before a court and, if it appears to the court to be relevant to any question arising in those proceedings, shall be taken into account in determining that question.

Patrol vessels to be marked.

37. (1) Every patrol vessel for the time being operating as such outside the territorial sea or internal waters of the Territory shall be clearly marked on its sides and front with the words "FISHERIES PATROL" or the words "BIOT PATROL VESSEL" in capital letters in a colour contrasting with the colour of the background on which the words appear.

(2) Every patrol vessel for the time being operating as such within the territorial sea or internal waters of the Territory shall either be marked as specified in paragraph (1) or be clearly marked on its sides and front with the words "HARBOUR PATROL" in capital letters in a colour contrasting with the colour of the background on which the words appear.

(3) This regulation does not apply to Her Majesty's ships.

Offence and penalties.

38. (1) Any person who contravenes any provision of Parts I to IV or regulation 33 or any of the terms and conditions of a licence commits an offence under these Regulations.

PENALTY - £100,000

(2) Any person who, without reasonable cause (the onus of proof whereof shall lie on him), refuses or fails to provide to the Director or any other Fisheries Protection Officer any information which he is required, by or under these Regulations, to provide or who, in purported pursuance of these Regulations, provides to the Director or any other Fisheries Protection Officer any information -

(a) which he knows to be false in any material particular, or

(b) which, in any such particular, he does not believe to be true; or

(c) which he knows to be misleading in any such particular commits an offence under these Regulations.

PENALTY - £100,000

(3) Paragraphs (1) and (2) are without prejudice to any other law for the time being in force in the Territory (including the Ordinance) by virtue of which any such conduct as is mentioned in either of those paragraphs constitutes an offence or which prescribes the penalty for such an offence.

Administrative penalties: forms.

39. (1) The prescribed forms for the purposes of section 18 of the Ordinance (administrative penalties) are those set out as models in the Schedule to these Regulations and include any form which substantially corresponds to a model there set out.

(2) For the purposes of paragraph (1), a form may substantially correspond to a model set out in the Schedule to these Regulations notwithstanding any minor departure therefrom or minor variation thereof unless that departure or variation is shown, by the person upon whom the form is served, to have misled him, or otherwise prejudiced him, in any material respect.

21 December 2007

(signed) Leigh Turner

(Commissioner)

SCHEDULE

Regulation 39

FORM A

THE BRITISH INDIAN OCEAN TERRITORY

THE FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 2007

No.....of 20...

Notice of Alleged Offence
(Notice given under section 18(1))

IN THE MATTER of section 18 of the Fisheries (Conservation and Management)
Ordinance 2007

To:

.....

.....

1. TAKE NOTICE that the Commissioner has reasonable cause to believe that on
..... day, the day of20., at (specify place)

.....

.....

you committed an offence under (specify section or regulation).....

.....

.....

in that you (specify brief details of alleged offence.)

.....
.....

.....and that it would be appropriate to impose a penalty for that offence under section 18 of the Fisheries (Conservation and Management) Ordinance 2007.

2. The following is a summary of the facts on which this allegation is based:

.....
.....

(Give a sufficient summary fully and fairly to inform the recipient of the allegation against him)

3. The Commissioner considers the following matters to be relevant to the imposition of a penalty in this case:

.....
.....

4. This notice is served on you pursuant to section 18 of the Fisheries (Conservation and Management) Ordinance 2007. The provisions of that section are set out in the attachment to this notice. Your attention is drawn to the options open to you under subsections (3) and (4) and to the consequences, under subsection (5), of your failing to exercise either option within 28 days of the service on you of this notice.

Dated this day of20....

.....
(Name and designation of signatory
of notice)

(Attachment: A legible copy of the full provisions of section 18 of the Ordinance must be attached to Form A when it is served on the alleged offender. The copy may be in any convenient form, including a photocopy of an extract from a copy of the Ordinance.)

FORM B

THE BRITISH INDIAN OCEAN TERRITORY

THE FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 2007

Notice Requiring Proceedings to be Dealt with by Court
(Notice given under section 18(3))

To: The Commissioner

TAKE NOTICE that I require that any proceedings in respect of the alleged offence referred to in your Notice No.served on me under section 18(1) of the Fisheries (Conservation and Management) Ordinance 2007, shall be dealt with by the Court.

Dated this day of 20....

.....
(Signature of person giving this notice)

FORM C

THE BRITISH INDIAN OCEAN TERRITORY

THE FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 2007

Notice Admitting Offence
(Notice given under section 18(4))

To: The Commissioner

1. I refer to the Notice No. served on me under section 18(1) of the Fisheries (Conservation and Management) Ordinance 2007. In accordance with section 18(4), I admit the offence specified in that Notice.

2. I wish you to take the following matters into account in imposing a penalty:

.....
.....
.....
.....

Dated this day of20....

.....(Signature of person giving this notice)

FORM D

THE BRITISH INDIAN OCEAN TERRITORY

THE FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 2007

Imposition of Administration Penalty
(Notice given under section 18(8))

No. of 20 ..

IN THE MATTER of section 18 of the Fisheries
(Conservation and Management) Ordinance 2007

To:

.....

.....

1. TAKE NOTICE that, in accordance with section 18(6) of the Ordinance, the Commissioner has, on the day of 20. . , imposed on you a monetary penalty of £ in respect of the offence committed by you on the day of20under (specify section or regulation)

.....

.....

.....

.....

.....

2. This penalty must be paid, within 28 days after this Notice is served on you, to the Director of Fisheries either through the Commissioner's Representative in the British Indian Ocean Territory or at the following address:

"The Director of Fisheries,
British Indian Ocean Territory,
c/o MRAG Limited,
18 Queen Street,
LONDON, W1J 5PN,
ENGLAND."

Dated thisday of..... 20...

.....

(Name and designation of signatory of notice)

ANNEX 81

Statement by Judge Hoffman, 46th session of the A-ALCO, Cape Town, 2-6 July 2007

**STATEMENT BY JUDGE ALBERT HOFFMANN, OBSERVER OF THE
INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA.**

**Asian-African Legal Consultative Organization
FORTY-SIXTH SESSION
CAPE TOWN, REPUBLIC OF SOUTH AFRICA
2 - 6 JULY 2007**

I am highly honored to address the Asian African Legal Consultative Organization at its 46th Session as a representative of the International Tribunal for the Law of the Sea.

On behalf of the President of the Tribunal, Dr. Rüdiger Wolfrum, I would like to thank AALCO for inviting the Tribunal to your session this year as an observer. Judge Hugo Caminos represented the Tribunal at the 45th Session of AALCO in New Delhi in April last year.

As you know, I am from South Africa, so I also wish to welcome all the African and Asian delegates and observers to my country. I hope that you will have a wonderful visit. I invite you all to enjoy the warmth of South African hospitality.

Contribution of AALCO to UNCLOS III

First, I would like to recall the significant contribution of AALCO to the negotiations at the Third United Nations Conference for the Law of the Sea. The meetings of the AALCO from 1970 to 1982, though conducted outside of UNCLOS III, were acknowledged to have had an important influence on the outcome of UNCLOS III and on the 1982 United Nations Convention for the Law of the Sea.¹

The Tribunal follows with great interest the issues important to the member States of AALCO. We note that issues concerning the law of the sea continue to occupy a place of significance in your work programme.

"A Constitution for the oceans"

The 1982 United Nations Convention on the Law of the Sea regulates all aspects of the ocean space, its uses and its resources and includes, among others, such matters as fisheries, archipelagic States, maritime delimitation, regime of islands, protection and preservation of the marine environment, marine

¹ T Koh and S Jayakumar, "The Negotiating Process of the Third United Nations Conference on the Law of the Sea", in M. H. Nordquist (ed), *United Nations Convention on the Law of the Sea 1982, A Commentary*, vol. 1, (Center for Oceans Law and Policy, University of Virginia, 1985), p. 59.

scientific research. The comprehensive scope of the Convention makes it truly a "constitution for the oceans."²

Today, the Convention has 154 States parties plus the European Community. Forty (40) States Members of the AALCO have ratified or have acceded to the Convention. The goal of the Convention is universal participation. Every year, in a resolution, the General Assembly calls on all States that have not done so, to consider becoming parties to the Convention.³

Dispute settlement options and written declarations under article 287

As you know, the Tribunal is established by the United Nations Convention on the Law of the Sea as one of the options available to the parties to the Convention under article 287 for the compulsory settlement of disputes concerning the interpretation or application of the Convention. The other options being the International Court of Justice in the Hague, arbitration under Annex VII or special arbitral tribunal under Annex VIII.

There is no hierarchy between the various options. It is up to the parties to choose which dispute settlement procedure they prefer. In article 287, paragraph 1 of the Convention, States and entities, when signing, ratifying or acceding to the Convention, or at any time thereafter, may make declarations specifying the forums for the settlement of disputes which they accept.

In practice, only 36 States, out of 154 States Parties, have made declarations under article 287. Twenty-four States have chosen the Tribunal as first choice. Twenty-three States have chosen the ICJ as first, second or third choice. Fifteen States have made declarations in favour of arbitration as first, second or third choice. Since, in the absence of declarations, States are deemed to have chosen arbitration, this shows clearly that in most cases arbitration will be the only means of settling disputes, except where the parties decide otherwise. I would like to take this opportunity to reiterate that written declarations in favour of the Tribunal under article 287 may be made at the time of ratification, accession or at any time thereafter.

On the matter of written declarations, allow me to quote paragraph 27 of the General Assembly Resolution 61/222 of 16 March 2007, where the General Assembly,

Encourages States parties to the Convention that have not yet done so to consider making a written declaration choosing from the means set out in article 287 of the Convention for the settlement of disputes concerning the interpretation

² The phrase "A Constitution for the Oceans" is attributed to Ambassador Tommy Koh in the statements made on 6 and 11 December 1982 at the final session of UNCLOS III, in M. H. Nordquist (ed), *United Nations Convention on the Law of the Sea 1982, A Commentary*, vol. 1, (Center for Oceans Law and Policy, University of Virginia, 1985), p. 11.

³ See paragraph 3, A/RES/61/222 of 16 March 2007.

or application of the Convention and the Agreement, bearing in mind the comprehensive character of the dispute settlement mechanism provided for in Part XV of the Convention. (end of quote)

Let me emphasize that declarations under article 287 are not the only way to bring a case before the Tribunal. It is always possible for the parties to a dispute to submit a case to the Tribunal on the basis of an agreement. Two cases have already been submitted to the Tribunal on the basis on an agreement. (Saint Vincent and the Grenadines/Guinea and Chile/European Community).

Jurisdiction of the Tribunal

Let me now refer you briefly to the jurisdiction of the Tribunal. As you know, the core competence of the Tribunal is to deal with disputes arising out of the Convention. In other words, whenever a dispute relates to a provision of the Convention (with its 320 articles) or whenever it is alleged that a State has not complied with a provision of the Convention, the Tribunal is competent.

For example, issues relating to the delimitation of maritime areas, the detention or arrest of a vessel, damages resulting from oil pollution, overexploitation of fishery resources, are disputes that may be brought to the Tribunal for resolution.

With respect to disputes relating to the Convention, the Tribunal is open to States Parties to the Convention. This means the 154 States which have ratified or acceded to the Convention, plus the European Community.

Under the Convention, it is also possible for non-States Parties, such as the Authority, a state enterprise or a natural or juridical person, to appear before the Seabed Disputes Chamber of the Tribunal with respect to disputes relating to the exploration and exploitation of the deep seabed area.

The Tribunal may also acquire jurisdiction over disputes arising out of other agreements. Article 21 of the Statute provides that the jurisdiction of the Tribunal comprises all matters provided for in any other agreement which confers jurisdiction on the Tribunal. A number of agreements have been concluded which contain provisions stipulating that disputes arising out of the interpretation or application of these agreements could be submitted to the Tribunal. As an illustration, two of such agreements are the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 and the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks. The most recent convention that has adopted the dispute settlement procedure of the Convention is the Nairobi International Convention on the

Removal of Wrecks, 2007.⁴ A list of the agreements and the relevant provisions contained therein are published in the Tribunal's Yearbook and made available on the website of the Tribunal.⁵ The list does not claim to be exhaustive and is based on information brought to the attention of the Registry of the Tribunal.

Advisory proceedings

I wish to add that the Tribunal is not only competent to deal with contentious proceedings, i.e., cases involving disputes between two States. It may also give an advisory opinion on legal questions. Indeed, the Convention provides that the International Seabed Authority may address requests for advisory opinions to the Seabed Disputes Chamber, a chamber consisting of 11 members of the Tribunal.

Requests for advisory opinions may also be submitted to the Tribunal pursuant to article 138 of the Rules of the Tribunal, which states that the Tribunal "may give an advisory opinion on a legal question if an international agreement related to the purposes of the Convention specifically provides for the submission to the Tribunal of a request for such an opinion".

Jurisprudence of the Tribunal

In its 10-year existence, the Tribunal has delivered decisions in 13 cases on several issues on the law of the sea, including the prompt release of vessels and their crews, protection and preservation of the marine environment, fisheries, the commissioning of a nuclear facility and the movement of radioactive materials, reclamation activities, freedom of navigation, nationality of claims, use of force in law enforcement activities, hot pursuit and the question of the genuine link between a vessel and its flag State. On the occasion of the Tribunal's tenth-year anniversary, Judge Rosalyn Higgins, the President of the International Court of Justice, stated that (and I quote) "within a decade, the Tribunal has pronounced interesting law, built a reputation for its efficient and speedy management of cases and shown innovative use of information technology" (end of quote). The General Assembly has also recognized (and I quote), "the continued and significant contribution of the Tribunal to the settlement of disputes by peaceful means in accordance with Part XV of the Convention, and underlines

⁴ Adopted 18 May, 2007.

⁵ The other agreements in the list include the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas; the Agreement for the Conservation of Fishery Resources in the High Seas of the South-East Pacific; the Convention on the Protection of the Underwater Cultural Heritage; the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean; the Convention on the Conservation and Management of Fishery Resources in the South-East Atlantic Ocean.

the important role and authority of the Tribunal concerning the interpretation or application of the Convention and the Agreement." (end of quote)⁶

Chambers of the Tribunal

Unless otherwise provided, cases are dealt with by the Tribunal, consisting of 21 judges. Parties to a case may also request that the case be heard by a chamber composed of three or more of the elected judges. They may choose a standing chamber: *Chamber for Marine Environment Disputes*; *Chamber for Fisheries Disputes*; *Chamber of Summary Procedure*; and *Chamber for Maritime Delimitation Disputes*.

They may also request the constitution of an *ad hoc* chamber, in which case the composition of the chamber will be determined by the Tribunal with the approval of the parties. Here, I would like to quote what President Wolfrum has said of the many advantages of *ad hoc* chambers in his Statement before the 61st Session of the General Assembly on 8 March 2006.

The system of *ad hoc* special chambers, which was used for the first time by Chile and the European Community, is a flexible mechanism that combines the advantages of a permanent court with those of an arbitral body. The parties have control over the chamber's composition, as they may choose any of the 21 judges who are to sit in the chamber and may also appoint judges *ad hoc* if the chamber does not include a member of the nationality of the parties. Under the Statute, a judgment given by any of the chambers is considered as rendered by the Tribunal. A further advantage is that the parties have at their disposal the Rules of the Tribunal, which allow the case to be processed swiftly. The parties have a certain degree of flexibility in that they may propose modifications or additions to the Rules. Interested delegations will find detailed information on the Tribunal's proceedings and its special chambers in the *Guide to proceedings before the Tribunal*. (end of quote)

Work of the Tribunal

The Tribunal, at its Twenty-Second and Twenty-third Sessions, dealt with a number of legal matters that have a bearing on its judicial work. One of the issues considered by the Tribunal concerned the competence of the Tribunal on disputes on maritime delimitation. Article 288 of the Convention confers jurisdiction on the Tribunal, as well as the ICJ or an arbitral tribunal, to deal with any dispute concerning the interpretation or application of the Convention.

⁶ Paragraph 24, A/RES/61/222.

Therefore, disputes relating to maritime boundaries are considered disputes concerning the interpretation or application of the Convention.

The Tribunal has noted that its jurisdiction over jurisdiction over maritime delimitation disputes also include those which involve issues of land or islands. In his Statement before the 61st Session of the General Assembly, President Wolfrum stated that (and I quote)

This approach is in line with the principle of effectiveness and enables the adjudicative body in question to truly fulfill its function. Maritime boundaries cannot be determined in isolation without reference to territory. Moreover, several provisions of the Convention deal with issues of sovereignty and the inter-relation between land and sea. Accordingly, issues of sovereignty or other rights over continental or insular land territory, which are closely linked or ancillary to maritime delimitation, concern the interpretation or application of the Convention and therefore fall within its scope. (end of quote)

Costs

The expenses relating to the functioning of the Tribunal are covered by the contributions of the States Parties. Therefore, submitting a case to the Tribunal would not require the payment of court or any administrative fees. The parties to the case have only to bear the expenses relating to counsel and advocates, together with the accommodation expenses during their stay in Hamburg for the hearing.

A trust fund was set up in 2000 in order to assist developing States, which are parties to a case before the Tribunal with respect to expenses. The fund is maintained by the secretariat of the Convention, the United Nations Division on Ocean Affairs and the Law of the Sea (DOALOS). In 2005, the Fund awarded US \$20,000 to Guinea-Bissau to defray its expenses related in the Juno Trader Case (St. Vincent and the Grenadines v. Guinea-Bissau).⁷ As of 31 December 2006, the balance of the fund was US \$85,869.⁸

Workshops

I would like to inform the members States of AALCO of the regional workshops on the role of the Tribunal on the settlement of disputes under the Convention. So far, the Tribunal has organized four workshops. The first workshop took place in Dakar, Senegal from 31 October to 2 November 2006. It was attended by representatives of different ministries of 13 Western African

⁷ Paragraph 55, A/60/63 of 4 March 2005.

⁸ Paragraph 358, A/62/66 of 12 March 2007

States. The second was in Kingston, Jamaica from 16 to 18 April 2007. It was attended by representatives of 19 Latin American and Caribbean States.

A joint workshop was also organized by the Gabonese authorities and the Intergovernmental Oceanographic Commission of UNESCO in conjunction with the Meeting of the Advisory Board of Experts on the Law of the Sea (ABELOS) in Libreville on 26 and 27 March 2007. It was attended by representatives of 17 States that participated in the meeting of ABELOS.

The fourth workshop was held in Singapore from 29 to 31 May 2007. The Singapore Workshop was attended by representatives of 17 States from the Northeast, Southeast and South Asia.

In his statement at the opening of the Singapore Workshop, Deputy Prime Minister S Jayakumar encouraged States to turn to the Tribunal in settling disputes related to the law of the sea. Singapore, as you know, was the respondent State in a provisional measures case concerning land reclamation in the Straits of Johore brought by Malaysia to the Tribunal. Singapore and Malaysia subsequently resolved the dispute. Singapore has acknowledged the role played by third-party institutions, including the Tribunal, in resolving the dispute with Malaysia.

Training programme on dispute settlement

I also wish to inform you that the Tribunal recently entered into an agreement with the Nippon Foundation of Japan, to organize a training programme on dispute settlement under the Convention. The programme has been developed to offer young government officials and researchers working in the field of the law of the sea or dispute settlement in-depth knowledge of the dispute-settlement mechanisms available to States under Part XV of UNCLOS.

Five participants have been selected to join the 2007-2008 programme which will last for 8 months from July 2007 to March 2008. Lectures, case studies, and training will enable participants to acquire a deeper understanding of the dispute-settlement mechanisms under the Convention. Study visits will be made to organizations dealing with law of the sea matters. Lectures will be given on law of the sea issues (fisheries, environment, climate change, delimitation, and the international seabed area).

I would like to encourage, in particular, AALCO's Center for Research and Training to take note of this training programme and of the deadlines for application. This year's application process has been completed.

In conclusion, I wish to reiterate my gratitude to AALCO for its invitation to the Tribunal to participate as an observer and for granting me the opportunity to address the organization on matters concerning the Tribunal. On behalf of the Tribunal, I would like to wish AALCO success in its deliberations at this session.

Thank you very much.

ANNEX 82

Email of 17 July 2007 from Charles Sheppard to Tony Humphries, Head BIOT and Pitcairn Section, FCO, forwarding an email from Heather Bradner of the Pew Charitable Trusts

Tony Humphries

From: Sheppard, Charles [Charles.Sheppard@warwick.ac.uk]
Sent: 17 July 2007 11:13
To: hbradner@pewtrusts.org
Cc: Tony.Humphries
Subject: Chagos - British Indian Ocean Territory

011260/002

Hello Heather

Very good to hear from you and im glad you retain an interest in Chagos! I would like very much to talk again about this, and my tel is below. And, given a little coaching from my daughter I should manage Skype as well!

But I have just been talking with Mr Tony Humphries who is Administrator for British Indian Ocean Territory, who had another good idea. He and I (and others) will be meeting in Washington on 12 and 13 September with US officials, in connection with several issues concerning Chagos, and Tony suggested that if at all possible we could perhaps arrange a meeting? We would take you to dinner, for example. I know Alaska isn't exactly close to Washington, but we wonder whether this might fit in with any other meeting you might be making to Washington? It would be good if it did.

Now, across to my daughter who is likely to be Skype's most ardent user...

Best wishes
Charles Sheppard

Professor of Biological Sciences
Department of Biological Sciences
University of Warwick
CV4 7AL, UK
charles.sheppard@warwick.ac.uk
(+44) (0) 2476 524975

Editor: *Marine Pollution Bulletin*

Greetings from Alaska and the Pew Charitable Trusts! It has been a while since we talked, but I wanted to update you on our progress regarding the Chagos Islands and continue to stay in touch and seek your insights. I have been meaning to contact you and thought perhaps the best way is for me to just ring you sometime if you are available. If that is at all a convenient option for you, let me know what number might be best and when. I am also a Skype user if that is convenient. My skype name is hbradner.

Thank you so much for taking the time to meet with me earlier and exchange a few emails. I have been using the photos you put on my flash drive as a slide show on my screen saver, and thus, every day I get to take a journey to the Chagos Islands! It's a great inspiration.

Anyway, as you may recall from our chat over coffee earlier this year, we are interested in exploring the possibility of the Chagos Archipelago as a candidate for a huge no-take marine reserve. Ocean Legacy is actually collaboration supported by the Pew Environment Group (of the Pew Charitable Trusts) and partner institutions. The goal is to establish and permanently protect three to five large, world-class, no-take marine reserves globally over the next five years. Pew was recently successful in helping to establish the presidential-designated marine national monument in the northwestern Hawaiian Islands, the largest marine reserve in the world. We are now looking at additional areas that, if protected, can contribute to our global marine heritage such as the Chagos Islands. It's a very exciting project, and so far we have been working on starting up the overall Ocean Legacy campaign, but are now in the position to seriously explore the Chagos as a site.

I'd love to talk with you more at your convenience, bring you up to date, and exchange ideas. I hope you are having a good summer.

-Heather

PS: And, as you say, I'll start calling you Charles! Thanks for the below note. Also, please use my hbradner@pewtrusts.org account. My yahoo account is personal and just what I using until Pew got me underway.

Heather Bradner
The Pew Charitable Trusts
Manager - Ocean Legacy
175 South Franklin St. 3rd Floor
Juneau, Alaska 99801 USA
907-586-8000 ph
907-586-8099 fax
907-321-5111 mobile
hbradner@pewtrusts.org
Skype address name: hbradner

ANNEX 83

Email exchange of 16-20 August 2007 between Heather Bradner and Tony Humphries

Pw Environment email
OT, 260/002

Tony Humphries

From: Tony Humphries
Sent: 20 August 2007 12:39
To: 'Heather Bradner'
Cc: Sheppard, Charles; Jay Nelson
Subject: RE: Thank you and Pew Information

Dear Heather Bradner

Thank you very much for this and the materials which I shall look forward to reading when they arrive.

I am sending you a copy of our standard background note on the British Indian Ocean Territory for your information. And will be happy to expand on any issues that it raises for you when we meet.

Best wishes

Tony Humphries

Tony Humphries

Head, BIOT and Pitcairn Section
Overseas Territories Directorate
Foreign and Commonwealth Office
Tel: 020 7008 2890
e-mail: tony.humphries@fco.gov.uk

-----Original Message-----

From: Heather Bradner [mailto:HBradner@pewtrusts.org]
Sent: 16 August 2007 09:01
To: Tony.Humphries@fco.gov.uk
Cc: Sheppard, Charles; Jay Nelson
Subject: Thank you and Pew Information

Dear Mr. Humphries,

Thank you for your note. I am sorry for the delay in responding as we had some internet issues here yesterday.

I am very pleased to provide you information about The Pew Charitable Trusts. I mailed some materials to you that should arrive in about a week. They include overview materials about Pew's mission and achievements to date, including information on our environmental work. I included several copies in case you would like to share them with your colleagues or others as appropriate.

In the meantime, here are links to an article in one of our [Pew Publications](#) and in the [The New York Times](#) about Pew's role in helping create the Northwestern Hawaiian Islands National Monument last year. That effort resulted in the presidential designation of the largest, permanent no-take marine reserve in the world: 360,000 sq km (138,000 sq mi) of reefs, atolls, shoals, islands and banks in largely unspoiled condition. Pew and other partner institutions have since been interested in exploring opportunities that may exist globally to create similar reserves that can provide ocean-scale ecosystem benefits and contribute to our shared global marine heritage. As you are aware, our project is called "Ocean Legacy" and the goal is to identify and secure permanent protection for three to five very large no-take marine reserves over the next five years. I hope these articles help give a good sense of the basic concept behind the Ocean Legacy project.

Finally, our website www.pewtrusts.org provides a profile of our entire institution. Visit the link titled

"Protecting Ocean Life" to learn more about our marine program. We expect to have specific materials about our Ocean Legacy project on that website soon.

I hope you find this information useful. I also welcome any reading material or information that you might be able to recommend on the BIOT. I have visited the Foreign and Commonwealth Office website, but as we are at the beginning of our overall project, I wanted to be sure to consult you about any sources you may consider essential or valuable reading.

I look forward staying in touch with you. Below in the signature block is the complete contact information for Jay Nelson and myself. I have also attached the contact information as vCards if you use Outlook. Jay and I are both looking forward to meeting you and learning more in September. Thank you for this opportunity.

Sincerely,

-Heather

Heather Bradner
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175 South Franklin St. 3rd Floor
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907-586-8000 ph
907-586-8099 fax
907-321-5111 mobile
hbradner@pewtrusts.org
Skype address name: hbradner

Jay Nelson
The Pew Charitable Trusts
Director - Ocean Legacy
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907-586-8000
907-586-8099 (fax)
907-321-5030 (mobile)
(011-61) 4-3498-9581 (In Australia)
Skype: jaywnelson2

From: Tony.Humphries@fco.gov.uk [mailto:Tony.Humphries@fco.gov.uk]
Sent: Tuesday, August 14, 2007 2:25 AM
To: Heather Bradner
Cc: Charles.Sheppard@warwick.ac.uk
Subject: RE: Thanks and questions

Dear Heather Bradner

Charles Sheppard, our Environmental Adviser for BIOT, has kindly been copying me into your email exchanges. I wanted to let you know of our appreciation of your interest in the British Indian Ocean Territory and that I look forward to meeting you in Washington in September.

As you have recognized, this area is politically sensitive so I will be happy to brief you on the British Government's position over our dinner together. We might then explore together what might prove to be of interest to your Trust. It might also be helpful for me to learn more about the Trust before we meet. Could I ask you please to send me some information about it? Thank you.

Yours sincerely,

Tony Humphries

Head, BIOT and Pitcairn Section
Overseas Territories Directorate
Foreign and Commonwealth Office
Tel: 020 7008 2890
e-mail: tony.humphries@fco.gov.uk

ANNEX 84

Letter of 20 June 2007 from Chagos Conservation Trust to Tony Humphries and letter of 19 October 2007 from Chagos Conservation Trust to Tony Humphries

PACCT
071272/881 (10)

CHAGOS CONSERVATION TRUST

INCORPORATING THE FRIENDS OF THE CHAGOS



Founder: Commander John M W Topp OBE Royal Navy FLS

Mr Tony Humphries
Administrator, British Indian Ocean Territory
Foreign and Commonwealth Office
King Charles Street
London SW1A2AH

20.06.07

Dear Tony,

I am writing to let you know about the conference on BIOT conservation that the Chagos Conservation Trust (CCT) is planning for late October (date to be confirmed soon) at the Zoological Society of London and about some related work CCT that has in hand, particularly that on the general framework for BIOT conservation.

The conference will consider the longer-term conservation of the Chagos Archipelago (British Indian Ocean Territory), both the legislative framework and the practical requirements for conservation management, as well as how our Trust and other organisations can best contribute to the Government-led conservation effort.

A wide range of experts and organisations will be invited. Officials will, of course, be more than welcome to attend any part of the event. We will send you the provisional programme. (We will avoid a clash with the Pol Mil talks, which I understand will be in September.)

CCT attaches much importance to the continuing commitment on the part of the Government and officials to treat the whole of the Chagos as if it were a World Heritage natural site, i.e. a site of outstanding universal value for the world's natural heritage. We also welcome recent assurances from the FCO and Defra that further Ramsar site designations discussed will be taken forward in due course.

With JNCC's encouragement, CCT is actively examining the scientific and conservation priorities for BIOT. We are also following the current legal and political processes related to possible resettlement since any decision that leads to the restoration of human settlement would have profound environmental implications. A short paper we are preparing with ideas for a longer-term BIOT conservation framework will take human habitation into account.

In that context we are starting to look at examples of archipelagos, island and remote sites which combine an internationally supported, natural conservation management regime with some compatible human habitation. Although BIOT certainly has its unique aspects, there are existing island sites of some interest in the context. You might like to see the little note attached, - simply some island sites drawn from the World Heritage List.

Yours,
William Marsden

William Marsden CMG, Chairman, Chagos Conservation Trust

Executive Committee: *Chairman* William Marsden CMG, *Treasurer* Geneviève Edis, *Secretary* Simon Hughes, Chris Davies, Dr Geoff Hilton (RSPB), Rachel Jones (Zoological Society of London), David MacLennan, Richard Martin, Paul Pearce-Kelly (Zoological Society of London), Pete Raines MBE, Dr Charles Sheppard FLS (Warwick University), Dr Mark Spalding (TNC), Frank Stewart MD, John Topp OBE, John Turner, Nigel Wenban-Smith CMG.

Information: www.chagosconservationtrust.org

UK: Simon E Hughes: simonhughes@hughes-mccormack.co.uk Ground Floor Flat 29 Champion Hill London SE5 8AL

US: Captain Frank Stewart MD: ruthandred4@msn.com 1705 Bolling Avenue, Norfolk VA23508-1352.

The Chagos Conservation Trust is a UK Registered Charity No. 1031561

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SOME ISLAND SITES WITH NATURAL CONSERVATION FRAMEWORKS

The Coiba Island World Heritage (WH) site (Panama, 2005) This is an archipelago with one large and 9 small islands, nearly pristine tropical nature, government administration, no private land, a total land/maritime area of 430,825 ha, and a current human population of about 110 plus a WH reserve administrator and 19 park guards. (I was modestly involved with the negotiations for the creation of this site. Challenges remain.)

Some other existing WH island sites include:

Gough and Inaccessible Islands WH site (UK 1995, extended 2004) No permanent population. Scientific expeditions. Tristan da Cunha rights for guided visits by boat. Limited fishing rights.

St Kilda, Outer Hebrides of Scotland (UK 1986, extended 2004). Managed by a partnership of National trust for Scotland, MOD, and Scottish National Heritage. No permanent population. Charter boat and yacht visits. Conservation work parties.

Aldabra Atoll, Western Indian Ocean (Seychelles, 1982)
Permanent Scientific Research Station. World Bank (GEF) funding. Management, Science and Conservation Plan. 3 Permanent scientific monitoring sites on other islands in the Aldabra Group. Small population of Scientists, staff and other visitors.

Heard and McDonald Islands. (Australia 1997) 65,000 sq km marine area.
Australian Administration. No resident population. Scientific visits.

Lord Howe Island Group (Australia, 1982) S Pacific Ocean 700k from Sydney.
Area : Land 1176 ha; Maritime 136,300 ha NSW State owns all land. Resident population c300 plus c400 tourists. Some leased land .Administration: Lord Howe Island Board. Most original vegetation lost. Rat, feral cat etc problems.

Macquarie Island, SW Pacific Ocean (Australia, 1997) The Australian Antarctic Division maintains a permanent base. Base population varies between 20 and 40. An Administrative Head of Island. Habitat restoration programmes (rat and rabbit problems).

Brazilian Atlantic Islands (Rocas Atoll, Fernando de Noronha Archipelago) (Brazil)
Islands as a whole far from pristine. Reserve areas (publicly owned) administered by IBAMA (Brazil's environment agency. 2,100 resident population outside reserve areas. Airport. Tourism

Indian Ocean Atolls (but not World Heritage sites): Cocos (Keeling) Islands, Indian Ocean (Australia),. Includes conservation zone under Government agency supervision.

W Marsden

ANNEX 85

Annex II to the Treaty on the Functioning of the European Union, December 2007

ANNEX II**OVERSEAS COUNTRIES AND TERRITORIES TO WHICH THE PROVISIONS OF PART FOUR OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION APPLY**

- Greenland,
 - New Caledonia and Dependencies,
 - French Polynesia,
 - French Southern and Antarctic Territories,
 - Wallis and Futuna Islands,
 - Mayotte,
 - Saint Pierre and Miquelon,
 - Aruba,
 - Netherlands Antilles:
 - Bonaire,
 - Curaçao,
 - Saba,
 - Sint Eustatius,
 - Sint Maarten,
 - Anguilla,
 - Cayman Islands,
 - Falkland Islands,
 - South Georgia and the South Sandwich Islands,
 - Montserrat,
 - Pitcairn,
 - Saint Helena and Dependencies,
 - British Antarctic Territory,
 - British Indian Ocean Territory,
 - Turks and Caicos Islands,
 - British Virgin Islands,
 - Bermuda.
-

ANNEX 86

Chagos Conversation Trust discussion paper sent to BIOT administration on 11 April 2008

PA

OTI 292/001/2008

15.4.08

1

CHAGOS CONSERVATION TRUST

INCORPORATING THE FRIENDS OF THE CHAGOS

Founder: Commander John M W Topp OBE Royal Navy FLS
Leigh Turner, Director, Overseas Territories, FCO



Dear Leigh,

11/04/08

BRITISH INDIAN OCEAN TERRITORY

When I called on you on 31 January, I mentioned that the Chagos Conservation Trust (CCT) and other organisations with an interest in the BIOT environment were planning to put forward their suggestions for 'elements' of a robust conservation framework for BIOT, which are aimed to be compatible with security and with variable possible outcomes as regards the 'Chagossian' case.

Essentially the idea is that the Government should create a framework for a world class Chagos national park, building on actions already taken by the FCO and others and adding new resources from the Pew Trusts and hopefully others. This framework would be organised in a way which both meets security requirements and could also offer some sustainable and useful employment for a limited number of Chagossians.

This proposal followed the conference on the subject at the Zoological Society on 25 October. CCT has now produced a very first draft for a 'discussion paper' on the proposal. The RSPB will be working on it next. We have also discussed the general question with the Royal Society (Professor Sir David Read) which plans to put a report to its Board on 14 May. The Pew Trusts, with big ideas and funds, are very positively involved and will meet with these and other organisations on 22 April. The CCT Executive Committee also includes representatives of the Universities of Wales and Warwick, The Nature Conservancy, Coral Cay Conservation, RSPB and our USA network.

At our meeting I said I would show the FCO the discussion paper at a very early stage (in order, from our point of view, to ensure that the drafters were not going clearly against the grain of reality as seen from the FCO).

The CCT Secretary and I are today discussing this exercise and other matters related to the BIOT environment in the FCO with Overseas Territories Department. You may like to see the attached copy of the first draft of the discussion paper. We hope that you will consider its general approach to be constructive and we will welcome any informal comments.

I am also sending a copy of this letter and the paper to Mariot Leslie, to whom I fleetingly mentioned the general idea at the reception on 4 December in Lancaster House.

*Yours,
William*

William Marsden, Chairman, Chagos Conservation Trust
chagostrust@hotmail.co.uk

RECEIVED IN REGISTRY		
27 MAY 2008		
Tel: 01798 879394		REGISTRY
INDEX	P.A.	ACTION TAKEN
	✓	✓ NL

Executive Committee: Chairman William Marsden CMG, Treasurer Richard Martin, Secretary Simon Hughes, Chris Davies, Dr Geoff Hilton (RSPB), Rachel Jones (ZSL), David MacLennan, Paul Pearce-Kelly (Zoological Society), Pete Raines MBE (Coral Cay Conservation), Professor Charles Sheppard FLS (Warwick University), Dr Mark Spalding (TNC), Frank Stewart MD, Michelle Taylor BSc, John Topp OBE, John Turner (University of Wales).

Information: www.chagos-trust.org

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The Chagos Conservation Trust is a UK Registered Charity No. 1031561

Registered Office 29 Champion Hill London SE5 8AL Telephone: 020 7738 7712 International: +44 20 7738 7712

BIOT/CHAGOS CONSERVATION FRAMEWORK (DISCUSSION PAPER)

Professor David Bellamy, 2002:

“It has been my dream that the whole Chagos Archipelago should be an International Marine Nature Reserve and Sanctuary.... The whole ecological structure is under threat. Fortunately all is not yet lost, though time is short. The Powers-that-be, the international commune of conservation and locally-focussed bodies such as the Chagos Conservation Trust can work together in an effective mix of vision and management. Maybe the Chagossians too can have a role to play. The Archipelago will even more deserve, and perhaps at last obtain, the title of World Heritage site.”

Professor Callum Roberts, University of York, 2007:

‘The Chagos Archipelago represents a magnificent conservation opportunity that could be of lasting benefit to humanity. There can be few places on this planet that represent better value for leveraging spectacular returns. What is needed is vision and a leadership initiative by Britain to create the Chagos as an iconic, pristine area of the planet held in trust for the future of the world community.’

Dr Peter Bridgewater, Chair, UK Joint Nature Conservation Committee and former Secretary General, Ramsar Convention, 2007:

‘Ramsar covers the British Indian Ocean Territory (BIOT) and it is important to remember that Ramsar is about the wise use of all wetlands in the territory of the country and getting the management right. This means, as coral reefs are wetlands under the convention, that the whole Chagos ecosystem should be managed wisely. According to the convention a Ramsar site should be managed to ensure no change to the ecological character of the system.

Given the status of the Archipelago, and given wise management in future, should the World Heritage Convention be extended to the territory at some future time it is clear a nomination would be successful.’

Pew Charitable Trusts, 2008:

‘The Ocean Legacy project is looking at opportunities to protect surviving world-class marine systems. The Chagos Archipelago is a rare gem in an increasingly populated region whose shores and waters are already over-exploited and heavily degraded.’

1. INTRODUCTION

The Chagos Islands, in the centre of the Indian Ocean, have belonged to Britain since 1814 (The Treaty of Paris) and are constituted as the British Indian Ocean Territory (BIOT). The area includes 55 tiny and remote islands, 10 coral reefs, and 5 coral atolls. Only one island, Diego Garcia is inhabited (by military personnel and civilian contract employees). It accounts for over two-thirds of the total land area of 50 square kms. The other 54 (tiny and uninhabited) coral islands cover a total area of only 16 square kms. They are set in some 500,000 square kilometres of sea in the central Indian Ocean.

2. EXECUTIVE SUMMARY

Page 2

The British Indian Ocean Territory (The Chagos) has the most pristine tropical marine environment surviving on the planet. Its quarter of a million square miles is Britain's greatest area of marine biodiversity by far. The paper summarises reasons why the Chagos natural environment is so important and makes specific proposals for its protection.

The UK Government and the British Indian Ocean Territory (BIOT) Administration are committed to managing BIOT as if it were a World Heritage site and have enacted significant legislation to protect this globally important environment. However a more robust and extensive framework for conservation is needed to meet future challenges. The existing environmental safeguards should be strengthened to create a long-term conservation framework with the maximum international support. It would be a world class natural conservation area and a major British contribution to 'saving the planet'. Elements of the policy framework might include:

- The existing Ramsar Area should be extended (as already agreed by the Government in principle) first to the territorial waters and then to the whole Chagos Archipelago, with strict reserve areas for the priority biodiversity sites. The BIOT Environment Zone (created in 2004) should be completed.
- A comprehensive Chagos marine and fisheries management and conservation system should be established, to include a 'no-take' fishing zone, initially covering at least one third of the Territory's coastal and lagoonal waters (as already provided for in the Chagos Management Plan).
- There should be increased surveillance for conservation protection, notably by the deployment of a second patrol vessel.
- A small, fixed scientific research facility should be established, perhaps on a northern island.
- A new, sustainably funded, small organisation (perhaps a Public Foundation) should be established by the Government to manage and conserve, with effective support from other organisations, the natural marine and terrestrial environment and biodiversity of BIOT, as well as the related science, research, education and protective visiting. Experience should be drawn from best practice in other comparable protected natural areas in the world.
- A greater US contribution to environmental conservation within BIOT should be encouraged, in the co-operative spirit of the existing bilateral Agreement.
- The issue of human habitation should take full account of the environmental implications. The conservation and scientific frameworks proposed in this paper could be organised to offer financially viable and sustainable balanced employment opportunities for a limited number of new inhabitants.
- Wider international support should be promoted for a comprehensive Chagos nature reserve framework (e.g. Ramsar, IUCN, UNESCO World Heritage).

3. THE GLOBAL IMPORTANCE OF BIOT'S NATURAL ENVIRONMENT

- These are features which make the Chagos an outstandingly important environmental site:
- The archipelago has the most pristine tropical marine environment surviving on the planet.
- The Chagos contains the world's healthiest coral reefs and the world's largest surviving coral atoll. Scientists fear that half of the world's few remaining coral reefs could be lost by 2025. It is essential to save them. Hundreds of millions of people in the world depend on healthy reefs in one way or another. Living reefs provide food, protect beaches from erosion and form a treasure house of genetically diverse creatures and plants.
- The wildlife biodiversity of Chagos is very rich. It provides at least 220 coral species and over 1000 species of fish with a stronghold which is vital. It is also a refuge and breeding ground for whales, sharks, dolphins, marine turtles, rare crabs, other threatened marine life, and some 280 species of birds. In marine terms BIOT is by far the most bio-diverse part of the UK and its Overseas Territories.
- The archipelago is isolated and at the very centre of the Indian Ocean where it acts as an 'oasis' for marine and island species (which are nearly all in decline under pressure from the effects of massive, recent human population growth in the region).
- Most of the Chagos is uninhabited. This is the main reason why the ecology of the Chagos is nearly pristine and full of diverse life, a rare surviving example of nature as it should be, and where human pressures do not conflict with environmental needs and lead to degradation and impoverishment.
- Also, because of its mainly unspoilt and healthy environment, the Chagos provides us with a scientific benchmark for how the world should be. This is evidently important in helping us to understand and deal with such problems as pollution, loss of biodiversity and climate change.

4. CLIMATE CHANGE

As regards climate change, the Chagos is very vulnerable to global warming. However, it will also have several key positive roles to play in the coming years since its seas and coral reefs are the least impacted by direct human impacts. It will therefore provide:

- A scientific control site to compare with other more impacted sites (especially coral reefs).
- A means of filling gaps in global climate monitoring programmes (eg acidification, sea temperature, sea levels and gasses). The Indian Ocean is as yet largely omitted from these programmes.
- Contributions to our understanding of the processes that collectively create global warming and climate change, the threats they pose, and management options to counter them.

Page 4 (Climate Change contd) At the same time, the Chagos is itself vulnerable to physical pressures from global warming and these must be monitored (particularly in the light of a possible additional human presence). The pressures include:

- -Sea level rises leading to inundation of low-lying islands;
- -Sea temperature rises leading to coral mortality;
- -Coastal erosion from loss of protective structure of reefs due to coral mortality;
- -Rising CO2 levels causing ocean acidification and reduced reef growth.

5. THE EXISTING COMMITMENT TO THE PROTECTION OF BIOT'S ENVIRONMENT

The British Government, through the BIOT Administration, is committed to conserving the environment of the Territory and has taken significant measures to put this into effect, within the framework of the UK's International Priorities and Sustainable Development Strategy and the Government's Environmental Charter for the Territory itself.

The Chagos is one of Britain's largest and most important nature conservation areas. Its Environmental Protection Zone (declared by the Government) covers about half a million square kilometres. UK legislation is also in place to protect natural resources, notably in the restricted and reserve areas, with controls on fishing, pollution and the killing, harming or collecting of animals.

The Government has designated a first Ramsar (Wetlands Convention) site, on Diego Garcia, which includes all of the lagoon waters, the eastern side of the main island and the islands in the main channel as well as the marine waters to the limits of the territorial sea (3nm). The Government has also agreed in principle on substantial further Ramsar designations and has undertaken to manage the whole area "as if" it were a natural World Heritage site (that is "a site of outstanding universal value for the world's natural heritage"). 95% of BIOT's biodiversity is outside Diego Garcia. Existing terrestrial and marine protection is provided over wide areas of the Chagos Archipelago through national legislation. Protection for the northern atolls is provided in a number of Strict Nature Reserves.

The Chagos Archipelago is also subject to further levels of internationally binding legal protection. This includes, the Whaling Convention (including an Indian Ocean whale sanctuary), the Law of the Sea Convention (with provisions to protect fish stocks), the Indian Ocean Tuna Commission, the CITES Convention (regulating trade in wildlife, including corals) and the Bonn Convention (with provisions to protect marine turtles and cetaceans).

6. MARINE AND FISHERIES MANAGEMENT AND CONSERVATION

Virtually none of the deep sea area of BIOT and only 3% of the shallow sea area is protected. The declared territorial sea limits extend to only 4 nautical miles, whereas 12 nautical miles is now the norm.

Reef sharks, tuna, groupers, sea-cucumbers are already among the categories of species vulnerable to illegal fishing and over-fishing around the Chagos.

The fact that the Indian Ocean shark population is thought to be 90% smaller than it was 40 years ago is an indication of the pressure on Indian Ocean marine life.

The current licensing mechanism consists of a recreational fishery (yachts and Diego Garcia) and 3 licensed commercial fisheries: Offshore (Purse Seine for yellowfin and skipjack tunas); Offshore (Longline for bigeye and yellowfin tunas); Inshore (Bank fishery for snappers, groupers). The most significant monitoring, control and surveillance issue at the present time is that of illegal vessels and fishing camps.

Implementation of both the fisheries policy and the conservation policy relies essentially on enforcement by the BIOT Support Vessel, 'BritOp' operations carried out by the British military authorities, and so far only sporadic scientific monitoring observations.

There are key questions relating to the overall policy on fisheries management and conservation policy in the half million square kilometres of ocean, as well as that of the sources and size of funding required for implementation.

Poaching and pressures on BIOT's marine life will increase. It is argued that large scale no-take zones should be created and that one fisheries protection vessel is inadequate for such a huge area; the single patrol vessel appears to be struggling with its (necessary and important) multiple tasks.

It is suggested that the tuna licensing brings in relatively very little money; the income stream is highly variable year-on-year. Investigations should be started into the possible alternatives which would include strict no-take for the majority of the EFZ and territorial waters, with funds for two permanent patrol vessels securely funded in perpetuity by a large endowment. This would undoubtedly reduce pressure and would further protect other oceanic species such as sharks which are impacted as by-catch.

The Chagos is a global coral reef biodiversity hotspot. The objectives of the required coral reef management agenda should be:

- 1) maintain or recover reef growth and structural complexity of habitats;
- 2) maintain or recover fish stocks and sustain fishery yields;
- 3) prevent, reverse or minimise local losses of species;
- 4) ensure that no species are driven to extinction.

At the 2002 World Summit on Sustainable Development the coastal nations of the world, including the UK, committed themselves to establish national networks of marine protected areas by 2012. There is clear evidence that marine reserves work. Reserves all over the world show dramatic increases in spawning stocks. Multiple stresses are overwhelming local efforts to protect reefs. We need to scale up protection from local to regional. Theoretical work indicates we should protect between 20% and 40% of the sea to maximise fishery benefits and maintain sufficiently large populations so that species can bounce back quickly after shocks. Such source populations and adequate inter-reserve connectivity can only be guaranteed when large marine networks are created-of the order of 30% or more of habitat.

We agree with Professor Callum Roberts of York University that The Chagos Archipelago represents a magnificent marine conservation opportunity that could be of lasting benefit to humanity and biodiversity. There can be few places on this planet that represent better value for leveraging spectacular returns. What is needed is vision and a leadership initiative by Britain with others to create the Chagos as a model, pristine area of the planet held in trust for the future of the world community.

7. OTHER CHALLENGES FOR BIOT CONSERVATION

Page 6

Regulatory Framework UK/BIOT

Not least in the light of recent legal judgments, there is a need for confirmation of the validity of the existing legal framework for BIOT environmental conservation (based largely on UK Orders in Council).

There is also a need for updating and defining the framework of BIOT protected areas. Work has begun on this.

Fully Protected areas

Of particular importance is the implementation of "one third fully protected areas" or "no take zones" (for maritime areas). The concept is incorporated in the agreed Conservation Management Plan for BIOT. Representative selections of all habitats should be covered in these areas. These areas need not require exclusion of all access but they will exclude extractive activity, fishing, construction and other interference.

Proposed Removal of Exclusions to the Environment Zone

Currently the Environment Zone has an outer boundary (the 200 nm limit) and several inner boundaries around each island or group of islands. This has the effect of excluding from the Environment Zone all islands and their immediately adjacent reefs and shallow waters (the areas which are richest in biodiversity and in particular need of environmental protection). The simple removal of all inner boundaries is proposed.

Scientific Monitoring and Research

The 2006 Scientific monitoring expedition was carried out very effectively with excellent official support, including the essential role of the BIOT support vessel. This present mechanism of expedition-type research visits has served well enough up in the past but there is now a need for a modest facility which remains for authorised scientific work. Much new science requires equipment which cannot simply be flown out on a temporary basis but needs a non-humid, fixed location. Some equipment can be moved, but only at great expense and inconvenience. Avenues for funding and managing such a facility are being discussed.

Habitat Restoration and Biodiversity

Scientific monitoring should pay particular attention to 'sentinel' species including seabirds, turtles, corals, reef fish, sharks, native plants. In the Indian Ocean most of these are on the decline. Sea-birds are subject to numerous threats and some are at a small fraction of historic levels. The Chagos is a vital refuge and breeding ground for them. Yet 9 of the 17 species of breeding seabirds studied by the 2006 scientific expedition showed a significant reduction in numbers since the 1996 expedition. (A survey of the breeding birds of the Indian Ocean Territory shows huge declines in some seabirds between 1996 and 2006:

Audubon's Shearwater -69%, White-tailed Tropicbird -46%, Masked Booby -67%, Roseate Tern -80%, Bridled Tern -60%, Brown Noddy -78%, Lesser Noddy -91%.)

On BIOT, the islands which are rat free (eg Nelson, Three Brothers and Danger Island) are teeming with birds, whereas those with rats (notably those which were previously inhabited) are not. Habitat restoration, with successful rat eradication, would add directly to breeding habitats. Eagle, Sea Cow and Egmont Islands are candidates for such treatment when funding can be found.

Providing the numbers of visiting yachts are controlled and regulations as regards pollution and moorings etc are adequate and enforced, the yachts need not present a significant environmental threat. It is essential to have moorings which protect the coral from anchors and chains. Charges should be sufficient to cover costs and contribute to conservation work.

Planning

There is effectively no land planning legislation for the Chagos. A framework for this appropriate for possible future scenarios should be put in place.

Enforcement

Rapid response is needed to prevent the pressure for poaching. The retasking of the FPV as the BIOT Support Vessel is a very positive step; but it is unlikely that the single vessel will be sufficient in future.

Finance

The FCO and BIOT Administration frequently refer to the financial problems facing BIOT management. The Administration of the BIOT in regards to conservation and fisheries management and enforcement and scientific monitoring must be more adequately resourced than at present.

8. HUMAN HABITATION

The Chagos Conservation Trust and partners consider that even as the legal arguments continue it is not too soon for the British Government and other concerned bodies to begin to draw up longer term plans to sustain the environmental integrity of the Chagos while taking the possibility of human habitation into account. As a non political charitable organisation, the Chagos Conservation Trust has not taken a position for or against resettlement in the Chagos Islands by the Chagossians while the matter was sub judice. Nevertheless the Trust has previously drawn attention to the environmental implications associated with human resettlement. Any such resettlement needs to take account of the importance of safeguarding the unique, delicate and vulnerable ecology of the archipelago. This is not only because human settlement would have an impact on important ecosystems and threatened species, but because any degradation of the environment could adversely affect the welfare and prosperity of possible human communities.

In the spirit of Professor Bellamy's remarks quoted at the head of this paper, it would seem reasonable to hope that good livelihoods in areas including those relating to conservation might exist in future for some Chagossians who wish to return.

As regards the outer islands, the Posford Haskoning Study and the Jenness Review comment on this subject of the compatibility of human habitation on the outer Chagos Islands and the safeguarding of the ecology of the archipelago. The Jenness Review considers that Chagossian re-settlement "can occur in a way that protects the islands' natural environment". However the environmental risks from resettlement foreseen in the June 2000 feasibility study are very real. The study said that 'resettlement would have a profound effect on the structural and functional characteristics of the coral reef ecosystems. The main consequence will be habitat destruction, exploitation of natural resources and pollution' The experience in Mauritius and the Maldives is one of mining and destroying coral reefs and the life they used to support. For example fertiliser used in agriculture leads to nutrient enrichment which is one of the main causes of reef damage.

Permanent human settlement on the outer islands would risk being severely detrimental to the natural protection of the nearly pristine natural environment of the Chagos archipelago.

The environmental impact of much of the type of new human, commercial activity (activity as suggested in the Jenness Review) would clearly not be compatible with the necessary, and currently agreed, level of ecological protection required. Examples are: "a tourist industry and business ventures", requiring dedicated water supplies from a desalination plant, "timber ventures for the production of timber, furniture and boats", a "coconut industry", "collaborative exploitation of the archipelago's underutilised fishing resources" and airport facilities and other infrastructure sufficient to support such industries on these tiny islands. Suggestions have been made that there could be a viable timber industry using available imported and 'local' timber, including Takamaka. But only the islands of highest conservation importance have any of the rare original island trees; and none should be raided for local construction if there is a serious conservation policy.

9. STRUCTURAL ISSUES FOR BIOT CONSERVATION

US/UK Relations in regard to BIOT

The 1966 UK/US Agreement broadly granted the US Government the right to use the entirety of the BIOT for military purposes, subject to agreement by both governments regarding acceptable facilities and arrangements. Further conditions are contained in the 1976 Agreement and subsequent bilateral arrangements. The UK retains its national sovereignty over the whole Territory. The 1966 Agreement provides that BIOT is to remain available for defence purposes for an indefinite period of time, initially for 50 years (ie to 2016) and then for a further 20 years unless notice is given.

It is the assumption of this paper that the BIOT will be required for defence purposes in 2016 and beyond. However, just as adjustments have been made periodically in the past to UK/US arrangements, it seems likely that some further changes will need to be made in coming years, for example with a view to 2016, and, where required, these could incorporate agreed provisions related to issues considered in this paper.

A strong and internationally supported legal conservation framework

Whichever overall political scenario emerges for BIOT and the human habitation there is within it, a strong, and internationally supported legal conservation framework is essential, and fully in line with the Government's policy.

UK/BIOT legislation

As discussed above, the valuable existing UK framework of legislation requires confirming and updating in the light of recent developments.

Regulatory Framework: Ramsar

There is no formal Ramsar protection for the western islands of Peros Banhos Atoll, Eagle Island, nor any part of Salomon or Egmont Atolls. Furthermore there is no protection for the non-islanded reef systems, including wide areas of the Great Chagos Bank and the surrounding shallow reefs and banks. Marine protection is restricted to those areas adjacent to these existing protected areas. CCT proposed in 2005 a phased extension of this coverage. The Government agreed in principle to the first phase named "The Chagos Islands Ramsar Site". This site would include all of the land areas and their adjacent territorial seas, a designation producing a site with 7 separate areas.

If at any point the BIOT government were to extend the territorial waters to 12nm, as is now the norm in most countries, we propose that this Ramsar designation should be extended accordingly. This 12nm limit is already used in the fisheries management. This extension would aggregate this Ramsar Site into two separate areas.

There is no doubt that this Ramsar site meets the requirements for designation. It encompasses some of the most important nesting sites for seabirds in the western Indian Ocean. It includes some of the least disturbed island ecosystems in this Ocean, including several islands not impacted by alien invasive species. It also includes some of the most extensive shallow water reef ecosystems, including entire atoll ecosystems in the case of Egmont, Peros Banhos and Salomon.

This designation will, we believe, tie in well with the recently declared Environment Zone. The latter provides a statement of intent with regards to environmental protection from the edge of Territorial Waters to a distance of 200nm. Ramsar designation would effectively fill the gaps of the Territorial Waters within this Environment Zone.

CCT proposes a second phase of Ramsar designation whereby the entire area currently covered by the "Environment Zone" (EPCZ) and the Fisheries Conservation and Management Zone (commonly referred to as the "Fisheries Zone") would be designated as a single 'Chagos Archipelago' Ramsar site. Precedents for this style of approach for designation are increasing and there can be no doubt that this site meets the criteria required for Ramsar designation. The declaration of entire shallow marine ecosystems provides a robust, whole-ecosystem approach. The unique and important value of the Chagos reefs is clearly explained in numerous publications and there is increasing evidence that, amongst the Chagos reefs, the shallow banks may include unique or important communities which would not be protected under the Chagos Islands Ramsar Site already described.

IUCN - World Commission on Protected Areas

A decision by the UK Government to create a IUCN Category 1 status protected area or areas is a further possibility for internationally supported BIOT conservation frameworks.

World Heritage Status

Nomination by the UK of the whole of the Chagos archipelago (perhaps excluding Diego Garcia) as a World Heritage site is a logical step further, given the UK Government's existing commitment to treat the whole area 'as if' it were a World Heritage Site. (The wording of this commitment, in the statement on BIOT conservation policy in October 1997, was that 'the islands will be treated with no less strict regard for natural heritage considerations than places actually nominated as World Heritage sites, subject only to defence considerations.')

Inclusion on the World Heritage list would offer significant potential benefits particularly:

- A lasting, UN commitment to protection of the world's heritage;
- Prestige which raises awareness of the importance of caring for the site.
- A catalyst for attracting funding.

The Government indicated that the reservation of BIOT for defence purposes precluded an application to UNESCO for World Heritage status. However legal advice on this point provided for NGOs in 1999 stated 'In our opinion, the obligations that the British Government would assume if all or part of the Chagos were listed as a World Heritage Site are not incompatible with the [UK/US] Defence Agreements.'

ANNEX 87

Email from Joanne Yeadon, Head of BIOT and Pitcairn Section, to Andrew Allen, 22 April
2008

Joanne Yeadon

From: Andrew Allen
Sent: Tuesday, April 22, 2008 5:55 PM
To: Joanne Yeadon
Cc: Shaun Earl; Doug Wilson
Subject: RE: BIOT: ENVIRONMENT: CALL BY PEW TRUST, TUESDAY 22 APRIL 2008

OTI 260/002/2008

29.4.08

Joanne

Thanks for writing this up so quickly.

There is an appeal to the Pew proposal. But there are also real obstacles in its way. And it would mean a significant shift in our policy which we are not currently in a position to make.

Given the resource that Pew are putting in to further defining their proposal (and the large resources they have at their disposal and the high level political and military links they have), I think it is worth giving Meg Munn an information note on what their ideas are and how they are taking them forward. We need to be clear that the idea has not reached a stage where any decision of any sort is needed or is appropriate, but that the idea is likely to come to her in some form at some point later this year. I think we then need to point out the basic obstacles and the possible attractions. I'd rather she knew before she is approached on the idea. And she may spark in some way which will give us helpful early guidance.

In terms of giving them information, I think we should give as much help as we can on anything that is/could be in the public domain. But not go any further.

Andrew

—Original Message—

From: Joanne Yeadon
Sent: 22 April 2008 14:48
To: Andrew Allen; Shaun Earl
Subject: BIOT: ENVIRONMENT: CALL BY PEW TRUST, TUESDAY 22 APRIL 2008

Andrew,

1. Jay Nelson and Heather Bradner of the Pew Charitable Trusts called on us today at their request.
2. They explained that they were interested in the Chagos Islands as a potential site worthy for environmental protection i.e., the creation of a no fishing zone. The Chagos Islands appeared to meet their 3 criteria: stable government, limited economic activity and an environmental commitment from those in charge.
3. You explained that while their idea of creating a no fishing zone had its attractions, BIOT could be difficult politically. We were committed to the environment but had not been able to do too much about it. The Pew idea was an attractive vision was in line with HMG's thinking. But there were obstacles: the first being: Mauritius. Mauritius had nationalistic and economic reasons for potentially not liking Pew's ideas. They wanted the islands back and would probably want to exploit them for tourism. HMG was, if you like, a temporary freeholder as we have said that we will return the islands to Mauritius once they are no longer needed for defence purposes. So, any agreement between the UK Government and Pew Trust may falter when Mauritius regains sovereignty.
4. Pew explained that they focussed on the ocean. If the Mauritians wanted to build a hotel, that was ok as long as the guests didn't fish! They thought that there was a strong possibility that the US would remain after 2036. In any case, they thought it worth taking the risk. You then moved onto the second problem: the Chagossians who wanted a fishing industry. You briefly explained the court case & its implications and said that any comment/movement on the Pew Trust ideas would need to wait til the judgment had been handed down in the Autumn.
5. Pew made a few requests:
Fisheries: they would like to draw up a fisheries paper. They knew that MRAG held information. Would we be able to help them access MRAG's data. You explained that some of it would be subject to commercial confidentiality but we

ie., BIOT Administration, would be able to provide Pew with information re: licensing process, how much we raised, spent etc.

Mauritius and inshore fishing: we explained that Mauritius did have some rights but had not exercised them recently. But this was a loophole that would need looking at.

Legal Issues: they asked for a document explaining the ramifications of the Mauritius problem and details of the land tender.

Biological story: they wanted to compile the information available on BIOT, its flora and fauna species etc. The information was available through scientific reports but it would be useful to have it more readily available. (NB: not really for us. You should be aware that this is similar to an OTEP bid prepared by the CCT for the next OTEP bidding round - I think they have estimated it would cost around £12,000.)

Pew said that information provided by us on the first 3 would remain confidential.

Comment

6. We are a bit in limbo over this (and the recent CCT proposals) until we have a judgment from the House of Lords). However, you mentioned that it might be worth starting to bring environmental issues in BIOT to the attention of Meg Munn.

Joanne

Joanne Yeadon
Head, BIOT & Pitcairn Section
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ANNEX 88

Letter from Chagos Environment Network to Andrew Allen, BIOT, 4 June 2008, enclosing
record of Chagos Environment Network foundation meeting of 22 April 2008

CHAGOS ENVIRONMENT NETWORK

2

PA

CCT 272/001/2008

Jim

Andrew Allen
Commissioner British Indian Ocean Territory
Foreign and Commonwealth Office
King Charles Street
London SW1A 1AH

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4 June 2008

Dear Andrew,

BRITISH INDIAN OCEAN TERRITORY Creation of the CHAGOS ENVIRONMENT NETWORK

I am writing to inform you of the recent creation of the *Chagos Environment Network* with the aim of promoting a robust long-term conservation framework for the British Indian Ocean Territory, in line with Government commitments and compatible with decisions in the case concerning the possible return of the Chagossian people.

Membership of the Chagos Environment Network is at present as follows:

- Linnean Society (Professor Gren Lucas, acting Chairman of the Network)
- Chagos Conservation Trust
- Pew Environment Group
- The Royal Society
- RSPB (subject to Memorandum of Understanding)
- Zoological Society of London (subject to confirmation)
- Professor Charles Sheppard (BIOT Environment Consultant)

I enclose, for information, the minutes of the meeting held at the Linnean Society on 22 April 2008 at which it was agreed in principle to form a 'Chagos Environment Network'. I also enclose the draft Chagos Conservation Policy 'Discussion Paper' which the Network is considering further.

The Chagos Environment Network looks forward to constructive discussion with the Foreign and Commonwealth Office.

Yours sincerely,

Simon

Simon E Hughes
Secretary
Chagos Environment Network

PS If you would like an electronic version of the enclosures, please let me know your email address. Thank you.



Chagos Environment Network Foundation meeting

Held at the Linnean Society
Burlington House, Piccadilly, London W1J 0BF
on Tuesday 22 April at 1430 in Room 1

Those present:

Professor Gren Lucas OBE, Linnean Society, Chairman
Heather Bradner, Manager Ocean Legacy, Pew Environmental Group.
Dr Rachel Garthwaite, Manager Environment and Climate Change, Royal Society.
Dr Geoff Hilton, Senior Research Biologist, RSPB.
William Marsden CMG, Chairman Chagos Conservation Trust.
Jay Nelson, Director Ocean Legacy, Pew Environmental Group.
Professor Charles Sheppard, Warwick University and Environmental Consultant to BIOT.
Simon Hughes, Secretary Chagos Conservation Trust

The Chairman welcomed those present to the Linnean Society and introduced himself. He was one time Keeper of the Kew Herbarium, Chairman of the IUCN Species Survival Commission, Vice President of the Royal Geographic Society and presently Treasurer of the Linnean Society. He was very glad to be able to help those present in planning support for the long term conservation of the Chagos Archipelago and the related science. He invited all parties present to outline their approach and proposals.

PARTICIPANTS

PEW ENVIRONMENTAL GROUP

Jay Nelson, who had previously directed the Trusts' campaign to set aside the Northwest Hawaiian Islands as a fully protected marine reserve and has worked on the Natural Resources Committee of the Alaska State Legislature, explained that Ocean Legacy (formed with support from the *Pew Charitable Trusts*, the *Oak Foundation*, the *Sandler Family Supporting Foundation* and the *Robertson Foundation*) had been tasked to look at global waters to find large areas of ocean which could be made into no take zones and protected. They had to be under the control of a politically stable democratic state with the wealth and interest in protection and where it was possible to ban commercial fishing activity.

They had successfully created the Papahānaumokuāea Marine National Monument (356,893Km²) and enlarged the Great Barrier Reef No Take area to 33% creating the Great Barrier Reef Marine Park (113,652Km²). There remained other proposed areas that they were working on:

- The Marianna Trench Marine National Monument (295Km²)
- Chagos Archipelago Marine Reserve (544,000Km²)
- Kermadec Canyon Ocean Sanctuary (639,900Km²)

- Coral Sea Heritage Park (1,059,500Km²)
- Phoenix Islands Protected Areas (410,500Km²).

They were optimistic about the Mariana Trench Marine National Park and were campaigning for the others.

They were presently researching the science, fisheries and legal situation in order to put together a case for making the whole of the Chagos a no take zone.

CHAGOS CONSERVATION TRUST (CCT)

William Marsden thanked the Chairman for facilitating the meeting. CCT hoped it would lead to further cooperation between those present and others with a similar approach.

He recalled how John Topp (once the British Representative in Diego Garcia when he was Commissioner) had set up in 1992 the Friends of the Chagos, now the CCT. CCT had been successful in encouraging British governments to protect the region with a range of protective laws and regulations, on the basis of scientific research and expertise. However there was now a freeze in much of such activity while the Chagossian legal case was unresolved; and some important government commitments, including the extension of Ramsar designation, were in abeyance. The Law Lords' ruling on this matter was expected in the period July to November this year; it was important that the government policies which followed took full account of the ecological importance of the British Indian Ocean Territory (BIOT).

CCT considered it most encouraging that the Pew Environmental Group were taking a serious interest in Chagos conservation and CCT hoped that the organisations around the table would cooperate (with others) to explain the environmental importance of the Chagos and the need for appropriate environmental governance, whatever the outcome of the Chagossian case.

ROYAL SOCIETY FOR THE PROTECTION OF BIRDS (RSPB)

Geoff Hilton explained that the international work of the RSPB) was only a few years old, although growing fast. Ocean territories and the Overseas Territories were a major focus for the RSPB's international work. They were particularly concerned about small Overseas Territories as these territories did not have access to adequate funds for nature conservation. RSPB were approaching government to change this.

He noted that the British public was seriously ignorant about the Chagos and that RSPB was looking for opportunities to get involved in promoting wider understanding of the importance of the area for biodiversity and conservation.

RSPB keenly supported the Pew Environmental Group's approach but would need to see any proposal as compatible with the outcome, and part of a solution for the Chagossian case.

PROFESSOR CHARLES SHEPPARD

Charles Sheppard explained that his interest was in research and that he was also the Environmental Advisor for the BIOT Commissioner. This was mainly to do with Diego Garcia, but his job also was to look for problems in the future. He pointed out that he attended annual 1½ day PoLMil meetings and that he was given a thorough hearing as his "slot" was half a day.

He had undertaken research trips (with CCT's encouragement and support) and in 2008 had slipped in two Hawaiian scientists as there was a need for research into Chagos' position in the world and how it connected with the rest of the world in terms of its fish, birds, crabs, turtles etc.

There needed to be research on sea level rise, coral chemistry, and temperature modelling which he hoped to do this winter so that the planet had a base line or reference site. This was needed as other countries such as Sri Lanka, who were seeking to restore their reefs, had forgotten how it used to be. Only in the Chagos are reefs relatively untouched. The Chagos reefs could well become not only the basic reference site for the world's reefs but also could become the source of stock replacement for the Indian Ocean, replenishing other reefs.

Charles Sheppard drew attention to the IUCN Conference (6-10 July 2008) in Réunion, strongly supported by the French, which was endeavouring to make European Union environmental funds available to all European overseas territories. He was attending, as was Geoff Hilton, but to date HM Government had shown little interest.

The Chairman thought that perhaps the All Party Parliamentary Group could put pressure on the government to send a high level representative.

THE ROYAL SOCIETY (RS)

Rachel Garthwaite said that the RS was excited by and supported the conservation of the Chagos and the provision of some sort of scientific infrastructure, as the merit was obvious. There was no money in the Royal Society kitty at the moment for the specific proposal *Chagos Archipelago Research Programme*.

William Marsden said that, apart from funding, CCT saw the Royal Society's general support for the group's strategic scientific and environmental objectives as very important in itself.

CONSERVATION AND SCIENTIFIC AIMS

In discussion about the conservation and scientific aims for the Chagos, William quoted from the summary of the first draft of a 'discussion paper' being put together by CCT and RSPB (distributed to those present), which could form a framework for those present to work with:

Previously considered too difficult
re. Mauritius objectives (also degree
interest).

- The existing Ramsar Area should be extended (as already agreed by the Government in principle) first to the territorial waters and then to the whole Chagos Archipelago, with strict reserve areas for the priority biodiversity sites. The BIOT Environment Zone (created in 2004) should be completed.
- A comprehensive Chagos marine and fisheries management and conservation system should be established, to include a 'no-take' fishing zone, initially covering at least one third of the Territory's coastal and lagoonal waters (as already provided for in the Chagos Management Plan). This would increase fish stocks in the Indian Ocean and thus the populations of neighboring countries.
- There should be increased surveillance for conservation protection, notably by the deployment of a second patrol vessel. — *judging!*
- A small, fixed scientific research facility should be established, perhaps on a northern island. — *this swaps for a simple location on DG to a research party*
- A new, sustainably funded, small organisation (perhaps a Public Foundation) should be established by the Government to manage and conserve, with effective support from other organisations, the natural marine and terrestrial environment and biodiversity of BIOT, as well as the related science, research, education and protective visiting. Experience should be drawn from best practice in other comparable protected natural areas in the world.
- A greater US contribution to environmental conservation within BIOT should be encouraged, in the co-operative spirit of the existing bilateral Agreement.
- The issue of human habitation should take full account of the environmental implications. The conservation and scientific frameworks proposed in this paper could be organised to offer financially viable and sustainable balanced employment opportunities for a limited number of new inhabitants.
- Wider international support should be promoted for a comprehensive Chagos nature reserve framework (e.g. Ramsar, IUCN, UNESCO World Heritage).

Unlikely to get much interest ~~among~~
due to no. of UK bids.

Action CCT and RSPB with all

DISCUSSION

There was discussion on the advantages of employing Chagossians on some tasks, which would be rewarding, necessary and worthwhile, such as guides, park wardens, habitat restoration etc.

In answer to a question, Charles Sheppard explained the structure of the average "island" and its vulnerability to the sea level rising. In some cases some of the very small islands would be uninhabitable, even below water, in some five years.

He went on to explain that Diego Garcia constituted half the land area available at all, and that the rest was divided among 55 separate islands. The islands were very remote and very small.

Particular supporters of resettlement were Mauritian hotel and commercial fishing interests. The first thought they could install hotels, the latter were eager to heavily exploit the Chagos reefs of fish, as they had already overexploited their own reefs.

The Howell Report, *Returning Home*, commissioned by the Chagos Support Association had severely underestimated the costs of setting up infrastructure by even 100 times in some cases.

CHAGOS ENVIRONMENT NETWORK

There was then general discussion as to how to move forward for cooperating in pursuit of the objectives outlined. All agreed that a grouping should be created. The Pew Environmental Group had such partnerships for other areas, including a *coalition* in Australia. Geoff Hilton suggested an alliance. It was decided that the groups would be called the Chagos Environment Network (CEN) consisting of those present and others as agreed by CEN members. Geoff Hilton said that RSPB would like CCT to be in the lead. It was agreed that Simon Hughes would act as Secretary, in cooperation with counterparts in RSPB, Pew Environmental Group and others. It was agreed that the Zoological Society of London (ZSL) would be invited to join and that the network's relationship with JNCC should be discussed with JNCC.

Action William Marsden and Simon Hughes

EUROPEAN UNION CONFERENCE ON OVERSEAS TERRITORIES' ENVIRONMENTS (REUNION, 6-8 JULY)

It was agreed that, given the UK government's difficulty in adequately financing environmental protection in its territories, the UK should be well represented at the conference to pursue its interests, not least as regards BIOT. The Chairman thought that perhaps the *All Party Parliamentary Group on Conservation* could put pressure on the government to send a high level representative.

- Debra attending.

RAISING AWARENESS OF THE ECOLOGICAL IMPORTANCE OF CHAGOS

After discussion it was agreed that, without waiting for the outcome of the Chagossian appeal decision, action should be taken to get over the message about the Chagos natural environment, initially in a way that would be relevant for any outcome. CCT and RSPB with others would refine the 'Discussion Paper' as a basis for messages. CCT and the Pew Environmental Group would produce a 'brochure' suitable to give to parliamentarians, officials etc.

Jay Nelson and others thought it wise to be prepared for negative press comment. The Chairman thought that it would be best to start with talking to politicians - the All Party Environmental Group of Members of Parliament, and in the Lords. Other actions and proposals for joint action by network members were encouraged.

Action CCT, Pew Environmental Group and all members

In answer to a question as to the Pew Environmental Group's next steps on the Chagos, Jay Nelson explained that the Group were looking for an employee in the UK

"to get the project done". He undertook to send a profile of the sort of person they were looking for. The Pew Environmental Group would work closely with existing organisations in Britain.

Generally Jay Nelson did not expect the US authorities to be a serious obstacle and believe US/UK cooperation on this project could be effective.

Action Jay Nelson

The meeting was then closed and the Chairman thanked all those present for attendance and took some attendees on a tour of the venerable establishment.

SIMON

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30 April 2008

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BIOT/CHAGOS CONSERVATION FRAMEWORK (DISCUSSION PAPER)

Professor David Bellamy, 2002:

“It has been my dream that the whole Chagos Archipelago should be an International Marine Nature Reserve and Sanctuary.... The whole ecological structure is under threat. Fortunately all is not yet lost, though time is short. The Powers-that-be, the international commune of conservation and locally-focussed bodies such as the Chagos Conservation Trust can work together in an effective mix of vision and management. Maybe the Chagossians too can have a role to play. The Archipelago will even more deserve, and perhaps at last obtain, the title of World Heritage site.”

Professor Callum Roberts, University of York, 2007:

‘The Chagos Archipelago represents a magnificent conservation opportunity that could be of lasting benefit to humanity. There can be few places on this planet that represent better value for leveraging spectacular returns. What is needed is vision and a leadership initiative by Britain to create the Chagos as an iconic, pristine area of the planet held in trust for the future of the world community.’

Dr Peter Bridgewater, Chair, UK Joint Nature Conservation Committee and former Secretary General, Ramsar Convention, 2007:

‘Ramsar covers the British Indian Ocean Territory (BIOT) and it is important to remember that Ramsar is about the wise use of all wetlands in the territory of the country and getting the management right. This means, as coral reefs are wetlands under the convention, that the whole Chagos ecosystem should be managed wisely. According to the convention a Ramsar site should be managed to ensure no change to the ecological character of the system.

Given the status of the Archipelago, and given wise management in future, should the World Heritage Convention be extended to the territory at some future time it is clear a nomination would be successful.’

Pew Charitable Trusts, 2008:

‘The Ocean Legacy project is looking at opportunities to protect surviving world-class marine systems. The Chagos Archipelago is a rare gem in an increasingly populated region whose shores and waters are already over-exploited and heavily degraded.’

1. INTRODUCTION

The Chagos Islands, in the centre of the Indian Ocean, have belonged to Britain since 1814 (The Treaty of Paris) and are constituted as the British Indian Ocean Territory (BIOT). The area includes 55 tiny and remote islands, 10 coral reefs, and 5 coral atolls. Only one island, Diego Garcia is inhabited (by military personnel and civilian contract employees). It accounts for over two-thirds of the total land area of 50 square kms. The other 54 (tiny and uninhabited) coral islands cover a total area of only 16 square kms. They are set in some 500,000 square kilometres of sea in the central Indian Ocean.

2. EXECUTIVE SUMMARY

(Page 2)

The British Indian Ocean Territory (The Chagos) has the most pristine tropical marine environment surviving on the planet. Its quarter of a million square miles is Britain's greatest area of marine biodiversity by far. The paper summarises reasons why the Chagos natural environment is so important and makes specific proposals for its protection.

The UK Government and the British Indian Ocean Territory (BIOT) Administration are committed to managing BIOT as if it were a World Heritage site and have enacted significant legislation to protect this globally important environment. However a more robust and extensive framework for conservation is needed to meet future challenges. The existing environmental safeguards should be strengthened to create a long-term conservation framework with the maximum international support. It would be a world class natural conservation area and a major British contribution to 'saving the planet'. Elements of the policy framework (many of which have been agreed in principle by the British Government) might include:

- The existing Ramsar Area should be extended (as already agreed by the Government in principle) first to the territorial waters and then to the whole Chagos Archipelago, with strict reserve areas for the priority biodiversity sites. The BIOT Environment Zone (created in 2004) should be completed.
- A comprehensive Chagos marine and fisheries management and conservation system should be established, to include a 'no-take' fishing zone, initially covering at least one third of the Territory's coastal and lagoonal waters (as already provided for in the Chagos Management Plan). This would increase Indian Ocean fish stocks and thus benefit neighbouring countries.
- There should be increased surveillance for conservation protection, notably by the deployment of a second patrol vessel.
- A small, fixed scientific research facility should be established, perhaps on a northern island.
- A new, sustainably funded, small organisation (perhaps a Public Foundation) should be established by the Government to manage and conserve, with effective support from other organisations, the natural marine and terrestrial environment and biodiversity of BIOT, as well as the related science, research, education and protective visiting. Experience should be drawn from best practice in other comparable protected natural areas in the world.
- A greater US contribution to environmental conservation within BIOT should be encouraged, in the co-operative spirit of the existing bilateral Agreement.
- The issue of human habitation should take full account of the environmental implications. The conservation and scientific frameworks proposed in this paper could be organised to offer financially viable and sustainable balanced employment opportunities for a limited number of new inhabitants.
- Wider international support should be promoted for a comprehensive Chagos nature reserve framework (e.g. Ramsar, IUCN, UNESCO World Heritage).

3. THE GLOBAL IMPORTANCE OF BIOT'S NATURAL ENVIRONMENT Page 3

- These are features which make the Chagos an outstandingly important environmental site:
- The archipelago has the most pristine tropical marine environment surviving on the planet. This has become of greatly increased importance in recent decades, which have seen the rapid degradation of the planet's ecologies elsewhere.
- The Chagos contains the world's healthiest coral reefs and the world's largest surviving coral atoll. Scientists fear that half of the world's few remaining coral reefs could be lost by 2025. It is essential to save them. Hundreds of millions of people in the world depend on healthy reefs in one way or another. Living reefs provide food, protect beaches from erosion and form a treasure house of genetically diverse creatures and plants.
- The wildlife biodiversity of Chagos is very rich. It provides at least 220 coral species and over 1000 species of fish with a stronghold which is vital. It is also a rare refuge and breeding ground for whales, sharks, dolphins, marine turtles, rare crabs, other threatened marine life, and birds. In marine terms BIOT is by far the most bio-diverse part of the UK and its Overseas Territories.
- The archipelago is isolated and at the very centre of the Indian Ocean where it acts as an 'oasis' for marine and island species (which are nearly all in decline under pressure from the effects of massive, recent human population growth in the region).
- Most of the Chagos is uninhabited. This is the main reason why the ecology of the Chagos is nearly pristine and full of diverse life, a rare surviving example of nature as it should be, and where human pressures do not conflict with environmental needs and lead to degradation and impoverishment.
- Also, because of its mainly unspoilt and healthy environment, the Chagos provides us with a scientific benchmark for how the world should be. This is evidently important in helping us to understand and deal with such problems as pollution, loss of biodiversity and climate change.

4. CLIMATE CHANGE

As regards climate change, the Chagos is very vulnerable to global warming. However, it will also have several key positive roles to play in the coming years since its seas and coral reefs are the least impacted by direct human impacts. It will therefore provide:

- A scientific control site to compare with other more impacted sites (especially coral reefs).
- A means of filling gaps in global climate monitoring programmes (eg acidification, sea temperature, sea levels and gasses). The Indian Ocean is as yet largely omitted from these programmes.
- Contributions to our understanding of the processes that collectively create global warming and climate change, the threats they pose, and management options to counter them.

(Climate Change contd) However, the Chagos is itself vulnerable to (Page 4) physical pressures from global warming and these must be monitored (particularly in the light of a possible additional human presence). The pressures include:

- -Sea level rises leading to inundation of low-lying islands;
- -Sea temperature rises leading to coral mortality;
- -Coastal erosion from loss of protective structure of reefs due to coral mortality;
- -Rising CO2 levels causing ocean acidification and reduced reef growth.

5. THE EXISTING COMMITMENT TO THE PROTECTION OF BIOT'S ENVIRONMENT

The British Government, through the BIOT Administration, is committed to conserving the environment of the Territory and has taken significant measures to put this into effect, within the framework of the UK's International Priorities and Sustainable Development Strategy and the Government's Environmental Charter for the Territory itself.

The Chagos is one of Britain's largest and most important nature conservation areas. Its Environmental Protection Zone (declared by the Government) covers about half a million square kilometres. UK legislation is also in place to protect natural resources, notably in the restricted and reserve areas, with controls on fishing, pollution and the killing, harming or collecting of animals.

The Government has designated a first Ramsar (Wetlands Convention) site, on Diego Garcia, which includes all of the lagoon waters, the eastern side of the main island and the islands in the main channel as well as the marine waters to the limits of the territorial sea (3nm). The Government has also agreed in principle on substantial further Ramsar designations and has undertaken to manage the whole area "as if" it were a natural World Heritage site (that is "a site of outstanding universal value for the world's natural heritage"). 95% of BIOT's biodiversity is outside Diego Garcia. Existing terrestrial and marine protection is provided over wide areas of the Chagos Archipelago through national legislation. Protection for the northern atolls is provided in a number of Strict Nature Reserves.

The Chagos Archipelago is also subject to further levels of internationally binding legal protection. This includes, the Whaling Convention (including an Indian Ocean whale sanctuary), the Law of the Sea Convention (with provisions to protect fish stocks), the Indian Ocean Tuna Commission, the CITES Convention (regulating trade in wildlife, including corals) and the Bonn Convention (with provisions to protect marine turtles and cetaceans).

6. MARINE AND FISHERIES MANAGEMENT AND CONSERVATION

Virtually none of the deep sea area of BIOT and only 3% of the shallow sea area is protected. The declared territorial sea limits extend to only 4 nautical miles, whereas 12 nautical miles is now the norm. Reef sharks, tuna, groupers, sea-cucumbers are already among the categories of species vulnerable to illegal fishing and over-fishing around the Chagos. The fact that the Indian Ocean shark population is thought to be 90% smaller than it was 40 years ago is an indication of the pressure on Indian Ocean marine life.

An effective fisheries conservation regime with a substantial strict protection ('no-take') area (as already agreed in principle by the Government) would increase Indian Ocean fish stocks, thus benefiting people in neighbouring countries as well as the global environment.

The current licensing mechanism consists of a recreational fishery (yachts and Diego Garcia) and 3 licensed commercial fisheries: Offshore (Purse Seine for yellowfin and skipjack tunas); Offshore (Longline for bigeye and yellowfin tunas); Inshore (Bank fishery for snappers, groupers). The most significant monitoring, control and surveillance issue at the present time is that of illegal vessels and fishing camps.

Implementation of both the fisheries policy and the conservation policy relies essentially on enforcement by the BIOT Support Vessel, 'BritOp' operations carried out by the British military authorities, and so far only sporadic scientific monitoring observations.

There are key questions relating to the overall policy on fisheries management and conservation policy in the half million square kilometres of ocean, as well as that of the sources and size of funding required for implementation.

Poaching and pressures on BIOT's marine life will increase. It is argued that large scale no-take zones should be created and that one fisheries protection vessel is inadequate for such a huge area; the single patrol vessel appears to be struggling with its (necessary and important) multiple tasks.

It is suggested that the tuna licensing brings in relatively very little money; the income stream is highly variable year-on-year. Investigations should be started into the possible alternatives which would include strict no-take for the majority of the EFZ and territorial waters, with funds for two permanent patrol vessels securely funded in perpetuity by a large endowment. This would undoubtedly reduce pressure and would further protect other oceanic species such as sharks which are impacted as by-catch.

The Chagos is a global coral reef biodiversity hotspot. The objectives of the required coral reef management agenda should be:

- 1) maintain or recover reef growth and structural complexity of habitats;
- 2) maintain or recover fish stocks and sustain fishery yields;
- 3) prevent, reverse or minimise local losses of species;
- 4) ensure that no species are driven to extinction.

At the 2002 World Summit on Sustainable Development the coastal nations of the world, including the UK, committed themselves to establish national networks of marine protected areas by 2012. There is clear evidence that marine reserves work. Reserves all over the world show dramatic increases in spawning stocks. Multiple stresses are overwhelming local efforts to protect reefs. We need to scale up protection from local to regional. Theoretical work indicates we should protect between 20% and 40% of the sea to maximise fishery benefits and maintain sufficiently large populations so that species can bounce back quickly after shocks. Such source populations and adequate inter-reserve connectivity can only be guaranteed when large marine networks are created-of the order of 30% or more of habitat.

We agree with Professor Callum Roberts of York University that The Chagos Archipelago represents a magnificent marine conservation opportunity that could be of lasting benefit to humanity and biodiversity. There can be few places on this planet that represent better value for leveraging spectacular returns. What is needed is vision and a leadership initiative by Britain with others to create the Chagos as a model, pristine area of the planet held in trust for the future of the world community.

7. OTHER CHALLENGES FOR BIOT CONSERVATION

Regulatory Framework UK/BIOT

Not least in the light of recent legal judgments, there is a need for confirmation of the validity of the existing legal framework for BIOT environmental conservation (based largely on UK Orders in Council).

There is also a need for updating and defining the framework of BIOT protected areas. Work has begun on this.

Fully Protected areas

Of particular importance is the implementation of “one third fully protected areas” or “no take zones” (for maritime areas). The concept is incorporated in the agreed Conservation Management Plan for BIOT. Representative selections of all habitats should be covered in these areas. These areas need not require exclusion of all access but they will exclude extractive activity, fishing, construction and other interference.

Proposed Removal of Exclusions to the Environment Zone

Currently the Environment Zone has an outer boundary (the 200 nm limit) and several inner boundaries around each island or group of islands. This has the effect of excluding from the Environment Zone all islands and their immediately adjacent reefs and shallow waters (the areas which are richest in biodiversity and in particular need of environmental protection). The simple removal of all inner boundaries is proposed.

Scientific Monitoring and Research

The 2006 Scientific monitoring expedition was carried out very effectively with excellent official support, including the essential role of the BIOT support vessel. This present mechanism of expedition-type research visits has served well enough up in the past but there is now a need for a modest facility which remains for authorised scientific work. Much new science requires equipment which cannot simply be flown out on a temporary basis but needs a non-humid, fixed location. Some equipment can be moved, but only at great expense and inconvenience. Avenues for funding and managing such a facility are being discussed.

Habitat Restoration and Biodiversity

Scientific monitoring should pay particular attention to ‘sentinel’ species including seabirds, turtles, corals, reef fish, sharks, native plants. In the Indian Ocean most of these are on the decline. Sea-birds are subject to numerous threats and some are at a small fraction of historic levels. The Chagos is a vital refuge and breeding ground for them. Yet 9 of the 17 species of breeding seabirds studied by the 2006 scientific expedition showed a significant reduction in numbers since the 1996 expedition. (A survey of the breeding birds of the Indian Ocean Territory shows huge declines in some seabirds between 1996 and 2006:

Audubon’s Shearwater -69%, White-tailed Tropicbird -46%, Masked Booby -67%, Roseate Tern -80%, Bridled Tern -60%, Brown Noddy -78%, Lesser Noddy -91%.)

On BIOT, the islands which are rat free (eg Nelson, Three Brothers and Danger Island) are teeming with birds, whereas those with rats (notably those which were previously inhabited) are not. Habitat restoration, with successful rat eradication, would add directly to breeding habitats. Eagle, Sea Cow and Egmont Islands are candidates for such treatment when funding can be found.

Visiting Yacht Regulation

Providing the numbers of visiting yachts are controlled and regulations as regards pollution and moorings etc are adequate and enforced, the yachts need not present a significant environmental threat. It is essential to have moorings which protect the coral from anchors and chains. Charges should be sufficient to cover costs and contribute to conservation work.

Planning

There is effectively no land planning legislation for the Chagos. A framework for this appropriate for possible future scenarios should be put in place.

Enforcement

Rapid response is needed to prevent the pressure for poaching. The retasking of the FPV as the BIOT Support Vessel is a very positive step; but it is unlikely that the single vessel will be sufficient in future.

Finance

The FCO and BIOT Administration frequently refer to the financial problems facing BIOT management. The Administration of the BIOT in regards to conservation and fisheries management and enforcement and scientific monitoring must be more adequately resourced than at present.

8. HUMAN HABITATION

The Chagos Conservation Trust and partners consider that even as the legal arguments continue it is not too soon for the British Government and other concerned bodies to begin to draw up longer term plans to sustain the environmental integrity of the Chagos while taking the possibility of human habitation into account. As a non political charitable organisation, the Chagos Conservation Trust has not taken a position for or against resettlement in the Chagos Islands by the Chagossians while the matter was sub judice. Nevertheless the Trust has previously drawn attention to the environmental implications associated with human resettlement. Any such resettlement needs to take account of the importance of safeguarding the unique, delicate and vulnerable ecology of the archipelago. This is not only because human settlement would have an impact on important ecosystems and threatened species, but because any degradation of the environment could adversely affect the welfare and prosperity of possible human communities.

In the spirit of Professor Bellamy's remarks quoted at the head of this paper, it would seem reasonable to hope that good livelihoods in areas including those relating to conservation might exist in future for some Chagossians who wish to return.

As regards the outer islands, the Posford Haskoning Study and the Jenness Review comment on this subject of the compatibility of human habitation on the outer Chagos Islands and the safeguarding of the ecology of the archipelago. The Jenness Review considers that Chagossian re-settlement "can occur in a way that protects the islands' natural environment".

However the environmental risks from resettlement foreseen in the June 2000 feasibility study are very real. That study said that 'resettlement would have a profound effect on the structural and functional characteristics of the coral reef ecosystems. The main consequence will be habitat destruction, exploitation of natural resources and pollution' The experience in Mauritius and the Maldives is one of mining and destroying coral reefs and the life they used to support. For example fertiliser used in agriculture leads to nutrient enrichment which is one of the main causes of coral reef damage.

Permanent human settlement on the outer islands on a significant, commercially-driven scale with its related modern utilities, commercial operations and infrastructure as proposed in the Jenness and more recent Howell papers would risk being severely detrimental to the natural protection of the nearly pristine natural environment of the Chagos archipelago.

The environmental impact of much of the type of new human, commercial activity (activity as suggested by Jenness and Howell) would clearly not be compatible with the necessary, and currently agreed, level of ecological protection required. Examples are: progressive development of "a tourist industry and business ventures", requiring dedicated water supplies from a desalination plant, refuse and sewage disposal; "timber ventures for the production of timber, furniture and boats"; a "coconut industry"; "collaborative, commercial exploitation of the archipelago's underutilised fishing resources"; an international airport; and other infrastructure sufficient to support such industries on these tiny islands. Suggestions have been made that there could be a viable timber industry using available imported and 'local' timber, including Takamaka. But only the islands of highest conservation importance have any of the rare original island trees; and none should be raided for local construction if there is a serious conservation policy.

We suggest in Section 11 below an alternative approach for an environmentally positive framework providing good livelihoods and employment.

9. STRUCTURAL ISSUES FOR BIOT CONSERVATION

US/UK Relations in regard to BIOT

The 1966 UK/US Agreement broadly granted the US Government the right to use the entirety of the BIOT for military purposes, subject to agreement by both governments regarding acceptable facilities and arrangements. Further conditions are contained in the 1976 Agreement and subsequent bilateral arrangements. The UK retains its national sovereignty over the whole Territory. The 1966 Agreement provides that BIOT is to remain available for defence purposes for an indefinite period of time, initially for 50 years (ie to 2016) and then for a further 20 years unless notice is given.

It is the assumption of this paper that the BIOT will be required for defence purposes in 2016 and beyond. However, just as adjustments have been made periodically in the past to UK/US arrangements, it seems likely that some further changes will need to be made in coming years, for example with a view to 2016, and, where required, these could incorporate agreed provisions related to issues considered in this paper.

A strong and internationally supported legal conservation framework

Whichever overall political scenario emerges for BIOT and the human habitation there is within it, a strong, and internationally supported legal conservation framework is essential, and fully in line with the Government's policy.

UK/BIOT legislation

As discussed above, the valuable existing UK framework of legislation requires confirming and updating in the light of recent developments.

(Page 9)

Regulatory Framework: Ramsar

There is no formal Ramsar protection for the western islands of Peros Banhos Atoll, Eagle Island, nor any part of Salomon or Egmont Atolls. Furthermore there is no protection for the non-islanded reef systems, including wide areas of the Great Chagos Bank and the surrounding shallow reefs and banks. Marine protection is restricted to those areas adjacent to these existing protected areas. CCT proposed in 2005 a phased extension of this coverage. The Government agreed in principle to the first phase named 'The Chagos Islands Ramsar Site'. This site would include all of the land areas and their adjacent territorial seas, a designation producing a site with 7 separate areas.

If at any point the BIOT government were to extend the territorial waters to 12nm, as is now the norm in most countries, we propose that this Ramsar designation should be extended accordingly. This 12nm limit is already used in the fisheries management. This extension would aggregate this Ramsar Site into two separate areas.

There is no doubt that this Ramsar site meets the requirements for designation. It encompasses some of the most important nesting sites for seabirds in the western Indian Ocean. It includes some of the least disturbed island ecosystems in this Ocean, including several islands not impacted by alien invasive species. It also includes some of the most extensive shallow water reef ecosystems, including entire atoll ecosystems in the case of Egmont, Peros Banhos and Salomon.

This designation will, we believe, tie in well with the recently declared Environment Zone. The latter provides a statement of intent with regards to environmental protection from the edge of Territorial Waters to a distance of 200nm. Ramsar designation would effectively fill the gaps of the Territorial Waters within this Environment Zone.

CCT proposes a second phase of Ramsar designation whereby the entire area currently covered by the "Environment Zone" (EPCZ) and the Fisheries Conservation and Management Zone (commonly referred to as the "Fisheries Zone") would be designated as a single 'Chagos Archipelago' Ramsar site. Precedents for this style of approach for designation are increasing and there can be no doubt that this site meets the criteria required for Ramsar designation. The declaration of entire shallow marine ecosystems provides a robust, whole-ecosystem approach. The unique and important value of the Chagos reefs is clearly explained in numerous publications and there is increasing evidence that, amongst the Chagos reefs, the shallow banks may include unique or important communities which would not be protected under the Chagos Islands Ramsar Site already described.

IUCN - World Commission on Protected Areas

A decision by the UK Government to create a IUCN Category 1 status protected area or areas is a further possibility for internationally supported BIOT conservation frameworks.

World Heritage Status

Nomination by the UK of the whole of the Chagos archipelago (perhaps excluding Diego Garcia) as a World Heritage site is a logical step further, given the UK Government's existing commitment to treat the whole area 'as if' it were a World Heritage Site.

(The wording of this commitment, in the statement on BIOT

conservation policy in October 1997, was that 'the islands will be treated with no less strict regard for natural heritage considerations than places actually nominated as World Heritage sites, subject only to defence considerations.')

Inclusion on the World Heritage list would offer significant potential benefits particularly:

- A lasting, UN commitment to protection of the world's heritage;
- Prestige which raises awareness of the importance of caring for the site.
- A catalyst for attracting funding.

The Government indicated that the reservation of BIOT for defence purposes precluded an application to UNESCO for World Heritage status. However legal advice on this point provided for NGOs in 1999 stated 'In our opinion, the obligations that the British Government would assume if all or part of the Chagos were listed as a World Heritage Site are not incompatible with the [UK/US] Defence Agreements.'

10. EXPERIENCE FROM OTHER WORLDWIDE CONSERVATION AREAS

It is worth looking at arrangements for, and experience with, other significant territories of environmental importance. Even within the UK itself St Kilda island, Outer Hebrides of Scotland, is managed by a partnership of Ministry of Defence, National Trust for Scotland and Scottish National Heritage and combines World Heritage status and military use. There are significant natural World Heritage or other sites in other UK Overseas Territories which are managed in a satisfactory way, for example Tristan da Cunha's Gough and Inaccessible island Site which was created in 1994.

Within the Indian Ocean, the Seychelles Islands Foundation, established in 1979 with the participation of the Governments and Royal Society, manages the conservation, scientific research, restoration and tourism in Vallee de Mai and Aldabra atoll with the islands of Malabar, Polymnieli, Picard and South Island, providing employment in areas such as guides, wardens, logistic staff and educationalists. The Global Environment Facility (GEF) has played a crucial role in financing.

Many other world nature conservation sites combine natural reserves of varying strictness with scientific research facilities, park and research staff, limited tourism and differing conditions of human habitation. There are problems and challenges common to most: human impact on nature, enforcement, invasive species (rats, cats, imported plants, etc) and, notably, finance. However there is plenty of scope for deriving 'best practice' for the conservation management of the Chagos Archipelago.

11. A STRUCTURE FOR CONSERVATION AND SCIENTIFIC MANAGEMENT IN THE CHAGOS

In order to meet the environmental challenges and objectives described above, we consider that a new small structure is needed, dedicated to ensuring that the area of the Chagos Archipelago already the subject of the Government's 'Environment Zone' legislation is well managed (on a robust, long term basis) for conservation, fisheries management, scientific research, and related education and 'protective tourism'.

We suggest that a charitable, not-for-profit Public trust or Foundation be created by the Government for the purpose. As mentioned above, there are many examples of such structures in other important natural protected areas around the world; and experience should be drawn from these.

The organisation could be managed by a Manager appointed by the Government, reporting to an official and supervised by a Board of Trustees whose membership would include representatives of Government, financial and other contributors, and conservation, scientific and educational organisations.

The organisation, might be responsible for the preparation and implementation of marine and terrestrial conservation and management planning.

The organisation would require substantial Foundation capital to provide income to ensure its sustainable financial viability. Its income could be supplemented by income and fees from limited, vessel based, visits and protective tourism, and from the use (by authorised scientific entities) of a small research station on one of the northern islands (perhaps in a restored plantation building).

The organisation would require the periodic use of a support vessel for transport between Diego Garcia and the research station on a northern island in addition to adequate vessel use for its agreed overall responsibility for marine and terrestrial conservation and fisheries management.

The organisation could provide some good livelihoods and important sustainable employment of a kind compatible with the Government's commitments to protecting the environment of the Chagos, including treating the whole area as if it were a World Heritage site. Such employment might for example include Rangers, Assistant Rangers, Guides, Boat personnel, mechanics, and Scientific Research station and habitat restoration staff.

12. NEXT STEPS

This discussion paper was produced by members of the Chagos Conservation Trust, (following its November 2007 conference on the subject at ZSL) in preliminary consultation with individual members of other organisations including the Royal Society, the Pew Environmental Group, The Zoological Society, the Linnean Society, the RSPB/Birdlife International, Coral Cay Conservation, Warwick University, The University of Bangor, and The Nature Conservancy. The present text of the paper is not endorsed by all of the organisations themselves.

The next stage will be more formal discussion in the coming months between the organisations mentioned and others. This will be co-ordinated by the Chagos Conservation Trust and RSPB. At an appropriate point we would hope for joint consideration with officials.

Chagos Conservation Trust
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