Annex 574

Letter from H.E. Chen Xu, Ambassador of the People's Republic of China to the Kingdom of the Netherlands, to H.E. Judge Thomas A. Mensah (1 July 2015)

中 华 人 民 共 和 国 驻 荷 兰 王 国 大 使 馆

THE EMBASSY OF THE PEOPLE'S REPUBLIC OF CHINA IN THE KINGDOM OF THE NETHERLANDS

(translation)

H.E. Judge Thomas A. Mensah

1 July 2015

Your Excellency,

As instructed，I hereby state the Chinese Government's position on issues relating to the South China Sea arbitration initiated by the Philippines:

1. It is the consistent policy and practice of the Chinese Government to resolve the disputes related to territory and maritime rights and interests with States directly concerned through negotiation and consultation. On issues of territorial sovereignty and maritime rights and interests, China will not accept any imposed solution or any unilateral resorting to a third-party settlement. This is the legitimate right bestowed upon China by international law, including the *United Nations Convention on the Law of the Sea* (UNCLOS). The Chinese Government adheres to the position of neither accepting nor participating in the arbitral proceeding with respect to the disputes between China and the Philippines in the South China Sea unilaterally initiated by the Philippines in disregard of China's aforesaid legitimate right and in breach of the agreement that has been repeatedly reaffirmed with China as well as the Philippines' undertakings in the *Declaration on the Conduct of Parties in the South China Sea* (DOC).

2. The attempt to resolve the disputes in the South China Sea by unilaterally initiating and pushing forward the arbitral proceeding will not only compromise the efforts by States

directly concerned to resolve relevant disputes through negotiation and consultation, but also erode the confidence shared by China and ASEAN Member States in jointly safeguarding peace and stability in the South China Sea.

3. The Chinese Government's position in regard to the arbitration has been clearly elaborated in the *Position Paper of the Government of the People's Republic of China on the Matter of Jurisdiction in the South China Sea Arbitration Initiated by the Republic of the Philippines* released on 7 December 2014 and the letter from me dated 6 February 2015.

4. Based upon what is stated above, the Chinese Government's relevant statements and documents as well as my letters, among others, shall by no means be interpreted as China's participation in the arbitral proceeding in any form. China opposes any moves to initiate and push forward the arbitral proceeding, and does not accept any arbitral arrangements, including the hearing procedures.

Yours Sincerely

Chen Xu

Ambassador of the People's Republic of China to

the Kingdom of the Netherlands

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Annex 575

Abbas v. Commission on Elections, Supreme Court of the Philippines, Judgment, G.R. No. 89651 (10 Nov. 1989)

Republic of the Philippines
SUPREME COURT
Manila

EN BANC

G.R. No. 89651 November 10, 1989

DATU FIRDAUSI I.Y. ABBAS, DATU BLO UMPAR ADIONG, DATU MACALIMPOWAC DELANGALEN, CELSO PALMA, ALI MONTANA BABAO, JULMUNIR JANNARAL, RASHID SABER, and DATU JAMAL ASHLEY ABBAS, representing the other taxpayers of Mindanao, petitioners,
vs.
COMMISSION ON ELECTIONS, and HONORABLE GUILLERMO C. CARAGUE, DEPARTMENT SECRETARY OF BUDGET AND MANAGEMENT, respondents.

G.R. No. 89965 November 10, 1989

ATTY. ABDULLAH D. MAMA-O, petitioner,
vs.
HON. GUILLERMO CARAGUE, in his capacity as the Secretary of the Budget, and the COMMISSION ON ELECTIONS, respondents.

Abbas, Abbas, Amora, Alejandro-Abbas & Associates for petitioners in G.R. Nos. 89651 and 89965.

Abdullah D. Mama-o for and in his own behalf in 89965.

CORTES, *J.:*

The present controversy relates to the plebiscite in thirteen (13) provinces and nine (9) cities in Mindanao and Palawan, [1] scheduled for November 19, 1989, in implementation of Republic Act No. 6734, entitled "An Act Providing for an Organic Act for the Autonomous Region in Muslim Mindanao."

These consolidated petitions pray that the Court: (1) enjoin the Commission on Elections (COMELEC) from conducting the plebiscite and the Secretary of Budget and Management from releasing funds to the COMELEC for that purpose; and (2) declare R.A. No. 6734, or parts thereof, unconstitutional .

After a consolidated comment was filed by Solicitor General for the respondents, which the Court considered as the answer, the case was deemed submitted for decision, the issues having been joined. Subsequently, petitioner Mama-o filed a "Manifestation with Motion for Leave to File Reply on Respondents' Comment and to Open Oral Arguments," which the Court noted.

The arguments against R.A. 6734 raised by petitioners may generally be categorized into either of the following:

(a) that R.A. 6734, or parts thereof, violates the Constitution, and

(b) that certain provisions of R.A. No. 6734 conflict with the Tripoli Agreement.

The Tripoli Agreement, more specifically, the Agreement Between the government of the Republic of the Philippines of the Philippines and Moro National Liberation Front with the Participation of the Quadripartie Ministerial Commission Members of the Islamic Conference and the Secretary General of the Organization of Islamic Conference" took effect on December 23, 1976. It provided for "[t]he establishment of Autonomy in the southern Philippines within the realm of the sovereignty and territorial integrity of the Republic of the Philippines" and enumerated the thirteen (13) provinces comprising the "areas of autonomy." [2]

In 1987, a new Constitution was ratified, which the for the first time provided for regional autonomy, Article X, section 15 of the charter provides that "[t]here shall be created autonomous regions in Muslim Mindanao and in the Cordilleras consisting of provinces, cities, municipalities, and geographical areas sharing common and distinctive historical and cultural heritage, economic and social structures, and other relevant characteristics within the framework of this Constitution and the national sovereignty as well as territorial integrity of the Republic of the Philippines."

To effectuate this mandate, the Constitution further provides:

> Sec. 16. The President shall exercise general supervision over autonomous regions to ensure that the

laws are faithfully executed.

Sec. 17. All powers, functions, and responsibilities not granted by this Constitution or by law to the autonomous regions shall be vested in the National Government.

Sec. 18. The Congress shall enact an organic act for each autonomous region with the assistance and participation of the regional consultative commission composed of representatives appointed by the President from a list of nominees from multisectoral bodies. The organic act shall define the basic structure of government for the region consisting of the executive and representative of the constituent political units. The organic acts shall likewise provide for special courts with personal, family, and property law jurisdiction consistent with the provisions of this Constitution and national laws.

The creation of the autonomous region shall be effective when approved by majority of the votes cast by the constituent units in a plebiscite called for the purpose, provided that only the provinces, cities, and geographic areas voting favorably in such plebiscite shall be included in the autonomous region.

Sec. 19 The first Congress elected under this Constitution shall, within eighteen months from the time of organization of both Houses, pass the organic acts for the autonomous regions in Muslim Mindanao and the Cordilleras.

Sec. 20. Within its territorial jurisdiction and subject to the provisions of this Constitution and national laws, the organic act of autonomous regions shall provide for legislative powers over:

(1) Administrative organization;

(2) Creation of sources of revenues;

(3) Ancestral domain and natural resources;

(4) Personal, family, and property relations;

(5) Regional urban and rural planning development;

(6) Economic, social and tourism development;

(7) Educational policies;

(8) Preservation and development of the cultural heritage; and

(9) Such other matters as may be authorized by law for the promotion of the general welfare of the people of the region.

Sec. 21. The preservation of peace and order within the regions shall be the responsibility of the local police agencies which shall be organized, maintained, supervised, and utilized in accordance with applicable laws. The defense and security of the region shall be the responsibility of the National Government.

Pursuant to the constitutional mandate, R.A. No. 6734 was enacted and signed into law on August 1, 1989.

1. The Court shall dispose first of the second category of arguments raised by petitioners, i.e. that certain provisions of R.A. No. 6734 conflict with the provisions of the Tripoli Agreement.

Petitioners premise their arguments on the assumption that the Tripoli Agreement is part of the law of the land, being a binding international agreement . The Solicitor General asserts that the Tripoli Agreement is neither a binding treaty, not having been entered into by the Republic of the Philippines with a sovereign state and ratified according to the provisions of the 1973 or 1987 Constitutions, nor a binding international agreement.

We find it neither necessary nor determinative of the case to rule on the nature of the Tripoli Agreement and its binding effect on the Philippine Government whether under public international or internal Philippine law. In the first place, it is now the Constitution itself that provides for the creation of an autonomous region in Muslim Mindanao. The standard for any inquiry into the validity of R.A. No. 6734 would therefore be what is so provided in the Constitution. Thus, any conflict between the provisions of R.A. No. 6734 and the provisions of the Tripoli Agreement will not have the effect of enjoining the implementation of the Organic Act. Assuming for the sake of argument that the Tripoli Agreement is a binding treaty or international agreement, it would then constitute part of the law of the land. But as internal law it would not be superior to R.A. No. 6734, an enactment of the Congress of the Philippines, rather it would be in the same class as the latter [SALONGA, PUBLIC INTERNATIONAL LAW 320 (4th ed., 1974), citing Head Money Cases, 112 U.S. 580 (1884) and Foster v. Nelson, 2 Pet. 253 (1829)]. Thus, if at all, R.A. No. 6734 would be amendatory of the Tripoli Agreement, being a subsequent law. Only a determination by this Court that R.A. No. 6734 contravened the Constitution would result in the granting of the reliefs sought. [3]

2. The Court shall therefore only pass upon the constitutional questions which have been raised by petitioners.

Petitioner Abbas argues that R.A. No. 6734 unconditionally creates an autonomous region in Mindanao, contrary to the aforequoted provisions of the Constitution on the autonomous region which make the creation of such region dependent upon the outcome of the plebiscite.

In support of his argument, petitioner cites Article II, section 1(1) of R.A. No. 6734 which declares that "[t]here is hereby created the Autonomous Region in Muslim Mindanao, to be composed of provinces and cities voting favorably in the plebiscite called for the purpose, in accordance with Section 18, Article X of the Constitution." Petitioner contends that the tenor of the above provision makes the creation of an autonomous region absolute, such that even if only two provinces vote in favor of autonomy, an autonomous region would still be created composed of the two provinces where the favorable votes were obtained.

The matter of the creation of the autonomous region and its composition needs to be clarified.

Firs, the questioned provision itself in R.A. No. 6734 refers to Section 18, Article X of the Constitution which sets forth the conditions necessary for the creation of the autonomous region. The reference to the constitutional provision cannot be glossed over for it clearly indicates that the creation of the autonomous region shall take place only in accord with the constitutional requirements. Second, there is a specific provision in the Transitory Provisions (Article XIX) of the Organic Act, which incorporates substantially the same requirements embodied in the Constitution and fills in the details, thus:

> SEC. 13. The creation of the Autonomous Region in Muslim Mindanao shall take effect when approved by a majority of the votes cast by the constituent units provided in paragraph (2) of Sec. 1 of Article II of this Act in a plebiscite which shall be held not earlier than ninety (90) days or later than one hundred twenty (120) days after the approval of this Act: *Provided,* That only the provinces and cities voting favorably in such plebiscite shall be included in the Autonomous Region in Muslim Mindanao. The provinces and cities which in the plebiscite do not vote for inclusion in the Autonomous Region shall remain the existing administrative determination, merge the existing regions.

Thus, under the Constitution and R.A. No 6734, the creation of the autonomous region shall take effect only when approved by a majority of the votes cast by the constituent units in a plebiscite, and only those provinces and cities where a majority vote in favor of the Organic Act shall be included in the autonomous region. The provinces and cities wherein such a majority is not attained shall not be included in the autonomous region. It may be that even if an autonomous region is created, not all of the thirteen (13) provinces and nine (9) cities mentioned in Article II, section 1 (2) of R.A. No. 6734 shall be included therein. The single plebiscite contemplated by the Constitution and R.A. No. 6734 will therefore be determinative of (1) whether there shall be an autonomous region in Muslim Mindanao and (2) which provinces and cities, among those enumerated in R.A. No. 6734, shall compromise it. [See III RECORD OF THE CONSTITUTIONAL COMMISSION 482-492 (1986)].

As provided in the Constitution, the creation of the Autonomous region in Muslim Mindanao is made effective upon the approval "by majority of the votes cast by the constituent units in a plebiscite called for the purpose" [Art. X, sec. 18]. The question has been raised as to what this majority means. Does it refer to a majority of the total votes cast in the plebiscite in all the constituent units, or a majority in each of the constituent units, or both?

We need not go beyond the Constitution to resolve this question.

If the framers of the Constitution intended to require approval by a majority of all the votes cast in the plebiscite they would have so indicated. Thus, in Article XVIII, section 27, it is provided that "[t]his Constitution shall take effect immediately upon its ratification by a majority of the votes cast in a plebiscite held for the purpose ... Comparing this with the provision on the creation of the autonomous region, which reads:

> The creation of the autonomous region shall be effective when approved by majority of the votes cast by the constituent units in a plebiscite called for the purpose, provided that only provinces, cities and geographic areas voting favorably in such plebiscite shall be included in the autonomous region. [Art. X, sec, 18, para, 2].

it will readily be seen that the creation of the autonomous region is made to depend, not on the total majority vote in the plebiscite, but on the will of the majority in each of the constituent units and the proviso underscores this. for if the intention of the framers of the Constitution was to get the majority of the totality of the votes cast, they could have simply adopted the same phraseology as that used for the ratification of the Constitution, i.e. "the creation of the autonomous region shall be effective when approved by a majority of the votes cast in a plebiscite called for the purpose."

It is thus clear that what is required by the Constitution is a simple majority of votes approving the organic Act in individual constituent units and not a double majority of the votes in all constituent units put together, as well as in the individual constituent units.

More importantly, because of its categorical language, this is also the sense in which the vote requirement in the plebiscite provided under Article X, section 18 must have been understood by the people when they ratified the Constitution.

Invoking the earlier cited constitutional provisions, petitioner Mama-o, on the other hand, maintains that only those areas which, to his view, share common and distinctive historical and cultural heritage, economic and social structures, and other relevant characteristics should be properly included within the coverage of the autonomous region. He insists that R.A. No. 6734 is unconstitutional because only the provinces of Basilan, Sulu, Tawi-Tawi, Lanao del Sur, Lanao del Norte and Maguindanao and the cities of Marawi and Cotabato, and not all of the thirteen (13) provinces and nine (9) cities included in the Organic Act, possess such concurrence in historical and cultural heritage and other relevant characteristics. By including areas which do not strictly share the same characteristics. By including areas which do not strictly share the same characteristic as the others, petitioner claims that Congress

has expanded the scope of the autonomous region which the constitution itself has prescribed to be limited.

Petitioner's argument is not tenable. The Constitution lays down the standards by which Congress shall determine which areas should constitute the autonomous region. Guided by these constitutional criteria, the ascertainment by Congress of the areas that share common attributes is within the exclusive realm of the legislature's discretion. Any review of this ascertainment would have to go into the wisdom of the law. This the Court cannot do without doing violence to the separation of governmental powers. [Angara v. Electoral Commission, 63 Phil 139 (1936); Morfe v. Mutuc, G.R. No. L-20387, January 31, 1968, 22 SCRA 424].

After assailing the inclusion of non-Muslim areas in the Organic Act for lack of basis, petitioner Mama-o would then adopt the extreme view that other non-Muslim areas in Mindanao should likewise be covered. He argues that since the Organic Act covers several non-Muslim areas, its scope should be further broadened to include the rest of the non-Muslim areas in Mindanao in order for the other non-Muslim areas denies said areas equal protection of the law, and therefore is violative of the Constitution.

Petitioner's contention runs counter to the very same constitutional provision he had earlier invoked. Any determination by Congress of what areas in Mindanao should compromise the autonomous region, taking into account shared historical and cultural heritage, economic and social structures, and other relevant characteristics, would necessarily carry with it the exclusion of other areas. As earlier stated, such determination by Congress of which areas should be covered by the organic act for the autonomous region constitutes a recognized legislative prerogative, whose wisdom may not be inquired into by this Court.

Moreover, equal protection permits of reasonable classification [People v. Vera, 65 Phil. 56 (1963); Laurel v. Misa, 76 Phil. 372 (1946); J.M. Tuason and Co. v. Land tenure Administration, G.R. No. L-21064, February 18, 1970, 31 SCRA 413]. In *Dumlao v. Commission on Elections* G.R. No. 52245, January 22, 1980, 95 SCRA 392], the Court ruled that once class may be treated differently from another where the groupings are based on reasonable and real distinctions. The guarantee of equal protection is thus not infringed in this case, the classification having been made by Congress on the basis of substantial distinctions as set forth by the Constitution itself.

Both petitions also question the validity of R.A. No. 6734 on the ground that it violates the constitutional guarantee on free exercise of religion [Art. III, sec. 5]. The objection centers on a provision in the Organic Act which mandates that should there be any conflict between the Muslim Code [P.D. No. 1083] and the Tribal Code (still be enacted) on the one had, and the national law on the other hand, the Shari'ah courts created under the same Act should apply national law. Petitioners maintain that the islamic law (Shari'ah) is derived from the Koran, which makes it part of divine law. Thus it may not be subjected to any "man-made" national law. Petitioner Abbas supports this objection by enumerating possible instances of conflict between provisions of the Muslim Code and national law, wherein an application of national law might be offensive to a Muslim's religious convictions.

As enshrined in the Constitution, judicial power includes the duty to settle actual controversies involving rights which are legally demandable and enforceable. [Art. VIII, Sec. 11. As a condition precedent for the power to be exercised, an actual controversy between litigants must first exist [Angara v. Electoral Commission, *supra;* Tan v. Macapagal, G.R. No. L-34161, February 29, 1972, 43 SCRA 677]. In the present case, no actual controversy between real litigants exists. There are no conflicting claims involving the application of national law resulting in an alleged violation of religious freedom. This being so, the Court in this case may not be called upon to resolve what is merely a perceived potential conflict between the provisions the Muslim Code and national law.

Petitioners also impugn the constitutionality of Article XIX, section 13 of R.A. No. 6734 which, among others, states:

> . . . *Provided,* That only the provinces and cities voting favorably in such plebiscite shall be included in the Autonomous Region in Muslim Mindanao. The provinces and cities which in the plebiscite do not vote for inclusion in the Autonomous Region shall remain in the existing administrative regions: *Provided, however,* that the President may, by administrative determination, merge the existing regions.

According to petitioners, said provision grants the President the power to merge regions, a power which is not conferred by the Constitution upon the President. That the President may choose to merge existing regions pursuant to the Organic Act is challenged as being in conflict with Article X, Section 10 of the Constitution which provides:

> No province, city, municipality, or barangay may be created, divided, merged, abolished, or its boundary substantially altered, except in accordance with the criteria established in the local government code and subject to approval by a majority of the votes cast in a plebiscite in the political units directly affected.

It must be pointed out that what is referred to in R.A. No. 6734 is the merger of administrative regions, i.e. Regions I to XII and the National Capital Region, which are mere groupings of contiguous provinces for administrative purposes [Integrated Reorganization Plan (1972), which was made as part of the law of the land by Pres. dec. No. 1, Pres. Dec. No. 742]. Administrative regions are not territorial and political subdivisions like provinces, cities, municipalities and barangays [see Art. X, sec. 1 of the Constitution]. While the power to merge administrative regions is not expressly provided for in the Constitution, it is a power which has traditionally been lodged with the President to facilitate the exercise of the power of general supervision over local governments [see Art. X, sec. 4 of the Constitution]. There is no conflict between the power of the President to merge administrative regions with the constitutional provision requiring a plebiscite in the merger of local government units because the requirement of a plebiscite in a merger expressly applies only to provinces, cities, municipalities or barangays, not to administrative

regions.

Petitioners likewise question the validity of provisions in the Organic Act which create an Oversight Committee to supervise the transfer to the autonomous region of the powers, appropriations, and properties vested upon the regional government by the organic Act [Art. XIX, Secs. 3 and 4]. Said provisions mandate that the transfer of certain national government offices and their properties to the regional government shall be made pursuant to a schedule prescribed by the Oversight Committee, and that such transfer should be accomplished within six (6) years from the organization of the regional government.

It is asserted by petitioners that such provisions are unconstitutional because while the Constitution states that the creation of the autonomous region shall take effect upon approval in a plebiscite, the requirement of organizing an Oversight committee tasked with supervising the transfer of powers and properties to the regional government would in effect delay the creation of the autonomous region.

Under the Constitution, the creation of the autonomous region hinges only on the result of the plebiscite. if the Organic Act is approved by majority of the votes cast by constituent units in the scheduled plebiscite, the creation of the autonomous region immediately takes effect delay the creation of the autonomous region.

Under the constitution, the creation of the autonomous region hinges only on the result of the plebiscite. if the Organic Act is approved by majority of the votes cast by constituent units in the scheduled plebiscite, the creation of the autonomous region immediately takes effect. The questioned provisions in R.A. No. 6734 requiring an oversight Committee to supervise the transfer do not provide for a different date of effectivity. Much less would the organization of the Oversight Committee cause an impediment to the operation of the Organic Act, for such is evidently aimed at effecting a smooth transition period for the regional government. The constitutional objection on this point thus cannot be sustained as there is no bases therefor.

Every law has in its favor the presumption of constitutionality [Yu Cong Eng v. Trinidad, 47 Phil. 387 (1925); Salas v. Jarencio, G.R. No. L-29788, August 30, 1979, 46 SCRA 734; Morfe v. Mutuc, *supra;* Peralta v. COMELEC, G.R. No. L-47771, March 11, 1978, 82 SCRA 30]. Those who petition this Court to declare a law, or parts thereof, unconstitutional must clearly establish the basis for such a declaration. otherwise, their petition must fail. Based on the grounds raised by petitioners to challenge the constitutionality of R.A. No. 6734, the Court finds that petitioners have failed to overcome the presumption. The dismissal of these two petitions is, therefore, inevitable.

WHEREFORE, the petitions are DISMISSED for lack of merit.

SO ORDERED.

Fernan, C.J., Narvasa, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Griño-Aquino, Medialdea and Regalado, JJ., concur.

Melencio-Herrera, J., is on leave.

Footnotes

1 Art. II, Sec 1(2) of R.A. No. 6734 provides that "[t]he plebiscite shall be conducted in the provinces of Basilan, Cotabato, Davao del Sur, Lanao del Norte, Lanao del Sur, Maguindanao, Palawan, South Cotabato, Sultan Kudarat, Sulu, Tawi-Tawi, Zamboanga del Norte, and Zamboanga del Sur, and the cities of Cotabato, Dapitan, Dipolog, General Santos, Iligan, Marawi, Pagadian, Puerto Princesa, and Zamboanga."

2 The provinces enumerated in the Tripoli Agreement are the same ones mentioned in R.A. No. 6734.

3 With regard to the controversy regarding the alleged inconsistencies between R.A. No. 6734 and the Tripoli Agreement, it may be enlightening to quote from the statement of Senator Aquilino Pimentel, Jr., the principal sponsor of R.A. No. 6734:

xxx xxx xxx

The assertion that the organic Act is a "betrayal" of the Tripoli Agreement is actually misplaced, to say the least. Misplaced because it overlooks the fact that the Organic Act incorporates, at least, 99 percent of the provisions of the Tripoli Agreement. Misplaced, again, because it gratuitously assumes that the Tripoli Agreement can bring more benefits to the people of Mulim Mindanao than the Organic Act.

The truth of the matter is that the Organic Act addresses the basis demands of the Muslim, tribal and Christian populations of the proposed area of autonomy in a far more reasonable, realistic and immediate manner than the Tripoli Agreement ever sought to do.

The Organic Act is, therefore, a boon to, not a betrayal, of the interest of the people of Muslim Mindanao.

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[Consolidated Comment, p. 26].

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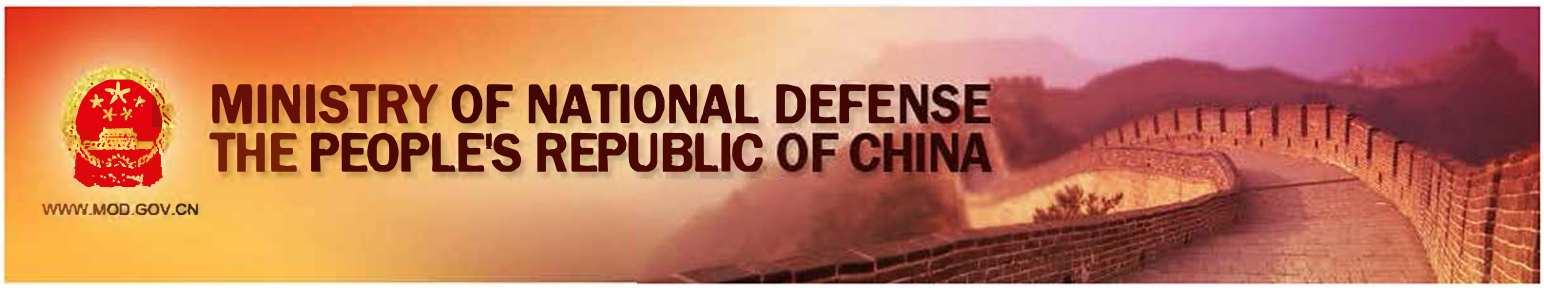
Annex 576

People’s Republic of China, Ministry of Defense, White Paper: China’s National Defense in 2008 (21 July 2009)



2008

CHINA'S NATIONAL DEFENSE IN 2008

Preface

(Source:) 2009-July-21 17:05

The year 2008 was an extraordinary one in the history of the People's Republic of China (PRC). In that year China overcame a devastating earthquake, with the epicenter in Wenchuan County, Sichuan Province; successfully hosted the 29th Olympic Games and Paralympics in Beijing; and greeted the 30th anniversary of the adoption of reform and opening-up policies.

Historic changes have taken place in the relations between contemporary China and the rest of the world. The Chinese economy has become an important part of the world economy, China has become an important member of the international system, and the future and destiny of China have been increasingly closely connected with the international community. China cannot develop in isolation from the rest of the world, nor can the world enjoy prosperity and stability without China.

Starting from this new historical turning point, China is unswervingly taking the road of peaceful development, unswervingly carrying out its policies of reform and opening-up and socialist modernization, unswervingly pursuing an independent foreign policy of peace and a national defense policy solely aimed at protecting its territory and people, and endeavoring to build, together with other countries, a harmonious world of enduring peace and common prosperity.

China adheres to taking the Scientific Outlook on Development as an important guiding principle for national defense and armed forces building; is actively adapting itself to new trends in world military development, taking it as its fundamental purpose to safeguard national sovereignty, security and development, taking reform and innovation as its fundamental driving force, and advancing the modernization of its national defense and armed forces from a higher starting point.

Editor :

I. The Security Situation

(Source:) 2009-July-20 10:41

With the advent of the new century, the world is undergoing tremendous changes and adjustments. Peace and development remain the principal themes of the times, and the pursuit of peace, development and cooperation has become an irresistible trend of the times. However, global challenges are on the increase, and new security threats keep emerging.

Economic globalization and world multi-polarization are gaining momentum. The progress toward industrialization and informationization throughout the globe is accelerating and economic cooperation is in full swing, leading to increasing economic interdependence, inter-connectivity and interactivity among countries. The rise and decline of international strategic forces is quickening, major powers are stepping up their efforts to cooperate with each other and draw on each other's strengths. They continue to compete with and hold each other in check, and groups of new emerging developing powers are arising. Therefore, a profound readjustment is brewing in the international system. In addition, factors conducive to maintaining peace and containing war are on the rise, and the common interests of countries in the security field have increased, and their willingness to cooperate is enhanced, thereby keeping low the risk of worldwide, all-out and large-scale wars for a relatively long period of time.

World peace and development are faced with multiple difficulties and challenges. Struggles for strategic resources, strategic locations and strategic dominance have intensified. Meanwhile, hegemonism and power politics still exist, regional turmoil keeps spilling over, hot-spot issues are increasing, and local conflicts and wars keep emerging. The impact of the financial crisis triggered by the U.S. subprime mortgage crisis is snowballing. In the aspect of world economic development, issues such as energy and food are becoming more serious, highlighting deep-seated contradictions. Economic risks are manifesting a more interconnected, systematic and global nature. Issues such as terrorism, environmental disasters, climate change, serious epidemics, transnational crime and pirates are becoming increasingly prominent.

The influence of military security factors on international relations is mounting. Driven by competition in overall national strength and the development of science and technology, international military competition is becoming increasingly intense, and the worldwide revolution in military affairs (RMA) is reaching a new stage of development. Some major powers are realigning their security and military strategies, increasing their defense investment, speeding up the transformation of armed forces, and developing advanced military technology, weapons and equipment. Strategic nuclear forces, military astronautics, missile defense systems, and global and battlefield reconnaissance and surveillance have become top priorities in their efforts to strengthen armed forces. Some developing countries are also actively seeking to acquire advanced weapons and equipment to increase their military power. All countries are attaching more importance to supporting diplomatic struggles with military means. As a result, arms races in some regions are heating up, posing grave challenges to the international arms control and nonproliferation regime.

The Asia-Pacific security situation is stable on the whole. The regional economy is brimming with vigor, mechanisms for regional and sub-regional economic and security cooperation maintain their development momentum, and it has become the policy orientation of all countries to settle differences and hotspot issues peacefully through dialogue. The member states of the Shanghai Cooperation Organization (SCO) have signed the Treaty on Long-Term Good-Neighborly Relations, Friendship and Cooperation, and practical cooperation has made progress in such fields as security and economy. The conclusion of the ASEAN Charter has enabled a new step to be taken toward ASEAN integration. Remarkable achievements have been made in cooperation between China and ASEAN, as well as between ASEAN and China, Japan and the Republic of Korea. Cooperation within the framework of the East Asia Summit (EAS) and the South Asian Association for Regional Cooperation (SAARC) continues to make progress. The Six-Party Talks on the Korean nuclear issue have scored successive achievements, and the tension in Northeast Asia is much released.

However, there still exist many factors of uncertainty in Asia-Pacific security. The drastic fluctuations in the world economy impact heavily on regional economic development, and political turbulence persists in some countries undergoing economic and social transition. Ethnic and religious discords, and conflicting claims over territorial and maritime rights and interests remain serious, regional hotspots are

complex. At the same time, the U.S. has increased its strategic attention to and input in the Asia-Pacific region, further consolidating its military alliances, adjusting its military deployment and enhancing its military capabilities. In addition, terrorist, separatist and extremist forces are running rampant, and non-traditional security issues such as serious natural disasters crop up frequently. The mechanisms for security cooperation between countries and regions are yet to be enhanced, and the capability for coping with regional security threats in a coordinated way has to be improved.

China's security situation has improved steadily. The achievements made in China's modernization drive have drawn worldwide attention. China's overall national strength has increased substantially, its people's living standards have kept improving, the society remains stable and unified, and the capability for upholding national security has been further enhanced. The attempts of the separatist forces for "Taiwan independence" to seek "de jure Taiwan independence" have been thwarted, and the situation across the Taiwan Straits has taken a significantly positive turn. The two sides have resumed and made progress in consultations on the common political basis of the "1992 Consensus," and consequently cross-Straits relations have improved. Meanwhile, China has made steady progress in its relations with the developed countries, strengthened in all respects the good-neighborly friendship with its neighboring countries, and kept deepening its traditional friendship with the developing countries. China is playing an active and constructive role in multilateral affairs, thus notably elevating its international position and influence.

China is still confronted with long-term, complicated, and diverse security threats and challenges. Issues of existence security and development security, traditional security threats and non-traditional security threats, and domestic security and international security are interwoven and interactive. China is faced with the superiority of the developed countries in economy, science and technology, as well as military affairs. It also faces strategic maneuvers and containment from the outside while having to face disruption and sabotage by separatist and hostile forces from the inside. Being in a stage of economic and social transition, China is encountering many new circumstances and new issues in maintaining social stability. Separatist forces working for "Taiwan independence," "East Turkistan independence" and "Tibet independence" pose threats to China's unity and security. Damages caused by non-traditional security threats like terrorism, natural disasters, economic insecurity, and information insecurity are on the rise. Impact of uncertainties and destabilizing factors in China's outside security environment on national security and development is growing. In particular, the United States continues to sell arms to Taiwan in violation of the principles established in the three Sino-US joint communiques, causing serious harm to Sino-US relations as well as peace and stability across the Taiwan Straits.

In the face of unprecedented opportunities and challenges, China will hold high the banner of peace, development and cooperation, persist in taking the road of peaceful development, pursue the opening-up strategy of mutual benefit, and promote the building of a harmonious world with enduring peace and common prosperity; and it will persist in implementing the Scientific Outlook on Development in a bid to achieve integration of development with security, persist in giving due consideration to both traditional and non-traditional security issues, enhancing national strategic capabilities, and perfecting the national emergency management system. At the same time, it will persist in pursuing the new security concept featuring mutual trust, mutual benefit, equality and coordination, and advocating the settlement of international disputes and hotspot issues by peaceful means. It will encourage the advancement of security dialogues and cooperation with other countries, oppose the enlargement of military alliances, and acts of aggression and expansion. China will never seek hegemony or engage in military expansion now or in the future, no matter how developed it becomes.

Editor :

II. National Defense Policy

(Source:) 2009-July-21 17:06

China pursues a national defense policy which is purely defensive in nature. China places the protection of national sovereignty, security, territorial integrity, safeguarding of the interests of national development, and the interests of the Chinese people above all else. China endeavors to build a fortified national defense and strong military forces compatible with national security and development interests, and enrich the country and strengthen the military while building a moderately prosperous society in all aspects.

China's national defense policy for the new stage in the new century basically includes: upholding national security and unity, and ensuring the interests of national development; achieving the all-round, coordinated and sustainable development of China's national defense and armed forces; enhancing the performance of the armed forces with informationization as the major measuring criterion; implementing the military strategy of active defense; pursuing a self-defensive nuclear strategy; and fostering a security environment conducive to China's peaceful development.

According to the requirements of national security and the level of economic and social development, China pursues a three-step development strategy to modernize its national defense and armed forces step by step in a well-planned way. This strategic framework is defined as follows:

Promoting the informationization of China's national defense and armed forces. Taking informationization as the goal of modernization of its national defense and armed forces and in light of its national and military conditions, China actively pushes forward the RMA with Chinese characteristics. It has formulated in a scientific way strategic plans for national defense and armed forces building and strategies for the development of the services and arms, according to which it will lay a solid foundation by 2010, basically accomplish mechanization and make major progress in informationization by 2020, and by and large reach the goal of modernization of national defense and armed forces by the mid-21st century.

Overall planning of economic development and national defense building. Sticking to the principle of coordinated development of economy and national defense, China makes overall plans for the use of its national resources and strikes a balance between enriching the country and strengthening the military, so as to ensure that its strategy for national defense and armed forces building is compatible with its strategy for national development. It makes national defense building an organic part of its social and economic development, endeavors to establish scientific mechanisms for the coordinated development of economy and national defense, and thus provides rich resources and sustainable driving force for the modernization of its national defense and armed forces. In national defense building, China makes it a point to take into consideration the needs of economic and social development and insists on having military and civilian purposes compatible with and beneficial to each other, so as to achieve more social benefits in the use of national defense resources in peacetime.

Deepening the reform of national defense and armed forces. China is working to adjust and reform the organization, structure and policies of the armed forces, and will advance step by step the modernization of the organizational form and pattern of the armed forces in order to develop by 2020 a complete set of scientific modes of organization, institutions and ways of operation both with Chinese characteristics and in conformity with the laws governing the building of modern armed forces. China strives to adjust and reform the systems of defense-related industry of science and technology and the procurement of weapons and equipment, and enhance its capacity for independent innovation in R&D of weapons and equipment with better quality and cost-effectiveness. China endeavors to establish and improve the systems of weaponry and equipment research and manufacturing, military personnel training and logistical support that integrate military with civilian purposes and combine military efforts with civilian support. In addition, China makes an effort to establish and improve a national defense mobilization system that is centralized and unified, well structured, rapid in reaction, and authoritative and efficient.

Taking the road of leapfrog development. Persisting in taking mechanization as the foundation and informationization as focus, China is stepping up the composite development of mechanization and informationization. Persisting in strengthening the military by means of science and technology, China is working to develop new and high-tech weaponry and equipment, carry out the strategic project of training

talented people, conduct military training in conditions of informationization, and build a modern logistics system in an all-round way, so as to change the mode of formation of war-fighting capabilities. Persisting in laying stress on priorities, China distinguishes between the primary and the secondary, and refrains from doing certain things, striving to achieve leapfrog development in key areas. China persists in building the armed forces through diligence and thrift, attaching importance to scientific management, in order to make the fullest use of its limited defense resources.

China implements a military strategy of active defense. Strategically, it adheres to the principle of featuring defensive operations, self-defense and striking and getting the better of the enemy only after the enemy has started an attack. In response to the new trends in world military developments and the requirements of the national security and development strategy, China has formulated a military strategic guideline of active defense for the new period.

This guideline aims at winning local wars in conditions of informationization. It takes into overall consideration the evolution of modern warfare and the major security threats facing China, and prepares for defensive operations under the most difficult and complex circum-stances. Meeting the requirements of confrontation between war systems in modern warfare and taking integrated joint operations as the basic approach, it is designed to bring the operational strengths of different services and arms into full play, combine offensive operations with defensive operations, give priority to the flexible application of strategies and tactics, seek advantages and avoid disadvantages, and make the best use of our strong points to attack the enemy's weak points. It endeavors to refine the command system for joint operations, the joint training system and the joint support system, optimize the structure and composition of forces, and speed up the building of a combat force structure suitable for winning local wars in conditions of informationization.

This guideline lays stress on deterring crises and wars. It works for close coordination between military struggle and political, diplomatic, economic, cultural and legal endeavors, strives to foster a favorable security environment, and takes the initiative to prevent and defuse crises, and deter conflicts and wars. It strictly adheres to a position of self-defense, exercises prudence in the use of force, seeks to effectively control war situations, and strives to reduce the risks and costs of war. It calls for the building of a lean and effective deterrent force and the flexible use of different means of deterrence. China remains committed to the policy of no first use of nuclear weapons, pursues a self-defensive nuclear strategy, and will never enter into a nuclear arms race with any other country.

This guideline focuses on enhancing the capabilities of the armed forces in countering various security threats and accomplishing diversified military tasks. With the focus of attention on performing the historical missions of the armed forces for the new stage in the new century and with raising the capability to win local wars in conditions of informationization at the core, it works to increase the country's capabilities to maintain maritime, space and electromagnetic space security and to carry out the tasks of counter-terrorism, stability maintenance, emergency rescue and international peacekeeping. It takes military operations other than war (MOOTW) as an important form of applying national military forces, and scientifically makes and executes plans for the development of MOOTW capabilities. China participates in international security cooperation, conducts various forms of military exchanges and promotes the establishment of military confidence-building mechanisms in accordance with this guideline.

This guideline adheres to and carries forward the strategic concept of people's war. In accordance with this guideline, China always relies on the people to build national defense and the armed forces, combines a lean standing force with a powerful reserve force, and endeavors to reinforce its national war potential and defense strength. China is working to set up a mechanism for unified and efficient national defense mobilization, stepping up the mobilization of economy, science and technology, information and transportation, and making improvements in the building of the reserve force. China is striving to make innovations in the content and forms of people's war, exploring new approaches of the people in participating in warfare and support for the front, and developing new strategies and tactics for people's war in conditions of informationization. Moreover, the People's Liberation Army (PLA) subordinates its development to the overall national construction, supports local economic and social development, and consolidates the unity between the PLA and the government, and between the PLA and the people.

Editor :

III. Reform and Development of the PLA

(Source:) 2009-July-21 17:16

In the great historical course of China's reform and opening-up over the past three decades, the PLA has invariably taken modernization as its central task, continuously engaged in reform and innovation, comprehensively advanced revolutionization, modernization and regularization, and made important contributions to safeguarding national sovereignty and security, and maintaining world peace. In recent years, the PLA has accelerated RMA with Chinese characteristics, and pushed forward its military, political, logistical and equipment work in a coordinated way, in an effort to achieve sound and rapid development.

Thirty Years of Reform and Development

From the late 1970s and into the 1980s, the PLA set out on the road of building a streamlined military with Chinese characteristics. According to the scientific judgment that peace and development had become the principal themes of the times, it made a strategic shift in its guiding principle for military building from preparations for "an early, large-scale and nuclear war" to peacetime construction, and advanced its modernization step by step in a well-planned way under the precondition that such efforts should be both subordinated to and in the service of the country's overall development. It set the general goal of building a powerful military, revolutionary in nature, modernized and regularized, and blazed a trail for building a lean military with Chinese characteristics. It underwent significant adjustment and reform, and streamlined the size of its armed forces by a million troops, thereby taking an important step forward in making itself streamlined, combined and efficient.

Entering the 1990s, the PLA began to vigorously promote RMA with Chinese characteristics. It established the military strategic guideline of active defense for the new era, based on winning local wars in conditions of modern technology, particularly high technology. It began to adopt a strategy of strengthening the military by means of science and technology, and a three-step development strategy in modernizing national defense and the armed forces, and promoted the coordinated development of national defense and economy. Regarding RMA with Chinese characteristics as the only way to modernize the military, it put forward the strategic goal of building an informationized military and winning informationized wars. Driven by preparations for military struggle, it accelerated the development of weaponry and equipment, stepped up the development of the arms and services of the armed forces, as well as forces for emergency mobile operations, optimized its system and structure, and reduced the number of personnel by 700,000. As a result, its capability of defensive operations increased remarkably.

At the new stage in the new century, the PLA has been striving to create a new situation in its modernization drive at a new historical starting point. With the Scientific Outlook on Development as an important guiding principle for national defense and armed forces building, it has acted in accordance with the strategic thought of balancing economic and national defense development and integrating efforts to enrich the country and strengthen the military. It has been dedicated to performing its new historical missions and improving its capabilities to counter various security threats and accomplish diversified military tasks. It has accelerated the composite development of mechanization and informationization, vigorously conducts military training in conditions of informationization, and boosts innovation in military theory, technology, organization and management, to continuously increase the core military capability of winning local wars in conditions of informationization and the capability of conducting MOOTW.

Promoting the Improvement of Military Training

Regarding military training as the basic approach to furthering the comprehensive development of the military and raising combat effectiveness, the PLA is working to reform training programs, methods, management and support, and create a scientific system for military training in conditions of informationization.

Increasing training tasks. The PLA is intensifying strategic- and operational-level command post training and troop training in conditions of informationization, holding trans-regional evaluation exercises with opposing players, conducting whole-unit night training and carrying out integrated exercises for logistical and equipment support. Moreover, it is attaching more importance to MOOTW training in

counter-terrorism, stability maintenance, emergency response, peacekeeping, emergency rescue and disaster relief.

Deepening training reform. The PLA is creating a task list for military training in conditions of informationization, developing a new edition of the Outline for Military Training and Evaluation, and promoting the application of innovations made in training reform. It is also reinforcing the joint training of the services and arms, strengthening functional training, giving prominence to command and coordinate training and the studies of ways of fighting, and improving training in regional cooperation. It is improving on-base training and simulated training, promoting web-based training, and conducting training with opposing players. It is also reforming training evaluation mechanisms, making training standards stricter, and enforcing meticulous management of the whole process and all aspects of military training.

Conducting training in complex electromagnetic environments. The PLA is spreading basic knowledge of electromagnetic-spectrum and battlefield-electromagnetic environments, learning and mastering basic theories of information warfare, particularly electronic warfare. It is enhancing training on how to operate and use informationized weaponry and equipment, and command information systems. It is working on the informationizing of combined tactical training bases, and holding exercises in complex electromagnetic environments.

Strengthening Ideological and Political Work

The PLA insists on putting ideological and political work first, and pushing forward the innovative development of ideological and political work, to ensure the Party's absolute leadership over the armed forces, the scientific development of the military, the all-round development of the officers and men, the increase of combat capabilities and the effective fulfillment of historical missions.

In January 2007 the General Political Department of the PLA issued the Guideline for the Ideological and Political Education of the Chinese People's Liberation Army (Trial). This guideline spells out clearly that such education refers to the work by the Communist Party of China (CPC) to arm the military with political theories and provide it with ideological guidance; scientifically regulates such education for all kinds of PLA forces and personnel; and further strengthens the development of rules and regulations for such education. Pursuant to the guideline, units whose ratios of political education to military training are 3 to 7 and 2 to 8 should devote 54 and 42 workdays, respectively, to political education each year. The PLA persists in arming its officers and men with the theory of socialism with Chinese characteristics, educates them in its historical missions, ideals, beliefs, fighting spirit and the socialist concept of honor and disgrace, and carries forward the fine traditions of obeying the Party's orders, serving the people, and fighting bravely and skillfully. The PLA's ideological and political education adheres to six principles: to be guided by scientific theories, to put the people first, to focus on the central task and serve the overall interests, to aim at concrete results, to educate through practical activities, and to encourage innovation and development. Following these principles, the PLA has flexibly applied and innovatively developed educational forms and means, improved radio, television and network educational facilities, and built military history museums, cultural centers, "homes of political instructors," study rooms, and company clubs and honors exhibitions.

In April 2008 the Central Military Commission (CMC) approved the Regulations of the Chinese People's Liberation Army on the Work of Servicemen's Committees, which was jointly issued by the Headquarters of the General Staff, the General Political Department, the General Logistics Department and the General Armament Department. The document has institutionalized political democracy, economic democracy and military democracy for grass-roots units in the new situation. The servicemen's committee is an organization through which the grass-roots military units practice democracy in political, economic and military affairs and through which the servicemen exercise their democratic rights and carry out mass activities. It exercises the following functions too: to advise on combat readiness training, education and management, logistical support, and weaponry and equipment management of its own unit; to make recommendations on issues concerning the immediate interests of officers and men, such as the selection and promotion of non-commissioned officers (NCOs), selection of qualified enlisted men to enter military educational institutions either through examinations or directly, selection of enlisted men for technical training, and selection of servicemen for commendations and rewards; to supervise officers and men on the performance of their duties and observation of law and discipline; and to protect the collective interests of the unit, and the legitimate rights and interests of officers and men. Consisting of five to seven members chosen by the servicemen's assembly through election by secret ballot, the

servicemen's committee works under the leadership of the unit Party branch (or grass-roots Party committee) and the guidance of the unit commanders.

Enhancing the Cost-Effectiveness of Logistical Support

The PLA vigorously promotes integration in logistical support system, outsourcing in logistical support method, informationization in logistical support means, and scientific approach in logistical support management, to build a modern logistics system. In December 2007 the CMC promulgated the Outline for Building a Modern Logistics System, specifying the guidelines, principles, objectives and tasks for the development of modern logistics.

Deepening logistics reform. The PLA persists in promoting re-forms in joint logistics. In April 2007 the Jinan Theater formally adopted the joint logistics system based on the integration of tri-service logistical support. To speed up the outsourcing process, the PLA out-sources the commercial and housing services of combat units stationed in large- and medium-sized cities, general-purpose materials storage, capital construction, logistical equipment production and logistical technical services. To enhance budgeting reforms, it promotes the creation of databases for budget items, strengthens the investment assessment and evaluation of major projects, summarizes and popularizes such practices as the integration of assets management with budget management and the control of expenses concerning administrative consumables, and gradually adopts the practice of using work-related expenditure cards for payment and account settlement. It enlarges the scope of centralized procurement, increases the proportion of procurement through bidding, and extends centralized procurement to non-combat units.

Upgrading logistical support. The PLA has substantially increased funding for education and training, political work, health care, water and electricity supplies, heating, barracks maintenance, etc. It has increased allowances for aviators, sailors and astronauts. It has increased post allowances for officers in grass-roots units and duty allowances for enlisted men. It has raised servicemen's injury and death insurance and board expenses. It has set standards for the subsidies and fees for small, scattered, distant units and units directly under the headquarters. In August 2007 all PLA troops began to replace their old uniforms with the 07 series.

Regulating logistics management. To step up standardization, the PLA is redoubling its efforts in the standardized provision of maintenance funds and centrally allocated supplies, regulating the management of construction-related supplies, and creating step by step a system of logistical support standards and regulations covering supply, consumption and management. It strengthens financial management, spends according to standards and within its budget, and carries out construction according to its financial strength. It pays close attention to the safe management of drinking water, food, medical care, medicine, petroleum, oils and lubricants, transportation and dangerous articles. It is improving the mechanism to prevent and control public health hazards; standardizing the management of military vehicles; conducting a special review of housing for active officers at and above the corps level; imposing strict management on military housing and the lease of unoccupied real estate; and improving the system for the employment of civilians. In January 2007 the CMC promulgated the newly revised Audit Regulations of the Chinese People's Liberation Army. The PLA has launched an in-depth movement to conserve energy and resources by encouraging conservation-minded supply and consumption. It protects the ecological environment of military areas by initiating a grassland conservation project, a pilot project for preventing and alleviating sand storms affecting coastal military facilities, and efforts to harness pollution by military units stationed in the area known as the Bohai Sea rim.

Boosting Integrated Equipment Support

Meeting the requirements of tri-service integration, joint operations, systems building and systems integration, the PLA is continually improving its weaponry and equipment system and elevating integrated equipment support.

Accelerating the building of a modern weaponry and equipment system with Chinese characteristics. Persisting in self-reliance and independent innovation, the PLA gives priority to developing informationized weapons and equipment which can meet the requirements of integrated joint operations, and carries out prioritized and selective retrofitting and upgrading of existing equipment. It has basically established an army equipment system featuring high mobility and three-dimensional assault, a naval equipment system with integrated sea-air capabilities for offshore defensive operations, an air force

equipment system with integrated air-land capabilities for both offensive and defensive operations, a surface-to-surface missile equipment system for the Second Artillery Force comprising both nuclear and conventional missiles with different ranges, and an electronic information equipment system featuring systems integration and joint development.

Raising the level of equipment management and the capability of new equipment maintenance and support. The PLA is intensifying the scientific, institutionalized and regular management of equipment, and has adopted a system of accountability to improve weapon and equipment readiness. Emphasis is laid on cultivating the capability of equipment maintenance and support, the techniques and means of which are being gradually shifted from being applicable to equipment of the first and second generations to being applicable to the second and third generations. Overhaul and emergency support capabilities have been basically developed for the main equipment. The PLA has augmented equipment support forces and formed a preliminary system of such forces, with regular forces as the backbone, reserve forces as the reinforcement, and backup forces as the supplement. Equipment manufacturing units have been ordered to rehearse the mobilization of technical support forces, and approaches to civil-military integrated support have been explored.

Adjusting and reforming the equipment procurement system. In the past two years, the PLA has further expanded the scope of competitive, centralized and integrated procurement. In line with the demand to separate and balance planning, contract fulfillment, contract supervision and contract auditing, the PLA has adjusted and improved the organizational system for equipment procurement, and reformed the system of resident military representatives in factories.

Speeding up Informationization

Actively coping with the challenges presented by the worldwide RMA, the PLA extensively applies information technology, develops and utilizes information resources in various fields of military building, and strives to take a road of military informationization with Chinese characteristics which highlights the leading role of information, pursues composite development, promotes independent innovation and facilitates transformation.

Starting with command automation in the 1970s, the PLA has shifted the focus of informationization from specific areas to trans-area systems integration, and is on the whole at the initial stage of comprehensive development. Currently, aiming at integration, the PLA is persisting in combining breakthroughs in key sectors with comprehensive development, technological innovation with structural reform, and the development and building of new systems with the modification of existing ones to tap their potentials; enhancing systems integration; stepping up efforts to develop and utilize information resources; and gradually developing and improving the capability of fighting based on information systems.

Achievements have been made in the building of military information systems, with the priority being given to command information systems. The integrated military information network came into operation in 2006, resulting in the further improvement of the information infrastructure, basic information support and information security assurance. Progress has been made in the building of command and control systems for integrated joint operations, significantly enhancing the capability of battlefield information support. IT-based training methods have undergone considerable development; surveying and mapping, navigation, weather forecasting, hydrological observation and space environment support systems have been further optimized; a number of information systems for logistical and equipment support have been successfully developed and deployed; and full-scale efforts in building "digital campuses" have begun in PLA educational institutions.

Main battle weapon systems are being gradually informationized. The focus is to increase the capability of the main battle weapon systems in the areas of rapid detection, target location, friend-or-foe identification and precision strikes. Some tanks, artillery pieces, ships and aircraft in active service have been informationized, new types of highly informationized combat platforms have been successfully developed, and the proportion and number of precision-guided munitions are on the rise.

The conditions for informationization have been improved. A leadership, management and consultation system for informationization has been basically set up, and the centralized and unified leadership for informationization has been strengthened. Theoretical explorations and studies of key practical issues related to informationization have been continuously intensified, medium-and long-term

plans and guidance for informationization of the military formulated and promulgated, technical standards revised and refined, and institutional education and personnel training catering to the requirements of informationization strengthened.

Stepping up Personnel Training

The PLA is further implementing the strategic project for talented people, improving its training system and laying stress on the training of commanding officers for joint operations and high-level technical experts in an effort to cultivate a large contingent of new-type and high-caliber military personnel.

In April 2008, the CMC issued Opinions on Strengthening and Improving the Officers Training Work of the Armed Forces, explicitly requiring the establishment and improvement of the service-long and all-personnel training system, which takes level-by-level training as the backbone and on-the-job training as the supplement, and matches training with assignment. A situation is to be created in which institutional education is linked with training in units, education in military educational institutions is carried on in parallel with education through regular institutions of higher learning, and domestic training is combined with overseas training.

Strengthening the training of commanding officers for joint operations. Various measures are being taken to step up efforts to train commanding officers for joint operations, such as institutional education, on-the-job study and rotation of posts. Incorporating joint operations into the whole training process, the PLA carefully distinguishes between the training tasks of educational institutions of different levels and types, and couples institutional education with training in units, so as to establish a system for training joint operations commanding officers which emphasizes both institutional education and practice in units. The PLA has launched the Key Projects of Military Educational Institutions and made step-by-step progress in these projects.

Selecting and training officer candidates. In October 2007 the CMC approved and the four general headquarters/departments jointly promulgated the Regulations of the Chinese People's Liberation Army on the Admission Work of Educational Institutions, regulating the admission of high-school graduates and enlisted men into military educational institutions. At the end of 2007 the Ministry of Education and the General Political Department of the PLA co-sponsored a conference on the issue of training PLA officers via regular institutions of higher learning. At present, there are117 colleges and universities with defense students. The PLA has selected nearly 1,000 key middle schools in the various provinces and municipalities as the main sources of defense students.

Creating a favorable environment for cultivating talented people. The PLA has established and improved a mechanism for rewarding and inspiring talented people, issuing high rewards to outstanding commanding officers, staff officers and technical experts, as well as teams which have made great contributions in scientific and technological innovation. Since 2007 additional funds amounting to RMB 700 million have been devoted to talent cultivation. In July 2007 the CMC promulgated the Provisions of the Armed Forces on Attracting and Retaining High-level Specialized Technical Personnel, specifying effective measures to attract and retain particularly leading scientists, first-rate personnel in specific disciplines and technical experts. In March 2008 the Guideline of the Chinese People's Liberation Army for the Evaluation of Commanding Officers, the Implementation Measures of the Chinese People's Liberation Army on the Evaluation of Commanding Officers and the Standards of the Chinese People's Liberation Army for the Evaluation of Commanding Officers (Trial) were published, which marked the initial establishment of a system for the evaluation of commanding officers in accordance with the requirements of scientific development.

Persisting in Governing the Forces in Accordance with the Law

The PLA persists in taking it as the basic requirement of the regularization drive to govern the armed forces in accordance with the law, and emphasizes scientific legislation and strict law enforcement to enhance its level of regularization.

In the past 30 years of reform and opening-up the military legislative system has been improved step by step, and remarkable achievements have been made in military legislation. In 1988 the CMC set up a legal organ, and the general headquarters/departments, Navy, Air Force, Second Artillery Force and military area commands designated specific departments to be in charge of legal affairs. In 1997 the Law

of the People's Republic of China on National Defense was promulgated, specifying that the CMC enacts military regulations in accordance with the Constitution and relevant laws. The Law of the People's Republic of China on Legislation promulgated in 2000 further defined the legislative authority of the CMC, general headquarters/departments, Navy, Air Force, Second Artillery Force, and military area commands. By October 2008, the National People's Congress (NPC) and its Standing Committee had made 15 laws and law-related decisions concerning national defense and armed forces building; the State Council and the CMC had jointly formulated 94 military administrative regulations; the CMC had formulated 215 military regulations; and the general headquarters/departments, Navy, Air Force, Second Artillery Force, military area commands and People's Armed Police Force (PAPF) had enacted more than 3,000 military rules and regulations. In June 2007 and December 2008, the NPC Standing Committee ratified respectively the Treaty on the Temporary Stay of the Army of One Party in the Territory of the Other Party during the Period of Joint Military Exercises between the People's Republic of China and the Russian Federation and the Agreement among the Member States of the Shanghai Cooperation Organization on Conducting Joint Military Exercises.

The PLA persists in governing the forces strictly and in accordance with the law, and improves the mechanism for making decisions and providing guidance in accordance with the law in an effort to institutionalize and regularize military, political, logistical and equipment work. It practices scientific management, strictly enforces rules and regulations, and incorporates the cultivation of proper style and strict discipline into the routine education and administration of the forces. Through strict training and daily cultivation, the PLA aims to build a force with a refined military posture, strict discipline and fine work style.

Taking disseminating knowledge of the law as an important part of strengthening all-round building, the PLA places emphasis on disseminating legal knowledge, and is stepping up efforts to popularize knowledge of the law with a clear aim and in an active and effective way. Units with security tasks in the 2008 Beijing Olympics and Paralympics organized officers and men to study relevant laws and regulations to enhance their legal awareness and their capability of dealing with emergencies in accordance with the law. Officers and men of units tasked with international peacekeeping missions and of naval ships making port calls have been organized to study the United Nations Charter, the United Nations Convention on the Law of the Sea, etc. In November 2007 the Chinese government established the National Committee for International Humanitarian Law, under the arrangement and coordination of which relevant military agencies disseminate knowledge of and implement international humanitarian law within the PLA.

Editor :

IV. The Army

(Source:) 2009-July-20 10:22

As the basis of the PLA, the Army is a service mainly conducting land operations. It consists of such arms as infantry, armor, artillery, air defense, aviation, engineering, signals, chemical defense and electronic countermeasures (ECM), as well as various specialized service units.

History of Development

The PLA was founded on August 1, 1927, and comprised only the Army in its early days. For a long time the Army was mainly composed of infantry. During the Agrarian Revolutionary War (1927-1937) a small number of cavalry, artillery, engineering and signals troops were added. The Liberation War (1946-1949) witnessed the advent of tank and chemical defense forces. In the 1950s the Army set up leading organs for such arms as artillery, armor, engineering and chemical defense. Since the 1980s the structure of the Army has changed dramatically, with the creation of the aviation and ECM arms and the establishment in 1985 of Army combined corps. After 81 years of development, the Army has grown from a single arm into a modern army with various arms. It has become a powerful service capable of conducting both independent and joint operations with the Navy, Air Force and Second Artillery Force.

Structure and Organization

The Army has no independent leading body, and its leadership is exercised by the four general headquarters/departments. The seven military area commands exercise direct leadership over the Army units under them. The Army includes units of mobile operational, garrison, border and coastal defense, and reserve troops. The organizational order of these units is combined corps, division (brigade), regiment, battalion, company, platoon and squad. Directly under a military area command, a combined corps consists of divisions or brigades, and acts as a basic formation at the operational level. Directly under a combined corps, a division consists of regiments and acts as a basic formation at the tactical level. Directly under a combined corps, a brigade consists of battalions, and acts as a formation at the tactical level. Normally under a division, a regiment consists of battalions, and acts as a basic tactical unit. Normally under a regiment or brigade, a battalion consists of companies, and acts as a tactical element at a higher level. A company consists of platoons, and acts as a basic tactical element. The Army mobile operational units include 18 combined corps and some independent combined operational divisions (brigades).

Force Building

In recent years, in line with the strategic requirements of mobile operations and three-dimensional offense and defense, the Army has been moving from regional defense to trans-regional mobility. It is gradually making its units small, modular and multi-functional in organization through appropriate downsizing and structural reform. It is accelerating the development of aviation, light mechanized and information countermeasure forces, and gives priority to the development of operational and tactical missile, ground-to-air missile and special operations forces, so as to increase its capabilities for air-ground integrated operations, long-distance maneuvers, rapid assaults and special operations.

The Army has made great progress in building its arms. The armored component has been working to enhance the integration of information systems with weapon platforms, deploy new major battle tanks, and develop heavy, amphibious and light mechanized forces. The proportion of armored mechanized divisions/brigades in combined operational divisions/brigades has further increased. The artillery component has been working to develop a three-level operational command system and deploy a series of advanced weapons and equipment, and new types of ammunition, such as operational and tactical missiles and large-caliber self-propelled gun-howitzers. It has established a preliminary system for all-range precision strikes. The air defense component has been working to deploy a series of advanced field ground-to-air missiles, and new types of radar and intelligence command systems, and to establish and improve an air defense operations system combining reconnaissance, early warning, command and control, and information countermeasures and interception. The engineering component has been working to accelerate the establishment of a system of both specialized and multifunctional engineering support forces which can be used both in peacetime and wartime. It has developed relatively strong capabilities in the fields of accompanying support, rapid barrier breaching, comprehensive protection,

counter-terrorist explosive ordnance disposal, emergency rescue and disaster relief. The chemical defense component has been working to develop new types of protection forces. It has established a preliminary integrated system of nuclear, biological and chemical early warning, reconnaissance and monitoring, protection command and protection forces.

The Army aviation wing is one of the combat arms of the Army, and has a three-level (general headquarters/departments, theaters and combined corps) administration system. In recent years it has been working to shift from being a support force focusing on transportation missions to being an integrated combat force focusing on air assault missions; it has stepped up training in fire assault, aircraft-borne operations, air mobility and air service support; and actively participated in counter-terrorism, stability maintenance, border closure and control, emergency rescue, disaster relief and joint exercises. The purpose is to build a well-equipped and multifunctional Army aviation force which is appropriate in size and optimal in structure.

The border and coastal defense force of the Army, under the leadership of general headquarters/departments, military area and provincial military commands, is the mainstay for safeguarding national sovereignty and territorial integrity, and maintaining security and stability in border and coastal areas. In recent years, adhering to the principles of placing equal emphasis on land and sea, strengthening border defense by means of science and technology, giving priority to key projects and promoting coordinated development, the border and coastal defense force has focused on combat readiness, and comprehensively enhanced its reconnaissance and surveillance, command and control, quick response and defensive operations capabilities. It has consistently strengthened the defense and protection of major directions and sensitive regions, watercourses and sea waters in border and coastal areas. It has intensified border control and management, and participated in emergency-handling and disaster-relief missions. It has carried out extensive exchanges and cooperation on border defense with neighboring countries, and dealt with border and coastal affairs proactively and appropriately. As a result, it has made important contributions to peace and stability, reform, opening-up, and social and economic progress in border and coastal areas.

Editor :

V. The Navy

(Source:) 2009-July-20 10:23

The Navy is a strategic service of the PLA, and the main force for maritime operations. It is responsible for such tasks as safeguarding China's maritime security and maintaining the sovereignty of its territorial waters, along with its maritime rights and interests. The Navy is mainly composed of submarine, surface ship, aviation, Marine Corps and coastal defense wings.

History of Development

The Navy was founded on April 23, 1949. From 1949 to 1955 it set up the surface ship force, coastal defense force, aviation, submarine force and Marine Corps, and established the objective of building a light maritime combat force. From 1955 to 1960 it established the Donghai Fleet, Nanhai Fleet and Beihai Fleet, successively. From the 1950s to the end of the 1970s the main task of the Navy was to conduct inshore defensive operations. Since the1980s, the Navy has realized a strategic transformation to offshore defensive operations. Since the beginning of the new century, in view of the characteristics and laws of local maritime wars in conditions of informationization, the Navy has been striving to improve in an all-round way its capabilities of integrated offshore operations, strategic deterrence and strategic counterattacks, and to gradually develop its capabilities of conducting cooperation in distant waters and countering non-traditional security threats, so as to push forward the overall transformation of the service. Through nearly six decades of development, a modern force for maritime operations has taken shape, consisting of combined arms with both nuclear and conventional means of operations.

Structure and Organization

In time of peace, the Navy adopts a leadership system which com-bines operational command with building and administration, and which mainly consists of the Navy Headquarters, fleets, test bases, educational institutions, and an armaments academy. There are three fleets under the Navy, namely, the Beihai Fleet, Donghai Fleet and Nanhai Fleet, which are headquartered respectively in Qingdao of Shandong Province, Ningbo of Zhejiang Province, and Zhanjiang of Guangdong Province. Each fleet has under its command fleet aviation, support bases, flotillas, maritime garrison commands, aviation divisions and marine brigades. At present, the Navy has eight educational institutions, namely, the Naval Command College, Naval Engineering University, Naval Aeronautical Engineering College, Dalian Naval Academy, Naval Submarine College, Naval Arms Command College, Naval Flying College and Bengbu Naval School for Non-commissioned Officers.

The submarine force is equipped with nuclear-powered strategic missile submarines, nuclear-powered attack submarines and conventional submarines, all organized into submarine bases and submarine flotillas. The surface ship force mainly consists of destroyers, frigates, missile boats, mine sweepers, landing ships and service ships, and is organized into flotillas of destroyers, speedboats, landing ships and combat support ships, as well as maritime garrison commands. The aviation wing mainly consists of fighters, fighter-bombers, bombers, reconnaissance aircraft, patrol aircraft and helicopters, all organized into aviation divisions. The Marine Corps is organized into marine brigades, and mainly consists of marines, amphibious armored troops, artillery troops, engineers and amphibious reconnaissance troops. The coastal defense force is mainly organized into coastal missile regiments and antiaircraft artillery regiments, and mainly consists of shore-to-ship missile, antiaircraft artillery and coastal artillery troops.

Force Building

In line with the requirements of offshore defense strategy, the Navy takes informationization as the orientation and strategic priority of its modernization drive, and is endeavoring to build a strong navy. It deepens reforms and innovations in training programs and methods, highlights training in maritime integrated joint operations, and enhances integrated combat capability in conducting offshore campaigns and the capability of nuclear counterattacks. It organizes in a scientific way operational training, tactical training, specialized skill training and common subject training, focuses on the integrated training of joint operations elements in conditions of informationization and explores methods of training in complex electromagnetic environments. It also attaches importance to MOOTW, training and actively participates in bilateral and multilateral joint training exercises.

Upgrading weaponry and equipment, and optimizing the weaponry and equipment system. Efforts are being made to build new types of submarines, destroyers, frigates and aircraft, forming a preliminary weaponry and equipment system with second-generation equipment as the core and the third generation as the backbone. The submarine force possesses underwater anti-ship, anti-submarine and mine-laying capabilities, as well as some nuclear counterattack capabilities. The surface ship force has developed a surface striking force represented by new types of missile destroyers and frigates, and possesses maritime reconnaissance, anti-ship, anti-submarine, air-defense, mine-laying and other operational capabilities. The aviation wing has developed an air striking force represented by sea-attack aircraft, and possesses reconnaissance, anti-ship, anti-submarine and air-defense operational capabilities. The Marine Corps has developed an amphibious operational force represented by amphibious armored vehicles, and possesses amphibious operational capabilities. The coastal defense force is represented by new types of shore-to-ship missiles and possesses high coastal defense operations capability.

Optimizing the logistical support system, and improving maritime integrated support capabilities. Aiming at enhancing its integrated logistical support capabilities, the Navy has preliminarily built a logistical support system with shore-based logistical support as the foundation and sea-based logistical support as the mainstay, and meshes the two into an integrated whole. It has stepped up the building of ship bases, berthing areas, supply points, docks and airfields. As a result, a shore-based support system is basically in place, which is coordinated with the development of weaponry and equipment, and suited to war-time support tasks. The Navy has gradually deployed new types of large integrated supply ships, medical ships and ambulance helicopters, and succeeded in developing many types of maritime support equipment and a number of key technologies, leading to significant progress in the modernization of the maritime support force.

Enhancing the capabilities and quality of naval officers and men, and training qualified military personnel. The Navy has adopted a personnel training model in which commanding officer candidates receive integrated education for academic credentials and separate pre-assignment education, and is making efforts to improve the pre-assignment training system for officers. The personnel training of the Navy highlights the uniqueness of the service, and stresses the cultivation of practical capabilities. To raise officers' competence for handling their assignments, the Navy is striving to improve the personnel training programs of its educational institutions and implement assignment-oriented curricula. It is also endeavoring to expand the scale of training for NCOs and foster intermediate and senior NCOs qualified for technically complex posts.

Editor :

VI. The Air Force

(Source:) 2009-July-21 17:03

The Air Force is a strategic service of the PLA, and the main force for carrying out air operations. It is responsible for such tasks as safeguarding the country's territorial air space and territorial sovereignty, and maintaining a stable air defense posture nationwide. It is mainly composed of aviation, ground air defense, airborne, signal, radar, ECM, technical reconnaissance and chemical defense sections.

History of Development

The Air Force was founded on November 11, 1949. The years from 1949 to 1953 witnessed the establishment of an Air Force leading organs in the CMC and in each of the military area commands; the creation of the fighter, bomber, attacker, reconnaissance and transport, airborne forces and a number of educational institutions; and the organization of the Air Force of the Chinese People's Volunteers to take part in the War to Resist U.S. Aggression and Aid Korea (1950-1953). The Air Force was merged with the Air Defense Force in 1957, by adopting a system combining air operations with air defense. In the 1960s and 1970s the Air Force formed the guiding principle of giving priority to the development of air defense forces, and gradually grew into an air force for territorial air defense. Since the 1990s the Air Force has been in a phase of rapid development. It has deployed third-generation combat aircraft, third-generation ground-to-air missiles, and a series of relatively advanced and computerized weapons and equipment. It has stepped up the development of military theories with strategic theories at the core, and introduced a strategic concept that the Air Force should be capable of both offensive and defensive operations. As a result, the Air Force has begun its transition from territorial air defense to both offensive and defensive operations. After nearly six decades of development, the Air Force has initially developed into a strategic service comprising more than one wings. It now has relatively strong capabilities to conduct air defensive and offensive operations, and certain capabilities to execute long-range precision strikes and strategic projection operations.

Structure and Organization

In peacetime, the Air Force practices a leadership system which combines operational command with building and administration, and which consists of the Air Force Headquarters, air commands under military area commands, corps-level (division-level) command posts, divisions (brigades) and regiments. The Air Force has under it an air command in each of the seven military area commands of Shenyang, Beijing, Lanzhou, Jinan, Nanjing, Guangzhou and Chengdu. It has also under it an airborne corps as well as various institutions of education, research and experimentation. Under each air command at the military area command level are aviation divisions, ground-to-air missile divisions (brigades and regiments), antiaircraft artillery brigades (regiments), radar brigades (regiments), ECM brigades (regiments and battalions), and other specialized service units. In key areas there are also corps- or division-level command posts. The Air Force has also a number of educational and training institutions, including the Air Force Command College, Air Force Engineering University, Air Force Aviation University, Air Force Radar College, Air Force College at Guilin, Air Force College at Xuzhou, Air Force School for Noncommissioned Officers at Dalian and seven flying colleges.

An aviation division usually consists of regiments, groups and squadrons, and has such types of aircraft as fighters, attackers, fighter-bombers, bombers, transports and combat support aircraft. It has under it aviation regiments and related stations. The aviation regiment is the basic tactical unit. With battalions as the basic fighting units, the ground-to-air missile force is usually organized into divisions, regiments and battalions or into brigades (regiments) and battalions. With batteries as basic fighting units, the antiaircraft artillery force is usually organized into brigades (regiments), battalions and companies. The airborne forces are organized into corps, divisions, regiments, battalions and companies.

Force Building

To meet the requirements of informationized warfare, the Air Force is working to accelerate its transition from territorial air defense to both offensive and defensive operations, and increase its capabilities for carrying out reconnaissance and early warning, air strikes, air and missile defense, and strategic projection, in an effort to build itself into a modernized strategic air force.

Taking into full account preparations for combat and its own transformation and development, the

Air Force is exploring training systems and methods tailored to the development of the latest generation of weaponry and equipment. It stresses technical and tactical training in complex environments, combined training of different arms and aircraft types, and joint training; conducts mission-oriented and confrontational training; and is increasing on-base, simulated and web-based training. It is working to optimize the tripartite pilot training system composed of flying colleges, training bases and combat units, and intensifying the training of aviation units in counter-air operations, air-to-ground attacks and joint operations. It is deepening reforms and innovations in institutional education by improving the system of discipline, and making innovations in teaching programs, means and methods. It is strengthening on-the-job training, and exploring a new model of personnel development, namely the triad of institutional education, training in units and professional military education. For this purpose, the Air Force Military Professional University was established in July 2008.

To satisfy the strategic requirements of conducting both offensive and defensive operations, the Air Force attaches importance to developing new types of fighters, air and anti-missile defense weapons, and command automation systems. It has deployed some relatively advanced computerized equipment, and air-to-air and air-to-ground precision-guided munitions, upgraded the electronic information systems of the equipment on active service, and improved the basic networks for intelligence and early warning, command and control, and communications. It has in the main established a major battle weaponry and equipment system with third-generation aircraft and ground-to-air missiles as the mainstay, and modified second-generation aircraft and ground-to-air missiles as the supplement.

Centering on the improvement of the capabilities and quality of its personnel, the Air Force pursues a road of personnel development which takes new- and high-tech talents as the driving force, makes breakthroughs in critical areas and aims at overall improvement. It makes overall plans for training command, staff, flight and technical support personnel. It has fostered a group of core personnel with a good command of information technology and a contingent of new types of high-caliber personnel as represented by inter-disciplinary commanding officers, first-rate pilots, leaders in scientific and technological research, and technical experts.

To raise its integrated support capabilities, the Air Force attaches importance to the development of logistical and equipment support systems. It endeavors to improve the support facilities of airfields and positions; strengthen its logistical forces for rapid construction of air defense projects, bomb elimination at and rapid repair of airfields which have suffered attack, and aviation medical support; develop and deploy the second generation of specialized logistical equipment; create a storage and supply network for special-purpose materials; and build step by step bases capable of supporting multiple types of aircraft. The Air Force is also stepping up efforts to deepen the reform of the equipment support mode; improve the layout of support networks for the supply, maintenance and technical support of ammunition and material; and make support equipment smaller in size, more versatile in function and fitter for field operations.

Editor :

VII. The Second Artillery Force

(Source:) 2009-July-20 10:13

The Second Artillery Force is a strategic force under the direct command and control of the CMC, and the core force of China for strategic deterrence. It is mainly responsible for deterring other countries from using nuclear weapons against China, and for conducting nuclear counterattacks and precision strikes with conventional missiles.

The Second Artillery Force sticks to China's policy of no first use of nuclear weapons, implements a self-defensive nuclear strategy, strictly follows the orders of the CMC, and takes it as its fundamental mission the protection of China from any nuclear attack. In peacetime the nuclear missile weapons of the Second Artillery Force are not aimed at any country. But if China comes under a nuclear threat, the nuclear missile force of the Second Artillery Force will go into a state of alert, and get ready for a nuclear counterattack to deter the enemy from using nuclear weapons against China. If China comes under a nuclear attack, the nuclear missile force of the Second Artillery Force will use nuclear missiles to launch a resolute counterattack against the enemy either independently or together with the nuclear forces of other services. The conventional missile force of the Second Artillery Force is charged mainly with the task of conducting medium- and long-range precision strikes against key strategic and operational targets of the enemy.

History of Development

The founding of the Second Artillery Force was a historical choice the People's Republic of China was forced to make to deal with nuclear threats, break nuclear monopoly and maintain national security. China began to develop strategic missile weapons in 1956,established research, training and educational institutions for strategic missiles in 1957, created its first ground-to-ground missile unit in 1959 and formally founded the Second Artillery Force on July 1, 1966. In the latter half of the 1970s, the Second Artillery Force set itself the objective of building a lean and effective strategic missile force with Chinese characteristics. In the 1990s it established its conventional missile force, entering a new stage marked by the coordinated development of its nuclear and conventional missile forces. With the advent of the 21st century it began to promote leapfrogging development of informationization. Through more than 40 years of development, the Second Artillery Force has grown into a lean and effective strategic force with both nuclear and conventional missiles, capable of both land-based strategic nuclear counterattacks and precision strikes with conventional missiles.

Structure and Organization

The operational command authority of the Second Artillery Force is highly centralized. The chain of command runs from the CMC, the Second Artillery Force and missile bases to missile brigades. The operations of the Second Artillery Force must follow the orders of the CMC in the strictest and most precise manner.

The Second Artillery Force is mainly composed of the nuclear missile force, the conventional missile force, the support force, educational institutions, research institutes and the headquarter organizations. The missile force is organized into missile bases, missile brigades and launch battalions. The support force is organized into technical and specialized support units such as reconnaissance, intelligence, signal, ECM, engineering, logistics and equipment units. The educational institutions include a command college, an engineering college and a school for NCOs. The research institutes include equipment and engineering institutes.

Force Building

Following the principle of building a lean and effective force and going with the tide of the development of military science and technology, the Second Artillery Force strives to raise the informationization level of its weaponry and equipment, ensure their safety and reliability, and enhance its capabilities in protection, rapid reaction, penetration, damage and precision strike. After several decades of development, it has created a weaponry and equipment system with both nuclear and conventional missiles, both solid-fueled and liquid-fueled missiles, different launching ranges and different types of warheads.

The Second Artillery Force is endeavoring to form a complete system for war preparations, optimize its combat force structure, and build a missile operational system suited to informationized warfare. Its nuclear and conventional missile forces are kept at an appropriate level of readiness. The Second Artillery Force is making steady head-way in the construction of its battlefield system, and makes extensive use of modern mechanical equipment and construction methods. Each completed project is up to standard. The Second Artillery Force is also dedicated to logistical reforms and innovations. It has created integrated data bases for field support and informationized management platforms for logistic materials, and improved support systems for the survival of combatants in operational positions. As a result, its integrated logistical support capabilities in case of actual combat have been markedly enhanced. To ensure the absolute safety of nuclear weapons, the Second Artillery Force strictly implements rules and regulations for nuclear safety control and accreditation of personnel dealing with nuclear weapons, has adopted reliable technical means and methods, strengthens the safe management of nuclear weapons in the process of storage, transportation and training, improves mechanisms and methods for emergency response to nuclear accidents, and has put in place special safety measures to avoid unauthorized and accidental launches.

In terms of training, the Second Artillery Force takes specialized skills as the foundation, focuses on officers and core personnel, centers its attention on systems integration and aims at improving overall operational capabilities. It actively conducts specialized training, integrated training and operational training exercises. Specialized training mainly involves the study of basic and specialized missile theories, and the training in operating skills of weapons and equipment. Integrated training mainly consists of whole-process coordinated training of all elements within a combat formation. Operational training exercises refer to comprehensive training and exercises by missile brigades and support units in conditions similar to actual combat. The Second Artillery Force has adopted a rating system for unit training and an accreditation system for personnel at critical posts. It enhances on-base, simulated, web-based and realistic training, explores the characteristics and laws of training in complex electromagnetic environments and integrated training of missile bases, and is conducting R&D of a new generation of web-based simulated training systems. Significant progress has been made in building the "Informationized Blue Force" and battle laboratories.

The Second Artillery Force places personnel training in a strategic position, and gives it high priority. It is working to implement the Shenjian Project for Personnel Training, and create a three-tiered team of first-rate technical personnel. As a result, a contingent of talented people has taken shape, whose main body is composed of academicians of the Chinese Academy of Engineering, missile specialists, commanding officers, and skilled operators and technicians.

Editor :

VIII. The People's Armed Police Force

(Source:) 2009-July-20 10:43

As a component of China's armed forces and subordinate to the State Council, the People's Armed Police Force (PAPF) is under the dual leadership of the State Council and the CMC. The PAPF consists of the internal security force and various police forces. The border public security, firefighting and security guard forces are also components of the PAPF. The PAPF is charged with the fundamental task of safeguarding national security, maintaining social stability and ensuring that the people live and work in peace and contentment.

Routine Guard Duties

Routine guard duties refer to duties the PAPF performs to maintain internal security, which are mostly carried out by the internal security force. The basic tasks are: to guard against all forms of attempted attacks and sabotage; protect designated individuals and facilities; ensure the security of important international and national conferences and large-scale cultural and sports events; protect important airports, radio stations, and key and confidential units, and vital places in such sectors as state economy and national defense; protect important bridges and tunnels; ensure the security of prisons and detention houses; and maintain public order in state-designated large and medium-sized cities or specific zones. Routine guard duties can be divided into regular and temporary missions. Usually the regular missions are assigned by the Ministry of Public Security, and the temporary ones are assigned by local Party committees, governments or public security organs.

Every day, more than 260,000 PAPF servicemen are on guard duty. In recent years, the PAPF has made efforts to regularize and strictly manage the performance of its duties, and improve it through science and technology, including improvement of duty-related facilities, and reduce hidden hazards. It has realized all-personnel, whole-process, full-time visualization in duty management. It has effectively enhanced duty performance and ensured the safety of guarded targets by optimizing duty organization and arrangement, implementing duty regulations and meticulously organizing important temporary duties. On average, the PAPF annually handles dozens of attempted attacks against guarded targets, prevents hundreds of escape attempts by detained suspects and imprisoned convicts, organizes thousands of important temporary duties, and ensures the security of important international and national conferences and large-scale events in cooperation with the government departments concerned. The various units of the PAPF take an active part in efforts to keep public order. Since 2007, they have assisted the public security organs in catching and arresting more than 2,800 criminal suspects.

Handling Public Emergencies

The handling of public emergencies refers to operations by the PAPF to deter and deal with emergencies which endanger public security. Mainly undertaken by the PAPF standby forces, such operations include those to handle public security incidents, natural disasters, disastrous accidents, and public health incidents. The specific tasks are to control affected areas, check the identifications, vehicles and belongings of suspected persons, protect important targets, disperse illegal assemblies, rescue hostages and those trapped by troublemakers, nip illegal activities and criminal offenses in the bud, hunt down criminal suspects, and participate in emergency rescue and disaster relief work.

The PAPF is the state's mainstay and shock force in handling public emergencies. The PAPF is assigned such missions by the CPC Central Committee, the State Council, the CMC or local Party committees, governments and public security organs, and carries out these missions under the unified leadership of the above authorities.

The PAPF makes full preparations for handling public emergencies by establishing all levels of command centers, improving information systems, allocating resources scientifically, and providing communications, supplies and transportation in a reliable way. On receiving mission orders, it is able to deploy immediately and arrive at the scene in time. It adopts such means and methods as military deterrence, persuasion and legitimate use of force. It always exercises caution in the use of force, compulsory measures, police instruments and weapons. It cracks down on a handful of criminals in accordance with the law and deals with public disturbances, riots, illegal demonstrations, group fighting with weapons, acts of violence and terrorism efficiently, appropriately and legally. In the past two years it

has taken part in operations to handle the "3.14" Lhasa riots, hunt down the "East Turkistan" terrorists, conduct accident rescues, deal with large-scale mass disturbances, and respond to various emergencies. In this way it has effectively upheld the fundamental interests of the people, maintained the social stability of the places where its forces are stationed and safeguarded the authority of the nation's laws.

International Counter-Terrorism Cooperation

China attaches great importance to international counter-terrorism cooperation, and so far has participated in 11 international counter-terrorism treaties. The PAPF is an important counter-terrorism force of the state.

Strengthening international counter-terrorism consultations and exchanges. In compliance with international counter-terrorism treaties and agreements, the PAPF has sent delegations to over 30 countries for bilateral or multilateral counter-terrorism exchanges, including France, Germany, Spain, Italy, Australia, Israel, Brazil, Cuba, South Africa, Russia and Pakistan, and hosted delegations from 17 countries, such as Russia, Romania, France, Italy, Hungary, South Africa, Egypt, Australia and Belarus.

Sending personnel abroad to receive training or provide training assistance. The PAPF has sent delegations or personnel to a dozen countries, including France, Israel, Hungary, Singapore, Malaysia and Thailand, to attend training courses in special duties, participate in or observe contests of various kinds, and conduct exchanges in counter-terrorism techniques and skills. It has sent teams of instructors to such countries as Romania and Azerbaijan to provide teaching or training assistance.

Holding joint counter-terrorism exercises. In September 2007, the PAPF and the Internal Troops of Russia staged their first joint counter-terrorism exercise, "Cooperation-2007. " The exercise focused on "operations by special forces to rescue hostages and destroy terrorist organizations and groups."

Maintaining Public Security in Border and Coastal Areas and Orderly Entry and Exit at Ports

The border public security force, listed as a component of the PAPF, is an armed law-enforcement body deployed by the state in border and coastal areas and at ports. Its main responsibilities are as follows: border and coastal public security administration; ports and border inspection and surveillance; patrols and surveillance in areas adjacent to Hong Kong and Macao; patrols and surveillance along the demarcation line of the Beibu Gulf; and the prevention of and crack-down on illegal and criminal acts in border and coastal areas, such as illegal border crossing, smuggling and drug trafficking.

The border public security force has 30 contingents in provinces (autonomous regions or municipalities directly under the central government, except Beijing); 110 detachments in border and coastal prefectures (prefecture-level cities, autonomous prefectures or leagues) and 20 marine police detachments in coastal prefectures; 207 active-duty border inspection stations at open ports; 310 groups in border and coastal counties (county-level cities or banners); 1,691 border police substations in border and coastal townships (towns); 46 frontier inspection stations on major border routes; and 113 mobile groups deployed in important sectors in border areas.

In recent years the border public security force has made efforts to implement the strategy of safeguarding the people and consolidating border defense; strengthen public security efforts by the general public; improve mechanisms for investigating, mediating and settling disputes, conflicts and mass incidents; tackle prominent public security issues; promote the building of model villages and consolidate border defense; and help children in need, thus vigorously promoting harmony and stability in border and coastal areas. Further efforts have been made by border inspection stations to improve their services. As a result, an environment has been created for safe, rapid and convenient customs clearance.

The border public security force, supported by other relevant departments, has cracked down hard on crimes, such as illegal border crossing, drug trafficking and smuggling, and carried out campaigns to combat organized criminal gangs and suppress evil forces in border and coastal areas. Since 2007 it has arrested 4,400 illegal border crossers, seized 3,806 kg of drugs, seized smuggled goods worth RMB620 million, cracked 19,205 criminal cases and handled 60,063 violations of public security.

Pursuant to relevant provisions of the Ministry of Public Security, the marine police force has established and strengthened maritime law-enforcement agencies, augmented its law-enforcement personnel, refined its law-enforcement regulations, and improved its ships and equipment. It has cracked

41 maritime criminal cases, carried out 115 maritime rescue and salvage operations, and saved 238 people in distress.

Editor :

IX. National Defense Reserve Buildup

(Source:) 2009-July-21 17:14

China firmly relies on the people for national defense, and seeks to strengthen the buildup of the national defense reserve incompliance with the requirement of being able to deal with both emergencies and wars.

Reserve Force Buildup

With active servicemen as its backbone and reserve officers and men as its foundation, the reserve force is an armed force formed in line with the unified structure and organization of the PLA. It is under the dual leadership of the PLA and local Party committees and governments.

The reserve force was founded in 1983. In August 1986 it formally became a part of the PLA. In May 1995 the NPC Standing Committee adopted the Law of the People's Republic of China on Reserve Officers. In April 1996 the CMC began to confer military ranks on reserve officers. The Law of the People's Republic of China on National Defense promulgated in March 1997 explicitly stipulates that China's armed forces consist of the active-duty force and the reserve force of the PLA, the People's Armed Police Force and the militia.

After 25 years of buildup and development, the reserve force has become an important component of the national defense reserve. It is made up of the Army Reserve, Navy Reserve, Air Force Reserve and the Second Artillery Force Reserve. The Army Reserve breaks down into infantry, artillery, antiaircraft artillery, antitank artillery, tank, engineering, chemical defense, signals, coastal defense and other specialized forces. The Navy Reserve is mainly composed of reconnaissance, mine-sweeping and mine-laying, radar observation and communications and other specialized forces. The Air Force Reserve mainly comprises ground-to-air missile, radar and other specialized forces. The Second Artillery Force Reserve mainly consists of the specialized missile support force and special equipment maintenance force.

In line with the unified structure and organization of the PLA, the reserve force has reserve divisions, brigades and regiments, and corresponding leading organs. Reserve units are organized mainly on a regional basis. Divisions are set up in provinces and brigades (regiments) in prefectures (autonomous prefectures or prefecture-level cities). A division (brigade) can be set up in a region covering more than one prefecture (autonomous prefecture or prefecture-level city), and a regiment in a region covering more than one county (county-level city or district).

In recent years, the reserve force has made new strides in organization building and military training. It has gradually enlarged the pool of reservists, improved its organizational methods, and actively explored new organizational models, such as industrial, trans-regional and community-based organizations. It conducts and manages training according to the training program and law, so as to regularize training. As stipulated in the Outline for the Military Training and Evaluation of the Reserve Force, one third of the authorized strength of a unit must undergo 30 days of training annually. Training tasks are based on possible wartime assignments and the caliber of the reservists. The reserve force is in the process of shifting its focus from quantity and scale to quality and efficiency, and from a combat role to a support role. The goal is to enable the reserve and active forces to cooperate closely with each other, to complement each other, and to develop in a coordinated way.

Militia Force Building

Militia work is under the unified leadership of the State Council and the CMC, and the leadership of local Party committees, local governments as well as the local military commands. The General Staff Headquarters supervises militia work nationwide. The military area commands are responsible for militia work in their respective jurisdictions. Provincial military commands, prefectural military commands and people's armed forces departments of counties (county-level cities or districts) are the organs of military leadership and command, and responsible for the militia work in their respective jurisdictions. The grass-roots people's armed forces departments established in town-ships (towns), urban sub-districts, enterprises and public institutions are responsible for organizing and carrying out militia work. Local Party committees and governments at all levels make overall plans and arrangements for militia work.

In recent years China has persisted in reform and innovation in militia force buildup, adjusted its size and structure, and upgraded its weaponry and equipment. The organizational structure has optimized to increase the capabilities of the militia to support combat and emergency response forces, and to gradually shift the center of its responsibilities from rural areas to cities, areas along communication lines and other key areas. Importance has been attached to establishing militia organizations in emerging enterprises and high-tech industries to increase the technology content of the militia force. Investment in weaponry and equipment has been increased to systematically and organically provide a series of new types of militia air defense equipment such as air defense artillery and portable air defense missiles in key areas. Equipment for emergency response and stability-maintenance operations has been improved. Some types of weapons have been upgraded. During the Eleventh Five-Year Plan period (2006-2010) the number of militia personnel is scheduled to be reduced from 10 million to eight million.

In May 2007 the General Staff Headquarters released a new edition of the Outline for the Training and Evaluation of the Militia. The new outline adds over a hundred training tasks in dozens of categories covering specialties of the Navy, Air Force and Second Artillery Force, marking a shift from traditional single-service to multi-service/arm specialized militia training. Based on the principles of integrating resources, pooling strengths, organizing training level by level and conducting trans-regional training, the military training of the militia has a four-level organizational system: The provincial military commands are the backbone; the prefectural military commands are the main body; the people's armed forces departments are the basis; and the grass-roots people's armed forces departments are the supplement. The militia is improving its technology-based training, and promoting on-base, simulated and web-based training step by step. Prominence is given to such tasks as rapid mobilization of specialized detachments, coordination with active units and operations in complex electromagnetic environments. In addition, efforts are being made to enhance training in emergency response and rescue. The aim is to raise the militia's capabilities in combat operations, emergency rescue, disaster relief, crisis response and social stability maintenance.

Editor :

X. The Armed Forces and the People

(Source:) 2009-July-21 17:11

The Chinese armed forces belong to the people. As stipulated by the Constitution and laws, it is an important task for the armed forces to take part in national development and disaster relief. Supporting the military and giving preferential treatment to families of servicemen and revolutionary martyrs, and supporting the government and cherishing the people (the "Two Supports") constitute the political basis for strengthening the buildup of national defense and the armed forces.

Participating in Emergency Rescue and Disaster Relief Operations

The PLA, PAPF and the militia are the shock force in emergency rescue and disaster relief operations. Their main tasks are to rescue and evacuate disaster victims and people in danger; ensure the security of important facilities and areas; rescue and transport important materials and goods; participate in specialized operations such as rush repairs of roads, bridges and tunnels, maritime search and rescue, NBC rescue operations, epidemic control, and medical aid; eliminate or control other major dangers and disasters; and assist local governments in post-disaster reconstruction if necessary. In recent years the PLA has formed 19 units specialized in flood control and emergency rescue operations.

In June 2005 the State Council and the CMC published the Regulations on the Participation of the People's Liberation Army in Emergency Rescue and Disaster Relief. According to the regulations, if the PLA is needed in emergency rescue and disaster relief operations organized by the State Council, the department of the State Council in charge of the operations may file a request to the General Staff Headquarters. If the PLA is needed in such operations organized by the people's governments at or above the county level, the latter may file a request via local military organs at the corresponding level. However, in case of emergency the local people's governments may directly request PLA units stationed in the area to provide assistance, and the latter must take immediate action and simultaneously report to the higher authorities, according to the regulations. Upon detecting any hazard or disaster, local PLA units must also take immediate action and simultaneously report to the higher authorities. PLA units come under the unified leadership of the people's government when participating in local emergency rescue and disaster relief operations. Their specific tasks are assigned by the headquarters for the operations, while their actions are directed through the military chain of command. In November 2006 the CMC approved and issued the Master Scenario for Emergency Response.

In the past two years the PLA and the PAPF have dispatched a total of 600,000 troops/time, employed 630,000 vehicles (or machines)/time of various types, flown over 6,500 sorties/time (including the use of helicopters), mobilized 1.39 million militiamen and reservists/time, participated in over 130 disaster relief operations in cases of floods, earthquakes, snowstorms, typhoons and fires, and rescued or evacuated a total of 10 million people.

In January 2008 large areas of southern China were stricken by a savage spell of freezing weather, sleet and snowstorms. The PLA and the PAPF sent 224,000 troops and 1.036 million militiamen and reservists, and flew 226 sorties/time (using military transport aircraft and helicopters) to undertake urgent, difficult, dangerous and heavy tasks, such as clearing major lines of communication, rescuing victims and restoring power supply.

On May 12, 2008 an earthquake measuring 8.0 on the Richter scale rocked Wenchuan County, Sichuan Province. In response, the PLA and the PAPF deployed 146,000 troops, mobilized 75,000 militiamen and reservists, flew over 4,700 sorties/time (including the use of helicopters) and employed 533,000 vehicles/time in the relief effort. They rescued 3,338 survivors, evacuated 1.4 million local residents, and transported, airlifted and air-dropped 1.574 million tons of relief materials. They sent 210 teams of medical workers, psychotherapists, and sanitation and epidemic prevention specialists, and treated 1.367 million injured people. The troops strictly observed discipline, and kept detailed records of hundreds of millions of yuan in cash and large quantities of valuables recovered from the debris, all of which was handed over to the owners or relevant departments of local governments.

Participating in Olympic Security Work and Supporting the Preparations for the Olympics

At the request of the Beijing Organizing Committee for the Games of the XXIX Olympiad, the PLA and the PAPF actively participated in Olympic security work, and supported preparations for the

Olympics and Paralympics, making important contributions to the success of the events.

In security work for the Olympics, the main responsibilities of the PLA were to ensure the air security of venues in and outside Beijing and the maritime security of Olympic venues in coastal and neighboring areas; take part in the handling of terrorist incidents such as NBC (nuclear, biological, and chemical) terrorist attacks and explosions; provide intelligence support; organize emergency rescue, medical aid and helicopter transportation; and strengthen border administration and control during the Olympics. The PLA contributed 46,000 troops, 98 fixed-wing aircraft, 60 helicopters, 63 ships, and some ground-to-air missiles, and radar, chemical defense and engineering support equipment. The PAPF was mainly responsible for ensuring the security of the torch relay; guarding Olympic venues, VIP residences and relevant airports; carrying out guard duties for the opening and closing ceremonies, the activities of important foreign guests in China and major sports events; protecting water, power, oil and gas supply facilities and communication hubs closely related to the Olympics as well as the launching sites of rockets used for artificial rainfall control in Beijing, Tianjin and Hebei; acting in collaboration with public security organs to set up checkpoints in the neighborhood of Olympic venues and on major roads in the vicinity of Beijing, and to perform armed patrols in important public places in cities hosting or co-hosting the Olympics; conducting security checks at Olympic venues; and executing counter-terrorism, anti-hijacking and contingency response operations. The PAPF contributed 85,000 troops to Olympic security work, appropriately handled nearly 300 incidents which might have endangered guarded targets, and confiscated over 9,000 prohibited items and over 140,000 limited items.

To support the preparations for the Olympics, the PLA and the PAPF contributed over 14,000 professional and amateur performers to the opening and closing ceremonies of the Olympics and Paralympics. Over 6,900 volunteers from the PLA and the PAPF undertook 84 kinds of support tasks, including transport support, flag raising at medal presentation ceremonies, medical aid and various services at Olympic venues. PLA and PAPF units stationed in Beijing mobilized 670,000 troops/time to take part in the construction of 36 key Olympic projects, such as the Aviation Corridor of the Beijing Capital International Airport and the National Olympic Forest Park.

Participating in and Supporting National Construction

Under the unified arrangement of the Central People's Government and local people's governments at all levels, the PLA and the PAPF actively participate in all aspects of national construction. In the past two years they have put over 14 million workdays and one million vehicles (or machines)/time into this endeavor.

Providing aid for construction of infrastructure and ecological projects. The PLA and the PAPF have supported over 200 key construction projects for energy, transportation, hydropower and communications. They have taken part in over 170 projects for the protection of the ecological environment at such places as the upper and middle reaches of the Yellow River and sources of sandstorms affecting Beijing and Tianjin. They have afforested three million mu (one mu is about 700 sq m) of barren hills, wasteland and desolate beaches, and provided aerial protection and maintenance for 24 million mu of forests.

Participating in the building of a new countryside. The PLA and the PAPF provide support for the construction of irrigation and water-conservancy works and rural infrastructure. They have built or repaired over 2,100 roads in poverty-stricken rural areas, and completed over 90,000 small construction projects such as rural hydropower projects, drinking water projects for both people and livestock, and projects for the improvement of small river valley areas. They have also set up or consolidated 25,000 places of contact for poverty reduction, and helped over 80,000 households out of poverty.

Supporting scientific and technological, educational, cultural and health undertakings. The PLA and the PAPF have helped to train nearly 10,000 people in various skills, and set up 240 science and technology demonstration centers. They have built over 200 primary and secondary schools, and helped 240,000 poor students complete their schooling. They have established long-term assistance relations with 470 county or township hospitals in poverty-stricken areas, and dispatched 13,000 medical teams offering free medical consultation and treatment in 41 million cases.

Supporting the economic and social development of areas inhabited by ethnic minorities. The PLA and the PAPF have helped to build or enlarge three airports, five power stations and 12 water conservancy facilities; repair over 900 km of highways; dig 300 wells; and build a total of 6,000 small

rainwater cellars, small power stations, solar energy installations and TV transmission facilities.

Supporting National Defense and Armed Forces Modernization

Governments at all levels put great importance on providing support for the modernization of the armed forces in science and technology, information, human resources, education and culture. Local governments and military units jointly organize meetings on military issues, work concerning the "Two Supports" and informal discussions, in order to help the units overcome difficulties in military training, infrastructure building and the maintenance of servicemen's rights and interests. When the units engage in major tasks such as training exercises, emergency rescue and disaster relief, the local governments and people will surmount all difficulties and provide support for their assembly, movement, and rescue and relief efforts. Conducting widespread activities to support the armed forces in science and technology, and education and culture, local governments and people all over the country have set up over 2,000 centers of science and technology, helped to train people on 100,000 occasions in various skills and donated20 million books. Governments at all levels make proper arrangements for the resettlement of servicemen discharged form active service, their dependents, retirees and civilians working in the armed forces, and take good care of those entitled to compensation and preferential treatment. In the past two years, governments at all levels have made over 500 relevant national and local policies and regulations, and resettled over 100,000 officers transferred to civilian work, over 500,000 demobilized enlisted men, and over 60,000 retired officers and civilians working in the armed forces.

Editor :

XI. Science, Technology and Industry for National Defense

(Source:) 2009-July-21 17:04

China is accelerating reform and innovation in its defense-related science, technology and industry, promoting strategic and specialization-oriented restructuring of defense industry enterprises, enhancing the capabilities of independent innovation in the R&D of weaponry and equipment, and striving to establish a new system of defense-related science, technology and industry which caters to both military and civilian needs, and channels military potential to civilian use.

Promoting Innovation in Structures and Mechanisms

To meet the needs of weaponry and equipment development, as well as development of the socialist market economy, China is constantly reforming its management system of defense-related science, technology and industry. According to the Plan for Restructuring the State Council passed by the First Session of the Eleventh National People's Congress in 2008, the Science, Technology and Industry Commission for National Defense of the People's Republic of China has been superseded by the State Administration of Science, Technology and Industry for National Defense.

In 2007, the State Council approved Some Opinions on Deepening the Reform of the Investment System of Science, Technology and Industry for National Defense, which explicitly proposes a new investment system featuring effective government regulation and control, participation of social capital, standardized intermediary services, vigorous supervision and management, and positive military-civilian interaction. As a result, an open development pattern for defense-related science, technology and industry is taking shape. The investment field has been further broadened, and investment structure further optimized. Ways of investment have been diversified to include not only direct investment, but also injection of capital and investment subsidies.

China is speeding up the transformation of the structures and mechanisms of the defense industry enterprises, and is in the initial stage of establishing a new system of defense-related science, technology and industry that features a small core, extensive cooperation and a large military potential reserve among civilians. Structural contradictions in defense-related science, technology and industry have been gradually and fundamentally solved through strategic restructuring and the streamlining of the main body of the defense industry. China is steadily promoting the transformation of defense industry enterprises into joint-stock enterprises, actively exploring approaches to diversifying the structure of property rights, giving priority on helping qualified competitive enterprises to be reorganized and listed on the stock market, and encouraging specialization-oriented restructuring and the integration of the efforts of enterprises, universities and research institutes. Relevant laws and regulations have been improved to standardize and supervise the process of reorganizing the defense industry enterprises and getting them listed on the stock market.

Improving the Weaponry and Equipment Research and Production System

Establishing a sound licensing system for weaponry and equipment research and production. In accordance with the Implementation Measures for Weaponry and Equipment Research and Production Licensing promulgated in May 2005, the defense-related science, technology and industry has adopted a licensing system for weaponry and equipment research and production featuring management of categorization. While maintaining state control over weaponry and equipment research and production, the document allows the non-public sector to enter this field and compete for research and production projects. In March 2008 the State Council and the CMC issued the Regulations on the Licensing Administration of Weaponry and Equipment Research and Production, further improving the system.

Enhancing the basic capabilities of weaponry and equipment research and production. Defense-related science, technology and industry are striving to enhance the informationization of weaponry and equipment design and development, and to render product design more digitalized, modularized, standardized and reliable. It has built digital simulation and hardware-in-the-loop(HIL) simulation facilities and a number of important advanced experimentation and demonstration facilities, which has resulted in a higher design capability and R&D success rate.

This sector has also increased final assembly and integration capabilities, and a number of key enterprises have realized systems integration of assembly, experimentation and testing. This has

substantially raised core manufacturing capabilities by giving priority to resolving processing and technical issues in complex parts processing, precision manufacturing and special welding. In addition, a number of large-scale basic experimentation facilities serving the entire industry have been constructed, as well as specialized testing and experimentation centers for reliability testing and burn-in screening of components and parts, and improved measures, standards and other basic support conditions for defense industries have been put in place. With the improvement of basic capabilities, a leapfrogging development in the ability to provide weaponry and equipment has been achieved.

Building a dynamic innovation system for defense-related science, technology and industry. The government has taken the lead to create a favorable environment for innovation and guide innovation activities through policies and investments. With the research institutes and enterprises of the defense industry as the backbone and with institutes for basic research and institutions of higher learning as a vital new force, China is giving full play to the advantages of integrating enterprises, universities and research institutes, and making efforts to increase its capability for independent innovation in defense-related science, technology and industry. To consolidate the foundation of human resources for the innovative development of defense-related science, technology and industry, both the national major projects of science and technology and important projects for defense scientific research and weaponry and equipment R&D have been taken as platforms to identify, cultivate, employ and attract talented people.

Enhancing Cooperation with Other Countries

Following the principles of mutual benefit and common development, China is conducting cooperation with foreign countries in defense-related science, technology and industry. It emphasizes exchanges and cooperation with developed countries in defense industry technology to draw on their experience in technological development and management. It enhances mutually beneficial cooperation with developing countries, and engages in joint R&D and production in major cooperative projects, in accordance with the national conditions and specific requirements of the partners. On the export of military items, it adheres to the following principles: It should only serve the purpose of helping the recipient state enhance its capability for legitimate self-defense; it must not impair peace, security and stability of the relevant region or the world as a whole; and it must not be used to interfere in the recipient state's internal affairs.

China's defense-related science, technology and industry actively conduct cooperation with other countries in the field of hi-tech industries, combining military and civilian needs, and makes great efforts to develop hi-tech civilian products with high added value. Major breakthroughs have been made in developing the international market for space products. China has exported its first satellite; and the earth resources satellite project with Brazil has played an important role in both countries' economic development. China has significantly enhanced its cooperation with other countries in aviation products and technologies, and made new headway in developing the international market for civil aircraft. China's shipbuilding industry has exported products for civil use in series and batches, further increasing its share in the international market for such products.

Editor :

XII. Defense Expenditure

(Source:) 2009-July-21 17:10

Guided by the principle that defense expenditure should grow inline with the demands of national defense and economic development, the Chinese government decides on the size of defense expenditure in an appropriate way, and takes a road of national defense and armed forces modernization featuring lower cost and higher efficiency.

In the past three decades of reform and opening up, China has insisted that defense development should be both subordinated to and in the service of the country's overall economic development, and that the former should be coordinated with the latter. As a result, defense expenditure has always been kept at a reasonable and appropriate level. From 1978 to 1987, as the nation shifted its focus to economic development, national defense received a low input and was in a state of bare sustenance. During this period the average annual increase of defense expenditure was 3.5 percent, while that of GDP was 14.1 percent and that of the state financial expenditure was 10.4 percent. The shares of China's annual defense expenditure in its GDP and in the state financial expenditure dropped respectively from 4.6 percent and 14.96 percent in 1978 to1.74 percent and 9.27 percent in 1987. From 1988 to 1997, to make up for the inadequacy of defense development and maintain national security and unity, China gradually increased its defense expenditure on the basis of its sustained economic growth. During this period the average annual increase of defense expenditure was14.5 percent while that of GDP was 20.7 percent and that of the state financial expenditure was 15.1 percent. The shares of China's annual defense expenditure in its GDP and in the state financial expenditure continued to drop. From 1998 to 2007, to maintain national security and development and meet the requirements of the RMA with Chinese characteristics, China continued to increase its defense expenditure steadily on the basis of its rapid economic growth. During this period, the average annual increase of defense expenditure was 15.9 percent, while that of GDP was 12.5 percent and that of the state financial expenditure was 18.4 percent. Although the share of China's defense expenditure in its GDP increased, that in the state financial expenditure continued to drop on the whole.

China's GDP was RMB 21,192.3 billion in 2006 and RMB 25,730.6 billion in 2007. The state financial expenditure was RMB 4,042.273 billion in 2006 and RMB 4,978.135 billion in 2007, up 19.1 percent and 23.2 percent respectively over the previous year. China's defense expenditure was RMB 297.938 billion in 2006 and RMB 355.491 billion in 2007, up 20.4 percent and 19.3 percent respectively over the previous year. The shares of China's annual defense expenditure in its GDP and in the state financial expenditure in 2006 were roughly the same as those in 2007, being 1.41 percent and 7.37 percent in 2006 and 1.38 percent and 7.14 percent in 2007. China's defense expenditure mainly comprises expenses for personnel, training and maintenance, and equipment. Expenses for personnel and training and maintenance account for two thirds of the defense expenditure. In 2007, the defense expenditure was used to cover the expenses of the active force (RMB 343.439 billion), the reserve force (RMB 3.693 billion) and the militia (RMB 8.359 billion). China's defense budget for 2008 is RMB 417.769 billion.

In the past two years, the increased part of China's defense expenditure has primarily been used for the following purposes: (1) Increasing the salaries and benefits of servicemen. Along with the rise of the income of civil servants and the living standards of both urban and rural residents, China has increased the relevant allowances and subsidies of servicemen to ensure the parallel improvement of their living standards. (2) Compensating for price rises. With the rise of the prices of food, building materials, fuel, etc., China has accordingly increased the boarding subsidies and other funds closely related to servicemen's life as well as the expenses on education, training, petroleum, oils and lubricants for the armed forces, and improved the working and living conditions of border and coastal defense forces, units in remote and tough areas, and grass-roots units. (3) Pushing forward the RMA. China has augmented the input into military informationization and moderately increased the funds for equipment and supporting facilities, so as to raise the defense capabilities in conditions of informationization.

Both the total amount and per-service-person share of China's defense expenditure remain lower than those of some major powers. In 2007 China's defense expenditure equaled 7.51 percent of that of the United States, 62.43 percent of that of the United Kingdom. China's defense expenses per service person amounted to 4.49 percent of that of the United States, 11.3 percent of that of Japan, 5.31 percent

of that of the United Kingdom, 15.76 percent of that of France and 14.33 percent of that of Germany. As for the share of defense expenditure in GDP, that of China was merely 1.38percent, while that of the United States was 4.5 percent, that of the United Kingdom 2.7 percent, and that of France 1.92 percent.

The Chinese government has established defense expenditure reporting and publishing mechanisms. Since 1978 the Chinese government has submitted a financial budget report to the NPC and published the total amount of the defense budget each year. The relevant data of China's defense expenditure has been made public in the China Economy Yearbook since 1981, and in the China Finance Yearbook since 1992. And since 1995 the composition and main purposes of China's defense expenditure have been published in the form of government white papers.

Editor :

XIII. International Security Cooperation

(Source:) 2009-July-21 17:09

China persists in developing friendly relations, enhancing political mutual trust, conducting security cooperation and maintaining common security with all countries on the basis of the Five Principles of Peaceful Coexistence.

Regional Security Cooperation

The Chinese government is actively involved in multilateral cooperation within the framework of the Shanghai Cooperation Organization (SCO). At the Bishkek Summit in August 2007 the SCO member states concluded the Treaty on Long-Term Good-Neighborly Relations, Friendship and Cooperation, laying a solid political and legal foundation for security cooperation and ushering in a new phase of political mutual trust among the member states. Over the past two years, the member states have also signed the Agreement on Conducting Joint Military Exercises, the Agreement on Cooperation of Defense Ministries and the Agreement of SCO Governments on Cooperation in Combating the Illegal Circulation of Weapons, Ammunition and Explosives, finalized such legal documents as the Agreement on the Training of Counter-Terrorism Professionals, and launched cooperation in such new areas as information security by formulating the Action Plan to Ensure International Information Security. Procurators-general, heads of supreme courts, defense ministers, and leaders of law enforcement and security agencies from the member states have regularly held meetings, deepening cooperation in the justice, defense, law enforcement, security and other fields.

China attaches great importance to the ASEAN Regional Forum (ARF). At the 14th ARF Ministerial Meeting in August 2007 China stressed that the new security concept is based on the diversity and common interests of the Asia-Pacific region, and accords with the inherent law and requirements of the region's pursuit of peace, development, progress and prosperity. In the past two years China has co-hosted with Indonesia and Thailand respectively the ARF Round Table Discussion on Stocktaking of Maritime Security Issues and the ARF Seminar on Narcotics Control. The ARF General Guidelines for Disaster Relief Cooperation proposed and drafted by China was adopted at the 14th ARF Ministerial Meeting, making it the first ARF framework document providing guidance for disaster relief cooperation.

China-ASEAN and ASEAN Plus Three (China, Japan and the Republic of Korea) cooperation in non-traditional security fields is developing in depth. At the China-ASEAN Summit and the ASEAN Plus Three Summit, held respectively in January and November 2007,China put forward a series of initiatives for strengthening cooperation in non-traditional security fields, and emphasized the importance of conducting institutionalized defense cooperation and military exchanges. China hosted the First China-ASEAN Dialogue between Senior Defense Scholars (CADSDS) in March 2008 and the Second ASEAN Plus Three Workshop on Disaster Relief by Armed Forces in June 2008.

Participating in UN Peacekeeping Operations

As a permanent member of the UN Security Council, China has consistently supported and actively participated in the peacekeeping operations consonant with the spirit of the UN Charter. Since 1990 the PLA has sent 11,063 military personnel/time to participate in 18 UN peacekeeping operations. Eight lost their lives on duty. As of the end of November 2008, China had 1,949 military peacekeeping personnel serving in nine UN mission areas and the UN Department of Peacekeeping Operations. Among them, there were 88 military observers and staff officers; 175 engineering troops and 43 medical personnel for the United Nations Organization Mission in the Democratic Republic of the Congo (UNMONUC); 275 engineering troops, 240 transportation troops and 43 medical personnel for the United Nations Mission in Liberia(UNMIL); 275 engineering troops, 100 transportation troops and 60 medical personnel for the United Nations Mission in the Sudan (UNMIS); 275 engineering troops and 60 medical personnel for the United Nations Interim Force in Lebanon (UNIFIL); and 315 engineering troops for the African Union/United Nations Hybrid Operation in Darfur (UNAMID). Since 2000, China has sent 1,379 peacekeeping policeman/time to seven mission areas. At present, 208 Chinese peacekeeping policemen are in Liberia, Kosovo, Haiti, Sudan and East Timor for peacekeeping operations.

Military Exchanges and Cooperation with Other Countries

Implementing the nation's foreign policy, the PLA develops cooperative military relations with other

countries that are non-aligned, non-confrontational and not directed against any third party, and engages in various forms of military exchanges and cooperation in an effort to create a military security environment featuring mutual trust and mutual benefit.

Creating a new situation in military diplomacy which is open, practical and dynamic. China has established military ties with over 150 countries, and has military attach offices in 109 countries. A total of 98 countries have military attach offices in China. In the past two years senior PLA delegations have visited more than 40 countries, and defense ministers and chiefs of the general staff from more than 60 countries have visited China. Practical cooperation between the military forces of China and Russia at various levels and in multiple fields has continued to develop in depth. The military forces of the two sides have deepened their strategic mutual confidence and held frequent exchanges of high-level visits. The defense ministers of the two countries have a direct telephone link, which is the first of its kind between China and another country. China-US military relations have made gradual progress. The two countries have formally established a telephone link between China's Ministry of National Defense and the U.S. Department of Defense, held the first exchange of their NCOs, and formally launched military archive cooperation on information relating to U.S. military personnel missing in action around the period of the Korean War. Meanwhile, China-Japan defense relations have made headway. The two sides have held the seventh and eighth China-Japan Defense and Security Consultation, made their first exchange of port calls by naval ships, and held the first consultation over the establishment of a maritime liaison mechanism between their teams of experts. China's defense exchanges with its neighbors, including ASEAN, India and Pakistan, have been further expanded. China has begun to hold defense and security consultations with India. The channels of communication between the defense sectors and military forces of China and European countries remain open. China's military cooperation with developing countries has been strengthened.

Actively holding bilateral or multilateral joint military exercises with other countries. Since 2007 China has held over 20 joint military exercises or joint training exercises with a score of countries. In August 2007, within the framework of the SCO, China, Russia, Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan held a joint counter-terrorism military exercise in the Xinjiang Uygur Autonomous Region, China, and Chelyabinsk, Russia, focusing on the task of combating terrorism, separatism and extremism. This was the first time for the PLA to participate in a major land-air joint exercise outside the Chinese territory. In July 2007 and July 2008 China and Thailand conducted joint counter-terrorism training involving both countries' army special operations respectively in Guangzhou, China, and Chiang Mai, Thailand. In December 2007 and December 2008, armies of China and India staged joint counter-terrorism training exercises respectively in Kunming, China and Belgaum, India. During the past two years, the Chinese Navy has held bilateral joint maritime training exercises with the navies of 14 countries, including Russia, the United Kingdom, France, the United States, Pakistan, India and South Africa. China has also conducted various forms of multilateral joint maritime training exercises with relevant countries, focusing on various tasks. In March 2007, China held the "Peace-2007" joint maritime training exercise in the Arabian Sea with seven other countries, including Pakistan. In May 2007 China and eight other countries, including Singapore, conducted a multilateral joint maritime exercise in Singaporean waters within the framework of the Western Pacific Naval Symposium (WPNS). In October the same year China, Australia and New Zealand staged a joint maritime search-and-rescue training exercise in the Tasman Sea.

Conducting cooperation and exchanges in personnel development. China is sending an increasing number of military students overseas. In the past two years it has sent over 900 military students to more than 30 countries. Twenty military educational institutions in China have established and maintained inter-collegiate exchange relations with their counterparts in over 20 countries, including the United States, Russia, Japan and Pakistan. Meanwhile, some 4,000 military personnel from more than 130 countries have come to China to study at Chinese military educational institutions.

To further military exchanges and cooperation, and enhance mutual military confidence, China's Ministry of National Defense officially set up an spokesperson system in May 2008. The newly-founded Information Office of the Ministry of National Defense of the PRC releases important military information through regular or irregular press conferences and written statements.

Editor :

XIV. Arms Control and Disarmament

(Source:) 2009-July-21 17:01

The Chinese government has always attached importance to and been supportive of international efforts in the field of arms control, disarmament and non-proliferation. China has taken concrete measures to faithfully fulfill its relevant international obligations. China is committed to, along with the international community, consolidating and strengthening the existing international arms control, disarmament and non-proliferation mechanisms pursuant to the purposes and principles of the Charter of the United Nations and other universally recognized norms governing international relations, and to the preservation of international strategic stability and promotion of the common security of all countries.

Nuclear Disarmament

China holds that all nuclear-weapon states should make an unequivocal commitment to the thorough destruction of nuclear weapons, undertake to stop research into and development of new types of nuclear weapons, and reduce the role of nuclear weapons in their national security policy. The two countries possessing the largest nuclear arsenals bear special and primary responsibility for nuclear disarmament. They should earnestly comply with the relevant agreements already concluded, and further drastically reduce their nuclear arsenals in a verifiable and irreversible manner, so as to create the necessary conditions for the participation of other nuclear-weapon states in the process of nuclear disarmament.

China supports the early entry into force of the Comprehensive Nuclear Test-Ban Treaty, and will continue to honor its moratorium commitment on nuclear testing. China supports the preparatory work for the entry into force of the Treaty by the Preparatory Commission of the Comprehensive Nuclear Test-Ban Treaty Organization, and has contributed to the establishment of the International Monitoring System (IMS).

China has always stayed true to its commitments that it will not be the first to use nuclear weapons at any time and in any circumstances, and will unconditionally not use or threaten to use nuclear weapons against non-nuclear-weapon states or in nuclear-weapon-free zones. China calls upon other nuclear-weapon states to make the same commitments and conclude an international legal instrument in this regard. China has already signed all relevant protocols which have been opened for signature of various nuclear-weapon-free zone treaties, and has reached agreement with the ASEAN on relevant issues of the Protocol of the Treaty on the Southeast Asia Nuclear-Weapon-Free Zone. China welcomes the Treaty on a Nuclear-Weapon-Free Zone in Central Asia signed by the five Central Asian countries.

China values the role of the Conference on Disarmament (CD) in Geneva, and supports efforts in the CD to reach a comprehensive and balanced program of work, so as to enable the CD to start substantial work on such issues as the Fissile Material Cut-off Treaty (FMCT), prevention of an arms race in outer space, nuclear disarmament and security assurance to non-nuclear-weapon states.

China maintains that the global missile defense program will be detrimental to strategic balance and stability, undermine international and regional security, and have a negative impact on the process of nuclear disarmament. China pays close attention to this issue.

Prohibition of Biological and Chemical Weapons

China observes in good faith its obligations under the Biological Weapons Convention (BWC), and supports the multilateral efforts aimed at strengthening the effectiveness of the Convention. China has actively participated in the meetings of the parties to the Convention and the meetings of experts in a pragmatic manner. China has already established a comprehensive legislation system for the implementation of the Convention, set up a national implementation focal point, and submitted its declarations regarding confidence-building measures to the Implementation Support Unit of the Convention in a timely fashion. China has also strengthened bio-safety, bio-security and disease surveillance, and actively carried out related international exchanges and cooperation.

China earnestly fulfils its obligations under the Chemical Weapons Convention (CWC) by setting up implementation offices at both central and local levels, submitting timely and complete annual declarations, subsequent declarations regarding newly discovered chemical weapons abandoned by

Japan in China and information on the national protection program. China has received more than 170 on-site inspections by the Organization for the Prohibition of Chemical Weapons (OPCW). The Analytical Chemistry Research Laboratory of the Institute of Chemical Defense became the first OPCW-designated laboratory in China in 1998, followed by the Toxicant Analysis Laboratory of the Academy of Military Medical Sciences, which became an OPCW-designated laboratory in 2007. In May 2008 China and the OPCW jointly held a training course on protection and assistance in Beijing. With a view to accelerating the destruction of chemical weapons abandoned by Japan in China, China has assisted Japan in carrying out more than 100 on-site investigations, and excavated more than 40,000 items of chemical weapons abandoned by Japan. China urges Japan to earnestly implement its obligations under the Convention, and start the actual destruction of chemical weapons abandoned by Japan in China as soon as possible.

Non-Proliferation

China firmly opposes the proliferation of weapons of mass destruction (WMD) and their means of delivery, and actively takes part in international non-proliferation efforts. China holds that an integrated approach should be adopted to address both the symptoms and root causes of proliferation. The international community should devote itself to building a global and regional security environment featuring stability, cooperation and mutual trust, and earnestly maintaining and strengthening the authority and effectiveness of the international non-proliferation regime. In this regard, double standards must be abandoned. All states should resort to dialogue and negotiation to resolve differences in the field of non-proliferation. The relations between non-proliferation and the peaceful use of science and technology should be properly addressed, with the aim of preserving the right of peaceful use of each state while effectively preventing WMD proliferation.

China has joined all international treaties and international organizations in the field of non-proliferation. It attaches great importance to the role of the Treaty on the Non-proliferation of Nuclear Weapons (NPT), the Biological Weapons Convention (BWC) and the Chemical Weapons Convention (CWC) in preventing the proliferation of WMD. China supports the role played by the UN in the field of non-proliferation, and has conscientiously implemented the relevant resolutions of the UN Security Council.

China is dedicated to the denuclearization of the Korean Peninsula, and firmly promotes the Six-Party Talks process on that issue. China facilitated the adoption of "Initial Actions for the Implementation of the Joint Statement" and the "Second-Phase Actions for the Implementation of the Joint Statement" respectively in February and October 2007.

China maintains that the Iranian nuclear issue should be resolved peacefully by political and diplomatic means. China has participated in the meetings of foreign ministers or political directors of the ministries of foreign affairs, and hosted a meeting of political directors of the ministries of foreign affairs of those six countries in Shanghai in April 2008. China has also actively taken part in the deliberation on the Iranian nuclear issue at the International Atomic Energy Agency (IAEA) and the UN Security Council, playing a constructive role.

China attaches great importance to non-proliferation export control, and has established a comprehensive legal system for export control of nuclear, biological, chemical and missile and related dual-use items and technologies. China has also constantly updated these laws and regulations in light of its international obligations and the need for export control. China amended the Regulations of the PRC on the Control of Nuclear Exports in November 2006, the Regulations of the PRC on the Control of Dual-Use Nuclear Items and Related Technologies Exports in January2007 and its Control List in July of the same year. China has spared no effort in strengthening law enforcement in the field of non-proliferation export control.

China values and actively carries out international exchanges and cooperation in the field of non-proliferation and export control. China has held regular arms control and non-proliferation consultations with a dozen countries and the EU, and non-proliferation dialogues with NATO. China also maintains dialogues and exchanges with multinational export control regimes such as the Australia Group and the Wassenaar Arrangement.

China supports the objectives and principles of the Global Initiative to Combat Nuclear Terrorism. As one of the original partners of the Initiative, China has taken part in all meetings of the partners. In

December 2007 China and the United States jointly held a workshop in Beijing on radiation emergency response within the framework of the Initiative.

Prevention of the Introduction of Weapons and an Arms Race in Outer Space

The Chinese government has all along advocated the peaceful use of outer space, and opposed the introduction of weapons and an arms race in outer space. The existing international legal instruments concerning outer space are not sufficient to effectively prevent the spread of weapons to outer space. The international community should negotiate and conclude a new international legal instrument to close the loopholes in the existing legal system concerning outer space.

In February 2008 China and Russia jointly submitted to the CD a draft Treaty on the Prevention of the Placement of Weapons in Outer Space and the Threat or Use of Force against Outer Space Objects. China hopes that the CD will start substantial discussions on the draft as soon as possible, and negotiate and conclude the Treaty at an early date.

Conventional Arms Control

China has earnestly fulfilled its obligations under the Convention on Certain Conventional Weapons (CCW) and its Protocols. It has taken concrete measures to ensure that its anti-personnel landmines in service meet the relevant technical requirements of the Amended Protocol on Landmines. China actively participates in the work of the Group of Governmental Experts (GGE) on Cluster Munitions. China is also continuing its preparations for ratifying the Protocol on Explosive Remnants of War. China has continuously taken an active part in international humanitarian de-mining assistance. In the past two years, it has held de-mining training courses for Angola, Mozambique, Chad, Burundi, Guinea-Bissau, and both northern and southern Sudan. China has also donated de-mining equipment to the above-mentioned countries and Egypt, and provided Peru, Ecuador and Ethiopia with mine eradication funds.

China has actively participated in the international efforts to combat the illicit trade in Small Arms and Light Weapons (SALW). It has conscientiously implemented the UN Program of Action (PoA) on SALW and the International Instrument on Identifying and Tracing Illicit SALW. China has issued and implemented new detailed rules on SALW markings, and has taken part in the work of the UN GGE on an "Arms Trade Treaty."

Transparency in Military Expenditures and Registration of Transfer of Conventional Arms

China attaches great importance to military transparency, and makes unremitting efforts to enhance military transparency and promote mutual trust with other countries in the military sphere. In 2007 China joined the UN Standardized Instrument for Reporting Military Expenditures, and reports annually to the UN the basic data of its military expenditures for the latest fiscal year.

China has made important contributions to the establishment and development of the UN Register of Conventional Arms. After the Register was established, China provided the Register with annual data on imports and exports of conventional arms in the seven categories covered by the Register. However, since 1996 a particular country has provided data on its arms sales to Taiwan to the Register, which contradicts the spirit of the relevant Resolutions of the UN General Assembly as well as the objectives and principles of the Register. China was impelled to suspend its submission of data to the Register. Since the country concerned has stopped the above-mentioned act, China has resumed, since 2007,submitting data annually to the Register on imports and exports of conventional arms in the seven categories.

Editor :

Appendix I Major International Exchanges of the Chinese Military (2007-2008)

(Source:) 2009-July-31 11:04

Appendix I Major International Exchanges of the Chinese Military (2007-2008)

Date	Outgoing Visits	Incoming Visits
2007		
Jan. 18-23		Chief of the General Staff, the Czech Republic
Jan. 21-24		Commander of the Army, Thailand
Jan. 24-Feb. 9	Deputy Chief of the General Staff to ROK and US	
Jan. 29-Feb. 1		Chief of the General Staff of the Army, Singapore
Feb. 1-6		Chief of Staff of the Navy, Indonesia
Mar. 3-8		Chief of the General Staff, Russia
Mar. 5-18	Deputy Chief of the General Political Department to Venezuela, Ecuador and Argentina	
Mar. 7-11	Commander of the Nanjing Military Area Command to Cuba	
Mar. 17-19		Minister of Defense, France
Mar.17-24		Chief of Staff of Defense Force, Zimbabwe
Mar.19-26		Minister of Defense, Laos
Mar. 22-25		Chairman of the Joint Chiefs of Staff, US
Mar. 23-26	Navy port call to Indonesia	
Mar. 24-31		Commander of the Royal Air Force, Jordan

Apr. 1-6		General Secretary of the Defense Ministry of Indonesia to the 2nd China-Indonesia Defense and Security Consultation Conference
Apr. 1-8		Chief of the Joint Staff, Sudan
Apr. 1-8		Commander of the Air Force, Switzerland
Apr. 2-17	Commander of the PLA Navy to US, UK and France	
Apr. 4-8		Minister of Defense, Nigeria
Apr. 12-16		Port call by Indian Navy ships
Apr. 13-30	Political Commissar of the PLA Air Force to Zimbabwe, Mozambique and Zambia	
Apr. 15-May 1	Deputy Chief of the General Logistics Department to Morocco, UK and Belgium	
Apr. 18-19		Minister of Defense, Germany
Apr.18-22		Inspector of the Air Force, Germany
Apr. 21-30		Chief of the Armed Forces, Bolivia
Apr. 22-29		Minister of Defense, Gabon
Apr. 23-26		Minister of Defense, Belarus
Apr. 23-26		Minister of Defense, ROK
Apr. 24-May 1		Chairman of the Joint Chiefs of Staff, Pakistan
Apr. 25-May 8	President of the Academy of Military Science to Argentina, Chile and US	
Apr. 27-30		Secretary of Defense, Cambodia

Jun. 29-Jul. 3		Chief of the General Staff, Azerbaijan
Jul. 1-6		Minister of Defense, Slovakia
Jul. 1-9		Minister of Defense, Democratic Republic of Congo
Jul. 7-10		Minister of Defense, Australia
Jul. 8-14		Chief of Staff of the Air Staff, Bangladesh
Jul. 9-17		Chief of the Joint Command of the Armed Forces, Ecuador
Jul. 13-18		Chief of the Air Force, South Africa
Jul. 14-21		Minister of Defense, Tunisia
Jul. 16-22		Minister of Defense, Grenada
Jul. 20-29		Chief of the Naval Staff, Bulgaria
Jul. 22-26	Commander of the Jinan Military Area Command to ROK	
Jul. 24-Oct. 18	Navy port calls to Russia, UK, Spain and France, and long-voyage training	
Aug. 6-11		Chief of the Air Staff, Indonesia
Aug. 7-20	Assistant Chief of the General Political Department to DPRK and Romania	
Aug. 8-23	Chief of the General Armaments Department to Bangladesh, Indonesia and Brunei	
Aug. 9-17		Commander of the Army, Uruguay
Aug. 10-14		Chief of the Naval Staff, ROK

Aug. 10-16		Port call by Chilean Navy ships
Aug.14-22	Deputy Chief of the General Armaments Department to Russia	
Aug. 14-28	Political Commissar of the Jinan Military Area Command to Myanmar, Cambodia and Laos	
Aug. 17-22		Chief of Naval Operations, US
Aug. 19-23		Minister of Defense, Argentina
Aug. 21-29		Minister of Defense, Hungary
Aug. 26-31		Minister of Defense, Vietnam
Aug. 26-Sept. 1		Chief of the General Staff, Mali
Aug. 26-Sept. 1		Commander of the Defense Force, Botswana
Aug. 26-Sept. 9	Commander of the PLA Air Force to Chile and Finland	
Aug. 29-Sept. 6	Minister of National Defense to Japan and Philippines	
Aug. 31-Sept. 3		Port call by ROK Navy ships
Aug. 31-Sept. 10	Deputy Chief of the Science and Technology Commission of the General Armaments Department to Poland	
Sept. 1-8		Chief of the Army Staff, Brazil
Sept. 3-18	Deputy Chief of the General Political Department to Poland and Finland	

Sept. 6-21	Navy visit to Russia for the "Year of China" activities, and port calls to UK, Spain and France	
Sept. 9-16	Deputy Chief of the General Logistics Department to Tunisia and Cuba	
Sept. 10-13		Chief of the Naval Staff, France
Sept. 11-Nov. 1	Navy port calls to Australia and New Zealand	
Sept. 12-16		Port call by UK Navy ships
Sept. 12-20		Commander of the Defense Force, Seychelles
Sept. 14-21	Assistant Chief of the General Staff to Mexico and Ecuador	
Sept. 15-24		Chief of the General Staff, Central African Republic
Sept. 20-26		Commander of the Defense Force, Uganda
Sept. 23-30		Minister of Defense, Cape Verde
Sept. 24-29		Minister of Defense, Bulgaria
Sept. 24-29		Port call by Australian Navy ships
Sept. 26-29		Port call by French Navy ships
Oct. 11-22		Port call by New Zealand Navy ships
Nov. 1-7		Minister of Defense, Cote d'Ivoire
Nov. 4-6		Minister of Defense, US

Nov. 6-9		Minister of Defense, Indonesia
Nov. 6-11		Minister of Defense, Turkmenistan
Nov. 7-13		Minister of Defense, Peru
Nov. 7-15		Chief of the General Staff of the National Army, Afghanistan
Nov. 13-16		Chairman of the Joint Chiefs of Staff, ROK
Nov. 15-29	Chief of the General Political Department to Vietnam and Laos	
Nov. 15-Dec. 4	Minister of National Defense to Kenya, Kuwait and Thailand	
Nov. 16-30	Political Commissar of the General Logistics Department to Egypt and Syria	
Nov. 18-23		Port call by French Navy ships
Nov. 21- Dec. 7	Navy port call to Japan	
Nov. 22-Dec. 6	Commander of the Second Artillery Force to Sweden and Bulgaria	
Nov. 27-Dec. 12	Political Commissar of the Beijing Military Area Command to Jordan and Madagascar	
Nov. 28-Dec. 1	Navy port call to Japan	
Dec. 1-8	Deputy Chief of the General Staff to the 9th China-US Defense Consultation Conference, US	
Dec. 2-9	Deputy Political Commissar of the General Armaments Department to Malaysia	

Dec. 3-9		Chief of the Army Staff, Romania
Dec. 7-13		Minister of Defense, Ghana
Dec. 7-17	Deputy Chief of the General Staff to Turkey and Israel	
Dec. 9-13		Chief of the General Staff, Ukraine
Dec. 10-15		Inspector of the Navy, Morocco
Dec. 16-23		Secretary of State, Cambodia
2008		
Jan. 5-11		Chief of the Army Staff, Nepal
Jan. 13-16		Commander of the Pacific Command, US
Jan. 13-23	Minister of National Defense to Brunei, Indonesia and Saudi Arabia	
Jan. 17-20		Chief of the General Staff of the Army, ROK
Feb. 23-26		Port call by Peruvian Navy ships
Feb. 26-29		Joint Chief of Staff of the Self-defense Force, Japan
Mar. 1-4		Minister of Defense, Belarus
Mar. 24-30		Minister of Defense, Malawi
Mar. 30-Apr. 4		Commandant of the Marine Corps, US
Apr. 1-5		Port call by Thai Navy ships

Apr. 3-9		Chief of the Naval Staff, Pakistan
Apr. 7-13		Port call by US Navy ships
Apr. 11-13		Chief of the General Staff of the Air Force, ROK
Apr. 12-26	Commander of the Lanzhou Military Area Command to Romania and Bulgaria	
Apr. 14-19		Commander of the Air Force, Malaysia
Apr. 16-21		Port call by French Navy ships
Apr. 20-24	Political Commissar of the Jinan Military Area Command to ROK	
Apr. 20-25	Deputy Chief of the Science and Technology Commission of the General Armaments Department to the Asian Defense Services Exhibition, Malaysia	
Apr. 21-26		Chief of the Air Staff, Pakistan
Apr. 22-26		Chief of the Air Force, DPRK
Apr. 27-May 1		Chief of the Naval Staff, Spain
Apr. 27-May 3		Minister of Defense, Surinam
May 6-9	Assistant Chief of the General Staff to the ASEAN Regional Forum Security Policy Conference, Singapore	
May 6-12		Minister of Defense, Papua New Guinea
May 14-16	Minister of National Defense to the SCO Defense Ministers' Meeting, Tajikistan	

May 25-30		Minister of Defense, the Kingdom of Tonga
May 25-31		Commander of the Air Force, Chile
May 27-31		Port call by Canadian Navy ships
May 29-Jun. 2	Deputy Chief of the General Staff to the Shangri-La Dialogue, Singapore	
May 31-Jun. 7		Chief of the General Staff of the Armed Forces, Egypt
Jun. 2-6		Minister of Defense, Finland
Jun. 16-20		Minister of Defense, Romania
Jun. 24-28		Port call by Japanese Navy ships
Jun. 29-Jul. 5		Commander of the Army, New Zealand
Jun. 30-Jul. 3		Minister of Defense, Thailand
Jul. 2-9		Chief of Staff of the Defense Force, Guyana
Jul. 6-17	Commander of the Guangzhou Military Area Command to US	
Jul. 11-21		Chief of the Army Staff, Bulgaria
Jul. 18-21		Commander of the Defense Force, Australia
Jul. 21-25		Port call by Argentine Navy ships
Jul. 22-27		Port call by French Navy ships
Aug. 1-3		Port call by Malaysian Navy ships

Aug. 12-22	Deputy Chief of the General Staff to Mexico and Uruguay	
Aug. 15-18		Minister of Defense, Germany
Aug. 16-20		Minister of Defense, Bulgaria
Aug. 25-29		Port call by Singaporean Navy ships
Aug. 26-29	Assistant Chief of the General Staff to Mongolia	
Aug. 28-Sept. 5	Deputy Chief of the General Staff to Argentina, Chile and Brazil	
Sept. 3-19	Minister of National Defense to Italy, Germany, Belarus and Hungary	
Sept. 4-17	Commander of the Jinan Military Area Command to Namibia and Kenya	
Sept. 6-9		Minister of Defense, Switzerland
Sept. 6-16	Deputy Chief of the General Armaments Department to Poland	
Sept. 6-19	Political Commissar of the Shenyang Military Area Command to Poland and Greece	
Sept. 8-22	Commander of the Air Force to Chile, Cuba and Japan	
Sept. 10-18		Port call by Ecuadoran Navy ships
Sept. 10-21	Chief of the General Staff to Serbia and Norway	
Sept. 11-23	Deputy Chief of the General Armaments Department to the Air Show, South Africa	

Sept. 20-27		Supreme Commander of the Armed Forces, Thailand
Sept. 20-28		First Sea Lord and Chief of the Naval Staff, UK
Sept. 21-27		Chief of Staff of the Defense Force, Tanzania
Sept. 21-28		Chief of the General Staff, Cameroon
Sept. 22-26		Chief of the Army Staff, Pakistan
Sept. 22-26		Port call by British Navy ships
Sept. 22-27		Commander of the Army, South Africa
Sept. 22-Oct. 6	President of the National Defense University to Canada, US and Japan	
Sept. 23-27		Minister of Defense, Nepal
Sept. 23-28		Commander of the Royal Armed Forces, Brunei
Sept. 23-29		Chief of the General Staff of the People's Army, Laos
Sept. 23-29	Political Commissar of the Second Artillery Force to Australia and New Zealand	
Oct. 3-12	Navy port call to ROK	
Oct. 7-11	Deputy Chief of the Science and Technology Commission of the General Armaments Department to the Athens International Defense Exhibition, Greece	
Oct. 9-12		Port call by Brazilian Navy ships

Oct. 12-16		Minister of Defense, Singapore
Oct. 12-17		Supreme Commander of the Armed Forces, Sweden
Oct. 13-19		Minister of Defense, Ecuador
Oct. 14-18	Navy port call to Russia	
Oct. 15-19		Commander of the Air Force, Philippines
Oct. 15-29	Political Commissar of the Chengdu Military Area Command to Syria and Egypt	
Oct. 15-30	Assistant Chief of the General Staff to Botswana, Lesotho and South Africa	
Oct. 16-20		Port call by South African Navy ships
Oct. 18-Nov. 1	Commander of the Second Artillery Force to Tanzania and Uganda	
Oct. 19-28		Chief of the General Staff, Comoros
Oct. 19-Nov. 1	Political Commissar of the Academy of Military Science to Romania and Hungary	
Oct. 20-28		Commander of the Armed Forces, Colombia
Oct. 21-Nov. 6	Deputy Chief of the General Staff to Cambodia, Myanmar and ROK	
Oct. 26-31		Chief of the Defense Force, Jamaica
Oct. 26-Nov. 11	Deputy Chief of the General Political Department to Tunisia and Morocco	

Oct. 28-Nov. 13	Commander of the Navy to Japan, India, Thailand and ROK	
Oct. 28-Nov. 15	Deputy Chief of the General Political Department to Laos, Vietnam and Yemen	
Oct. 29-Nov. 4	Political Commissar of the General Logistics Department to Mexico	
Nov. 1-24	Navy port calls to Cambodia, Thailand and Vietnam	
Nov. 2-6		Chief of the Air Staff, India
Nov. 4-8		Minister of Defense, Serbia
Nov. 7-15	President of the Academy of Military Science to Venezuela and Argentina	
Nov. 8-18	Minister of National Defense to UAE, Oman, Bahrain and Qatar	
Nov. 13-16		Chief of the General Staff, Bulgaria
Nov. 17-30	Vice-president of the Central Military Commission to Venezuela, Chile and Brazil	
Nov. 20-Dec. 3	Deputy Chief of the General Logistics Department to Ethiopia and Tanzania	
Nov. 23-29		Inspector of the Navy, Germany
Nov. 24-27		Chief of the General Staff, Romania
Nov. 27-Dec. 9	Commander of the Nanjing Military Area Command to Jordan and Lebanon	

Nov. 27-Dec. 11	Assistant Chief of the General Staff to Israel and Malta	
Nov. 29-Dec. 2		Chief of the General Staff of the Armed Forces, Myanmar
Nov. 29-Dec. 5		Chief of the General Staff of the Defense Force, Singapore
Nov. 30-Dec. 5		Chief of the General Staff, Vietnam
Dec. 1-7	Political Commissar of the General Armaments Department to Indonesia and Chile	
Dec. 6-12		Head of the Joint Chiefs of Staff, Bosnia and Herzegovina
Dec. 6-12		Chief of the General Staff, Hungary
Dec. 6-16	Deputy Chief of the General Staff to Nepal and India	
Dec. 10-11		Minister of Defense, Russia
Dec. 15-17		Minister of Defense, Gabon
Dec. 16-22		Chairman of the Joint Chiefs of Staff, Pakistan
Dec. 28-30		Minister of Defense, Armenia

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Appendix II Joint Exercises and Training with Foreign Armed Forces (2007-2008)

(Source:) 2009-July-31 11:05

Appendix II Joint Exercises and Training with Foreign Armed Forces (2007-2008)

Time	Name	Place
Mar. 6-13, 2007	"Aman 2007" Joint Maritime Military Exercise	The Arabian Gulf
May 11-23, 2007	Second Multilateral Maritime Exercise of WPNS	Waters off Singapore
Jul. 15-31, 2007	"Strike 2007" China-Thailand Joint Army Training in Special Operations	Guangzhou, China
Aug. 9-17, 2007	"Peace Mission 2007" Joint Military Anti-terrorism Exercise by Members of the Shanghai Cooperation Organization	Xinjiang, China; Chelyabinsk, Russia
Oct. 2-3, 2007	Joint Maritime Search and Rescue Exercise among China, Australia and New Zealand	The Tasman Sea
Dec. 19-27, 2007	"Hand-in-Hand 2007" China-India Joint Counter-terrorism Training	Kunming, China
Jul. 9-31, 2008	"Strike 2008" China-Thailand Joint Army Training in Special Operations	Chiang Mai, Thailand
Dec.5-14, 2008	"Hand-in-Hand 2008" China-India Joint Counter-terrorism Training	Belgaum, India

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Appendix III China's Participation in UN Peacekeeping Operations

(Source:) 2009-July-31 11:06

Appendix III China's Participation in UN Peacekeeping Operations

(As of Nov. 30, 2008)

UN Peacekeeping Mission	Acronym	Time Frame	Number of Troops		Number of Observers and Staff Officers		Number of Police	
			Current	Total	Current	Total	Current	Total
UN Truce Supervision Organization	UNTSO	Apr. 1990 to date			2	89		
UN Iraq-Kuwait Observer Mission	UNIKOM	Apr. 1991-Oct. 2003				164		
UN Mission for Referendum in Western Sahara	MINURSO	Sept.1991 to date			13	314		
UN Transitional Authority in Cambodia	UNTAC	Dec. 1991-Sept. 1993		800		97		
UN Operation in Mozambique	ONUMOZ	Jun. 1993-Dec. 1994				20		
UN Observer Mission in Liberia	UNOMIL	Nov. 1993-Sept. 1997				33		
UN Mission in Afghanistan	UNSMA	May 1998-Jan. 2000				2		
UN Mission in Sierra Leone	UNAMSIL	Aug. 1998-Dec. 2005				37		
UN Department of Peacekeeping Operations	UNDPKO	Feb. 1999 to date			2	11		
UN Support Mission in East Timor	UNMISET	Jan. 2000-Jul. 2006						207
UN Mission in Ethiopia and Eritrea	UNMEE	Oct. 2000-Aug. 2008				49		
UN Mission in Bosnia and Herzegovina	UNMIBH	Jan. 2001-Jan. 2002						20
UN Mission in Congo (Kinshasa)	MONUC	Apr. 2001 to date	218	1962	16	101		
UN Mission in Liberia	UNMIL	Oct. 2003 to date	558	3,906	7	70	8	83
UN Assistance Mission in Afghanistan	UNAMA	Jan. 2004-May 2005						3
UN Operation in Cote d'Ivoire	UNOCI	Mar. 2004 to date			7	33		
UN Mission in Kosovo	UNMIK	Apr. 2004 to date					18	73
UN Stabilization Mission in Haiti	MINUSTAH	May 2004 to date					143	916
UN Action in Burundi	ONUB	Jun. 2004-Sept. 2006				6		
UN Mission in Sudan	UNMIS	Apr. 2005 to date	435	1,740	23	88	18	47
UN Interim Force in Lebanon	UNIFIL	Mar. 2006 to date	335	1,187	9	24		
UN Integrated Mission in Timor-Leste	UNMIT	Oct. 2006 to date			2	7	21	30
UN Integrated Office in Sierra Leone	UNIOSIL	Feb. 2007-Feb. 2008				1		
AU-UN Hybrid Operation in Darfur	UNAMID	Nov. 2007 to date	315	315	7	7		
Total			1,861	9,910	88	1,153	208	1,379

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Appendix IV Imports and Exports of Seven Major Types of Conventional Arms of the PRC (2007)

(Source:) 2009-July-31 11:07

Appendix IV Imports and Exports of Seven Major Types of Conventional Arms of the PRC (2007)

	Exports		Imports	
Category	Importer State	Number	Exporter State	Number
Battle Tanks	Pakistan	18		Zero
Armored Combat Vehicles	Tanzania	2		Zero
	Kenya	32		
	Chad	10		
Large Caliber Artillery Systems	Bangladesh	36		Zero
	Rwanda	6		
Combat Aircraft	Bangladesh	1		Zero
	Pakistan	2		
	Ghana	4		
Attack Helicopters		Zero		Zero
Warships		Zero		Zero
Missiles and Missile Launchers	Yemen	2	Russia	984
	Indonesia	7		

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Appendix V Defense Expenditure of the PRC (1978-2007)

(Source:) 2009-July-31 11:08

Appendix V Defense Expenditure of the PRC (1978-2007)

Year	GDP (billion RMB)	Government Expenditure (billion RMB)	Defense Expenditure (billion RMB)	Percentage of GDP(%)	Percentage of Government Expenditure (%)
1978	364.522	112.209	16.784	4.60	14.96
1979	406.258	128.179	22.264	5.48	17.37
1980	454.562	122.883	19.384	4.26	15.77
1981	489.156	113.841	16.797	3.43	14.75
1982	532.335	122.998	17.635	3.31	14.34
1983	596.265	140.952	17.713	2.97	12.57
1984	720.805	170.102	18.076	2.51	10.63
1985	901.604	200.425	19.153	2.12	9.56
1986	1027.518	220.491	20.075	1.95	9.10
1987	1205.862	226.218	20.962	1.74	9.27
1988	1504.282	249.121	21.800	1.45	8.75
1989	1699.232	282.378	25.147	1.48	8.91
1990	1866.782	308.359	29.031	1.56	9.41
1991	2178.150	338.662	33.031	1.52	9.75
1992	2692.348	374.220	37.786	1.40	10.10
1993	3533.392	464.230	42.580	1.21	9.17
1994	4819.786	579.262	55.071	1.14	9.51
1995	6079.373	682.372	63.672	1.05	9.33
1996	7117.659	793.755	72.006	1.01	9.07
1997	7897.303	923.356	81.257	1.03	8.80
1998	8440.228	1079.818	93.470	1.11	8.66
1999	8967.705	1318.767	107.640	1.20	8.16
2000	9921.455	1588.650	120.754	1.22	7.60
2001	10965.517	1890.258	144.204	1.32	7.63
2002	12033.269	2205.315	170.778	1.42	7.74
2003	13582.276	2464.995	190.787	1.40	7.74
2004	15987.834	2848.689	220.001	1.38	7.72
2005	18321.745	3393.028	247.496	1.35	7.29
2006	21192.346	4042.273	297.938	1.41	7.37
2007	25730.556	4978.135	355.491	1.38	7.14

Editor : Ouyang

Appendix VI Major Military Regulations Issued in 2007 and 2008

(Source:) 2009-July-31 11:10

Appendix VI Major Military Regulations Issued in 2007 and 2008

Title	Issuing Authority	Date of Promulgation
Regulations on the Work of the Communist Youth League in the Chinese People's Liberation Army (CPLA)	General Political Department (GPD) (authorized by the CMC)	Jan. 1, 2007
Regulations of the CPLA on the Logistics Management of Grass-roots Units (Revised)	CMC	Jan. 1, 2007
Audit Regulations of the CPLA (Revised)	CMC	Jan. 1, 2007
Provisions of the Armed Forces on the Transparency of Issues Relating to the Strengthening of Democratic Supervision in Brigade- and Regiment-level Units (Trial)	General Staff Headquarters (GSH), GPD, General Logistics Department (GLD), General Armaments Department (GAD) (authorized by the CMC)	Jun. 19, 2007
Provisions of the Armed Forces on Attracting and Retaining High-level Specialized Technical Personnel	CMC	Jul. 5, 2007
Basic Flight Rules of the PRC (Revised)	State Council (SC) and CMC	Oct. 18, 2007
Measures on Applying for and Issuing Resident Identity Cards for Active Servicemen and PAPF Members	SC and CMC	Oct. 21, 2007
Regulations of the CPLA on the Admission Work of Educational Institutions	GSH, GPD, GLD, GAD (authorized by the CMC)	Oct. 28, 2007
Regulations of the CPLA on the Work of Crime Prevention (Revised)	CMC	Nov. 24, 2007

Regulations on the Licensing Administration of Weaponry and Equipment Research and Production	SC and CMC	Mar. 6, 2008
Guidelines of the CPLA for the Evaluation of Commanding Officers	CMC	Mar. 29, 2008
Regulations of the CPLA on the Work of Servicemen's Committees	GSH, GPD, GLD, GAD (authorized by the CMC)	Apr. 22, 2008
Guidelines of the CPLA for the Building of Headquarters (Revised)	CMC	Jun. 28, 2008
Safety Regulations of the CPLA	CMC	Jul. 16, 2008
Provisions on Punishment for Unlawful Financial and Economic Practices of Units or Personnel of the Armed Forces	GSH, GPD, GLD, GAD (authorized by the CMC)	Aug. 14, 2008
Regulations of the CPLA on the Prevention and Treatment of Infectious Diseases (Revised)	CMC	Oct. 19, 2008

Editor : Ouyang

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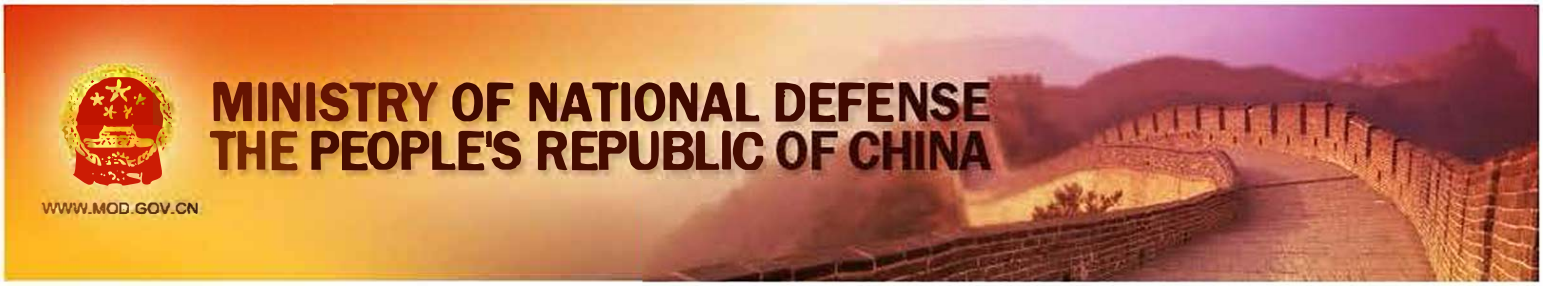
Ministry of Defense of the People's Republic of China, White Paper: China's National Defense in 2010 (2 Apr. 2011)



2010

CHINA'S NATIONAL DEFENSE IN 2010

Preface

(Source: Information Office of the State Council) 2011-April-2 10:01

Preface

In the first decade of the 21st century, the international community forged ahead in a new phase of opening up and cooperation, and at the same time faced crises and changes. Sharing opportunities for development and dealing with challenges with joint efforts have become the consensus of all countries in the world. Pulling together in the time of trouble, seeking mutual benefit and engaging in win-win cooperation are the only ways for humankind to achieve common development and prosperity.

China has now stood at a new historical point, and its future and destiny has never been more closely connected with those of the international community. In the face of shared opportunities and common challenges, China maintains its commitment to the new security concepts of mutual trust, mutual benefit, equality and coordination. By connecting the fundamental interests of the Chinese people with the common interests of other peoples around the globe, connecting China's development with that of the world, and connecting China's security with world peace, China strives to build, through its peaceful development, a harmonious world of lasting peace and common prosperity.

Looking into the second decade of the 21st century, China will continue to take advantage of this important period of strategic opportunities for national development, apply the Scientific Outlook on Development in depth, persevere on the path of peaceful development, pursue an independent foreign policy of peace and a national defense policy that is defensive in nature, map out both economic development and national defense in a unified manner and, in the process of building a society that is moderately affluent on a general basis, realize the unified goal of building a prosperous country and a strong military.

Editor : Li Meng

I. The Security Situation

(Source:) 2011-April-2 10:05

The international situation is currently undergoing profound and complex changes. The progress toward economic globalization and a multi-polar world is irreversible, as is the advance toward informationization of society. The current trend toward peace, development and cooperation is irresistible. But, international strategic competition and contradictions are intensifying, global challenges are becoming more prominent, and security threats are becoming increasingly integrated, complex and volatile.

On the whole, the world remains peaceful and stable. The international community has reaped the first fruits in joint efforts to respond to the global financial crisis. All countries have stepped up to adjust their strategies and models for economic development, and no effort has been spared in attempting to foster new economic growth points. Scientific and technological innovations are breeding new breakthroughs. And economic globalization has achieved further progress. The international balance of power is changing, most notably through the economic strength and growing international status and influence of emerging powers and developing countries. Prospects for world multi-polarization are becoming clearer. The prevailing trend is towards reform in international systems. Steady progress is being made in the establishment of mechanisms for management of the global economy and finance. G20 is playing a more outstanding role. The international spotlight has turned to the reform of the UN and other international political and security systems. Profound realignments have taken place in international relations; economic interdependence among various countries has been enhanced; shared challenges have been increasing; and communication, coordination and cooperation have become mainstream in relationships among the world's major powers. As factors conducive to maintaining peace and containing conflict continue to grow, mankind can look forward to a future that on the whole is bright.

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Editor : Dong Zhaohui

I. The Security Situation

(Source:) 2011-April-2 10:05

The international security situation has become more complex. International strategic competition centering on international order, comprehensive national strength and geopolitics has intensified. Contradictions continue to surface between developed and developing countries and between traditional and emerging powers, while local conflicts and regional flashpoints are a recurrent theme. In a number of countries, outbreaks of unrest are frequently triggered off by political, economic, ethnic, or religious disputes. In general, world peace remains elusive. Deep-seated contradictions and structural problems behind the international financial crisis have not been resolved. World economic recovery remains fragile and imbalanced. Security threats posed by such global challenges as terrorism, economic insecurity, climate change, nuclear proliferation, insecurity of information, natural disasters, public health concerns, and transnational crime are on the rise. Traditional security concerns blend with non-traditional ones and domestic concerns interact with international security ones, making it hard for traditional security approaches and mechanisms to respond effectively to the various security issues and challenges in the world.

International military competition remains fierce. Major powers are stepping up the realignment of their security and military strategies, accelerating military reform, and vigorously developing new and more sophisticated military technologies. Some powers have worked out strategies for outer space, cyber space and the polar regions, developed means for prompt global strikes, accelerated development of missile defense systems, enhanced cyber operations capabilities to occupy new strategic commanding heights. Some developing countries maintain the push towards strengthening their armed forces, and press on with military modernization. Progress has been made in international arms control, but prevention of the proliferation of weapons of mass destruction remains complex, there is still much to do to maintain and strengthen the international non-proliferation mechanism.

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Editor : Dong Zhaohui

I. The Security Situation

(Source:) 2011-April-2 10:05

The Asia-Pacific security situation is generally stable. Asia has taken the lead in economic recovery, and its growth as a whole has been sustained. With an enhanced sense of shared interests and destiny, Asian countries have seized the opportunities presented by economic globalization and regional economic integration, and maintained a commitment to promoting economic development and regional stability. They have persisted in multilateralism and open regionalism, actively developed bilateral and multilateral cooperation with countries inside and outside the region, and endeavored to build economic and security cooperation mechanisms with regional features. The Shanghai Cooperation Organization (SCO) is playing a growing role in promoting regional stability and development. The integration of the Association of Southeast Asian Nations (ASEAN) is moving ahead. There is growing cooperation in such mechanisms as China-ASEAN, ASEAN Plus Three (China, Japan and the Republic of Korea) and China-Japan-ROK. The Asia-Pacific Economic Cooperation (APEC) continues to make progress.

Nevertheless, Asia-Pacific security is becoming more intricate and volatile. Regional pressure points drag on and without solution in sight. There is intermittent tension on the Korean Peninsula. The security situation in Afghanistan remains serious. Political turbulence persists in some countries. Ethnic and religious discords are evident. Disputes over territorial and maritime rights and interests flare up occasionally. And terrorist, separatist and extremist activities run amok. Profound changes are taking shape in the Asia-Pacific strategic landscape. Relevant major powers are increasing their strategic investment. The United States is reinforcing its regional military alliances, and increasing its involvement in regional security affairs.

China is still in the period of important strategic opportunities for its development, and the overall security environment for it remains favorable. It has coped effectively with the impact of the international financial crisis, and sustained a steady and relatively rapid economic growth. China has vigorously maintained national security and social stability, and its comprehensive national strength has stepped up to a new stage. It has strengthened coordination and cooperation with major traditional powers and emerging countries, reinforced good-neighborly friendship and practical cooperation with neighboring countries, and extended mutually benefiting cooperation with other developing countries. China has played a unique role in collective action with other countries to meet global challenges. The Chinese government has formulated and implemented principles and policies for advancing peaceful development of cross-Strait relations in the new situation, promoted and maintained peace and stability in the area. Significant and positive progress has been achieved in cross-Strait relations. On the basis of opposing "Taiwan independence" and adhering to the "1992 Consensus," the two sides have enhanced political mutual trust, conducted consultations and dialogues, and reached a series of agreements for realizing direct and bilateral exchanges of mail, transport and trade, as well as promoting economic and financial cooperation across the Straits. The peaceful development of cross-Strait relations accords with the interests and aspirations of compatriots on both sides of the Straits, and is widely applauded by the international community.

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Editor : Dong Zhaohui

I. The Security Situation

(Source:) 2011-April-2 10:05

China is meanwhile confronted by more diverse and complex security challenges. China has vast territories and territorial seas. It is in a critical phase of the building of a moderately prosperous society in an all-round way. Therefore, it faces heavy demands in safeguarding national security. The "Taiwan independence" separatist force and its activities are still the biggest obstacle and threat to the peaceful development of cross-Strait relations. Further progress in cross-Strait relations is still confronted by some complicating factors. Separatist forces working for "East Turkistan independence" and "Tibet independence" have inflicted serious damage on national security and social stability. Pressure builds up in preserving China's territorial integrity and maritime rights and interests. Non-traditional security concerns, such as existing terrorism threats, energy, resources, finance, information and natural disasters, are on the rise. Suspicion about China, interference and countering moves against China from the outside are on the increase. The United States, in the defiance of the three Sino-US joint communiques, continues to sell weapons to Taiwan, severely impeding Sino-US relations and impairing the peaceful development of cross-Strait relations.

In the face of the complex security environment, China will hold high the banner of peace, development and cooperation, adhere to the concepts of overall security, cooperative security and common security, advocate its new security concept based on mutual trust, mutual benefit, equality and cooperation, safeguard political, economic, military, social and information security in an all-round way, and endeavor to foster, together with other countries, an international security environment of peace, stability, equality, mutual trust, cooperation and win-win.

Editor : Dong Zhaohui

II. National Defense Policy

(Source:) 2011-April-2 10:09

China pursues a national defense policy which is defensive in nature. In accordance with the Constitution of the People's Republic of China and other relevant laws, the armed forces of China undertake the sacred duty of resisting foreign aggression, defending the motherland, and safeguarding overall social stability and the peaceful labor of its people. To build a fortified national defense and strong armed forces compatible with national security and development interests is a strategic task of China's modernization, and a common cause of the people of all ethnic groups.

The pursuit of a national defense policy which is defensive in nature is determined by China's development path, its fundamental aims, its foreign policy, and its historical and cultural traditions. China unswervingly takes the road of peaceful development, strives to build a harmonious socialist society internally, and promotes the building of a harmonious world enjoying lasting peace and common prosperity externally. China unswervingly advances its reform and opening up as well as socialist modernization, making use of the peaceful international environment for its own development which in return will contribute to world peace. China unswervingly pursues an independent foreign policy of peace and promotes friendly cooperation with all countries on the basis of the Five Principles of Peaceful Coexistence. China unswervingly maintains its fine cultural traditions and its belief in valuing peace above all else, advocating the settlement of disputes through peaceful means, prudence on the issue of war, and the strategy of "attacking only after being attacked." China will never seek hegemony, nor will it adopt the approach of military expansion now or in the future, no matter how its economy develops.

The two sides of the Taiwan Strait are destined to ultimate reunification in the course of the great rejuvenation of the Chinese nation. It is the responsibility of the Chinese people on both sides of the Straits to work hand in hand to end the history of hostility, and to avoid repeating the history of armed conflict between fellow countrymen. The two sides should take a positive attitude toward the future, and strive to create favorable conditions to gradually resolve, through consultation on an equal footing, both issues inherited from the past and new ones that emerge in the development of cross-Strait relations. The two sides may discuss political relations in the special situation that China is not yet reunified in a pragmatic manner. The two sides can hold contacts and exchanges on military issues at an appropriate time and talk about a military security mechanism of mutual trust, in a bid to act together to adopt measures to further stabilize cross-Strait relations and ease concerns regarding military security. The two sides should hold consultations on the basis of upholding the one-China principle to formally end hostilities and reach a peace agreement.

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Editor : Ouyang Dongmei

II. National Defense Policy

(Source:) 2011-April-2 10:09

The goals and tasks of China's national defense in the new era are defined as follows:

-- Safeguarding national sovereignty, security and interests of national development. China's national defense is tasked to guard against and resist aggression, defend the security of China's lands, inland waters, territorial waters and airspace, safeguard its maritime rights and interests, and maintain its security interests in space, electromagnetic space and cyber space. It is also tasked to oppose and contain the separatist forces for "Taiwan independence," crack down on separatist forces for "East Turkistan independence" and "Tibet independence," and defend national sovereignty and territorial integrity. National defense is both subordinate to and in service of the country's development and security strategies. It safeguards this important period of strategic opportunities for national development. China implements the military strategy of active defense of the new era, adheres to the principles of independence and self-defense by the whole nation, strengthens the construction of its armed forces and that of its border, territorial sea and territorial air defenses, and enhances national strategic capabilities. China consistently upholds the policy of no first use of nuclear weapons, adheres to a self-defensive nuclear strategy, and will never enter into a nuclear arms race with any other country.

-- Maintaining social harmony and stability. The Chinese armed forces loyally follow the tenet of serving the people wholeheartedly, actively participate in and support national economic and social development, and safeguard national security and social stability in accordance with the law. Exercising to the full their advantageous conditions in human resources, equipment, technology and infrastructure, the armed forces contribute to the building of civilian infrastructure and other engineering construction projects, to poverty-alleviation initiatives, to improvements in people's livelihood, and to ecological and environmental conservation. They organize preparations for military operations other than war (MOOTW) in a scientific way, work out pre-designed strategic programs against non-traditional security threats, reinforce the building of specialized forces for emergency response, and enhance capabilities in counter-terrorism and stability maintenance, emergency rescue, and the protection of security. They resolutely undertake urgent, difficult, dangerous, and arduous tasks of emergency rescue and disaster relief, thereby securing lives and property of the people. Taking the maintenance of overall social stability as a critical task, the armed forces resolutely subdue all subversive and sabotage activities by hostile forces, as well as violent and terrorist activities. The Chinese armed forces carry on the glorious tradition of supporting the government and cherishing the people, strictly abide by state policies, laws and regulations and consolidate the unity between the military and the government and between the military and the people.

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Editor : Ouyang Dongmei

II. National Defense Policy

(Source:) 2011-April-2 10:09

-- Accelerating the modernization of national defense and the armed forces. Bearing in mind the primary goal of accomplishing mechanization and attaining major progress in informationization by 2020, the People's Liberation Army (PLA) perseveres with mechanization as the foundation and informationization as the driving force, making extensive use of its achievements in information technology, and stepping up the composite and integrated development of mechanization and informationization. The PLA has expanded and made profound preparations for military struggle, which serve as both pull and impetus to the overall development of modernization. It intensifies theoretical studies on joint operations under conditions of informationization, advances the development of high-tech weaponry and equipment, develops new types of combat forces, strives to establish joint operation systems in conditions of informationization, accelerates the transition from military training under conditions of mechanization to military training in conditions of informationization, presses ahead with implementation of the strategic project for talented people, invests greater efforts in building a modern logistics capability, and enhances its capabilities in accomplishing diversified military tasks in order to win local wars under the conditions of informationization, so as to accomplish its historical missions at the new stage in the new century. The state takes economic development and national defense building into simultaneous consideration, adopts a mode of integrated civilian-military development. It endeavors to establish and improve systems of weaponry and equipment research and manufacturing, military personnel training, and logistical support, that integrate military with civilian purposes and combine military efforts with civilian support. China vigorously and steadily advances reform of national defense and the armed forces, strengthens strategic planning and management, and endeavors to promote the scientific development of the national defense and armed forces.

-- Maintaining world peace and stability. China consistently upholds the new security concepts of mutual trust, mutual benefit, equality and coordination, advocates the settlement of international disputes and regional flashpoint issues through peaceful means, opposes resort to the use or threat to use of force at will, opposes acts of aggression and expansion, and opposes hegemony and power politics in any form. China conducts military exchanges with other countries following the Five Principles of Peaceful Coexistence, develops cooperative military relations that are non-aligned, non-confrontational and not directed against any third party, and promotes the establishment of just and effective collective security mechanisms and military confidence-building mechanisms. China adheres to the concepts of openness, pragmatism and cooperation, expands its participation in international security cooperation, strengthens strategic coordination and consultation with major powers and neighboring countries, enhances military exchanges and cooperation with developing countries, and takes part in UN peace-keeping operations, maritime escort, international counter-terrorism cooperation, and disaster relief operations. In line with the principles of being just, reasonable, comprehensive and balanced, China stands for effective disarmament and arms control, and endeavors to maintain global strategic stability.

Editor : Ouyang Dongmei

III. Modernization of the People's Liberation Army

(Source:) 2011-April-2 10:14

Over the 60 years and more since its founding, the PLA has made great achievements in its modernization. It has grown from a single service into a strong military force featuring a range of services and arms, and is now beginning to make progress towards informationization. In recent years, the PLA has enhanced its comprehensive development in accordance with the principle of integrating revolutionization, modernization and regularization, and continuously accelerated revolution in military affairs with Chinese characteristics.

History of the PLA's Modernization

Following the founding of the New China in 1949, the PLA set a general guideline and objective of building outstanding, modernized and revolutionary armed forces. It built the Navy, the Air Force and other technical arms, and developed mechanized weaponry and equipment, as well as nuclear weapons for the purpose of self-defense. It established regularized military rules, formed a system of institutional education, and strengthened ideological and political work. It carried out a series of reforms in military command, organization and structure, training, and regulations. The PLA began to develop from a primary to an advanced level in mastering modern military science and technologies.

Under the new historical conditions of reform and opening-up, the PLA embarked on a road of building a streamlined military with Chinese characteristics. As its guiding principle for military build-up underwent a strategic shift from preparations for imminent wars to peacetime construction, the PLA advanced its modernization step by step in a well-planned way under the precondition that such efforts should be both subordinate to and in the service of the country's overall development. The PLA underwent significant adjustment and reform in accordance with the principles of making itself streamlined, combined and efficient, downsized in scale, upgraded in quality, and boosted its capability of self-defense in modern conditions of warfare.

Adapting itself to new trends in world military development, the PLA, by following the general requirements of being qualified politically and competent militarily, and having a superior modus operandi, strict discipline, and reliable logistics support, strengthened its overall development, regarded revolution in military affairs with Chinese characteristics as the only way to modernize the military. By adopting a strategy of strengthening the military by means of science and technology, the PLA gradually shifted its focus from quantity and scale to quality and efficiency, from a manpower-intensive to a technology-intensive model. It laid down a three-step development strategy and adopted a step-change approach which takes mechanization as the foundation and informationization as the focus. It took preparations for military struggle as the driving force for its modernization, and enhanced its capability in defensive operations in conditions of informationization.

To meet the new and changing needs of national security, the PLA tries to accentuate modernization from a higher platform. It strengthens the building of a new type of combat capability to win local wars in conditions of informationization, strengthens the composite development of mechanization and informationization with the latter as the leading factor, focuses informationization on raising its fighting capabilities based on information systems, and enhances the capabilities in fire power, mobility, protection, support and informationization.

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Editor : Ouyang Dongmei

III. Modernization of the People's Liberation Army

(Source:) 2011-April-2 10:14

Building of the Army, Navy, Air Force, and Second Artillery Force

In line with the strategic requirements of mobile operations and tri-dimensional offense and defense, the PLA Army (PLAA) has invested additional efforts in reform, innovation and development, and advanced the overall transformation of the service. The PLAA has emphasized the development of new types of combat forces, optimized its organization and structure, strengthened military training in conditions of informationization, accelerated the digitized upgrading and retrofitting of main battle weaponry, organically deployed new types of weapon platforms, and significantly boosted its capabilities in long-distance maneuvers and integrated assaults. The PLAA mobile operational units include 18 combined corps, plus additional independent combined operational divisions (brigades). The combined corps, consisting of divisions and brigades, are respectively under the seven military area commands of Shenyang, Beijing, Lanzhou, Jinan, Nanjing, Guangzhou and Chengdu.

The PLAA has made great progress in strengthening its arms. The armored component has strengthened the development of digitized units, accelerated the mechanization of motorized units, and improved its combat system, which combines heavy, light, amphibious and air-borne assault forces. The artillery component has been working on new types of weapons, equipment, and ammunition with higher levels of informationization, forming an operational and tactical in-depth strike system, and developing the capacity to carry out precision operations with integrated reconnaissance, control, strike and assessment capabilities. The air defense component has stepped up the development of new types of radar, command information systems, and medium- and high-altitude ground-to-air missiles. It has formed a new interception system consisting of anti-aircraft artillery and missiles, and possesses enhanced capabilities of medium- and low-altitude air and missile defense operations. The PLAA aviation wing has worked to move from being a support force to being a main-battle assault force, further optimized its combat force structure, and conducted modularized grouping according to different tasks. It has upgraded armed helicopters, transport and service helicopters, and significantly improved its capabilities in air strike, force projection, and support. The engineering component has accelerated its transformation into a new model of integrated and multi-functional support force which is rapid in response and can be used both in peacetime and in war. It has also strengthened its special capabilities in emergency rescue and disaster relief. In this way, capabilities in integral combat support and military operations other than MOOTW missions have been further enhanced. The chemical defense component has worked to develop an integrated force for nuclear, biological and chemical defense which operates both in peacetime and in war, combines civilian and military efforts, and integrates systems from various arms and services. It has developed enhanced permanent, multi-dimensional and multi-terrain defense capabilities against nuclear, biological and chemical threats.

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Editor : Ouyang Dongmei

III. Modernization of the People's Liberation Army

(Source:) 2011-April-2 10:14

In line with the requirements of offshore defense strategy, the PLA Navy (PLAN) endeavors to accelerate the modernization of its integrated combat forces, enhances its capabilities in strategic deterrence and counterattack, and develops its capabilities in conducting operations in distant waters and in countering non-traditional security threats. It seeks to further improve its combat capabilities through regularized and systematic basic training and actual combat training in complex electromagnetic environments. By organizing naval vessels for drills in distant waters, it develops training models for MOOTW missions. New types of submarines, frigates, aircraft and large support vessels have been deployed as planned. The PLAN enhances the construction of composite support bases so as to build a shore-based support system which matches the deployment of forces and the development of weaponry and equipment. The Navy has accelerated the building of surface logistical platforms by deploying ambulance boats and helicopters, and a standard 10,000 DWT hospital ship, and is working to further improve its surface support capabilities. The Navy explores new methods of logistics support for sustaining long-time maritime missions. There are three fleets under the Navy, namely, the Beihai Fleet, the Donghai Fleet and the Nanhai Fleet, each of which has under its command fleet aviation, support bases, flotillas, maritime garrison commands, aviation divisions and marine brigades.

To satisfy the strategic requirements of conducting both offensive and defensive operations, the modernization and transformation of the PLA Air Force (PLAAF) follows a carefully-structured plan. It strengthens and improves the PLAAF development and personnel development strategies, and enhances its research into the operation and transformation of air forces in conditions of informationization. The PLAAF is working to ensure the development of a combat force structure that focuses on air strikes, air and missile defense, and strategic projection, to improve its leadership and command system and build up an informationized, networked base support system. It conducts training on confrontation between systems in complex electromagnetic environments, and carries out maneuvers, drills and operational assembly training in different tactical contexts. The PLAAF strengthens routine combat readiness of air defenses, taking the defense of the capital as the center and the defense of coastal and border areas as the key. It has carried out MOOTWs, such as air security for major national events, emergency rescue and disaster relief, international rescue, and emergency airlift. It has gradually deployed airborne early warning and control aircraft, third-generation combat aircraft, and other advanced weaponry and equipment. The PLAAF has under it an air command in each of the seven military area commands of Shenyang, Beijing, Lanzhou, Jinan, Nanjing, Guangzhou and Chengdu. It also has under its command an airborne corps. Under each air command at military area level are aviation divisions, ground-to-air missile divisions (brigades and regiments), anti-aircraft artillery brigades (regiments), radar brigades (regiments), electronic countermeasures (ECM) regiments (battalions), and other units. An aviation division has under its command aviation regiments and related stations.

Following the principle of building a lean and effective force, the PLA Second Artillery Force (PLASAF) strives to push forward its modernization and improves its capabilities in rapid reaction, penetration, precision strike, damage infliction, protection, and survivability, while steadily enhancing its capabilities in strategic deterrence and defensive operations. It continues to develop a military training system unique with the strategic missile force, improve the conditions of on-base, simulated and networked training, conduct trans-regional maneuvers and training with opposing forces in complex electromagnetic environments. It has set up laboratories for key disciplines, specialties and basic education, and successfully developed systems for automatic missile testing, operational and tactical command and control, strategic missile simulation training, and the support system for the survival of combatants in operational positions. It has worked to strengthen its safety systems, strictly implement safety regulations, and ensure the safety of missile weaponry and equipment, operational positions and other key elements. It has continued to maintain good safety records in nuclear weapon management. Through the years, the PLASAF has grown into a strategic force equipped with both nuclear and conventional missiles.

Editor : Ouyang Dongmei

III. Modernization of the People's Liberation Army

(Source:) 2011-April-2 10:14

Accelerating Informationization

In line with its strategic objective of building informationized armed forces and winning informationized wars, and with overall planning and phased implementation, the PLA is trying to break through major bottlenecks which hinder the building and improvement of combat effectiveness of systems. The fighting capabilities of the armed forces in conditions of informationization have been significantly raised.

A step-change development has been achieved in information infrastructure. The total length of the national defense optical fiber communication network has increased by a large margin, forming a new generation information transmission network with optical fiber communication as the mainstay and satellite and short-wave communications as assistance.

Significant progress has been made in building information systems for reconnaissance and intelligence, command and control, and battlefield environment awareness. Information systems have been widely applied in logistics and equipment support. A preliminary level has been achieved in interoperability among command and control systems, combat forces, and support systems, making order transmission, intelligence distribution, command and guidance more efficient and rapid.

Strategic planning, leadership and management of informationization have been strengthened, and relevant laws, regulations, standards, policies and systems further improved. A range of measures, such as assembly training and long-distance education, have been taken to disseminate knowledge on information and skills in applying it. Notable achievements have been made in the training of commanding officers for joint operations, management personnel for informationization, personnel specialized in information technology, and personnel for the operation and maintenance of new equipment. The complement of new-mode and high-caliber military personnel who can meet the needs of informationization has been steadily enlarged.

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Editor : Ouyang Dongmei

III. Modernization of the People's Liberation Army

(Source:) 2011-April-2 10:14

Building Joint Operation Systems

The PLA takes the building of joint operation systems as the focal point of its modernization and preparations for military struggle, and strives to enhance its fighting capabilities based on information systems.

Intensifying research into operational theories. A new generation of doctrines on command in joint campaigns and operations, and other relevant supporting doctrines have been issued and implemented, and a series of theoretical works and training textbooks on joint campaigns have been compiled, which have formed the basic theoretical framework for joint operations and a methodological system for joint campaign training.

Strengthening the building of combat forces. Catering to the needs of the military's informationization, the PLA reforms and improves its leadership and command systems, adjusts and optimizes the organization and structure of combat forces, deploys new types of combat and support forces, gives priority to the building of land, maritime and air task formations, speeds up the transformation of various arms and services, and raises the level of modularized grouping and combined employment, so as to form a system of streamlined, joint, multi-functional and efficient system of combat forces.

Improving operational command systems. To ensure an authoritative, lean, agile and efficient operational capability, the PLA speeds up the building of a joint operational command system, which features sound structure and organization, applicability in both peacetime and war, tri-service integration, optimized mechanisms, smoothness in operation and high efficiency.

Enhancing integrated support capabilities. Following the principle of providing systematic, precise and intensive support, the PLA strengthens the construction of composite combat and support bases, optimizes battlefield support layout, and improves position facilities for the following services: command and control, reconnaissance and intelligence, communication, surveying and mapping, navigation, meteorological and hydrological support as well as rear storage facilities, military communication and equipment maintenance facilities, thus forming an initial battlefield support capability that matches the development of weaponry and equipment and satisfies the needs of combat units in offensive and defensive operations. The PLA has improved joint support mechanisms, enhanced IT-based integrated support, and established a basic integrated support system linking strategic, operational and tactical levels.

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Editor : Ouyang Dongmei

III. Modernization of the People's Liberation Army

(Source:) 2011-April-2 10:14

Promoting Transition in Military Training

The PLA upholds that military training is the basic means to generate and raise combat effectiveness, and is working to reform training in all respects, and accelerate the transition from training in conditions of mechanization to training in conditions of informationization.

Reforming training tasks. In accordance with the new edition of the Outline for Military Training and Evaluation, the PLA intensifies training of command organs, training in operating command information systems and informationized weaponry and equipment, and information skills. It enhances training to fulfill its missions, strengthens research and training in maintaining maritime, space and electromagnetic space security, and carries out MOOTW training. It studies the technical and tactical performance of electronic countermeasures (ECM) equipment, intensifies anti-jamming (AJ) and ECM training, and organizes operational training exercises in complex electromagnetic environments.

Innovating training methodologies. With a top-down approach to training, the PLA organizes campaign-level training within the framework of strategic-level training, service campaign-level training in accordance with the joint campaign-level training, and unit training within the framework of campaign-level command post training, in an effort to merge training at different levels into an organic whole. Based on and supported by command information systems, the PLA organizes combined training of different combat components, assembly training of various combat elements, and joint training of all systems and all components. It intensifies joint training of task formations and confrontational training, and places emphasis on training in complex electromagnetic environments, unfamiliar terrain, and complex weather conditions. The PLA holds trans-regional exercises for organic divisions (brigades) led by campaign-level command organs, raises training evaluation standards, and organizes training based on the needs, formations and procedures of actual combat.

Improving military training means. The PLA speeds up the construction of large-scale integrated training bases which meet the requirements raised by joint training, as well as IT-based upgrading of combined tactical training bases, with the priority being given to the construction of complex electromagnetic environments. The PLA strives to develop simulation training devices and systems, and improve training information network.

Reforming training management. The PLA is working to optimize its leadership and management system, update regulations, and implement a system of accountability for training. It reforms its training evaluation system, formulates detailed criteria for individual and unit performance, enhances quantitative analysis and evaluation, and enforces meticulous management of the whole process and all aspects of military training.

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Innovating Political Work

In a spirit of innovation, the PLA strives to push forward its political work so as to make it adapt to new situations and achieve new development. The newly revised Regulations on the Political Work of the Chinese People's Liberation Army, promulgated in August 2010, expressly stipulates that the political work of the PLA must guarantee - politically, ideologically and organizationally - the nature of the people's army under the absolute leadership of the Party, the scientific development of the national defense and armed forces, and the performance of the PLA's historical missions at this new stage in the new century.

Closely in line with the times, the tasks and missions, and the characteristics of its officers and men, the PLA is working to improve and innovate its political work to achieve a more scientific approach. Through education in ideology, guidance of opinion, and cultural edification, the core values of the contemporary revolutionary serviceman of "loyalty to the Party, love of the people, service to the country, dedication to the mission, and belief in honor" have been fostered. In order to keep its political work effective and focused, the PLA also strives to study new conditions regarding the building of armed forces and changes to the state of mind of officers and men brought about by the new situations. The PLA has built a PLA-wide political network connecting all units and educational institutions, issued digitalized movie players to all border and coastal defense units, so as to realize networked education and real-time information transmission.

Opinions on Strengthening Political Work in MOOTW, promulgated in March 2009, stipulates that the PLA should have a good understanding and mastery of the characteristics and laws of political work in MOOTWs, keep in line with tasks and realities, and explore new areas and functions of the supporting role of political work. Opinions on Improving Psychological Services in the Armed Forces under the New Situation, promulgated in October 2009, requires the provision of psychological health services, such as psychological evaluation, psychological training and psychological crisis intervention. It also rules that within five years there must be at least one professional psychotherapist for each brigade- (regiment-) level unit, and three or more specially trained psychological assistants for each company-level unit.

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Implementing the Strategic Project for Talented Individuals

The PLA is further implementing the strategic project for talents in an effort to increase its complement of new-type and high-caliber military personnel. It further promotes the cultivation of a contingent of commanding officers, staff officers, scientists, technical experts and non-commissioned officers (NCOs) by taking the improvement of ideological and political qualities as the foundation, the transformation of capabilities as the main theme, the cultivation of joint operation commanders, informationization professionals, IT specialists, and experts in operating and maintaining new types of equipment as focus.

The PLA is continuing to adjust and reform its management system for military officers. Issued in January 2009, the Regulations on Work Procedures for the Selection and Appointment of Military Cadres (Trial) requires that democracy be promoted, procedures regulated, supervision tightened, and rationality, accuracy, fairness and credibility raised in the selection and appointment of military cadres. The PLA has issued implementation measures and general standards for the evaluation of staff officers and specialized technical officers, and formulated an overall plan for the adjustment and reform of management systems for specialized technical personnel.

The PLA is laying stress on the training of commanding officers for joint operations and high-level experts in technological innovation. It has published basic readers and held lectures on joint operations through all its arms and services. While giving attention to selecting, commending and rewarding outstanding commanding and staff officers, it has placed particular emphasis on training and promoting excellent staff officers, and company- and battalion-level officers of great potential. To cultivate commanding officers for joint operations, the PLA has also reformed the model for training graduates for its Masters Degree in Military Science. Following the promulgation of Implementation Measures for Military High-Level Personnel Project in Scientific and Technological Innovation, every two years the PLA selects 200 leading scientists and high-performing talents from different disciplines for special training in order to improve their innovation aptitude in science and technology.

The PLA is working to reform its NCO selection and training system. It has increased the number of positions for high-tech specialized NCOs, implemented a pre-assignment accreditation system for evaluating the skills of specialized technical NCOs, developed an expert assessment system for selecting senior NCOs, and further improved its NCO training and management system.

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Multilateral Approach to Building a Modern Logistics System

In order to enhance its logistical support capabilities for diversified military tasks, the PLA is working on a multilateral approach to building a modern logistics system by speeding up the process of integrating systems, outsourcing services, informationizing processes, and managing its logistical support systems in a more scientific way.

The PLA is strengthening logistics reforms. It improves the mechanism of the joint logistics system first adopted by the Jinan Military Area Command mainly by readjusting functions, rationalizing internal relations, optimizing structures, and raising cost-effectiveness. It continues the process of outsourcing daily maintenance services, and takes steps to outsource other services, such as general-purpose materials storage and integrated civilian-military equipment maintenance. Moreover, the PLA endeavors to upgrade and retrofit existing logistics equipment, assess the development of new-generation equipment, and undertake pilot research on key technologies. It promotes the serviceman support card system, and develops the military logistics information system which focuses on the dynamic supervision of strategic logistical warehouses and packing of strategic materials in storage and military transportation. It reviews and simplifies logistics rules and regulations, and improves the system of logistical support standards and regulations covering supply, consumption, and management. The PLA enhances auditing and supervision of major construction and reform projects, and pushes forward reforms of such policies and systems as financial management, material procurement, medical care, housing, and insurance.

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The PLA meticulously organizes and provides logistical support for key events. Examples are the National Day Parade in celebration of the 60th anniversary of the founding of the People' s Republic of China, escort operations in the Gulf of Aden and waters off Somalia, joint exercises with foreign military forces, security work for the Shanghai World Expo, and emergency rescue operations both at home and abroad. It also provides strong and reliable logistical support for those troops who take part in rescue and relief operations following disasters, such as the Yushu earthquake and the Zhouqu mud-rock slide.

The PLA is working to improve supply to and support for its units. It has adjusted the standards of overhead expenses, regional subsidies, grass-roots post allowances and professional post allowances; adopted new standards of military rations and housing; expanded the catalogue of medicines used in military medical care; implemented rest and recuperation (R&R) plans for officers and men; and provided better mental health services. It has fulfilled its three-year plan for integrated improvement of grass-roots logistics systems, so as to provide an effective solution to acute and complex problems in the supply of water, heating, and staple and non-staple food for brigade- and regiment-level units, for border and coastal defense units, for small, scattered, and distant units, and for units directly under the headquarters. By the end of 2009, replacement of old uniforms with the 07 series had been completed for all PLA troops.

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Accelerating the Development of New and High-Tech Weaponry and Equipment

The PLA is gaining momentum in developing new and high-tech weaponry and equipment, strengthening the retrofitting and management of existing equipment, and promoting the composite development of mechanized and informationized weaponry and equipment.

The PLA is working to improve the quality and optimize the composition of its weaponry and equipment. It has formed a system with second-generation equipment as the main body and third generation as the backbone. The PLAA has developed for its land operations a weaponry system with helicopters, armored assault vehicles, and anti-air and suppression weapons as the spine. The PLAN has built for its maritime operations a weaponry system with new types of submarines, surface vessels and surface attack aircraft as the spine. The PLAAF has formed for its air control operations a weaponry system with new types of combat aircraft and ground-to-air missile systems as the spine. The PLASAF has set up a ground-to-ground weaponry system with its medium- and long-range missiles as the spine.

The PLA is working to improve its capabilities in managing, maintaining and supporting equipment. It widely applies modern management techniques and enhances standardized and meticulous management of equipment. Educational institutions, research institutes and manufacturers are encouraged to recruit and train more experts in new equipment. The PLA works in coordination with R&D institutes and defense industry manufacturers to enhance its maintenance and support for high-tech equipment, and develops an integrated civilian-military maintenance and support system. The PLA has developed comprehensive capabilities in equipment maintenance which cover multi-functional testing, mobile rescue and rush repair, and long-distance technical support. Recent emergency rescue and disaster relief operations, counter-terrorism exercises, and fully equipped training and maneuvers have testified the achievements of the development and management of weaponry and equipment, demonstrating a notable improvement in the PLA' s capabilities of equipment support in long-distance and trans-regional maneuvers, escort operations in distant waters, and complex battlefield environments.

The PLA is planning its future development of weaponry and equipment. By understanding and scientifically mastering the features and rules of information technology as being compatible, systematic, integrated, and holistic, the PLA seeks to promote the organic compatibility and composite development of weapon platforms and integrated electro-info systems. With the use of advanced and mature technologies and devices, the PLA is working, selectively and with priorities, to retrofit its existing weaponry and equipment to upgrade its comprehensive performance in a systematic, organic and integrated way, so as to increase the cost-effectiveness of developing weaponry and equipment.

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Adapting to changes both in times and security environment, the Chinese armed forces take an active role in dealing with various security threats, safeguard national security and development interests, and play an important role in maintaining world peace and promoting common development.

Safeguarding Border, Coastal and Territorial Air Security

China practices an administration system of sharing responsibilities between the military and the local authorities in border and coastal defense. The armed forces are mainly tasked to safeguard the border, coastal and maritime security, and guard against, stop and subdue such activities as foreign intrusions, encroachments, provocations and cross-border sabotage. The main responsibilities of the border public security force are as follows: border, coastal and maritime public security administration, entry-exit frontier inspection at ports; prevention and crackdown on illegal and criminal acts in border and coastal areas, such as illegal border crossing, drug trafficking and smuggling; and organization of and participation in counter-terrorist and emergency-management operations in border and coastal areas. Organs of maritime surveillance, fisheries administration, marine affairs, inspection and quarantine, and customs are responsible for ensuring legitimate rights, law enforcement, and administration. The State Commission of Border and Coastal Defense, under the dual leadership of the State Council and the Central Military Commission (CMC), coordinates China's border and coastal defenses. All military area commands, as well as border and coastal provinces, cities and counties, have commissions to coordinate border and coastal defenses within their respective jurisdictions.

In recent years, in line with the policy of consolidating border defense, cultivating good neighborliness and friendship, maintaining stability and promoting development, the PLA frontier and coastal guards abide by relevant laws and regulations of China as well as any treaties and agreements with neighboring countries, well perform border defense duties, maintain a rigorous guard against any invasion, encroachment or cross-border sabotage, timely prevent any violation of border and coastal policies, laws and regulations and changes to the current borderlines, and effectively safeguard the security and stability of the borders, coastal areas and maritime waters within their jurisdictions. The border public security force makes solid progress in border defense and control, counter-terrorism, and maintenance of stability. It has strengthened efforts in port inspection, maritime management and control, and clampdown on crimes, including illegal border crossing, drug-trafficking and smuggling. Since 2009, it has solved 37,000 cases and confiscated 3,845 illegal guns.

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China has always treated combined military, police and civilian efforts as a strong guarantee for consolidating border and coastal defenses and developing border and coastal areas. In recent years, China has steadily improved a border and coastal defense force system featuring the PLA as the mainstay, the coordination and cooperation of other relevant forces, and the extensive participation of the militia, the reserve forces and the people in the border and coastal areas. It has advanced the informationization of border and coastal defenses, taking the command system as the focus and information infrastructure as the support, and strengthened efforts in building border and coastal defense infrastructure. This has enhanced border and maritime control capabilities and promoted the economic construction and social stability in the border and coastal areas.

Territorial air security is an important constituent of overall national security. The PLAAF is the mainstay of national territorial air defense, and in accordance with the instructions of the CMC, the Army, Navy, and People's Armed Police Force (PAPF) all undertake some territorial air defense responsibilities. The PLAAF exercises unified command over all air defense components in accordance with the CMC's intent. China's territorial air defense system stands on permanent alert. It keeps track of any developments in the air, preserves air traffic order, organizes combat air patrols, handles air emergencies, and resolutely defends China's sovereignty over its territorial air and its air security.

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Maintaining Social Stability

In accordance with relevant laws and regulations, and mainly under the unified leadership of local Party committees and governments, the armed forces of China assist the public security forces in maintaining social order and ensure that the people live and work in peace and stability.

The PAPF is the state's backbone and shock force in handling public emergencies. Since 2009, it has handled 24 acts of serious violence and crime, including hostage taking, participated in 201 operations of hunting down criminal suspects, and fulfilled the task of security provision during the celebrations of the 60th anniversary of the founding of the People's Republic of China, the Shanghai World Expo, and the Guangzhou Asian Games.

In November 2010, the CMC approved and promulgated Regulations on Emergency Command in Handling Emergencies by the Armed Forces, which specifies for the armed forces regulations concerning their organization, command, force deployment, integrated support, and civil-military coordination while carrying out missions to maintain social stability and handle emergencies.

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Participating in National Construction, Emergency Rescue and Disaster Relief

As stipulated by the Constitution and laws, an important task for the armed forces is to take part in national construction, emergency rescue, and disaster relief.

The PLA and PAPF have actively participated in and supported national construction work, of which a key component is the large-scale development of the western region. In the past two years, they have contributed more than 16 million workdays and utilized 1.3 million motor vehicles and machines, and participated in construction of more than 600 major infrastructure projects relating to transportation, hydropower, communications and energy. They have set up more than 3,500 contact points for rural poverty alleviation, and provided assistance to over 8,000 small public initiatives, such as water-saving irrigation projects, drinking water projects for both people and livestock, road construction projects, and hydropower projects. The armed forces stationed in the western region have planted 11 million trees and afforested 3.2 million mu of barren hills and desert land by large-scale forestation and aerial planting. PLA medical and health units have provided assistance to 130 county-level hospitals in poverty-stricken western areas, sent there 351 medical teams and donated 110 sets (items) of instruments and equipment. With donations, the armed forces have financed and built eight schools and one rehabilitation center in earthquake-stricken areas in Sichuan, Shaanxi and Gansu provinces.

The armed forces of China act as the shock force in emergency rescue and disaster relief. In January 2009, with the armed forces as the mainstay, China formed eight state-level emergency-response professional units, boasting a total of 50,000 personnel, specializing in flood control and emergency rescue, earthquake rescue, nuclear, biological and chemical emergency rescue, urgent air transportation, rapid road repair, maritime emergency search and rescue, emergency mobile communication support, and medical aid and epidemic prevention. In July 2009, China integrated the 31,000-strong PAPF protecting water and electricity supplies and communications into the national emergency rescue system. Provincial level units specializing in emergency rescue have been formed with the joint participation of military area commands and relevant provinces, autonomous regions, or municipalities directly under the central government.

In the past two years, the PLA and PAPF have engaged a total of 1.845 million troop deployments and 790,000 deployments of vehicles or machines of various types, flown over 181 sorties (including the use of helicopters), organized 6.43 million militiamen and reservists, participated in disaster relief operations in cases of floods, earthquakes, droughts, typhoons and forest fires, rescued or evacuated a total of 1.742 million people, rush-transported 303,000 tons of goods, dredged 3,742 km of waterways, dug 4,443 wells, fortified 728 km of dikes and dams, and delivered 504,000 tons of domestic water.

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Participating in UN Peacekeeping Operations

As a responsible major power, China has consistently supported and actively participated in the UN peacekeeping operations, making a positive contribution to world peace.

In 1990, the PLA sent five military observers to the UN Truce Supervision Organization (UNTSO) - the first time China had taken part in UN peacekeeping operations. In 1992, it dispatched an engineering corps of 400 officers and men to the UN Transitional Authority in Cambodia (UNTAC) - the first time China had sent an organic unit on peacekeeping missions. It established the Peacekeeping Affairs Office of the Ministry of National Defense of the People's Republic of China in 2001. In 2002, it joined the UN Stand-by Arrangement System. In 2009, it established the Peacekeeping Center of the Ministry of National Defense of the People's Republic of China. As of December 2010, China has dispatched 17,390 military personnel to 19 UN peace-keeping missions. Nine officers and men have lost their lives on duty.

Tough, brave and devoted, the Chinese peacekeeping troops have fulfilled various tasks entrusted to them by the UN in a responsible and professional way. They have built and repaired over 8,700 km of roads and 270 bridges, cleared over 8,900 mines and various explosive devices, transported over 600,000 tons of cargo across a total distance of 9.3 million km, and treated 79,000 patients.

As of December 2010, the PLA had 1,955 officers and men serving in nine UN mission areas. China has dispatched more peacekeeping personnel than any other permanent member of the UN Security Council. Among these are 94 military observers and staff officers; 175 engineering troops and 43 medical personnel for the United Nations Organization Mission in the Democratic Republic of the Congo (UNMONUC); 275 engineering troops, 240 transportation troops and 43 medical personnel for the United Nations Mission in Liberia (UNMIL); 275 engineering troops and 60 medical personnel for the United Nations Interim Force in Lebanon (UNIFIL); 275 engineering troops, 100 transportation troops and 60 medical personnel for the United Nations Mission in Sudan (UNMIS); and 315 engineering troops for the African Union/United Nations Hybrid Operation in Darfur (UNAMID).

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Conducting Escort Operations in the Gulf of Aden and Waters off Somalia

In line with relevant UN resolutions, China dispatched naval ships to conduct escort operations in the Gulf of Aden and waters off Somalia on December 26, 2008. They are mainly charged with safeguarding the security of Chinese ships and personnel passing through the Gulf of Aden and Somali waters, and the security of ships delivering humanitarian supplies for the World Food Program and other international organizations, and shelter pass-by foreign vessels as much as possible. As of December 2010, the Chinese Navy has dispatched, in seven sorties, 18 ship deployments, 16 helicopters, and 490 Special Operation Force (SOF) soldiers on escort missions. Through accompanying escort, area patrol, and onboard escort, the Chinese Navy has provided protection for 3,139 ships sailing under Chinese and foreign flags, rescued 29 ships from pirate attacks, and recovered nine ships released from captivity.

China takes a proactive and open attitude toward international escort cooperation. Chinese escort fleets have established mechanisms for regular intelligence exchange and sharing with relevant countries and organizations. It has exchanged 24 boarding visits of commanders with fleets from the EU, the multinational naval force, NATO, Russia, the ROK, the Netherlands and Japan. It has conducted joint escort operations with Russian fleets and joint maritime exercises with ROK escort ships, and exchanged officers for onboard observations with Dutch fleets. China has joined international regimes such as the UN liaison groups' meeting on Somali pirates, and the international conference on "intelligence sharing and conflict prevention" escort cooperation.

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Holding Joint Military Exercises and Training with Other Countries

In adherence to the principles of being non-aligned, non- confrontational, and not directed against any third party, the PLA has held joint exercises and training with other countries pursuant to the guidelines of mutual benefit, equality and reciprocity. As of December 2010, the PLA has held 44 joint military and training exercises with foreign troops. This is conducive to promoting mutual trust and cooperation, drawing on useful lessons, and accelerating the PLA's modernization.

Joint counter-terrorism military exercises within the SCO framework are being institutionalized. In 2002, China ran a joint counter-terrorism military exercise with Kyrgyzstan, the first ever with a foreign country. In 2003, China ran a multilateral joint counter-terrorism military exercise with other SCO members, again the first ever with foreign countries. In 2006, China and Tajikistan ran a joint counter-terrorism military exercise. China and Russia as well as other SCO members ran a series of "Peace Mission" joint counter-terrorism military exercises in 2005, 2007, 2009 and 2010.

Maritime joint exercises have been held on a regular basis. In 2003, China ran a joint maritime search-and-rescue exercise with Pakistan, the first ever between China and a foreign country. During mutual port calls and other activities, the PLAN has run bilateral or multilateral joint maritime exercises with the navies of India, France, the UK, Australia, Thailand, the US, Russia, Japan, New Zealand and Vietnam, focusing on tasks such as search-and-rescue, communication, formation sailing, diving, and escorting. In 2007 and 2009, the PLAN participated in multilateral joint maritime exercises organized by the Pakistani navy. In 2007, the PLAN took part in the joint maritime exercise held in Singaporean waters within the framework of the Western Pacific Naval Symposium. In 2010, China held a joint marine training with Thailand, the first ever between China and a foreign country.

Extensive joint military training on land has been carried out. China held a joint army training with Thailand in 2007, the first ever with a foreign country. In recent years, China has conducted joint military training with many countries, including Pakistan, India, Singapore, Mongolia, Romania and Thailand, focusing on tasks such as counter-terrorism, security and safeguarding, peacekeeping, and mountain and amphibious operations, all directed towards exploring new models of mixed grouping and joint training. In 2009, for the first time, China sent a medical detachment to Africa to hold a joint operation with Gabon, to conduct medical training and rescue exercises, and to provide medical assistance for local residents. In 2010, China sent a medical team to Peru for joint training on humanitarian medical aid and emergency medical rescue, in an effort to improve its capabilities in responding to humanitarian emergencies.

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Participating in International Disaster Relief Operations

China's armed forces consider it an obligation to take part in international disaster relief operations organized by the government, and to fulfill international humanitarian obligations. In recent years, they have actively assisted relevant departments of the Chinese government to provide relief materials to disaster-stricken countries and to contribute specialized teams to international disaster relief operations.

Since the PLA provided relief supplies to Afghanistan in 2002, it has carried out 28 urgent international humanitarian aid missions, and provided 22 disaster-stricken countries with relief materials including tents, blankets, medicine, medical appliances, food and generators. The total value exceeds RMB950 million. In 2001, the Chinese International Search and Rescue (CISAR) team, consisting of officers and men from an engineer regiment of the Beijing Military Area Command, medical care personnel from the PAPF General Hospital, and experts from the China Earthquake Administration, began to participate in international disaster relief operations. CISAR has since carried out eight rescue operations in disaster-stricken countries. In January 2010, the CISAR team and the PLA medical care and epidemic prevention team were sent to Haiti to conduct earthquake rescue, post-earthquake search and relief, medical work and epidemic prevention operations. They rescued and treated 6,500 sick and injured. In September 2010, the CISAR team, a PLA medical team and a helicopter rescue formation were sent to Pakistan to conduct humanitarian rescue operations, with the saving and treatment reaching 34,000 person-times in total and 60 tons of airdropped goods and materials.

The Chinese armed forces have played an active role in international exchanges and cooperation in disaster relief, engaging in close communication and coordination with relevant countries and international organizations, and promoting the perfection of procedures and the training of personnel for regional disaster relief. They have held seminars and joint operations on humanitarian rescue and disaster limitation with armed forces of the US, Australia and New Zealand, run the ASEAN Regional Forum workshop on formulating legal rules for armed forces' participation in international disaster relief operations, and attended the ASEAN Plus Three workshop on armed forces' participation in international disaster relief.

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China pursues the principles of combining peacetime needs with wartime needs, integrating military with civilian purposes and combining military efforts with civilian support. It strengthens national defense mobilization and reserve force building, enhances national defense mobilization capabilities, and reinforces its defense strength.

Organizational Structure and Leadership System of National Defense Mobilization

According to the Constitution and related laws, the Standing Committee of the National People's Congress (NPC) decides on general or partial mobilization. The president of the People's Republic of China, pursuant to the decisions of the Standing Committee of the NPC, issues mobilization orders. The State Council and the CMC work in combination to direct nationwide mobilization, formulate principles, policies and regulations, and organize the implementation of mobilization in accordance with the decisions of the Standing Committee of the NPC and mobilization orders issued by the president. When China's state sovereignty, national unification, territorial integrity or security are under imminent threat which requires an immediate action, the State Council and the CMC may take the necessary measures of national defense mobilization in response to the urgency and seriousness of the event, and at the same time report to the Standing Committee of the NPC.

Local people's governments organize and execute national defense mobilization within its administrative area in accordance with relevant principles, policies, laws and regulations. Related departments of local people's governments at and above the county level and those of the armed forces, within their respective scopes of duties, take charge of national defense mobilization work, and execute the programs and pre-arranged implementation plans.

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At each level of the people's government from the county up to the state and in each military area command, there is a national defense mobilization commission. The State Commission for National Defense Mobilization, under the leadership of the State Council and the CMC, is in charge of organizing, directing and coordinating the nationwide national defense mobilization. The leaders of the State Council and the CMC take the positions of chairman and vice chairmen of the State Commission for National Defense Mobilization. Other members of the Commission include leaders of relevant ministries and commissions under the State Council, and leaders of the general headquarters/departments of the PLA. The core responsibilities of the Commission are to carry out the military strategy of active defense, organize and implement the state's defense mobilization, and coordinate relations between economic and military affairs, the armed forces and the government, and manpower and materials support in defense mobilization. Commissions for national defense mobilization of military area commands and local people's governments at and above county level are in charge of organizing, directing and coordinating national defense mobilization work within their respective jurisdictions. There are administrative offices in each commission for national defense mobilization to organize its routine work. At present, the State Commission for National Defense Mobilization has under its charge administrative offices responsible for the mobilization of the people's armed forces, national economy, civil air defense, transportation, and national defense education. The commissions in military area commands and local governments have under them corresponding offices.

In February 2010, the NPC Standing Committee passed the National Defense Mobilization Law of the People's Republic of China which specifies the peacetime preparations for and wartime implementation of national defense mobilization, stipulating the obligations and rights of each citizen and organization during mobilization and improving China's basic mobilization system.

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National Defense Mobilization Capabilities Building

China's fundamental goal of strengthening defense mobilization is to establish and improve a mobilization system which is in line with national security demands, coordinated with the economic and social development and coupled with the emergency response mechanisms to increase mobilization capabilities. In recent years, following the principles of unified leadership, public participation, long-term preparations, priority to key projects, overall planning, all-round consideration, orderliness and high-efficiency, China has integrated its defense mobilization building with general social and economic development, gradually improving its capabilities in rapid mobilization, moving swiftly from a peacetime to wartime footing, and sustained support and comprehensive protection.

New progress has been made in people's armed forces mobilization. China has improved its plans for wartime troop mobilization and support, implemented pre-regimentation of reservists into active units, and strengthened the development of the reserve force. Based on possible wartime tasks and MOOTW demands, the militia force is improving its rapid mobilization process. The Law of the People's Republic of China on Reserve Officers, revised in August 2010, lays down new regulations on the authorities, procedures and methods of calling up reserve officers following a state decision to call for national defense mobilization.

Steady progress has been achieved in national economic mobilization. China has given priority to the requirements of national defense in building major infrastructure projects, and has continuously improved the compatibility of military and civilian key technologies and products. It has laid out a basic framework for generating capabilities in national economic mobilization, with key industries and major enterprises as the mainstay and important products and technologies as the links. China has made significant progress in the investigation of the potential of key areas, industries, technologies and products, further optimized the strategic reserve and storage system that meets defense requirements and economic growth, and caters to the needs of both emergencies and wars.

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Progress has been accelerated in developing civil air defense (CAD). Adhering to the guidelines of long-term preparation, construction of key projects, and combination of needs in peacetime and war, China strives to do a better job in preparing against air raids in informationized conditions. There is an ongoing effort to improve the system of joint civil-military meetings and offices, optimizing the CAD organizations in local governments at and above county level and promoting the quasi-militarization of the CAD organs. Emphasis has been laid on the building of CAD command posts at all levels in accordance with the requirements of joint and regional air defense. Efforts have been made to improve CAD' s disaster prevention functions and mechanisms featuring the combination of air defense with disaster prevention. More effort has been invested in providing protection for key economic targets, selected through evaluation and research. Emergency rescue and rapid repair plans have also been formulated in this regard. These CAD projects are incorporated into urban development plans and civil defense basements are incorporated in new buildings as required by law, meeting the requirements of the CAD in urban development, and balancing urban development and the CAD projects. Provinces, autonomous regions and municipalities have carried out extensive publicity campaigns, education programs and training initiatives to disseminate understanding of air defense and disaster prevention, skills of rescue and self-rescue, and methods of emergency evacuation.

Transportation mobilization for national defense is making steady and orderly progress. China is working to integrate combat-readiness as an element in the national transportation grid, and improve capabilities in strategic lines of communication support, strategic projection support, and rush transportation and rapid repair. Priority has been given to a number of projects that combine military and civilian purposes, giving impetus to an overall improvement in transportation combat-readiness for national defense. Relevant industries have helped in forming specialized support teams in an organic and systematic way, reinforcing transportation protection and communication maintenance along strategic lines of communication. Support plans for key communication targets and combat-readiness transportation have been formulated and revised, aimed at synchronized planning and construction of both military transportation facilities and urban development.

Editor : Ouyang Dongmei

V. National Defense Mobilization and Reserve Force Building

(Source:) 2011-April-2 10:29

Reserve Force Building

With active servicemen as its backbone and reserve officers and men as its foundation, the reserve force is an armed force formed in line with the unified structure and organization of the PLA. It is under the dual leadership of the PLA and local Party committees and governments. The positions of chief military and political leaders at all levels and principal department leaders, as well as a proportion of the staff members and professionals and specialists, are assumed by active servicemen. Reserve officers are chosen mainly from qualified retired servicemen, civil officials, cadres of the people's armed forces departments, cadres of the militia and civilian technicians with the appropriate military specialties. Reserve soldiers are chosen mainly from qualified discharged soldiers, trained primary militia members, and civilians with the appropriate military specialties.

In recent years, the reserve force has undergone consistent improvement in various aspects of its building and reform. It works to improve its organizational models on a regional basis, to explore a systematic and organic organizational model based on new and high-tech industries, and to develop such organizational models as personnel-and-equipment organization, trans-regional organization and community-based organization. Based on possible wartime assignments, the reserve force has revised and updated the guidelines for its military training and evaluation, strengthened integrated training with active PLA units, and conducted on-base, simulated and networked training. Reserve officers and men are required to devote 240 hours to political education and military training each year. To be able to respond to emergencies in peacetime and to fight in war, the focus of the reserve force is shifting from quantity and scale to quality and efficiency, from a combat role to a support role, and from the provision of general-purpose soldiers to soldiers with special skills. It is working to become an efficient auxiliary to the active force and a strong component of the national defense reserve.

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V. National Defense Mobilization and Reserve Force Building

(Source:) 2011-April-2 10:29

Militia Force Building

The militia force is an important component of China's armed forces as well as the backup force of the PLA. In recent years, through transformation and reform, it has made progress in restructuring, in training reform, and in equipment building. China now has 8 million primary militia members.

The militia force gives priority to reinforcing those units which are tasked with defending border and coastal areas, providing service support for different arms and services, and responding in emergencies. It has been realigned to extend from rural to urban areas as well as to areas along important communication lines, from ordinary locations to key sites and areas, and from traditional industries to new and high-tech ones. As a result, its structure and layout have been further improved. In line with the newly revised Outline for Military Training and Evaluation of the Militia, it promotes reforms in military training, holds joint training and exercises with active PLA units, improves the construction of associated training base facilities at all levels, and attaches importance to key detachment training. Its capabilities in dealing with both emergencies and wars have been greatly enhanced. The militia strengthens its building of equipment for the purposes of air defense, emergency response, and maintaining stability, supply of new types of air defense weaponry and equipment, and retrofitting and upgrading of existing weapons. There have been significant increases in the level of equipment-readiness and in the full kit rate (FKR).

The militia has taken an active part in such operations as counter-terrorism, stability maintenance, emergency rescue, disaster relief, border protection and control, and joint defense of public security, and has played a unique role in accomplishing diversified military tasks. Each year, it mobilizes more than 90,000 militiamen to serve as guards on bridges, tunnels and railways, more than 200,000 to take part in joint military-police-civilian defense patrols, more than 900,000 to participate in emergency response, rescue and relief operations following major natural disasters, and nearly 2 million to engage in the comprehensive control and management of social order in rural and urban areas.

Editor : Ouyang Dongmei

VI. Military Legal System

(Source:) 2011-April-2 10:39

The armed forces of the People's Republic of China abide by the Constitution and laws, implement the guidelines of governing the armed forces according to law, strengthen military legal system building, and guarantee and push forward the building of national defense and armed forces in accordance with the requirements of the legal system.

Military Legal System Building

A number of important military laws and regulations have been formulated and revised. In the past two years, the Standing Committee of the NPC has adopted the Law of the People's Republic of China on the People's Armed Police Force, the National Defense Mobilization Law of the People's Republic of China, and the newly revised Law of the People's Republic of China on Reserve Officers. The Central Committee of the CPC and the CMC have approved and promulgated the newly revised Regulations on the Political Work of the People's Liberation Army. The CMC has promulgated the newly revised Regulations on Routine Service of the People's Liberation Army, the Regulations on Discipline of the People's Liberation Army, the Regulations on Formation of the People's Liberation Army, and a new generation of regulations on the work of headquarters. Approved by the CMC, the PLA's General Staff Headquarters, General Political Department, General Logistics Department and General Armaments Department have promulgated the newly revised Outline for Armed Forces Building at the Grass-roots Level, and the General Political Department has promulgated the Guideline for the Ideological and Political Education of the Chinese People's Liberation Army. The State Council and the CMC have jointly promulgated the Regulations on Military Uniform Management, the Regulations on Quality Control of Weaponry and Equipment, and the newly revised Regulations of the Chinese People' s Liberation Army on the Military Service of the Enlisted in Active Service. The general headquarters/departments, Navy, Air Force, Second Artillery Force, military area commands and the PAPF have promulgated a number of military rules and regulations. As of December 2010, the NPC and its Standing Committee has passed laws and issued law-related decisions on 17 matters concerning national defense and military affairs, the State Council and the CMC have jointly formulated 97 military administrative regulations, the CMC has formulated 224 military regulations, and the general headquarters/departments, Navy, Air Force, Second Artillery Force, military area commands and PAPF have enacted more than 3,000 military rules and regulations.

Military laws, regulations and rules have been reviewed and consolidated. In accordance with the 2008 requirements of the NPC Standing Committee, the legal organs of the CMC organized the legal departments of the general headquarters/departments, Navy, Air Force, Second Artillery Force, military area commands and PAPF in reviewing laws and regulations relating to national defense and military affairs. In 2009, the fifth round of review and consolidation of military regulations and rules was conducted, sorting out 921 existing military regulations (including regulatory documents) and 7,984 military rules and regulations (including regulatory documents) promulgated before the end of 2008, and repealing 65 military regulations (including regulatory documents) and 1,214 military rules and regulations (including regulatory documents). A Collection of Military Laws and Regulations of the People's Republic of China (2004-2008), A Collection of Military Rules and Regulations of the People's Liberation Army of the People's Republic of China (2004-2008), and A Collection of Military Rules and Regulations of the People's Armed Police Force of the People's Republic of China (2004-2008) were published.

Editor : Ouyang Dongmei

VI. Military Legal System

(Source:) 2011-April-2 10:39

Implementation of Laws and Regulations

The PLA and the PAPF maintain their commitment to employing troops and taking action in accordance with the law. Units participating in emergency rescue and disaster relief operations strictly abide by such laws and regulations as the Emergency Response Law of the People's Republic of China, the Law of the People's Republic of China on Protecting Against and Mitigating Earthquake Disasters, and the Regulations on the PLA's Participation in Disaster Rescue. PAPF troops performing stability maintenance and emergency response tasks act in strict conformity with laws and regulations like the Law of the People's Republic of China on the People's Armed Police Force. Naval ships performing escort missions in the Gulf of Aden and in waters off Somalia, as well as those carrying out maritime training, strictly observe international treaties like the United Nations Convention on the Law of the Sea (UNCLOS) and act in accordance with the relevant laws and regulations of China. Troops participating in joint military exercises with foreign countries act within relevant bilateral or multi-lateral legal frameworks and settle any legal issues arising in the course of such exercises in accordance with the law.

The newly revised common regulations on routine service, discipline and formation have been implemented and incorporated into education, training, inspection and evaluation. Military rules and regulations provide guidance and standards for combat readiness, training, working conditions and daily life. The enforcement of regulations has been strengthened, discipline inspection and supervision mechanisms improved, and breaches of discipline investigated and rectified. Safety rules and regulations have been enforced, safety and preventive mechanisms improved, and education and training on safety conducted.

For the past two years, the armed forces, working with relevant local departments, have conducted inspections of the implementation of such laws and regulations as the Civil Air Defense Law of the People's Republic of China, the Law of the People's Republic of China on Protecting Military Facilities, and the Regulations on Military Uniform Management. In accordance with laws and regulations like the Military Service Law of the People's Republic of China and the Regulations on the Recruitment of Soldiers, military service organs and recruitment staff of the people's governments at all levels have undertaken efforts to supervise and inspect recruitment work. Within the proper bounds of their authority, military departments have conducted special reviews on law-enforcement in their respective fields of military training, equipment procurement, discipline inspection and supervision, and auditing.

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Military Judicial System

The PLA continues to uphold the CPC's leadership in its political and legal work, and to improve military judicial work systems. In 2007, the CMC issued the Opinions on Further Strengthening the Political and Legal Work of the Armed Forces, requiring the establishment of political and legal commissions in units at and above regiment level. In 2008, the General Political Department enacted the Regulations on the Work of Political and Legal Commissions at All Levels of the Armed Forces.

The PLA strengthens crime prevention in a proactive, comprehensive and constructive manner. In 2009, the General Staff Headquarters, General Political Department, General Logistics Department and General Armaments Department jointly issued the Opinions on Further Strengthening the Prevention of Duty-related Crime of the Armed Forces under the New Situation and the Provisional Regulations on the Participation of Discipline Inspection Departments and Military Procuratorial Organs in Accident Investigation and Handling. The internal security organs, military courts and military procuratorates of the armed forces have performed their functions to the full, resolutely maintaining justice in punishing various offenses and crimes in accordance with the law.

In line with overall arrangements by the state for judicial reform, the PLA presses forward with the reform of the military judicial system. The Military Court of the PLA has enacted the Detailed Rules of the Military Court of the People's Liberation Army for the Implementation of the Guiding Opinions on Sentencing by People's Courts (Trial), and implemented the policy of combining leniency with rigor in respect of criminal offences. They have made further progress in civil adjudication, and improved the dispute resolution mechanism that connects litigation and non-litigation. The formulation of the Measures of Military Courts to Close Cases of Litigation Relating to Complaint Letters and Visits has enhanced transparency and public credibility in the review of appeals. The General Political Department has issued the Notice of the Requirement that Cases Filed and Investigated by the Military Procuratorate at a Lower Level Be Submitted to the Military Procuratorate at the Next Higher Level for Examination and Detention Decision-Making, and the PLA Military Procuratorate has issued relevant implementation measures for the Notice, which advances the reform of decision-making procedures regarding examination and detention in duty-related cases.

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Legal Service and Legal Publicity and Education

To meet the needs of their troops in accomplishing diversified military tasks, judicial and administrative departments at all levels and other relevant departments of the armed forces have provided professional and efficient legal services. Specifically, legal advisors have been provided for troops participating in emergency rescue and disaster relief operations, escort operations in the Gulf of Aden and the waters off Somalia, and major joint military exercises with other countries. Several legal-service teams have been dispatched to help troops who perform counter-terrorism and stability-maintenance tasks to deal with legal problems. Legal handbooks have been compiled and printed for the troops.

A series of actions have been carried out to provide legal services, including legal consultations, to grass-roots officers and men. These have now covered more than two-thirds of units at brigade or regiment level. Interactions with local judicial and administrative departments and legal service organizations have been strengthened, coordination mechanisms have been improved to solve legal problems of officers and men, and channels for handling such problems have been widened. In 2009, military lawyers represented defendants in more than 700 criminal trials, and undertook more than 2,300 civil and economic cases.

Efforts have been strengthened in legal service personnel training and organization building. At present, China's armed forces have established 268 military legal advisory offices, more than 1,600 legal consultation stations in units at brigade/regiment level, and legal consultation teams in almost all battalions and companies. There are altogether 1,342 military lawyers and 25,000 legal advisors in the armed forces.

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Mechanisms have been improved for safeguarding the rights and interests of military units, military personnel, and national defense, and the legitimate rights and interests of servicemen and their families have been protected. Led by local Party committees, mainly composed of judicial organs, supported by relevant departments of local governments, and featuring civil-military coordination, permanent mechanisms have been established in 31 provinces, autonomous regions and municipalities directly under the central government to safeguard the legal rights and interests of military units and personnel. As a result, a relatively comprehensive system of organizations for safeguarding the legal rights and interests of military units and personnel has been established. Since 2000, such organizations, operating at different levels, have provided 760,000 legal consultations to servicemen and their families, handled 120,000 complaint letters or visits, and dealt with 98,000 disputes involving military units and personnel, and the people's courts have tried 34,000 cases involving military units and personnel.

In the context of the fifth five-year program on law education, legal publicity and education have been enhanced, and the legal awareness of officers and men has been raised. The PLA and PAPF have incorporated legal publicity and education into the outline of education and training and into training and evaluation systems for military cadres, and organized officers and men to study the Constitution and relevant laws and regulations. They have continued to innovate means and measures designed to render legal publicity and education more up-to-date, more interesting and more appealing.

Editor : Ouyang Dongmei

VII. Science, Technology and Industry for National Defense

(Source:) 2011-April-2 10:41

China has established and is striving to optimize those research and production systems for weaponry and equipment which cater to both military and civilian needs and sustain military potential in civilian capabilities. It furthers reform and development and raises the capacity of research and production in promoting advanced defense-related science, technology and industry.

Reform and Development of Science, Technology and Industry for National Defense

Defense-related industries have actively transformed their development model. Through restructuring, optimizing and upgrading, and by taking energy conservation and emission reduction measures, they have coped effectively with the international financial crisis. A legal and regulatory system has been established to improve the capabilities of defense-related industries as well as the supervision over and management of their key installations and facilities. Defense-related industries have achieved steady and relatively rapid growth.

Defense-related enterprises and institutions are regulated and guided to make use of civilian industrial capabilities and social capital to conduct research into and production of weaponry and equipment. In 2010, based on the Regulations on the Licensing Administration of Weaponry and Equipment Research and Production, the Ministry of Industry and Information Technology and the PLA's General Armaments Department jointly issued the Implementation Measures for the Licensing of Weaponry and Equipment Research and Production to further regulate the participation of different types of economic bodies in scientific research into and production of weaponry and equipment and in tendering for relevant projects. Civilian industrial enterprises licensed for the scientific research into and production of weaponry and equipment now make up two-thirds of the total licensed enterprises and institutions. The Guiding Catalogue of Fields for Social Investment in Defense-related Science, Technology and Industry has been issued to promote diversity in investors in defense-related enterprises.

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(Source:) 2011-April-2 10:41

Improvement of Scientific Research and Production Capabilities for Weaponry and Equipment

Advanced core competence of defense-related industries has been built. Science, technology and industry for national defense have achieved the goals set in the Eleventh Five-Year Plan (2006-2010). A number of high-level research platforms and new equipment production lines have been built. Resources involved in R&D, design and simulation, processing and manufacturing, and experimentation and testing have been further modernized to ensure the fulfillment of research and production tasks, and the realization of mutual promotion and coordinated development between the R&D and production of model weaponry and equipment and the consolidation of fundamental capabilities.

Capabilities in independent innovation have been strengthened. Defense-related enterprises and institutions, institutes for basic research and institutions of higher learning are encouraged to make innovations in defense-related science and technology and to strengthen both basic and applied research. Exploration, innovation and the application of new theories, technologies and processing techniques have been accelerated. The development of advanced industrial technologies has been encouraged. Digital and information technologies have been widely used. The technological level and innovative capability of scientific research into and production of weaponry and equipment have been raised. To create a favorable environment for innovation, incentive policies and appraisal systems for original innovation have been introduced to build a better contingent of creative and talented people and to provide them with the motivation and initiative to produce scientific and technological innovations. Great importance has been given to the filing, application and protection of intellectual property rights related to science, technology and industry for national defense. In 2009, dozens of innovations won National Technology Invention Awards or National Science and Technology Progress Awards.

The basic capabilities of weaponry and equipment research and production have been enhanced. The construction, operation and management of defense-related technological infrastructure have all been reinforced. National defense science and technology labs as well as research and application centers for advanced technologies have been playing a vital role in both basic and applied research. A long-term mechanism for quality control has been established to reinforce quality supervision, resulting in a steady improvement in the overall quality of products. Technological infrastructure for the defense industry, such as standards and measurements, has been established to provide better support capabilities to weaponry and equipment research and production.

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Peaceful Use of Defense Industrial Technology

The application of defense-related technologies has been accelerated in line with key fields and projects decided by the state. With breakthroughs in vital technologies and industrialization, burgeoning industries with strategic significance, and other defense-related high-tech industries in the fields of aeronautics and space, electronic information, special technologies and equipment, new energy and high efficiency power, and energy conservation and environmental protection have been developed to foster new economic engines in revitalizing national industries and restructuring new and high-tech industries.

Great importance has been attached to the peaceful use and development of nuclear energy and space technology. The industrial policy of actively exploiting nuclear energy has been formulated and issued, which has effectively secured the growth of the industries of nuclear power, nuclear fuel recycling, and nuclear technology application. Positive progress has been achieved in the export of aerospace products. China has successfully developed and launched a communications satellite for Venezuela and signed agreements or contracts on cooperation in the field of communications satellites with some countries.

Editor : Ouyang Dongmei

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(Source:) 2011-April-2 10:41

Participation in International Exchanges and Cooperation

Cooperation with foreign countries in defense-related science, technology and industry has been conducted on an equal, mutually beneficial, and win-win basis. Cooperation in defense technology with friendly countries has been promoted, and mechanisms for inter-governmental commissions with some friendly countries involving defense industries and technologies have been established. Defense-related enterprises and institutions are encouraged and supported to engage in international exchanges and cooperation. Such defense industrial and technological cooperation as joint R&D, and production and personnel training are conducted with foreign countries.

The Chinese government strictly fulfils its international obligations, commitments and relevant resolutions of the Security Council of the UN on sanctions. In conformity with international conventions and standards, it has established a sound non-proliferation regime at the three levels of government, corporation and export enterprise, taking a prudent attitude towards the export of military products and related technologies. Following the principles of serving the purpose of helping the recipient state enhance its capability for legitimate self-defense, not impairing the peace, security and stability of the relevant region or the world as a whole, and not interfering in the recipient state's internal affairs, China sets up a franchising system for the enterprises permitted to export military products, practices a licensing system for military product export, and strictly abides by its policies and laws on non-proliferation.

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(Source:) 2011-April-2 10:41

Attaching great importance to international cooperation in the field of nuclear energy, the Chinese government has reached inter-governmental agreements with 23 countries on peaceful use of nuclear energy, introduced advanced nuclear energy technologies into China, and provided every possible assistance to developing countries. In April 2009, organized by the International Atomic Energy Agency (IAEA) and hosted by the Chinese government, the International Ministerial Conference on Nuclear Energy in the 21st Century was held in Beijing.

In accordance with the principle of peaceful use of outer space, China has conducted bilateral cooperation and exchanges with Russia, France, Brazil, Ukraine, the United States and the European Space Agency (ESA) in the fields of space technology, space exploration and space science. It supports the work of the United Nations Committee on the Peaceful Uses of Outer Space (COPUOS) and Asia-Pacific Space Cooperation Organization (APSCO), and plays an active role in making use of outer space technologies to conduct multilateral cooperation in Earth science research, disaster prevention and reduction, deep space exploration, and space debris mitigation and protection.

Editor : Ouyang Dongmei

VIII. Defense Expenditure

(Source:) 2011-April-2 10:45

China adheres to the principle of coordinated development of national defense and economy. In line with the demands of national defense and economic development, China decides on the size of defense expenditure in an appropriate way, and manages and uses its defense funds in accordance with the law.

With the development of national economy and society, the increase of China's defense expenditure has been kept at a reasonable and appropriate level. China's GDP was RMB31,404.5 billion in 2008 and RMB34,090.3 billion in 2009. State financial expenditure was RMB6,259.266 billion in 2008 and RMB7,629.993 billion in 2009, up 25.7 percent and 21.9 percent respectively over the previous year. China's defense expenditure was RMB417.876 billion in 2008 and RMB495.11 billion in 2009, up 17.5 percent and 18.5 percent respectively over the previous year. In recent years, the share of China's annual defense expenditure in its GDP has remained relatively steady, while that in overall state financial expenditure has been moderately decreased.

China's defense expenditure mainly comprises expenses for personnel, training and maintenance, and equipment, with each accounting for roughly one third of the total. Personnel expenses mainly cover salaries, allowances, housing, insurance, food, bedding and clothing for officers, non-ranking officers, enlisted men and contracted civilians. Training and maintenance expenses mainly cover troop training, institutional education, construction and maintenance of installations and facilities, and other expenses on routine consumables. Equipment expenses mainly cover R&D, experimentation, procurement, maintenance, transportation and storage of weaponry and equipment. Defense expenditure covers costs to support the active forces, reserve forces, and militia. It also covers part of the costs to support retired servicemen, servicemen's spouses, and education of servicemen's children, as well as national and local economic development and other social expenses.

Table 1: China's Defense Expenditure in 2009 (unit: RMB billion)

	Active Force	Reserve Force	Militia	Total	
				Amount	Percentage
Personnel	167.063	1.465	0	168.528	34.04
Training & Maintenance	152.171	1.965	12.859	166.995	33.73
Equipment	157.426	1.431	0.73	159.587	32.23
Total	476.66	4.861	13.589	495.11	100.00

Graphics shows China's defense expenditure in 2009 (Xinhua/Lin Hanzhi)

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VIII. Defense Expenditure

(Source:) 2011-April-2 10:45

In the past two years, the increase in China's defense expenditure has primarily been used for the following purposes: (1) Improving support conditions for the troops: Along with the economic and social development and the improvement of people's living standards, the PLA has adjusted servicemen's salaries and allowances, increased funding for education and training, water and electricity supplies and heating, upgraded logistics support for grass-roots units in a comprehensive and coordinated way, and improved the on-duty, training and living conditions of border and coastal defense forces and units in remote areas and harsh environments. (2) Accomplishing diversified military tasks: China has increased investment in improving MOOTW capabilities, in supporting earthquake rescue and disaster relief operations, in escort operations in the Gulf of Aden and waters off Somalia, in flood control and emergency rescue operations, and in international rescue operations. (3) Pushing forward the Revolution in Military Affairs (RMA) with Chinese characteristics. In view of the upward trend in purchasing prices and maintenance costs, China has moderately increased the funds for high-tech weaponry and equipment and their supporting facilities.

In 2010, confronted by the residual impact of the global financial crisis and other uncertainties, the tension between revenue and expenditure in China's finances persists. Giving priority to socially beneficial spending in agriculture, rural areas and farmers, as well as in education, science and technology, health, medical care and social security, China has increased its defense expenditure moderately as needed. China's defense budget for 2010 is RMB532.115 billion, up 7.5 percent over 2009. The growth rate of defense expenditure has decreased.

Graphics shows share of China's annual defense expenditure in the state financial expenditure(Xinhua/Lin Hanzhi）

China practices a strict system of financial supervision of defense funds. The annual defense budget is incorporated into the annual financial budget draft of the central government, and then submitted to the NPC for review and approval. The auditing offices of the state and the PLA conduct audit and supervision of the defense budget and its enforcement. In recent years, the Chinese government has strengthened systematic and meticulous management of defense expenditure, reformed and innovated financial management systems, pressed forward with reforms in asset management, reinforced budget implementation, supervision and management, and organized auditing of economic responsibilities of military leaders and special auditing of the use of funds and materials. In this way, transparency and standardization of defense expenditure are enhanced, and the proper and effective use of defense funds is ensured.

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Editor : Ouyang Dongmei

IX. Military Confidence-Building

(Source:) 2011-April-2 10:51

Military confidence-building is an effective way to maintain national security and development, and safeguard regional peace and stability. With political mutual trust as the groundwork and common security as the goal, China is promoting the establishment of equal, mutually beneficial and effective mechanisms for military confidence-building, which should be based on the principles of holding consultations on an equal footing, mutual respect for core interests and recognition of major security concerns, not targeting at any third country, and not threatening or harming other countries' security and stability.

Strategic Consultations and Dialogues

In recent years, China has held extensive strategic consultations and dialogues with relevant countries in the field of security and defense to enhance mutual understanding and trust, and to strengthen communication and coordination. To date, China has established mechanisms for defense and security consultation and dialogue with 22 countries.

The strategic and cooperative partnership between Russia and China continues to be comprehensively and vigorously reinforced. The two militaries established a strategic consultation mechanism in 1997. The 13th round of strategic consultations between the two general staff headquarters in 2010 resulted in consensus on the international strategic situation, issues in Northeast Asia, Central Asia and South Asia, and cooperation between the two militaries.

China and the United States maintain consultations on such issues as non-proliferation, counter-terrorism, and bilateral military and security cooperation. The two countries established a mechanism of defense consultation between the two defense ministries in 1997, and held the tenth and 11th Defense Consultative Talks (DCT) on issues of common concern in June 2009 and December 2010, and the fifth and the sixth Defense Policy Coordination Talks (DPCT) in February and December 2009.

China attaches great importance to defense and security consultations with neighboring countries. It has established mechanisms for defense and security consultation and policy dialogue with neighboring countries, including Mongolia, Japan, Vietnam, the Philippines, Indonesia, Thailand, Singapore, India and Pakistan, and has held regular consultations and dialogues at different levels with its neighbors, which focus on Asia-Pacific security, bilateral military relations and regional flashpoint issues. Such consultations and dialogues play a positive role in promoting mutual understanding, consolidating good neighborliness and friendship, deepening mutual trust and cooperation, and maintaining regional peace and stability.

China has conducted extensive strategic consultations and dialogues with other countries. In September 2009, the two militaries of China and Germany held the fourth round of defense strategic consultations. In October 2009, the two militaries of China and Australia held the 12th defense strategic consultations. In March 2009 and June 2010, China and New Zealand held the second and third strategic dialogues. In February 2010, military deputies of China and the United Kingdom held defense strategic consultations. In November 2010, China and South Africa held the fourth defense commission meeting. China has also established mechanisms for defense (cooperation) commission meetings with Egypt, for high-level military cooperation dialogue with Turkey, and for defense consultations with the United Arab Emirates, all of which have broadened defense exchanges between China and Middle Eastern countries.

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IX. Military Confidence-Building

(Source:) 2011-April-2 10:51

Border Area Confidence-Building Measures

China consistently pursues a foreign policy of building an amicable relationship and partnership with its neighbors, attaches great importance to border area confidence-building measures, strengthens friendly military exchanges in border areas, and actively prevents dangerous military activities, all of which have helped preserve peace and stability on the borders.

In September 1993, China and India signed the Agreement on the Maintenance of Peace and Tranquility Along the Line of Actual Control in the China-India Border Areas, and in November 1996, the two countries signed the Agreement on Confidence-Building Measures in the Military Field Along the Line of Actual Control in the China-India Border Areas. In April 2005, the two countries signed the Protocol on Implementation Measures for Confidence-Building Measures in the Military Field Along the Line of Actual Control in the China-India Border Areas, agreeing on specific implementation measures for certain articles in the 1996 Agreement.

In April 1996, China, Kazakhstan, Kyrgyzstan, Russia and Tajikistan signed the Agreement on Confidence-Building in the Military Field Along the Border Areas. In April 1997, China signed the Agreement on the Mutual Reduction of Military Forces in the Border Areas with the aforementioned countries, which includes clauses on mutual reduction of combat troops and weaponry within delineated limits along China' s 7,600-km borderlines with Kazakhstan, Kyrgyzstan, Russia and Tajikistan, on the organization of annual mutual inspections, and on supervision and verification of the implementation of mutual trust measures in border areas. In December 1998, China and Bhutan signed the Sino-Bhutanese Agreement on the Maintenance of Peace and Tranquility in the Border Areas.

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IX. Military Confidence-Building

(Source:) 2011-April-2 10:51

The PLA border defense force faithfully implements all relevant border confidence-building agreements in the military field. Since the 1990s, China's Ministry of National Defense has signed Frontier Defense Cooperation Agreement respectively with relevant departments of the Democratic People's Republic of Korea (DPRK), Russia, Mongolia, Kazakhstan, Kyrgyzstan, Myanmar and Vietnam, and established a three-level meeting mechanism between China's general headquarters/departments, military area commands (provincial military commands) and border defense units and their counterparts, to communicate border information in a timely manner and handle major border affairs through consultation. The PLA border defense force has set up along the borders more than 60 stations for border talks and meetings, and every year engages in thousands of talks and meetings with neighboring countries. In recent years, in the border areas, China has conducted military training in bilateral or multilateral border blockade and control, joint counter-terrorism, and carried out joint patrols and inspections respectively with Russia, Tajikistan, Mongolia and Pakistan.

China has signed border management system agreements with a dozen of its land neighbors to specify cooperation measures for keeping order in border areas, protecting and utilizing cross-border rivers, establishing a border area liaison system, and handling border affairs through consultation. A border representative system has been established to handle border affairs that can be settled through consultation without the need for escalation to diplomatic levels. Appointed by the government and selected from leaders of border defense units, Chinese border representatives perform their duties under the guidance of local military organs and foreign affairs departments. Border representatives exchange information regularly, guard against and handle border incidents, and provide assistance in port administration, cross-border transportation, fishery cooperation, environmental protection and disaster prevention.

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IX. Military Confidence-Building

(Source:) 2011-April-2 10:51

Dialogues and Cooperation on Maritime Security

China takes an active part in dialogue and cooperation on international maritime security. It strictly complies with the UN Charter, the United Nations Convention on Law of the Sea (UNCLOS), and other universally recognized norms of international relations. It consistently pursues common security and development, and respects the sovereignty, rights and interests of coastal states. China perseveres in dealing with traditional and non-traditional maritime threats through cooperation, and strives to maintain maritime security through multiple peaceful ways and means.

In 1998, China and the United States concluded the Military Maritime Consultative Agreement (MMCA) and began to conduct consultations on military maritime security issues. To date, eight annual meetings, 13 working group meetings and two special meetings have been held, contributing to the safety of maritime activities, the avoidance of maritime accidents and the adoption of other confidence-building measures. An MMCA special session was held in August 2009 and an annual meeting was held in October 2010.

In October 2005, China and Vietnam signed the Agreement on Joint Patrols by the Navies of China and Vietnam in the Beibu Gulf. The two navies established the Office of Joint Patrols in the Beibu Gulf, organized ten joint patrols, and held five annual meetings. In February 2009, direct telephone links were officially established between the Chinese and ROK naval and air force troops stationed in adjacent areas. Since 2008, China and Japan have held several consultations over the establishment of a maritime liaison mechanism. The Chinese Navy has taken an active part in the activities of the Western Pacific Naval Symposium (WPNS), and in seminars on maritime security sponsored by the ASEAN Regional Forum (ARF) and the Council for Security Cooperation in the Asia Pacific (CSCAP).

In the past two years, the Chinese Navy has sent more than 20 naval ships in over ten convoys to visit more than 30 countries, and received port visits from more than 30 naval ships representing over 20 countries.

Editor : Ouyang Dongmei

IX. Military Confidence-Building

(Source:) 2011-April-2 10:51

Regional Security Cooperation

A multi-tiered and composite framework of Asia-Pacific regional security cooperation is taking shape, and numerous security cooperation mechanisms have been further developed. China takes an active part in establishing security dialogue and building security mechanisms in the Asia-Pacific region, strengthens mutual political trust and security cooperation with Asia-Pacific countries, promotes military confidence-building, and endeavors to maintain regional peace and stability.

Since 2009, the Shanghai Cooperation Organization (SCO) has sustained its strong development momentum in security cooperation. Its member states have signed a succession of papers, such as the SCO Counter-Terrorism Convention, the Agreement among the Governments of the SCO Member States on Cooperation in the Field of Ensuring International Information Security, and the Agreement among the Governments of the SCO Member States on Cooperation in the Field of Combating Crime, which have laid a solid legal foundation for security cooperation. Further improvements have been made in cooperation mechanisms for security work at major international events, such as those held in 2010, including the 65th Anniversary of the Victory of World Anti-fascist War held in Moscow, the Shanghai Expo and the Guangzhou Asian Games. Joint counter-terrorism exercises continue to be formalized. Joint counter-terrorism exercises, such as the "Peace Mission" series between the militaries, and the "Norak-Anti-Terror 2009" and "Saratov-Anti-Terror 2010" initiatives between law-enforcement and security departments, have provided an effective deterrence to the three regional threats of terrorism, separatism and extremism. Regular meetings have been held between security committee secretaries, procurators-general, heads of supreme courts, defense ministers, ministers of interior affairs and public security, and other leaders of law enforcement and security agencies from the SCO member states, enhancing cooperation in justice, defense, law enforcement, security and other fields.

China actively participates in multilateral security meetings within the framework of the ARF, ASEAN Plus One (China), and ASEAN Plus Three (China, Japan and the ROK). Initiated by China, the ARF Conference on Security Policies was officially staged in 2004, and has developed into a dialogue mechanism for the highest ranking senior defense officials within the ARF framework. In May 2010, at the seventh ARF Conference on Security Policies, China proposed initiatives on strengthening research on non-traditional security cooperation and on promoting practical cooperation. In October 2010, China attended the first ASEAN Defense Ministers' Meeting Plus (ADMM+) and proposed to advance regional security dialogue and cooperation. In recent years, the PLA has hosted the China-ASEAN Defense and Security Dialogue (CADSD), the ASEAN Plus Three Forum on Non-traditional Security Cooperation between Armed Forces, and the ARF workshop on formulating legal rules for armed forces' participation in international disaster relief operations.

Since 2007, China has sent senior defense officials on an annual basis to attend the Shangri-La Dialogue held in Singapore to elaborate its national defense policy and opinions on regional security cooperation.

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Editor : Ouyang Dongmei

IX. Military Confidence-Building

(Source:) 2011-April-2 10:51

Military Exchanges with Other Countries

China develops its military relations with foreign countries in a comprehensive manner, continues to strengthen its practical exchanges and cooperation with the armed forces of other countries, and strives to foster a military security environment featuring mutual trust and benefit. In the last two years, senior PLA delegations have visited more than 40 countries, and defense ministers and chiefs of general staff from more than 60 countries have visited China.

The strategic mutual trust and practical cooperation between the militaries of China and Russia has been steadily enhanced. The militaries of the two sides have regularly exchanged high-level visits, signed the Missile- and Space-Launch Notification Deal, conducted cooperation in training and border defense, and held exchanges between educational institutions and air defense forces. With respect to relations between the militaries of China and the United States, two sides are still maintaining effective dialogues and communications after various ups and downs, carrying out planned exchanges in respect of structural projects, such as defense consultation, maritime military security consultation, and military filing work. Military ties between China and the European countries continue to be strengthened. China continues to consolidate traditional friendly relations with Central and Eastern European countries, increase practical exchanges with Western European countries, and explore ways to develop military ties with the NATO and the EU.

China has strengthened military relations with its neighboring countries. It conducts friendly exchanges with the DPRK and the ROK militaries, attaches importance to Sino-Japanese defense exchanges, strengthens multi-dimensional Sino-Pakistani military exchanges and cooperation, works to advance the Sino-Indian military relationship, strengthens friendly exchanges with the militaries of ASEAN countries, and promotes military exchanges with countries like Australia and New Zealand.

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Editor : Ouyang Dongmei

IX. Military Confidence-Building

(Source:) 2011-April-2 10:51

China conducts military exchanges with developing countries in Africa, West Asia, Latin America and the South Pacific. It increases high-level visits and exchanges between junior and intermediate officers, and seeks to broaden cooperation fields with these countries. For the first time, China sent a hospital ship, the Peace Ark, to visit the Republic of Djibouti, the Republic of Kenya, the United Republic of Tanzania, the Republic of Seychelles and other African countries and provided humanitarian medical service. Also for the first time, China hosted workshops for heads of military academies from English-speaking African countries, for directors of military hospitals from French-speaking African countries, and for intermediate and senior officers from Portuguese-speaking African countries. Additionally, China continues to host workshops for senior officers from countries in Latin America, the Caribbean and the South Pacific.

Since the establishment of the Ministry of National Defense (MND) spokesperson system in 2008, seven press conferences have been held on such themes as earthquake rescue and disaster relief, maritime escort and international humanitarian rescue, and important information has been released in a timely manner. The PLA invests greater efforts in public diplomacy, and has arranged for domestic and foreign media to visit combat units and conduct interviews. The PLA provides timely information on the building of national defense and armed forces via such platforms as the MND website.

In 2009, in celebration of the 60th anniversaries of their respective foundings, the PLAN hosted a multinational naval event on the theme of "Harmonious Ocean," and the PLAAF hosted the "International Forum on Peace and Development."

Editor : Ouyang Dongmei

X. Arms Control and Disarmament

(Source:) 2011-April-2 10:54

China attaches importance to and takes an active part in international efforts in the field of arms control, disarmament and non-proliferation. It adheres to the complete fulfillment of the UN's role in this area, and that of other related international organizations and multilateral mechanisms, and considers that existing multilateral arms control, disarmament and non-proliferation systems should be consolidated and strengthened, that the legitimate and reasonable security concerns of all countries should be respected and accommodated, and that global strategic balance and stability should be maintained.

Nuclear Disarmament

China has always stood for the complete prohibition and thorough destruction of nuclear weapons. China maintains that countries possessing the largest nuclear arsenals bear special and primary responsibility for nuclear disarmament. They should further drastically reduce their nuclear arsenals in a verifiable, irreversible and legally-binding manner, so as to create the necessary conditions for the complete elimination of nuclear weapons. When conditions are appropriate, other nuclear-weapon states should also join in multilateral negotiations on nuclear disarmament. To attain the ultimate goal of complete and thorough nuclear disarmament, the international community should develop, at an appropriate time, a viable, long-term plan with different phases, including the conclusion of a convention on the complete prohibition of nuclear weapons.

China holds that, before the complete prohibition and thorough destruction of nuclear weapons, all nuclear-weapon states should abandon any nuclear deterrence policy based on first use of nuclear weapons, make an unequivocal commitment that under no circumstances will they use or threaten to use nuclear weapons against non-nuclear-weapon states or nuclear-weapon-free zones, and negotiate an international legal instrument in this regard. In the meantime, nuclear-weapon states should negotiate and conclude a treaty on no-first-use of nuclear weapons against each other.

China has played a constructive role in the review process of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). Together with other signatories to the NPT, China is willing to sincerely implement the positive achievements of the Eighth NPT Review Conference in 2010. China supports the early entry into force of the Comprehensive Nuclear Test Ban Treaty (CTBT) and the early commencement of negotiations on the Fissile Material Cut-off Treaty (FMCT) at the Conference on Disarmament (CD) in Geneva.

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Editor : Ouyang Dongmei

X. Arms Control and Disarmament

(Source:) 2011-April-2 10:54

As a permanent member of the UN Security Council and a nuclear-weapon state signatory of the NPT, China has never evaded its obligations in nuclear disarmament and pursues an open, transparent and responsible nuclear policy. It has adhered to the policy of no-first-use of nuclear weapons at any time and in any circumstances, and made the unequivocal commitment that under no circumstances will it use or threaten to use nuclear weapons against non-nuclear-weapon states or nuclear-weapon-free zones. China has never deployed nuclear weapons in foreign territory and has always exercised the utmost restraint in the development of nuclear weapons, and has never participated in any form of nuclear arms race, nor will it ever do so. It will limit its nuclear capabilities to the minimum level required for national security.

China has strictly abided by its commitment to a moratorium on nuclear testing and has actively participated in the work of the Preparatory Commission of the Comprehensive Nuclear Test Ban Treaty Organization, and is steadily preparing for the national implementation of the Treaty. China is responsible for setting up 12 international monitoring stations and laboratories. At present, six primary seismological monitoring stations, three radionuclide stations, the Beijing Radionuclide Laboratory and the China National Data Center have been set up, and one infrasound station is under construction.

China consistently supports the efforts of non-nuclear-weapon states in establishing nuclear-weapon-free zones, has already signed and ratified all the relevant protocols which have been opened for signature of any nuclear-weapon-free zone treaties, and has reached agreement with the ASEAN countries on relevant issues under the Protocol of the Treaty on the Southeast Asia Nuclear-Weapon-Free Zone. China supports the Treaty on a Nuclear-Weapon-Free Zone in Central Asia and its protocols signed by Central Asian countries, and supports the establishment of a nuclear-weapon-free zone in the Middle East.

China maintains that the global missile defense program will be detrimental to international strategic balance and stability, will undermine international and regional security, and will have a negative impact on the process of nuclear disarmament. China holds that no state should deploy overseas missile defense systems that have strategic missile defense capabilities or potential, or engage in any such international collaboration.

Editor : Ouyang Dongmei

X. Arms Control and Disarmament

(Source:) 2011-April-2 10:54

Non-Proliferation

China firmly opposes the proliferation of weapons of mass destruction (WMD) and their means of delivery, and consistently deals with non-proliferation issues in a highly responsible manner. China maintains that, in order to prevent proliferation at source, efforts should be made to foster a global and regional security environment featuring mutual trust and cooperation, and the root causes of WMD proliferation should be eliminated. It holds that non-proliferation issues should be resolved through political and diplomatic means. It holds that the authority, effectiveness and universality of the international non-proliferation regime should be upheld and enhanced. The international community should ensure fairness and prevent discrimination in international non-proliferation efforts, strike a balance between non-proliferation and the peaceful use of science and technology, and abandon double standards. China has joined all international treaties and international organizations in the field of non-proliferation, and supports the role played by the United Nations in this regard, and has conscientiously implemented any relevant resolutions of the UN Security Council.

China advocates resolving the nuclear issue in the Korean Peninsula peacefully through dialogues and consultations, endeavoring to balance common concerns through holding six-party talks in order to realize the denuclearization on the Korean Peninsula and maintain peace and stability of the Korean Peninsula and the Northeast Asia. China, always considering the whole situation in the long run, painstakingly urges related countries to have more contacts and dialogues in order to create conditions for resuming six-party talks as early as possible. China is for the peaceful resolution of the Iranian nuclear issue through dialogue and negotiation, and for maintaining the peace and stability of the Middle East. China has been dedicated to promoting dialogue and negotiation, and has actively engaged with relevant parties to promote non-proliferation. China has attended the meetings of foreign ministers and political directors of the P5+1, and has participated in the deliberations on the Iranian nuclear issue at the UN Security Council and at the International Atomic Energy Agency (IAEA) in a constructive manner.

Since 2009, China has held arms control and non-proliferation consultations with a dozen countries, including the US, Russia, the UK, Germany, Brazil, Canada, Pakistan, the Republic of Korea, the EU, Australia and Israel, and continues to strengthen dialogue and exchanges with multinational export control mechanisms. It has conducted discussions with the Missile Technology Control Regime (MTCR) and participated in its technical outreach meeting. China has cosponsored inter-sessional meetings on non-proliferation and disarmament with relevant countries within the framework of the ARF, and taken part in discussions on biological security and counter-biological terrorism.

China attaches great importance to non-proliferation export control, and has established a comprehensive legal system for export control of nuclear, biological, chemical, missile and related sensitive items and technologies, as well as all military products. It has adopted the relevant international universal export control measures, including the licensing system, end-user and end-use certificate, list control, and "catch-all" principle. In 2009, the Ministry of Commerce promulgated the Measures for Administration of Dual-use Items and Technologies Subject to Export General License to further strengthen the licensing system for export control.

China attaches great importance to the issue of nuclear security, opposes nuclear terrorism, adopts effective nuclear security measures and maintains a good record in this field. China observes in good faith its international obligations and takes an active part in international nuclear security cooperation. It agrees in principle to set up a nuclear security "Center of Excellence" in China in cooperation with relevant countries.

Editor : Ouyang Dongmei

X. Arms Control and Disarmament

(Source:) 2011-April-2 10:54

Prohibition of Biological and Chemical Weapons

China sincerely fulfills its obligations under the Chemical Weapons Convention (CWC) by setting up implementation offices at both central and local levels, by submitting timely complete annual declarations, through declarations subsequent to newly discovered chemical weapons abandoned by Japan in China, and through submission of the annual national protection program. China has hosted more than 240 on-site inspections by the Organization for the Prohibition of Chemical Weapons (OPCW). China cooperates closely with the OPCW. Jointly with the OPCW, China has hosted several training courses for OPCW inspectors, as well as international courses on protection and assistance. China has also provided assistance to those African states party to the Organization. With a view to facilitating Japan's role in fulfilling its obligation to destroy its chemical weapons abandoned in China, China has assisted Japan in carrying out 150 on-site investigation, excavation, recovery and identification missions, and has excavated almost 50,000 items of abandoned chemical weaponry. In October 2010, China began to destroy chemical weaponry abandoned by Japan in Nanjing. China calls on Japan to increase its input to this process and to accelerate the destruction of its chemical weapons abandoned on Chinese territory.

China supports multilateral efforts to strengthen the effectiveness of the Biological Weapons Convention (BWC) and is committed to the comprehensive and strict implementation of the Convention. China has already established a comprehensive legislation system for the implementation of the Convention and set up a national point of contact. China submits annual declarations of its confidence-building measures to the Implementation Support Unit of the Convention in a timely manner, attends Meetings of State Parties and Meetings of Experts and related seminars, strengthens bio-security and disease surveillance, and carries out international exchanges and cooperation.

Editor : Ouyang Dongmei

X. Arms Control and Disarmament

(Source:) 2011-April-2 10:54

Prevention of an Arms Race in Outer Space

The Chinese government has advocated from the outset the peaceful use of outer space, and opposes any weaponization of outer space and any arms race in outer space. China believes that the best way for the international community to prevent any weaponization of or arms race in outer space is to negotiate and conclude a relevant international legally-binding instrument.

In February 2008, China and Russia jointly submitted to the Conference on Disarmament (CD) a draft Treaty on the Prevention of the Placement of Weapons in Outer Space and the Threat or Use of Force against Outer Space Objects (PPWT). In August 2009, China and Russia jointly submitted their working paper responding to the questions and comments raised by the CD members on the draft treaty. China is looking forward to starting negotiations on the draft treaty at the earliest possible date, in order to conclude a new outer space treaty.

Conventional Arms Control

China has sincerely fulfilled its obligations under the Convention on Certain Conventional Weapons (CCW) and its Protocols, submitted its annual reports on the implementation of the Amended Protocol on Landmines, and actively participated in the work of the Group of Governmental Experts (GGE) on Cluster Munitions. In April 2010, China ratified the Protocol on Explosive Remnants of War.

Since 2009, China has continued to participate actively in international humanitarian de-mining assistance. It has held de-mining training courses for Afghanistan, Iraq and Sudan. China has also donated de-mining equipment to Egypt, Afghanistan, Iraq, Sudan and Sri Lanka, and provided Peru and Ethiopia with mine victim assistance.

China has actively participated in the international effort to combat the illicit trade in Small Arms and Light Weapons (SALW). It has conscientiously implemented the UN Program of Action (PoA) on SALW and the International Instrument on Identifying and Tracing Illicit SALW. It has participated in the Open-Ended Working Group (OEWG) and the first session of the Preparatory Commission of an Arms Trade Treaty. In 2010, China attended the Fourth Biannual Meeting on SALW and submitted its national report.

Transparency in Military Expenditure and Registration of Transfer of Conventional Arms

China attaches great importance to military transparency, and makes efforts to promote mutual trust with other countries in the military sphere. Since 2007, China has begun to report to the UN Standardized Instrument for Reporting Military Expenditures. China gives weight to the UN Register of Conventional Arms and continues to submit data to the Register on conventional arms transfer in the seven categories covered by the Register.

Editor : Ouyang Dongmei

Appendix I Major International Exchanges of the Chinese Military (2009-2010)

(Source: MOD) 2011-April-2 16:54

Date	Outgoing Visits	Incoming Visits
2009		
January		Commander of the Armed Forces, Malta
January		Minister of Defense, Ukraine
February		Commander of the Air Force, Egypt
February	Deputy Chief of the General Staff to Japan and Brunei	
February		Minister of Defense and National Security, Maldives
February		Chief of Defense, Finland
March		Permanent Secretary of the Ministry of Defense, Sri Lanka
March		Minister of Defense, Tajikistan
March		Commander of the Army, Australia
March	Political Commissar of the Beijing Military Area Command to Cuba	
March	Deputy Chief of the General Staff to Singapore and New Zealand	
March	Chief of the General Staff to Myanmar, Vietnam and the ROK	
March	Deputy Chief of the General Staff to Zambia and Mozambique	
March		Minister of Defense, Japan
March	Deputy Chief of the General Logistics Department to Australia and New Zealand	

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Editor : Ouyang Dongmei

Appendix II Participation in Strategic Consultations and Dialogues (2009-2010)

(Source: MOD) 2011-April-6 08:37

Time	Content	Partner for Dialogue
2009		
March	2nd Armed Forces Strategic Consultation between China and New Zealand	New Zealand
March	2nd China-Singapore Defense Policy Dialogue	Singapore
June	10th Sino-US Defense Consultations between the Ministries of Defense	US
July	4th China-Mongolia Defense and Security Consultation	Mongolia
September	3rd China-Vietnam Defense and Security Consultation between the Ministries of Defense	Vietnam
September	Strategic Consultation on Defense between the Chinese and German Militaries	Germany
October	12th China-Australia Defense Strategy Consultation	Australia
October	3rd China-Indonesia Defense and Security Consultation between the Ministries of Defense	Indonesia
October	8th Annual Defense and Security Consultation between the Defense Ministers of China and Thailand	Thailand
2010		
January	3rd China-India Defense and Security Consultation	India
January	7th China-Pakistan Defense and Security Consultation	Pakistan

Editor : Ouyang Dongmei

Appendix III Joint Exercises and Training with Foreign Armed Forces (2009-2010)

(Source: MOD) 2011-April-6 09:33

Time	Name	Place
2009		
March 5-14	“Peace-09” Multinational Maritime Exercise	The Arabian Sea
June 17-30	“Peace Angel-2009” China-Gabon Joint Humanitarian Medical Rescue Operation	Ogooue-Ivindo Province, Gabon
June 18-26	“Cooperation-2009” China-Singapore Joint Anti-terrorism Training Exercise	Guilin, Guangxi Zhuang Autonomous Region, China
June 26-July 4	“Peacekeeping Mission-2009” China- Mongolia Joint Peacekeeping Exercise	Beijing, China
July 22-26	“Peace Mission-2009” China-Russia Joint Anti-terrorism Military Exercise	Khabarovsk, Russia Taonan, Jilin Province, China
September 10-26	“Friendship Operation-2009” China- Romania Joint Military Training of Mountain Troops	Brad, Romania
2010		
July 1-11	“Friendship-2010” China-Pakistan Joint Anti-terrorism Training	Qingtongxia, Ningxia Hui Autonomous Region, China
September 9-25	“Peace Mission-2010” Joint Anti-terrorism Military Exercise by Members of the SCO	Matybulak, Kazakhstan
September 23, 29	China-Australia Joint Maritime Search-and-Rescue Exercise and Joint Training of Marines on Basic Tasks	Qingdao, Shandong Province, Zhanjiang, Guangdong Province, China
September 24	Joint Maritime Maneuver Exercise of Chinese and Australian Navies	Waters off Sydney, Australia

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Editor : Ouyang Dongmei

Appendix IV China's Participation in UN Peacekeeping Operations (As of Dec. 31, 2010)

(Source: MOD) 2011-April-6 10:18

UN Peacekeeping Mission	Acronym	Time Frame	Number of Troops		Number of Observers and Staff Officers		Number of Police	
			Current	Total	Current	Total	Current	Total
UN Truce Supervision Organization	UNTSO	Apr. 1990 to date			4	99		
UN Iraq-Kuwait Observer Mission	UNIKOM	Apr. 1991-Oct. 2003				164		
UN Mission for Referendum in Western Sahara	MINURSO	Sept. 1991 to date			11	337		
UN Transitional Authority in Cambodia	UNTAC	Dec. 1991-Sept. 1993		800		97		
UN Operation in Mozambique	ONUMOZ	Jun. 1993-Dec. 1994				20		
UN Observer Mission in Liberia	UNOMIL	Nov. 1993-Sept. 1997				33		
UN Mission in Afghanistan	UNSMA	May 1998-Jan. 2000				2		
UN Mission in Sierra Leone	UNAMSIL	Aug. 1998-Dec. 2005				37		

Editor : Ouyang Dongmei

Appendix V Participation in International Disaster Relief Activities (2009-2010)

(Source: MOD) 2011-April-6 09:41

Time	Country	Reason	Aid	Value (RMB million)	Task Force
May 2009	Sri Lanka	refugees	tents	30	
May 2009	Pakistan	refugees	medicine, tents, toweling coverlets, water purification equipment	30	
May 2009	Mexico	swine flu	medicine	27	
January 2010	Haiti	earthquake	tents, water purification equipment, medicine	30	The Chinese International Search and Rescue (CISAR) team and a PLA medical care and epidemic prevention team were sent to Haiti to conduct rescue operations.
January 2010	Mongolia	snow disaster	grain, food, generators, cotton-wadded quilts	10	
March 2010	Chile	earthquake	tents, toweling coverlets, water purification equipment, generators	US$2 million	
August 2010	Russia	forest fire	fire-fighting equipment	20	
August 2010	Pakistan	flood	tents, toweling coverlets, water purification equipment, generators, medicine	110	The CISAR team, a PLA medical team and a helicopter rescue formation were sent to Pakistan to conduct rescue operations.

Editor : Ouyang Dongmei

Appendix VI Imports and Exports of Seven Major Types of Conventional Arms of the PRC (2008)

(Source: MOD) 2011-April-6 09:41

	Exports		Imports	
Category	**Importer State**	**Number**	**Exporter State**	**Number**
Armored Combat Vehicles	Rwanda	20		Zero
Combat Aircraft	Pakistan	6		Zero

Editor : Ouyang Dongmei

Appendix VII Imports and Exports of Seven Major Types of Conventional Arms of the PRC (2009)

(Source: MOD) 2011-April-6 09:42

	Exports		Imports	
Category	**Importer State**	**Number**	**Exporter State**	**Number**
Armored Combat Vehicles	Namibia	21		Zero
	Republic of the Congo	9		
	Ghana	48		
Combat Aircraft	Nigeria	15		Zero
	Pakistan	11		
	Tanzania	2		
	Venezuela	6		
Attack Helicopters		Zero	Russia	6
Missiles and Missile Launchers	Thailand	12		Zero
	Malaysia	16		

Editor : Ouyang Dongmei

Appendix VIII Major Military Laws and Regulations Issued in 2009 and 2010 by China

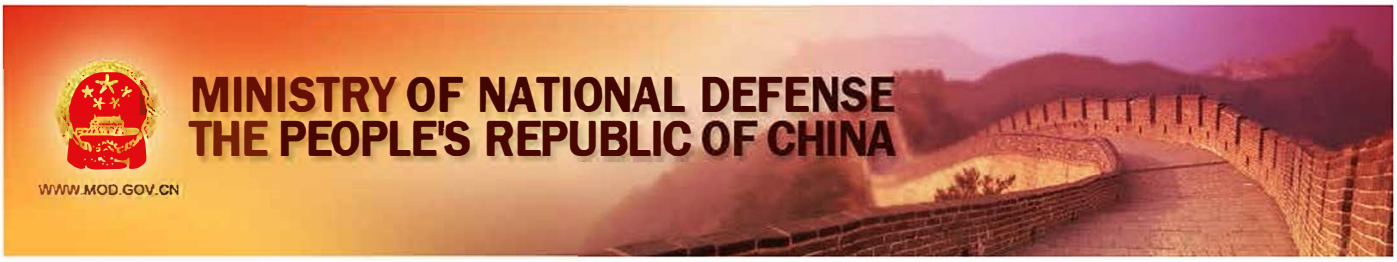
(Source: MOD) 2011-April-6 09:47

Title	Issuing Authority	Date of Promulgation
Regulations on Military Uniform Management	State Council (SC), Central Military Commission (CMC)	Jan. 13, 2009
Provisions on the Procedures for the Selection and Appointment of Military Cadres (Trial)	General Political Department (GPD) (authorized by the CMC)	Jan. 16, 2009
Implementation Measures for the Tenure System for the Delegates of CPC's Congresses at Various Levels in the Armed Forces	CMC	Feb. 19, 2009
Outline for Armed Forces Building at the Grass-Roots Level (Revised)	CMC	June 12, 2009
Law of the People's Republic of China on the People's Armed Police Force	Standing Committee of the National People's Congress (NPC)	Aug. 27, 2009
Guideline for the Ideological and Political Education of the Chinese People's Liberation Army	GPD (authorized by the CMC)	Nov. 9, 2009
Regulations on the Work of the Headquarters of Military Area Commands (Theaters of War) of the People's Liberation Army (Revised)	CMC	Nov. 19, 2009
Regulations on the Work of the Headquarters of Combined Corps, Arms Units and Specialized Units of the Army of the People's Liberation Army (Revised)	CMC	Nov. 19, 2009
Regulations on the Work of the Headquarters of the Provincial and Prefectural Military Commands of the Reserve Force of the People's Liberation Army (Revised)	CMC	Nov. 19, 2009

Editor : Ouyang Dongmei

Annex 578

People's Republic of China, Ministry of Defense, *White Paper: The Diversified Employment of China's Armed Forces* (Apr. 2013)



2012

The Diversified Employment of China's Armed Forces

Information Office of the State Council

The People's Republic of China

April 2013, Beijing

Preface

(Source: MOD) 2013-April-16 11:13

In today's world, peace and development are facing new opportunities and challenges. It is a historic mission entrusted by the era to people of all nations to firmly grasp the opportunities, jointly meet the challenges, cooperatively maintain security and collectively achieve development.

It is China's unshakable national commitment and strategic choice to take the road of peaceful development. China unswervingly pursues an independent foreign policy of peace and a national defense policy that is defensive in nature. China opposes any form of hegemonism or power politics, and does not interfere in the internal affairs of other countries. China will never seek hegemony or behave in a hegemonic manner, nor will it engage in military expansion. China advocates a new security concept featuring mutual trust, mutual benefit, equality and coordination, and pursues comprehensive security, common security and cooperative security.

It is a strategic task of China's modernization drive as well as a strong guarantee for China's peaceful development to build a strong national defense and powerful armed forces which are commensurate with China's international standing and meet the needs of its security and development interests. China's armed forces act to meet the new requirements of China's national development and security strategies, follow the theoretical guidance of the Scientific Outlook on Development, speed up the transformation of the generating mode of combat effectiveness, build a system of modern military forces with Chinese characteristics, enhance military strategic guidance and diversify the ways of employing armed forces as the times require. China's armed forces provide a security guarantee and strategic support for national development, and make due contributions to the maintenance of world peace and regional stability.

Editor : dongzhaohui

I. New Situation, New Challenges and New Missions

(Source: MOD) 2013-April-16 11:13

Since the beginning of the new century, profound and complex changes have taken place in the world, but peace and development remain the underlying trends of our times. The global trends toward economic globalization and multi-polarity are intensifying, cultural diversity is increasing, and an information society is fast emerging. The balance of international forces is shifting in favor of maintaining world peace, and on the whole the international situation remains peaceful and stable. Meanwhile, however, the world is still far from being tranquil. There are signs of increasing hegemonism, power politics and neo-interventionism. Local turmoils occur frequently. Hot-spot issues keep cropping up. Traditional and non-traditional security challenges interweave and interact. Competition is intensifying in the international military field. International security issues are growing noticeably more abrupt, interrelated and comprehensive. The Asia-Pacific region has become an increasingly significant stage for world economic development and strategic interaction between major powers. The US is adjusting its Asia-Pacific security strategy, and the regional landscape is undergoing profound changes.

China has seized and made the most of this important period of strategic opportunities for its development, and its modernization achievements have captured world attention. China's overall national strength has grown dramatically and the Chinese people's lives have been remarkably improved. China enjoys general social stability and cross-Straits relations are sustaining a momentum of peaceful development. China's international competitiveness and influence are steadily increasing. However, China still faces multiple and complicated security threats and challenges. The issues of subsistence and development security and the traditional and non-traditional threats to security are interwoven. Therefore, China has an arduous task to safeguard its national unification, territorial integrity and development interests. Some country has strengthened its Asia-Pacific military alliances, expanded its military presence in the region, and frequently makes the situation there tenser. On the issues concerning China's territorial sovereignty and maritime rights and interests, some neighboring countries are taking actions that complicate or exacerbate the situation, and Japan is making trouble over the issue of the Diaoyu Islands. The threats posed by "three forces," namely, terrorism, separatism and extremism, are on the rise. The "Taiwan independence" separatist forces and their activities are still the biggest threat to the peaceful development of cross-Straits relations. Serious natural disasters, security accidents and public health incidents keep occurring. Factors affecting social harmony and stability are growing in number, and the security risks to China's overseas interests are on the increase. Changes in the form of war from mechanization to informationization are accelerating. Major powers are vigorously developing new and more sophisticated military technologies so as to ensure that they can maintain strategic superiorities in international competition in such areas as outer space and cyber space.

Facing a complex and volatile security situation, the People's Liberation Army (PLA) resolutely carries out its historical missions for the new stage in the new century. China's armed forces broaden their visions of national security strategy and military strategy, aim at winning local wars under the conditions of informationization, make active planning for the use of armed forces in peacetime, deal effectively with various security threats and accomplish diversified military tasks.

The diversified employment of China's armed forces adheres to fundamental policies and principles as follows:

Safeguarding national sovereignty, security and territorial integrity, and supporting the country's peaceful development. This is the goal of China's efforts in strengthening its national defense and the sacred mission of its armed forces, as stipulated in the Constitution of the People's Republic of China and other relevant laws. China's armed forces unswervingly implement the military strategy of active defense, guard against and resist aggression, contain separatist forces, safeguard border, coastal and territorial air security, and protect national maritime rights and interests and national security interests in outer space and cyber space. "We will not attack unless we are attacked; but we will surely counterattack if attacked." Following this principle, China will resolutely take all necessary measures to safeguard its national sovereignty and territorial integrity.

Aiming to win local wars under the conditions of informationization and expanding and intensifying military preparedness. China's armed forces firmly base their military preparedness on winning local wars under the conditions of informationization, make overall and coordinated plans to promote military preparedness in all strategic directions, intensify the joint employment of different services and arms, and enhance

warfighting capabilities based on information systems. They constantly bring forward new ideas for the strategies and tactics of people's war, advance integrated civilian-military development, and enhance the quality of national defense mobilization and reserve force building. They raise in an all-round way the level of routine combat readiness, intensify scenario-oriented exercises and drills, conduct well-organized border, coastal and territorial air patrols and duties for combat readiness, and handle appropriately various crises and major emergencies.

Formulating the concept of comprehensive security and effectively conducting military operations other than war (MOOTW). China's armed forces adapt themselves to the new changes of security threats, and emphasize the employment of armed forces in peacetime. They actively participate in and assist China's economic and social development, and resolutely accomplish urgent, difficult, hazardous, and arduous tasks involving emergency rescue and disaster relief. As stipulated by law, they perform their duties of maintaining national security and stability, steadfastly subduing subversive and sabotage attempts by hostile forces, cracking down on violent and terrorist activities, and accomplishing security-provision and guarding tasks. In addition, they strengthen overseas operational capabilities such as emergency response and rescue, merchant vessel protection at sea and evacuation of Chinese nationals, and provide reliable security support for China's interests overseas.

Deepening security cooperation and fulfilling international obligations. China's armed forces are the initiator and facilitator of, and participant in international security cooperation. They uphold the Five Principles of Peaceful Coexistence, conduct all-round military exchanges with other countries, and develop cooperative military relations that are non-aligned, non-confrontational and not directed against any third party. They promote the establishment of just and effective collective security mechanisms and military confidence-building mechanisms. Bearing in mind the concept of openness, pragmatism and cooperation, China's armed forces increase their interactions and cooperation with other armed forces, and intensify cooperation on confidence-building measures (CBMs) in border areas. China's armed forces work to promote dialogue and cooperation on maritime security; participate in UN peacekeeping missions, international counter-terrorism cooperation, international merchant shipping protection and disaster relief operations; conduct joint exercises and training with foreign counterparts; conscientiously assume their due international responsibilities; and play an active role in maintaining world peace, security and stability.

Acting in accordance with laws, policies and disciplines. China's armed forces observe the country's Constitution and other relevant laws, comply with the purposes and principles of the UN Charter, and maintain their commitment to employing troops and taking actions according to law. They strictly abide by laws, regulations and policies, as well as discipline regarding civil-military relations. According to law, they accomplish such tasks as emergency rescue, disaster relief, stability maintenance, contingency response and security provision. On the basis of the UN Charter and other universally recognized norms of international relations, they consistently operate within the legal framework formed by bilateral or multi-lateral treaties and agreements, so as to ensure the legitimacy of their operations involving foreign countries or militaries. The diversified employment of China's armed forces is legally guaranteed by formulating and revising relevant laws, regulations and policies, and the armed forces are administered strictly by rules and regulations.

Editor : dongzhaohui

II. Building and Development of China's Armed Forces

(Source: MOD) 2013-April-16 11:16

China's armed forces are composed of the People's Liberation Army (PLA), the People's Armed Police Force (PAPF) and the militia. They play a significant role in China's overall strategies of security and development, and shoulder the glorious mission and sacred duty of safeguarding national sovereignty, security and development interests.

Over the years, the PLA has been proactively and steadily pushing forward its reforms in line with the requirements of performing its missions and tasks, and building an informationized military. The PLA has intensified the strategic administration of the Central Military Commission (CMC). It established the PLA Department of Strategic Planning, reorganized the GSH (Headquarters of the General Staff) Communications Department as the GSH Informationization Department, and the GSH Training and Arms Department as the GSH Training Department. The PLA is engaged in the building of new types of combat forces. It optimizes the size and structure of the various services and arms, reforms the organization of the troops so as to make operational forces lean, joint, multi-functional and efficient. The PLA works to improve the training mechanism for military personnel of a new type, adjust policies and rules regarding military human resources and logistics, and strengthen the development of new- and high-technology weaponry and equipment to build a modern military force structure with Chinese characteristics.

The PLA Army (PLAA) is composed of mobile operational units, border and coastal defense units, guard and garrison units, and is primarily responsible for military operations on land. In line with the strategic requirements of mobile operations and multi-dimensional offense and defense, the PLAA has been reoriented from theater defense to trans-theater mobility. It is accelerating the development of army aviation troops, light mechanized units and special operations forces, and enhancing building of digitalized units, gradually making its units small, modular and multi-functional in organization so as to enhance their capabilities for air-ground integrated operations, long-distance maneuvers, rapid assaults and special operations. The PLAA mobile operational units include 18 combined corps, plus additional independent combined operational divisions (brigades), and have a total strength of 850,000. The combined corps, composed of divisions and brigades, are respectively under the seven military area commands (MACs): Shenyang (16th, 39th and 40th Combined Corps), Beijing (27th, 38th and 65th Combined Corps), Lanzhou (21st and 47th Combined Corps), Jinan (20th, 26th and 54th Combined Corps), Nanjing (1st, 12th and 31st Combined Corps), Guangzhou (41st and 42nd Combined Corps) and Chengdu (13th and 14th Combined Corps).

The PLA Navy (PLAN) is China's mainstay for operations at sea, and is responsible for safeguarding its maritime security and maintaining its sovereignty over its territorial seas along with its maritime rights and interests. The PLAN is composed of the submarine, surface vessel, naval aviation, marine corps and coastal defense arms. In line with the requirements of its offshore defense strategy, the PLAN endeavors to accelerate the modernization of its forces for comprehensive offshore operations, develop advanced submarines, destroyers and frigates, and improve integrated electronic and information systems. Furthermore, it develops blue-water capabilities of conducting mobile operations, carrying out international cooperation, and countering non-traditional security threats, and enhances its capabilities of strategic deterrence and counterattack. Currently, the PLAN has a total strength of 235,000 officers and men, and commands three fleets, namely, the Beihai Fleet, the Donghai Fleet and the Nanhai Fleet. Each fleet has fleet aviation headquarters, support bases, flotillas and maritime garrison commands, as well as aviation divisions and marine brigades. In September 2012, China's first aircraft carrier Liaoning was commissioned into the PLAN. China's development of an aircraft carrier has a profound impact on building a strong PLAN and safeguarding maritime security.

The PLA Air Force (PLAAF) is China's mainstay for air operations, responsible for its territorial air security and maintaining a stable air defense posture nationwide. It is primarily composed of aviation, ground air defense, radar, airborne and electronic countermeasures (ECM) arms. In line with the strategic requirements of conducting both offensive and defensive operations, the PLAAF is strengthening the development of a combat force structure that focuses on reconnaissance and early warning, air strike, air and missile defense, and strategic projection. It is developing such advanced weaponry and equipment as new-generation fighters and new-type ground-to-air missiles and radar systems, improving its early warning, command and communications networks, and raising its strategic early warning, strategic deterrence and long-distance air strike capabilities. The PLAAF now has a total strength of 398,000

officers and men, and an air command in each of the seven Military Area Commands (MACs) of Shenyang, Beijing, Lanzhou, Jinan, Nanjing, Guangzhou and Chengdu. In addition, it commands one airborne corps. Under each air command are bases, aviation divisions (brigades), ground-to-air missile divisions (brigades), radar brigades and other units.

The PLA Second Artillery Force (PLASAF) is a core force for China's strategic deterrence. It is mainly composed of nuclear and conventional missile forces and operational support units, primarily responsible for deterring other countries from using nuclear weapons against China, and carrying out nuclear counterattacks and precision strikes with conventional missiles. Following the principle of building a lean and effective force, the PLASAF is striving to push forward its informationization transform, relying on scientific and technological progress to boost independent innovations in weaponry and equipment, modernizing current equipment selectively by applying mature technology, enhancing the safety, reliability and effectiveness of its missiles, improving its force structure of having both nuclear and conventional missiles, strengthening its rapid reaction, effective penetration, precision strike, damage infliction, protection and survivability capabilities. The PLASAF capabilities of strategic deterrence, nuclear counterattack and conventional precision strike are being steadily elevated. The PLASAF has under its command missile bases, training bases, specialized support units, academies and research institutions. It has a series of "Dong Feng" ballistic missiles and "Chang Jian" cruise missiles.

In peacetime, the PAPF's main tasks include performing guard duties, dealing with emergencies, combating terrorism and participating in and supporting national economic development. In wartime, it is tasked with assisting the PLA in defensive operations. Based on the national information infrastructure, the PAPF has built a three-level comprehensive information network from PAPF general headquarters down to squadrons. It develops task-oriented weaponry and equipment and conducts scenario-based training so as to improve its guard-duty, emergency-response and counter-terrorism capabilities. The PAPF is composed of the internal security force and other specialized forces. The internal security force is composed of contingents at the level of province (autonomous region or municipality directly under the central government) and mobile divisions. Specialized PAPF forces include those guarding gold mines, forests, hydroelectric projects and transportation facilities. The border public security, firefighting and security guard forces are also components of the PAPF.

The militia is an armed organization composed of the people not released from their regular work. As an assistant and backup force of the PLA, the militia is tasked with participating in the socialist modernization drive, performing combat readiness support and defensive operations, helping maintain social order and participating in emergency rescue and disaster relief operations. The militia focuses on optimizing its size and structure, improving its weaponry and equipment, and pushing forward reforms in training so as to enhance its capabilities of supporting diversified military operations, of which the core is to win local wars in informationized conditions. The militia falls into two categories: primary and general. The primary militia has emergency response detachments; supporting detachments such as joint air defense, intelligence, reconnaissance, communications support, engineering rush-repair, transportation and equipment repair; and reserve units for combat, logistics and equipment support.

Editor : dongzhaohui

III. Defending National Sovereignty, Security and Territorial Integrity

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The fundamental tasks of China's armed forces are consolidating national defense, resisting foreign aggression and defending the motherland. Responding to China's core security needs, the diversified employment of the armed forces aims to maintain peace, contain crises and win wars; safeguard border, coastal and territorial air security; strengthen combat-readiness and warfighting-oriented exercises and drills; readily respond to and resolutely deter any provocative action which undermines China's sovereignty, security and territorial integrity; and firmly safeguard China's core national interests.

Safeguarding Border and Coastal Security

With a borderline of more than 22,000 km and a coastline of more than 18,000 km, China is one of the countries with the most neighbors and the longest land borders. Among all China's islands, more than 6,500 are larger than 500 square meters each. China's island coastline is over 14,000 km long. China's armed forces defend and exercise jurisdiction over China's land borders and sea areas, and the task of safeguarding border and coastal security is arduous and complicated.

The border and coastal defense forces of the PLAA are stationed in border and coastal areas, and on islands. They are responsible for defense and administrative tasks such as safeguarding the national borders, coastlines and islands, resisting and guarding against foreign invasions, encroachments and provocations, and assisting in cracking down on terrorist sabotage and cross-border crimes. The border and coastal defense forces focus on combat-readiness duties, strengthen the defense and surveillance of major directions and sensitive areas, watercourses and sea areas in border and coastal regions, maintain a rigorous guard against any invasion, encroachment or cross-border sabotage, prevent in a timely fashion any violation of border and coastal policies, laws and regulations and changes to the current borderlines, carry out civil-military joint control and management, and emergency response missions promptly, and effectively safeguard the security and stability of the borders and coastal areas.

China has signed border cooperation agreements with seven neighboring countries, and established mechanisms with 12 countries for border defense talks and meetings. The border and coastal defense forces of the PLA promote friendly cooperation in joint patrols, guard duties and joint control-management drills with their counterparts of Russia, Kazakhstan, Mongolia and Vietnam, respectively. They also organize annual mutual inspections to supervise and verify the implementation of confidence-building measures in border areas with Kazakhstan, Kyrgyzstan, Russia and Tajikistan.

The PLAN strengthens maritime control and management, systematically establishes patrol mechanisms, effectively enhances situational awareness in surrounding sea areas, tightly guards against various types of harassment, infiltration and sabotage activities, and copes promptly with maritime and air incidents and emergencies. It advances maritime security cooperation, and maintains maritime peace and stability, as well as free and safe navigation. Within the framework of the Military Maritime Consultative Agreement (MMCA), the Chinese and US navies regularly exchange maritime information to avoid accidents at sea. According to the Agreement on Joint Patrols by the Navies of China and Vietnam in the Beibu Gulf, the two navies have organized joint patrols twice a year since 2006.

The border public security force is an armed law-enforcement body deployed by the state in border and coastal areas, and at ports. It assumes important responsibilities of safeguarding national sovereignty, and maintaining security and stability in border, coastal and sea areas, as well as entry and exit order at ports. It carries out diversified tasks of maintaining stability, combating crimes, conducting emergency rescues and providing security in border areas. The border public security force establishes border control zones along the borderlines, establishes maritime defense zones in the coastal areas, establishes border surveillance areas 20 to 50 meters in depth along land border and coastline areas adjacent to Hong Kong and Macao, sets up border inspection stations at open ports, and deploys a marine police force in coastal areas. In recent years, regular strict inspections, management and control in border areas and at ports have been carried out to guard against and subdue separatist, sabotage, violent and terrorist activities by the "three forces" or hostile individuals. The border public security force takes strict and coordinated measures against cross-border fishing activities, strengthens law enforcement by maritime security patrols, and clamps down on maritime offenses and crimes. Since 2011, it has handled 47,445 cases, seized 12,357 kg of drugs, confiscated 125,115 illegal guns, and tracked down 5,607 illegal border-crossers.

The militia takes an active part in combat readiness duties, joint military-police-civilian defense efforts, post duties, and border protection and control tasks in the border and coastal areas. Militia members patrol along the borders and coastlines all year round.

Safeguarding Territorial Air Security

The PLAAF is the mainstay of national territorial air defense, and in accordance with the instructions of the CMC, the PLAA, PLAN and PAPF all undertake some territorial air defense responsibilities. In peacetime, the chain of command of China' s air defense runs from the PLAAF headquarters through the air commands of the military area commands to air defense units. The PLAAF exercises unified command over all air defense components in accordance with the CMC's intent. China's air defense system is composed of six sub-systems of reconnaissance and surveillance, command and control, aerial defense, ground air defense, integrated support and civil air defense. China has established an air defense force system that integrates reconnaissance and early warning, resistance, counterattack and protection. For air situation awareness means, air detection radars and early warning aircraft are the mainstay, supplemented by technical and ECM reconnaissance. For resistance means, fighters, fighter-bombers, ground-to-air missiles and antiaircraft artillery troops are the mainstay, supplemented by the strengths from the PLAA air defense force, militia and reserves, as well as civil air defense. For integrated protection means, various protection works and strengths are the mainstay, supplemented by specialized technical protection forces.

The PLAAF organizes the following routine air defense tasks: reconnaissance and early warning units are tasked with monitoring air situations in China's territorial air space and surrounding areas and keeping abreast of air security threats. Command organs at all levels are tasked with assuming routine combat readiness duties with the capital as the core, and border and coastal areas as the key, and commanding air defense operations at all times. Routine air defense troops on combat duty are tasked with carrying out air vigilance and patrols at sea, conducting counter-reconnaissance in border areas and verifying abnormal and unidentified air situations within the territory. The air control system is tasked with monitoring, controlling and maintaining air traffic order so as to ensure flight safety.

Maintaining Constant Combat Readiness

Combat readiness refers to the preparations and alert activities of the armed forces for undertaking operational tasks and MOOTW, and it is the general, comprehensive and regular work of the armed forces. It is an important guarantee for coping with various security threats and accomplishing diversified military tasks to enhance the capabilities of combat readiness and maintain constant combat readiness. The PLA has a regular system of combat readiness. It improves infrastructure for combat readiness, carries out scenario-oriented drills, and earnestly organizes alert duties, border, coastal and air defense patrols and guard duties. It keeps itself prepared for undertaking operational tasks and MOOTW at all times. Based on different tasks, the troops assume different levels of readiness (Level III, Level II and Level I, from the lowest degree of alertness to the highest).

The routine combat readiness work of the PLAA serves to maintain normal order in border areas and protect national development achievements. Relying on the operational command organs and command information system, it strengthens the integration of combat readiness duty elements, explores joint duty probability within a theater, and optimizes the combat readiness duty system in operational troops at and above the regiment level. It ensures the implementation of combat readiness work through institutionalized systems and mechanisms. It creates a combat readiness system with inter-connected strategic directions, combined arms and systematized operational support. Thus, the PLAA keeps sound combat readiness with agile maneuvers and effective response. The routine combat readiness work of the PLAN serves to safeguard national territorial sovereignty and maritime rights and interests. It carries out diversified patrols and provides whole-area surveillance in a cost-effective way. The PLAN organizes and performs regular combat readiness patrols, and maintains a military presence in relevant sea areas. All fleets maintain the necessary number of ships patrolling in areas under their respective command, beef up naval aviation reconnaissance patrols, and organize mobile forces to conduct patrols and surveillance in relevant sea areas, as required. The PLAAF focuses its daily combat readiness on territorial air defense. It follows the principles of applicability in both peacetime and wartime, all-dimension response and full territorial reach, and maintains a vigilant and efficient combat readiness. It organizes air alert patrols on a regular basis to verify abnormal and unidentified air situations promptly. The PLAAF command alert system takes PLAAF command posts as the core, field command posts as the basis, and aviation and ground air defense forces on combat duty as the pillar.

The PLASAF keeps an appropriate level of readiness in peacetime. It pursues the principles of combining peacetime needs with wartime needs, maintaining vigilance all the time and being ready to fight. It has formed a complete system for combat readiness and set up an integrated, functional, agile and efficient operational duty system to ensure rapid and effective responses to war threats and emergencies. If China comes under a nuclear threat, the nuclear missile force will act upon the orders of the CMC, go into a higher level of readiness, and get ready for a nuclear counterattack to deter the enemy from using nuclear weapons against China. If China comes under a nuclear attack, the nuclear missile force of the PLASAF will use nuclear missiles to launch a resolute counterattack either independently or together with the nuclear forces of other services. The conventional missile force is able to shift instantly from peacetime to wartime readiness, and conduct conventional medium- and long-range precision strikes.

Carrying out Scenario-based Exercises and Drills

The PLA takes scenario-based exercises and drills as the basic means to accelerate the transition in military training and raise combat capabilities. It widely practices in training such operational concepts in conditions of informationization as information dominance, confrontation between different systems, precision strike, fusion, integration and jointness. It organizes training based on real combat needs, formations and procedures. It pays special attention to confrontational command training, live independent force-on-force training and training in complex battlefield environments. Thus, the warfighting capabilities based on information systems have been thoroughly improved.

Carrying out trans-MAC training. To develop rapid-response and joint-operation capabilities in unfamiliar environments and complex conditions, the divisions and brigades of the same specialty with similar tasks and tailored operational environments are organized to carry out a series of trans-MAC live verification-oriented exercises and drills in the combined tactical training bases. In 2009, the Shenyang, Lanzhou, Jinan and Guangzhou MACs each sent one division to join long-distance maneuvers and confrontational drills. Since 2010, a series of campaign-level exercises and drills code-named "Mission Action" for trans-MAC maneuvers have been carried out. Specifically, in 2010 the Beijing, Lanzhou and Chengdu MACs each sent one division (brigade) led by corps headquarters, together with some PLAAF units, to participate in the exercise. In 2011, relevant troops from the Chengdu and Jinan MACs were organized and carried out the exercise in plateau areas. In 2012, the Chengdu, Jinan and Lanzhou MACs and relevant PLAAF troops were organized and carried out the exercise in southwestern China.

Highlighting force-on-force training. The various services and arms are intensifying confrontational and verification-oriented exercises and drills. Based on different scenarios, they organize live force-on-force exercises, online confrontational exercises and computer-simulation confrontational exercises. The PLAAF creates complex battlefield environments based on its training bases, organizes confrontational exercises on "Red-Blue" war systems under informationized conditions, either between MAC air forces or between a combined "Blue Team" and MAC air force ("Red Team"). The Second Artillery Forces carry out confrontational training of reconnaissance vs. counter-reconnaissance, jamming vs. counter-jamming, and precision strikes vs. protection and counterattack, in complex battlefield environments. They are strengthening safety protection and operational skills training under nuclear, biological and chemical (NBC) threats. Units of different missile types are organized to conduct live-firing launching tasks annually.

Intensifying blue water training. The PLAN is improving the training mode of task force formation in blue water. It organizes the training of different formations of combined task forces composed of new types of destroyers, frigates, ocean-going replenishment ships and shipborne helicopters. It is increasing its research and training on tasks in complex battlefield environments, highlighting the training of remote early warning, comprehensive control, open sea interception, long-range raid, anti-submarine warfare and vessel protection at distant sea. The PLAN organizes relevant coastal forces to carry out live force-on-force training for air defense, anti-submarine, anti-mine, anti-terrorism, anti-piracy, coastal defense, and island and reef sabotage raids. Since 2007, the PLAN has conducted training in the distant sea waters of the Western Pacific involving over 90 ships in nearly 20 batches. During the training, the PLAN took effective measures to respond to foreign close-in reconnaissance and illegal interference activities by military ships and aircraft. From April to September 2012, the training vessel Zhenghe completed global-voyage training, paying port calls to 14 countries and regions.

Editor : dongzhaohui

IV. Supporting National Economic and Social Development

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The Constitution and relevant laws entrust China's armed forces with the important tasks of safeguarding the peaceful labor of the Chinese people, taking part in national development and serving the people wholeheartedly. Subordinate to and serving the overall situation of national reform and development, the armed forces of China actively participate in national development, emergency rescue and disaster relief, maintain social harmony and stability according to law, and endeavor to protect national development interests.

Participating in National Development

Under the precondition of accomplishing such tasks as education, training, combat readiness duties, and scientific research and experiments, the PLA and PAPF center their efforts on national and local plans and arrangements for economic and social development; persist in combining PLA and PAPF capabilities with local governments' needs and local people's expectations; make full use of their resources and advantages in personnel, equipment, technology and infrastructure; actively support local key infrastructure projects, ecological environment conservation and new socialist rural area development; and take solid steps to support poverty-alleviation initiatives, give financial aid to education and provide medical service support. They thereby make significant contributions to promoting local economic development, social harmony and the improvement of people's livelihood.

Supporting key infrastructure projects. China's armed forces bring into full play the advantages of hydroelectric, transportation, engineering and cartographic units, and support national and local infrastructure construction related to national economy and people's livelihood in such areas as transportation, water conservancy, energy and communications. Since 2011, the PLA and PAPF have contributed more than 15 million work days and over 1.2 million motor vehicles and machines, and have been involved in more than 350 major province-level (and above) projects of building airports, highways, railways and water conservancy facilities. The PAPF hydroelectric units have partaken in the construction of 115 projects concerning water conservancy, hydropower, railways and gas pipelines in Nuozhadu (Yunnan), Jinping (Sichuan) and Pangduo (Tibet). In addition, PAPF transportation units have undertaken the construction of 172 projects, including highways in the Tianshan Mountains in the Xinjiang Uygur Autonomous Region, the double-deck viaduct bridge over the Luotang River in Gansu Province and the Galungla Tunnel along the Medog Highway in the Tibet Autonomous Region, with a total length of 3,250 km.

Promoting ecological progress and protecting the environment. The PLA, militia and reserve organic troops are organized to help afforest barren hills, control desertification and preserve wetlands. Specifically, they have supported the construction of key national reserves and ecological engineering projects such as controlling the sources of sandstorms affecting Beijing and Tianjin, afforesting the periphery of the Taklimakan Desert, protecting the ecological environment of the upper and middle reaches of the Yangtse and Yellow rivers, and harnessing the Yarlung Zangbo, Lhasa and Nyangqu rivers in Tibet. Over the past two years, the PLA and PAPF have planted over 14 million trees, and afforested above three million mu of barren hills and beaches by large-scale planting and aerial seeding. Besides, technical units specializing in cartography, meteorology, and water supply provide such services as cartographic surveying, weather and hydrological forecasting, and water source exploration for local people.

Contributing to poverty-alleviation initiatives and helping build new rural areas. The PLA and PAPF have paired up with 63 poverty-stricken counties and 547 poverty-stricken towns and townships; set up 26,000 places of contact for poverty reduction; supported over 20,000 small projects such as constructing irrigation and water-conservancy facilities, building rural roads, and improving small river valley areas; aided the development of more than 1,000 industries; and helped over 400,000 needy people shake off poverty. The Beijing Military Area Command's water-supply engineering regiment has helped local governments to search for water and dig wells in Yunnan, Shandong, Hebei and Guizhou provinces, as well as the Guangxi Zhuang Autonomous Region and Inner Mongolia Autonomous Region, and dug 358 wells, solving the domestic water shortage for 960,000 people and the problem of irrigation for 85,000 mu of farmland. Implementing the project of "digging wells to enrich farmers," the Lanzhou Military Area Command's water-supply engineering regiment has explored water sources and dug 192 wells in the arid zone in the middle and southern parts of the Ningxia Hui Autonomous Region, and alleviated drinking

water shortages for 390,000 people and 570,000 head of livestock and the problem of irrigation for 37,000 mu of farmland.

Supporting scientific and technological, educational, cultural and health undertakings. From 2011 to 2012, military academies, research institutions and specialized technical units undertook more than 200 research subjects including national major projects and key technology R&D programs; participated in 220 projects tackling key scientific and technological problems; and transferred 180 technologies. A total of 108 PLA and PAPF hospitals have paired up with 130 county-level hospitals in poverty-stricken areas in the western parts of the country, while medical and health units below the corps level have paired up with 1,283 clinics and health centers in towns and townships. From 2009 to 2012, the armed forces financed and built 57 "August 1" schools particularly in areas inhabited by ethnic minorities in the western parts of the country, such as Xinjiang and Tibet, providing schooling for over 30,000 children.

Participating in Emergency Rescue and Disaster Relief

China is one of the countries most vulnerable to natural disasters. With more varieties, wide distribution and high frequency, natural disasters endanger China's economic and social development as well as the lives and property of many Chinese people. The armed forces of China have always acted as the shock force in emergency rescue and disaster relief, and always undertaken the most urgent, arduous and hazardous rescue tasks. According to the Regulations on the PLA's Participation in Disaster Rescue promulgated in 2005, the PLA and PAPF are mainly tasked with rescuing and evacuating the trapped; ensuring the security of important facilities and areas; salvaging and transporting important materials; participating in specialized operations such as rush repairs of roads, bridges and tunnels, maritime search and rescue, NBC rescue, epidemic control, and medical aid; eliminating or controlling other major dangers and disasters; and assisting local governments in post-disaster reconstruction.

The PLA, PAPF and people's governments at various levels have established military-civilian joint response mechanisms for natural disasters, set up a mobile command platform for emergency response at the strategic level, pre-stored and pre-positioned in key areas materials and equipment urgently needed for emergency rescue and disaster relief, worked out relevant scenarios for units at and above the regiment level, and organized joint military-civilian exercises and training, thereby enhancing their capabilities for emergency rescue and disaster relief in all respects. So far, China has formed nine state-level professional teams, with a total membership of 50,000. They are emergency-response teams for flood relief, earthquake rescue, NBC defense, emergency airlift, rush repair of transportation and power facilities, maritime search and rescue, mobile communications support, medical aid and epidemic prevention, and meteorological support. In collaboration with relevant provinces (autonomous regions, and municipalities directly under the central government) and based on active and reserve forces, all MACs have joined to set up professional emergency-rescue units at the provincial level, totaling 45,000 members.

In all major emergency-rescue and disaster-relief operations, China's armed forces have always played a vital role. In 2008, some 1.26 million officers and men as well as militia members were sent to counter the disaster of freezing weather, sleet and snowstorms in southern China, and 221,000 to participate in rescue after the devastating earthquake in Wenchuan County, Sichuan Province. In 2010, some 21,000 and 12,000 armed forces members were dispatched respectively to take part in rescue after the Yushu (Qinghai Province) earthquake and the Zhouqu (Gansu Province) mud-rock slide. Since 2011, the PLA and PAPF have contributed a total of 370,000 servicepersons and 197,000 vehicles or other machines of various types, flown over 225 sorties (using fixed-wing aircraft and helicopters), organized 870,000 militiamen and reservists, participated in emergency-rescue and disaster-relief operations in cases of floods, earthquakes, droughts, ice jams, typhoons and fires, rescued or evacuated more than 2.45 million people, and rushed 160,000 tons of goods to disaster areas. Every year, the army aviation flies hundreds of sorties to prevent and fight forest and grassland fires on a regular basis.

Maintaining Social Stability

In accordance with relevant laws and regulations, the armed forces of China participate in social order maintenance, and guard and fight against terrorist activities. The PAPF is the state's backbone and shock force in handling public emergencies and maintaining social stability. The Law of the People's Republic of China on the People's Armed Police Force, promulgated in August 2009, specifies the scope, measures and support of PAPF security missions. With mobile PAPF troops as the mainstay, supplemented by forces pooled from routine duty units, and supported by various police forces and PAPF academies, the PAPF has established a force structure for stability maintenance and emergency response. In addition, a

counter-terrorism force structure has been set up, which consists of a counter-terrorism contingent, special-duty squadrons, special-duty platoons and emergency-response squads at state, province, municipality and county levels, respectively. Solid steps have been taken to implement strict security measures for major events, including guard duties, security checks, security of important facilities and areas, checkpoints on major roads, and armed urban patrols. From 2011 to 2012, the PAPF effectively responded to and handled various emergencies, coordinated with public security organs to successfully handle some violent and terrorist attacks, and participated in handling 68 incidents of serious violence, and rescuing 62 hostages. Altogether contributing more than 1.6 million persons, the PAPF has provided security for such important events as the 26th Summer Universiade (Shenzhen, 2011), China-Eurasia Expo (Urumqi, 2011) and Shanghai Cooperation Organization (SCO) Beijing Summit (2012).

The PLA also assists public security and PAPF forces in providing security for major events. The PLAA is mainly tasked with counter-terrorism, NBC and explosive item checks, and medical aid. The PLAN is mainly responsible for guarding against potential maritime threats and terrorist attacks. The PLAAF is mainly charged with providing air security for major event venues and their adjacent areas. In recent years, contributing 145,000 servicepersons, 365 fixed-wing aircraft and helicopters, 148 ships and 554 sets of radar equipment, the PLA provided security for the Beijing Olympics, celebrations of the PRC's 60th founding anniversary, Shanghai World Expo and Guangzhou Asian Games.

The militia is an important force for maintaining social stability. It assists in the maintenance of social order in accordance with laws and regulations. Under the unified arrangements of local CPC committees and governments as well as the guidance of corresponding military organs, the militia participates in joint defense of public security, integrated social management, and security provision for major events. Each year, more than 90,000 militiamen carry out the task of guarding bridges, tunnels and railways.

Hong Kong and Macao garrison troops are dispatched by the central government to the two special administrative regions (SARs) to perform defense duties according to law. As stipulated by the garrison laws, the governments of Hong Kong and Macao SARs may, if necessary, request the central government for the assistance of the garrison troops in maintaining social order and providing disaster relief. Hong Kong and Macao garrison troops organize joint air-sea patrols, conduct annual exercises and drills, and participate in joint exercises held by the SAR governments for air-sea search and rescue operations. They succeeded in providing security for the Hong Kong venue of the Beijing Olympics (2008) and anniversary celebrations of the SARs' returning to the motherland.

Safeguarding Maritime Rights and Interests

China is a major maritime as well as land country. The seas and oceans provide immense space and abundant resources for China's sustainable development, and thus are of vital importance to the people's wellbeing and China's future. It is an essential national development strategy to exploit, utilize and protect the seas and oceans, and build China into a maritime power. It is an important duty for the PLA to resolutely safeguard China's maritime rights and interests.

In combination with its routine combat readiness activities, the PLAN provides security support for China's maritime law enforcement, fisheries, and oil and gas exploitation. It has established mechanisms to coordinate and cooperate with law-enforcement organs of marine surveillance and fishery administration, as well as a joint military-police-civilian defense mechanism. Further, the PLAN has worked in coordination with relevant local departments to conduct maritime survey and scientific investigation; build systems of maritime meteorological observation, satellite navigation, radio navigation and navigation aids; release timely weather and sea traffic information; and ensure the safe flow of traffic in sea areas of responsibility.

Together with the marine surveillance and fishery administration departments, the PLAN has conducted joint maritime exercises and drills for protecting rights and enforcing laws, and enhanced its capabilities to coordinate command and respond to emergencies in joint military-civilian operations to safeguard maritime rights. The "Donghai Collaboration-2012" joint exercise was held in the East China Sea in October 2012, involving 11 ships and eight planes.

As an important armed maritime law-enforcement body, the border public security force exercises jurisdiction over both violations of laws, rules and regulations relating to public security administration and suspected crimes committed in China's internal waters, territorial seas, contiguous zones, exclusive economic zones and continental shelf. In recent years, the border public security force has endeavored to guarantee the security of sea areas, strengthened patrols, surveillance and management along the sea boundary in the Beibu Gulf and around the Xisha sea areas, and effectively maintained maritime public

order and stability.

Protecting Overseas Interests

With the gradual integration of China's economy into the world economic system, overseas interests have become an integral component of China's national interests. Security issues are increasingly prominent, involving overseas energy and resources, strategic sea lines of communication (SLOCs), and Chinese nationals and legal persons overseas. Vessel protection at sea, evacuation of Chinese nationals overseas, and emergency rescue have become important ways and means for the PLA to safeguard national interests and fulfill China's international obligations.

In line with the relevant resolutions of the United Nations Security Council (UNSC), and with the consent of the Transitional Federal Government of Somalia, the Chinese government dispatched a combined naval task force to conduct escort operations in the Gulf of Aden and waters off Somalia on December 26, 2008. The combined Chinese task forces are mainly charged with safeguarding the security of Chinese ships and personnel traversing those waters and the security of ships delivering humanitarian supplies for the World Food Programme (WFP) and other international organizations, and sheltering passing foreign vessels as far as possible. As of December 2012, the Chinese Navy has dispatched, in 13 task groups, 34 warships, 28 helicopters, and 910 Special Operations Force (SOF) soldiers, escorting 4,984 ships in 532 batches. Among them, 1,510 were Chinese mainland ships, 940 Hong Kong ships, 74 Taiwan ships and one Macao ship. The task forces also rescued two Chinese ships from pirates who had boarded them and 22 which were being chased by pirates.

In February 2011, the turbulent situation in Libya posed grave security threats to Chinese institutions, enterprises and nationals in that country. The Chinese government organized the largest overseas evacuation since the founding of the PRC, and 35,860 Chinese nationals were taken home. The PLA contributed ships and aircraft to the effort. The Chinese Navy' s frigate Xuzhou, on escort mission in the Gulf of Aden and waters off Somalia at that time, sailed to the waters off Libya and provided support for ships evacuating Chinese nationals stranded there. The PLAAF sent four aircraft at short notice, flew 40 sorties, evacuated 1,655 people (including 240 Nepalese) from Libya to Sudan, and took 287 Chinese nationals from Sudan back home.

Editor : dongzhaohui

V. Safeguarding World Peace and Regional Stability

(Source: MOD) 2013-April-16 11:15

China's security and development are closely connected with the peace and prosperity of the world as a whole. China's armed forces have always been a staunch force upholding world peace and regional stability, and will continue to increase cooperation and mutual trust with the armed forces of other countries, participate in regional and international security affairs, and play an active role in international political and security fields.

Participating in UN Peacekeeping Operations

China earnestly fulfills its international responsibilities and obligations, and supports and actively participates in UN peacekeeping missions. In accordance with UN resolutions as well as agreements between the Chinese government and the UN, China dispatches peacekeeping troops and specialized peacekeeping personnel to designated countries or regions, who carry out peacekeeping operations under the auspices of the UN. They are mainly tasked with monitoring ceasefires, disengaging conflicting parties, providing engineering, transportation and medical support, and participating in social reconstruction and humanitarian assistance.

In 1990, the PLA sent five military observers to the UN Truce Supervision Organization (UNTSO) - the first time China had taken part in UN peacekeeping missions. In 1992, it dispatched an engineering corps of 400 officers and men to the UN Transitional Authority in Cambodia (UNTAC) - the first time China had sent an organic military unit on a peacekeeping mission. To date, the PLA has dispatched 22,000 military personnel to 23 UN peacekeeping missions. All of them have been awarded the UN peace medals. Three officers and six soldiers have laid down their lives performing such duties and were posthumously awarded the Dag Hammarskjold medal. So far, China is the biggest troop and police contributor among the five permanent members of the UN Security Council. It also dispatches the most numbers of troops for engineering, transportation and medical support among all the 115 contributing countries. China pays and contributes the largest share of UN peacekeeping costs among all developing countries.

As of December 2012, a total of 1,842 PLA officers and men are implementing peacekeeping tasks in nine UN mission areas. Among them, 78 are military observers and staff officers, 218 are engineering and medical personnel for the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), 558 are engineering, transportation and medical personnel for the United Nations Mission in Liberia (UNMIL), 335 are engineering and medical personnel for the United Nations Interim Force in Lebanon (UNIFIL), 338 are engineering and medical personnel for the United Nations Mission in the Republic of South Sudan (UNMISS) and 315 are engineering personnel for the African Union/United Nations Hybrid Operation in Darfur (UNAMID).

Tough, brave and devoted, Chinese peacekeepers accomplish all their tasks in an exemplary manner. Over the past 22 years, Chinese peacekeepers have built and repaired over 10,000 km of roads and 284 bridges, cleared over 9,000 mines and various types of unexploded ordnance (UXO), transported over one million tons of cargo across a total distance of 11 million km and treated 120,000 patients. The staff officers and military observers have displayed a high degree of professionalism in their work at the headquarters and in the tasks of patrol, ceasefire monitoring, liaison and negotiation. The Chinese engineering units to the Democratic Republic of the Congo worked day and night to level an area of 16,000 square meters littered with volcanic rocks. The Chinese transportation units to Liberia have worked throughout the country and served as the transportation support center for nearly 50 peacekeeping troops there. Chinese peacekeepers also build roads and bridges, repair vehicles and transport materials for, as well as deliver medical assistance and impart agricultural technology to local people. The Chinese engineering units to Lebanon invented the method of "tilted cross positioning" in minesweeping, which has greatly raised the safety and efficiency of such operations. They can now cover an average of over 500 square meters per day with this method. During the Lebanon-Israel conflict in 2006, over 3,500 unexploded bombs were defused and disposed of. The Chinese engineering units to Darfur, Sudan, dug 13 wells in areas where well digging was deemed impossible. The Chinese engineering units to South Sudan built the first interim training center for Disarmament, Demobilization and Reintegration (DDR) at a high standard, making a positive contribution to the local peace process.

Chinese peacekeepers strictly abide by the code of personal conduct for UN peacekeepers, rules of engagement and laws of host countries. They respect local religious beliefs and customs, and

conscientiously observe the mission regulations and rules for the Chinese peacekeeping troops, thereby winning trust from the local people.

International Disaster Relief and Humanitarian Aid

China's armed forces take an active part in international disaster relief and humanitarian aid operations organized by the government. They provide relief supplies and medical aid, dispatch specialized rescue teams to disaster-stricken countries, provide mine-sweeping assistance and carry out international exchanges of rescue and disaster reduction.

Since 2002 the PLA has undertaken 36 urgent international humanitarian aid missions, and transported relief materials worth more than RMB1.25 billion to 27 disaster-stricken countries. Since 2001, the Chinese International Search and Rescue (CISAR) Team, composed of officers and men from the engineering regiment of the Beijing Military Area Command, medical personnel from the PAPF General Hospital and experts from the China Earthquake Administration, has participated in eight international rescue operations. Since 2010, PLA medical assistance teams have been sent three times to Haiti and Pakistan to carry out international humanitarian medical rescue operations, and the helicopter rescue team of the army aviation has been sent to Pakistan to assist flood-relief operations there.

In March 2011 a devastating earthquake and tsunami hit Japan. The CISAR rushed to Japan and participated in the search-and-rescue operations. In July 2011 heavy floods battered Thailand. The PLAAF sent four aircraft to transport to Bangkok more than 90 tons of relief materials provided by China's Ministry of National Defense to the Thai armed forces. In September 2011, when disastrous floods struck Pakistan, the PLAAF dispatched five aircraft to deliver 7,000 tents to Karachi, and the Lanzhou Military Area Command sent a medical-care and epidemic-prevention team to Kunri, the worst-hit area.

China's armed forces actively provide medical care and aid to developing countries, and participate in international medical exchanges and cooperation, thus strengthening friendship and mutual trust with them. From 2010 to 2011, PLAN's hospital ship Peace Ark visited five countries in Asia and Africa and four countries in Latin America to provide "Harmonious Mission" humanitarian medical service. In 193 days the voyage covered 42,000 nautical miles, and nearly 50,000 people received medical services. In recent years, the PLA medical team has also provided medical service to local people in Gabon, Peru and Indonesia while participating in joint humanitarian medical drills.

The Chinese government attaches great importance to the solution of humanitarian problems caused by landmines. It actively supports and participates in international de-mining efforts. Since 1999, the PLA, in collaboration with relevant departments of the PRC government, has provided de-mining assistance to nearly 40 Asian, African and Latin American countries through offering training courses, sending experts to give on-site instruction, and donating de-mining equipment. As a result, the PLA has trained more than 400 mine-clearance personnel for foreign countries, guided the clearance of more than 200,000 square meters of land-mine areas and donated mine-clearance equipment worth RMB 60 million.

Safeguarding the Security of International SLOCs

To fulfill China's international obligations, the Chinese navy carries out regular escort missions in the Gulf of Aden and waters off Somalia. It conducts exchanges and cooperation with other escort forces to jointly safeguard the security of the international SLOCs. As of December 2012, Chinese navy task groups have provided protection for four WFP ships and 2,455 foreign ships, accounting for 49% of the total of escorted ships. They helped four foreign ships, recovered four ships released from captivity and saved 20 foreign ships from pursuit by pirates.

Chinese navy escort task forces have maintained smooth communication with other navies in the areas of joint escort, information sharing, coordination and liaison. They have conducted joint escorts with their Russian counterparts, carried out joint anti-piracy drills with naval ships of the ROK, Pakistan and the US, and coordinated with the European Union to protect WFP ships. It has exchanged boarding visits of commanders with task forces from the EU, NATO, the Combined Maritime Forces (CMF), the ROK, Japan and Singapore. It has exchanged officers for onboard observations with the navy of the Netherlands. China takes an active part in the conferences of the Contact Group on Piracy off the Coast of Somalia (CGPCS) and "Shared Awareness and Deconfliction" (SHADE) meetings on international merchant shipping protection.

Since January 2012, independent deployers such as China, India and Japan have strengthened their convoy coordination. They have adjusted their escort schedules on a quarterly basis, optimized available assets, and thereby enhanced escort efficiency. China, as the reference country for the first round of

convoy coordination, submitted its escort timetable for the first quarter of 2012 in good time. India and Japan's escort task forces adjusted their convoy arrangements accordingly, thereby formulating a well-scheduled escort timetable. The ROK joined these efforts in the fourth quarter of 2012.

Joint Exercises and Training with Foreign Armed Forces

In adherence to the principles of being non-aligned, non-confrontational, and not directed against any third party, as well as the guidelines of mutual benefit, equality and reciprocity, the PLA has held, together with other countries, bilateral and multilateral exercises and training featuring multiple levels, domains, services and arms. Since 2002, the PLA has held 28 joint exercises and 34 joint training sessions with 31 countries in accordance with relevant agreements or arrangements. This is conducive to promoting mutual trust in the political and military fields, safeguarding regional security and stability, and accelerating the PLA's modernization.

Joint anti-terrorism military exercises within the framework of the Shanghai Cooperation Organization (SCO) have become more institutionalized. To date, China and other SCO member states have conducted nine bilateral and multilateral military exercises. Since 2005, they have carried out a series of "Peace Mission" joint exercises at the campaign level with strategic impact. They were the "Peace Mission-2005" China-Russia joint military exercise, "Peace Mission-2007" joint anti-terrorism military exercise by SCO members, "Peace Mission-2009" China-Russia joint anti-terrorism military exercise, "Peace Mission-2010" joint anti-terrorism military exercise by SCO members and "Peace Mission-2012" joint anti-terrorism military exercise by SCO members. The aforementioned exercises served to warn and deter terrorist, secessionist and extremist forces. The capabilities of the SCO members are constantly being enhanced to jointly deal with new challenges and new threats.

Joint maritime exercises and training are being expanded. In recent years, the Chinese navy has taken part in the "Peace-07," "Peace-09" and "Peace-11" multinational maritime exercises hosted by Pakistan on the Arabian Sea. The PLA and Russian navies held the "Maritime Cooperation-2012" military drill in the Yellow Sea off China's east coast focusing on joint defense of maritime traffic arteries. Chinese and Thai marine corps held the "Blue Strike-2010" and "Blue Strike-2012" joint training exercises. During mutual port calls and other activities, the Chinese navy also carried out bilateral or multilateral maritime exercises and training in such tasks as communications, formation movement, maritime replenishment, cross-deck helicopter landing, firing at surface, underwater and air targets, joint escort, boarding and inspection, joint search and rescue and diving with its counterparts of India, France, the UK, Australia, Thailand, the US, Russia, Japan, New Zealand and Vietnam.

Joint army training is gradually being increased in breadth and depth. Since 2007, the PLAA has conducted a number of joint training sessions with its counterparts of other countries. The PLAA joined the "Hand-in-Hand 2007" and "Hand-in-Hand 2008" joint anti-terrorism training sessions with the Indian army, "Peacekeeping Mission-2009" joint peacekeeping exercise with the Mongolian army, "Cooperation-2009" and "Cooperation-2010" joint security training exercises with Singapore, "Friendship Operation-2009" and "Friendship Operation-2010" joint military training of mountain troops with the Romanian army, and joint SOF unit training with the Turkish army. The PLAA special forces held the "Strike-2007," "Strike-2008" and "Strike-2010" joint anti-terrorism training with their Thai counterparts, "Sharp Knife-2011" and "Sharp Knife-2012" joint anti-terrorism training with their Indonesian counterparts, "Friendship-2010" and "Friendship-2011" joint anti-terrorism training with their Pakistani counterparts, and "Cooperation-2012" joint anti-terrorism training with their Colombian counterparts. In November 2012, joint anti-terrorism training was held with the Jordanian special forces and a joint humanitarian-assistance and disaster-relief tabletop exercise with the US army.

Joint air force training is also making progress. The PLAAF contingent held the "Shaheen-1" joint training of operational aerial maneuvers with its Pakistani counterpart in March 2011. China' s airborne commandos and their Venezuelan counterparts held the "Cooperation-2011" urban joint anti-terrorism training in October of the same year. China's airborne troops joined their Belarusian counterparts in the joint training code-named "Divine Eagle-2011" and "Divine Eagle-2012" respectively in July 2011 and November 2012.

Joint training in providing health services is being developed steadily. From 2009 to 2011, PLA medical teams held the "Peace Angel" joint operations for humanitarian medical assistance in Gabon and Peru, and participated in a disaster-relief exercise of the ASEAN Regional Forum (ARF) in Indonesia. The PLA health service team staged a joint exercise on humanitarian assistance and disaster relief code-named "Cooperation Spirit-2012" with its counterparts of Australia and New Zealand in October 2012.

Concluding Remarks

(Source: MOD) 2013-April-16 11:19

At the new stage in this new century, China's armed forces have effectively fulfilled their new historical missions, and enhanced their capabilities of accomplishing diversified military tasks, the most important of which is to win local wars under informationized conditions. They have resolutely defended national sovereignty, security and territorial integrity, strongly guaranteed national economic and social development and ensured that the people can live and work in peace and stability. Their accomplishment of a host of urgent, difficult, dangerous and arduous tasks has been remarkable, and through their staging of major exercises and training for combat readiness they have won the full trust of and high praise from the people.

At this new historical starting point, China's armed forces are undertaking missions which are noble and lofty, and assuming responsibilities which are paramount and honorable. They will constantly place above all else the protection of national sovereignty and security as well as the interests of the Chinese people. They will persistently regard maintaining world peace and promoting common development as their important missions, and accelerate the modernization of national defense and the armed forces. They will continue to actively participate in international security cooperation, and endeavor to foster, together with the armed forces of other countries, an international security environment of peace, stability, equality, mutual trust and win-win cooperation.

Editor : dongzhaohui

Appendix I Joint Exercise and Training with Foreign Armed Forces (2011-2012)

(Source: China Military Online) 2013-April-19 10:34

Time	Name	Venue
2011		
March 5-30	“Shaheen-1” China-Pakistan Air Force Joint Training	Pakistan
March 8-12	“Peace-11” Multinational Naval Exercise	Waters off Karachi, Pakistan
June 5-17	“sharp Knife-2011” China-Indonesia Special Forces Joint Training	Bandung, Indonesia
July 5-15	“Divine Eagle-2011” China-Belarus Airborne Troops Joint Training	Baranovichi, Belarus
Oct.14-Nov. 13	China-Venezuela Joint SOF Training	Venezuela
Nov.14-27	“Friendship-2011” China-Pakistan Anti-Terrorism Training	Pakistan
Nov. 28-Dec. 1	“cooperation Spirit-2011” China-Australia Humanitarian Assistance and Disaster Relief Actual-Troop Exercise	Dujiangyan, Sichuan Province, China
2012		
April 22-27	“Maritime Cooperation-2012” China-Russia Maritime Joint Exercises	Waters off the Yellow Sea near Qingdao, Shandong province，China
May 11-25	“Blue Strike-2012” China-Thailand Marine Training	Zhanjiang and Shanwei, Guangdong Province, China
June7-14	“Peace Mission-2012” Joint Anti-Terrorism Exercise by SCO Member States	Khujand, Tajikistan
July 3-15	“Sharp Knife-2012” China-Indonesia Special Forces Training	Jinan, Shandong Province, China
Sept. 17	China-US Joint Anti-Piracy Drill	Central and western waters, Gulf of Aden
Sept. 10-25	“Cormorant Strike-2012” Joint Exercises of Special Forces	Eastern coast, SriLanka
Oct. 29-31	“Cooperation Spirit-2012” China-Australia-New Zealand Exercise on Humanitarian Assistance and Disaster Relief	Brisbane, Australia
Nov. 16-30	China_Jordan Anti-Terrorism Training of Special Forces	Amman, Jordan
Nov. 26-Dec. 7	“Divine Eagle-2012” China-Belarus Airborne Troops Training	Xiaogan, Hubei Province, China
Nov. 20-Dec. 19	China-Colombia Training of Special Forces	Bogota, Colombia
Nov. 29-30	China-US Joint Humanitarian-Assistance and Disaster-Relief Tabletop Exercise	Chengdu, Sichuan Province, China

Editor : Zhang Tao

Appendix II Participation of China's Armed Forces in International Disaster Relief and Rescue (2011-2012)

(Source: China Military Online) 2013-April-19 10:35

Time	Country	Reason	Aid	Value (RMB)	Mission
March2012	Japan	Tsunami	Tents, mineral water and rubber gloves	30 million	Joined the CISAR team in rescue efforts
April 2011	Tunisia	Turmoil	Medicine, food and tents	30 million	
July 2011	Libya	Civil War	Medicine, food and tents	50 million	
Sept.2011	Pakistan	Flood	Tents	30 million	Sent PLAAF aircraft to transport relief materials
Oct.2011	Pakistan	Flood			Sent a medical assistance team
Oct.2011	Thailand	Flood	Life rafts and water-purifying equipment	85 million	
Oct.2011	Thailand	Flood	Life rafts, diesel generator sets and emergency lamps	9.55 million	Sent PLAAF aircraft to transport relief materials
Oct.2011	Cambodia	Flood	Medicine and bedding	50 million	
Nov.2012	Cuba	Hurricane	Medicine, tents, terry blankets, water-purifying equipment and generators	17 million	

Editor : Zhang Tao

Appendix III China's Participation in UN Peacekeeping Operations (As of Dec.31, 2012)

(Source: China Military Online) 2013-April-19 10:35

UN Peacekeeping Mission	Acronym	Time Frame	Number of Troops		Number of Military Observers and Staff Officers	
			Current	Total	Current	Total
UN Truce Supervision Organization	UNTSO	Apr.1990 to present			4	108
UN Iraq-Kuwait Obeservation Mission	UNIKOM	Apr.1991 to Oct.2003				164
UN Mission for the Referendum in Western Sahara	MINURSO	Sept.1991 to present			10	352
UN Transitional Authority in Cambodia	UNTAC	Dec.1991 to Sept.1993		800		97
UN Operation in Mozambique	ONUMOZ	June 1993 to Dec.1994				20
UN Observer Mission in Liberia	UNOMIL	Nov.1993 to Sept.1997				33
UN Special Mission to Afghanistan	UNSMA	May 1998 to Jan.2000				2
UN Mission in Sierra Leone	UNAMSIL	Aug.1998 to Dec.2005				37
UN Department of Peacekeeping operations	UNDPKO	Feb.1999 to present			2	18
UN Mission in Ethiopia and Eritrea	UNMEE	Oct.2000 to Jun.2010		2,180		116
UN Mission in Liberia	UNMIL	Oct.2003 to present	558	7,812	8	98
UN Operation in Côte d'Ivoire	UNOCI	Mar.2004 to present			6	58
UN Operation in Burundi	ONUB	June 2004 to Sept.2006				6
UN Mission in the Sudan	UNMIS	Apr.2005 to Jul.2011		3,480		135
UN Interim Force in Lebanon	UNIFIL	Mar.2006 to present	335	3,197	8	58
UN Integrated Mission in Timor-Leste	UNMIT	Oct.2006 to Nov.2012				15
UN Integrated Office in Sierra Leone	UNIOSIL	Feb.2007 to Feb.2008				1
AU-UN Hybrid Operation in Darfur	UNAMID	Nov.2007 to present	315	2,205	8	42
UN Organization Stabilization Mission	MONUSCO	Jul.2010 to present				

in the Democratic Republic of the Congo			218	1,090	16	47
UN Peacekeeping Force in Cyprus	UNFICYP	Feb.2011 to present			3	5
UN Interim Security Force for ABYEI	UNISFA	Jul.2011 to Oct.2011				2
UN Mission in the Republic of South Sudan	UNMISS	Jul.2011 to present	338	676	13	13
UN Supervision Mission in Syria	UNSMIS	Apr.2012 to Aug.2012				9
Total			1,764	21,440	78	1,485

Editor : Zhang Tao

Annex 579

Ministry of Foreign Affairs of the People's Republic of China, *Foreign Ministry Spokesperson Lu Kang's Remarks on Issues Relating to China's Construction Activities on the Nansha Islands and Reefs* (16 June 2015)

Foreign Ministry Spokesperson Lu Kang's Remarks on Issues Relating to China's Construction Activities on the Nansha Islands and Reefs

2015/06/16

Q: Please introduce the recent progress of China's construction activities on the Nansha islands and reefs and China's relevant position.

A: The construction activities on the Nansha islands and reefs fall within the scope of China's sovereignty, and are lawful, reasonable and justified. They are not targeted at any other country, do not affect the freedom of navigation and overflight enjoyed by all countries in accordance with international law in the South China Sea, nor have they caused or will they cause damage to the marine ecological system and environment in the South China Sea, and are thus beyond reproach.

It is learned from relevant Chinese competent departments that, as planned, the land reclamation project of China's construction on some stationed islands and reefs of the Nansha Islands will be completed in the upcoming days.

Apart from satisfying the need of necessary military defense, the main purpose of China's construction activities is to meet various civilian demands and better perform China's international obligations and responsibilities in the areas such as maritime search and rescue, disaster prevention and mitigation, marine scientific research, meteorological observation, ecological environment conservation, navigation safety as well as fishery production service. After the land reclamation, we will start the building of facilities to meet relevant functional requirements.

China is committed to the path of peaceful development. She follows a foreign policy of forging friendship and partnership with her neighbours, and a defense policy that is defensive in nature. China remains a staunch force for regional peace and stability. While firmly safeguarding her territorial sovereignty and maritime rights and interests, China will continue to dedicate herself to resolving relevant disputes with relevant states directly concerned, in accordance with international law, through negotiation and consultation on the basis of respecting historical facts, pushing forward actively the consultation on a "Code of Conduct in the South China Sea" together with ASEAN member states within the framework of fully and effectively implementing the Declaration on the Conduct of Parties in the South China Sea. China will continue to uphold the freedom of navigation as well as peace and stability in the South China Sea.

Related News:

- Foreign Ministry Spokesperson Lu Kang's Regular Press Conference on June 15, 2015
- Foreign Ministry Spokesperson Hong Lei's Regular Press Conference on June 12, 2015
- Foreign Ministry Spokesperson Hong Lei's Regular Press Conference on June 11, 2015
- Foreign Ministry Spokesperson Hong Lei's Regular Press Conference on June 10, 2015
- Foreign Ministry Spokesperson Hong Lei's Regular Press Conference on June 9, 2015
- Foreign Ministry Spokesperson Hong Lei's Regular Press Conference on June 8, 2015
- Foreign Ministry Spokesperson Hong Lei's Regular Press Conference on June 5, 2015
- Foreign Ministry Spokesperson Hua Chunying's Regular Press Conference on June 4, 2015

Annex 580

Note Verbale from the Embassy of the People's Republic of China in Manila to the Department of Foreign Affairs of the Republic of the Philippines, No. (15)PG-229 (6 July 2015)

(Unofficial translation)

No. (15)PG-229

The Embassy of the People's Republic of China in the Republic of the Philippines presents its compliments to the Department of Foreign Affairs of the Republic of the Philippines, and with reference to the latter's Note Verbale No. 15-2341 dated 16th June 2015, has the honor to state the following:

China has indisputable sovereignty over the South China Sea Islands and their adjacent waters. This position has adequate historical and legal basis. On the contrary, according to the *"Treaty of Peace between the United States of America and the Kingdom of Spain (Treaty of Paris, 1898)"* ,*"Treaty between the Kingdom of Spain and the United States of America for Cession of Outlying Islands of the Philippines (Treaty of Washington,1900)"*, *"Convention between the United States of America and Great Britain Delimiting the Boundary between the Philippine Archipelago and the State of North Borneo(1930)"* and a series of international treaties which determine the territorial area of the Republic of the Philippines, the South China Sea Islands have never been included in the Philippine territory.

The Chinese government has been all along conducting normal and effective management on the waters under China's jurisdiction in accordance with the law. According to the *"Fishery Law of the People's Republic of China"*, since 1999, competent authorities of the Chinese government have been imposing fishing moratorium on waters under China's jurisdiction in the South China Sea at summer time every year. Fishermen from all countries, China included, should abide by the fishing moratorium on the relevant waters. This is not only a regular administrative measure taken by the Chinese side to protect living marine resources and environment with a view to ensuring the sustainable development of marine fishery, but also a proper act to fulfill

China's international obligation and responsibility. The Chinese side issues "Nansha Certification of Fishing Permit" to the Chinese fishing vessels allowing them to conduct fishery production activities outside the areas under fishing moratorium. This is in conformity with the Chinese laws and relevant regulations.

The Chinese side does not accept and firmly opposes the groundless protests and accusation of the Philippine side, and hereby requests the Philippine side to earnestly respect China's territorial sovereignty, sovereign rights and jurisdiction, and to educate its own fishermen, so that they can strictly abide by the fishing moratorium of South China Sea issued by the Chinese government and the administrative managements of China's law-enforcing authorities. The Chinese law-enforcing authorities will strengthen their maritime patrols and other law-enforcing actions, investigate and punish the relevant fishing vessels and fishermen who violate the fishing moratorium in accordance with the law.

The Embassy of the People's Republic of China in the Republic of the Philippines avails itself of this opportunity to renew to the Department of Foreign Affairs of the Republic of the Philippines the assurances of its highest consideration.

Makati City, 6th July 2015

Department of Foreign Affairs
Republic of the Philippines
Pasay City, Manila

中 华 人 民 共 和 国 大 使 馆

（2015）第229号

菲律宾共和国外交部：

中华人民共和国驻菲律宾共和国大使馆向菲律宾共和国外交部致意，并谨就菲律宾外交部2015年6月16日第15-2341号照会阐明如下立场：

中国对南海诸岛及其附近海域拥有无可争辩的主权，并对此有充分的历史和法理依据。相反，根据确定菲律宾领土范围的1898年《美西巴黎条约》、1900年《美西华盛顿条约》和1930年《英美条约》等一系列国际条约，菲领土范围从不包括中国南海诸岛。

中国政府一直依法对中方管辖海域行使正常、有效的管理。根据《中华人民共和国渔业法》，自1999年以来，中国政府渔业主管部门每年在南海部分管辖海域实施伏季休渔，包括中国渔民在内的各国渔民均需遵守伏季休渔令。这既是中方保护海洋生物资源和海洋环境、促进海洋渔业可持续发展的正常行政管理措施，也是中方履行有关国际责任和义务所采取的正当举措。中方向中国渔船颁发“南沙专项捕捞许可证”，并允许其赴休渔区域以外的中国南沙海域生产作业，符合中国法律和相关规定。

中方不接受并坚决反对菲方的无理抗议和指责，敦促

菲方切实尊重中国的主权、主权权利和管辖权，教育本国渔民严格遵守中国政府颁布的南海伏季休渔令，服从中方执法部门的管理。中方执法部门将加大海上巡逻执法力度，依法查处违反南海休渔令的有关渔船渔民。

顺致最崇高的敬意。

二〇一五年[illegible]于马尼拉

Annex 581

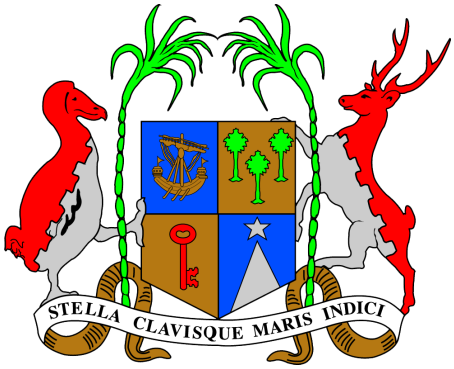
Chagos Marine Protected Area Arbitration (Mauritius v. United Kingdom), Memorial of Mauritius, UNCLOS Annex VII Tribunal (1 Aug. 2012)

ARBITRATION UNDER ANNEX VII OF THE 1982 UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

REPUBLIC OF MAURITIUS

v.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND



MEMORIAL OF THE REPUBLIC OF MAURITIUS

VOLUME I

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CHAPTER 1: INTRODUCTION

1.1 This claim arises out of the United Kingdom's decision, in April 2010, to declare a "Marine Protected Area" (hereinafter "MPA") around the Chagos Archipelago. The Republic of Mauritius challenges the right of the UK to establish the "MPA" and other maritime zones around the Chagos Archipelago, and the compatibility of the "MPA" and such zones with the 1982 United Nations Convention on the Law of the Sea (hereinafter "the Convention").

1.2 At the outset, Mauritius wishes to make clear that it places a very high value on the protection of the marine environment. It is conscious of the extraordinary diversity of the waters of the Chagos Archipelago, and the need to safeguard the region against the environmental challenges it faces today. Mauritius is fully prepared to exercise its responsibilities under the Convention in that regard. In this case, Mauritius raises the question of whether the "MPA" that the UK has unilaterally purported to impose is compatible with the Convention. Mauritius considers that it is not.

1.3 Mauritius' case is that the "MPA" is unlawful under the Convention, because it is a regime which has been imposed by a State which has no authority to act as it has done. There are two parts to the argument:

(i) The UK does not have sovereignty over the Chagos Archipelago, is not "the coastal State" for the purposes of the Convention, and cannot declare an "MPA" or other maritime zones in this area. Further, the UK has acknowledged the rights and legitimate interests of Mauritius in relation to the Chagos Archipelago, such that the UK is not entitled in law under the Convention to impose the purported "MPA", or establish the maritime zones, over the objections of Mauritius; and

(ii) Independently of the question of sovereignty, the "MPA" is fundamentally incompatible with the rights and obligations provided for by the Convention. This means that, even if the UK were entitled in principle to exercise the rights of a coastal State, *quod non*, the purported establishment of the "MPA" is unlawful under the Convention.

1.4 These two fundamental points are elaborated in this Memorial, which is submitted in accordance with the Rules of Procedure adopted by the Tribunal on 29 March 2012. By way of introduction, in addressing these matters it is appropriate to place the case in its broader context, to make clear what the case is – and is not – about.

1.5 First, this is a dispute about the interpretation and application of the Convention. It requires the Tribunal to interpret and apply various provisions of the Convention, from the meaning of the words "coastal State" to individual provisions governing the rights of a "coastal State" in the territorial sea, exclusive economic zone ("EEZ") and continental shelf. The case also invites the Tribunal to take note of the fact that in purporting to establish the "MPA", the UK acted in great haste, on the basis of a manifestly inadequate process of consultation and without prior information to Mauritius, despite the UK's longstanding recognition of Mauritius' rights in relation to

the Chagos Archipelago. The Tribunal will also note that the UK has not notified or made public any detailed regulations in respect of the purported "MPA", including the ban on fishing and other activities, or devoted any significant financial resources to give effect to its purported environmental objectives. Nor has the UK seen fit to dedicate the human resources which would typically be needed to oversee the protection of an area that extends over 640,000 square kilometres. Finally, the Tribunal will note that the UK has excluded the area around the island of Diego Garcia from the "MPA", and in 2010 allowed more than 28 tons of tuna to be caught by recreational fishing in those waters. With manifest and multiple violations of the Convention, the UK has abused such rights as it might, on its own case, be entitled to claim under the Convention.

1.6 The UK considers that the establishment of the "MPA" achieves other objectives which it regards as beneficial, namely continued control of the Chagos Archipelago and the permanent banishment of the Mauritian citizens who were former residents of the Archipelago. These objectives are in plain violation of the UK's obligations under the Convention and the rules of general international law that are applicable under the Convention, including *ius cogens* principles concerning decolonisation and the right to self-determination. These fundamental rules of international law are applicable here, given that the Convention requires the Tribunal to "apply […] other rules of international law not incompatible with this Convention".

1.7 Second, it is apparent that this dispute is *sui generis*. It arises against the background of the specific events that occurred between 1965 and 1967 in relation to decolonisation. This was when the UK decided to offer Mauritius independence while dismembering its territory by excising the Chagos Archipelago, and acted to remove all the Mauritian citizens who were residing at the time in the Archipelago (hereinafter "Chagossians"). The dispute about the "MPA" thus concerns the interpretation and application of the Convention against the background of the UK's international obligations relating to decolonisation and self-determination. This includes the right of Chagossians not to be forcibly removed from that part of the Mauritian territory where they always lived, and their right to return thereto.

1.8 Third, there is a general recognition that Mauritius has sovereign rights in relation to the area that is covered by the purported "MPA". The great majority of States recognise the sovereignty and sovereign rights of Mauritius over the Chagos Archipelago: this is reflected in resolutions adopted by the African Union,[1] the Non-Aligned Movement,[2] the Africa-South America Summit,[3] and the Group of 77 and China.[4] Even those States, led by the UK, that do not appear to share this position, nevertheless accept that Mauritius has clear rights relating to its sovereign interests. The United States has expressed its understanding that Mauritius retains fishing and mineral rights over the Chagos Archipelago.[5] The UK recognises that Mauritius has certain attributes of a coastal State: for example, it has made no objection to the submission by

[1] See paras 3.109, fn 303-304, and 3.111.

[2] See para. 3.109, fn 301, and 3.112.

[3] See para. 3.109, fn 302.

[4] See para. 3.109, fn 305.

[5] See para. 3.85, fn 257.

Mauritius to the United Nations Commission on the Limits of the Continental Shelf ("CLCS") in May 2009 of Preliminary Information concerning the Extended Continental Shelf in the Chagos Archipelago Region.[6] Moreover, having submitted no preliminary information of its own, and having regard to the time limits for submitting such information, the UK is bound to accept that Mauritius is the only "coastal State" entitled to make a submission to the CLCS. The UK has also recognised the prior right of sovereignty of Mauritius by undertaking that the Chagos Archipelago will "revert" to Mauritius when the Archipelago is no longer required for defence purposes.

1.9 Against this background, Mauritius has rights in the area that has been purportedly designated an "MPA" by the UK. Those rights must be respected under the Convention. Whether Mauritius is a "coastal State", as it considers, or simply has fishing, mineral and continental shelf rights, and beneficial interests including a right of reversion, as the UK accepts, the purported unilateral declaration of an "MPA" is inconsistent with the provisions of the Convention. It violates the rights of Mauritius that the Convention is intended to safeguard.

I. The Factual Chapters of the Memorial

1.10 All elements of Mauritius' case begin with the history of the Chagos Archipelago. The case is deeply embedded in colonialism, its decline in the 1960s, and political deals made between powerful nations to protect their interests as the former colonies became independent nations in their own right. For these reasons, this *sui generis* case cannot be considered in the same light as other disputes that raise issues of sovereignty and the exercise of rights over maritime spaces. It concerns the entitlement of a former colony to all of its maritime zones around its rightful territory, in accordance with the Convention and the rules of international law applicable thereunder. This entitlement is a consequence of the full implementation of Mauritius' right to self-determination. The dispute arises against the background of the excision of a group of islands from a former colonial territory, in circumstances where a section of the Mauritian population has been removed from those islands by the colonial power. This situation is recognised as manifestly unlawful by the great majority of States, and by the United Nations General Assembly in its resolutions 2066 (XX), 2232 (XXI) and 2357 (XXII).

1.11 Chapters 2 to 4 of the Memorial set out the relevant facts. Chapter 2 begins with a short survey of the geography and early history of the Chagos Archipelago: the first recording of Mauritius and the Chagos Archipelago (including the cartography of the 1820s); the geography of the region; the administration of Mauritius by France and then the UK; the administration of the Chagos Archipelago as part of Mauritius; and the domestic political structure prior to independence.

1.12 Chapter 3 then sets out the more recent historical background, in a number of key stages:

[6] See para. 4.33.

(i) The plan devised in the early 1960s by the UK and US to detach the Chagos Archipelago, in response to US military aspirations in the Indian Ocean;

(ii) The September 1965 Constitutional Conference in London, at which negotiations on independence were held between the UK and the leaders-in-waiting of Mauritius;

(iii) The UK's excision of the Chagos Archipelago from the territory of Mauritius as a condition of the grant of independence to Mauritius;

(iv) International condemnation of the unlawful excision;

(v) The agreement between the UK and the US, and the forcible removal of the Chagossians;

(vi) The UK's recognition of, and formal undertakings to respect, Mauritius' fishing, mineral and other rights in the Chagos Archipelago and its surrounding waters; and

(vii) Mauritius' continuous assertion of its sovereignty over the Chagos Archipelago.

1.13 As Chapter 3 shows, this history involves a series of dealings between powerful nations, in which the interests of the emerging Mauritian State and its people counted for little. Scant regard was paid to the legal requirement to respect the territorial integrity of Mauritius or the right of self-determination. This is a history of bland public pronouncements, undercut by the overt cynicism of internal memoranda. Documents continue to emerge from the UK archives which show how sordid and dishonest was this series of events. The excision of the Chagos Archipelago and the forcible removal of its former residents constitute a shameful episode in twentieth century British colonial history. The "MPA" is a further expression and continuation of this illegality, and has perpetuated that tragedy into a further phase, still more inimical to the rights of Mauritius under the Convention and general international law.

1.14 It is important to emphasise that the case is not about the legitimacy of the US military base on Diego Garcia, or the uses to which it is put. The Tribunal will not be called upon to make any decisions on those matters, and the resolution of this dispute by the Tribunal need not have any effect on that issue, since the Government of Mauritius has stated publicly that it has no objection to the continued use of Diego Garcia as a military base.[7] It has communicated this position both to the UK[8] and the US.[9] An

[7] Statement by Hon. A.K. Gayan, Minister of Foreign Affairs and Regional Cooperation to the National Assembly of Mauritius, 14 November 2000, Annex 114; Reply to PQ No. B/185 by the Hon. Prime Minister, 14 April 2009, Annex 143; National Assembly of Mauritius, 12 June 2012, Reply to Private Notice Question: Annex 176; and Reply to PQ No. B/457 by the Hon. Prime Minister, 10 July 2012, Annex 177.

[8] Letter dated 21 December 2000 from the Minister of Foreign Affairs and Regional Cooperation of Mauritius to the UK Foreign Secretary, Annex 115; Letter dated 22 July 2004 from the Prime Minister of Mauritius to the UK Prime Minister, Annex 129; and Letter dated 22 October 2004 from the Minister of

Award by the Tribunal will have no consequences for the continuation of that base. Nor is the Tribunal called upon to form any view upon the prior uses of the base. Matters such as this are entirely outside this case, which concerns only the illegality of the "MPA" under the Convention.

1.15 Chapter 4 continues the narrative by setting out the history of "environmental" measures taken by the UK in respect of the Chagos Archipelago. These have occurred by way of a step-by-step extension of the UK's use of the waters around the Chagos Archipelago. What began in 1965 as a limited use of a narrow, three-mile territorial sea for defence purposes was then extended, first to a twelve-mile zone in 1969, and then into an area beyond the territorial sea up to 200 miles, in 1991. The extension was also in relation to the subject matter, originally limited to matters of defence and later extended to encompass the appropriation of an area of more than 640,000 square kilometres, in which most significant human activity is prohibited and the waters are reserved for purported conservation purposes.

1.16 The "MPA" is the culmination of a series of steps by the UK, in violation of Mauritius' rights in the maritime areas appurtenant to the Chagos Archipelago, including (1) the establishment of a Fisheries Conservation and Management Zone ("FCMZ") in 1991 (to which Mauritius objected); and (2) the establishment of an Environment Protection and Preservation Zone ("EPPZ") in 2003 (to which Mauritius also objected).

1.17 These actions have been adopted against the background of (1) bilateral exchanges in which the UK has regularly given commitments or made statements that it has then failed to respect; and (2) rights exercised by Mauritius over the Chagos Archipelago, including the submission of Preliminary Information in 2009 to the CLCS, in which Mauritius submitted under the Convention, without objection from the UK, particulars of the outer limits of an extended continental shelf in areas beyond 200 nautical miles from the archipelagic baselines of the Chagos Archipelago.

1.18 As Chapter 4 explains, the purported establishment of the "MPA" marks a shift from the blunt rhetoric of military interests, to the rhetoric of environmental protection. The UK has repeatedly claimed that the "MPA" is a purely environmental measure, not even initiated by the Government itself, but rather by various NGOs, to whose concerns the UK has simply responded after "full" consultation of all affected parties. Chapter 4 shows that this is untrue.

1.19 A document made public in 2010 records a meeting on 12 May 2009 between Colin Roberts, Director of the Overseas Territories Department at the UK Foreign and Commonwealth Office, and a Political Counsellor at the US Embassy in London. Mr Roberts observed that "BIOT's[10] former inhabitants would find it difficult, if not impossible, to pursue their claim for resettlement on the islands if the entire Chagos

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Foreign Affairs, International Trade and Regional Cooperation of Mauritius to the UK Foreign Secretary, Annex 130.

[9] Letter dated 14 May 2002 from the Prime Minister of Mauritius to the President of the United States, Annex 118.

[10] "BIOT" stands for the so-called "British Indian Ocean Territory" (hereinafter "BIOT").

Archipelago were a marine reserve." Noting that "the UK's environmental lobby is far more powerful than the Chagossians' advocates", Mr Roberts stated that "establishing a marine park would, in effect, put paid to resettlement claims of the archipelago's former residents." Mr Roberts promised that "according to HMG's [Her Majesty's Government's] current thinking on a reserve, there would be 'no human footprints or Man Fridays on the BIOT's uninhabited islands.'"[11]

II. The Legal Chapters of the Memorial

1.20 The three factual chapters lay the foundation for the legal chapters which follow. Chapter 5 deals with jurisdiction, setting out Mauritius' submission that the Tribunal has jurisdiction over the totality of the dispute. It has jurisdiction to rule that the UK is not entitled to declare an "MPA" and further, even if it is so entitled (contrary to the claim of Mauritius), that its declaration of the "MPA" violates the Convention.

1.21 On the first set of arguments, the UK's entitlement to establish the "MPA" turns on the interpretation and application of the words "the coastal State" as used in the Convention. There is abundant authority to support the jurisdiction of a court or tribunal acting under Part XV of the Convention to decide whether a State is or is not to be treated as "the coastal State", particularly where, as in this case, the matter is incidentally and necessarily connected to the legality of the UK's uses of the sea. The dispute is about the UK's purported use of the waters, not a stand-alone claim about insular sovereignty that is unconnected to the exercise of rights under the Convention.

1.22 Chapter 5 shows that the second set of arguments also comes within the jurisdiction of the Tribunal, and are also not suitable for resolution as a preliminary issue of jurisdiction, separate from the facts. As to the procedural requirements of the Convention, there has been a full exchange of views between Mauritius and the UK concerning the dispute. By December 2010, it was plain that any further exchange of views would be futile, as the UK was fully committed to the unilateral establishment of the "MPA", which had the effect of further impeding the exercise by Mauritius of its sovereignty over the Chagos Archipelago and preventing the exercise of the Chagossians' right of return.

1.23 Chapter 6 addresses the merits of Mauritius' claim that the UK is not "the coastal State" within the meaning of the Convention, and therefore does not have the right unilaterally to establish maritime zones, including the "MPA", around the Chagos Archipelago. The unlawful excision of the Chagos Archipelago by the UK prior to Mauritius' independence does not entitle the UK to be considered "the coastal State" within the meaning of the Convention. Accordingly, the UK has no right under the Convention to claim maritime zones in respect of the Chagos Archipelago. In developing this submission, Mauritius sets out the respects in which the UK's claim to sovereignty – the essential foundation of its right to claim maritime zones – is incompatible with the fundamental right to self-determination for Mauritius and its people. This unlawfulness is not affected by the reluctant "agreement" of the Mauritian

[11] See paras 4.45 to 4.49 below.

Ministers, obtained under conditions of duress and coercion in the margins of the 1965 Constitutional Conference.

1.24 In addition, Mauritius contends that the undertakings which the UK made to Mauritius at the time, and repeated frequently thereafter, are such as to deny to the UK any entitlement to act as "the coastal State", as that term is used in the Convention. It cannot be regarded as having exclusive rights as the coastal State within the meaning of the Convention. The UK has repeatedly recognised the rights and legal interests of Mauritius in the Chagos Archipelago. It has undertaken that the Archipelago will "revert" to Mauritius when it is "no longer required for defence purposes" – an undertaking which implies a pre-existing and legitimate right on the part of Mauritius. It has repeatedly acknowledged Mauritian fishing rights in the waters of the Chagos Archipelago. It has undertaken that the benefit of any minerals or oil discovered in or near the Chagos Archipelago should "revert" to Mauritius when the Archipelago is ceded – an undertaking which, again, implies a pre-existing right on the part of Mauritius. Most recently, it has not objected to Mauritius' submission to the CLCS of Preliminary Information concerning the Extended Continental Shelf in the Chagos Archipelago Region. It has made no such submission of its own, and cannot now do so, the deadline for the presentation of submissions having passed.

1.25 By these commitments, the UK recognises that Mauritius is entitled to the rights of a coastal State under the Convention. There is no requirement under the Convention for accepting the UK as the "coastal State" in relation to the Chagos Archipelago, merely because of its exercise of *de facto* powers, unlawfully obtained and retained. At the very least, in the absence of a final determination on sovereignty, Mauritius is entitled to claim the status of a "coastal State" under the Convention in relation to the Chagos Archipelago, such that an "MPA" could not be established unilaterally by the UK. Under the Convention, the consent of Mauritius is required.

1.26 Chapter 7 addresses the incompatibility of the "MPA" with the Convention. It demonstrates the illegality of the UK's purported "MPA" by reference to Mauritius' longstanding fishing practices in the waters of the Chagos Archipelago, and the recognition of fishing rights in the 1965 Lancaster House undertakings and subsequently. As noted in Chapter 3, this material demonstrates a consistent practice of respecting Mauritius' rights, and in particular fishing rights, in regard to the Chagos Archipelago and its surrounding waters.

1.27 Chapter 7 sets out the particular respects in which the UK has breached its international legal obligations by adopting an "MPA" which ignores Mauritius' rights in the waters adjacent to the Chagos Archipelago. These breaches include:

(i) The breach of undertakings made by the UK at the Lancaster House meeting of 23 September 1965 and on numerous subsequent occasions, in which it acknowledged Mauritian fishing rights in the waters of the Chagos Archipelago, and committed itself to respect those rights;

(ii) The breach of the obligation under general international law to give effect to pre-existing rights to exploit natural resources, including in particular fisheries;

(iii) The breach of the obligation under Article 2(3) of the Convention that a coastal State exercising sovereignty over the territorial sea must do so subject to the Convention and other rules of international law, including those concerning access to natural resources and the obligation to comply with legally binding undertakings;

(iv) The breach of the requirements under Articles 55 and 56(2) of the Convention that a coastal State exercising rights pursuant to Part V must have "due regard" for the rights of other States, including rights relating to fisheries, and must exercise its rights and jurisdiction in the exclusive economic zone "subject to the specific legal regime established" under Part V of the Convention;

(v) The breach of the requirements of Articles 62, 63 and 64 of the Convention, and Article 7 of the 1995 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 (hereinafter "the 1995 Agreement"), that the UK must seek agreement and/or cooperate directly with Mauritius and relevant organisations on the measures necessary for the conservation of stocks of tuna and other highly migratory species;

(vi) The breach of the requirement under Article 194 of the Convention, that the UK must endeavour to harmonise with Mauritius and other States its policies to prevent, control and reduce pollution of the marine environment; and

(vii) The breach of the obligation that the UK must act in a manner that does not constitute an abuse of right under Article 300 of the Convention, in particular by disregarding the rights and interests of Mauritius as acknowledged by the UK itself.

1.28 This Memorial comprises additional volumes that are integral to the pleading. Volumes 2 and 3 of this Memorial comprise the Annexes. Volume 4 contains all the Plates.

CHAPTER 2: GEOGRAPHY AND EARLY HISTORY

2.1 This Chapter describes the geography of Mauritius and provides a concise historical account prior to and during British colonial rule. The UK detached the Chagos Archipelago from the territory of Mauritius by an Order in Council on 8 November 1965, in breach of the UN Charter as applied and interpreted by UN General Assembly resolutions 1514(XV) and 2066(XX).[12] The purported excision of the Chagos Archipelago from Mauritius prior to its accession to independence involved a denial of the right to self-determination – a universally recognised principle of international law – and as a consequence is void and without legal effect. Mauritius retains sovereignty over the Chagos Archipelago.[13]

2.2 Against this backdrop, this Chapter examines the broader historical background and geography of the dispute over the "MPA". Part I describes the geography of Mauritius and Part II sets out the early history of Mauritius and its administration by the Dutch and the French. Part III examines the relevant historical record during British colonial rule, and finally Part IV describes the political structure and administration of Mauritius on its journey towards independence during the 1960s.

I. Geography

2.3 The Republic of Mauritius consists of a group of islands in the Indian Ocean. The main Island of Mauritius is located at longitude 57° 30' east and latitude 20° 00' south, approximately 900 kilometres east of Madagascar, and is part of the Mascarene Islands. The total land area of the Republic of Mauritius is approximately 1,950 square kilometres. Under the Constitution of Mauritius, the territory of Mauritius includes, in addition to the main island: the islands of Cargados Carajos (the St Brandon Group of 16 Islands and Islets), located some 402 kilometres north of the main Island of Mauritius; Rodrigues Island, located 560 kilometres north-east; Agalega, located 933 kilometres north; Tromelin, located 580 kilometres north-west; and the Chagos Archipelago, including Diego Garcia.[14] A plate illustrating the location of the Republic of Mauritius is at Figure 1 in Volume 4.

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[12] "British Indian Ocean Territory" Order No. 1 of 1965: Annex 32. See paras 3.41-3.42 below.

[13] See further paras 6.10-6.36.

[14] Section 111 of the Constitution of Mauritius provides:

> ""Mauritius" includes –
>
> (a) the Islands of Mauritius, Rodrigues, Agalega, Tromelin, Cargados Carajos and the Chagos Archipelago, including Diego Garcia and any other island comprised in the State of Mauritius;
>
> (b) the territorial sea and the air space above the territorial sea and the islands specified in paragraph (a);
>
> (c) the continental shelf; and
>
> (d) such places or areas as may be designated by regulations made by the Prime Minister, rights over which are or may become exercisable by Mauritius".

2.4 The island of Mauritius was formed by volcanic activity, and is dominated by tropical vegetation with plains in the north, west and in the south-east. A central plateau rises to some 600 metres, and is encircled by jagged rocky peaks. The highest point is Piton de la Petite Rivière Noire, which is 828 metres in height. The island of Mauritius is fringed by coral reefs that provide shelter for an abundance of marine life. Mauritius was home to the flightless grey dodo and aphanapteryx, both extinct since the late 17th century.[15]

2.5 Mauritius has a population of 1.2 million, of which almost 129,000 reside in the capital city of Port Louis.[16] Sugar cane has traditionally been of vital importance to the Mauritian economy; it is grown on 90% of all cultivated land and was first introduced by Dutch settlers in the 17th century. Since independence from the UK, Mauritius' economy has diversified.

2.6 The Chagos Archipelago is composed of atolls and islands, and is located at 06° 26' south and 72° 00' east, approximately 2200 kilometres north-east of the main island of Mauritius. To the north of the Chagos Archipelago are Peros Banhos, Salomon Islands and Nelsons Island; to the south-west are Three Brothers, Eagle, Egmont and Danger Islands. Diego Garcia is in the south-east of the Archipelago. The largest individual islands are Diego Garcia (27.20 square kilometres), Eagle (Great Chagos Bank, 2.45 square kilometres), île Pierre (Peros Banhos, 1.50 square kilometres), Eastern Egmont (Egmont Islands, 1.50 square kilometres), île du Coin (Peros Banhos, 1.28 square kilometres) and île Boddam (Salomon Islands, 1.08 square kilometres). A plate of the Chagos Archipelago is at Figure 2 in Volume 4.

II. The Early History of Mauritius

2.7 Mauritius was probably known to Arab sailors as early as the 10th century. Phoenician sailors as well as Malays and Indonesians might have visited the island even earlier, although no record exists of these visits.[17] The recorded history of Mauritius begins with Portuguese explorers at the end of the 15th century. No attempt was made to establish a permanent settlement on Mauritius until the first Dutch attempt during the 17th century.[18]

2.8 Portuguese explorers led expeditions into the Indian Ocean in the late 15th and 16th centuries.[19] In 1497, a Portuguese explorer, Vasco da Gama, rounded the Cape of Good Hope and entered the Indian Ocean.[20] Diogo Dias, a Portuguese captain, is said to have discovered Mauritius in July 1500.[21] The island and its neighbours were

[15] Auguste Toussaint, *History of Mauritius*, 8th Ed., Macmillan (1977), (hereinafter "Toussaint"), p. 7.

[16] Digest of Demographic Statistics 2010, Central Statistics Office, Mauritius.

[17] Addison & Hazareesingh, *A New History of Mauritius*, Macmillan (1984), (hereinafter "Addison & Hazareesingh"), p. 1.

[18] Addison & Hazareesingh, p. 1.

[19] Addison & Hazareesingh, p. 2.

[20] Addison & Hazareesingh, p. 2.

[21] North-Coombes, *La découverte des Mascareignes par les Arabes et les Portuguais – rétrospective et mise au point*, (1979), p. 141.

collectively known as the Mascarenes after another Portuguese captain, Pedro Mascarenhas. The Portuguese also discovered Réunion and Rodrigues. The Chagos Archipelago (known to the Portuguese as *Chagas*) did not appear on Portuguese maps until 1538.[22] It was "discovered" by Diego Garcia de Moguer.

2.9 Despite numerous expeditions, the Portuguese showed no interest in colonising any of the islands discovered in the Indian Ocean, and Mauritius remained apparently uninhabited. At the end of the 16th century the Dutch and English arrived in the Indian Ocean and respectively established the Dutch and English East India Companies, to challenge Portuguese commercial hegemony in the Indian Ocean.

2.10 In 1598 Dutch admiral Wybrandt van Warwyck landed at Grand Port in south-west Mauritius and took possession of the island, naming it in honour of Maurice of Nassau, Prince of Orange.[23] However, the Dutch made no attempt to colonise Mauritius for a number of years, opting instead for Indonesia as their first establishment in the region.[24] In 1638 agents for the Dutch East India Company occupied Mauritius, together with a contingent of convicts and slaves from Indonesia and Madagascar. This first attempt to colonise Mauritius lasted only 20 years, primarily motivated by a desire to counter British and French plans to do so.[25] The Dutch abandoned Mauritius in 1710 and the French took control of the island in 1715, renaming it *Ile de France*. The Chagos Archipelago remained largely untouched during this period and was rarely visited by Europeans.[26]

2.11 In 1744 a Dutch captain, van Keulen, reported the position of Diego Garcia, and slaves were sought from Mozambique and Madagascar to work on coconut plantations on the larger islands of the Chagos Archipelago. The first slave colony was probably situated on Peros Banhos, claimed by the French in 1744. The French surveyed the Archipelago in the 1740s, and claimed Diego Garcia in 1769. Permanent settlement on Diego Garcia probably came about through a concession granted in 1783 by the French colonial government in *Ile de France* to a prominent French planter, Pierre Marie Normande. However, there is also a historical account of the grant of Diego Garcia by the French Governor in *Ile de France* to a Mr. Dupuit de la Faye in 1778.[27] The French authorities in *Ile de France* also granted fishing rights to a Sieur Dauguet.[28]

2.12 A coconut plantation society was gradually set up in the Chagos Archipelago by commercial enterprises under further concessions granted by the French authorities in *Ile de France*. Lying only 8° from the Equator, the Chagos Archipelago's climate was well suited to the cultivation of coconuts and, unlike Mauritius further to the south,

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[22] Toussaint, p. 16.

[23] Addison & Hazareesingh, p. 3.

[24] Toussaint, p. 19.

[25] *Ibid*.

[26] Richard Edis, *Peak of Limuria – The Story of Diego Garcia and the Chagos Archipelago*, Revised Edition (2004), (hereinafter "Edis"), p. 22.

[27] Edis, p. 29.

[28] Edis, p. 32.

the Archipelago is far less threatened by tropical cyclones. The Chagos Archipelago became dependent on the coconut plantations for the production of copra, dried coconut flesh used to produce coconut oil.[29] Most of the copra was sent from the Chagos Archipelago to Mauritius, but some coconut oil was extracted in Diego Garcia on the initiative of a Mr Lapotaire in 1793.[30] During the 1790s, salted fish, sea slugs and rope made of coconut fibre were exported from the Chagos Archipelago.[31] During this period France was at war with Britain, and a British blockade caused a significant rise in oil prices, spurring Mauritian businessmen to establish more coconut plantations on Diego Garcia and the outlying islands.[32]

2.13 The French and British surveyed and mapped the islands of the Chagos Archipelago throughout the later stages of the 18th century, as they became prizes fought over by the two powers. A British party from the British East India Company set off from Bombay in March 1786 with the intention of colonising Diego Garcia to establish a provisions station. The British expedition landed on Diego Garcia in April of that year and to their surprise came across French planters. The French planters retreated to *Ile de France* and the British expedition took possession of the island, claiming it for Britain.

2.14 On the news of the British expedition, the French Governor in Mauritius, Vicomte de Souillac, sent a letter of protest to the British authorities in Bombay and a French warship set off for the Chagos Archipelago.[33] To avoid any conflict with the French, the British Governor in Bombay, Rawson Hart Boddam, instructed the British expedition to evacuate Diego Garcia immediately. They did so in October 1786.[34] Following the departure of the British expedition, the French erected a stone marker on Diego Garcia to proclaim France's sovereignty over the island.[35]

2.15 French power in the Indian Ocean waned towards the end of the 18th century when the British captured Seychelles in 1794, and eventually *Ile de France* itself in 1810. France ceded *Ile de France* and all its dependencies to the United Kingdom through the Treaty of Paris, signed on 30 May 1814. Article VIII of the Treaty of Paris provides:

> "His Britannic Majesty, stipulating for Himself and His Allies, engages to restore to His Most Christian Majesty, within the terms which shall be hereafter fixed, the colonies, fisheries, factories, and establishments of every kind which were possessed by France on the 1st of January, 1792, in the Seas and

[29] Coconut oil was of such importance to the Chagos Archipelago that the Archipelago has been historically referred to as the "Oil Islands".

[30] Edis, pp. 32-33.

[31] Edis, p. 33. By the end of the 19th century the Chagos Archipelago was producing copra, coconut oil, salted fish, vegetables, timber, honey, pigs, maize, wooden ships, guano and model boats: see David Vine, *Island of Shame,* Princeton University Press (2009), (hereinafter "Vine"), p. 29.

[32] Edis, p. 33.

[33] Edis, pp. 30-31.

[34] Edis, pp. 31-32.

[35] Edis, p. 32.

> on the Continents of America, Africa, and Asia, with the exception however of the Islands of Tobago and St. Lucie, and of the Isle of France and its Dependencies, especially Rodrigues and Les Séchelles, which several Colonies and Possessions His Most Christian Majesty cedes in full right and Sovereignty to His Britannic Majesty, and also the portion of St. Domingo ceded to France by the Treaty of Basle, and which His Most Christian Majesty restores in full right and Sovereignty to His Catholic Majesty."

2.16 The 1814 Treaty of Paris clearly recognised the Chagos Archipelago as part of the territory of Mauritius. Throughout the period of French rule in *Ile de France*, France had governed the Chagos Archipelago, along with Seychelles, as dependencies of *Ile de France*. There is no dispute that the Chagos Archipelago formed part of Mauritius when it was transferred to the United Kingdom.

III. Mauritius under British Colonial Rule

2.17 Britain was the colonial occupier of Mauritius from 1810 until independence on 12 March 1968. The administration of the Chagos Archipelago as a constituent part of Mauritius continued without interruption throughout that period of British rule: the Archipelago was legally connected to and administered from Mauritius until its unlawful excision from the territory of Mauritius on 8 November 1965. The UK Order in Council purporting to dismember the territory of Mauritius recognises this fact:

> "3. As from the date of this Order–
>
> (a) the Chagos Archipelago, being islands which immediately before the date of this Order were included in the Dependencies of Mauritius
>
> […]
>
> shall [together with the Farquhar Islands, the Aldabra Group and the Island of Desroches] form a separate colony which shall be known as the British Indian Ocean Territory."[36]

2.18 After the British conquest of 1810, *Ile de France* was renamed *Mauritius.* Mauritius largely retained French laws, customs, culture, religion, language, and way of life. By the time the British colonised Mauritius, a plantation system of agriculture was well established on the island as well as in the Chagos Archipelago. Enslaved labourers worked on large-scale plantations, producing specialised goods for distant markets. In contrast to the sugar cane of Mauritius, the copra collected in the Chagos Archipelago was largely reserved for the Mauritian market.[37]

[36] "British Indian Ocean Territory" Order No. 1 of 1965: Annex 32.

[37] Vine, p. 26.

2.19 The plantation society was common to both the Chagos Archipelago and the main Island of Mauritius. By the early 1800s there were several hundred slaves in the Archipelago, working on the coconut plantations and operating fishing settlements. Following the arrival in 1783 of 22 enslaved Africans, hundreds more came, predominantly from Mozambique and Madagascar.[38] Some of the Mauritian citizens who were former residents of the Chagos Archipelago can trace their roots back as much as 200 years to the first 22 slaves.[39]

2.20 Over time, there was a well-established community in the Chagos Archipelago. By 1826 the Chagos Archipelago supported a plantation society numbering more than 400,[40] and in 1880 the population had risen to 760.[41] The plantation society provided employment, housing, pensions and education.[42]

2.21 Slavery was a defining feature of life in the Chagos Archipelago until its abolition in Mauritius in 1833, when 60,000 were set free.[43] Some of the freed slaves emigrated to work on the plantations on Diego Garcia, where the Chagossians overwhelmingly outnumbered the small minority of plantation managers of European descent.

2.22 Like the French, the British governed the Chagos Archipelago as a dependency of Mauritius. Special Commissioners and Magistrates made visits to the islands of the Chagos Archipelago, tasked by the British Governor to ensure that no one was brought to or held in the Archipelago against their will.[44] Laws were enacted to prevent the continuation of conditions of slavery.[45] The British recruited amateur radio enthusiasts to develop closer communications between the island of Mauritius and the Chagos Archipelago.[46]

2.23 In 1835, the British Assistant Protector of Slaves was sent to the Chagos Archipelago to supervise the emancipation of former slaves.[47] Special Justice Charles

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[38] *Ibid*, p. 24. Figures 12 to 17 of Volume 4 are maps of the Chagos Archipelago dating from *circa* 1829, by H. D. Werner and C. T. Hoart, from the UK National Archives, held under "CO700/Mauritius" in the division "Records of the Colonial Office", subdivision "Records of the Chief Clerk's and General Departments". Figures 10 and 11 of Volume 4 are Admiralty Charts from 1897 and 1837 respectively, also held by the UK National Archives under "CO700/Mauritius" in the same division and subdivision.

[39] *Ibid*, p. 21.

[40] *Ibid*, p. 25.

[41] *Ibid*, p. 29.

[42] *Ibid*, p. 3.

[43] Moonindra Nath Varma, *The Road to Independence*, (1976), (hereinafter "Varma, *The Road to Independence*"), p.1.

[44] Edis, p. 44.

[45] Vine, p. 28.

[46] Edis, p. 63. The British developed communications and meteorological stations to connect the Chagos Archipelago with Mauritius and Seychelles.

[47] Edis, p. 38.

Anderson visited the Archipelago three years later, and complete emancipation was achieved in the Archipelago by 1840.[48]

2.24 By 1883, three plantations on Diego Garcia were merged, creating the Société Huilière de Diégo et Péros. This operated for almost eighty years until 1962, when a joint Mauritian and Seychellois company, Chagos Agalega Ltd, acquired most of the freeholds in the Archipelago.[49]

2.25 The Chagossians fished and raised chickens and pigs and maintained vegetable gardens. Shops sold basic items for everyday use, and basic healthcare was available. Land was passed down through the generations, and the Chagossians built their own houses. A Catholic priest, Father Roger Dussercle, who visited Diego Garcia in 1933, provided an account of life on the island. He wrote that in 1933 about 60% of the population on Diego Garcia were "children of the islands", having been born and raised there.

2.26 The British Government in Mauritius subsidised a transport and cargo service between Mauritius and the Chagos Archipelago. Throughout the 19th and 20th centuries, the only point of arrival and departure from the Chagos Archipelago was via Mauritius. During the late 19th century, the Chagos Archipelago briefly served as a coal refuelling station, following the opening of the Suez Canal in 1869. In 1882 the Orient and Pacific Steam Navigation Company established a coaling station on Diego Garcia.[50]

2.27 At around this time, the British authorities decided to station a permanent police office on Diego Garcia.[51] In 1931 a Magistrate from Mauritius and 12 police officers were sent to Peros Banhos in order to suppress a Chagossian disturbance.[52] The British authorities in Mauritius sent specialists to investigate health and agricultural conditions on the islands. Nurseries and schools were established, and a refuse collection system provided. The infrastructure included small roads connecting different parts of the islands. Chagossians no longer solely worked on the plantations – some were blacksmiths or bakers, mechanics, carpenters or had carved out some other specialised roles.[53]

2.28 As described below in Chapter 3, after the excision of the Chagos Archipelago from Mauritius in 1965, the British Government took steps to remove all the former residents of the Archipelago, about 2000-strong. This started in 1968 and was completed in 1973.[54]

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[48] *Ibid*, p. 39.

[49] *Ibid*, p. 40.

[50] Edis, p. 48.

[51] Edis, p. 51. By the turn of the 20th century there were six villages on Diego Garcia alone (see Vine, pp. 29-30).

[52] Vine, p. 33.

[53] *Ibid*, p. 35.

[54] See paras 3.59-3.63 below.

IV. The Struggle for Independence

2.29 Against the rise of anti-colonialism in the 20th century, the British Government agreed in principle in 1945 to work towards self-government and independence for all of its colonial territories.[55] With the accession of India to independence in 1947, it became more difficult for the British Government to ignore demands for self-determination, including in Mauritius. At that time, out of a population of nearly 420,000 in Mauritius, there were only slightly over 11,000 registered electors, largely made up of wealthy Franco-Mauritians.[56]

2.30 A Council of Government had been introduced in 1831, consisting of 7 *ex-officio* members and 7 members nominated by the British Governor. It was later enlarged to comprise 8 *ex-officio* members, including the UK Colonial Secretary, 9 members nominated by the Governor and 10 elected members.

2.31 In 1947 a new Constitution was drawn up for Mauritius by the UK Government, giving the vote to all those able to read and write simple sentences in any of the languages used in the island.[57] For the 1948 election, and for the first time in Mauritius, the electorate was composed of a significant number of literate labourers. The 1947 Constitution ended the Council of Government and introduced two new institutions: a Legislative Council consisting of the Governor as President, 19 elected members, 12 members nominated by the Governor and 3 *ex-officio* members (the Colonial Secretary, the *Procureur* and Advocate General, and the Financial Secretary), and an Executive Council which included four elected Legislative Council members.[58]

2.32 The Mauritius Labour Party ("MLP") obtained 12 of the 19 seats available for elected members in the Legislative Council after the first election in 1948, and increased this tally to 14 seats in the 1953 election, just short of an overall majority (as a result of the 12 members nominated by the Governor and the 3 *ex-officio* members). After the 1953 election, the MLP publicly complained that the Governor, rather than exercising his right to nominate members to the Legislative Council to reflect the overwhelming preference which electors had shown for the MLP candidates, had flouted the electors' wishes by nominating members who sought to prolong the domination of the wealthy Franco-Mauritians at the expense of the labourers.[59]

2.33 Following the 1953 election, at the request of the MLP, the Secretary of State for the Colonies agreed to receive a Mauritian delegation in London to discuss further constitutional reforms. A Constitutional Conference was held in London in July 1955. The MLP demanded universal suffrage, a ministerial system of government, more

[55] Addison & Hazareesingh, p. 87.

[56] Varma, *The Road to Independence*, p. 34.

[57] Addison & Hazareesingh, p. 88. There were 11,427 registered voters for the 1936 election; this rose to 71,236 for the 1948 election. There was limited female suffrage for the 1948 elections and the right to vote was extended to anyone able to read and write simple sentences in any language used in Mauritius. See also Christian Carlos Guillermo le Comte, *Mauritius From its Origin*, (2007), p. 68.

[58] Varma, *The Road to Independence*, pp. 43-46.

[59] Addison & Hazareesingh, p. 88.

elected and fewer nominated members of the Legislative Council. It also argued that Mauritians should be able to manage their own internal affairs without interference from the British Government, and sought to curtail the sweeping powers of the Governor. [60]

2.34 A second Constitutional Conference was held in 1957, followed by a new Constitution in 1958. The Governor still retained virtually absolute power in Mauritius: he could "declare a bill passed even if it had not been tabled provided that such a bill was in the larger interests of the public. Moreover, no bill could become law without his assent."[61] The largely elected Legislative Council had very limited powers, and was subject to override by the British Governor at his own discretion.

2.35 The MLP maintained its majority in the Legislative Council after the 1959 election.[62] Led by Dr Seewoosagur Ramgoolam, the MLP again demanded that Britain grant Mauritius immediate internal autonomy, and formally declared that it would seek complete independence by 1964.[63]

2.36 A third Constitutional Conference took place in June 1961, where it was agreed that Mauritius could achieve self-government after successful implementation of

[60] Moonindra Nath Varma, *The Political History of Mauritius – Volume One (1883 – 1983)*, (hereinafter Varma, *The Political History of Mauritius – Volume One*'), p. 92. The British Governor not only presided over the Executive Council and personally nominated 12 and 9 members to the Legislative and Executive Councils respectively, but also controlled the judiciary, civil service and government finances. An elected Legislative Council majority could not overrule a decision of the Executive Council.

[61] Varma, *The Road to Independence*, p. 79.

[62] The 1959 election featured 277,500 electors and was contested by 4 political parties: the MLP; the Ralliement Mauricien (which had now been renamed the Parti Mauricien Social Démocrate (PMSD); the Muslim Committee of Action (MCA) and the Independent Forward Bloc (IFB). In contrast to the PMSD, the MCA and IFB were largely supportive of the MLP's efforts to reduce Britain's influence over internal Mauritian affairs. Elections were held on 9 March 1959 and of the 40 contested seats in the Legislative Council, the MLP won 24 seats, the IFB 6 seats, the MCA 5 seats and PMSD only 3 seats. Two further seats went to independent candidates. In the run-up to the election the MLP had entered into coalition with the MCA and now found themselves with a strong majority in the Legislative Council (Addison & Hazareesingh, p. 89.)

[63] At the second Constitutional Conference in February 1957, the Colonial Secretary proposed to implement universal suffrage. He proposed to enlarge the Legislative Council to 40 elected members, but 12 members would still be nominated by the Governor. The Executive Council would consist of 7 members elected by the Legislative Council, 3 *ex-officio* members and 2 nominated by the Governor. The Colonial Secretary's proposals were debated in the Legislative Council but the MLP, despite having 13 votes in the Council, lost out because the 3 members of the largely conservative Ralliement Mauricien party (which represented the interests of the wealthy Franco-Mauritians) voted with the nominated and *ex-officio* members. A large majority of elected members had found themselves in the minority. As a result of the imposition of these new constitutional measures, the MLP's members staged a walkout and boycotted the Legislative Council, leading to a serious constitutional crisis. These new measures were completely unacceptable to the MLP, which accused the British Government of blindly accepting the views of the Governor. The new constitutional measures were not deemed to go far enough to stem the Governor's power and absolute discretion to control Mauritian political life (see Varma, *The Road to Independence*, pp. 68-70 and Sydney Selvon, *A Comprehensive History of Mauritius*, Mauritius Printing Specialists (2005), p. 414).

constitutional reforms in two stages.[64] The first stage was achieved after Dr S. Ramgoolam became Chief Minister in 1962. At the time, Dr S. Ramgoolam complained that he did not run a free and unfettered government, and that Mauritius was "a colony subject to colonial laws and subject to the control and direction of the Secretary of State through his officers."[65]

2.37 The MLP performed strongly in the 1963 elections, winning 23 out of 40 contested seats in coalition with the Muslim Committee of Action, and remained easily the largest party.[66] Dr S. Ramgoolam wanted to reassure the Mauritian electorate that all Mauritians would be represented in government, and to be able to approach the Colonial Office with a united front for discussions on independence. He therefore decided to form an all-party coalition government, in the spirit of solidarity and for the good of the whole nation.

2.38 The second stage was implemented on 12 March 1964, after a motion was passed by 41 votes to 11 in the Legislative Assembly on 19 November 1963. The Legislative Council became the Legislative Assembly, and the Executive Council was restyled the Council of Ministers. Dr S. Ramgoolam became the Premier, and was responsible for Home Affairs. However, the British Colonial Secretary refused to fix any firm date for Mauritius' independence.

2.39 Despite these constitutional developments, the Governor of Mauritius and the UK Colonial Office continued to exercise far-reaching powers over Mauritian internal affairs. The Governor continued to preside over a Council of Ministers, which now comprised the Premier, the Chief Secretary and between 10 and 13 Ministers. Although the Governor was advised to consult the Council of Ministers, he still retained considerable power. It was left to his discretion to appoint up to 15 members of the Legislative Assembly, and it was his responsibility to appoint the Premier.[67]

2.40 The fourth and final Constitutional Conference took place between 7 and 24 September 1965 in London. On the final day of the Conference, on 24 September 1965, the British Government agreed to grant Mauritius independence from the United Kingdom, and independence was formally achieved on 12 March 1968. Such independence was granted on condition that Mauritian Ministers agreed to the excision of the Chagos Archipelago from the territory of Mauritius. The following chapter describes the manner in which this was done, in violation of general international law and resolutions of the UN General Assembly.

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[64] During the Conference there was a rift between the PMSD, which favoured some form of integration or association with Britain, and the other political parties, led by the MLP, which were calling for independence (Addison & Hazareesingh, p. 90.)

[65] Varma, *The Political History of Mauritius – Volume One*, p. 106.

[66] Addison & Hazareesingh, p. 91. The election took place on 21 October 1963. The MLP in coalition with the MCA obtained 49% of the popular vote and thus won 19 seats out of 40. The PMSD won 8 seats, the IFB won 7 seats and independent candidates won 2 seats.

[67] Sections 27, 58-60 and 68(1) of the Constitution of Mauritius as set out in Schedule 2 to the Mauritius (Constitution) Order 1964.

CHAPTER 3: THE UNLAWFUL DETACHMENT OF THE CHAGOS ARCHIPELAGO

3.1 This Chapter sets out the facts surrounding the UK's excision of the Chagos Archipelago from the territory of Mauritius as a condition of granting independence to Mauritius. It also provides the factual record of (a) the UK's recognition of Mauritius' rights in regard to the Chagos Archipelago, notwithstanding the excision; and (b) the continuous assertion of sovereignty by Mauritius over the entire former colonial territory, including the Chagos Archipelago, after independence was achieved. In particular, this Chapter addresses:

(i) The plan devised in the early 1960s by the UK and the US to detach the Chagos Archipelago from the territory of Mauritius, in response to US military aspirations in the Indian Ocean;

(ii) The September 1965 Constitutional Conference in London, at which negotiations on independence were held between the UK and the leaders-in-waiting of Mauritius;

(iii) The UK's excision of the Chagos Archipelago from the territory of Mauritius as a condition of its grant of independence to Mauritius;

(iv) International condemnation of the unlawful excision;

(v) The agreement between the UK and the US, and the forcible removal of all the Mauritian citizens who were former residents of the Chagos Archipelago;

(vi) The UK's recognition of, and formal undertakings to respect, Mauritius' fishing, mineral and other rights in the Chagos Archipelago and its surrounding waters; and

(vii) Mauritius' continuous assertion of its sovereignty over the Chagos Archipelago.

3.2 The historical record reveals a series of secret dealings between powerful nations, in which the interests of the emerging Mauritian State and its people counted for little. In this process, the fundamental legal obligations to respect the territorial integrity of Mauritius, and the right of self-determination of its people, were ignored.

I. The United Kingdom and United States Plan to Detach the Chagos Archipelago

(a) Development of the initial proposals in the early 1960s

3.3 The UK's excision of the Chagos Archipelago from the territory of Mauritius stems from its decision in the early 1960s to accommodate the United States' desire to

use certain islands in the Indian Ocean for defence purposes.[68] In October 1962, the UK and the US held talks on the "use of British bases in time of war by U.S. forces."[69] In April 1963, the US State Department proposed further talks on the "strategic use of certain small British-owned islands in the Indian Ocean". In August of that year, the State Department expressed "interest in establishing a military communications station on Diego Garcia and asked to be allowed to make a survey."[70]

3.4 On 11 December 1963, the US Ambassador in London submitted a memorandum to the UK Foreign Office proposing further discussions on "the Island Base question and communications facilities on Diego Garcia".[71] In January 1964, a US memorandum set out proposals for the UK Government to "acquire certain islands, compensating and resettling the inhabitants as necessary; U.S. first requirements would be 'austere' support facilities on Diego Garcia with Aldabra [an island administered by the UK as part of Seychelles] next as a possible staging post."[72]

3.5 The first round of formal UK-US talks on US defence interests in the Indian Ocean was held from 25 to 27 February 1964. The parties agreed to carry out a joint survey of several islands in the Indian Ocean, in order to consider their suitability for defence purposes, and the administrative implications of using islands belonging to Mauritius or Seychelles for defence. The participants decided that in order to effectuate their plans, the islands in question would have to be excised from Mauritius and Seychelles. They decided that the UK would "provide the land, and security of tenure, by detaching islands and placing them under direct U.K. administration".[73] The UK would also be "responsible for payment of compensation to Mauritius and Seychelles Governments and to land-owners and displaced inhabitants."[74] A memorandum was jointly prepared in April by the Colonial Office, the Ministry of Defence and the Foreign Office, recommending that UK Ministers approve the proposals resulting from the talks with US officials. The memorandum emphasised that by encouraging the US to develop facilities "in places where there was no anti-colonial bias, or better still no inhabitants", adverse implications for the UK might be reduced.[75]

3.6 These plans were to be developed in secret: on 6 May 1964, UK Ministers approved in principle proposals "for the development of joint facilities", but resolved that their plans should not be disclosed to the relevant authorities in Mauritius and Seychelles. In particular, they agreed that Mauritian Ministers and the Seychelles

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[68] "British Indian Ocean Territory" 1964-1968, Chronological Summary of Events relating to the Establishment of the "B.I.O.T." in November, 1965 and subsequent agreement with the United States concerning the Availability of the Islands for Defence Purposes, FCO 32/484 (hereinafter "UK Chronological Summary"): Annex 3, p. 1.

[69] *Ibid.*, item no. 1.

[70] *Ibid*.

[71] *Ibid.*, item no. 2. See also Permanent Under-Secretary's Department (Foreign Office), Secretary of State's Visit to Washington and New York, 21-24 March, Defence Interests in the Indian Ocean, Brief No. 14, 18 March 1965, FO 371/184524: Annex 8, para. 2.

[72] UK Chronological Summary: Annex 3, item no. 4.

[73] *Ibid*., item no. 5.

[74] *Ibid*.

[75] *Ibid*., item no. 9.

Executive Council would only "at a suitable time be informed in general terms about [the] proposed detachment of [the] islands".[76] In June 1964, the British Governor of Mauritius, Sir John Rennie, consulted for the first time with the Mauritian Premier, Sir Seewoosagur Ramgoolam, who expressed his unease about the proposed detachment of the Chagos Archipelago from the territory of Mauritius. Governor Rennie reported that although Premier Ramgoolam was "favourably disposed to provision of facilities" he had "reservations on detachment" and "expressed preference for [a] long-term lease".[77] In July 1964, Governor Rennie is reported to have informed the Mauritian Council of Ministers of the proposed survey of certain islands in the Indian Ocean; he failed, however, to indicate that the UK intended to detach the Chagos Archipelago from Mauritius.[78]

(b) The 1964 UK-US survey of the Chagos Archipelago

3.7 In July and August 1964, a joint UK-US survey of the Chagos Archipelago and the Seychelles islands of Coetivy, Desroches and Farquhar was carried out. The survey team comprised three British members and nine Americans. Robert Newton, the UK Colonial Office member of the survey party, prepared a detailed report. Consistent with the policy of secrecy, the true nature and purpose of the survey was concealed from the local population. Mr Newton explained that he "took the line with island Managers that in a scientific age there was a growing need for accurate scientific surveys" and "made vague allusions to the developments in radio communications".[79] Efforts were also made to conceal the presence of American military personnel.[80]

3.8 The Chagos Archipelago was surveyed from 17 to 31 July 1964, with a strong focus on Diego Garcia, which was regarded as "the most promising for technical purposes".[81] The purpose of the survey was "to determine the implications on the civilian population of strategic planning, and especially to assess the problems likely to arise out of the acquisition of the islands of Diego Garcia and Coetivy for military purposes."[82] Among Mr. Newton's broad conclusions was that "There should be no insurmountable obstacle to the removal, resettlement and re-employment of the civilian population of islands required for military purposes".[83]

3.9 The Newton Report concluded, *inter alia*, that Diego Garcia was "eminently suitable" for the construction of an airstrip, naval storage tanks and jetty, radio installations and housing, recreational and administrative facilities. The population of

[76] *Ibid*., item no. 11.

[77] *Ibid*., item no. 12.

[78] *Ibid.*, item no. 13.

[79] Robert Newton, Report on the Anglo-American Survey in the Indian Ocean, 1964, CO 1036/1332: Annex 2, covering letter, para. 7.

[80] *Ibid*.

[81] Robert Newton, Report on the Anglo-American Survey in the Indian Ocean, 1964, CO 1036/1332: Annex 2, para. 1.

[82] *Ibid*., para. 2.

[83] *Ibid.,* para. 3.

the Chagos Archipelago as of July 1964 was reported to be 1,364.[84] The Report acknowledged that the "acquisition" of the islands "for military purposes, and changes in their administration, will almost certainly involve repercussions in the local politics of Mauritius and the Seychelles."[85] It recommended that the UK Government should accept responsibility for "facilitating re-employment of the Mauritians and Seychellois on other islands and for the re-settlement in Mauritius and the Seychelles of those unwilling or unable to accept re-employment." The Report warned that the cost of resettlement "will be relatively heavy."[86]

3.10 The Report further recommended that the islands surveyed should "become direct dependencies of the British Crown" and should be "administered under the authority of the Governor of the Seychelles as High Commissioner."[87] It warned of "a risk that to remove the islands from the jurisdiction of Mauritius would give rise to considerable political difficulties."[88] In this regard, recognising Mauritius' continuing "beneficial interest" in the islands, it considered that:

> "[t]he issue is primarily one of relative advantages and disadvantages in regard to long-term strategy and is not a matter that can be examined in this report. It can be summarised in the question, how far adverse, but doubtless temporary, reactions in Mauritius should outweigh the need for security of tenure in certain of the islands, or at least in Diego Garcia. A further issue is the assessment of the extent to which Mauritius might embarrass H.M.G.'s existing interests in the island before they can be replaced. Stated thus, the problem may appear over simplified. The final decision cannot be independent of any obligations or commitments that H.M.G. might have towards Mauritius arising out of past history or any beneficial interest of Mauritius in the [Chagos Archipelago]."[89]

(c) The United States' demand for the islands, and the issue of compensation

3.11 Following the joint survey, the US sent its proposals to the UK. Three categories of islands were listed in order of priority. First, the US "required" Diego Garcia "for the establishment of a communications station and supporting facilities, to include an air strip and improvement of off-loading capability." The US considered that "detachment proceedings should include the entire Chagos Archipelago, primarily in the interest of security, but also to have other sites in the archipelago available for future contingencies."[90] Second, the island of Aldabra (in Seychelles) was singled out as a

[84] *Ibid.*, para. 7.

[85] *Ibid.,* para. 13.

[86] *Ibid*., para. 35.

[87] *Ibid*., para 60.

[88] *Ibid*., para. 49.

[89] *Ibid*.

[90] Letter dated 14 January 1965 from the Counselor for Politico-Military Affairs at the US Embassy in London to the Head of the Permanent Under-Secretary's Department, UK Foreign Office: Annex 5, p. 1.

potential air staging post, although no plans had yet been drawn up. The third category comprised a list of five other islands – Coetivy, Agalega, Farquhar, Desroches and Cosmoledo – listed in order of preference. As the UK intended "single bite […] detachment proceedings",[91] the US urged it to "consider stockpiling"[92] these islands and to detach them "on a precautionary planning basis".[93] The US explicitly recognised "the difficulties that Her Majesty's Government will face in undertaking the necessary steps to detach these islands."[94]

3.12 In line with suggestions made by the US, the British Embassy in Washington agreed that the UK "could not take two bites of the cherry of detachment" and that it would be prudent to detach all the islands which could be useful in the long run. Whether the entire Chagos Archipelago should be detached, or just the island of Diego Garcia, was raised by the UK at a meeting with US officials in January 1965. The US response was:

> "[w]e would not regard the detachment of the entire Chagos Archipelago as essential, but consider it highly desirable. It appears to us that full detachment now might more effectively assure that Mauritian political attention, including any recovery pressure, is diverted from Diego Garcia over the long run. In addition […] full detachment is useful from the military security standpoint, and provides a source for additional land areas should requirements arise which could not be met on Diego Garcia."[95]

3.13 A brief prepared for a UK Minister's visit to Washington and New York in March 1965 set out that any island required for military purposes "must be free from local pressures which would threaten security of tenure, and […] in practice this must mean that the islands would be detached from the administration of Mauritius".[96]

3.14 It was also reported that UK Ministers would "shortly be asked to reaffirm Her Majesty's Government's general support for this scheme and to agree that the Colonial Office should undertake the necessary constitutional steps in Mauritius and the

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[91] Letter dated 15 January 1965 from the British Embassy, Washington to the UK Foreign Office: Annex 6, p. 4.

[92] *Ibid*.

[93] Letter dated 14 January 1965 from the Counselor for Politico-Military Affairs at the US Embassy in London to the Head of the Permanent Under-Secretary's Department, UK Foreign Office: Annex 5, p. 2. See also Record of a Meeting with an American Delegation headed by Mr. J.C. Kitchen, on 23 September, 1965, Mr. Peck in the chair, Defence Facilities in the Indian Ocean, FO 371/184529, Annex 20, p. 3: ("Mr. Peck made the point that we would want to avoid a second row in the United Nations if possible, and therefore to carry out the detachment as a single operation.")

[94] *Ibid*.

[95] Letter dated 10 February 1965 from the Counselor for Politico-Military Affairs at the US Embassy in London to the Head of the Permanent Under-Secretary's Department, UK Foreign Office: Annex 7, p. 1.

[96] Permanent Under-Secretary's Department (Foreign Office), Secretary of State's Visit to Washington and New York 21-24 March, Defence Interests in the Indian Ocean, Brief No. 14, 18 March 1965, FO 371/184524: Annex 8, para. 2.

Seychelles."[97] On 30 April 1965, a Foreign Office telegram to the UK Embassy in Washington stated that the UK Prime Minister, Harold Wilson, had already told the US Secretary of State that the UK was "anxious to press ahead with this project as rapidly as possible". The UK Prime Minister had also raised with the US Secretary of State the question of a financial contribution towards the cost of detaching the islands.[98] The telegram stated that "the islands chosen for defence facilities […] should be Diego Garcia and the rest of the Chagos Archipelago (Mauritius) and the islands of Aldabra, Farquhar and Des Roches (Seychelles)."[99]

3.15 The telegram recorded the unambiguous view of the Foreign Office that:

> "[i]t is now clear that in each case the islands are legally part of the territory of the colony concerned."[100]

3.16 The Foreign Office also noted that generous compensation would be required "to secure the acceptance of the proposals by the local Governments", and that such acceptance was "fundamental for the constitutional detachment of the islands concerned."[101] The Foreign Office estimated that the total cost could be as much as £10 million, and made a formal request to the US for a contribution.[102] During official talks in London in mid-May 1965, the US was open to making one. However, since the US Congress was unlikely to agree to provide funds, "[g]reat secrecy was essential".[103] In June, the US agreed to contribute up to half the cost of detaching the islands.[104] The UK agreed to keep the US contribution secret from the Mauritian authorities.[105]

(d) The communication of the UK-US plans for the Chagos Archipelago to the Mauritius Council of Ministers

3.17 On 19 July 1965, the Governor of Mauritius was instructed to communicate detachment proposals to the Mauritius Council of Ministers and to report on the "'unofficials' reactions" as soon as possible.[106] The Colonial Secretary explained to the

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[97] *Ibid*., paras 6 and 7. UK Ministers subsequently accepted the US proposals, but decided to request that the US contribute financially to the cost of detaching the islands. See UK Chronological Summary: Annex 3, item no. 25.

[98] Foreign Office Telegram No. 3582 to Washington, 30 April 1965, FO 371/184523: Annex 9. See also UK Chronological Summary: Annex 3, item no. 26, which records that on 15 April 1965 "Prime Minister tells Mr. Rusk in Washington that HMG wished to press ahead, despite possible political embarrassment in U.N. and elsewhere."

[99] Foreign Office Telegram No. 3582 to Washington, 30 April 1965, FO 371/184523: Annex 9, para. 2.

[100] *Ibid*., para. 3.

[101] *Ibid*., para. 3. See also Colonial Office Telegram No. 198 to Mauritius, No. 219 to Seychelles, 19 July 1965, FO 371/184526: Annex 10, p. 1, where the Secretary of State for the Colonies states that the "agreement of the two governments" is "regard[ed] as essential".

[102] Foreign Office Telegram No. 3582 to Washington, 30 April 1965, FO 371/184523: Annex 9, para. 3.

[103] UK Chronological Summary: Annex 3, item no. 29.

[104] *Ibid.,* item no. 30.

[105] See paras 3.55-3.57 *infra*.

[106] Colonial Office Telegram No. 198 to Mauritius, No. 219 to Seychelles, 19 July 1965, FO 371/184526: Annex 10; see UK Chronological Summary: Annex 3, item no. 32. Prior to Mauritius' Independence, the

Governor that the UK was "willing in principle to pursue proposed joint development further on the basis that, subject to the agreement of the [Government of Mauritius], which we regard as essential, we would be prepared to detach" the Chagos Archipelago from Mauritius.[107] It was also stated that the UK "attach[es] considerable importance to securing the support" of Mauritius Ministers.[108] Governor Rennie was instructed to explain that the Chagos Archipelago would be "constitutionally separated" from Mauritius and, together with the Seychelles islands of Aldabra, Farquhar and Desroches, be "established by Order in Council as a separate British administration."[109] The islands would not be made available on any other basis, such as a lease.[110]

3.18 The Governors of Mauritius and Seychelles were instructed that the US financial contribution "must be kept strictly secret" but that an indication was to be sought as to the amount of compensation "necessary to secure [Mauritian] […] agreement."[111]

3.19 Legal and administrative arrangements were agreed within the Colonial Office as a *fait accompli* before the Mauritius Ministers and the Executive Council of Seychelles were approached by the respective Governors. The Chagos Archipelago and Aldabra, Desroches and Farquhar would form a separate territory "established by Order in Council similar to [the] British Antarctic Territory Order in Council 1962."[112]

3.20 Governor Rennie wrote to Colonial Secretary Anthony Greenwood on 23 July 1965 to report that the Mauritian Ministers had asked for more time to consider the British proposals.[113] However, Premier Ramgoolam expressed "dislike of detachment", and Governor Rennie expressed the view that any attempt to detach the Chagos Archipelago without agreement would "provoke strong protest".[114] At the subsequent meeting of the Mauritius Council of Ministers, held on 30 July 1965, the Ministers made clear their strong objection to any detachment of the Chagos Archipelago. Governor Rennie reported that:

> "Ministers objected however to detachment which would be unacceptable to public opinion in Mauritius. They therefore asked that you [Secretary of State for the Colonies] consider

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Governor was the Queen's representative and formal head of the Government of Mauritius: see paras 2.29-2.40 above.

[107] Colonial Office Telegram No. 198 to Mauritius, No. 219 to Seychelles, 19 July 1965, FO 371/184526: Annex 10, para. 1.

[108] *Ibid*., para. 7.

[109] *Ibid*., para. 8.

[110] On the lease issue see also: Record of a Meeting with an American Delegation headed by Mr. J.C. Kitchen, on 23 September, 1965, Mr. Peck in the chair, Defence Facilities in the Indian Ocean, FO 371/184529: Annex 20, p. 2.

[111] Colonial Office Telegram No. 198 to Mauritius, No. 219 to Seychelles, 19 July 1965, FO 371/184526: Annex 10, para. 4.

[112] Colonial Office Telegram No. 199 to Mauritius, No. 222 to Seychelles, 21 July 1965, FO 371/184524: Annex 11, para. 2.

[113] Mauritius Telegram No. 170 to the Colonial Office, 23 July 1965, FO 371/184526: Annex 12.

[114] *Ibid*., para. 2.

> 'with sympathy and understanding' how U.K./U.S. requirements might be reconciled with the long term lease e.g. for 99 years. They wished also that provision should be made for safeguarding mineral rights to Mauritius and ensuring preference for Mauritius if fishing or agricultural rights were ever granted."[115]

Governor Rennie also reported that the views expressed by Premier Ramgoolam "were subscribed to by all the Ministers present".[116] His conclusion was that:

> "[a]ttitude to detachment is awkward but not unexpected despite my warning that lease would not be acceptable. Proposals for compensation are also highly inconvenient though Ministers are setting sights high in the hope of doing the best for Mauritius. I should like to emphasise […] that Ministers have taken responsible line and given collective view after consultation among themselves, and that so far there has been no attempt to exploit for party advantage with a view to constitutional conference."[117]

3.21 Colonial Secretary Greenwood responded to Governor Rennie, telling him that he should reiterate to the Mauritian Ministers that a lease was not possible.[118] Nevertheless, the Mauritian Ministers continued to oppose UK proposals to detach the Chagos Archipelago, and renewed suggestions for talks with UK and US representatives. Governor Rennie was unable to obtain the agreement sought by the UK Government, and suggested that Colonial Secretary Greenwood meet with Premier Ramgoolam in London before the Constitutional Conference.[119]

II. The September 1965 Constitutional Conference in London

3.22 The UK decided that detachment would not be discussed with the Mauritian Ministers during official plenary meetings at the Constitutional Conference. Instead, private meetings on "defence matters" were to be held between select Mauritian political leaders and Colonial Office officials. A first session was held at the Colonial Office on 13 September 1965, between Colonial Secretary Greenwood and Premier Ramgoolam and three other Mauritian party leaders and a leading independent Mauritian Minister.[120] Governor Rennie and six other UK representatives were also present. During this session, Premier Ramgoolam once again expressly stated to

[115] Mauritius Telegram No. 175 to the Colonial Office, 30 July 1965, FO 371/184526: Annex 13, para. 2.

[116] *Ibid*., para. 5.

[117] *Ibid*., para. 6.

[118] Colonial Office Telegram No. 214 to Mauritius, 10 August 1965, FO 371/184526: Annex 14, para. 2.

[119] Mauritius Telegram No. 188 to the Colonial Office, 13 August 1965, FO 371/184526: Annex 15.

[120] The three other Mauritian party leaders were Attorney General Jules Koenig (Parti Mauricien Social Democrate), Minister Sookdeo Bissoondoyal (Independent Forward Bloc) and Minister Abdool Razack Mohamed (Muslim Committee of Action) and the leading independent Minister was Minister Maurice Paturau.

Colonial Secretary Greenwood his desire for a lease, rather than detachment of the Chagos Archipelago.[121]

3.23 A second session took place on 20 September 1965. Premier Ramgoolam again made clear that Mauritius could not accept detachment of the Chagos Archipelago:

> "the Mauritius Government was not interested in the excision of the islands and would stand out for a 99-year lease. They envisaged a rent of about £7 [million] a year for the first twenty years and say £2 [million] for the remainder. They regarded the offer of a lump sum of £1 [million] as derisory and would rather make the transfer gratis than accept it. The alternative was for Britain to concede independence to Mauritius and allow the Mauritius Government to negotiate thereafter with the British and United States Governments over Diego Garcia."[122]

Colonial Secretary Greenwood argued that Diego Garcia "was not […] a source of wealth to Mauritius" and that it would be in Mauritius' own interest to have an Anglo-US military presence in the area. In response, Premier Ramgoolam reiterated that he understood the facilities to be in the interest of the whole Commonwealth, and repeated that:

> "he would prefer to make the facilities available free of charge rather than accept a lump sum of £1 [million] which was insignificant seen against Mauritius' annual recurrent budget amounting to about £13.5 [million] – with the development budget the total was about £20 [million]."[123]

The four other Mauritian Ministers shared the views expressed by Premier Ramgoolam.[124]

3.24 Premier Ramgoolam reiterated that excision was not an option, insisting instead on a 99-year lease.[125] In response, Colonial Secretary Greenwood stated that the US Government had been "categorical in insisting that British sovereignty must be retained over Chagos" and warned the Mauritian Ministers that if detachment could not be achieved "the whole project might well fall through and the United States Government [will] look elsewhere for the facilities".[126] Premier Ramgoolam responded that "Mauritius ministers had not come to bargain" and added that "[t]hey could not bargain over their relationship with the United Kingdom and the Commonwealth."[127]

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[121] UK Chronological Summary: Annex 3, item no. 40.

[122] Record of a Meeting in the Colonial Office at 9.00 a m. on Monday, 20th September, 1965, Mauritius – Defence Issues, FO 371/184528: Annex 16, pp. 2-3, (emphasis in the original).

[123] *Ibid*., pp. 3-4.

[124] *Ibid*., p. 4.

[125] *Ibid*. p. 5.

[126] *Ibid*., pp. 5-6.

[127] *Ibid*., p.7.

3.25 Three days later, on 23 September 1965, the UK Prime Minister, Harold Wilson, had a meeting with Premier Ramgoolam at Downing Street. A minute submitted to the Prime Minister highlighted the objective of the meeting:

> "Sir Seewoosagur Ramgoolam is coming to see you at 10.00 tomorrow morning. The object is to frighten him with hope: hope that he might get independence; Fright lest he might not unless he is sensible about the detachment of the Chagos Archipelago. I attach a brief prepared by the Colonial Office, with which the Ministry of Defence and the Foreign Office are on the whole content. The key sentence in the brief is the last sentence of it on page three."[128]

The brief prepared by the Colonial Office referred to the proposed defence facilities and the secret agreement with the US, which was to contribute half of the estimated £10 million cost by "writing off equivalent British payments towards Polaris development costs."[129] It confirmed that the four Mauritian party leaders and a leading independent Minister "cannot contemplate detachment but propose a long lease",[130] and addressed the subject of compensation, indicating Mauritius' concerns.

3.26 The conclusion of the brief, including the "key last sentence", stated that:

> "[t]hroughout consideration of this problem, all Departments have accepted the importance of securing consent of the Mauritius Government to detachment. The Premier knows the importance we attach to this. In the last resort, however, detachment could be carried out without Mauritius consent, and this possibility has been left open in recent discussions in Defence and Overseas Policy Committee. The Prime Minister may therefore wish to make some oblique reference to the fact that H.M.G. have the legal right to detach Chagos by Order in Council, without Mauritius consent, but this would be a grave step."[131]

3.27 A second document, a minute from Colonial Secretary Greenwood, was appended to the briefing note.[132] It expressed anxiety that the "bases issue" would make the Constitutional Conference more difficult, and that care should be taken not to make it obvious that the UK was conditioning the independence of Mauritius on the detachment of the Chagos Archipelago:

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[128] Colonial Office, Note for the Prime Minister's Meeting with Sir Seewoosagur Ramgoolam, Premier of Mauritius, 22 September 1965, PREM 13/3320: Annex 17, (emphasis added).

[129] *Ibid.*, p.1. In the margin of the document, it is stated that this secret financial agreement is "not for mention".

[130] *Ibid*.

[131] *Ibid*.

[132] *Ibid*.

> "I am sure that we should not seem to be trading Independence for detachment of the Islands. That would put us in a bad light at home and abroad and would sour our relations with the new state. And it would not accord well with the line you and I have taken about the Aden base (which has been well received in the Committee of 24)."[133]

3.28 According to the record of the 23 September 1965 meeting, Prime Minister Wilson opened the discussion by explaining that he:

> "wished to discuss with Sir Seewoosagur a matter which was not strictly speaking within the Colonial Secretary's sphere: it was the Defence problem and in particular the question of the detachment of Diego Garcia."[134]

Following the advice of Colonial Secretary Greenwood, for the sake of appearances Prime Minister Wilson added:

> "This was of course a completely separate matter and not bound up with the question of Independence."[135]

However, in the end, the connection between independence and detachment was made clear:

> "The Prime Minister [said that] in theory, there were a number of possibilities. The Premier and his colleagues could return to Mauritius either with Independence or without it. On the Defence point, Diego Garcia could either be detached by Order in Council or with the agreement of the Premier and his colleagues. The best solution of all might be Independence and detachment by agreement, although he could not of course commit the Colonial Secretary at this point."

3.29 On the same day as Prime Minister Wilson's meeting with Premier Ramgoolam, the UK held separate (and secret) talks on the detachment of the Chagos Archipelago with a large US delegation in London.[136] A Colonial Office official, Mr.

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[133] *Ibid*.

[134] Record of a Conversation Between the Prime Minister and Premier of Mauritius, Sir Seewoosagur Ramgoolam, at No. 10, Downing Street, at 10 A.M. on Thursday, September 23, 1965, FO 371/184528: Annex 18, p. 1.

[135] *Ibid*., pp. 1-2.

[136] List of Officials who took part in U.S./U.K. talks on Defence Facilities in the Indian Ocean 23-24 September, 1965, FO 371/184529; Record of a Meeting with an American Delegation headed by Mr. J.C. Kitchen, on 23 September, 1965, Mr. Peck in the chair, Defence Facilities in the Indian Ocean, FO 371/184529; Record of a Meeting of U.K. and U.S. Officials on 24 September, 1965, to Discuss Draft B, Mr. Peck in the Chair, Defence Facilities in the Indian Ocean, FO 371/184529; Summary record of 'Plenary' meeting between the United Kingdom and United States officials (led by Mr. Kitchen), Mr. Peck in the Chair on 24 September, 1965, Defence Facilities in the Indian Ocean, FO 371/184529, see Annex 20.

Fairclough, described to the Americans the talks that had thus far been held with the Mauritian Ministers:

> "The British side had tried to keep the independence issue which the conference was really meant to deal with, separate from the defence project, but the outcome of the latter was found to depend partly on the former problem. One main party in Mauritius with a different policy from that of Dr. Ramgoolam but belonging to his coalition government, favoured some continuing link with Britain. Dr. Ramgoolam's party wanted full independence. It seemed that the conference was moving towards agreement on "free association" [...] Both pro and anti independence parties regarded the defence project as a bargaining counter which they might use either to achieve or to avoid complete independence."[137]

Mr. Fairclough recognised that none of the Mauritian party leaders "wanted to settle the defence project before the independence issue was settled".[138] The US again made clear its position that a lease was out of the question.[139]

3.30 A third session of talks between UK officials and the Mauritius Ministers was held later the same day. Premier Ramgoolam and three other Ministers met with the UK representatives. Colonial Secretary Greenwood explained that he was required to inform his colleagues "at 4 p.m. that afternoon" of the outcome of the talks, and wanted a decision to be reached at the meeting.[140] He urged the Mauritius Ministers to agree to the detachment of the Chagos Archipelago.[141] The Colonial Secretary argued that "it would be possible for the British Government to detach [the Chagos Archipelago] from Mauritius by Order in Council."[142] This was interpreted by the Mauritius Ministers as a threat by the UK to detach the Chagos Archipelago from Mauritius with or without their agreement.

3.31 The record of that meeting sets out the UK's view of the understanding that was eventually reached:

> "22. Summing up the discussion, the SECRETARY OF STATE asked whether he could inform his colleagues that Dr. Ramgoolam, Mr Bissoondoyal and Mr Mohamed were prepared to agree to the detachment of the Chagos Archipelago on the understanding that he would recommend to his colleagues the following:

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[137] *Ibid.* (emphasis added).

[138] *Ibid*.

[139] *Ibid*.

[140] Record of a Meeting held in Lancaster House at 2.30 p.m. on Thursday 23rd September, Mauritius Defence Matters, CO 1036/1253: Annex 19.

[141] *Ibid*.

[142] *Ibid*., p. 2.

(i) negotiations for a defence agreement between Britain and Mauritius;

(ii) in the event of independence an understanding between the two governments that they would consult together in the event of a difficult internal security situation arising in Mauritius;

(iii) compensation totalling up to £3 [million] should be paid to the Mauritius Government over and above direct compensation to landowners and the cost of resettling others affected in the Chagos Islands;

(iv) the British Government would use their good offices with the United States Government in support of Mauritius' request for concession over sugar imports and the supply of wheat and other commodities;

(v) [...] the British Government would do their best to persuade the American Government to use labour and materials from Mauritius for construction work in the islands;

(vi) the British Government would use their good offices with the U.S. Government to ensure that the following facilities in the Chagos Archipelago would remain available to the Mauritius Government as far as practicable:

(a) Navigational and Meteorological facilities;

(b) Fishing Rights;

(c) Use of Air Strip for emergency landing and for refuelling civil planes without disembarkation of passengers.

(vii) [...] if the need for the facilities on the islands disappeared the islands should be returned to Mauritius;

(viii) [...] the benefit of any minerals or oil discovered in or near the Chagos Archipelago should revert to the Mauritius Government."[143]

3.32 Faced with the UK's intention to detach the Chagos Archipelago from Mauritius with or without the consent of the Mauritius Ministers, Premier Ramgoolam reluctantly told Colonial Secretary Greenwood that these proposals were "acceptable to him and [two of the Mauritian Ministers] in principle", but that he would discuss the matter with his other ministerial colleagues.[144]

3.33 Another UK-US meeting was held that afternoon. Mr. Fairclough reported to the US delegation that "Dr. Ramgoolam and a majority of Ministers present had agreed

[143] *Ibid*., para. 22.

[144] *Ibid*., para. 23.

to the detachment of the Chagos Archipelago."[145] Mr. Fairclough went on to assure the Americans that "the necessary legal measures would be comparatively quick".[146] However, it was agreed that:

> "the term 'detachment' should be avoided in any public statements on this subject, and that some other phrase – e.g. the retention under the administration of Her Majesty's Government – should be devised in its place."[147]

The record of the meeting concluded that the UK would "make the necessary constitutional and administrative arrangements for the detachment of the Chagos Archipelago".[148]

3.34 At a side meeting between UK and US officials, the UK explained how it would carry out the detachment:

> "the Colonial Office envisaged the detachment operation taking place in three stages. During the first stage normal life would continue on the islands detached but not yet needed for defence facilities. In the middle stage the population would have to be cleared off any island when it was needed for defence purposes. This process would take a little time. During the final stage it was envisaged that an island with defence facilities installed on it would be free from local civilian inhabitants."[149]

III. Detachment of the Chagos Archipelago from Mauritius

3.35 Before detaching the Chagos Archipelago, the UK sought to obtain approval from the Mauritian Government. In a despatch to the Foreign Office, a Colonial Office official explained that this was necessary because "the Governor [of Mauritius] originally broached the subject with the full Council of Ministers, and our talks in London were only with the main party leaders and an Independent Minister."[150] Furthermore, "the last and critical meeting" had taken place without Mr. Koenig, the leader of the PMSD, who had walked out of the Constitutional Conference.[151]

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[145] Summary record of 'Plenary' meeting between the United Kingdom and United States officials (led by Mr. Kitchen), Mr. Peck in the Chair on 24 September, 1965, Defence Facilities in the Indian Ocean, FO 371/184529: Annex 20, p. 1.

[146] *Ibid*.

[147] *Ibid*.

[148] *Ibid*., Note on Further Action.

[149] Record of a Meeting of U.K. and U.S. Officials on 24 September, 1965, to Discuss Draft B, Mr. Peck in the Chair, Defence Facilities in the Indian Ocean, FO 371/184529: Annex 20, para. 3.

[150] Letter dated 8 October 1965 from the UK Colonial Office to the UK Foreign Office, FO 371/184529: Annex 22, para. 2.

[151] *Ibid*. See also Minute dated 5 November 1965 from the Secretary of State for the Colonies to the Prime Minister, FO 371/184529: Annex 26, para. 4.

3.36 On 6 October 1965, instructions were sent to Governor Rennie to secure the agreement of the Mauritius Government to the detachment "on the conditions enumerated in (i) – (viii) in paragraph 22" of the Record of the Meeting held on 23 September 1965.[152] In the meantime, on 27 October, the Foreign Office wrote to the UK Mission to the UN in New York to find out when discussions on Mauritius were likely to take place, citing concern that "any hostile reference" to the detachment of the Chagos Archipelago could have the effect of "jeopardis[ing] final discussions in the Mauritius Council of Ministers".[153] The UK Mission replied that discussions on "miscellaneous territories" were imminent, but that it was not possible to indicate exactly when.[154]

3.37 Governor Rennie informed the Colonial Office on 5 November that the "Council of Ministers today confirmed agreement to the detachment of Chagos Archipelago" on the conditions set out at paragraph 22 of the Record of the Meeting held on 23 September 1965.[155] He added that PMSD Ministers had dissented and felt "obliged to withdraw from the government".[156]

3.38 Colonial Secretary Greenwood then wrote to Prime Minister Wilson to confirm that the Mauritius Council of Ministers had agreed to detachment.[157] He added that it is "essential that the arrangements for detachment of these islands should be completed as soon as possible."[158] He explained the need for rapid action as follows:

> "6. From the United Nations point of view the timing is particularly awkward. We are already under attack over Aden and Rhodesia, and whilst it is possible that the arrangements for detachment will be ignored when they become public, it seems more likely that they will be added to the list of 'imperialist' measures for which we are attacked. We shall be accused of creating a new colony in a period of decolonisation and of establishing new military bases when we should be getting out of the old ones. If there were any chance of avoiding publicity until this session of the General Assembly adjourns at Christmas there would be advantage in delaying the Order in Council until then. But to do so would jeopardise the whole plan.

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[152] Colonial Office Despatch No. 423 to the Governor of Mauritius, 6 October 1965, FO 371/184529: Annex 21. Subsequently, on 20 October 1965, formal instructions were sent to the Governor of the Seychelles to confirm the agreement of the Executive Council to detach Aldabra, Farquhar and Desroches islands from the Seychelles. See also UK Chronological Summary: Annex 3, item no. 47.

[153] Foreign Office Telegram No. 4104 to the UK Mission to the United Nations, New York, 27 October 1965, FO 371/184529: Annex 23.

[154] UK Mission to the United Nations, New York, Telegram No. 2697 to the Foreign Office, 28 October 1965, FO 371/184529: Annex 24.

[155] Mauritius Telegram No. 247 to the Colonial Office, 5 November 1965, FO 371/184529: Annex 25, para. 1.

[156] *Ibid*., para. 2.

[157] Minute dated 5 November 1965 from the Secretary of State for the Colonies to the Prime Minister, FO 371/184529: Annex 26, para. 3.

[158] *Ibid*., para. 5.

> 7. The Fourth Committee of the United Nations has now reached the item on Miscellaneous Territories and may well discuss Mauritius and Seychelles next week. If they raise the question of defence arrangements on the Indian Ocean Islands before we have detached them, the Mauritius Government will be under considerable pressure to withdraw their agreement to our proposals. Moreover we should lay ourselves open to an additional charge of dishonesty if we evaded the defence issues in the Fourth Committee and then made the Order in Council immediately afterwards. It is therefore important that we should be able to present the U.N. with a fait accompli.
>
> 8. In these circumstances I propose to arrange for an Order in Council to be made on Monday 8th November. A prepared Parliamentary Question will be tabled on 9th November and answered on 10th November in the terms of the attached draft. Supplementary background guidance has been prepared for use with the press.
>
> 9. If we can meet the timetable set out in the previous paragraph we shall have a good chance of completing the operation before discussion in the Fourth Committee reaches the Indian Ocean Islands. We shall then be better placed to meet the criticism which is inevitable at whatever time we detach these islands from Mauritius and Seychelles."[159]

3.39 On 6 November, Colonial Secretary Greenwood informed Governor Rennie that for "planning purposes" they were assuming that an Order in Council would be made on 8 November 1965 with immediate effect, but that no publicity would be given until 10 November 1965. The Colonial Secretary explained that the Order would *inter alia* detach the islands and create "a separate colony".[160]

3.40 On the same date, the Foreign Office reported to the UK Mission to the UN in New York that the Mauritius Ministers had "accepted proposals on 5 November subject to certain understandings".[161] The Foreign Office, like the Colonial Office, considered it best to act as quickly as possible to detach the Chagos Archipelago:

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[159] *Ibid*., pp. 3-4 (emphasis in the original). See also: Foreign Office Telegram No. 4104 to the UK Mission to the United Nations, New York, 27 October 1965: Annex 23; UK Mission to the United Nations, New York, Telegram No. 2697 to the Foreign Office, 28 October 1965: Annex 24; Foreign Office Telegram No. 4310 to the UK Mission to the United Nations, New York, 6 November 1965: Annex 28; Foreign Office Telegram No. 4327 to the UK Mission to the United Nations, New York, 8 November 1965: Annex 30; UK Mission to the United Nations, New York, Telegram No. 2837 to the Foreign Office, 8 November 1965: Annex 31; Foreign Office Telegram No. 4361 to the UK Mission to the United Nations, New York, 10 November 1965: Annex 33.

[160] Colonial Office Telegram No. 267 to Mauritius, No. 356 to Seychelles, 6 November 1965, FO 371/184529: Annex 27.

[161] Foreign Office Telegram No. 4310 to the UK Mission to the United Nations, New York, 6 November 1965, FO 371/184529: Annex 28, para. 1.

> "2. In view of possible publicity and consequent pressure on the Mauritius and Seychelles Governments to change their minds, we are proceeding with detachment immediately. We are arranging for an Order in Council to be made on 8 November and for a prepared Parliamentary Question to be tabled on 9 November for written answer on 10 November. […]
>
> 3. If this operation is complete before Mauritius comes up in the Fourth Committee it seems to us that you will then be better placed to deal with the inevitable criticism. We hope therefore that you will do your best to ensure that discussion of Mauritius and other territories in the Indian Ocean is put off for as long as possible, and at least until 11 November."[162]

The Foreign Office advised the UK Mission to "concert tactics with the United States Delegation"[163], and sent additional Guidance to the UK Mission.[164] The Guidance falsely stated that "[t]he islands chosen have virtually no permanent inhabitants".[165] Lord Caradon, the British Ambassador at the UN, told London that there was nothing that could be done to prevent a debate on the detachment, and that this position "may well lead to charges of failure to carry out our Charter obligations to those who are permanent inhabitants."[166]

3.41 On 8 November 1965, Colonial Secretary Greenwood informed Governor Rennie that the "British Indian Ocean Territory" had been established by Order in Council:

> "5. A meeting of the Privy Council was held this morning, 8th November, and an Order in Council entitled the British Indian Ocean Territory Order 1965 […], has been made constituting the 'British Indian Ocean Territory' consisting of the Chagos Archipelago and Aldabra, Farquhar and Desroches islands."[167]

3.42 This Order in Council established the "BIOT"[168] with a "Commissioner" having wide-ranging powers *inter alia* to make laws and appointments. Section 18 of

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[162] *Ibid*., paras 2 and 3.

[163] *Ibid*., para. 5.

[164] Foreign Office Telegram No. 4327 to the UK Mission to the United Nations, New York, 8 November 1965: Annex 30.

[165] *Ibid*., paras 2(a), (b) and (h). On the expulsion of the Chagossians by the UK, see paras 3.58-3.63 below.

[166] UK Mission to the United Nations, New York, Telegram No. 2837 to the Foreign Office, 8 November 1965: Annex 31, para. 2.

[167] Colonial Office Telegram No. 298 to Mauritius, 8 November 1965, FO 371/184529: Annex 29, para. 5.

[168] "British Indian Ocean Territory" Order No. 1 of 1965: Annex 32. Section 3 of the Order provides that:

> "3. As from the date of this Order–
>
> (a) the Chagos Archipelago, being islands which immediately before the date of this Order were included in the Dependencies of Mauritius, and

the Order amended Section 90(1) of the 1964 Mauritius Constitution to exclude the Chagos Archipelago from the definition of "Mauritius".[169]

3.43 Following the detachment, there was widespread international condemnation of the UK's actions. On 16 November 1965, the UK Permanent Representative to the UN (Lord Caradon) reported to the Foreign Office that the "BIOT" had been raised at a UN General Assembly Fourth Committee debate and that speakers had accused the UK of:

> "(a) creation of a new 'colony';
>
> (b) inadmissibility of detaching land from a colonial Government regardless of compensation ('hush money') paid;
>
> (c) damage to interests of a minority even if representatives of the majority had been persuaded to agree; and
>
> (d) violation of resolution 1514 (XV)."[170]

3.44 Lord Caradon attached the statement made by the UK Representative, Mr. Brown, at the Fourth Committee meeting, in which he stated that "All that is involved here is an administrative re-adjustment, freely worked out with the Government and elected representatives of the people concerned."[171]

3.45 On 16 December 1965, the UN General Assembly adopted resolution 2066 (XX) on the Question of Mauritius. The resolution noted that the UK, the administering

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> (b) the Farquhar Islands, the Aldabra Group and the Island of Desroches, being islands which immediately before the date of this Order were part of the Colony of Seychelles,
>
> shall together form a separate colony which shall be known as the British Indian Ocean Territory."

The 1965 Order was amended in 1968 by the "British Indian Ocean Territory (Amendment) Order 1968" (26 January 1968), to correct inaccuracies in the description of the Chagos Archipelago and the Aldabra Group in Schedules 2 and 3 of the 1965 Order.

[169] "British Indian Ocean Territory" Order No. 1 of 1965: Annex 32, Section 18(2):

> "(2) Section 90(1) of the Constitution set out in schedule 2 to the Mauritius (Constitution) Order 1964 is amended by the insertion of the following definition immediately before the definition of 'the Gazette':–
>
> 'Dependencies' means the islands of Rodrigues and Agalega, and the St. Brandon Group of islands often called the Cargados Carajos;"

Section 18 also amended the Seychelles Letter Patent 1948, deleting the words "and the Farquhar Islands" from the definition of "the Colony" in Article 1(1); deleting references to "Desroches"; and the "Aldabra Group" from the first schedule and also made corresponding deletions to Section 2(1) of the Seychelles (Legislative Council) Order in Council 1960.

[170] UK Mission to the United Nations, New York, Telegram No. 2971 to the Foreign Office, 16 November 1965: Annex 35. Resolution 1514 (XV) was passed by the UN General Assembly on 14 December 1960. It is entitled 'Declaration on the granting of independence to colonial countries and peoples', and includes a provision that "6. Any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations." See Annex 1.

[171] UK Mission to the United Nations, New York, Telegram No. 2972 to the Foreign Office, 16 November 1965: Annex 36, p. 2.

Power, "has not fully implemented resolution 1514 (XV)" with regard to Mauritius, and noted

> "*with deep concern* that any step taken by the administering Power to detach certain islands from the Territory of Mauritius for the purpose of establishing a military base would be in contravention of [resolution 1514 (XV)], and in particular paragraph 6 thereof."[172]

3.46 The resolution reaffirmed the "inalienable right of the people of the Territory of Mauritius to freedom and independence" and invited the UK to "take effective measures with a view to the immediate and full implementation of resolution 1514 (XV)". It called on the UK "to take no action which would dismember the Territory of Mauritius and violate its territorial integrity",[173] referring to the relevant parts of the reports of the Committee of 24 relating to Mauritius.[174]

3.47 The UK Mission to the UN admitted that "it would not be difficult for our critics to develop the arguable thesis that detachment by itself was a breach of Article 73."[175] From the UK's point of view, there was no getting around the conclusion that the "BIOT" would be considered a non-self-governing territory:

> "[o]n the basis of the information available it seems to us difficult to avoid the conclusion that the new territory <u>is</u> a non-self-governing territory under Chapter XI of the Charter, particularly since it has and will or may have a more or less settled population, however small. We cannot disclaim Charter obligations to the inhabitants because they are not <u>indigenous</u>, since this would destroy our case on the Falklands and Gibraltar; nor apparently would the facts substantiate a plea that the inhabitants are not <u>permanent</u> – even if (which is not necessarily the case) Chapter XI of the Charter were confined to permanent populations."[176]

3.48 However, the Colonial Office was still keen for the UK to avoid its obligations under Article 73 of the Charter, in part to avoid upsetting the US and jeopardising the joint UK-US plan to establish American military facilities in the Chagos Archipelago:

> "we cannot in respect of the Indian Ocean Territory accept that the 'interests of the inhabitants of these territories are paramount'. We should therefore get into a false position at

[172] United Nations General Assembly Resolution 2066 (XX), 16 December 1965: Annex 38 (emphasis in original).

[173] *Ibid*., paras. 2-4.

[174] The Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples.

[175] Despatch dated 2 February 1966 from F.D.W. Brown, UK Mission to the United Nations, New York to C.G. Eastwood, Colonial Office: Annex 40, para. 11.

[176] *Ibid*. (emphasis in original).

> once if we agreed that the Territory fell within the scope of Chapter XI of the Charter. We also believe that the Americans would be strongly opposed to acceptance by us of a Charter responsibility for the Territory."[177]

3.49 Further criticism of the detachment of the Chagos Archipelago was made at meetings of Sub-Committee I, as reported to London by the UK Mission to the UN in New York, on 1, 9 and 12 September 1966:

(i) Mr. Malecela representing Tanzania, the Chairman of the meeting held on 9 September, reiterated the predominant view of Afro-Asian countries, opposing the establishment of military bases in the Indian Ocean, and asked for assurances from the UK that such bases would not be established. He stated that negotiations between a colony and the colonial Power could not be valid as these "could not be on an equal basis."[178]

(ii) Another Tanzanian representative at the meeting on 12 September noted that "[i]t was significant that dismemberment of Mauritius and Seychelles had been carried out by the United Kingdom a few days before General Assembly resolution 2066(XX)" and that although the UK asserted that the islands were uninhabited they "belonged to Mauritius and Seychelles.[179] The representative "demanded guarantees that the territories' integrity would be respected" and urged that no troops be stationed in the area.[180]

(iii) The Syrian representative urged the Committee to investigate UK and US military plans and the "creation of a new colony".[181]

(iv) The representative of Mali stated that the UK's foreign military bases were illegal and "contrary to the colonial peoples' right to self-determination and independence."[182]

(v) The Russian representative questioned the UK denial of an Anglo-American agreement on the establishment of military bases in the Indian Ocean, and urged that the Committee should be allowed to make investigations *in situ*.[183]

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[177] Despatch dated 7 January 1966 from C.G. Eastwood to F.D.W Brown, para. 3.

[178] UK Mission to the United Nations, New York, Telegram No. 1872 to the Foreign Office, 9 September 1966: Annex 42, para. 5.

[179] UK Mission to the United Nations, New York, Telegram No. 1877 to the Foreign Office, 12 September 1966: Annex 43, para. 2.

[180] *Ibid*.

[181] UK Mission to the United Nations, New York, Telegram No. 1872 to the Foreign Office, 9 September 1966: Annex 42, para. 1.

[182] *Ibid*., para. 2.

[183] *Ibid*, para. 4.

(vi) The Representative from Yugoslavia aligned himself with the Declaration adopted at the recent Non-Aligned Movement Conference, providing that the presence of foreign military bases was an impediment to decolonisation.[184] He also said that the PMSD Ministers who had resigned, and the Mauritian people "had demonstrated in protest against British bases in [the] Indian Ocean" and that "[t]he United Kingdom was not entitled to dismember the territories or to use them for military purposes."[185]

3.50 Mr. Brown of the UK made a statement at the meeting of the Committee of 24 held on 6 October 1966. He made clear that he was "not seeking to argue or defend a case, but rather to establish what the facts are." Nevertheless, he offered the following inaccurate and misleading response to the recommendations on detachment that had been made by Sub-Committee I:

> "[m]y delegation explained what was involved in this in our statement in the Fourth Committee on 16 November [1965]. We made clear that the new arrangements represented an administrative readjustment which was fully agreed after consultations by the elected governments of Mauritius and Seychelles. […] No decisions have yet been reached about the construction of any facilities anywhere in the British Indian Ocean Territory."[186]

3.51 On 20 December 1966, the UN General Assembly adopted resolution 2232 (XXI) concerning a number of non-self governing territories, including Mauritius and the Seychelles. The resolution cited the "chapters of the report of the Special Committee", recalled resolutions 1514 (XV) and 2066 (XX), and expressed deep concern at:

> "the continuation of policies which aim, among other things, at the disruption of the territorial integrity of some of these Territories and at the creation by the administering Powers of military bases and installations in contravention of the relevant resolutions of the General Assembly".[187]

The General Assembly also reiterated:

> "its declaration that any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of colonial Territories and the establishment of military bases and installations in these Territories is incompatible with the

[184] UK Mission to the United Nations, New York, Telegram No. 1877 to the Foreign Office, 12 September 1966: Annex 43, para. 3.

[185] *Ibid*.

[186] Statement by Mr. Francis Brown in the Committee of 24: Mauritius, the Seychelles and St. Helena (Report of Sub-Committee I), 6 October 1966: Annex 44, p. 2

[187] United Nations General Assembly Resolution 2232 (XXI), 20 December 1966: Annex 45.

purposes and principles of the Charter of the United Nations and of General Assembly resolution 1514 (XV)".[188]

Both of these paragraphs were repeated in General Assembly resolution 2357 (XXII), adopted on 19 December 1967.[189]

3.52 On 21 April 1967, Lord Caradon reported further strong criticism at the Committee of 24's Sub-Committee I on Mauritius, Seychelles and St. Helena:

(i) The representative from Mali had argued that "[t]he Charter requirement of respect for territorial integrity had not been observed".[190]

(ii) The representative from Ethiopia had said that the UK had done little "to implement numerous United Nations resolutions".[191]

(iii) The Syrian representative asked whether the "BIOT" facilities "had the truly free consent of the Mauritian people who owned the islands".[192]

(iv) The Russian representative stated that the UK decision not to abandon military plans in the Chagos Archipelago was "causing growing concern in many countries including India."[193]

IV. Post-Excision Actions

(a) The 1966 Agreement between the United Kingdom and the United States

3.53 The UK-US "Agreement Concerning the Availability for Defense Purposes of the British Indian Ocean Territory" ("the 1966 Agreement") was concluded on 30 December 1966.[194] It provided that the "BIOT" was to remain under UK sovereignty and to be available to "meet the needs of both Governments for defense."[195] The Agreement provided that "[t]he required sites shall be made available to the United States authorities without charge"[196] and that "the islands shall remain available to meet

[188] *Ibid*.

[189] United Nations General Assembly Resolution 2357 (XXII),19 December 1967: Annex 51.

[190] UK Mission to the United Nations, New York, Telegram No. 60 to the Foreign Office, 21 April 1967: Annex 47, para. 1.

[191] *Ibid*., para. 2.

[192] *Ibid*., para. 3.

[193] *Ibid*., para. 7.

[194] Exchange of Notes Constituting an Agreement Between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of United States of America Concerning the Availability for Defense Purposes of the British Indian Ocean Territory, in force 30 December 1966, 603 *U.N.T.S.* 273 (No. 8737): Annex 46.

[195] *Ibid*., paras. (1) and (2).

[196] *Ibid*., para. (4).

the possible defense needs of the two Governments for an indefinitely long period."[197] The Agreement made no mention of the secret financial contribution made by the US, or the fate of the Mauritian population of the Chagos Archipelago.

3.54 Two further Agreements were signed on 30 December 1966: a Secret Exchange of Notes on Financing and an Exchange of Notes on the Seychelles Satellite Tracking Facility.[198]

(b) The secret financial agreement

3.55 In 1967 the secret US financial contribution for the establishment of the "BIOT" gave rise to "a serious disagreement between [the UK] and the Americans".[199] A minute dated 12 May 1967 from the UK Secretary of State for Defence, addressed to the Foreign Secretary and copied *inter alia* to Prime Minister Wilson, the Chancellor of the Exchequer and the Commonwealth Secretary, set out in detail the secret arrangement whereby the US had agreed to waive UK payments up to £5 million in connection with the development of Polaris nuclear-armed missiles.[200] A minute dated 5 November 1965 from the Colonial Secretary to the UK Prime Minister explains that the US had insisted that their contribution should "be kept secret for Congressional reasons and in order to restrain the local governments from trying to put up the price."[201]

3.56 It subsequently emerged that the US position had changed and that, if pressed to do so, they would disclose their financial contribution.[202] A minute of 22 May 1967 from an official at the Colonial Office recorded that "the fact that they now seem to be changing their attitude is not only surprising but must be seriously disturbing for [UK] Ministers." It was reported to the Foreign Secretary that "[t]his is embarrassing because we took steps to secure the agreement of the Comptroller and Auditor General that there was no need to draw Parliament's attention to the transaction. […] The situation is

[197] *Ibid*., para. (11). Paragraph (11) also stipulates that "after an initial period of 50 years, this Agreement shall continue in force for a further period of twenty years unless, not more than two years before the end of the initial period, either Government shall have given notice of termination to the other, in which case this Agreement shall terminate two years from the date of such notice."

[198] The Seychelles Satellite Tracking Station Agreement was published on 25 January 1967.

[199] Minute dated 22 May 1967 from a Colonial Office official, A. J. Fairclough, to a Minister of State, with a Draft Minute appended for signature by the Secretary of State for Commonwealth Affairs addressed to the Foreign Secretary, FCO 16/226: Annex 49.

[200] Minute dated 12 May 1967 from the Secretary of State for Defence to the Foreign Secretary, FO 16/226: Annex 48. The minute also states that the US "insisted that their contribution should be kept secret, since they said that public knowledge that a U.S. subsidy was being made in respect of a British Colonial Territory would embarrass them in Congress. We accepted this, and have faithfully observed it. We and the Americans have just (simultaneously) published the White Paper (Cmnd.3231) on the availability of B.I.O.T. for defence purposes. It contained no mention of any American payment or contribution."

[201] Minute dated 5 November 1965 from the Secretary of State for the Colonies to the Prime Minister, FO 371/184529: Annex 26, para. 2.

[202] Minute dated 12 May 1967 from the Secretary of State for Defence to the Foreign Secretary, FO 16/226: Annex 48, para. 2. The minute explains that US "think they would have to disclose [the secret financial contribution] because some U.S. scientists seem to be aware of the U.S. financial participation and have mentioned a figure of $14 million."

therefore potentially so embarrassing, if it breaks on either side of the Atlantic, that we must have a clear understanding with the U.S. Government as to how we handle it."[203] The British Embassy in Washington was to be requested to approach the US Secretary of State to explain that revealing the secret arrangement would put the UK "in acute Parliamentary and constitutional difficulties".

3.57 A further draft minute addressed to the Foreign Secretary, and copied *inter alia* to Prime Minister Wilson, the Chancellor of the Exchequer and the Secretary of State for Defence, foresaw "acute embarrassment in [the UK] relationship with Mauritius" if the secret arrangement were to be revealed.[204] It explained that "the Prime Minister himself flatly told the Premier of Mauritius that the matter was only between Britain and Mauritius. There is no doubt that the Premier believed that the full amount of the compensation paid to Mauritius was being found by Britain."[205] The minute stated that:

> "[i]t is well nigh certain that accusations would be made that the British Government and the Prime Minister personally, had deliberately deceived the Mauritius Government in order to secure their agreement to the separation from Mauritius of the Chagos Archipelago at a low level of compensation."[206]

(c) The expulsion of the residents of the Chagos Archipelago

3.58 The UK feared that it might be subjected to the obligations under Article 73(e) of the UN Charter, a provision which requires reports to be transmitted to the UN regarding economic and social conditions in non-self-governing territories. It had already been decided secretly by the UK that the residents of the Archipelago would be removed, but the UK recognised that this "may make it difficult to avoid an obligation to report on the territory under Article 73(e)".[207] The UK was "most anxious […] not to have to do this".[208] In fact, the UK did all it could to depopulate the Chagos Archipelago to avoid the "BIOT" being added by the UN Committee of 24 to its list of non-self-governing territories.

3.59 The UK Mission to the UN acknowledged that "it would not be difficult for our critics to develop the arguable thesis that detachment by itself was a breach of

[203] *Ibid*., para. 3.

[204] Minute dated 22 May 1967 from a Colonial Office official, A. J. Fairclough, to a Minister of State, with a Draft Minute appended for signature by the Secretary of State for Commonwealth Affairs addressed to the Foreign Secretary, FCO 16/226: Annex 49, para. 1 of Draft Minute.

[205] *Ibid*., para. 2 of the Draft Minute.

[206] *Ibid*., para. 3 of the Draft Minute

[207] Foreign Office Telegram No. 4361 to the UK Mission to the United Nations, New York, 10 November 1965: Annex 33, para. 5.

[208] Foreign Office Telegram No. 4361 to the UK Mission to the United Nations, New York, 10 November 1965: Annex 33, para. 5. See also Despatch dated 7 January 1966 from C. G. Eastwood, Colonial Office to F. D. W. Brown, UK Mission to the United Nations, New York: Annex 39.

Article 73."[209] From the UK's point of view, there was no getting around the fact that the "BIOT" would be considered a non-self-governing territory.[210]

3.60 The UK and US were acutely aware of the attention that expulsion would raise at the UN, and particularly at the Committee of 24. The Foreign Office noted the US recommendation to use the term "migrant laborers" when referring to the residents of the Chagos Archipelago, but conceded that although "it was a good term for cosmetic purposes […] it might be difficult to make completely credible as some of the 'migrants' are second generation Diego residents."[211]

3.61 Between 1968 and 1973, the UK forcibly removed all the Chagossians. The UK Ministry of Defence negotiated the purchase of all private freeholds on the Chagos Archipelago, and in the interim period during which the US made preparations for the construction of the military base on Diego Garcia, the UK leased the islands back to their former owners.[212]

3.62 In March 1967, the US announced that it intended to begin construction work on Diego Garcia in the second half of 1968. A survey to that end took place in June and July 1967.[213] The US proposal was for a $46 million facility, including a 12,000-foot runway.[214] A US telegram in August 1968 formally requested the removal of the residents of Diego Garcia.[215] There was a delay while the US Defence Department obtained Congressional approval for the proposal, but then in 1970, the US gave notice to the UK that Diego Garcia would be required in July 1971. Accordingly, the "BIOT" Commissioner passed the Immigration Ordinance 1971, s.4(1) of which provided that "no person shall enter the Territory or, being in the Territory, shall be present or remain in the Territory, unless he is in possession of a permit […]." This provided the purported legal basis for the expulsion, and then the continued exclusion, of the inhabitants of the Chagos Archipelago.[216]

3.63 On 23 February and 23 June 1972, the Prime Minister of Mauritius held talks with UK representatives on a resettlement scheme for the former residents of the Chagos Archipelago.[217] The UK agreed to pay £650,000 to the Mauritian Government, "provided that the Mauritius Government accept such payment in full and give full and final discharge of [the UK's] undertaking, given at Lancaster House, London, on 23 September 1965, to meet the cost of resettlement of persons displaced from the Chagos

[209] Despatch dated 2 February 1966 from F.D.W. Brown, UK Mission to the United Nations, New York to C. G. Eastwood, Colonial Office, Annex 40, para. 11.

[210] *Ibid*., para. 6. See also para. 3.57 above.

[211] See: David Vine, *Island of Shame,* Princeton University Press (2009), (hereinafter "Vine"), p. 102.

[212] UK Chronological Summary: Annex 3, item no. 70.

[213] *Ibid*., item no. 78.

[214] Vine, p. 100.

[215] *Ibid*.

[216] The Immigration Ordinance 1971 was subsequently declared unlawful by the High Court in London: see further para. 3.78 below.

[217] Letter dated 26 June 1972 from the British High Commission, Port Louis, to the Prime Minister of Mauritius: Annex 66.

Archipelago".[218] On 4 September 1972, the Mauritian Prime Minister accepted payment of £650,000 as the cost of the resettlement scheme, but added that "[o]f course, this does not in any way affect the verbal agreement giving [Mauritius] all sovereign rights relating to minerals, fishing, prospecting and other arrangements."[219]

(d) The return of Aldabra, Farquhar and Desroches to Seychelles

3.64 During UK-US talks on the Indian Ocean in November 1975, the Head of the UK Foreign and Commonwealth Office Hong Kong and Indian Ocean Department indicated that the UK was minded to return the islands of Aldabra, Farquhar and Desroches to Seychelles, in order to allow the peaceful transition of Seychelles to independence by June 1976.[220] Both the US and the UK recognised the impossibility of using the islands for defence purposes in the future, as they were populated, and "[a]fter the outcry over the workers removed from the Chagos Archipelago, it would be extremely difficult politically to do the same thing in the ex-Seychelles islands".[221]

3.65 A primary concern for both the US and the UK was the reaction from Mauritius. A briefing document of 14 July 1975 to the UK Prime Minister raised the following concerns:

> "Might Mauritius not be encouraged, or even compelled by a need not to be seen to be outdone by the Seychelles, to press for the Chagos Archipelago to be handed back to her? Or would Mauritius [...] accept our action as an earnest of our intention to hand back that archipelago [when it no longer has a defence value] and be ready to wait patiently for that to happen?"[222]

3.66 The US, the UK and Seychelles held talks from 16-18 March 1976 to set out the conditions on which the islands would be returned to Seychelles. The UK refused to allow Mauritius to participate in the talks. On 18 March 1976, representatives of the UK and Seychelles signed an agreement to return the islands of Aldabra, Desroches and Farquhar to Seychelles on 29 June 1976, Seychelles Independence Day.[223]

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[218] *Ibid*.

[219] Letter dated 4 September 1972 from the Prime Minister of Mauritius to the British High Commissioner, Port Louis: Annex 67. The Prime Minister reiterated Mauritian fishing rights in the Chagos Archipelago on 24 March 1973: Letter dated 24 March 1973 from the Prime Minister of Mauritius to the British High Commissioner, Port Louis: Annex 69; see para. 3.97 below.

[220] British Embassy, Washington, November 1975, Minutes of Anglo-US Talks on the Indian Ocean held on 7 November 1975 (Extract): Annex 76, para. 48.

[221] Anglo/US Consultations on the Indian Ocean: November 1975, Agenda Item III, Brief No. 4: Future of Aldabra, Farquhar and Desroches: Annex 75, para. 2(d).

[222] Briefing note dated 14 July 1975 from John Hunt to the Prime Minister: Annex 73, para. 3(a).

[223] Heads of Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland, the Administration of the British Indian Ocean Territory and the Government of Seychelles Concerning the Return of Aldabra, Desroches and Farquhar to Seychelles to be Executed on Independence Day, FCO 40/732: Annex 79. See also Figure 3 of Volume 4.

(e) Mauritian independence, and domestic reaction to the excision and expulsions

3.67 General elections were held in Mauritius on 7 August 1967, and independence from the UK was achieved on 12 March 1968, along with the promulgation of a new Constitution.

3.68 After the unlawful excision of the Chagos Archipelago in November 1965, some members of the Opposition in Mauritius criticised both Premier Ramgoolam's government and the other Mauritius Ministers who had attended the 1965 talks for not preventing the excision. However, at the same time there was widespread recognition that the excision had been carried out by the UK in exchange for the grant of independence.[224] In response to criticism from opposition parties, the Mauritian government consistently explained that it had not been possible to prevent the UK's unilateral detachment of the Chagos Archipelago from Mauritius. During a Parliamentary debate on 26 June 1974, Prime Minister Ramgoolam[225] set out in more detail the modalities of the detachment and explained why it was unavoidable.[226] The illegality of the detachment was recognised across the political spectrum.[227]

3.69 On 8 November 1977, Prime Minister Ramgoolam stated that Mauritius was now seeking the return of the Chagos Archipelago from the UK. He called for "patient diplomacy at bilateral and international levels."[228]

3.70 Sir Harold Walter, then Minister of External Affairs of Mauritius, explained how the Government perceived the excision of the Chagos Archipelago:

> "at the moment that Britain excised Diego Garcia from Mauritius, it was by an Order in Council! The Order in Council was made by the masters at that time! What choice did we have? We had no choice! We had to consent to it because we were fighting alone for independence! There was nobody else supporting us on that issue! We bore the brunt!"[229]

[224] See for example Mauritius Legislative Assembly, 9 April 1974, Speech from the Throne – Address in Reply, Statement by Hon. G. Ollivry: Annex 70, p. 266.

[225] Sir Seewoosagur Ramgoolam became Prime Minister of Mauritius on 12 March 1968 when Mauritius obtained its independence.

[226] Mauritius Legislative Assembly, 26 June 1974, Committee of Supply: Annex 71, pp. 1946-1947.

[227] See for example Mauritius Legislative Assembly, 15 March 1977, Speech from the Throne – Address in Reply, Statement by Hon. M.A. Peeroo: Annex 81.

[228] Mauritius Legislative Assembly, 15 March 1977, Speech from the Throne – Address in Reply, Statement by Hon. M.A. Peeroo: Annex 82, p. 3179. This commitment to recover the Chagos Archipelago by diplomacy at bilateral and international levels was reiterated by the Prime Minister on 20 November 1979 (Mauritius Legislative Assembly, 20 November 1979, Reply to PQ No. B/967: Annex 88, p. 5025).

[229] Mauritius Legislative Assembly, 26 June 1980, Interpretation and General Clauses (Amendment) Bill (No. XIX of 1980), Committee Stage, Statement by Sir Harold Walter: Annex 92, p. 3413.

3.71 Prime Minister Ramgoolam made clear that he was forced to acquiesce in the UK's unilateral detachment of the Chagos Archipelago. "[W]e had no choice."[230] He added: "We were a colony and Great Britain could have excised the Chagos Archipelago."[231]

3.72 On 21 July 1982, the Mauritius Legislative Assembly set up a Select Committee to look into the circumstances which had led to the excision of the Chagos Archipelago from the territory of Mauritius. The Select Committee was composed of nine members of the Mauritian Parliament, chaired by the Minister of External Affairs. The Report of the Select Committee, published in June 1983, recognised that the excision of the Chagos Archipelago had been the price to pay in order to achieve independence.[232] The Select Committee concluded that the "blackmail element […] strongly puts in question the legal validity of the excision", and that the UK had acted in violation of the Charter of the United Nations.[233]

3.73 On numerous occasions since gaining its independence in 1968, Mauritius has asserted its sovereignty over the Chagos Archipelago and its desire, as *parens patriae* of its citizens, to protect the rights of the former inhabitants of those islands, including their right of return to the Archipelago. It has asserted these rights in general statements, including 28 statements to the UN General Assembly, [234] and in bilateral communications with the UK.[235] It has also objected to the UK's designation of the

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[230] Mauritius Legislative Assembly, 11 April 1979, Speech from the Throne – Address in Reply, Statement by the Prime Minister of Mauritius: Annex 85, p. 456.

[231] Mauritius Legislative Assembly, 25 November 1980, Reply to PQ No. B/1141: Annex 96, p. 4223.

[232] Mauritius Legislative Assembly, Report of the Select Committee on the Excision of the Chagos Archipelago, June 1983 (extract): Annex 97, p. 36.

[233] *Ibid*, p. 37.

[234] 28 statements between 1980 and 2011. See Extracts from Annual Statements Made by Mauritius to the United Nations General Assembly (Chagos Archipelago): Annex 95.

[235] For example see letter dated 9 January 1998 from the Prime Minister of Mauritius to the UK Secretary of State for Foreign and Commonwealth Affairs: Annex 106 (in which the Mauritian Prime Minister proposed that in order to remedy the "historic injustice" committed by the UK, former residents of the Chagos Archipelago should be allowed to return, if they wished, to some of the outer islands of the Chagos Archipelago); Note Verbale dated 5 July 2000 from the Ministry of Foreign Affairs and International Trade, Mauritius to the British High Commission, Port Louis, No. 52/2000 (1197): Annex 111; Note Verbale dated 6 November 2000 from the Ministry of Foreign Affairs and Regional Cooperation, Mauritius to the British High Commission, Port Louis, No. 97/2000 (1197/T4): Annex 113 (in which the Mauritian Ministry of Foreign Affairs wrote to the British High Commission in Port Louis, noting the High Court judgment in the *Bancoult* case which "declares unlawful the removal of the Mauritian citizens from the Chagos Archipelago and the deprivation of their right to return there"); Letter dated 6 July 2001 from the UK Secretary of State for Foreign and Commonwealth Affairs to the Minister of Foreign Affairs and Regional Cooperation, Mauritius: Annex 116 (in which the UK Foreign Secretary stated that "[t]he British Government acknowledges that Mauritius has a legitimate interest in the future of the islands and recognises Mauritius as the only State which could assert a claim to the territory in the event that the United Kingdom relinquishes its own sovereignty); Letter dated 30 December 2009 from the Minister of Foreign Affairs, Regional Integration and International Trade, Mauritius to the UK Secretary of State for Foreign and Commonwealth Affairs: Annex 157; Letter dated 19 February 2010 from the Secretary to Cabinet and Head of the Civil Service, Mauritius to the British High Commissioner, Port Louis: Annex 162; Note Verbale dated 2 April 2010 from the Ministry of Foreign Affairs, Regional Integration and International Trade, Mauritius to the British High Commission, Port Louis, No. 11/2010 (1197/28/10): Annex 167; Letter dated 20 October 2011 from the Minister of Foreign Affairs, Regional

Chagossians as "contract workers" and has maintained that the Chagossians have "always been, and are citizens of Mauritius and as such have always been residing in Mauritius."[236] It has consistently protested against the UK's creeping assertion of maritime zones in that territory, culminating in the 2010 Marine Protected Area.[237]

3.74 Mauritius has made clear that "there is no strategic or defence impediment" for the return of persons of Mauritian origin who were living in the Chagos Archipelago to the outer islands of the Archipelago, and that "we have no objection to the continued presence of the US military base on Diego Garcia and we have informed the United States that there is no risk with regard to their security of tenure on the island." [238]

(f) Subsequent legal developments in relation to the expelled former residents of the Chagos Archipelago

3.75 In 1975, Michel Vencatassen, a former resident of the Chagos Archipelago who was forcibly removed in 1971, brought a compensation claim in the High Court in London against several UK Government Ministers. The claim "was for damages for intimidation and deprivation of liberty in connection with his departure from Diego Garcia, but the proceedings came to be accepted on both sides as raising the whole question of the legality of the removal of the Chagossians from the islands."[239] After lengthy negotiations, the claim was settled in 1982 on the basis that the UK Government pay £4 million into a trust fund for the former residents of the Chagos Archipelago, on the condition that they renounce their rights to future claims and to return to the Chagos Archipelago.[240] On 7 July 1982, Mauritius and the UK signed an Agreement relating to the payment of further compensation.[241] The Mauritian Minister of External Affairs stated that "the Agreement has had, and has, no bearing whatsoever

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Integration and International Trade, Mauritius to the UK Secretary of State for Foreign and Commonwealth Affairs: Annex 172; Letter dated 21 March 2012 from the Minister of Foreign Affairs, Regional Integration and International Trade, Mauritius to the UK Secretary of State for Foreign and Commonwealth Affairs: Annex 173.

[236] See Note Verbale dated 11 May 1999 from the Ministry of Foreign Affairs and International Trade, Mauritius to the British High Commission, Port Louis, No. 29/99 (1197/25): Annex 108; Note Verbale dated 5 July 2000 from the Ministry of Foreign Affairs and International Trade, Mauritius to the British High Commission, Port Louis, No. 52/2000 (1197): Annex 111.

[237] These protests are considered in detail in Chapter 4, *infra*.

[238] Letter dated 21 December 2000 from the Minister of Foreign Affairs and Regional Cooperation, Mauritius to the UK Secretary of State for Foreign and Commonwealth Affairs: Annex 115.

[239] As summarised by Lord Hoffmann in *R (Bancoult) v Secretary of State for Foreign and Commonwealth Affairs (No 2)* [2009] 1 AC 453, para. 12. The UK caselaw discussed in this section has not been annexed, but can be provided if required.

[240] *Ibid*., para. 13.

[241] Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Mauritius concerning the Ilois, Port Louis, 7 July 1982, with amending Exchange of Notes, Port Louis, 26 October 1982, Cmnd. 8785.

on the issue of sovereignty", but was solely concerned with the issue of compensation for the Mauritian citizens who were former residents of the Chagos Archipelago.[242]

3.76 In a subsequent Parliamentary debate, Mauritian Prime Minister Sir Anerood Jugnauth explained that:

> "[t]his Bill[243] also safeguards the sovereignty of Mauritius over the Chagos Archipelago including Diego Garcia, and follows on the Agreement which, we have made absolutely sure, has no bearing whatsoever, explicitly or implicitly, on the question of sovereignty but is concerned solely with the compensation to the *Ilois* [Chagossians] and the *Ilois* Community."[244]

3.77 The Ilois Trust Fund Act was enacted on 30 July 1982, and put in place the mechanism required by the 1982 Agreement. Section 12 of the Act provided that:

> "12. Nothing in this Act shall affect the sovereignty of Mauritius over the Chagos Archipelago, including Diego Garcia."[245]

3.78 In 1998, another former resident of the Chagos Archipelago, Olivier Bancoult, applied to the High Court in London for judicial review of the UK Immigration Ordinance 1971.[246] He sought a declaration that the Ordinance was void because it purported to authorise the expulsion of Chagossians from the Chagos Archipelago, and a declaration that the policy which prevented him from returning to and residing in the Archipelago was unlawful. On 3 November 2000, the High Court gave judgment in favour of Mr Bancoult, holding that the 1971 Ordinance was unlawful on the basis that the Government had purported to make it under a power to legislate for the "peace, order and good government" of the territory, which did not include the power to expel the residents. Accordingly, the Court quashed the Ordinance.[247]

3.79 In response, the then Foreign Secretary Robin Cook stated that the British Government accepted the ruling and did not intend to appeal; that work on the feasibility of resettling the former residents took on a new importance in light of the judgment; that in the meantime a new Immigration Ordinance would be put in place in order to allow the former residents to return to the outer islands of the Archipelago; and

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[242] Government House, Port Louis, Speech by the Hon. Jean Claude G. R. De L'Estrac, Minister of External Affairs, Tourism & Emigration on the Occasion of the Signing of an Agreement Between the Mauritius and the British Governments on Compensation to the Ilois and the Ilois Community, on Wednesday, the 7th July, 1982.

[243] The Ilois Trust Fund Bill, designed to set up a fund to ensure that the income from the money provided for in the July 1982 Agreement was used for the benefit of the former residents of the Chagos Archipelago.

[244] Parliamentary debate on the Ilois Trust Fund Bill (No. IX of 1982).

[245] Ilois Trust Fund Act 1982, Act No 6 of 1982, 30 July 1982.

[246] See para. 3.62 above.

[247] *R (Bancoult) v Secretary of State for Foreign and Commonwealth Affairs (No 1)* [2001] QB 1067 (Laws LJ and Gibbs J).

that "the Government has not defended what was done or said 30 years ago. As Laws LJ recognised, we made no attempt to conceal the gravity of what happened."[248]

3.80 The UK Government then passed the Immigration Ordinance 2000, largely identical to the Immigration Ordinance 1971, but providing that the restrictions on entry to the Chagos Archipelago did not apply to Chagossians, save in respect of Diego Garcia.

3.81 In April 2002, the High Court dismissed a case brought by former residents of the Chagos Archipelago against the Attorney General and other UK Ministers, claiming compensation and restoration of their property rights, and declarations of their entitlement to return to all the islands of the Chagos Archipelago, and to measures facilitating their return.[249] On 9 October 2003, the High Court dismissed additional claims.[250] The Court of Appeal refused leave to appeal on grounds relating to English law, while recognising that the compensation which the former residents had received "has done little to repair the wrecking of their families and communities, to restore their self-respect or to make amends for the underhand official conduct now publicly revealed by the documentary record."[251]

3.82 In 2004, in complete disregard of the previous commitment to work towards resettlement of the Chagos Archipelago, the UK Government repealed the Immigration Ordinance 2000 and introduced the "British Indian Ocean Territory (Constitution) Order 2004", section 9 of which restored the pre-2001 position of complete exclusion of all persons from the Chagos Archipelago, including the former residents whose right to be present on all islands other than Diego Garcia had been recognised in 2001.

3.83 Mr Bancoult challenged the 2004 Order by way of a second claim for judicial review. The High Court held that the 2004 Order, and an immigration order made in parallel to it,[252] were irrational in that they promoted the interests of the UK and not the former residents; the Court therefore quashed the Orders.[253] The Court of Appeal upheld this decision, on the basis that (1) the removal or subsequent exclusion of the Chagossians for reasons unconnected with their collective wellbeing was an abuse of the power of colonial governance exercisable by Her Majesty in Council; and (2) Foreign Secretary Robin Cook's press statement after the 2000 High Court decision, and the Immigration Ordinance 2000, were promises to the former residents which gave rise to a legitimate expectation that, in the absence of a relevant change of circumstances (and none had been identified), their rights of entry to and abode in the Chagos Archipelago would not be revoked.[254]

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[248] Quoted by Lord Hoffmann in *R (Bancoult) v Secretary of State for Foreign and Commonwealth Affairs (No 2)* [2009] 1 AC 453, para. 17.

[249] Summarised by Lord Hoffmann at *ibid*., para. 20.

[250] *Chagos Islanders v Attorney General* [2003] EWHC 2222 (Ouseley J).

[251] *Chagos Islanders v Attorney General* [2004] EWCA Civ 997, per Sedley LJ at para. 54.

[252] "British Indian Ocean Territory" (Immigration) Order 2004.

[253] *R (Bancoult) v Secretary of State for Foreign and Commonwealth Affairs (No 2)* [2006] EWHC 1038 (Admin).

[254] R *(Bancoult) v Secretary of State for Foreign and Commonwealth Affairs (No 2)* [2008] QB 365.

3.84 The UK Government appealed to the House of Lords (then the highest court in the UK), which allowed the appeal by a 3-2 majority, holding that the power to take the measures in question was not limited to objectives connected to the "peace, order and good government" of the territory, but extended to the wider interests of the UK; that such matters were the primary responsibility of the executive, not the courts; and that the measures could not be said to be irrational, given a broader interpretation of the power to make them.[255] The Court was, however, highly critical of the Government's conduct in the Chagos Archipelago. Lord Hoffmann stated that:

> "My Lords, it is accepted by the Secretary of State that the removal and resettlement of the Chagossians was accomplished with a callous disregard of their interests."[256]

V: The United Kingdom's Undertakings with Regard to Fishing, Mineral and Oil Rights

3.85 Notwithstanding the unlawful excision, the UK has long acknowledged Mauritius' fishing and mineral rights in the Chagos Archipelago. The US too has expressed its understanding of Mauritius' rights in relation to fishing and minerals.[257] The following section sets out the history of the UK's undertakings in this regard; the significance of those undertakings is examined in Chapters 6 and 7, together with the UK's recognition of Mauritius' right to submit preliminary information to the Commission on the Limits of the Continental Shelf established by the Convention, in support of its submission for an extended continental shelf around the Chagos Archipelago.

(a) Fishing rights

3.86 The UK had acknowledged Mauritius' fishing rights in the Chagos Archipelago long before the creation of the "BIOT". It had sought to obtain information about "fishing rights and practice in the Chagos Archipelago" in order to assist in its discussions with the US "on maintaining the access of Mauritian fishermen to the islands."[258] An official at the Colonial Office, writing to the Foreign Office, explained

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[255] *R (Bancoult) v Secretary of State for Foreign and Commonwealth Affairs (No 2)* [2009] 1 AC 453.

[256] *Ibid*., para. 10. Mr Bancoult has challenged the decision of the House of Lords before the European Court of Human Rights, where the case is currently pending (*Bancoult v United Kingdom*). In August 2010, Mr Bancoult issued a further judicial review claim before the High Court in London challenging the lawfulness of the UK's decision to establish the "MPA", on the basis that the decision had an ulterior motive (namely the continued exclusion of the former residents of the Chagos Archipelago), and that the purported process of consultation had been seriously flawed by reason of the non-disclosure of significant information. The case is currently pending.

[257] The US has recognised that Mauritius "retained fishing and minerals (but not tourism) rights to the Chagos Archipelago": see Office of International Security Operations Bureau, Politico-Military Affairs, United States Department of State, "Disposition of the Seychelles Islands of the BIOT", 31 October 1975, para. 11: Annex 74.

[258] Letter dated 8 February 1966 from K.W.S. MacKenzie, Colonial Office to A. Brooke-Turner, UK Foreign Office, FO 371/190790: Annex 41. The letter refers to a previous communication dated 28 October 1965, in which Mauritius' fishing rights are discussed.

that the UK was "anxious to avoid anything in the nature of blanket restrictions on activities by Mauritian fishermen".[259]

3.87 A crucial recognition of Mauritius' fishing rights in the Chagos Archipelago is contained in the Lancaster House undertakings of 23 September 1965. As mentioned above,[260] the record of the meeting sets out the UK's view of the understanding that was eventually reached, which included a commitment that "the British Government would use their good offices with the U.S. Government to ensure that the following facilities in the Chagos Archipelago would remain available to the Mauritius Government as far as practicable: […] Fishing Rights."[261]

3.88 Two days after the promulgation of the 1965 Order in Council which excised the Chagos Archipelago and incorporated it into the newly established "BIOT", the Colonial Office wrote to the Governor of Mauritius to enquire as to the "nature of fishing practised by people in [the] Chagos Archipelago", and the "value to Mauritius of waters in the Archipelago as sources of fish."[262] The Governor replied that the nature of fishing practised was "mainly handline with some basket and net fishing by local population for own consumption". With regard to the value to Mauritius of waters in the Chagos Archipelago as a source of fish, the Governor noted that the fishable area was roughly 2,433 square miles, and that this represented a potential 95,000 tons of fish and 147,000 tons of shark.[263]

3.89 The Colonial Secretary also asked for an "indication of use made of international waters in [the] Archipelago" and about the "extent of territorial waters round islands". Governor Rennie replied that there was no use of international waters, and that the extent of territorial waters was unknown but that an area of roughly 6,000 square miles was covered by banks.[264]

3.90 On 12 July 1967, the Commonwealth Office wrote to Governor Rennie about the preservation of the fishing rights of Mauritius in the Chagos Archipelago. This was in view of "the undertaking given to Mauritius Ministers in the course of discussions on the separation of Chagos from Mauritius, that we would use our good offices with the U.S. Government to ensure that fishing rights remained available to the Mauritius Government as far as practicable in the Chagos Archipelago."[265]

3.91 The Commonwealth Office also referred to two further matters: fishing limits and the limits of territorial waters. The application of UK law to the "BIOT" would

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[259] Letter dated 8 February 1966 from K.W.S. MacKenzie, Colonial Office to A. Brooke-Turner, UK Foreign Office, FO 371/190790: Annex 41.

[260] Para. 3.31.

[261] Record of a Meeting held in Lancaster House at 2.30 p.m. on Thursday 23rd September, Mauritius Defence Matters, CO 1036/1253: Annex 19, para. 22.

[262] Colonial Office Telegram No. 305 to Mauritius, 10 November 1965: Annex 34.

[263] Mauritius Telegram (unnumbered) to the Secretary of State for the Colonies, 17 November 1965: Annex 37.

[264] *Ibid*.

[265] Letter dated 12 July 1967 from the UK Commonwealth Office to the Governor of Mauritius, FCO 16/226: Annex 50, para. 2.

result in a 3-mile territorial sea and a 12-mile fishery limit around the Chagos Archipelago. In accordance with the 1958 Territorial Sea Convention, Mauritius would be granted "habitual fishing rights" between six and twelve miles.[266] As an alternative, the Commonwealth Office proposed that the UK could declare "an exclusive fishing zone" from the limit of the 3-mile territorial sea up to 12 miles.[267] The Commonwealth Office was "very much concerned to keep in mind the importance of the fishing grounds to Mauritius, for instance the possible importance of fishing in Chagos as a source of food, in view of the rapidly increasing population."[268] As such, the Commonwealth Office thought "it would be convenient to be able to base any special arrangements made for Mauritius (and Seychelles) on habitual or traditional fishing arrangements, provided that no other countries can claim similar use in the past."[269]

3.92 On 10 July 1969, the "BIOT" Commissioner issued Proclamation No. 1, establishing "a fisheries zone contiguous to the territorial sea of the British Indian Ocean Territory" which extended from the limit of the territorial sea to an outer limit of 12 nautical miles from the coast.[270] The Proclamation further stated that "Her Majesty will exercise the same exclusive rights in respect of fisheries in the said fisheries zone as She has in respect of fisheries in the territorial sea of the British Indian Ocean Territory, subject to such provisions as may hereafter be made by law for the control and regulation of fishing […]."[271]

3.93 Further correspondence dated 24 March 1970 from the Foreign and Commonwealth Office, and 30 May 1970 from the Governor of Seychelles, described plans to enact fishing ordinances.[272] The latter despatch noted that "[o]ur dependence on fisheries is such that it may later be in our interests to extend fisheries limits beyond 12 miles."[273] A minute dated 5 June 1970 from a Foreign and Commonwealth Office official, which refers to the despatch of 30 May 1970 from the Governor of Seychelles, explains that as the proposed fishing regime is "exceedingly complicated", the US Government should be forewarned "as we undertook at the Lancaster Conference in

[266] *Ibid*., para. 4(a).

[267] *Ibid*., para. 5.

[268] *Ibid*., para. 6.

[269] *Ibid*., para. 6. See also Despatch dated 28 April 1969 from J. W. Ayres, Foreign and Commonwealth Office to J. R. Todd, Administrator, "BIOT", FCO 31/2763: Annex 52.

[270] "British Indian Ocean Territory" Proclamation No. 1 of 1969: Annex 53. See also Figure 4 of Volume 4.

[271] *Ibid*.

[272] Despatch dated 24 March 1970 from A. F. Knight, Foreign and Commonwealth Office to J. R. Todd, "BIOT" Administrator: Annex 57; Telegram No. BIOT 12 dated 30 May 1970 from the Governor of Seychelles to the Foreign and Commonwealth Office: Annex 58.

[273] Telegram No. BIOT 12 dated 30 May 1970 from the Governor of Seychelles to the Foreign and Commonwealth Office: Annex 58. See also Minute dated 5 June 1970 from J. Thomas (Defence Department) to J. W. Ayres (Aviation and Marine Department), UK Foreign and Commonwealth Office, FCO 32/716: Annex 59.

September 1965 to use our good offices to protect Mauritian fishing interests in Chagos waters."[274]

3.94 The Fishery Limits Ordinance was enacted by the "BIOT" Commissioner on 17 April 1971.[275] Section 3 provided that it was an offence for a person to fish within the territorial sea or contiguous zone of the "BIOT" on board a foreign fishing vessel. However, Section 4 carved out an exemption by which the Commissioner could "designate any country outside the Territory and the area in which and descriptions of fish or marine product for which fishing boats registered in that country may fish." This had the purpose of "enabling fishing traditionally carried out in any area within the contiguous zone by foreign fishing boats to be continued." A Foreign and Commonwealth Office letter dated 3 June 1971 made clear that Section 4 was intended to preserve the fishing rights of Mauritius in the Chagos Archipelago.[276]

3.95 The Foreign and Commonwealth Office wrote to the British High Commission in Port Louis on 2 July 1971, referring to Mauritius' traditional fishing rights in the Chagos Archipelago, preserved by the undertaking given by the UK at the Lancaster House meeting of 23 September 1965. The Foreign and Commonwealth Office suggested that an approach be made to the Mauritius Government setting out the fishing regime, and stated that:

> "[i]ncluded within the BIOT fishing zone are certain waters which have been traditionally fished by vessels from Mauritius. […] The Commissioner of BIOT will use his powers under Section 4 of BIOT Ordinance No 2/1971, to enable Mauritian fishing boats to continue fishing in the 9-mile contiguous zone in the waters of the Chagos Archipelago. This exemption stems from the understanding on the fishing rights reached between HMG and the Mauritius Government, at the time of the Lancaster House Conference in 1965".[277]

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[274] Minute dated 5 June 1970 from J. Thomas (Defence Department) to J. W. Ayres (Aviation and Marine Department), UK Foreign and Commonwealth Office, FCO 32/716: Annex 59.

[275] "British Indian Ocean Territory" Ordinance No. 2 of 1971: Annex 60.

[276] Despatch dated 3 June 1971 from M. Elliott, UK Foreign and Commonwealth Office to F.R.J. Williams, Seychelles, FCO 31/2763: Annex 61: "[i]t is clearly important that the Mauritian Government in particular should be informed, and presumably given an assurance that the Commissioner for the B.I.O.T. will use his discretion under the ordinance to permit Mauritian vessels to fish in the waters of the Chagos Archipelago […]. [C]an you confirm that the Commissioner will use his discretion in this way?" The response was unambiguous and confirmed that "the Commissioner who has approved this letter in draft, will use his powers under section 4 of the Ordinance to enable Mauritian fishing boats to fish within the contiguous zone in the waters of the Chagos Archipelago." (Despatch dated 16 June 1971 from F.R.J. Williams, Seychelles to M. Elliott, UK Foreign and Commonwealth Office, BIOT/54/61: Annex 62.)

[277] Despatch dated 2 July 1971 from M. Elliott, UK Foreign and Commonwealth Office to R. G. Giddens, British High Commission, Port Louis, FCO 31/2763: Annex 63. On 29 November 1977, Sir S. Ramgoolam referred to the UK's recognition of Mauritius' rights in the waters of the Chagos Archipelago in a Parliamentary Answer (Mauritius Legislative Assembly, 29 November 1977, Reply to PQ No. B/634: Annex 83, p. 3513).

This information was transmitted to the Government of Mauritius by the British High Commission on 15 July 1971.[278]

3.96 On 26 May 1972, the Office of the Deputy Governor in Seychelles confirmed that "Mauritians have been declared as traditional fishermen in BIOT as the islands formerly formed part of Mauritius."[279]

3.97 Mauritius has consistently reminded the UK of the undertaking which it gave on 23 September 1965 to preserve Mauritius' fishing rights in the Chagos Archipelago. On 4 September 1972, the Prime Minister of Mauritius stated that the payment of £650,000 by the UK Government to the Government of Mauritius for the resettlement of Mauritian citizens displaced from the Chagos Archipelago did not in any way affect the UK agreement to give Mauritius "all sovereign rights relating to minerals, fishing, prospecting and other arrangements."[280] By letter of 24 March 1973 to the British High Commissioner in Port Louis, the Prime Minister of Mauritius reiterated the UK's commitments set out at paragraph 22 of the record of the meeting held on 23 September 1965. He stated that the payment of £650,000 by the UK Government "does not in any way affect the verbal agreement on minerals, fishing and prospecting rights reached at the meeting at Lancaster House on 23rd September, 1965, and is in particular subject to", *inter alia*, Mauritius' fishing and mineral rights.[281]

3.98 Mauritian fishing rights in the Chagos Archipelago were set out in the Mauritius Fisheries Act 1980,[282] and were further recognised by the UK in the "BIOT" Fishery Limits Ordinance 1984. Section 4 of the 1984 Ordinance is almost identical to section 4 of the 1971 Ordinance.[283] Pursuant to Section 4 of the 1984 Ordinance, in February 1985 the "BIOT" Commissioner published the following notice in the "BIOT" Official Gazette:

> "In exercise of the power vested in him by Section 4 of the Fishery Limits Ordinance, 1984, the Commissioner has been pleased to designate Mauritius for the purpose of enabling

[278] Note from R. G. Giddens, British High Commission, Port Louis, 15 July 1971: Annex 64.

[279] Despatch dated 26 May 1972 from J. R. Todd, "BIOT" Administrator to P. J. Walker, UK Foreign and Commonwealth Office, FCO 31/2763: Annex 65.

[280] Letter dated 4 September 1972 from the Prime Minister of Mauritius to the British High Commissioner, Port Louis: Annex 67.

[281] Letter dated 24 March 1973 from the Prime Minister of Mauritius to the British High Commissioner, Port Louis: Annex 69. Further, in reply to a PQ on 29 November 1977, the Mauritian Prime Minister confirmed that "[t]he British Government has since July 1971 recognised the jurisdiction of Mauritius over the waters surrounding Diego Garcia." (Mauritius Legislative Assembly, 29 November 1977, Reply to PQ No. B/634: Annex 83, p. 3513) The Mauritian Minister of Fisheries has also confirmed that as of 1978 a Mauritian fishing vessel, the *Nazareth*, was operating in the waters of the Chagos Archipelago. (Mauritius Legislative Assembly, 5 July 1978, Committee of Supply: Annex 84, p. 3116.)

[282] Fisheries Act 1980, Act No. 5 of 1980: Annex 91. See also statement of the Mauritian Minister of Fisheries during the passage of the Act through Parliament: Mauritius Legislative Assembly, 13 May 1980, Second Reading of the Fisheries Bill (No. IV of 1980), Statement by the Minister of Fisheries and Cooperatives and Co-operative Development: Annex 90, pp. 934-935.

[283] See para. 3.62 above.

> fishing traditionally carried on in areas within the fishery limits to be continued by fishing boats registered in Mauritius."[284]

3.99 On 23 July 1991, the British High Commission wrote to the Government of Mauritius to inform it of the UK's intention to extend the fishing zone around the Chagos Archipelago to 200 miles.[285] The Note Verbale is significant because of its express recognition (in the context of the grant of fishing licences) of "the traditional fishing interests of Mauritius in the waters surrounding British Indian Ocean Territory."[286]

3.100 On 1 July 1992, the British High Commissioner in Mauritius stated in a letter to the Mauritian Prime Minister that "[t]here are no plans to establish an exclusive economic zone around the Chagos islands" and added that:

> "[t]he British Government has honoured the commitments entered into in 1965 to use its good offices with the United States Government to ensure that fishing rights would remain available to Mauritius as far as practicable."[287]

3.101 The UK Government also emphasised that it would continue to issue licences to Mauritius fishing vessels free of charge and that:

> "[t]he British Government reaffirms that it remains open to discussions with the Government of the Republic of Mauritius over the present arrangements governing such issues and recognises the special position of Mauritius and its long-term interest in the future of the British Indian Ocean Territory."[288]

3.102 In a letter dated 13 December 2007 to the UK Prime Minister, Prime Minister Navinchandra Ramgoolam reiterated that "Mauritius has historically exercised [fishing] rights over the waters of the Chagos Archipelago"[289]

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[284] "British Indian Ocean Territory" Notice No. 7 of 1985: Annex 98.

[285] Note Verbale No. 043/91 dated 23 July 1991 from the British High Commission, Port Louis, to the Government of Mauritius: Annex 99. In particular, the note refers to the protection and conservation of tuna stocks to "protect the future fishing interests of the Chagos group."

[286] *Ibid*.

[287] Letter dated 1 July 1992 from the British High Commissioner, Port Louis to the Prime Minister of Mauritius: Annex 103.

[288] *Ibid*. See also Note Verbale dated 13 April 1999 from the British High Commission, Port Louis to the Ministry of Foreign Affairs and International Trade, Mauritius, No. 15/99: Annex 107. The Mauritian Government responded by reaffirming "the position of the Government [of Mauritius] that sovereignty over the Chagos Archipelago rests with the Republic of Mauritius." (Note Verbale dated 1 July 1999 from the Ministry of Foreign Affairs and International Trade, Mauritius to the British High Commission, Port Louis, No.37/99 (1100/20)): Annex 109). See also the British High Commission Speaking Notes, "Chagos – Inshore Fisheries Licences", 13 April 1999: Annex 107.

[289] Letter dated 13 December 2007 from the Prime Minister of Mauritius to the Prime Minister of the United Kingdom: Annex 135.

(b) Mineral and oil rights

3.103 Four years after the 1965 Constitutional Conference in London, the Mauritian Prime Minister's Office reasserted the rights of Mauritius over minerals and oil in the Chagos Archipelago. By Note Verbale dated 19 November 1969, Mauritius reminded the UK of "the understanding [reached at the Lancaster House meeting of 23 September 1965] that the benefit of any minerals and oil discovered on or near the Chagos Archipelago would revert to the Government of Mauritius."[290] This understanding recognised that Mauritius has rights in the minerals discovered in or around the Chagos Archipelago, including in its sea bed. The Government of Mauritius reminded the UK of its undertaking with regard to the mineral and oil rights:

> "The Government of Mauritius intends introducing, in the very near future, legislation vesting in its ownership the sea-bed and the sub-soil of the territorial sea and the continental shelf of all the islands under its territorial jurisdiction. The Government of Mauritius wishes to inform the British Government that it will, at the same time, vest in its ownership any minerals or oil that may be discovered in the off-shore areas of the Chagos Archipelago."[291]

3.104 The Government of Mauritius also informed the British Government of its intention to "issue licences for the exploration and prospecting of minerals and oil in the off-shore areas of the Chagos Archipelago."[292] The response from the British High Commission recognised that "one of the understandings reached between the British Government and the Government of Mauritius in 1965" was that "the benefit of any minerals or oil discovered in or near the Chagos Archipelago should revert to the Government of Mauritius."[293] However, the British High Commission considered that:

> "The understanding in question was that the benefit of any minerals or oil discovered in or near the Chagos Archipelago should revert to the Government of Mauritius. […] The British Government feel bound to state that they consider the Government of Mauritius have misconstrued the understanding, which was only to the effect that the Government of Mauritius should receive the benefit of any minerals or oil discovered in or near the Chagos Archipelago. It is not considered that the wording of the understanding can be construed as indicating any intention that ownership of minerals or oil in the areas in question should be vested in the Government of Mauritius or that the Authorities of Mauritius should have any right to

[290] Note Verbale dated 19 November 1969 from the Prime Minister's Office (External Affairs Division), Mauritius to the British High Commission, Port Louis, No. 51/69 (17781/16/8): Annex 54.

[291] *Ibid*.

[292] *Ibid*.

[293] Note Verbale dated 18 December 1969 from the British High Commission, Port Louis to the Prime Minister's Office (External Affairs Division), Mauritius: Annex 55.

> legislate with respect to or otherwise regulate matters relating to the ownership, exploration or exploitation of such minerals or oil nor is it believed that the correspondence and discussions which took place in 1965 contained anything to suggest such an intention on the part of the British Government."[294]

3.105 At the same time, the British High Commission reassured Mauritius that:

> "the British Government have no intention of departing from the undertaking that the Government of Mauritius should receive the benefit of any minerals or oil discovered in the Chagos Archipelago or the off-shore areas in question in the event of the matter arising as a result of prospecting being permitted while the Archipelago remains under United Kingdom sovereignty."[295]

3.106 A Speaking Note prepared on 2 February 1970 by the British Foreign and Commonwealth Office, on the occasion of the visit of Prime Minister Ramgoolam to the UK, acknowledged "how important it would be for the economy of Mauritius if oil were to be discovered in marketable quantities" and recognised that "under the understanding arrived at in the Lancaster House talks in 1965, Mauritius would receive the benefit of any oil discovered there while the Archipelago remains under United Kingdom sovereignty."[296]

3.107 In 1979 Prime Minister Ramgoolam twice recalled in Parliament the UK's commitment that any benefits derived from minerals or oil in or near the Chagos Archipelago would revert to Mauritius.[297] In November 1979, he also confirmed in Parliament that Mauritius was still exercising its rights over natural resources within the 200-mile maritime zone around the Chagos Archipelago.[298]

3.108 The UK has reaffirmed its undertakings regarding oil and mineral rights in more recent years. On 10 November 1997 the UK Foreign Secretary wrote to Prime Minister Ramgoolam, reiterating the UK's position that "the Territory will be ceded to Mauritius when no longer required for defence purposes" and, significantly for present purposes, stating that "I also reaffirm that this Government has no intention of permitting prospecting for oil and minerals while the territory remains British, and acknowledges that any oil and mineral rights will revert to Mauritius when the Territory

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[294] *Ibid.* Prime Minister Ramgoolam contested this UK interpretation on a number of occasions, and consistently maintained that mineral rights had been expressly reserved to Mauritius at the Lancaster House talks: see for example paras 3.97 above and 3.107 below.

[295] Pacific and Indian Ocean Department [Foreign and Commonwealth Office], Visit of Sir Seewoosagur Ramgoolam, Prime Minister of Mauritius, 4 February 1970, Speaking Note, dated 2 February 1970: Annex 56, Flag A, p. 3.

[296] *Ibid*.

[297] See Mauritius Legislative Assembly, 10 July 1979, Reply to PQ No. B/754: Annex 86, p. 3877; Mauritius Legislative Assembly, 13 November 1979, Reply to PQ No. B/844: Annex 87, p. 4857.

[298] Mauritius Legislative Assembly, 27 November 1979, Reply to PQ No. B/982: Annex 89, p. 5170.

is ceded."[299] Most significantly in the context of mineral and oil rights, in a July 2009 joint communiqué following the second round of Mauritius-UK bilateral talks on the Chagos Archipelago, both the UK and Mauritius agreed that "it would be desirable to have a coordinated submission for an extended continental shelf in the Chagos Archipelago [...] region to the UN Commission on the Limits of the Continental Shelf, in order not to prejudice the interest of Mauritius in that area and to facilitate its consideration by the Commission." This development is considered further in Chapter 4 below.[300]

VI. Recent Reflections of the International Community's Views on Sovereignty of Mauritius over the Chagos Archipelago

3.109 There has been continued and sustained opposition and international condemnation directed at the UK's unlawful excision of the Chagos Archipelago from the territory of Mauritius. This is reflected in actions adopted inter alia at the Non-Aligned Movement,[301] the Africa-South America Summit,[302] the Organisation of African Unity[303] and subsequently the African Union[304], and the Group of 77 and China.[305]

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[299] Letter dated 10 November 1997 from the UK Secretary of State for Foreign and Commonwealth Affairs to the Prime Minister of Mauritius: Annex 105.

[300] Paras 4.31-4.35.

[301] NAM Declaration, "Programme for Peace and International Co-operation", adopted at the NAM Conference held on 5-10 October 1964 in Cairo, Egypt, pp. 25-26; NAM Summit Declaration, 7-12 March 1983, New Delhi, India, para. 81; NAM Summit Declaration, 1-6 September 1986, Harare, Zimbabwe, para.137; NAM Summit Declaration, 4-7 September 1989, Belgrade; NAM Summit Declaration, 1-6 September 1992, Jakarta, Indonesia, NAC 10/Doc.2/Rev.2, para.14; NAM Summit Declaration, 18-20 October 1995, Cartagena, Columbia, para.171; NAM Summit Declaration, 2-3 September 1998, Durban, South Africa, para.227; NAM Summit Declaration, 20-25 February 2003, Kuala Lumpur, Malaysia, para.184; NAM Summit Declaration, 11-16 September 2006, Havana, Cuba, NAM 2006/Doc.1/Rev.3, para.155; NAM Summit Declaration, 11-16 July 2009, Sharm el Sheikh, Egypt, NAM2009/FD/Doc.1, para.213; NAM Ministerial Conference Declaration, 23-27 May 2011, Bali, Indonesia, paras.260-262; NAM Ministerial Meeting Final Document, 7-10 May 2012, Sharm El Sheikh, Egypt, paras. 285-287 (see Annex 4). See also Note Verbale dated 9 May 1997 from High Commission of India, Port Louis to Ministry of Foreign Affairs, International and Regional Cooperation, Mauritius: Annex 104.

[302] Declaration of Nueva Esparta, 2nd Africa-South America Summit, 26-27 September 2009, Isla de Margarita, Venezuela, para. 40: Annex 149.

[303] Resolution on Diego Garcia, AHG/Res.99 (XVII), adopted by OAU Summit, 1-4 July 1980, Freetown, Sierra Leone: Annex 93; Decision on Chagos Archipelago, AHG/Dec.159(XXXVI), adopted by OAU Summit, 10-12 July 2000, Lomé, Togo: Annex 112; Decision on the Chagos Archipelago, including Diego Garcia, CM/Dec.26 (LXXIV), adopted by OAU Council of Ministers, 5-8 July 2001, Lusaka, Zambia: Annex 117.

[304] African Union Assembly of Heads of States and Government, Decision on the Sovereignty of the Republic of Mauritius over the Chagos Archipelago, Assembly/AU/Dec.331(XV), 27 July 2010, Kampala, Uganda: Annex 168; African Union Assembly of Heads of States and Government, Resolution adopted at the 16th Ordinary Session, Assembly/AU/Res.1(XVI), 30-31 January 2011, Addis Ababa, Ethiopia: Annex 170.

[305] Ministerial Declaration of the Group of 77 and China on the occasion of UNCTAD XIII, 21 April 2012, Doha, Qatar: Annex 174, para. 20.

3.110 In 2010, the African Union Assembly reaffirmed that the Chagos Archipelago had been unlawfully excised from the territory of Mauritius in violation of UN General Assembly resolutions 1514 (XV) and 2066 (XX), and called on the UK to "expeditiously put an end to its continued unlawful occupation of the Chagos Archipelago with a view to enabling Mauritius to effectively exercise its sovereignty over the Archipelago."[306] In 2011, the African Union Assembly also noted with grave concern that "the United Kingdom has proceeded to establish a 'marine protected area around the Chagos Archipelago on 1 November 2010 in a manner that was inconsistent with its international legal obligations, thereby further impeding the exercise by the Republic of Mauritius of its sovereignty over the Archipelago."[307]

3.111 The Final Document adopted by the last Non-Aligned Movement Ministerial Meeting, held from 7 to 10 May 2012 in Sharm El Sheikh, Egypt, stated that:

> "285. The Ministers reaffirmed that the Chagos Archipelago, including Diego Garcia, which was unlawfully excised by the former colonial power from the territory of Mauritius in violation of international law and UN resolutions 1514 (XV) of 14 December 1960 and 2066 (XX) of 16 December 1965, forms an integral part of the territory of the Republic of Mauritius.
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> 286. The Ministers further noted with grave concern that despite the strong opposition expressed by the Republic of Mauritius, the United Kingdom purported to establish a marine protected area around the Chagos Archipelago, further infringing upon the territorial integrity of the Republic of Mauritius and impeding the exercise of its sovereignty over the Chagos Archipelago as well as the exercise of the right of return of Mauritian citizens who were forcibly removed from the Archipelago by the United Kingdom.
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> 287. Cognizant that the Government of the Republic of Mauritius is committed to taking all appropriate measures to affirm the territorial integrity of the Republic of Mauritius and its sovereignty over the Chagos Archipelago under international law, the Ministers resolved to fully support such measures including any action that may be taken in this regard at the United Nations General Assembly."[308]

[306] African Union Assembly of Heads of States and Government, Decision on the Sovereignty of the Republic of Mauritius over the Chagos Archipelago, Assembly/AU/Dec.331(XV), 27 July 2010, Kampala, Uganda: Annex 168.

[307] African Union Assembly of Heads of States and Government, Resolution adopted at the 16th Ordinary Session, Assembly/AU/Res.1(XVI), 30-31 January 2011, Addis Ababa, Ethiopia: Annex 170.

[308] Ministerial Meeting of the NAM Coordinating Bureau, Sharm El Sheikh Final Document, 7-10 May 2012, Sharm El Sheikh, Egypt, paras. 285-287: Annex 4.

CHAPTER 4: CREATION OF THE "MARINE PROTECTED AREA"

4.1 This Chapter relates the history of "environmental" measures taken by the UK in respect of the Chagos Archipelago, culminating in the purported establishment of the "MPA" in April 2010:

(i) The establishment of a Fisheries Conservation and Management Zone in 1991, and Mauritius' objections.

(ii) The establishment of an Environment Protection and Preservation Zone in 2003, and Mauritius' objections.

(iii) The rights exercised by Mauritius over the Chagos Archipelago, including the Preliminary Information submitted in 2009 to the UN Commission on the Limits of the Continental Shelf, in which Mauritius claimed an extended continental shelf in areas beyond 200 nautical miles from the archipelagic baselines of the Chagos Archipelago.

(iv) The bilateral talks between Mauritius and the UK in 2009.

(v) The UK's purported consultation, in 2009, on the establishment of an "MPA" around the Chagos Archipelago, Mauritius' objections, and the UK's decision unilaterally to impose such a measure.

(vi) The implementation of the "MPA".

I. Events Before The Creation Of The "MPA"

(1) 1977: Mauritius establishes an EEZ around the Chagos Archipelago

4.2 By its Maritime Zones Act of 1977, Mauritius declared territorial waters up to 12 nautical miles from its baseline, a 200-nautical mile exclusive economic zone ("EEZ") and a continental shelf to the outer edge of the continental margin, or 200 nautical miles from its baseline, around all of its territory. A plate illustrating Mauritius' EEZ is at Figure 7 of Volume 4. These acts of Mauritius were internationally recognised, for example in 1989, when Mauritius concluded an agreement with the European Economic Community on fishing in Mauritian waters. The agreement recalled that:

> "in accordance with [the] Convention, Mauritius has established an exclusive economic zone extending 200 nautical miles from its shores within which it exercises its sovereign rights for the purpose of exploring, exploiting, conserving and managing the resources of the said zone, in accordance with the principles of international law."

(2) 1991: The United Kingdom purports to establish an FCMZ

4.3 As set out in Chapter 3, in the years following its unlawful excision of the Chagos Archipelago, the UK had purported to establish fishing limits and a territorial sea.[309] Then on 1 October 1991, the UK purported to establish a 200-mile "Fisheries Conservation and Management Zone" ("FCMZ") through a formal proclamation issued by the Commissioner for the "BIOT".[310]

4.4 The UK subsequently enacted legislation to regulate fishing within the FCMZ.[311] This development marked the starting point of the change in position adopted by the UK in relation to the waters of the Chagos Archipelago, including the extension beyond the initial (and unlawful) excision for the purposes of defence, and the taking of additional measures, including restrictions purportedly based on the protection of the environment.

4.5 By Note Verbale of 7 August 1991, Mauritius protested against the purported establishment of the FCMZ, as being incompatible with its sovereignty and sovereign rights over the Chagos Archipelago.[312] That Note Verbale noted the UK's offer of free licences for inshore fishing. As will be seen throughout this Chapter, Mauritius has consistently protested against the creeping extension of powers that the UK has purported to appropriate for itself, and then sought to apply to the Chagos Archipelago in the form of restrictions. Mauritius' protests stem, not from any lack of concern for the environment of that region, but from the illegality of the UK's purported actions.

4.6 There followed a letter of 1 July 1992 from the British High Commissioner to the Prime Minister of Mauritius. The relevant passages are as follows:

(i) The UK had "declared a 200 mile exclusive fishing zone on 1 October 1991 as its contribution to safeguarding the tuna and other fish stocks of the Indian Ocean."

(ii) "There are no plans to establish an exclusive economic zone around the Chagos islands."

(iii) "The British Government has honoured the commitments entered into in 1965 to use its good offices with the United States Government to ensure that fishing rights would remain available to Mauritius as far as practicable."

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[309] Paras 3.91-3.92, above.

[310] See Note Verbale dated 23 July 1991 from British High Commission, Port Louis to Government of Mauritius, No. 043/91, recording the purported extension of the fishing zone around the Chagos Archipelago from 12 to 200 miles: Annex 99; and "British Indian Ocean Territory" Proclamation No. 1 of 1991: Annex 101. See also Figure 5 of Volume 4.

[311] "British Indian Ocean Territory" Ordinance No. 1 of 1991: Annex 102.

[312] Note Verbale dated 7 August 1991 from Ministry of External Affairs, Mauritius to British High Commission, Port Louis, No. 35(91) 1311: Annex 100.

(iv) The British Government had "issued free licences for Mauritian fishing vessels to enter both the original 12 mile fishing zone of the territory and now the wider waters of the exclusive fishing zone" and that "[i]t will continue to do so, provided that the Mauritian vessels respect the licence conditions laid down to ensure proper conservation of local fishing resources."[313]

(3) 2003: The United Kingdom purports to establish an EPPZ

4.7 The next major step in the imposition of unilateral measures came a decade later, with the purported establishment of an Environmental Protection and Preservation Zone ("EPPZ").

4.8 By letter of 8 July 2003, the Director of the Overseas Territories Department, Foreign and Commonwealth Office, informed the High Commissioner of Mauritius to the UK of a "recent decision to close the area enclosed by the following [geographical coordinates]."[314] This letter came without warning, although it noted that "There was a commitment on our part to keep the Mauritius Government fully informed of any changes to the management of the [Chagos Archipelago] inshore fishery."

4.9 On 13 August 2003, the Director of the Overseas Territories Department wrote again to the High Commissioner of Mauritius to the United Kingdom, stating that:

> "The [Convention] 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."[315]

4.10 The letter recounted the purported formation, by formal Proclamation, of the FCMZ, and stated that:

> "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

[313] Letter dated 1 July 1992 from the British High Commissioner, Port Louis to the Prime Minister of Mauritius: Annex 103.

[314] Letter dated 8 July 2003 from the Director of Overseas Territories Department, UK Foreign and Commonwealth Office, to the Mauritius High Commissioner, London: Annex 119. The coordinates included were: 05010"S, 072050"E; 05010"S, 072000"E; 05020"S, 072050"E; 05020"S; 072000"E. See also Figures 5 and 9 of Volume 4.

[315] Letter dated 13 August 2003 from the Director of Overseas Territories Department, UK Foreign and Commonwealth Office, to the Mauritius High Commissioner, London: Annex 120.

> time establishing an Environmental (Protection and Preservation) Zone."

4.11 The letter further noted that the zone "will be defined so as to have the same geographical extent as BIOT's FCMZ" and that a copy of the Proclamation, along with relevant charts and coordinates, would be deposited later in the year with the UN under Article 75 of the Convention. The letter made no mention of the assurances given to the Prime Minister of Mauritius by the British High Commission in Port Louis, in July 1992, that the UK had no intention of declaring an EEZ in relation to the Chagos Archipelago.

4.12 On 17 September 2003, the UK purported to declare a 200-mile EPPZ.[316] This was purportedly established by Proclamation of the Commissioner for the "BIOT".[317] The Proclamation stated that:

> "1. There is established for the British Indian Ocean Territory an environmental zone, to be known as the Environment (Protection and Preservation) Zone, contiguous to the territorial sea of the Territory.
>
> 2. The said environmental zone has as its inner boundary the outer limits of the territorial sea of the Territory and as its seaward boundary a line drawn so that each point on it is two hundred nautical miles from the nearest point on the low-water line on the coast of the Territory or other baseline from which the territorial sea of the Territory is measured or, where this line is less than two hundred nautical miles from the baseline and unless another line is declared by Proclamation, the median line. The median line is a line every point on which is equidistant from the nearest point on the baseline of the Territory and the nearest point on the baseline from which the territorial sea of the Republic of the Maldives is measured.
>
> 3. Within the said environmental zone, Her Majesty will exercise sovereign rights and jurisdiction enjoyed under international law, including the United Nations Convention on the Law of the Sea, with regard to the protection and preservation of the environment of the zone."

4.13 This development marked a more aggressive exercise by the UK of the rights which it claimed over the Chagos Archipelago and its surrounding waters, and a new reliance on the language of "environmental protection" in place of "defence needs" to justify its behaviour.

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[316] Note Verbale dated 19 March 2009 from the United Kingdom Mission to the United Nations, New York to the Secretary General of the United Nations, No. 26/09: Annex 141.

[317] "British Indian Ocean Territory" Proclamation No. 1 of 2003: Annex 121.

(4) The Chagos Conservation Management Plan

4.14 In October 2003, the "BIOT" Administration produced a document entitled "Chagos Conservation Management Plan" ("CCMP").[318] The CCMP was prepared without any consultation with the Government of Mauritius. It recommended three actions:

(i) "To conserve within BIOT a representative and viable sample of all terrestrial and marine habitats (The 30% Protected Areas system)": the plan suggested that "within these areas, no extractive activity of any kind should be permitted, including fishing to the extent feasible."

(ii) "Establishment of a scientific advisory group."

(iii) "Support for information gathering."

4.15 The CCMP noted that the "BIOT" Administration had "claimed the 200 nm EEZ" permitted under the Convention, and that the EPPZ declared in 2003 "has as its outer boundary the 200 mile limit of the Fisheries EEZ".

(5) Mauritius protests against the declaration of the EPPZ

4.16 Mauritius was both surprised and disappointed at the UK's unilateral proclamation of a purported EPPZ, given the assurances which the UK had given in the past that it would not establish an EEZ, and that it would continue to respect the fishing rights of Mauritius. Mauritius' concerns were conveyed in a letter of 7 November 2003 from the Mauritian Minister of Foreign Affairs to the UK Foreign Secretary. The Minister requested "the UK Government not to proceed with the issue of a Proclamation establishing an Environment (Protection and Preservation) Zone around the Chagos Archipelago and not to deposit a copy thereof together with copies of the relevant charts and coordinates with the UN under Article 75 of UNCLOS."[319] The letter went on to make clear that:

> "Depositing copies of relevant charts and coordinates with the UN under Article 75 of UNCLOS would in effect amount to a declaration of an EEZ around the Chagos Archipelago, something the UK undertook not to do in the letter of 1 July 1992."

4.17 The letter further recalled that Mauritius had protested against the formation of the FCMZ in 1991, and that the British High Commissioner had affirmed to the Prime

[318] Chagos Conservation Management Plan for the "British Indian Ocean Territory" Administration, Foreign and Commonwealth Office by Dr Charles Sheppard, Department of Biological Sciences, University of Warwick and Dr Mark Spalding, October 2003, available at: http://www.zianet.com/tedmorris/dg/chagos_conservation_management_plan_2003.pdf.

[319] Letter dated 7 November 2003 from the Minister of Foreign Affairs and Regional Cooperation, Mauritius to the UK Secretary of State for Foreign and Commonwealth Affairs: Annex 122.

Minister of Mauritius in 1992 that the UK had no plans to establish an EEZ around the Chagos Archipelago. The letter stated that Mauritius:

> "had no doubt that the UK Government will stand by its undertaking that, should the Government of Mauritius have further concerns over the future of the Chagos Archipelago, the UK Government remained ready to pursue these through normal bilateral discussions."

4.18 The letter emphasised that Mauritius has "always given great importance to the preservation and protection of the flora and fauna in the waters of the Chagos Archipelago". It welcomed the suggestion to revive the Scientific Sub-Committee of the British-Mauritian Fisheries Commission, and suggested that this bilateral forum "should address itself in priority to the environmental protection and preservation of the waters around the Chagos Archipelago."

4.19 On 12 December 2003, the Minister responsible for Overseas Territories, FCO, responded to this letter[320]. He claimed that "the proposed Zone is not a full economic exclusive zone for all purposes" but that "the purpose of the proposed Zone is simply to help protect and preserve the environment of the Great Chagos Bank."

4.20 The letter noted that the UK had enacted legislation to regulate fishing activities within the FCMZ, "whilst protecting traditional Mauritian fishing rights there". The UK added that it did not "propose at this stage to enact new legislation to regulate other activities which might impinge on the environment within the EPPZ, though of course we may wish to do so if environmental considerations make that necessary". Instead, the letter stated that the UK planned "for the time being simply to rest on the proclamation of the Zone as the public expression of our concern for the environment of the archipelago."

4.21 The letter confirmed that the EPPZ was defined so as to have the "same geographical extent as the FCMZ" and that the UK had "no intention to undertake or to allow any economic exploitation or geological exploration in the area which these zones cover." The letter restated that the UK acknowledged that "Mauritius has a legitimate interest in the future of the Chagos Islands and recognises Mauritius as the only state which has a right to assert a claim to sovereignty over them when the UK relinquishes its own sovereignty."

4.22 This letter failed to allay Mauritius' concerns about the UK's unilateral approach. It was a further expression of the gradual encroachment on long-standing Mauritian activities in the Chagos Archipelago, based on purported expressions of concern about the environment. The letter reflected a position that was not only inconsistent with the sovereignty of Mauritius over the Chagos Archipelago, but also inconsistent with the positions previously adopted by the UK and its own approach to the rights of Mauritius.

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[320] Letter dated 12 December 2003 from the Minister responsible for Overseas Territories, UK Foreign and Commonwealth Office to the Minister of Foreign Affairs and Regional Cooperation, Mauritius: Annex 124.

4.23 Notwithstanding Mauritius' clear expressions of concern, the UK proceeded to deposit geographical co-ordinates of points with the UN Secretary-General on 12 March 2004. It claimed to do so pursuant to Article 75(2) of the Convention: this made it clear that, despite its protestations to the contrary, the UK was in fact establishing an EEZ.[321]

(6) Mauritius protests against the United Kingdom's deposit of coordinates

4.24 On 14 April 2004, Mauritius sent a Note Verbale to the Secretary-General of the UN protesting against the UK's deposit of coordinates.[322] This was on the basis that "the United Kingdom of Great Britain and Northern Ireland is purporting to exercise over that zone rights which only a coastal state may have over its exclusive economic zone." Mauritius reiterated that "it does not recognise the so-called 'British Indian Ocean Territory'" and reasserted "its complete and full sovereignty over the Chagos Archipelago, including its maritime zones, which forms part of the national territory of Mauritius."

4.25 This was followed by a Note Verbale to the UK on 20 April 2004, in which Mauritius outlined its view that the legal consequence of the UK's proclamation of an EPPZ and deposit of coordinates under Article 75 of the Convention "implicitly amounts to the exercise by the UK of sovereign rights and jurisdiction within an Exclusive Economic Zone, which only Mauritius as coastal state can exercise under Part V of the UNCLOS."[323]

4.26 The Note Verbale further stated that:

> "The Government of the Republic of Mauritius is very concerned at this unilateral decision of the UK pertaining to the Chagos Archipelago, which forms an integral part of the State of Mauritius. The Government of the Republic of Mauritius also believes that the UK Government has not upheld its undertaking made in a letter dated 1 July 1992 from the British High Commissioner in Mauritius, Mr M.E Howell, where mention is made:
>
> > 'The British Government also reaffirms its undertakings that there is no intention of permitting prospecting for minerals and oils while the islands remain British. There are no plans to establish an exclusive economic zone around the Chagos islands.'"

[321] Hansard, House of Lords, 31 March 2004, col. WS62, Statement of Baroness Symons of Vernham Dean: Annex 125. The proclamation was deposited with the UN on 12 March 2004 (Law of the Sea Bulletin No. 54 (2004), 99).

[322] Note Verbale dated 14 April 2004 from the Permanent Mission of the Republic of Mauritius to the United Nations, New York, to the Secretary General of the United Nations, No. 4780/04 (NY/UN/562) (Annex 126), and Law of the Sea Bulletin No. 54 (2004), p. 128.

[323] Note Verbale dated 20 April 2004 from the Mauritius High Commission, London to the UK Foreign and Commonwealth Office, Ref. MHCL 886/1/03: Annex 127.

4.27 Mauritius reiterated that it did not recognise the "BIOT", that the "proclamation of the Environment (Protection and Preservation) Zone by the UK in no way alters the sovereignty of Mauritius over the Chagos Archipelago" and that it "hereby reasserts its complete and full sovereignty over the Chagos Archipelago, including its maritime zones, which forms part of the national territory of Mauritius". Mauritius reserved its right to "resort to appropriate legal action for the full enjoyment of its sovereignty over the Chagos Archipelago, should the need be so felt."

4.28 The UK responded, by Note Verbale of 13 May 2004[324], to the effect that the UK's letter of 12 December 2003 "explained that the Zone is not a full exclusive economic zone for all purposes and that its purpose is simply to help protect and preserve the environment of the Great Chagos Bank." The Note claimed that "there is no intention on the part of the British Government to undertake or to allow any economic exploitation or geological exploration in the area which the Zone covers."

(7) Mauritius reaffirms its EEZ, territorial sea and continental shelf

4.29 By its Maritime Zones Act 2005, Mauritius reaffirmed its 200-nautical mile EEZ, 12-nautical mile territorial sea, and continental shelf.[325] On 26 July 2006, pursuant to Articles 75(2) and 84(2) of the Convention, Mauritius submitted geographical coordinates to the UN Division for Ocean Affairs and the Law of the Sea, including in regard to the maritime zones generated by the Chagos Archipelago.[326]

4.30 At the eighteenth meeting of States Parties to the Convention, on 20 June 2008, it was decided that the 10-year time limit for submission of claims to an extended continental shelf beyond 200 nautical miles, which commenced on 13 May 1999[327],

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[324] Note Verbale dated 13 May 2004 from UK Foreign and Commonwealth Office to Mauritius High Commission, London, No. OTD 016/05/04: Annex 128.

[325] Mauritius Maritime Zones Act 2005: Annex 131. See also Figure 7, Volume 4, and the Maritime Zones (Baselines and Delineating Lines) Regulations 2005, available at: http://un.org/Depts/los/doalos_publications/LOSBulletins/bulletinpdf/bulletin67e.pdf

[326] Note Verbale of 26 July 2006 from the Permanent Mission of the Republic of Mauritius to the United Nations, New York, to the UN Secretary General, No. 4678/06: Annex 134. Mauritius provided further clarification by Note Verbale dated 20 June 2008 from Permanent Mission of Mauritius to the United Nations, New York to the Secretary General of the United Nations, No. 10260/08 (NY/UN/395): Annex 136. In a Note Verbale to the Secretary-General of the UN of 19 March 2009, the UK protested against the deposit of charts and lists of geographical coordinates by Mauritius to the UN (Note Verbale dated 19 March 2009 from the United Kingdom Mission to the United Nations, New York to the Secretary General of the United Nations, No. 26/09: Annex 141). The Note stated: "a. that the British Indian Ocean Territory is an Overseas Territory of the United Kingdom; b. the UK has no doubts over its sovereignty over the British Indian Ocean Territory; and c. a 200 nautical mile Environmental (Protection and Preservation) Zone was established around this Territory on 17 September 2003 and a list of geographical coordinates establishing the outer limits of this zone was deposited pursuant to article 75, paragraph 2 of the Convention subsequently published in the Law of the Sea Bulletin No. 54." The UK concluded that "Consequently, no other State is entitled to claim maritime zones deriving from the British Indian Ocean Territory."

In a Note Verbale of 9 June 2009 to the UN Secretary-General, Mauritius stated: "The Government of the Republic of Mauritius strongly believes that the protest raised by the United Kingdom against the deposit by Mauritius of the geographical coordinates reported in Circular Note M.Z.N. 63.2008-LOS of 27 June 2008 has no legal basis inasmuch as the Chagos Archipelago forms an integral part of the territory of

would be satisfied by submitting to the UN Secretary-General preliminary information indicative of the outer limits of the continental shelf.[328]

4.31 At the first round of bilateral talks between Mauritius and the UK, held in London on 14 January 2009, the UK stated that it was not interested in submitting on its own a claim for an extended continental shelf in respect of the Chagos Archipelago. The UK, however, indicated that it was open to the possibility of a joint submission. Mauritius pointed out that it was receptive to a joint submission, on the condition that there should be an equitable sharing of resources generated by the extended continental shelf.[329]

4.32 On 6 May 2009, Mauritius submitted to the UN Commission on the Limits of the Continental Shelf ("CLCS") Preliminary Information concerning the Extended Continental Shelf in the Chagos Archipelago Region.[330] The Preliminary Information provides an indication of the outer limits of the continental shelf of Mauritius that lie beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured in respect of the Chagos Archipelago.

4.33 Pursuant to the decision of States Parties on 20 June 2008, the UN Secretary-General is required to notify the States Parties to the Convention of the receipt of preliminary information and to make the information publicly available on the CLCS website.[331] Notification of Mauritius' submission of Preliminary Information occurred on 22 May 2009. Mauritius notes that no State, including the UK, has lodged any objection with regard to Mauritius' submission. This compares with other situations where objections have been lodged.[332] Mauritius also notes that that the UK has not made any submission (not even of preliminary information) to the CLCS concerning the Chagos Archipelago. The 10-year time limit now having passed, the UK has, on the

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Mauritius. The Government of the Republic of Mauritius further wishes to refer to its Note No. 4780/04 (NY/UN/562) dated 14 April 2004 in which it protested strongly against the deposit by the Government of the United Kingdom of Great Britain and Northern Ireland of a list of geographical coordinates of points defining the outer limits of the so-called Environment (Protection and Preservation) Zone." (Note Verbale dated 9 June 2009 from Permanent Mission of the Republic of Mauritius to the United Nations, New York to the Secretary General of the United Nations, No. 107853/09: Annex 147.).

[327] Mauritius ratified the Convention on 4 November 1994, and the United Kingdom acceded to the Convention on 25 July 1997. On 29 May 2001, the States Parties to the Convention decided that, for States for which the Convention entered into force before 13 May 1999 (which include Mauritius and the United Kingdom), the 10-year time period within which submissions for an extended continental shelf have to be made to the Commission on the Limits of the Continental Shelf shall be taken to have commenced on 13 May 1999 (SPLOS/72).

[328] SPLOS/183. Preliminary information is submitted without prejudice to an ensuing complete submission, and as such is not considered by the CLCS.

[329] See further para. 4.36 below.

[330] May 2009, United Nations Convention on the Law of the Sea: Preliminary Information Submitted by the Republic of Mauritius Concerning the Extended Continental Shelf in the Chagos Archipelago Region Pursuant to the Decision Contained in SPLOS/183: Annex 144. See Figure 8, Volume 4.

[331] Mauritius' Preliminary Information was duly notified to States Parties on 22 May 2009 (SPLOS/INF/12) and is available on the website of the Commission at: http://www.un.org/Depts/los/clcs_new/submissions_files/preliminary/mus_2009_preliminaryinfo.pdf

[332] See the list of relevant communications at:
http://www.un.org/Depts/los/clcs_new/commission_preliminary.htm

basis of its claim to sovereignty, foregone any right to avail itself of the procedures under the Convention with respect to an extended continental shelf for the Chagos Archipelago.

4.34 At the second round of bilateral talks held between Mauritius and the UK in Port Louis on 21 July 2009, both parties expressed the view that "it would be desirable to have a coordinated submission for an extended continental shelf in the Chagos Archipelago [...] region to the UN Commission on the Limits of the Continental Shelf, in order not to prejudice the interest of Maurititius in that area and to facilitate its consideration by the Commission."[333] The UK indicated that it would support Mauritius in making its submission to the CLCS, including through assistance from its technical experts.

4.35 These actions and inactions by the UK recognise that Mauritius has rights as a coastal State in relation to the extended continental shelf of the Chagos Archipelago. Having regard to the principle that a continental shelf is indivisible,[334] the UK also recognises *a fortiori* the rights of Mauritius in regard to the continental shelf *within* 200 nautical miles of its baselines.

(8) Bilateral talks in 2009

4.36 As discussed above in the context of the CLCS submission, the first round of bilateral talks to establish a dialogue between the UK and Mauritius on the Chagos Archipelago was held in London on 14 January 2009. The British delegation was led by Mr Colin Roberts, Director of the Overseas Territories Department at the FCO. The Mauritius delegation was led by Mr S.C Seeballuck, Secretary to Cabinet and Head of the Civil Service.

4.37 A Joint Communiqué was issued by the parties following the talks. This stated that "the delegations discussed the latest legal and policy developments relating to the [...] Chagos Archipelago."[335] It noted that both parties had set out their views on sovereignty and that there was "also mutual discussion of fishing rights, environmental concerns, the continental shelf, future visits to the Territory by the Chagossians and respective policies towards resettlement." The delegations agreed "the need to maintain a dialogue on a range of issues relating to the Territory and to meet again at a date to be agreed."

4.38 Both parties affirmed that the meeting did not alter their positions on sovereignty, and that:

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[333] Joint Communiqué, 2nd round of bilateral talks on the Chagos Archipelago, Port Louis, Mauritius: Annex 148.

[334] See for example *Dispute Concerning Delimitation of the Maritime Boundary between Bangladesh and Myanmar in the Bay of Bengal*, International Tribunal for the Law of the Sea, Judgment of 14 March 2012, para. 361.

[335] Joint Communiqué, Bilateral discussions between UK and Mauritius on Chagos Archipelago, 14 January 2009: Annex 137.

> "no act or activity carried out by the United Kingdom, Mauritius or third parties as a consequence and in implementation of anything agreed to in the present meeting or in any similar subsequent meetings shall constitute a basis for affirming, supporting, or denying the position of the United Kingdom or Mauritius regarding sovereignty of the [...] Chagos Archipelago."

II. The Establishment of the "MPA"

(1) Initial announcements and Mauritius' reaction

4.39 On 9 February 2009, the British newspaper *The Independent* published an article entitled "Giant marine park plan for Chagos".[336] The article stated that "An ambitious plan to preserve the pristine ocean habitat of the Chagos Islands by turning them into a huge marine reserve on the scale of the Great Barrier Reef or the Galapagos will be unveiled at the Royal Society next Monday." The article noted that the reserve, at 250,000 square miles, would be in the "'big league' globally."

4.40 The news surprised and alarmed Mauritius, which had no prior knowledge of any plans for a marine reserve in or surrounding the Chagos Archipelago. In response, on 5 March 2009 the Mauritian Ministry of Foreign Affairs, Regional Integration and International Trade sent a Note Verbale to the UK,[337] stating that:

> "both under Mauritian law and international law, the Chagos Archipelago is under the sovereignty of Mauritius and the denial of enjoyment of sovereignty to Mauritius is a clear breach of United Nations General Assembly Resolutions and international law. The creation of any Marine Park in the Chagos Archipelago will therefore require, on the part of all parties that have genuine respect for international law, the consent of Mauritius."

4.41 On 9 March 2009, a specific proposal for a marine protected area was put forward by the Chagos Environment Network at the Royal Society, UK.[338] The proposal

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[336] "Giant marine park plan for Chagos", The Independent, Sadie Gray, 9 February 2009 at http://www.independent.co.uk/environment/nature/giant-marine-park-plan-for-chagos-1604555.html (Annex 138). Similar pieces appeared on that date in other British publications: see "Ocean Blues: A new conservation plan for the Chagos Islands", The Economist.com, 9 February 2009 at http://www.economist.com/node/13089462 and "Turn disputed Chagos Islands into marine reserve, say conservationists", The Telegraph, 9 February 2009 at http://www.telegraph.co.uk/news/uknews/4558122/Turn-disputed-Chagos-Islands-into-marine-reserve-say-conservationists.html.

[337] Note Verbale dated 5 March 2009 from the Ministry of Foreign Affairs, Regional Integration and International Trade, Mauritius to the UK Foreign and Commonwealth Office, No. 2009(1197/28): Annex 139.

[338] Marine conservation in the "British Indian Ocean Territory" ("BIOT"): science issues and opportunities; Report of workshop held 5-6 August 2009 at National Oceanography Centre Southampton, supported by NERC Strategic Ocean Funding Initiative (SOFI) at

asserted that "a more robust and comprehensive framework for conservation is needed to meet future challenges from destructive impacts of pollution, unsustainable fishing, poaching, habitat degradation, imported invasive species, construction, or other forms of interference."[339] It recommended, *inter alia*, that a "comprehensive Chagos marine and fisheries management and conservation system should be established, to include a 'no-take' fishing zone, building on the proposal already included in the approved Chagos Conservation Management Plan." It added that "Wider international support should be promoted for a comprehensive Chagos Archipelago Reserve Area, using existing protocols such as Ramsar and World Heritage."

4.42 On 13 March 2009, the UK responded to Mauritius' Note Verbale of 5 March 2009.[340] The UK claimed that "the proposal for a marine park in the Chagos Archipelago (BIOT) is the initiative of the Chagos Environment Network and not of the Government of the United Kingdom of Great Britain and Northern Ireland". The Note added that the UK Government "welcomes and encourages recognition of the global importance of the British Indian Ocean Territory and notes the very high standards of preservation there that have been made possible by the absence of human settlement in the bulk of the territory and the environmental stewardship of the BIOT administration and the US military". The FCO observed that the UK Government had "already signalled its desire to work with the international environmental and scientific community to develop further the preservation of the unique environment of the British Indian Ocean Territory." Through such statements, the UK sought to portray the "MPA" as an initiative of NGOs, rather than the Government.

4.43 Mauritius made clear in a Note Verbale of 10 April 2009 that, while it was "supportive of domestic and international initiatives for environmental protection, [it] would like to stress that any party initiating proposals for promoting the protection of the marine and ecological environment of the Chagos Archipelago, should solicit and obtain the consent of the Government of Mauritius prior to implementing such proposals." The Note, at Annex 142, observed that "the Government of the United Kingdom has an obligation under international law to return the Chagos Archipelago in its pristine state to enable Mauritius to exercise and enjoy effectively its sovereignty over the Chagos Archipelago."

4.44 The UK responded by Note Verbale on 6 May 2009[341], in which it stated that "it has no doubt about its sovereignty over the British Indian Ocean Territory which was ceded to Britain in 1814 and has been a British dependency ever since". It added that "As the United Kingdom has reiterated on many occasions, we have undertaken to cede

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http://www.oceans2025.org/PDFs/SOFI%20Workshop%20Reports/SOFI_Workshop_Report_10_BIOT_09.pdf.

[339] See "The Chagos Archipelago: Its nature, and the future", Chagos Conservation Trust, at http://www reefnewmedia.co.uk/cmt_chagos/uploads/PDF/The%20Chagos%20Archipelago%20Its%20Nature%20and%20the%20Future_2009.pdf.

[340] Note Verbale dated 13 March 2009 from the UK Foreign and Commonwealth Office to the Ministry of Foreign Affairs, Regional Integration and International Trade, Mauritius, No. OTD 04/03/09: Annex 140.

[341] Note Verbale dated 6 May 2009 from the UK Foreign and Commonwealth Office to Ministry of Foreign Affairs, Regional Integration and International Trade, Mauritius, No. OTD 06/05/09: Annex 145.

the Territory to Mauritius when it is no longer required for defence purposes." The reference to "defence purposes" is a reminder of the original stated purpose of the UK's excision of the Chagos Archipelago from Mauritius, which had no relation to environmental protection, and the extent to which the UK has, in the past two decades, gradually abandoned its original position and embraced a more extensive role in relation to the Chagos Archipelago.

(2) The UK/US meeting on 12 May 2009

4.45 While the above exchange of Notes Verbales was taking place, a meeting was held between Colin Roberts, Director of the Overseas Territories Department at the FCO, and a Political Counsellor at the US Embassy in London on 12 May 2009. A cable from the US Embassy addressed to the US Secretary of State, recounting the outcome of the meeting, was published on the "Wikileaks" website in December 2010. The cable stated that:

> "The [FCO] official insisted that the establishment of a marine park – the world's largest – would in no way impinge on the USG use of the BIOT, including Diego Garcia, for military purposes. He agreed that the UK and US should carefully negotiate the details of the marine reserve to assure that US interests were safeguarded and the strategic value of BIOT was upheld. He said that BIOT's former inhabitants would find it difficult, if not impossible, to pursue their claim for resettlement on the islands if the entire Chagos Archipelago were a marine reserve."[342]

4.46 Mr Roberts outlined three matters which would have to be considered:

(i) US assent: Mr Roberts reassured the US official that "the proposal would have absolutely no impact on the right of US or British military vessels to use the BIOT for passage, anchorage, prepositioning, or other uses", adding that "the terms of reference for the establishment of a marine park would clearly state that the BIOT, including Diego Garcia, was reserved for military use" and that "the primary purpose of the BIOT is security."

(ii) In relation to Mauritius, Mr Roberts told the US official that the UK Government would "seek assent from the Government of Mauritius, which disputes sovereignty over the Chagos Archipelago, in order to avoid the GOM 'raising complaints with the UN'", and alleged that "the GOM had expressed little interest in protecting the archipelago's sensitive environment and was primarily interested in the archipelago's economic potential as a fishery."

[342] Cable from US Embassy, London, on UK Government's Proposals for a Marine Reserve Covering the Chagos Archipelago, May 2009: Mauritius Application, 20 December 2010, Annex 2: Annex 146.

(iii) In relation to the expelled Chagossians, Mr Roberts acknowledged that "we need to find a way to get through the various Chagossian lobbies", but stated that "according to HMG's current thinking on a reserve, there would be 'no human footprints' or 'Man Fridays' on the BIOT's uninhabited islands". Mr Roberts emphasised that "establishing a marine park would, in effect, put paid to resettlement claims of the archipelago's former residents". Mr Roberts noted that "the UK's environmental lobby is far more powerful than the Chagossians' advocates."

4.47 Mr Roberts continued that "We do not regret the removal of the population," since "the removal was necessary for the BIOT to fulfil its strategic purpose."

4.48 Following the meeting, Ms Joanne Yeadon, Head of the FCO's Overseas Territories Directorate's "BIOT" and Pitcairn Section, "urged (US) Embassy officers in discussions with advocates for the Chagossians, including with members of the "All Party Parliamentary Group on Chagos Islands (APPG)" to "affirm that the USG requires the entire BIOT for defence purposes" as "[m]aking this point would be the best rejoinder to the Chagossians' assertion that partial settlement of the outer islands of the Chagos Archipelago would have no impact on the use of Diego Garcia." Ms Yeadon "dismissed the APPG as a 'persistent' but relatively non-influential group within parliament or with the wider public."

4.49 In its summary of the meeting, the US Embassy observed that "We do not doubt the current government's resolve to prevent the resettlement of the islands' former inhabitants", concluding that "Establishing a marine reserve might, indeed, as the FCO's Roberts stated, be the most effective long-term way to prevent any of the Chagos Islands' former inhabitants or their descendants from resettling in the BIOT."

(3) Exchanges between the United Kingdom and Mauritius on the proposed "MPA"

4.50 On 21 July 2009, delegations of the Mauritius and UK Governments released a Joint Communiqué following the second round of talks on the Chagos Archipelago in Port Louis, Mauritius.[343] The British delegation was led by Mr Colin Roberts, and the Mauritius delegation by Mr S.C Seeballuck, Secretary to Cabinet and Head of the Civil Service. The Mauritius delegation was unaware of the meeting that had taken place between the UK and the US on 12 May 2009, and in the course of the talks Mr Roberts did not express to Mr Seeballuck any of the views which are recorded in the cable referred to above. Both sides reiterated their respective positions on sovereignty and resettlement.

4.51 The Communiqué went on to record that "The British delegation proposed that consideration be given to preserving the marine biodiversity in the waters surrounding the Chagos Archipelago [...] by establishing a marine protected area in the region." In response, the Mauritius delegation "welcomed, in principle, the proposal for

[343] Joint Communiqué, 2nd round of bilateral talks on the Chagos Archipelago, Port Louis Mauritius: Annex 148.

environmental protection and agreed that a team of officials and marine scientists from both sides meet to examine the implications of the concept with a view to informing the next round of talks."

4.52 The Mauritius delegation also "reiterated the proposal it made in the first round of the talks for the setting up of a mechanism to look into the joint issuing of fishing licences in the region of the Chagos Archipelago." The UK delegation "agreed to examine this proposal and stated that such examination would also include consideration of the implications of the proposed marine protected area."

4.53 Both sides agreed to "meet in London on a date to be mutually agreed upon during the first fortnight of October 2009." The UK subsequently proposed a meeting on dates which were impossible for Mauritius, as they coincided with the presentation of the national budget. Mauritius proposed alternative dates in January 2010, but the proposed meeting did not take place.[344]

4.54 On 5 and 6 August 2009, a workshop entitled "Marine conservation in the British Indian Ocean Territory (BIOT): science issues and opportunities" took place at the National Oceanography Centre Southampton, UK.[345] The report of the workshop includes a section on fisheries issues, which concludes that:

> "Ultimately the decision on the extent of the open ocean no-take zone within a potential BIOT MPA will be a political one […]. The issue of Mauritian fishing rights was also considered to be a political one, that could only be resolved by negotiation and international agreement."

4.55 On 10 November 2009, a copy of an FCO document entitled "Consultation on whether to establish a marine protected area in the British Indian Ocean Territory"[346] was sent to the Mauritian authorities. The document claimed to be responding to the proposal put forward by the Chagos Environment Network.

4.56 On the same day, the Government of Mauritius asked the FCO to amend the document on the basis that:

> "the Government of the Republic of Mauritius has not welcomed the establishment of a marine protected area during the bilateral talks on the Chagos Archipelago held in Mauritius

[344] Note Verbale dated 5 November 2009 from Ministry of Foreign Affairs, Regional Integration and International Trade, Mauritius to the British High Commission, Port Louis, No. 46/2009 (1197/28/4): Annex 150. See para. 4.68 below.

[345] Marine conservation in the "British Indian Ocean Territory" ("BIOT"): science issues and opportunities; Report of workshop held 5-6 August 2009 at National Oceanography Centre Southampton, supported by NERC Strategic Ocean Funding Initiative (SOFI) at http://www.oceans2025.org/PDFs/SOFI%20Workshop%20Reports/SOFI_Workshop_Report_10_BIOT_09.pdf.

[346] UK Foreign and Commonwealth Office, Consultation on Whether to Establish a Marine Protected Area in the "British Indian Ocean Territory", November 2009: Annex 152.

> last July, contrary to what is stated on page 12 of the Consultation Document.
>
> In that regard, the Ministry of Foreign Affairs, Regional Integration and International Trade would like to point out that what was stated in the Joint Communiqué issued following the bilateral talks of last July was that the Mauritian side had welcomed, in principle, the proposal for environmental protection and agreed that a team of officials and marine scientists from both sides would meet to examine the implications of the concept with a view to informing the next round of talks."[347]

4.57 The UK agreed to amend the wording of the document.[348] On 23 November 2009, the Mauritian Foreign Ministry welcomed the amendment to the consultation document[349] but noted that the "precise stand of the Mauritian side on the MPA project, as stated in the Joint Communiqué issued following the bilateral talks of last July and in its Note Verbale of 10 November 2009, has not been fully reflected in the amended Consultation Document." In particular, Mauritius was concerned that:

> "since there is an on-going bilateral Mauritius-UK mechanism for talks and consultations on issues relating to the Chagos Archipelago and a third round of talks is envisaged early next year, the Government of the Republic of Mauritius believes that it is inappropriate for the consultation on the proposed marine protected area, as far as Mauritius is concerned, to take place outside this bilateral framework."

4.58 Mauritius further emphasised that:

> "The Government of Mauritius considers that an MPA project in the Chagos Archipelago should not be incompatible with the sovereignty of the Republic of Mauritius over the Chagos Archipelago and should address the issues of resettlement, access to the fisheries resources, and the economic development of the islands in a manner which would not prejudice an eventual enjoyment of sovereignty. A total ban on fisheries exploitation and omission of those issues from any MPA project would not be compatible with the long-term resolution of, or

[347] Note Verbale dated 10 November 2009 from the Ministry of Foreign Affairs, Regional Integration and International Trade, Mauritius to the British High Commission, Port Louis, No. 48/2009 (1197/28/10): Annex 153; and Note Verbale dated 10 November 2009 from the Ministry of Foreign Affairs, Regional Integration and International Trade, Mauritius to the UK Foreign and Commonwealth Office, No. 1197/28/10: Annex 151.

[348] Note Verbale dated 11 November 2009 from the British High Commission, Port Louis, to the Ministry of Foreign Affairs, Regional Integration and International Trade, Mauritius, No. 54/09: Annex 154.

[349] Note Verbale dated 23 November 2009 from the Ministry of Foreign Affairs, Regional Integration and International Trade, Mauritius to the UK Foreign and Commonwealth Office, No. 1197/28/10: Annex 155.

> progress in the talks on, the sovereignty issue. The stand of the Government of Mauritius is that the existing framework for talks on the Chagos Archipelago and the related environmental issues should not be overtaken or bypassed by the consultation launched by the British Government on the proposed MPA."

4.59 The matter was discussed by Prime Minister Ramgoolam and the Minister of Foreign Affairs of Mauritius with their British counterparts at the Commonwealth Heads of Government Meeting in Trinidad and Tobago in November 2009. The Mauritian side made clear Mauritius' deep concerns about the UK's decision to carry out what the UK described as a "consultation" on the MPA proposal. They insisted that the matter of a marine protected area for the Chagos Archipelago be dealt with and resolved bilaterally between Mauritius and the UK.

4.60 The UK's Consultation Document, to which Mauritius objected, stated that "Any decision to establish a marine protected area would be taken in the context of the Government's current policy on the Territory", in other words that "there is no right of abode in the Territory and all visitors need a permit before entering the Territory." The document posed the overall question "Do you believe we should create a marine protected area in the British Indian Ocean Territory?" The document presented broad options for a possible framework:

(i) A full no-take marine reserve for the whole of the territorial waters and EPPZ / FCMZ; or

(ii) A no-take marine reserve for the whole of the territorial waters and EPPZ/FCMZ with exceptions for certain forms of pelagic fishery (e.g., tuna) in certain zones at certain times of the year.

(iii) A no-take marine reserve for the vulnerable reef systems only.

4.61 The Consultation Document placed the costs of the "MPA" at around £1 million per annum "if a decision was taken to move to a no-take fishery". This is because the cost of the patrol vessel, at around £1.7 million per annum, would no longer be offset by fishing licence income varying between £700,000 and £1 million per year. The document went on to state that some groups will be "directly or indirectly affected by the establishment of a marine protected area and any resulting restrictions or a ban on fishing." The first group considered was the US. The document noted that:

> "The US has a military base on Diego Garcia. The use of that facility is governed by a series of Exchanges of Notes between the UK and US and imposes Treaty obligations on both parties. Because of our Treaty obligations, we have been discussing the possible creation of a marine protected area with the US. Neither we nor the US would want the creation of a marine protected area to have any impact on the operational capability of the base on Diego Garcia. For this reason, it may be necessary to consider the exclusion of Diego Garcia and its 3 mile territorial waters from any marine protected area."

4.62 Under the heading "Mauritius", at page 12, the Consultation Document stated that:

> "We have discussed the establishment of a marine protected area with the Mauritian government in bilateral talks on the British Indian Ocean Territory – the most recent being in July 2009 […]. The Mauritian government has in principle welcomed the concept of environmental protection in the area. The UK government has confirmed to the Mauritians that the establishment of a marine protected area will have no impact on the UK's commitment to cede the Territory to Mauritius when it is no longer needed for defence purposes. We will continue to discuss the protection of the environment with the Mauritians."

4.63 Under the heading "Chagossian community" the document stated that:

> "Following the decision of the House of Lords in *R (Bancoult) v Secretary of State for Foreign and Commonwealth Affairs* [2008] UKHL 61 on 22 October 2008 […], the current position under the law of BIOT is that there is no right of abode in the Territory and all visitors need a permit. Under these current circumstances, the creation of a marine protected area would have no direct immediate impact on the Chagossian community. However, we recognise that these circumstances may change following any ruling that might be given in the proceedings currently pending before the European Court of Human Rights in Strasbourg in the case of *Chagos Islanders v UK*. Circumstances may also change when the Territory is ceded to Mauritius. In the meantime, the environment will be protected and preserved."

4.64 The proposed establishment of an MPA around the Chagos Archipelago was raised at the twelfth session of the Scientific Committee of the Indian Ocean Tuna Commission (hereinafter "IOTC") held in Mahé, Seychelles from 30 November to 4 December 2009.

4.65 The UK informed the IOTC Scientific Committee that it was launching a consultation on whether to establish an MPA around the Chagos Archipelago. This gave rise to a strong objection by Mauritius, which stated that the setting up of any MPA around the Chagos Archipelago should be dealt with in the framework of the ongoing bilateral talks between Mauritius and the UK. Both parties issued statements on their respective positions. Mauritius stated that:

> "Since there is an ongoing bilateral Mauritius-UK mechanism for talks and consultations on issues relating to Chagos Archipelago and a third round of talks is envisaged early next year, it is inappropriate for the British Government to embark on consultation globally on the proposed Marine Protected Area outside the bilateral framework. This position was brought to the

> attention of the British Government by way of Note Verbale dated 23 November 2009 issued by the Ministry of Foreign Affairs, Regional Integration and International Trade to the UK Foreign and Commonwealth Office.
>
> The establishment of a Marine Protected Area in the Chagos Archipelago should not be incompatible with the sovereignty of Mauritius over the Chagos Archipelago. A Marine Protected Area project in the Chagos Archipelago should address the issues of resettlement (Chagossians), access to the resources and the economic development of the islands in a manner which would not prejudice the effective exercise by Mauritius of its sovereignty over the Archipelago. A total ban on fisheries exploitation and omission of those issues from any Marine Protected Area project would not be compatible with the resolution of the sovereignty issue and progress in the ongoing talks.
>
> The existing framework for bilateral talks between Mauritius and the United Kingdom and the related environmental issues should not be overtaken or bypassed by the process of consultation unilaterally launched by the British Government on the proposed Marine Protected Area."[350]

4.66 On 15 December 2009, the UK Foreign Secretary wrote to the Mauritian Minister of Foreign Affairs, noting Mauritius' view that "the UK should have consulted Mauritius further before launching the consultation exercise," and assuring Mauritius that the UK was disposed to address the proposed MPA in bilateral talks, adding that the UK "welcome[s] the prospect of further discussion in the context of these talks, the next round of which now look likely to happen in January."[351]

4.67 In response, the Mauritian Minister of Foreign Affairs wrote to the UK Foreign Secretary on 30 December 2009, reminding him that "I had conveyed to you that the Government of Mauritius considers that the establishment of a Marine Protected Area around the Chagos Archipelago should not be incompatible with the sovereignty of Mauritius over the Chagos Archipelago."[352] He emphasised that:

> "the issues of resettlement in the Chagos Archipelago, access to the fisheries resources and the economic development of the islands in a manner that would not prejudice the effective exercise by Mauritius of its sovereignty over the Chagos

[350] Indian Ocean Tuna Commission, Report of the Twelfth Session of the Scientific Committee, Victoria, Seychelles, 30 November – 4 December 2009, IOTC-2009-SC-R[E], p. 187.

[351] Letter dated 15 December 2009 from the UK Secretary of State for Foreign and Commonwealth Affairs to the Minister of Foreign Affairs, Regional Integration and International Trade, Mauritius: Annex 156.

[352] Letter dated 30 December 2009 from the Minister of Foreign Affairs, Regional Integration and International Trade, Mauritius to the UK Secretary of State for Foreign and Commonwealth Affairs: Annex 157.

> Archipelago are matters of high priority to the Government of Mauritius. The exclusion of such important issues any discussion relating to the proposed establishment of a Marine Protected Area would not be compatible with resolution of the issue of sovereignty over the Chagos Archipelago and progress in the ongoing talks between Mauritius and the United Kingdom."

4.68 On the same day, the Mauritian Foreign Ministry informed the FCO by Note Verbale,[353] referring to its previous Note Verbale of 23 November 2009 (see para. 4.56 above), that:

> "the next round of bilateral talks between the two Governments cannot take place during the month of January 2010, in the absence of satisfactory clarification and reassurances on the part of the Government of the United Kingdom on issues raised by the Government of Mauritius in the above-mentioned Note Verbale in relation to the Marine Protected Area project and in view of the continuation by the Government of the United Kingdom of the initial consultation process it had embarked upon."

4.69 On 10 January 2010, in a letter to the *Sunday Times* regarding the proposed MPA, the Mauritius High Commissioner in London wrote: "There can be no legitimacy to the project without the issue of sovereignty and resettlement being addressed to the satisfaction of Mauritius."[354]

4.70 On 4 February 2010, the Mauritius High Commissioner in London submitted written evidence on the MPA proposal to the UK House of Commons Select Committee on Foreign Affairs.[355] The High Commissioner stated that "The manner in which the Marine Protected Area proposal is being dealt with makes us feel that it is being imposed on Mauritius with a predetermined agenda", and that:

> "Moreover, the issue of resettlement in the Chagos Archipelago, access to the fisheries resources, and the economic development of the islands in a manner which would not prejudice the effective exercise by Mauritius of its sovereignty over the Chagos Archipelago are matters of high priority to the Government of Mauritius.

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[353] Note Verbale dated 30 December 2009 from the Ministry of Foreign Affairs, Regional Integration and International Trade, Mauritius to the UK Foreign and Commonwealth Office, No. 1197/28/4: Annex 158.

[354] Letter of 30 December 2009 from Mauritius High Commissioner in London to *The Sunday Times*, published on 10 January 2010: Annex 159.

[355] Written Evidence of the Mauritius High Commissioner, London, on the UK Proposal for the Establishment of a Marine Protected Area around the Chagos Archipelago, to the House of Commons Select Committee on Foreign Affairs: Annex 160.

> The exclusion of such important issues from any MPA project and a total ban on fisheries exploitation would not be compatible with resolution of the issue of sovereignty over the Chagos Archipelago and progress in the ongoing talks between Mauritius and the United Kingdom.
>
> The existing framework of talks between Mauritius and the UK on the Chagos Archipelago and the related environmental issues should not be overtaken or bypassed by the public consultation launched by the British Government on the proposed establishment of an MPA around the Chagos Archipelago."

The High Commissioner also emphasised the Mauritian Government's commitment to environmental sustainability, noting the "Maurice: Ile Durable" programme and Mauritius' high ranking in the 2010 Environmental Performance Index.[356]

4.71 On 15 February 2010, the British High Commission in Port Louis informed the Mauritian Foreign Ministry that "due to significant interest in the public consultation on the proposal for a Marine Protected Area in the British Indian Ocean Territory the Foreign Secretary has extended the deadline for submission of views until 5 March 2010."[357]

4.72 In response, the Mauritian Secretary to Cabinet and Head of the Civil Service wrote to the British High Commissioner on 19 February 2010.[358] The letter reiterated:

> "the position of the Government of Mauritius to the effect that the [public] consultation process on the proposed MPA should be stopped and the current Consultation Paper, which is unilateral and prejudicial to the interests of Mauritius withdrawn. Indeed, the Consultation Paper is a unilateral UK initiative which ignores the agreed principles and spirit of the ongoing Mauritius-UK bilateral talks and constitutes a serious setback to progress in these talks."

4.73 The letter made clear that:

> "any proposal for the protection of the marine environment in the Chagos Archipelago area needs to be compatible with and

[356] On 28 January 2010 the Environmental Performance Index was released at the World Economic Forum Annual Meeting in Davos, Switzerland. The 2010 EPI ranked 163 countries on 25 performance indicators. Mauritius was ranked 6th in the world, ahead of the UK which was ranked 14th. See 2010 Environmental Performance Index, Yale Center for Environmental Law & Policy, Yale University, and Center for International Earth Science Information Network, Columbia University in collaboration with World Economic Forum and Joint Research Centre of the European Commission at http://www.epi2010.yale.edu.

[357] Note Verbale dated 15 February 2010 from British High Commission, Port Louis, to the Ministry of Foreign Affairs, Regional Integration and International Trade, Mauritius, No. 07/2010: Annex 161.

[358] Letter dated 19 February 2010 from the Secretary to Cabinet and Head of the Civil Service, Mauritius to the British High Commissioner, Port Louis: Annex 162.

> meaningfully take on board the position of Mauritius on the sovereignty over the Chagos Archipelago and address the issues of resettlement and access by Mauritians to fisheries resources in that area."

4.74 The letter concluded that "the Government of Mauritius is keen to resume the bilateral talks on the premises outlined above."

4.75 On 19 March 2010, the UK High Commissioner responded to this letter.[359] He claimed that "the United Kingdom should like to reiterate that no decision on the creation of an MPA has yet been taken", adding that "the United Kingdom is keen to continue dialogue about environmental protection within the bilateral framework or separately. The public consultation does not preclude, overtake or bypass these talks."

4.76 The letter continued that "The United Kingdom is aware of Mauritius' position on the sovereignty of the Territory; however it does not recognise this claim", reaffirming that "[n]evertheless, the United Kingdom has undertaken to cede the Territory to Mauritius when it is no longer needed for defence purposes." These statements were reiterated by the UK on 26 March 2010 in a Note Verbale to the Mauritian Ministry of Foreign Affairs.[360]

(4) The United Kingdom's sudden and unilateral announcement of the creation of an "MPA"

4.77 On 1 April 2010, the UK announced the creation of an "MPA" around the Chagos Archipelago, including a "'no take' marine reserve where commercial fishing will be banned."[361] In a press statement, the UK Foreign Secretary stated that "I have taken the decision to create this marine reserve following a full consultation, and careful consideration of the many issues and interests involved", adding that "This measure is a further demonstration of how the UK takes its international environmental responsibilities seriously."

4.78 The purported "MPA" covered an area of around a quarter of a million square miles,[362] constituting the largest "no-take" area in the world.[363]

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[359] Letter dated 19 March 2010 from the British High Commissioner, Port Louis to the Secretary to Cabinet and Head of the Civil Service, Mauritius: Annex 163.

[360] Note Verbale dated 26 March 2010 from British High Commission, Port Louis, to the Ministry of Foreign Affairs, Regional Integration and International Trade, Mauritius, No. 14/2010: Annex 164.

[361] UK Foreign and Commonwealth Office Press Release, 1 April 2010, "New Protection for marine life": Annex 165.

[362] *Ibid*. On 12 April 2012, the FCO website changed the size of the "MPA" from 544,000 to 640,000 square kilometres. When a question about the change was raised in the UK Parliament, the Minister of State for the FCO stated that this had been corrected due to a 'clerical error': Hansard, HL Deb, 11 June 2012, c149W (Annex 175).

[363] UK Foreign and Commonwealth Office, Consultation on Whether to Establish a Marine Protected Area in the "British Indian Ocean Territory", November 2009: Annex 152. "Chagos Islands marine

4.79 The "MPA" was formally declared by the Commissioner for the "BIOT":

> "1. There is established for the British Indian Ocean Territory a marine reserve to be known as the Marine Protected Area, within the Environment (Protection and Preservation) Zone which was proclaimed on 17 September 2003.
>
> 2. Within the said Marine Protected Area, Her Majesty will exercise sovereign rights and jurisdiction enjoyed under international law, including the United Nations Convention on the Law of the Sea, with regard to the protection and preservation of the environment of the Marine Protected Area. The detailed legislation and regulations governing the said Marine Protected Area and the implications for fishing and other activities in the Marine Protected Area and the Territory will be addressed in future legislation of the Territory."[364]

4.80 Mauritius was astonished by the announcement of the "MPA", less than a week after the UK had assured Mauritius that no decision had yet been taken on the matter.[365] On 2 April 2010, the day following the announcement, the Mauritian Ministry of Foreign Affairs informed the UK by Note Verbale[366] that "The Government of the Republic of Mauritius strongly objects to the decision of the British Government to create a Marine Protected Area (MPA) around the Chagos Archipelago". The Note recalled that "on several occasions" the Government of Mauritius "conveyed its strong opposition to such a project being undertaken without consultation with and the consent of the Government of the Republic of Mauritius." The Note continued:

> "It was explained in very clear terms during the above-mentioned meetings that Mauritius does not recognise the so-called British Indian Ocean Territory and that the Chagos Archipelago, including Diego Garcia, forms an integral part of the sovereign territory of Mauritius both under our national law and international law. It was also mentioned that the Chagos Archipelago, including Diego Garcia, was illegally excised from Mauritius by the British Government prior to grant of independence in violation of United Nations General Assembly resolutions 1514 (XV) of 14 December 1960 and 2066 (XX) of 16 December 1965.

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protection plan comes under fire from three sides", *The Guardian*, 6 April 2010 at http://www.guardian.co.uk/environment/2010/apr/06/chagos-islands-conservation-area.

[364] "British Indian Ocean Territory" Proclamation No. 1 of 2010: Annex 166. See Figure 6, Volume 4.

[365] Note Verbale dated 26 March 2010 from British High Commission, Port Louis, to the Ministry of Foreign Affairs, Regional Integration and International Trade, Mauritius, No. 14/2010 (Annex 164) following letter of 19 March 2010 from British High Commissioner, Port Louis to the Secretary to Cabinet and Head of the Civil Service, Mauritius (Annex 163).

[366] Note Verbale dated 2 April 2010 from the Ministry of Foreign Affairs, Regional Integration and International Trade, Mauritius to the British High Commission, Port Louis, No. 11/2010 (1197/28/10): Annex 167.

> The Government of the Republic of Mauritius further believes that the creation of an MPA at this stage is inconsistent with the right of settlement in the Chagos Archipelago of Mauritians, including the right of return of Mauritians of Chagossian origin which presently is under consideration by the European Court of Human Rights following a representation made by Mauritians of Chagossian origin.
>
> The Government of the Republic of Mauritius will not recognise the existence of the marine protected area in case it is established and will look into legal and other options that are now open to it. The […] Anglo-US Lease Agreement in respect of the Chagos Archipelago, concluded in breach of the sovereignty rights of Mauritius over the Chagos Archipelago, is about to expire in 2016 and the Chagos Archipelago, including Diego Garcia, should be effectively returned to Mauritius at the expiry of the Agreement."

4.81 On 6 April 2010, *The Guardian* reported that the UK Government's decision to create the "MPA" had been condemned by British MPs, the Government of Mauritius, and representatives of the Chagossian community:

> "Anger mounted today over Britain's decision last week to create the world's largest marine protection zone around the Chagos islands as an influential group of British MPs joined the government of Mauritius and a large group of islanders to condemn the way the decision was made."[367]

The UK Government's failure to honour its commitment to brief MPs before any final decision was taken was raised as an Urgent Question in both Houses of Parliament on 6 April 2010.[368] A judicial review challenge to the lawfulness of the decision to create the MPA is currently pending before the High Court in London.[369]

4.82 On 1 November 2010, the UK purported to bring the "MPA" into force. Its implementation has been less than transparent. For example, any implementing legislation would be expected to be published in the 2011 edition of the "BIOT" Gazette, a publication in very limited circulation, though usually deposited in the British Library in London in January following the relevant year. This was not done in January 2012. A copy of Issue 1 of the "BIOT" Gazette for 2011 had been filed at the library of the Institute of Advanced Legal Studies in London on 13 July 2012, shortly before the filing of this Memorial. This contained no regulations relating to the "MPA".

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[367] 'Chagos Islands marine protection plan comes under fire from three sides', *The Guardian*, 6 April 2010 at http://www.guardian.co.uk/environment/2010/apr/06/chagos-islands-conservation-area.

[368] House of Commons Hansard, Vol. 508, 6 April 2010, column 819; House of Lords Hansard, Vol. 718, 6 April 2010, col. 1363. Both available at: http://www.publications.parliament.uk.

[369] See Chapter 3, fn 256.

4.83 Some information about the implementation of the "MPA" can be gleaned from answers to Parliamentary questions in the House of Commons. The UK Government has stated that:

> "The BIOT Administration are no longer issuing new fishing licences but are honouring those already issued. These licences expire at the end of October [2010]. The BIOT Administration are continuing to work on the implementation of the MPA. This includes preparing implementing legislation in BIOT law, enforcement arrangements, establishing administrative and scientific research frameworks, funding, dialogue with interested parties and exploring the opportunities for involving representatives of the Chagossian community in environmental work in the territory."[370]

> "Enforcement is led by a marine protection officer working on board the Pacific Marlin patrol boat. The British Indian Ocean Territory Administration operates a system of permits to control access to and activities within the Marine Protected Area. We also work closely with the Indian Ocean Tuna Commission to limit illegal fishing."[371]

4.84 According to information provided by the UK to the IOTC, the "MPA" applies to the Territorial Sea of the Chagos Archipelago.[372] The UK has also informed the IOTC that no further fishing licences have been issued since the "MPA" was declared on 1 April 2010. The last longline licence expired on 18 June 2010 and the last purse seine licences expired on 31 October 2010, and "[f]rom 1 November 2010 onwards the whole of the BIOT Fisheries Conservation Management Zone (FCMZ, to 200nm) is a no-take MPA to commercial fishing."[373] However, "[a]n MPA exclusion zone covering Diego Garcia and its territorial waters exists where pelagic and demersal recreational fisheries are permitted. Recreational fishing is permitted with hooks and lines only and some tuna and tuna like species are caught."[374] The "recreational fishery" at Diego Garcia accounted for 28.4 tonnes of tuna and tuna like species in 2010, representing 67% of the "recreational" catch.[375] At a meeting of the IOTC Scientific Committee in December 2011, Mauritius again made clear that:

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[370] Hansard, House of Commons Written Answers, 21 October 2010: Annex 169.

[371] Hansard, House of Commons Written Answers, 16 May 2011: Annex 171.

[372] UK (British Indian Ocean Territory) National Report to the Scientific Committee of the Indian Ocean Tuna Commission, 2011, IOTC-2011-SC14-NR28, pp. 2 and 3. There, the UK states that the "MPA" applies to the Chagos Archipelago but excludes the territorial sea of Diego Garcia: it therefore follows that the "MPA" applies to the territorial sea and EEZ of the remaining parts of the Chagos Archipelago.

[372] *Ibid*.

[373] Indian Ocean Tuna Commission, United Kingdom Report of Implementation for the year 2010, IOTC-2011-S15-CoC51[E].

[374] UK (British Indian Ocean Territory) National Report to the Scientific Committee of the Indian Ocean Tuna Commission, 2011, IOTC-2011-SC14-NR28, p. 3.

[375] *Ibid*.

"the Chagos Archipelago, including Diego Garcia, forms an integral part of the territory of Mauritius under both Mauritian law and international law. The Government of the Republic of Mauritius does not recognise the existence of the 'marine protected area' which the United Kingdom has purported to establish around the Chagos Archipelago."[376]

[376] Report of the Fourteenth Session of the IOTC Scientific Committee, Mahé, Seychelles, 12-17 December 2011, IOTC-2011-SC14-R[E], p. 14. The statement by Mauritius went on to inform the IOTC of the initiation of the present Annex VII proceedings. The UK responded that it "has no doubt about its sovereignty over the British Indian Ocean Territory which was ceded to Britain in 1814 and has been a British dependency ever since. As the UK Government has reiterated on many occasions, we have undertaken to cede the Territory to Mauritius when it is no longer needed for defence purposes": p. 15.

CHAPTER 5: JURISDICTION

5.1 This Chapter addresses the jurisdiction of the Tribunal to adjudicate the claims raised by Mauritius in its Application instituting proceedings on 20 December 2010 (as corrected on 27 January 2012) (hereinafter "the Application"). As set out below, the dispute between Mauritius and the UK raises a number of issues concerning the interpretation and application of the Convention, all of which fall squarely within the jurisdiction of this Tribunal.

5.2 As noted in Chapter 1, the dispute has arisen because the UK has acted without lawful authority to establish the "MPA". Specifically:

(i) The UK does not have sovereignty over the Chagos Archipelago, is not "the coastal State" for the purposes of the Convention, and cannot declare an "MPA" or other maritime zones in this area. Further, the UK has acknowledged the rights and legitimate interests of Mauritius in relation to the Chagos Archipelago, such that the UK may not impose the purported "MPA" or establish any maritime zones over the objections of Mauritius; and

(ii) Independently of the question of sovereignty, the "MPA" is fundamentally incompatible with the rights and obligations provided for by the Convention, which means that, even if the UK were entitled in principle to exercise the rights of a coastal State, the purported establishment of the "MPA" is unlawful under the Convention.

5.3 In regard to this second point, there is no dispute between the parties that Mauritius has certain specific rights in relation to the maritime area over which the purported "MPA" is to be applied. Although the UK denies that Mauritius has sovereignty over the Chagos Archipelago, it has accepted that Mauritius has *inter alia* fisheries rights, rights in mineral resources, and rights in relation to the continental shelf (including the extended continental shelf). The dispute centres on the extent and consequences under the Convention of Mauritius' rights, and the extent to which the purported "MPA" is compatible with them.

5.4 In relation to both points, Mauritius submits that the Tribunal plainly has jurisdiction to establish the nature of Mauritius' rights in accordance with the Convention, and the extent to which they have been violated by the UK.

5.5 This Chapter first sets out the relevant provisions of the Convention that relate to jurisdiction, as provided by Part XV of the Convention. It then addresses the various aspects of the dispute that concern the interpretation and application of specific provisions of the Convention, and shows that none of the jurisdictional exceptions set out in Article 297 operate so as to preclude the Tribunal's exercise of jurisdiction. A third section deals with the relationship between Mauritius' jurisdictional arguments and the merits. A fourth and final section explains that, since all procedural requirements have been met, there is no bar to admissibility.

I. Jurisdiction under the Convention

5.6 Mauritius and the UK are both parties to the Convention. Mauritius ratified the Convention on 4 November 1994, and the UK acceded to it on 25 July 1997.[377] As regards the 1995 Agreement, Mauritius acceded thereto on 25 March 1997 and the UK ratified it on 10 December 2001.[378]

5.7 Part XV of the Convention is entitled "Settlement of Disputes", and governs the jurisdiction of this Tribunal. It comprises twenty-one Articles and is divided into three Sections.

5.8 Section I of Part XV is entitled "General Provisions". Two Articles are relevant to this case. Article 279 confirms the central importance placed by the negotiators of the Convention on the obligation to settle disputes, providing that:

> "States Parties shall settle any dispute between them concerning the interpretation or application of this Convention by peaceful means in accordance with Article 2, paragraph 3, of the Charter of the United Nations and, to this end, shall seek a solution by the means indicated in Article 33, paragraph 1, of the Charter."

Article 283(1) sets out the procedural steps that are to be taken before the procedures established under the Convention for the settlement of disputes may be invoked. It provides that:

> "When a dispute arises between States Parties concerning the interpretation or application of this Convention, the parties to the dispute shall proceed expeditiously to an exchange of views regarding its settlement by negotiation or other peaceful means."

As set out below,[379] Mauritius has exchanged views with the UK in accordance with the Convention. These have not resolved the dispute.

5.9 Section 2 of Part XV provides for "Compulsory Procedures Entailing Binding Decisions" (Articles 286 to 296).

5.10 Article 286 emphasises that the scope of jurisdiction under Part XV is intended to be broad. It provides that:

> "Subject to section 3, any dispute concerning the interpretation or application of this Convention shall, where no settlement has

[377] Upon depositing its instrument of accession, the Government of the United Kingdom also stated that "*Extent:* [This] instrument of accession [...] extend[s] to: […] British Indian Ocean Territory […]."

[378] On 3 December 1999, an instrument of ratification was lodged by the United Kingdom "[...] in respect of […] British Indian Ocean Territory […]." Article 30(1) of the 1995 Agreement provides that "The provisions relating to the settlement of disputes set out in Part XV of the Convention apply *mutatis mutandis* to any dispute between States Parties to this Agreement concerning the interpretation of application of this Agreement, whether or not they are also Parties to the Convention."

[379] Para. 5.38.

> been reached by recourse to section 1, be submitted at the request of any party to the dispute to the court or tribunal having jurisdiction under this section."

The provision sets forth a presumption that jurisdiction extends to "any dispute concerning the interpretation and application of the Convention". The exercise of jurisdiction is limited only by (1) any declarations concerning the choice of a court or tribunal, and (2) the operation of Section 3 of Part XV.

5.11 As regards the choice of compulsory procedures, Article 287(1) permits a State Party by written declaration to choose one or more of the means listed in the paragraph for the settlement of disputes, which include an arbitral tribunal established under Annex VII. Mauritius has made no declaration. The UK has made a declaration opting for recourse to the International Court of Justice. By operation of Article 287(5), the parties are accordingly deemed to have accepted arbitration in accordance with Annex VII for the settlement of any disputes between them under the Convention.

5.12 Article 288(1) is entitled "Jurisdiction". It provides that:

> "A court or tribunal referred to in article 287 shall have jurisdiction over any dispute concerning the interpretation or application of this Convention which is submitted to it in accordance with this Part."

It follows from Articles 287 and 288 that this Annex VII Tribunal has jurisdiction over the dispute concerning the interpretation and application of the Convention as submitted to it by Mauritius, in accordance with Part XV.

5.13 Article 293 of the Convention provides that:

> "A court or tribunal having jurisdiction under this section shall apply this Convention and other rules of international law not incompatible with this Convention."

5.14 Section 3 of Part XV provides for "Limitations and Exceptions to Applicability of Section 2" (Articles 297 to 299). These are the only exceptions provided for in the Convention. As exceptions to the otherwise broad scope of jurisdiction that is intended to be established under Part XV, the purpose of which is to facilitate the resolution of "any dispute" concerning the interpretation and application of the Convention, the provisions of Section 3 should not be expansively interpreted, and in particular should not be interpreted in such a way as to deny practical effect to Part XV.

5.15 Article 297 provides for "Limitations on the applicability of section 2" of Part XV. For the reasons set out below, none of the specified limitations precludes the exercise of jurisdiction by this Tribunal over the dispute submitted to it by Mauritius.

5.16 Article 297(1) provides in positive terms that "Disputes concerning the interpretation or application of this Convention with regard to the exercise by a coastal

State of its sovereign rights or jurisdiction provided for in this Convention shall be subject to the procedures provided for in section 2" in relation to:

(i) "contravention of the provisions of the Convention by a coastal State in regard to freedoms and rights of navigation, overflight or the laying of submarine cables and pipelines, or in regard to other internationally lawful uses of the sea specified in article 58" (Article 297(1)(a) and (b)); and

(ii) "contravention by a coastal State of specified international rules and standards for the protection and preservation of the marine environment" (Article 297(1)(c)).

It is apparent from this text that Article 297(1) recognises that a dispute that is not about "the exercise by a coastal State of its sovereign rights or jurisdiction provided by this Convention" is within the jurisdiction of an Annex VII Tribunal acting under Part XV.

5.17 Article 297(1) is to be read alongside Article 297(3), which provides in paragraph (a) that:

> "Disputes concerning the interpretation or application of the provisions of this Convention with regard to fisheries shall be settled in accordance with section 2, except that the coastal State shall not be obliged to accept the submission to such settlement of any dispute relating to its sovereign rights with respect to the living resources in the exclusive economic zone or their exercise […]."

5.18 Taking the two provisions together, it is clear that Article 297(1) does not preclude the exercise of jurisdiction over any dispute concerning fisheries (that relates to the "exercise" of sovereign rights or jurisdiction under the Convention), unless such dispute relates to sovereign rights in respect of living resources in the EEZ. Thus, a dispute concerning the interpretation or application of the Convention with regard to fisheries in the territorial sea, for example, is subject to compulsory jurisdiction.[380] It is also clear that any dispute concerning fisheries in the EEZ which does not concern "sovereign rights with respect to living resources […] or their exercise" is also subject to compulsory jurisdiction: a dispute concerning an *entitlement* to establish an EEZ is not covered by Article 297(1). Such exclusionary benefit as the UK might seek to invoke under Article 297(3)(a) simply does not apply where the State invoking it is not "the coastal State", as in the present case.

5.19 Article 298 of the Convention is entitled "Optional exceptions to applicability of section 2" of Part XV of the Convention. Paragraph 1 provides that:

> "When signing, ratifying or acceding to this Convention or at any time thereafter, a State may, without prejudice to the

[380] Article 55 states that "The exclusive economic zone is an area beyond and adjacent to the territorial sea".

> obligations arising under section 1, declare in writing that it does not accept any one or more of the procedures provided for in section 2 with respect to one or more of the following categories of disputes:
>
> > (a)(i) disputes concerning the interpretation or application of articles 15, 74 and 83 relating to sea boundary delimitations, or those involving historic bays or titles, provided that a State having made such a declaration shall, when such a dispute arises subsequent to the entry into force of this Convention and where no agreement within a reasonable period of time is reached in negotiations between the parties, at the request of any party to the dispute, accept submission of the matter to conciliation under Annex V, section 2; and provided further that any dispute that necessarily involves the concurrent consideration of any unsettled dispute concerning sovereignty or other rights over continental or insular land territory shall be excluded from such submission."

Neither Mauritius nor the UK has made any declaration under Article 298(a)(i) of the Convention.[381] It follows that there is no bar to the exercise of jurisdiction by the Tribunal in relation to matters that would be caught by Article 298(1)(a).

II. The Tribunal has Jurisdiction to Interpret and Apply the Convention in Relation to the Dispute

5.20 In determining whether this Tribunal has jurisdiction, it is necessary to examine the "dispute concerning the interpretation or application of [the] Convention" that Mauritius has submitted to it.

(1) The dispute

5.21 The dispute is addressed in detail in the other Chapters of this Memorial. At paragraph 9 of its Application, Mauritius stated that:

> "The dispute between Mauritius and the United Kingdom relates to the interpretation and application of numerous provisions of UNCLOS, including but not limited to Parts II, V, VI, XII and XVI."

With regard to the relief sought, Mauritius requested the Tribunal:

[381] On 7 April 2003 the UK made a declaration to exclude disputes referred to in Article 298(1)(b) and (c) from procedures provided for in Section 2 of Part XV of the Convention.

> "to declare, in accordance with the provisions of UNCLOS and the applicable rules of international law not incompatible with the Convention that, in respect of the Chagos Archipelago:
>
> > (1) the '"MPA"' is not compatible with the 1982 Convention, and is without legal effect; and/or
> >
> > (2) the UK is not a "coastal state" within the meaning of the 1982 Convention and is not competent to establish the "MPA"; and/or
> >
> > (3) only Mauritius is entitled to declare an exclusive zone under Part V of the 1982 Convention within which a marine protected area might be declared."

5.22 As noted above at paragraph 5.2, the dispute between Mauritius and the UK concerning the "MPA" has arisen because (1) the UK does not have sovereignty over the Chagos Archipelago; is not "the coastal State" for the purposes of the Convention, and cannot declare an "MPA" or other maritime zones in this area; and has acknowledged the rights and legitimate interests of Mauritius in relation to the Chagos Archipelago; and (2) independently of the question of sovereignty, the "MPA" is fundamentally incompatible with the rights and obligations provided for by the Convention.

5.23 Mauritius submits that the Tribunal has jurisdiction over each and every aspect of the dispute: it has jurisdiction to rule that the UK is not entitled to declare an "MPA" or, if it is so entitled (contrary to the claim of Mauritius), that its exercise of any such entitlement violates the Convention. As set out in detail in Chapters 6 and 7 of this Memorial, the dispute requires the Tribunal to interpret and apply a number of provisions of the Convention, relating to the territorial sea, the EEZ, the continental shelf and abuse of rights. It is convenient for the purposes of presentation to address the different elements of the dispute in the order in which they are to be found in the Convention. They are as follows:

(i) Article 2(1): whether the UK is a "coastal State" for the purpose of establishing and applying the "MPA" in the territorial sea (this is addressed in Chapter 6);

(ii) Article 2(3): whether the UK's claimed exercise of sovereignty in the territorial sea around the Chagos Archipelago complies with "other rules of international law", having regard to Mauritius' fishing and mineral rights in those waters (Chapter 7);

(iii) Article 55: whether the UK is "the coastal State" having rights and jurisdiction in "an area beyond and adjacent to the territorial sea" of the Chagos Archipelago and is entitled to establish the "MPA" in that area (Chapter 6);

(iv) Article 55: whether the UK's claimed exercise of rights and jurisdiction complies with "the relevant provisions" of the Convention (Chapter 7);

(v) Article 56(2): whether, on the basis of its claim that it is the "coastal State", the UK by establishing the "MPA" has had "due regard to the rights and duties" of Mauritius and acted "in a manner compatible with the provisions of this Convention" (Chapter 7);

(vi) Article 62(5): whether, on the basis of its claim that it is the "coastal State", the UK has complied with the obligation to "give due notice of conservation and management laws and regulations" (Chapter 7);

(vii) Article 63(1): whether, on the basis of its claim that it is the "coastal State", the UK by establishing the "MPA" has complied with its obligation to seek agreement on the measures necessary to co-ordinate and ensure the conservation and development of stocks of tuna, either directly with Mauritius, or through the IOTC or other "appropriate subregional or regional organisations" (Chapter 7);

(viii) Article 63(2): whether, on the basis of its claim that it is the "coastal State", the UK by establishing the "MPA" has complied with its obligation to seek, either directly with Mauritius or through the IOTC or other "appropriate subregional or regional organisations", agreement upon the measures necessary for the conservation of stocks of tuna in the area adjacent to the "MPA" (Chapter 7);

(ix) Article 64(1): whether, on the basis of its claim that it is the "coastal State", the UK by establishing the "MPA" has complied with its obligation to cooperate directly with Mauritius and other States, or through appropriate international organisations, to ensure conservation and promote the objective of optimum utilisation of highly migratory species throughout the Indian Ocean region, both within and beyond the exclusive economic zone (Chapter 7);

(x) Article 7 of the 1995 Agreement: whether, on the basis of its claim that it is the "coastal State", the UK has complied with its obligation to "make every effort to agree on compatible conservation and management measures within a reasonable period of time" (Chapter 7);

(xi) Articles 76, 77 and 81: whether the UK is "the coastal State" exclusively entitled, by establishing the "MPA", to prohibit any exploration of the seabed and subsoil of the submarine areas that extend beyond the territorial sea of the Chagos Archipelago (Chapter 6);

(xii) Article 194(1): whether, on the basis of its claim that it is the "coastal State", the UK by establishing the "MPA" has complied with its obligation to "endeavour to harmonise" its policies with those of Mauritius and other States in the region (Chapter 7);

(xiii) Article 300: whether the UK by establishing the "MPA" has exercised rights (without prejudice to whether such rights exist) in a manner that constitutes an "abuse of right", in particular by disregarding the rights

and interests of Mauritius as acknowledged by the UK, and in the light of the circumstances set out in Chapter 7 of this Memorial.

5.24 As described above, the dispute between Mauritius and the UK concerns the interpretation and application of the Convention. The only limitations to the exercise of jurisdiction are to be found in Article 297 (see above at paras. 5.15 to 5.18) and Article 298 (which is not brought into play because neither party has made a declaration in relation to Article 298(1)(a)(i)). For the reasons set out below, none of the claims of Mauritius are outside the jurisdiction of the Tribunal. There is nothing in Article 297 (or elsewhere in the Convention) to prevent the Tribunal from deciding that the UK is not "the coastal State" in relation to this dispute, so that it has no right under the Convention to establish an EEZ and/or establish the "MPA" and/or exercise sovereignty in the territorial sea and/or exercise sovereign rights over the seabed and subsoil beyond the territorial sea. Nor is there anything in Article 297 or elsewhere in the Convention to exclude the jurisdiction of the Tribunal, even assuming the UK is a "coastal State", in relation to the dispute concerning the establishment of the "MPA" and its purported exercise of rights in the territorial sea, EEZ or continental shelf in violation of the rights of Mauritius and third States under various provisions of the Convention.

(2) The Tribunal has jurisdiction to determine that the United Kingdom is not the "coastal State" under the Convention

5.25 The issue of whether the UK is the "coastal State", and entitled to establish the "MPA", turns on the interpretation and application of the words "the coastal State" within the meaning of Articles 2(1), 55, 76 and/or 77 and/or 81 of the Convention. The issue is the subject of the elements of the dispute identified in paragraphs 23(i), (iii) and (xi) above, matters which are dealt with in Chapter 6 of this Memorial. These aspects of the dispute fall within the jurisdiction of the Tribunal and are not excluded by Article 297, since they do not concern "the exercise by a coastal State of its sovereign rights provided for in [the] Convention". There is nothing in Article 297 that excludes jurisdiction over disputes about entitlement to declare an "MPA" – and thus about entitlement to declare an EEZ – and about the existence of the territorial sea or continental shelf. These are matters that are clearly within the jurisdiction of the Tribunal.

5.26 Further, Mauritius notes that there is ample authority in support of the proposition that a court or tribunal acting under Part XV of the Convention has jurisdiction to decide whether a State is a "coastal State". Even in the circumstance that the interpretation and application of the words "coastal State" require the Tribunal to form a view on sovereignty over the Chagos Archipelago, there is no bar to the exercise of jurisdiction. In the absence of any declaration by Mauritius and the UK, Article 298(1)(a) makes clear that an Annex VII Tribunal can resolve a dispute between Mauritius and the UK concerning the "consideration of any unsettled dispute concerning the sovereignty or other rights [of Mauritius]" over the Chagos Archipelago. Issues of sovereignty or other rights over continental or insular land territory, which are closely linked or ancillary to maritime delimitation and to other issues raised under the Convention, self-evidently concern the interpretation or application of the Convention, and therefore fall within its scope. The International Tribunal for the Law of the Sea

"has noted that its jurisdiction over maritime delimitation disputes also includes those which involve issues of land or islands".[382]

5.27 The point has been put clearly by Judge Rao of the International Tribunal for the Law of the Sea:

> "[S]ince the exclusionary clause [in Article 298(1)(a)] does not apply to a compulsory procedure provided for in section 2 of part XV, a mixed dispute, whether it arose before or after the entry into force of the Convention, falls within the jurisdiction of a compulsory procedure."[383]

5.28 Judge Rao was writing about mixed disputes relating to delimitation, but the approach is equally pertinent to other mixed disputes involving land and sea, such as the present one, which raises the question of whether the UK's actions in the process of decolonisation, in 1965 and subsequently, are compatible with the exercise of rights in the maritime areas surrounding the Chagos Archipelago. Judge Rao recognises the consequences of such an approach:

> "If a court or tribunal were to refuse to deal with a mixed dispute on the ground that there are no substantive provisions on land sovereignty issues, the result would be to denude the provisions of the Convention relating to sea boundary delimitations of their full effect and of every purpose and reduce them to an empty form."[384]

5.29 Given the Convention's status as the first global "post-colonial" multilateral convention, it would be surprising for it to be interpreted and applied in such a manner as to preclude its provisions from being invoked to determine whether rights may be claimed in circumstances where there has been a manifest violation of the obligations relating to decolonisation. Noting that Article 293 requires a court or tribunal to apply "other rules of international law not incompatible with the Convention", Judge Rao observes that:

> "A court or tribunal referred to in Article 288 being thus empowered to apply general international law suffers from no inherent limitation even in resolving disputes involving the land element".[385]

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[382] See Statement by Judge Albert Hoffmann, 46th Session of the Asian-African Legal Consultative Organisation, Cape Town, Republic of South Africa, 2-6 July 2007, available at:

http://www.itlos.org/index.php?id=68&L=0

[383] P. Chandrasekhara Rao, "Delimitation Disputes under the United Nations Convention on the Law of the Sea: Settlement Procedures", in T. M. Ndiaye and R. Wolfrum (eds.), *Law of the Sea, Environmental Law and Settlement of Disputes: Liber Amicorum Judge Thomas A. Mensah*, p. 877, at p. 890.

[384] *Ibid*., p. 891.

[385] *Ibid*.

5.30 The view is shared by others. For example, Professor Alan Boyle confirms that the exclusionary language of Article 298(1)(a) means that a court or tribunal can deal with a land dispute so long as it is related to a maritime dispute:

> "While parties to the Convention do have the option of excluding such disputes from compulsory jurisdiction under Article 298(1), the implication must be that, where this option is not exercised, a tribunal, including the ITLOS, may if necessary deal with both the land and the maritime dispute."[386]

Professor Boyle explicitly recognises there is no bar to a court or tribunal under Part XV dealing with the question of entitlement to claim an EEZ where there is a "land […] dispute":

> "Take a dispute involving EEZ claims around a disputed island or rock, such as Rockall, and the exercise of fisheries jurisdiction by one State within this EEZ. How do we categorise this dispute? Does it relate to the exercise of sovereign rights and law enforcement within the EEZ, excluded under Articles 297 and 298 from compulsory jurisdiction? Is it a maritime boundary dispute concerning the interpretation or application of Article 74 and excluded from binding compulsory jurisdiction under Article 298 if one of the parties has opted out under that Article? Does it necessarily involve disputed sovereignty over land territory so that even compulsory conciliation is excluded? Or is it a dispute about entitlement to an EEZ under Part V and Article 121(3) of the Convention? If it is the last, it is not excluded from compulsory jurisdiction under either Article 297 or 298. Much may thus depend on how our hypothetical dispute is put. If it is misuse of fisheries jurisdiction powers within the EEZ then it will surely be excluded under Article 297. But if it is an invalid claim to an EEZ contrary to Article 121(3) then it would appear not to be excluded. But suppose, instead, that it is reformulated as a claim that on equitable grounds the island or rock should be given no weight as a basepoint in a delimitation under Article 74? *Prima facie* this appears to be caught by Article 298(1). It is not necessary for present purposes to answer these questions, but they should suffice to show that everything turns in practice not on what each case involves but on how the issues are formulated. Formulate them wrongly and the case falls outside compulsory jurisdiction. Formulate the same case differently and it falls inside."[387]

5.31 The case submitted to this Tribunal is "a dispute involving EEZ claims around a disputed island". It is about entitlement, not about the exercise of rights where

[386] A. Boyle, "Dispute Settlement and the Law of the Sea Convention: Problems of Fragmentation and Jurisdiction", 46 *ICLQ* 37, at p. 49 (1997).

[387] *Ibid*., p. 44, emphasis added.

entitlement is not in issue. As such, the present dispute is "not excluded from compulsory jurisdiction under either Article 297 or 298", in the manner recognised by Professor Boyle. There is no bar to the Tribunal exercising jurisdiction to determine whether the UK, having violated the rule reflected in UN General Assembly resolution 1514 (XV) in the process of decolonisation, is entitled *inter alia* to establish an EEZ and, within that area, an "MPA".

5.32 The Tribunal is under no obligation to turn a blind eye to "other rules of international law not incompatible with [the] Convention". To the contrary, it must apply them. Such rules include those reflected in General Assembly resolution 1514 (XV) which confirms that:

> "[a]ny attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations".

The resolution reflects a principle of *ius cogens*,[388] and it is properly to be applied by the Tribunal not only in relation to the merits of the dispute, but also in respect of the interpretation and application of Part XV. Having regard to the fact that the Convention is widely recognised as a "constitution for the oceans",[389] it would be anomalous for that constitution to allow a State to take the benefit of a manifest wrongdoing in the process of decolonisation.

5.33 As the Annex VII Tribunal in *Guyana v Suriname* unanimously observed,[390] ITLOS has "interpreted Article 293 as giving it competence to apply not only the Convention, but also the norms of customary international law (including, of course, those relating to the use of force)". That Annex VII Tribunal concluded that "this is a reasonable interpretation of Article 293", and one that allowed it "to adjudicate alleged violations of the United Nations Charter and general international law".[391] If an Annex VII Tribunal can exercise jurisdiction over alleged violations of the UN Charter, it can equally exercise jurisdiction to adjudicate violations of obligations deriving from the peremptory norm reflected in United Nations General Assembly resolution 1514 (XV), within the framework of the United Nations Charter.

5.34 In summary, jurisdiction in respect of the Articles of the Convention listed in paragraph 23 above which fall to be interpreted with regard to this part of Mauritius' submission (Articles 2(1) and (3), 55, 76, 77 and 81) is not excluded by Article 297. Having regard also to Article 298(1)(a), there is nothing to preclude the Annex VII Tribunal from exercising jurisdiction over a "mixed" dispute involving territorial sea,

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[388] See paras 6.10-6.14 below.

[389] The words are attributed to Ambassador Tommy Koh in statements made on 6 and 11 December 1982 at the final session of UNCLOS III: see M. H. Nordquist *et al* (eds), *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.

[390] *Guyana v Suriname*, Annex VII Arbitral Tribunal, Award of 17 September 2007, para. 404.

[391] *Ibid*., para. 406.

EEZ and continental shelf claims around a disputed island, as well as claims to be entitled to establish an "MPA".

(3) The Tribunal has jurisdiction to determine whether, even if the United Kingdom is a "coastal State", it is exercising rights consistently with the Convention

5.35 This Tribunal also has jurisdiction to determine whether, if the UK has any of the entitlements it claims, it is exercising rights consistent with its obligations under the Convention. There is nothing in Article 297 to exclude such jurisdiction. These elements of the dispute are listed in paragraph 5.23 above, and are addressed in Chapter 7 of this Memorial:

(i) The dispute concerning the interpretation and application of Article 2(3) (para. 5.23(ii) above) relates to the exercise of Mauritius' fishing and related rights in the territorial sea, and is therefore not excluded from the jurisdiction of the Tribunal by Article 297.

(ii) The dispute concerning the interpretation and application of Article 55 (para. 5.23(iv) above) falls within the jurisdiction of the Tribunal because the UK "has acted in contravention of specified international rules and standards for the protection and preservation of the marine environment which are applicable to [it] and which have been established by this Convention or through a competent international organisation or diplomatic conference in accordance with this Convention", (in contravention of inter alia Article 56(2) of the Convention); jurisdiction is accordingly provided by Article 297)(1)(c).

(iii) The dispute concerning the interpretation and application of Article 56(2) (para. 5.23(v) above) is within the jurisdiction of the Tribunal because the UK has established the "MPA" without having "due regard to the rights" of Mauritius in respect of non-living resources in the part of the "MPA" that is beyond the territorial sea of the Chagos Archipelago; this is not excluded from jurisdiction by reason of Article 297(3)(a), since the dispute does not relate to sovereign rights with respect to the living resources in the exclusive economic zone or their exercise.

(iv) The dispute concerning the interpretation and application of Article 62(5) (para. 5.23(vi) above) is within the jurisdiction of the Tribunal because the UK has not given due notice of conservation and management laws and regulations and has thus "acted in contravention of specified international rules and standards for the protection and preservation of the marine environment which are applicable to [it] and which have been established by this Convention or through a competent international organisation or diplomatic conference in accordance with this Convention"; jurisdiction is accordingly provided by Article 297(1)(c).

(v) The dispute concerning the interpretation and application of Article 63(1) (para. 5.23(vii) above) is within the jurisdiction of the Tribunal because the failure to seek agreement upon the measures necessary to co-ordinate and ensure the conservation and development of stocks of tuna, either directly with Mauritius or through the IOTC or other "appropriate subregional or regional organisations", is not excluded from jurisdiction by Article 297(1)(a) or (c), and/or is not covered by Article 297(3)(a) (the dispute does not relate to sovereign rights with respect to the living resources in the EEZ, or their exercise).

(vi) The dispute concerning the interpretation and application of Article 63(2) (para. 5.23(viii) above) is within the jurisdiction of the Tribunal because the failure to agree upon the measures necessary for the conservation of stocks of tuna in the area adjacent to the "MPA", directly with Mauritius or through the IOTC or other "appropriate subregional or regional organisations", is not excluded by Article 297 (the dispute is not with regard to the exercise by a coastal State of its sovereign rights or jurisdiction provided for in the Convention).

(vii) The dispute concerning the interpretation and application of Article 64(1) (para. 5.23(ix) above) is within the jurisdiction of the Tribunal because the failure to cooperate directly with Mauritius and other States, or through appropriate international organisations, to ensure conservation and promote the objective of optimum utilisation of highly migratory species throughout the Indian Ocean region beyond the exclusive economic zone is not excluded by Article 297 (the dispute is not with regard to the exercise by a coastal State of its sovereign rights or jurisdiction provided for in the Convention).

(viii) The dispute concerning the interpretation and application of Article 7 of the 1995 Agreement (para. 5.23(x) above) is within the jurisdiction of the Tribunal because Article 30 of the Agreement provides that the dispute settlement provisions of the 1982 Convention apply to disputes regarding the interpretation or application of the Agreement and because the failure of the UK to "make every effort to agree on compatible conservation and management measures within a reasonable period of time" is not excluded by Article 297 (the dispute is not with regard to the exercise by a coastal State of its sovereign rights or jurisdiction provided for in this Convention).

(ix) The dispute concerning the interpretation and application of Article 194(1) (para. 5.23(xii) above) is within the jurisdiction of the Tribunal because the failure of the UK to comply with its obligation to "endeavour to harmonise" its policies with those of Mauritius and other States in the region falls within Article 297(1)c) of the Convention.

(x) The dispute concerning the interpretation and application of Article 300 (para. 5.23(xiii) above) is within the jurisdiction of the Tribunal because the UK has failed to give effect to its obligation to exercise rights in a

manner that does not "constitute an abuse of right"; this is a dispute concerning the application or interpretation of the Convention which is not excluded by Article 297.

III. Relationship With the Merits

5.36 The UK has indicated that it is likely to object to jurisdiction and to seek to have the issue of jurisdiction dealt with as a preliminary matter.[392] Article 11 of the Rules of Procedure adopted by the Tribunal provides for the procedure and timetable to be followed in such circumstances.

5.37 In this regard, Mauritius notes the unanimous decision of the Arbitral Tribunal in *Guyana v Suriname* that issues of jurisdiction are to be joined to the merits where "the facts and arguments in support of […] submissions in […] Preliminary Objections are in significant measure the same as the facts and arguments on which the merits of the case depend, and the objections are not of an exclusively preliminary character".[393] This adopts the approach taken by the ICJ, which has ruled that where an objection is not of an exclusively preliminary nature, it should be joined to the merits.[394]

IV. Exchange of Views

5.38 As set out in Chapter 4, there is evidently a dispute between Mauritius and the UK concerning the legality of the "MPA" under the Convention and the 1995 Agreement. This is reflected in a series of Notes Verbales and other communications and exchanges taking place in 2009 and 2010, and again following the purported establishment of the "MPA" in April 2010.[395] As set out in Chapter 4, there has been a full exchange of views between Mauritius and the UK concerning the dispute in regard to the "MPA" and related matters, including the deposit with the UN Secretary-General of of coordinates of delimitation, in accordance with Article 75 of the Convention. Those exchanges encompass both the UK's claimed entitlement to establish an "MPA", as a "coastal State", and its exercise of purported rights under the Convention. By December 2010 it was plain that any further exchange of views would be futile, as the UK was fully committed to the establishment of the "MPA", including as a means of preventing the return of the Chagossians. Mauritius was therefore entitled to initiate these arbitration proceedings.

5.39 Mauritius cannot be expected to wait endlessly before submitting its dispute with the UK to an Annex VII Tribunal. See for example:

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[392] Letter of 24 February 2012 from Mr Chris Whomersley, Agent of the United Kingdom, to Mr Brooks Daly, Permanent Court of Arbitration.

[393] *Guyana v Suriname*, Order No. 2 of 18 July 2005.

[394] The ICJ has determined that where a jurisdictional argument requires the "elucidation" of facts and "their legal consequences", the objection should be determined with the merits: see *Rights of Passage* (Preliminary Objection), ICJ Reports 1957, p. 125, at 150. The approach is also adopted by courts and tribunals in other areas of international law.

[395] See paras 4.39-4.44; 4.50-4.59; 4.66-4.76; 4.80-4.84 above.

(i) The *Southern Bluefin Tuna Cases*, where ITLOS ruled that "a State Party is not obliged to pursue procedures under Part XV, section 1, of the Convention when it concludes that the possibilities of settlement have been exhausted."[396]

(ii) The *MOX Plant Case*, where ITLOS concluded that "a State Party is not obliged to continue with an exchange of views when it concludes that the possibilities of reaching agreement have been exhausted."[397]

(iii) The *Land Reclamation Case*, where the Annex VII Tribunal confirmed that "Malaysia was not obliged to continue with an exchange of views when it concluded that this exchange could not yield a positive result."[398]

5.40 Accordingly, all the requirements of Article 283(1) are met.

V. Conclusion

5.41 For the reasons set out above, this Tribunal has jurisdiction over this dispute. Both States are parties to the Convention, and have not made any declaration under Article 298(1)(a). This dispute concerns the interpretation and application of various provisions of the Convention, relating to both the UK's entitlement to establish an "MPA" in the waters around the Chagos Archipelago and, to the extent that it may have any such entitlement, to its exercise of rights under the Convention. There is no bar to jurisdiction under Article 297, and all procedural requirements have been met.

[396] *Southern Bluefin Tuna Cases* (New Zealand v. Japan; Australia v. Japan), Order of 27 August 1999, International Tribunal for the Law of the Sea, para. 60.

[397] *The Mox Plant Case* (Ireland v United Kingdom), International Tribunal for the Law of the Sea, Order of 3 December 2001, para. 60.

[398] *Case Concerning Land Reclamation by Singapore In and Around the Straits of Johor* (Malaysia v Singapore), International Tribunal for the Law of the Sea, Order of 8 October 2003, para. 48.

CHAPTER 6: THE UNITED KINGDOM IS NOT A COASTAL STATE ENTITLED TO DECLARE THE "MPA"

6.1 This Chapter concerns the submission of Mauritius that the UK is not "the coastal State" within the meaning of Articles 55, 76 and 2 of the 1982 Convention, and therefore does not have the right to establish maritime zones, including the "MPA", around the Chagos Archipelago.

6.2 The unlawful excision of the Chagos Archipelago by the UK prior to Mauritius' independence does not give the UK an entitlement to be considered "the coastal State" in relation to the Archipelago within the meaning of the Convention; the UK therefore has no right under the Convention to claim maritime zones in respect of the Archipelago. Only Mauritius has that right. Further, the undertakings which cthe UK made to Mauritius at the time it unlawfully excised the Chagos Archipelago – undertakings which it has frequently repeated – are such as to entitle Mauritius to avail itself of the rights of a "coastal State" under the Convention, and accordingly the UK has no right under the Convention unilaterally to declare an "MPA" in respect of the Chagos Archipelago.

I. The United Kingdom is Not the Coastal State

6.3 As the International Court of Justice has observed on a number of occasions, "the land dominates the sea."[399] Accordingly, it is "the terrestrial territorial situation that must be taken as the starting point for the determination of the maritime rights of a coastal State."[400] The Tribunal should not be deterred from entering upon this consideration in the present case, neither because of its jurisdiction (which is established, as explained in Chapter 5 above) nor out of concern that the determination of the question will lead in the future to a plethora of claims being made to Convention tribunals by parties to land boundary disputes. As noted in Chapter 1 above, this case is readily distinguishable from the many sovereignty disputes existing around the world. The case concerns a unique situation left over from the decolonisation era of the last century. It concerns the entitlement of a former colony to the maritime zones around its rightful territory, an entitlement which is a consequence of the full implementation of its right to self-determination. The dispute results from the purported excision of a group of islands from a former colonial territory in circumstances where all the Mauritian citizens residing in those islands at the time were forcibly removed by the colonial master: a situation which has been recognised as unlawful by the vast majority of States. As such, the case can be regarded by the Tribunal as *sui generis*.

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[399] *North Sea Continental Shelf* (Federal Republic of Germany v. Denmark; Federal Republic of Germany v. Netherlands), Judgment, ICJ Reports 1969, p. 51, para. 96; *Aegean Sea Continental Shelf* (Greece v. Turkey), Judgment, ICJ Reports 1978, p. 36, para. 86; *Maritime Delimitation and Territorial Questions between Qatar and Bahrain* (Qatar v. Bahrain), Merits, Judgment, ICJ Reports 2001, p. 97, para. 185.

[400] *Maritime Delimitation and Territorial Questions between Qatar and Bahrain* (Qatar v. Bahrain), Merits, Judgment, ICJ Reports 2001, p. 97, para. 185.

6.4 Nor should the Tribunal be deterred by the fact that this matter requires the application of certain rules of international law which go beyond the express provisions of the Convention. Article 293 of the Convention requires a court or tribunal to apply the Convention and "other rules of international law not incompatible with the Convention" in adjudicating a dispute: for the reasons given in Chapter 5 above, the Tribunal is not precluded from applying – indeed is bound to apply – the fundamental principles and rules of international law discussed in this Chapter.

(1) The "MPA" is purportedly established under Part V of the Convention

6.5 Part V of the Convention establishes the legal regime applicable to the exclusive economic zone, within which "the coastal State" may exercise certain rights, jurisdiction and duties. Article 55 provides:

> "The exclusive economic zone is an area beyond and adjacent to the territorial sea, subject to the specific legal regime established in this Part [Part V], under which the rights and jurisdiction of the coastal State and the rights and freedoms of other States are governed by the relevant provisions of this Convention."

Article 56 sets out the rights, jurisdiction and duties of "the coastal State", and Article 57 provides for the breadth of the exclusive economic zone. Under Article 75(2) the "coastal State" is required to deposit with the UN charts or lists of geographical coordinates showing the outer limit lines of the exclusive economic zone ("EEZ").

6.6 The 200-mile Environment (Protection and Preservation) Zone ("EPPZ"), which the UK declared around the Chagos Archipelago on 17 September 2003,[401] was purportedly established as an EEZ under Part V of the Convention. While it was sometimes said that the EPPZ was not a "full EEZ for all purposes", the responsible UK Minister made a written statement in Parliament on 31 March 2004, noting that a "copy of the proclamation, together with the relevant chart and co-ordinates, has been deposited with the UN under Article 75 of UNCLOS".[402] The UK has also described the zone as an EEZ in the proceedings of the IOTC.[403] The zone was declared in spite of the statement in writing made by the British High Commissioner to Mauritius in 1992 that "[t]here are no plans to establish an exclusive economic zone around the Chagos islands".[404] It is in this zone that in April 2010 the "MPA" was purportedly established.

6.7 Although the UK acted on the basis that the EPPZ, and thus the "MPA", were established under Part V of the Convention, the declaration of the "MPA" also assumes

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[401] Paras 4.7-4.13 above.

[402] Hansard, House of Lords, 31 March 2004, col. WS62, Statement of Baroness Symons of Vernham Dean: Annex 125. The proclamation was deposited with the UN on on 12 March 2004 (Law of the Sea Bulletin No. 54 (2004), 99.

[403] Report of the Fifteenth Session of the Indian Ocean Tuna Commission, Colombo, Sri Lanka 18–22 March 2011, IOTC–2011–S15–R[E], at para 72, http://www.iotc.org/files/proceedings/2011/s/IOTC-2011-S15-R%5BE%5D.pdf

[404] Letter of 1 July 1992 from British High Commissioner, Port Louis to the Prime Minister of Mauritius: Annex 103. See para. 4.6 above.

an entitlement by the UK to a continental shelf under Article 76 of the Convention, the rights in the shelf under Article 77 and Article 81, and an entitlement to a territorial sea (Article 2).

(2) The purported establishment by the United Kingdom of maritime zones for the Chagos Archipelago is based upon a breach of fundamental principles of international law

6.8 The UK's claim to be "the coastal State" for the purpose of Part V of the Convention, and thus to be entitled to establish an EEZ and the "MPA", is founded upon its purported claim to sovereignty over the Chagos Archipelago, following the UK's unlawful detachment of the Archipelago from the territory of Mauritius in 1965. The same is true of the UK's claim with regard to the territorial sea and to continental shelf rights under the Convention. Before 1965, the Chagos Archipelago had been a dependency of, and thus part of, the non-self-governing territory of Mauritius. It had been treated as such by the UK ever since Mauritius – including the Chagos Archipelago – had been ceded to the UK by the Treaty of Paris in 1814.[405] The UK detached the Archipelago from the territory of Mauritius in 1965, by promulgating a law which established the "BIOT" and by amending the law of Mauritius to remove the Archipelago from the definition of "Mauritius".[406] It is in respect of the Archipelago, now administered as one of the British overseas territories under the name of "the British Indian Ocean Territory", that the UK claims to be entitled to declare the "MPA" and other maritime zones.

6.9 The circumstances of the detachment of the Chagos Archipelago from Mauritius – the removal of all the residents of the Archipelago at the time,[407] the misleading statements to UN organs regarding the former residents,[408] the timing of the actions,[409] and the secret financial benefit obtained from the US contrary to the UK's public position[410] - are set out in Chapter 3 above. They do not reflect well on those in power at the time. But above all, the excision was carried out in breach of fundamental principles of international law.

[405] See paras 2.15-2.16 above.

[406] The definition of Mauritius was changed by amendment to section 90(1) of the Constitution of Mauritius set out in Schedule 2 to the Mauritius (Constitution) Order 1964. The "BIOT" was created by the "British Indian Ocean Territory" Order No. 1 of 1965, which provides that from the date of the Order, "the Chagos Archipelago, being islands which immediately before the date of this Order were included in the Dependencies of Mauritius" shall with certain islands previously part of the colony of Seychelles "together form a separate colony which shall be known as the British Indian Ocean Territory." (See Annex 32). The process of detachment is described in detail in Part III of Chapter 3: paras 3.35-3.52.

[407] Paras 3.58-3.63 above. The expulsion was described by a former UK Foreign Secretary, Robin Cook, as "one of the most sordid and morally indefensible episodes in our post colonial history." (Reported in *The Guardian* on 8 June 2012).

[408] Paras 3.38-3.52 above.

[409] Para. 3.38 above.

[410] Paras 3.55-3.57 above.

(3) The principle of self-determination

6.10 The detachment of the Chagos Archipelago was, first and foremost, contrary to the right of Mauritius to self-determination. This right – and the duty to recognise it – is a fundamental norm of international law which is enshrined in the UN Charter, in General Assembly resolutions interpreting and applying it, in the law and practice of UN organs and in customary international law.

6.11 The right to self-determination has been affirmed by the International Court of Justice in well-known terms:

> "The principle of self-determination of peoples has been recognised by the United Nations Charter and in the jurisprudence of the Court [...]; it is one of the essential principles of contemporary international law."[411]

In 1995 the Court referred to the *erga omnes* character of the principle and, in a later advisory opinion, noted:

> "[O]ne of the major developments of international law during the second half of the twentieth century has been the evolution of the right of self-determination."[412]

6.12 The principle of self-determination was interpreted and developed as a fundamental right by the General Assembly in its Declaration on the granting of independence to colonial countries and peoples (resolution 1514(XV)), as follows:

> "2. All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
>
> […]
>
> 5. Immediate steps shall be taken, in Trust and Non-Self-Governing Territories or all other territories which have not yet attained independence, to transfer all powers to the peoples of those territories, without any conditions or reservations, in accordance with their freely expressed will and desire, without any distinction as to race, creed or colour, in order to enable them to enjoy complete independence and freedom."[413]

The resolution "has achieved a semi-constitutional status".[414] Nearly five decades ago the International Court of Justice referred to the resolution as providing "the basis for

[411] *East Timor* (Portugal v. Australia) Judgment, ICJ Reports 1995, p. 90, at p. 102, para. 29.

[412] *Accordance with International Law of the Unilateral Declaration of Independence In Respect of Kosovo*, 22 July 2010, para. 82.

[413] Adopted on 14 December 1960 by 89 votes to none, with 9 abstentions: Annex 1.

[414] James Crawford, *The Creation of States in International Law*, (2006), p. 604.

the process of decolonisation which has resulted since 1960 in the creation of many States which are today Members of the United Nations."[415]

6.13 It is clear that the right to self-determination was already well-developed by the time the independence of Mauritius was in contemplation. As Professor Tomuschat has said:

> "Self-determination became a driving legal force as from 1960, when the UN General Assembly adopted resolution 1514(XV) on the Granting of Independence to Colonial Countries and Peoples. The existing structural network of international relations was profoundly shaken by that almost revolutionary act which proclaimed the right of all peoples to self-determination."[416]

Writing in 1963, Dame Rosalyn Higgins stated that resolution 1514(XV) regarded the right of self-determination "as a legal right enforceable here and now".[417] The same author concluded that it "seems inescapable that self-determination has developed into an international legal right."[418] It is scarcely necessary to show support in the literature for such a long-established principle as self-determination, but if any is needed, reference may be made to the discussion of the principle in *Starke's International Law*.[419]

6.14 The status of the norm as a rule of *ius cogens* has also been widely recognised. As was noted by Professor Malcolm Shaw:

> "It would indeed be difficult to conceive of a treaty providing for the continuation of a colonial relationship against the wishes of the inhabitants of the territory being upheld as valid. Self-determination is a basic principle of international law of universal application, while the weight of international opinion appears to suggest that the right may be part of *ius cogens*."[420]

The International Law Commission has recognised the prohibition of the denial of the right to self-determination as a peremptory norm of international law.[421]

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[415] *Western Sahara* Advisory Opinion, ICJ Reports 1975, p. 12 at p. 32, para. 57.

[416] Christian Tomuschat, *Modern law of self-determination*, (1993), p. vii.

[417] R. Higgins, *Development of International Law through the Political Organs of the United Nations*, (1963), p. 100. She also noted that the 1960 Declaration "must be taken to represent the wishes and beliefs of the full membership of the United Nations" (p.103).

[418] *Ibid.* at p. 103. She added: "It should also be added that a denial of self-determination is now widely regarded as a denial of human rights, and as such a fitting subject for the United Nations" (p. 104).

[419] Ed. Ivan Shearer (11th ed. 1994); discussion at pp. 111-113.

[420] Malcolm Shaw, *Title to Territory in Africa*, (1986), p. 91.

[421] ILC Commentary on Draft Articles on State Responsibility, adopted 2001.

(a) The unit of self-determination

6.15 The entity which enjoyed the right to decolonisation in international law and UN practice – the unit of self-determination – was the whole territorial unit concerned. The "self" of self-determination was understood in largely territorial terms, so that the right inhered in a colonial people within the framework of the existing territorial unit. The principle of territorial integrity for the non-self-governing territory was (and continues to be) paramount. General Assembly resolution 1514(XV) affirms in paragraph 6 that:

> "Any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations."

6.16 Thus, in the case of Mauritius, the unit of self-determination in relation to which the UK as the administering power owed the duty to accord the right to self-determination was the whole of the territory of Mauritius before independence, including the Chagos Archipelago. As described above, however, before Mauritius became independent the UK promulgated laws to dismember Mauritian territory by the excision of the Archipelago. The excision was effected as a pre-emptive move, in contemplation of independence, following the final Constitutional Conference for Mauritius in September 1965, and was effected in order to ensure that after Mauritian independence the UK could still purport to have the power to lease Diego Garcia to the US.

6.17 This excision of part of Mauritius' territory raises a temporal question: under the law of self-determination could changes by the colonial power in contemplation of independence have any effect on the self-determination unit? It is clear from paragraph 6 of resolution 1514(XV) that they could not: actions of the colonial power before independence were not permitted to override the territorial integrity of the entity concerned. Professor Shaw has commented on the temporal issue in relation to the Chagos Archipelago: "As a rule, the need to maintain the colonial unit during the period leading up to independence is clearly a crucial element in the viability of the concept of self-determination".[422] The history of the mandated territory of South-West Africa presents an analogous situation. The UN General Assembly, from the establishment of the United Nations, had the objective of maintaining the territorial integrity of South-West Africa and preventing South Africa from annexing or partitioning it. General Assembly resolutions over the decades showed the concern of the United Nations that the unit of self-determination was the whole territory and that, prior to the independence of Namibia, territorial integrity was to be maintained, against all attempts by South Africa to dismember it.[423]

6.18 To permit the excision of a part of a territory before independence also removes the right to self-determination of the people of that territory. In its advisory

[422] Shaw, *Title to Territory in Africa*, (1986), p. 134.

[423] A brief account is given in Shaw, *supra* at pp. 105-110.

opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory,* the International Court of Justice found that the route taken by the Wall in the occupied Palestinian territory contributed to the departure of some of the population and presented a risk to the demographic composition of the area. In view of that, the Court found that the construction of the Wall, with other measures taken, "severely impedes the exercise by the Palestinian people of its right to self-determination, and is therefore a breach of Israel's obligation to respect that right."[424]

(b) The General Assembly had the competence to interpret the right of self-determination

6.19 It was through the policy of the General Assembly and its Committee of 24 that the right of self-determination was developed and implemented. The General Assembly acquired a recognised competence to decide the status of a territory with regard to the right, and competence to decide how the right should be exercised.[425] The International Court of Justice in the *Western Sahara* case recognised and accepted the role of the General Assembly in overseeing the exercise of the right to self-determination and in taking decisions regarding the way in which the right is implemented.[426] The Court affirmed that "the right of self-determination leaves the General Assembly a measure of discretion with respect to the forms and procedures by which the right is to be realised."[427]

6.20 The General Assembly recognised the *undivided* territory of Mauritius as the unit of self-determination in its resolution 2066(XX) on the Question of Mauritius. In that resolution the Assembly noted:

> "*with deep concern* that any step taken by the administering Power to detach certain islands from the Territory of Mauritius for the purpose of establishing a military base would be in contravention of [resolution 1514(XV)], and in particular paragraph 6 thereof."[428]

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[424] *Legal Consequences of the Construction of a Wall in The Occupied Palestinian Territory*, Advisory Opinion of 9 July 2004, para. 122.

[425] See A. Rigo Sureda, *The Evolution of the right of self-determination: a study of United Nations Practice* (1973) pp. 65-82 and *passim*). See also: Oscar Schachter, 'The Relation of Law, Politics and Action in the United Nations', in *Recueil des Cours*, 1963, Vol. II 187: "[…] the right of the United Nations General Assembly to determine which territories fall within the scope of Article 73 has received such continuing support that it may now be regarded as fairly well settled. […] [W]hen the practice of states in the United Nations has served by general agreement to vest in the organs the competence to deal definitively with certain questions, then the decisions of the organs in regard to those questions acquire an authoritative juridical status even though these decisions had not been taken by unanimous decision or 'general approval.'"

[426] *Western Sahara* Advisory Opinion, ICJ Reports 1975, p. 12 at pp. 35-37.

[427] *Ibid*. para. 71.

[428] Annex 38. Para. 6 states: "Any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations."

In fact, by 16 December 1965, the date on which resolution 2066(XX) on the Question of Mauritius was finally adopted by the General Assembly, the UK had already promulgated the laws which excised the Archipelago from the territory of Mauritius. It had, in effect, acted to present the United Nations with a *fait accompli,* and internal documents reveal that this was its intention.[429] General Assembly resolution 2066(XX) nevertheless invited the UK to "take effective measures with a view to the immediate and full implementation of resolution 1514(XV)" and "to take no action which would dismember the Territory of Mauritius and violate its territorial integrity."[430] Mauritius did not achieve independence until March 1968, and it would have been possible for the UK to have rescinded the laws dismembering Mauritius before it granted the colony independence, in conformity with the General Assembly resolutions. The UK chose not to do so.

6.21 The General Assembly repeated the requirement to maintain the territorial integrity of non-self-governing territories in its resolutions 2232(XXI) and 2357(XXII); Mauritius was included in the list of the territories to which both of the resolutions applied. Each resolution expressed deep concern at:

> "the continuation of policies which aim, among other things, at the disruption of the territorial integrity of some of these Territories and at the creation by the administering Powers of military bases and installations in contravention of the relevant resolutions of the General Assembly."[431]

6.22 The General Assembly resolutions cited above – in the general terms of paragraph 6 of the Declaration in resolution 1514(XV), and in the specific application of the right of self-determination to Mauritius in later resolutions – must be regarded as confirming the right of Mauritius to come to independence with its territory intact: that is, with the whole of its territory, including the Chagos Archipelago, and the whole of its population, including the residents of the Archipelago. That right gave rise to a legal obligation on the UK as the administering power.

(4) The principle of uti possidetis

6.23 As indicated above, in order that the principle of self-determination can be applied to non-self-governing territories, the relevant unit of self-determination must be identified: as the practice of the General Assembly shows, this unit is the whole of the territory in question. The recognition of this unit by UN Member States involves looking ahead to the recognition of the future independent State. There is a continuity in the process of independence: the new State is formed from the totality of the previous non-self-governing territory.

6.24 The related principle in general international law is that of *uti possidetis*. In the *Burkina Faso and Mali Frontier Dispute,* a Chamber of the International Court of

[429] Para. 3.38 above.

[430] Paras 2-4.

[431] Para. 3.51 above.

Justice stated that the principle is "logically connected with the phenomenon of the obtaining of independence":

> "The essence of the principle lies in its primary aim of securing respect for the territorial boundaries at the moment when independence is achieved. Such territorial boundaries might be no more than delimitations between different administrative divisions or colonies all subject to the same sovereign. In that case, the application of the principle of *uti possidetis* resulted in administrative boundaries being transformed into international frontiers in the full sense of the term. [...] *Uti possidetis*, as a principle which upgraded former administrative delimitations, established during the colonial period, to international frontiers, is therefore a principle of a general kind which is logically connected with this form of decolonisation wherever it occurs."[432]

The Chamber added that "the principle of *uti possidetis* has kept its place amongst the most important legal principles".[433]

(5) The "agreement" of former representatives of Mauritius to the excision of the Chagos Archipelago does not validate the dismemberment of Mauritius

6.25 The proposal by the UK Government to detach the Chagos Archipelago was reluctantly accepted by representatives of Mauritius, under conditions which amounted to duress.[434] The "agreement" of some of the Mauritian delegates at the final Constitutional Conference was given "in principle" on 23 September 1965, subject to consultation with the Council of Ministers; the Council met on 5 November 1965 and gave their "agreement".

6.26 The records of the UK Government prepared before and after the meetings with Mauritian Ministers indicate the circumstances in which this agreement was elicited. A note to the UK Prime Minister in preparation for his meeting on 23 September 1965 with the Mauritius Premier states:

> "Sir Seewoosagur Ramgoolam is coming to see you at 10.00 tomorrow morning. The object is to frighten him with hope: hope that he might get independence; Fright lest he might not unless he is sensible about the detachment of the Chagos Archipelago."[435]

[432] ICJ Reports, 1986, para. 23.

[433] *Ibid*. para 26.

[434] Paras 3.22-3.34 above.

[435] Para. 3.25 above.

At the meeting, the UK Prime Minister is recorded as saying that the "Premier and his colleagues could return to Mauritius either with Independence or without it."[436] The UK Government had thus made clear the link between the achievement of independence and Mauritian consent to the excision of the Chagos Archipelago. It was also made clear that the excision could take place even without consent: the record of the meeting between the UK Prime Minister and the Mauritian Premier recorded the former as saying that "Diego Garcia could either be detached by Order in Council or with the agreement of the Premier and his colleagues."[437]

6.27 The link between the excision of the Chagos Archipelago and the grant of independence to Mauritius is thus apparent from the records, and was understood by the Mauritian side.[438] The Select Committee on the Excision of the Chagos Archipelago, established by the Mauritius Legislative Assembly in 1982, concluded that there was a "blackmail element which strongly puts in question the legal validity of the excision."[439] As was stated by Prime Minister Ramgoolam in the Mauritius Legislative Assembly on 11 April 1979, "we had no choice […]. We were a colony."[440] In 1980 the then Foreign Minister of Mauritius, Sir Harold Walter, put the matter thus:

> "at the moment that Britain excised Diego Garcia from Mauritius, it was by an Order in Council! The Order in Council was made by the masters at that time! What choice did we have? We had no choice! We had to consent to it because we were fighting alone for independence! There was nobody else supporting us on that issue! We bore the brunt!"[441]

6.28 The necessity for the right of self-determination to be exercised by the free will of the people is underlined in General Assembly resolution 1514(XV), which provides in paragraph 5:

> "Immediate steps shall be taken, in Trust and Non-Self-Governing Territories or all other territories which have not yet attained independence, to transfer all powers to the peoples of those territories, without any conditions or reservations, in accordance with their freely expressed will and desire […]."

The International Court of Justice confirmed in the *Western Sahara* advisory opinion that this paragraph confirms and emphasises "that the application of the right of self-determination requires a free and genuine expression of the will of the peoples

[436] Para. 3.28 above.

[437] *Ibid*. The same message was repeated in a meeting with the UK Colonial Secretary on 23 September 1965: paras 3.68-3.71 above.

[438] See paras 3.68-3.71 above.

[439] Para. 3.72 above.

[440] Para. 3.71 above.

[441] Para. 3.70 above.

concerned."[442] The same principle is evident in General Assembly resolution 2625(XXV) (the "Friendly Relations Declaration"). The resolution provides in part that:

> "Every State has the duty to promote, through joint and separate action, realization of the principle of equal rights and self-determination of peoples in accordance with the provisions of the Charter, and to render assistance to the United Nations in carrying out the responsibilities entrusted to it by the Charter regarding the implementation of the principle, in order:
>
> […]
>
> (b) To bring a speedy end to colonialism, having due regard to *the freely expressed will* of the peoples concerned."[443]

The International Court of Justice has gone so far as to say that the principle of self-determination is "*defined* as the need to pay regard to the freely expressed will of peoples."[444]

6.29 It is clear that the "freely expressed will" of the people of Mauritius was not obtained. The consent of the Mauritius Ministers was given in circumstances which amounted to duress, and the Council of Ministers, presided over by the Governor of Mauritius (a British official appointed by and responsible to the UK Government), did not have the legal capacity to consent to the dismemberment of their country. There was no referendum or consultation with the people of Mauritius. The UN (and the UK) had experience of ascertaining the views of colonial peoples before independence: this was done, for example, by plebiscites and commissions of enquiry, supervised by the UN or by another body. While the General Assembly has on occasion approved the division of a territory before independence in accordance with the freely expressed will of its inhabitants,[445] it is clear in the present case that the Assembly did not regard the "consent" of the representatives of Mauritius, obtained without proper consultation, as sufficient in the circumstances to constitute the freely expressed will of the people to the form in which their territory would be brought to independence. The General Assembly resolutions noting with concern the dismemberment of Mauritius were adopted *after* the excision had taken place with the "agreement" of Mauritius.

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[442] *Western Sahara* Advisory Opinion, ICJ Reports 1975, p. 12 at p. 25, para. 55.

[443] Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations (emphasis added).

[444] *Western Sahara* Advisory Opinion, ICJ Reports 1975, p. 12 at p. 25, para. 59 (emphasis added).

[445] For example, in the case of the non-self-governing territory of the Gilbert and Ellice Islands, there was first an administrative division of the colonial territory and then, as a result of the express wishes of the inhabitants of the Ellice Islands, a partition of the colony; an independent State, Tuvalu, emerged. The Assembly had approved both the administrative division and the later partition: it was clear to the Assembly that the inhabitants had freely agreed. There was a UN mission to the Ellice Islands – at the request of the UK, the administering power – before independence; see GA res. 3288(XXIX) of 13 December 1974. The conduct of the UK in inviting the UN mission and ensuring that the wishes of the inhabitants of the Ellice Islands were properly ascertained must be contrasted with the UK conduct with regard to Mauritius and the Chagos Archipelago.

6.30 The consent of the Mauritius representatives to the detachment of the Chagos Archipelago was extracted as a condition inseparable from the grant of independence, in circumstances which did not allow for the free agreement of the Mauritian people to be obtained. Their acquiescence, obtained as it was under duress and relating to a breach of fundamental principles of law, was not regarded by the General Assembly – and cannot be regarded by the Tribunal – as validating the unlawful dismemberment of Mauritius.

(6) Mauritius has continuously asserted its sovereignty over the Chagos Archipelago

6.31 Mauritius has consistently protested against the establishment both of the EPPZ and the "MPA", as well as the purported deposit of charts under Article 75 of the Convention, reaffirming its sovereignty over the Chagos Archipelago, including its maritime zones. Mauritius had similarly protested over the purported establishment in 1991 of the FCMZ. Details of Mauritian protests against the establishment by the UK of maritime zones around the Chagos Archipelago are set out in Chapter 4. They include:

(i) On 7 August 1991, Mauritius protested against the formation of the FCMZ, as incompatible with its sovereignty and sovereign rights over the Archipelago.[446]

(ii) On 7 November 2003, Mauritius requested "the UK Government not to proceed with the issue of a Proclamation establishing an Environment (Protection and Preservation) Zone around the Chagos Archipelago"; the letter stated that "Depositing copies of relevant charts and coordinates with the UN under Article 75 of UNCLOS would in effect amount to a declaration of an EEZ around the Chagos Archipelago, something the UK undertook not to do in the letter of 1 July 1992."[447]

(iii) In a Note Verbale of 14 April 2004 to the UN Secretary-General, Mauritius protested against the deposit of the EPPZ coordinates since "the United Kingdom of Great Britain and Northern Ireland is purporting to exercise over that zone rights which only a coastal state may have over its exclusive economic zone."[448]

(iv) In a Note Verbale of 20 April 2004 to the UK, Mauritius protested that the UK's proclamation of an EPPZ and deposit of coordinates under Article 75 of UNCLOS "implicitly amounts to the exercise by the UK of sovereign rights and jurisdiction within an Exclusive Economic Zone, which only Mauritius as coastal state, can exercise under Part V of the UNCLOS."[449]

[446] Para. 4.5 above.

[447] Para. 4.16 above.

[448] Para. 4.24 above.

[449] Para. 4.25 above.

(v) By its Maritime Zones Act 2005, Mauritius reaffirmed its 200-nautical mile EEZ, 12-nautical mile territorial sea, and continental shelf. On 26 July 2006, pursuant to Articles 75(2) and 84(2) of UNCLOS, Mauritius submitted geographical coordinates to the UN Division for Ocean Affairs and the Law of the Sea, including in regard to the maritime zones generated by the Chagos Archipelago.[450]

(vi) On 10 April 2009, Mauritius stated that "it has no doubt of its sovereignty over the Chagos Archipelago and does not recognise the existence of the so-called British Indian Ocean Territory. The Government of Mauritius deplores the fact that Mauritius is still not in a position to exercise effective control over the Chagos Archipelago as a result of its unlawful excision from the Mauritian territory by the British Government in 1965."[451]

(vii) In May 2009, Mauritius submitted to the UN Commission on the Limits of the Continental Shelf Preliminary Information concerning the extended continental shelf in areas beyond 200 nautical miles from the archipelagic baselines of the Chagos Archipelago.[452]

(viii) In a Note Verbale of 9 June 2009 to the UN Secretary-General, Mauritius stated: "The Government of the Republic of Mauritius strongly believes that the protest raised by the United Kingdom against the deposit by Mauritius of the geographical coordinates reported in Circular Note M.Z.N. 63.2008-LOS of 27 June 2008 has no legal basis inasmuch as the Chagos Archipelago forms an integral part of the territory of Mauritius. The Government of the Republic of Mauritius further wishes to refer to its Note No. 4780/04 (NY/UN/562) dated 14 April 2004 in which it protested strongly against the deposit by the Government of the United Kingdom of Great Britain and Northern Ireland of a list of geographical coordinates of points defining the outer limits of the so-called Environment (Protection and Preservation) Zone."[453]

(ix) At a meeting of the IOTC Scientific Committee from 30 November to 4 December 2009, Mauritius protested that consultations on the establishment of a MPA should be conducted in the bilateral framework between Mauritius and the UK: "The establishment of a Marine Protected Area in the Chagos Archipelago should not be incompatible with the sovereignty of Mauritius over the Chagos Archipelago. A Marine Protected Area project in the Chagos Archipelago should address the issues of resettlement (Chagossians), access to the resources and the economic development of the islands in a manner which would not

[450] Para. 4.29 above.

[451] Para. 4.43 above.

[452] Paras 4.34-4.37 above.

[453] Para. 4.29 above, and accompanying footnotes.

prejudice the effective exercise by Mauritius of its sovereignty over the Archipelago."[454]

(x) In a Note Verbale of 2 April 2010 to the UK, Mauritius stated that "The Government of the Republic of Mauritius strongly objects to the decision of the British Government to create a Marine Protected Area (MPA) around the Chagos Archipelago". The Note went on to say: "It was explained in very clear terms during the above-mentioned meetings that Mauritius does not recognise the so-called British Indian Ocean Territory and that the Chagos Archipelago, including Diego Garcia, forms an integral part of the sovereign territory of Mauritius both under our national law and international law. It was also mentioned that the Chagos Archipelago, including Diego Garcia, was illegally excised from Mauritius by the British Government prior to grant of independence in violation of United Nations General Assembly resolutions 1514 (XV) of 14 December 1960 and 2066 (XX) of 16 December 1965."[455]

(xi) At a meeting of the IOTC Scientific Committee in December 2011, Mauritius stated that: "The Government of the Republic of Mauritius does not recognise the existence of the 'marine protected area' which the United Kingdom has purported to establish around the Chagos Archipelago."[456]

(7) The United Kingdom has in effect recognised Mauritius as the coastal State in relation to its continental shelf

6.32 In January 2009, Mauritius officials informed UK officials that they intended to provide Preliminary Information to the Commission on the Limits of the Continental Shelf regarding the shelf appertaining to the Chagos Archipelago. The UK made no objection. Mauritius filed Preliminary Information with the Commission in May 2009.[457] The UK made no objection. Indeed at the 2nd round of bilateral talks on the Chagos Archipelago in July 2009, the UK in effect offered its help in relation to the making of a formal submission to the Commission: the delegations from both States at that meeting agreed that "it would be desirable to have a coordinated submission for an extended continental shelf" and agreed that a joint technical team would be set up to look into possibilities and modalities of a coordinated approach. The matter did not proceed on a bilateral basis because the talks were broken off following the actions of the UK regarding the "MPA". The absence of protest on the part of the UK appears to be a clear recognition that Mauritius has sovereign rights in relation to the continental shelf. Under the Convention there is but one continental shelf.[458] If Mauritius has rights

[454] Para. 4.65 above.

[455] Para. 4.80 above.

[456] Report of the Fourteenth Session of the IOTC Scientific Committee, Mahé, Seychelles, 12-17 December 2011, IOTC-2011-SC14-R[E], p. 14: see para. 4.84 above.

[457] Paras 4.31-4.35 above.

[458] "[T]here is in law only a single 'continental shelf' rather than an inner continental shelf and a separate extended or outer continental shelf": *Dispute Concerning Delimitation of the Maritime Boundary*

in relation to the extended continental shelf, it also has rights in relation to the continental shelf up to 200 nautical miles from the coast of the Chagos Archipelago. It is significant that the UK has itself made no submission to the Commission in relation to the continental shelf of the Chagos Archipelago, and the deadline for any such submission has now passed.

(8) The vast majority of States have recognised the Chagos Archipelago as still belonging to Mauritius

6.33 The excision of the Chagos Archipelago has been recognised as having no lawful effect by resolutions and decisions of a wide section of the international community: the Non-Aligned Movement ("NAM"), the Africa-South America Summit, the Organisation of African Unity ("OAU") and later the African Union ("AU"), and the Group of 77 and China.[459] The NAM Ministerial Meeting held in May 2012 reaffirmed "that the Chagos Archipelago, including Diego Garcia, which was unlawfully excised by the former colonial power from the territory of Mauritius in violation of international law and UN resolutions 1514(XV) of 14 December 1960 and 2066(XX) of 16 December 1965, forms an integral part of the territory of the Republic of Mauritius." The AU Assembly in 2010 reaffirmed that:

> "the Chagos Archipelago, including Diego Garcia, which was unlawfully excised by the former colonial power from the territory of Mauritius in violation of UN resolutions 1514 (XV) of 14 December 1960 and 2066 (XX) of 16 December 1965 which prohibit colonial powers from dismembering colonial territories prior to granting independence, forms an integral part of the territory of the Republic of Mauritius and [the AU] CALLS UPON the United Kingdom to expeditiously put an end to its continued unlawful occupation of the Chagos Archipelago with a view to enabling Mauritius to effectively exercise its sovereignty over the Archipelago."[460]

(9) Accordingly, Mauritius is "the coastal State" within the meaning of the Convention

6.34 For these reasons, the excision of the Chagos Archipelago involved a breach of the United Nations Charter as applied and interpreted by General Assembly resolutions 1514(XIV) and 2066(XX), a denial of the right to self-determination, and (the subject of

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Between Bangladesh and Myanmar in the Bay of Bengal (Bangladesh/Myanmar), ITLOS Judgment of 14 March 2012, para. 362, citing *Delimitation of Maritime Boundary between Barbados and Trinidad and Tobago*, Award, 11 April 2006, at para. 213.

[459] Paras 3.109-3.111 above.

[460] African Union Assembly of Heads of States and Government, Decision on the Sovereignty of the Republic of Mauritius over the Chagos Archipelago, Assembly/AU/Dec.331(XV), 27 July 2010, Kampala, Uganda: Annex 168.

other proceedings) a denial of the human rights of the Chagossians.[461] In the result, the excision of the Chagos Archipelago from Mauritius was void and without legal effect.

6.35 Mauritius thus retained sovereignty over the Chagos Archipelago at all times. It retained sovereignty when it obtained independence in 1968, at the time it signed and ratified the Convention, at the time it objected to the UK's purported establishment of an EEZ and "MPA", and at the time it initiated these proceedings. The basis of its entitlement is its status as a unit of self-determination, as recognised by the UN General Assembly in accordance with the principles developed in resolution 1514(XV), and its consequent status as an independent State. As such, Mauritius is the "coastal State" in regard to the Chagos Archipelago, and has the right to declare maritime zones in accordance with the Convention. It has declared an EEZ in the same area as that included in the purported EPPZ and "MPA", has notified the UN of the geographical coordinates of its maritime zones around the Chagos Archipelago and has submitted Preliminary Information with regard to an extended continental shelf area beyond 200 nautical miles from the archipelagic baselines.[462]

6.36 Since, as demonstrated, the excision of the Chagos Archipelago from Mauritius was void, the UK cannot rely on its unlawful act of dismembering Mauritius to base its claim to be the "coastal State" in regard to the Archipelago, and to establish maritime zones around the Archipelago. For the reasons given above, the Tribunal is requested to declare that the UK is not "the coastal State" within Part V of the Convention, and is therefore not entitled to claim an EEZ or an MPA with respect to the Chagos Archipelago. Under fundamental principles of international law which this Tribunal is bound by the Convention to apply, it is Mauritius – and not the UK – which is the "coastal State" in regard to the Archipelago.

II. Mauritius is entitled to avail itself of the rights of a coastal State based on the undertakings of the United Kingdom

6.37 In addition to the fundamental principles of international law discussed above, the specific undertakings made by the UK to Mauritius when it illegally excised the Chagos Archipelago from the territory of Mauritius were such as to deny entitlement to the UK to act as "the coastal State" within the meaning of the Convention. By virtue of the obligations to Mauritius that it assumed in these undertakings, the UK cannot be regarded as having exclusive rights as "the" coastal State within the meaning of Part V of the Convention, such as to allow it unilaterally to establish an EEZ or a marine protected area.

6.38 Part II of Chapter 3 describes meetings which took place at the time of the final Constitutional Conference for Mauritius in September 1965 at Lancaster House in London.[463] Paragraph 22 of the official Record of the meeting at Lancaster House on 23 September 1965 notes that the UK was prepared to make specific undertakings to Mauritius in order to secure the agreement of the Ministers of the colony to the excision

[461] Para. 3.84 above, and accompanying footnotes.

[462] Paras 4.2, 4.28 and 4.32 above.

[463] Paras 3.22-3.34 above.

of the Chagos Archipelago, and it was on the basis of the undertakings and conditions there recorded that the Mauritius Council of Ministers gave their "agreement" to the proposal for detachment.[464] The undertakings reflect concessions that the Mauritian delegation extracted from the UK during the Lancaster House meeting of 23 September 1965. They were not amongst those that the UK had been prepared to offer.[465] The undertakings relevant to this chapter concern (i) the reversion of the Chagos Archipelago to Mauritius when they were no longer needed for defence purposes, and (ii) the recognition of fishing rights, and the reversion of the benefit of oil and mineral rights.

6.39 Although the validity of these undertakings is premised on the UK having title to the Chagos Archipelago and thus having the power to make the undertakings – a premise which Mauritius rejects – it is not open to the UK to resile from the undertakings, and indeed it has confirmed their continuing validity on numerous occasions. For the purpose of this submission, Mauritius is entitled to rely on these undertakings, whilst reaffirming its rejection of the legal entitlement which the UK claimed in making them.

(1) Undertakings regarding the reversion of the Chagos Archipelago to Mauritius

6.40 In the first place, the excision of the Chagos Archipelago from the territory of Mauritius was subject to the undertaking that the Archipelago would revert to Mauritius when it was no longer needed for defence purposes. The promise was made, as noted in paragraph 22 of the Record of the Meeting at Lancaster House of 23 September 1965, in the following terms: "that if the need for the facilities on the islands disappeared the islands should be returned to Mauritius."[466] A similar formulation was used by the UK Prime Minister in the House of Commons on 11 July 1980: "in the event of the islands no longer being required for defence purposes, they should revert to Mauritius."[467] In both formulations, the UK statement acknowledges the prior right of Mauritius to the Chagos Archipelago. In later iterations of the undertaking the UK changed the formulation to: "we have undertaken to cede the Territory to Mauritius when it is no

[464] See paras 3.30-3.33 above. For the disputed validity of the agreement of a colony to the dismemberment of its own territory see paras. 6.25-6.30 above.

[465] The undertakings that the United Kingdom initially presented to the Mauritian Ministers included only: (i) negotiations for a defence agreement between Britain and Mauritius; (ii) if Mauritius became independent, there should be an understanding that the two governments would consult together in the event of a difficult internal situation arising in Mauritius; (iii) the United Kingdom should use its good offices with the United States in support of Mauritius' request for concessions over the supply of wheat and other commodities; and (iv) compensation in the amount of £3 million should be paid to Mauritius in addition to compensation paid to landowners and others affected in the Chagos Archipelago. These undertakings, the Secretary of State informed the Mauritian Ministers, were "the furthest the British Government could go." Nonetheless, the United Kingdom, due to the insistence of the Mauritian Ministers, did, in fact, expand its undertakings: Record of a Meeting held in Lancaster House at 2.30 p.m. on Thursday 23rd September [1965], Mauritius Defence Matters, CO 1036/1253: Annex 19, pp. 1-2.

[466] Para. 3.31 above.

[467] House of Commons Hansard, HC Deb 11 July 1980, vol. 988 c314W: Annex 94.

longer needed for defence purposes."[468] This change of formulation cannot affect the pre-existing commitment to reversion, which is premised on the existence of the sovereign rights of Mauritius. The UK continues to acknowledge the legal interest of Mauritius in the Chagos Archipelago. For example, on 1 July 1992 the British High Commissioner in Mauritius wrote to the Mauritian Prime Minister in the following terms:

> "The British Government has always acknowledged […] that Mauritius has a legitimate interest in the future of [the Chagos Archipelago] and recognises the Government of the Republic of Mauritius as the only State which has a right to assert a claim to sovereignty when the United Kingdom relinquishes its own sovereignty."[469]

A similar formulation was used by Mr Straw, when Foreign Secretary on 6 July 2001;[470] it was also used by UK representatives to the Indian Ocean Tuna Commission in 2009.[471]

6.41 It should be recalled that the promise of reversion of the Chagos Archipelago to Mauritius acted as an inducement to the "agreement" by the Mauritian Ministers to the proposals for excision. Premier Ramgoolam had initially made clear that Mauritius could not accept detachment of the islands, and proposed that instead a lease should be granted to the US by Mauritius for defence purposes.[472] This proposal was rejected by the UK, not because the Government did not believe that Mauritius would not have title to lease the territory, but as a result of US objections. The promise to make the reversion – thus restoring to Mauritius the enjoyment of full rights of sovereignty which legally inhere in Mauritius – involves a recognition by the UK of a continuing legal interest of Mauritius in the Chagos Archipelago, indeed a prior title of Mauritius.

(2) Undertakings regarding fishing rights

6.42 The UK undertook that the "British Government would use their good offices with the US Government to ensure" that "Fishing Rights" in "the Chagos Archipelago

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[468] E.g. Indian Ocean Tuna Commission, Report of the 13th Session of the Scientific Committee, 6 - 10 December 2010, IOTC-2010-SC-R[E]/rev1, Appendix XII: http://www.iotc.org/files/proceedings/2010/sc/IOTC-2010-SC-R[E]_rev1.pdf; and Indian Ocean Tuna Commission, Report of the 14th Session of the Scientific Committee, 12 - 17 December 2011, IOTC-2011-SC14-R[E], at p. 15: http://www.iotc.org/files/proceedings/2011/sc/IOTC-2011-SC14-R[E].pdf.

[469] The context of the letter is set out at para. 3.100 above.

[470] The "British Government acknowledges that Mauritius has a legitimate interest in the future of the islands and recognises Mauritius as the only State which could assert a claim to the territory in the event that the United Kingdom relinquishes its own sovereignty." See para. 7.49 below.

[471] E.g. twelfth session of the Indian Ocean Tuna Commission (2009), Report of the 12th Session of the Scientific Committee, 30 November-4 December 2009, IOTC-2009-SC-R[E], Appendix VII. Available at: http://www.iotc.org/files/proceedings/2009/sc/IOTC-2009-SC-R[E].pdf.

[472] Para. 3.20 above.

would remain available to the Mauritius Government as far as practicable."[473] The US understood this as giving Mauritius fishing rights in the Chagos Archipelago.[474]

6.43 The undertaking was acted upon soon after being made. On 10 November 1965, the Secretary of State for the Colonies requested that the Governor of Mauritius provide information regarding fishing in the waters of the Chagos Archipelago;[475] it was explained that the enquiry "related to the undertaking given to Mauritius Ministers in the course of discussions on the separation of Chagos from Mauritius."[476] In internal UK papers there can be found many further expressions of the UK recognition of Mauritius fishing rights in accordance with its undertaking.[477]

6.44 Mauritian fishing rights were in fact acknowledged, and accorded respect, in all the fisheries laws and regulations that were adopted by the UK for the "BIOT" prior to the adoption of the "MPA". Following the proclamation of a fisheries zone contiguous to the territorial sea of the "BIOT", a Fishery Limits Ordinance was promulgated on 17 April 1971. A licensing regime for fishing was introduced; fishing without licence was prohibited. It is clear from correspondence between the Foreign Office and the "BIOT" administration that this regime was intended to preserve Mauritius fishing rights in the Chagos Archipelago and would "enable Mauritian fishing boats to fish within the contiguous zone in the waters of the Chagos Archipelago."[478] The Foreign Office asked the British High Commission to describe the fishing regime to the Mauritius Government and to confirm that an exemption from the fishing prohibition would be made for Mauritian fishing boats. "This exemption stems from the

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[473] Para. 3.31 above.

[474] Para. 3.86 above, fn 257.

[475] Colonial Office Telegram No. 305 to Mauritius, 10 November 1965: Annex 34. The response from the Governor of Mauritius dated 17 November 1965 is to be found at Annex 37 (Mauritius Telegram (unnumbered) to the Secretary of State for the Colonies, 17 November 1965). It is plain from the exchanges between the Secretary of State and the Governor of Mauritius that the United Kingdom understood that the maritime space in which Mauritius enjoyed fishing rights extended well beyond the territorial sea of the Chagos Archipelago, and that these marine resources were of potentially great value for Mauritius. See paras 3.88-3.89 above.

[476] As indicated in para. 3.90 above.

[477] See paras 3.86-3.93 above. For example, in February 1966, the Colonial Office wrote to the Foreign Office in connection with a request for "details of present fishing rights and practice in the Chagos Archipelago," which it said were needed for "discussions with the Americans on maintaining the access of Mauritian fishermen to the islands." See Letter dated Letter dated 8 February 1966 from K.W.S. MacKenzie, Colonial Office to A. Brooke-Turner, UK Foreign Office, FO 371/190790: Annex 41. The letter further states: "We are … anxious to avoid anything in the nature of blanket restrictions on activities by Mauritian fishermen…" A letter dated 12 July 1967 from the Commonwealth Office to the Governor of Mauritius (C.A. Seller, Commonwealth Office to Sir John Rennie, K.C.M.G., O.B.E.,) addresses "the undertaking given to Mauritius Ministers in the course of discussions on the separation of Chagos from Mauritius" regarding the use of the United Kingdom's "good offices with the U.S. Government to ensure that fishing rights remained available to the Mauritius Government as far as practicable in the Chagos Archipelago." The Commonwealth Office told the Governor of Mauritius that "we are very much concerned to keep in mind the importance of the fishing grounds to Mauritius, for instance the possible importance of fishing the Chagos as a source of food, in view of the rapidly increasing population." See Letter dated 12 July 1967 from the UK Commonwealth Office to the Governor of Mauritius, FCO 16/226: Annex 50.

[478] Despatch dated 16 June 1971 from F.R.J. Williams, Seychelles to M. Elliott, UK Foreign and Commonwealth Office, BIOT/54/61: Annex 62. See discussion at paras. 3.94-3.96 above.

understanding on the fishing rights reached between HMG and the Mauritius Government, at the time of the Lancaster House Conference in 1965".[479] Mauritius' fishing rights in the Chagos Archipelago were further recognised by the UK in the "BIOT" Fishery Limits Ordinance 1984. Pursuant to a licensing regime similar to the earlier Ordinance, the "BIOT" Commissioner used the power in the Ordinance "for the purpose of enabling fishing traditionally carried on in areas within the fishery limits to be continued by fishing boats registered in Mauritius."[480] When the UK extended the fishing zone around the Chagos Archipelago to 200 nautical miles in 1991, traditional fishing rights in the waters of the Archipelago were explicitly recognised by the UK.[481]

6.45 On 1 July 1992 the British High Commissioner in Mauritius stated in a letter to the Mauritian Prime Minister that "[t]here are no plans to establish an exclusive economic zone around the Chagos islands" (a commitment from which the UK later resiled). He added that:

> "[t]he British Government has honoured the commitments entered into in 1965 to use its good offices with the United States Government to ensure that fishing rights would remain available to Mauritius as far as practicable."[482]

The UK Government also emphasised that it would continue to issue licences to Mauritian fishing vessels free of charge and that it recognised "the special position of Mauritius and its long-term interest in the future of the British Indian Ocean Territory."[483]

6.46 These examples of recognition by the UK of the fishing rights enjoyed by Mauritius indicate that the UK accepted its obligation under the 1965 undertaking to accord these rights. The rights are not accorded simply by reason of their being "traditional" rights but, as was frequently acknowledged by the UK authorities, by virtue of the undertaking given to Mauritius at the time of the detachment of the Chagos

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[479] *Ibid*. On 29 November 1977, Sir Seewoosagur Ramgoolam referred to the UK's recognition of the jurisdiction of Mauritius over the waters of the Chagos Archipelago in a Parliamentary Answer (Mauritius Legislative Assembly, 29 November 1977, Reply to PQ No. B/634: Annex 83).

[480] "British Indian Ocean Territory" Notice No. 7 of 1985: Annex 98. See para. 3.98 above.

[481] Note Verbale dated 23 July 1991 from British High Commission, Port Louis to Government of Mauritius, No. 043/91: Annex 99. See para. 3.99 above. In particular, the Note refers to the protection and conservation of tuna stocks to "protect the future fishing interests of the Chagos group."

[482] Letter dated 1 July 1992 from the British High Commissioner, Port Louis to the Prime Minister of Mauritius: Annex 103. See para. 3.100 above.

[483] *Ibid*. Likewise, in 2003, when the United Kingdom declared an EPPZ within 200 nm of the Chagos Archipelago, it again assured Mauritius that its rights would remain unaffected. On 12 December 2003, the United Kingdom formally advised Mauritius that the FCMZ around the Chagos Archipelago regulates fishing activities "whilst protecting traditional Mauritian fishing rights there…" (Letter dated 12 December 2003 from the Minister responsible for Overseas Territories, UK Foreign and Commonwealth Office to the Minister of Foreign Affairs and Regional Cooperation, Mauritius: Annex 124. See paras. 4.19-4.21 above).

Archipelago, resulting from the "special position of Mauritius and its long-term interest in the future of" the Archipelago.[484]

(3) Oil and mineral rights

6.47 The UK further undertook in 1965 that "the benefit of any minerals or oil discovered in or near the Chagos Archipelago should revert to the Mauritius Government."[485] This was subsequently reaffirmed, for example, on 10 November 1997 by the UK Foreign Secretary, Robin Cook, who wrote to the Prime Minister of Mauritius, stating *inter alia*: "I also reaffirm that this Government has no intention of permitting prospecting for oil and minerals while the territory remains British, and acknowledge that any oil and mineral rights will revert to Mauritius when the Territory is ceded".[486] The acknowledgement that rights will *revert* to Mauritius necessarily implies the UK's belief that Mauritius has a pre-existing right or title and enjoys the rights as regards any oil and mineral deposits in the seabed surrounding the Chagos Archipelago.

6.48 The acknowledgement of such a right or title was also made clear in the statement on behalf of the UK Government in 1970 that:

> "The British Government have no intention of departing from the undertaking that the Government of Mauritius should receive the benefit of any minerals or oil discovered in the Chagos Archipelago or the off-shore areas in question in the event of the matter arising as a result of prospecting being permitted while the archipelago remains under United Kingdom sovereignty."[487]

The statement makes clear that in the view of the UK, Mauritius has existing rights to oil and minerals, should any be discovered. The UK is not permitting exploration or exploitation, and that is what prevents the rights being realised. The adoption of the "MPA" is thus a direct interference with Mauritius' mineral rights and their exercise.

6.49 It is significant that the UK did not object to Mauritius' submission in May 2009 to the Commission on the Limits of the Continental Shelf of Preliminary Information regarding the shelf appertaining to the Chagos Archipelago, apparently recognising, as discussed in paragraph 6.32 above, Mauritius' sovereign rights in regard to the seabed. And in July 2009 it was agreed by both Mauritius and the UK in bilateral talks "that it would be desirable to have a coordinated submission for an extended continental shelf in the Chagos Archipelago […] region to the UN Commission on the Limits of the Continental Shelf, in order not to prejudice the interest of Mauritius in that

[484] Para. 6.45 above.

[485] Record of a Meeting held in Lancaster House at 2.30 p.m. on Thursday 23rd September, Mauritius Defence Matters, CO 1036/1253: Annex 19. See para. 3.31 above.

[486] Para. 3.108 above. See paras 3.103-3.108 for other examples of the reaffirmation of the undertaking.

[487] See para. 3.105 above.

area and to facilitate its consideration by the Commission".[488] The proposal for a co-ordinated continental shelf submission constitutes a clear and significant recognition by the UK of Mauritius' interests in the Archipelago.

(4) Accordingly, Mauritius is entitled to avail itself of the rights of a coastal State

6.50 Following the unlawful excision of the Chagos Archipelago and until the purported establishment of the "MPA", the UK has, in word and practice, recognised fishing rights for Mauritius in the maritime zones around the Archipelago. It has also recognised mineral and oil rights for Mauritius which cannot be realised only because the UK has not been prepared to allow exploration or exploitation. While the UK has consistently asserted its claim to sovereignty over the Chagos Archipelago in response to protests by Mauritius, it has at the same time undertaken that sovereignty will "revert" to Mauritius in the future and has given its view that Mauritius is the only State with the right to claim sovereignty once the Archipelago is no longer needed for defence purposes. It has recognised what it calls "the special position of Mauritius and its long-term interest in the future of" the Chagos Archipelago, referring to this as a "beneficial interest" as early as 1964.[489]

6.51 Mauritius has no doubt of its sovereignty over the Chagos Archipelago, and its status as a "coastal State" in regard to the Archipelago. But if, *quod non*, the Tribunal were minded to give deference to the UK's physical possession of the Archipelago and its *de facto* exercise of powers, the Tribunal should also decide that in view of the unlawful manner in which the UK took and retained possession of the Archipelago, and the rights and interests which the UK has recognised as still belonging to Mauritius, Mauritius should be entitled to avail itself of the rights of a coastal State under Part V (and the other Parts) of the Convention.

6.52 The UK has long acknowledged the rights and legitimate interests of Mauritius in the Chagos Archipelago, rights and interests which are appurtenant to and can only originate in sovereign title, and which give rise to the rights of a "coastal State" under the Convention. Accordingly, even if the Tribunal were to presume that, despite its unlawful excision and retention of the Chagos Archipelago, the UK is also a "coastal State" in regard to the Archipelago – a presumption that Mauritius rejects – there would be no requirement, or justification, for a conclusion that the Convention demands that the UK be regarded as the *only* State entitled to enjoy such status. On the contrary, the Convention is sufficiently broad and flexible to comprehend, in appropriate circumstances (which will be infrequent), the existence of more than one "coastal State" in regard to a particular territorial jurisdiction.

III. Conclusion

6.53 Due to the unlawful basis of the UK's claim of sovereignty over the Chagos Archipelago, only Mauritius is legally entitled to exercise the rights of the "coastal

[488] Para. 4.34 above.

[489] Para. 3.10 above.

State" under the Convention with regard to the Archipelago. Even if the UK, *quod non,* were entitled to claim the status of a "coastal State" in regard to the Archipelago – despite its illegal excision from Mauritian territory – this would not deprive Mauritius of its status as a coastal State with regard to the Archipelago. As a coastal State with rights under the Convention, Mauritius is entitled to obtain a declaration that the purported "MPA" is unlawful under the Convention and without legal effect.

CHAPTER 7: THE "MPA" VIOLATES THE RIGHTS OF MAURITIUS UNDER THE CONVENTION

7.1 In Chapter 6, Mauritius set out its case that the UK is not a coastal State within the meaning of the Convention in regard to the Chagos Archipelago. It therefore lacks authority under the Convention to establish maritime zones of any kind in the waters of the Chagos Archipelago, or to seek to restrict activity in such areas. This Chapter deals with the unlawfulness of the UK's purported establishment of the "MPA" for the additional reason that, even if *quod non* the UK is a coastal State, the restrictions imposed by the "MPA", as well as the unilateral manner in which it was adopted, violate the rights of Mauritius and the UK's obligations under the Convention. These include rights of Mauritius long recognised by the UK and other States, including the United States which has characterised Mauritius as having "retained fishing and mineral […] rights to the Chagos Archipelago."[490]

7.2 In Section I, Mauritius demonstrates that the "MPA" breaches the following provisions of the Convention: (i) the obligation imposed on a coastal State under Article 2(3) of the Convention to exercise its sovereignty over the territorial sea subject to the Convention and other rules of international law, which include the general international law obligations to respect traditional rights relating to the exploitation of natural resources and to comply with legally binding undertakings; and (ii) the obligation under Articles 55 and 56, imposed on a coastal State that exercises rights under Part V of the Convention, to have "due regard" for the rights of other States in the coastal State's exclusive economic zone and to act "subject to the specific legal regime" established under that Part.

7.3 In Section II, Mauritius shows that the UK has also breached the Convention by establishing the "MPA" unilaterally and without entering into meaningful consultations with Mauritius or the responsible regional and international organisations. The UK's violations include, *inter alia*, its failure to fulfil the obligation to consult with interested States in relation to Mauritius' rights in the territorial sea and exclusive economic zone of the Chagos Archipelago. The failure of the UK to consult adequately with Mauritius also breaches its specific obligations in connection with straddling stocks and highly migratory species, under Articles 63 and 64 of the Convention, and Article 7 of the 1995 Agreement. The UK has further breached its obligations to endeavour to harmonise with Mauritius and other States its policies for the control of pollution of the marine environment, as required by Article 194 of the Convention. Further, by failing to make readily accessible pertinent laws and regulations, the UK has breached its obligation under Article 62(5) to "give due notice of conservation and management laws and regulations."

7.4 Finally, in Section III, Mauritius shows that the UK has breached the Convention for the additional reason that it has failed to comply with its obligation

[490] Office of International Security Operations Bureau, Politico-Military Affairs, United States Department of State, "Disposition of the Seychelles Islands of the BIOT", 31 October 1975: Annex 74.

under Article 300 to exercise its rights under the Convention in ways that do not constitute an abuse of rights.

I. Breaches of the Convention Relating to the Establishment of the "MPA".

7.5 As demonstrated in the paragraphs that follow, even if the UK is a "coastal State," as it claims and Mauritius disputes, the UK has breached its obligations to Mauritius under the Convention because its creation and enforcement of the "MPA" breach the requirements of the Convention regarding the exercise of rights in the territorial sea and exclusive economic zone, including Articles 2(3), 55, and 56(2).

(1) Territorial Sea

7.6 With respect to the territorial sea, Article 2(1) establishes that "[t]he sovereignty of a coastal State extends, beyond its land territory and internal waters, and in the case of an archipelagic State, its archipelagic waters, to an adjacent belt of sea, described as the territorial sea." Article 2(3) limits the coastal State's exercise of sovereignty over the territorial sea, by requiring it also to comply with obligations arising under "other rules of international law". Specifically, Article 2(3) provides that "The sovereignty over the territorial sea is exercised subject to this Convention and to other rules of international law."

7.7 Those "other rules of international law" include (i) the obligation to respect traditional rights to access natural resources; and (ii) the obligation to comply with the legal obligations created by the UK's declarations concerning Mauritius' fishing rights in the territorial sea.

7.8 These are both rules of international law that are not incompatible with the Convention within the meaning of Article 293, and the UK has plainly breached both of them. For the reasons set out below, Mauritius enjoys traditional fishing rights in the waters of the Chagos Archipelago, as demonstrated by the longstanding, open and consensual use of those waters by Mauritius, and by the UK's own undertakings.[491] Further, the UK has, pursuant to unilateral undertakings, acknowledged and committed itself to respect the right of Mauritius to fish in the waters adjacent to the Chagos Archipelago. Thus, by establishing and applying the "MPA" in a manner that purports to deny the exercise by Mauritius of its rights, the UK has breached Article 2(3) of the Convention.

(a) Traditional rights

7.9 Even if the UK is the coastal State with respect to the territorial sea adjacent to the Chagos Archipelago (which it is not), it is subject to an obligation under the Convention to respect historically acquired rights in those waters and in particular – as attested by long and consistent international case law – traditional fishing rights.

[491] See paras 3.86 to 3.102.

7.10 Under general international law, even if the Chagos Archipelago was lawfully detached from Mauritius (which, as Mauritius sets out in Chapter 6, it was not), the detachment cannot render void any existing rights of access or use, or other rights related to the exploitation of natural resources. The Arbitral Tribunal in the *Abyei* arbitration (*Government of Sudan v. Sudan People's Liberation Movement/Army*) has recently confirmed the existence of a clear rule of international law that where title to territory is transferred, that transfer does not *per se* "extinguish traditional rights to the use of transferred territory." Thus, the Tribunal held that international jurisprudence and treaty practice support the:

> "principle that, in the absence of an explicit prohibition to the contrary, the transfer of sovereignty in the context of boundary delimitation should not be construed to extinguish traditional rights to the use of land (or maritime resources)."[492]

7.11 The same principle is known in the international law of the sea more generally, where new claims to maritime jurisdiction may conflict with other States' traditional use of an area of the sea. Sir Gerald Fitzmaurice put the point as follows:

> "[I]f the fishing vessels of a given country have been accustomed from time immemorial, or over a long period, to fish in a certain area, on the basis of the area being high seas and common to all, it may be said that their country has through them […] acquired a vested interest that the fisheries of that area should remain available to its fishing vessel (of course on a non-exclusive basis) – so that if another country asserts a claim to that area as territorial waters, which is found to be valid or comes to be recognised, this can only be subject to the acquired rights of fishery in question, which must continue to be respected."[493]

The rationale for this rule is that historically acquired traditional fishing rights are the *stronger* right in issue, "since it only involves the retention and continued exercise of an existing right, not the acquisition of a new one."[494] The principle was applied in the *Fisheries Jurisdiction Case (Federal Republic of Germany v. Iceland)*, where the Court

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[492] *Government of Sudan v. Sudan People's Liberation Movement/Army*, Final Award of 22 July 2009, para. 753 (emphasis added). This is a straightforward application of the general international law principle that "[c]ustomary rights 'run with the land,' and whichever party in international adjudication is assigned title to a particular territory is bound to give effect to these rights as a matter of international law": *Abyei Arbitration*, para. 754 (quoting *Eritrea v. Yemen*, First Stage of the Proceedings, para. 126). This is because "customary rights are […] servitudes *jure gentium* or *'servitudes internationales.*'" *Abyei Arbitration*, para. 754 (quoting *Eritrea v. Yemen*, First Stage of the Proceedings, para. 126). See also, e.g., *Case Concerning Right of Passage over Indian Territory* (Portugal v. India), paras 35-43 (Portugal continued to enjoy certain rights of passage over Indian territory that had previously been Portuguese).

[493] Sir Gerald Fitzmaurice, *The Law and Procedure of the International Court of Justice*, Cambridge University Press, 1986, p. 181. See further *Case Concerning Fisheries Jurisdiction* (Federal Republic of Germany v. Iceland), Merits, 25 July 1974, para. 61.

[494] Sir Gerald Fitzmaurice, *The Law and Procedure of the International Court of Justice*, Cambridge University Press, 1986, p. 181.

held that Iceland's newly asserted "preferential rights" in a 50 nautical mile fishing zone had to "be reconciled with the traditional fishing rights of the Applicant."[495]

7.12 International courts and tribunals have applied this principle to require that traditional fishing rights be respected. Indeed, as early as the *Behring Sea Arbitration* in 1893, arbitral tribunals have acted to preserve traditional fishing rights in the context of maritime delimitation. In that case, the tribunal exempted "Indians dwelling on the coasts of the territory of the United States or of Great Britain" from the otherwise applicable legal regimes.[496]

7.13 More recently, in *Eritrea v. Yemen*, the arbitral tribunal ruled that its award of sovereignty over the islands in dispute did not displace the parties' traditional fishing rights in the waters adjacent to those islands. It held that:

> "In finding that the Parties each have sovereignty over various of the Islands the Tribunal stresses to them that such sovereignty is not inimical to, but rather entails, the perpetuation of the traditional fishing regime in the region. This existing regime has operated, as the evidence presented to the Tribunal amply testifies, around the Hanish and Zuqar islands and the islands of Jebel al-Tayr and the Zubayr group. In the exercise of its sovereignty over these islands, Yemen shall ensure that the traditional fishing regime of free access and enjoyment for the fishermen of both Eritrea and Yemen shall be preserved for the benefit of the lives and livelihoods of this poor and industrious order of men."[497]

7.14 On this basis, the Tribunal ruled in its *Dispositif* that "the sovereignty found to lie with Yemen entails the perpetuation of the traditional fishing regime in the region, including free access and enjoyment for the fishermen of both Eritrea and Yemen."[498]

7.15 In its Second Stage Award on Maritime Delimitation, the Tribunal elaborated on the continuing existence of the traditional fishing regime:

> "The traditional fishing regime is not an entitlement in common to resources nor is it a shared right in them. Rather, it entitles both Eritrean and Yemeni fishermen to engage in artisanal fishing around the islands which, in its Award on Sovereignty,

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[495] *Case Concerning Fisheries Jurisdiction* (Federal Republic of Germany v. Iceland), Merits, 25 July 1974, para. 61. See further para. 54 (where the Court held that Iceland's preferential rights "cannot imply the extinction of the concurrent rights of other States and particularly of a State which, like the Applicant [the Federal Republic of Germany], have for many years been engaged in fishing in the waters in question, such fishing activity being important to the economy of the country concerned".)

[496] *Award between the United States and the United Kingdom relating to the rights of jurisdiction of United States in the Berhing's sea and the preservation of fur seals*, 15 August 1893, RIAA, Vol. XXVII, p. 271.

[497] *Eritrea v. Yemen, Award of the Arbitral Tribunal in the First Stage of the Proceedings (Territorial Sovereignty and Scope of the Dispute)*, 9 October 1998, para. 526.

[498] *Ibid*., para. 527(vi).

> the Tribunal attributed to Yemen. This is to be understood as including diving, carried out by artisanal means, for shells and pearls. Equally, these fishermen remain entitled freely to use these islands for those purposes traditionally associated with such artisanal fishing – the use of the islands for drying fish, for way stations, for the provision of temporary shelter, and for the effecting of repairs."[499]

7.16 The Tribunal in the *Abyei* arbitration reached a similar conclusion in regard to traditional grazing rights (while making clear that the principle at issue applied equally to "maritime resources").[500] It ruled that, notwithstanding the boundary delimitation, the parties were legally obligated to continue to respect traditional grazing rights. In that connection, it held that:

> "As a matter of 'general principles of law and practices' […] traditional rights, in the absence of an explicit agreement to the contrary, have usually been deemed to remain unaffected by any territorial delimitation."

Consequently, historic users were found to have "retain[ed] their established secondary rights to the use of land north and south of this boundary."[501]

7.17 Respect for traditional fishing rights is also reflected in State treaty practice, including that of the UK.[502]

7.18 Further, a coastal State is not entitled to vitiate historically acquired rights under the guise of enacting otherwise lawful environmental regulations. In *Eritrea v. Yemen*, the Tribunal made clear that Yemen could not, without Eritrea's consent, weaken Eritrea's traditional fishing rights by enacting environmental regulations that would undermine those rights. The Tribunal held: "Insofar as environmental considerations may in the future require regulation, any administrative measures impacting upon these traditional rights shall be taken by Yemen only with the agreement of Eritrea…"[503]

7.19 As described in Chapter 3, Mauritius possesses rights in the territorial sea in relation to fisheries resources. The UK has acknowledged those rights, and is obligated to respect them. As set out in Chapter 3, that recognition is long-standing. The UK

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[499] *Eritrea v. Yemen, Award of the Arbitral Tribunal in the Second Stage of the Proceedings (Maritime Delimitation)*, 17 December 1999, para. 103.

[500] *Abyei Arbitration*, para. 753.

[501] *Ibid*., para. 766.

[502] David Anderson, *Modern Law of the Sea*, 2008, p. 413 ("The preservation of existing fishing patterns is something which has been provided for in recent boundary agreements, for example, the Agreement between Honduras and the United Kingdom (Cayman Islands). The Agreement between Denmark (Faroe Islands) and the United Kingdom in effect perpetuated as a 'Special Area' an area of overlapping fisheries jurisdiction, which straddled the agreed continental shelf boundary").

[503] *Eritrea v. Yemen, Award of the Arbitral Tribunal in the Second Stage of the Proceedings (Maritime Delimitation)*, 17 December 1999, para. 108 (emphasis added).

unequivocally recognised those rights at the Lancaster House meeting[504] and on many subsequent occasions.[505]

7.20 Similarly, in April 1969, the FCO referred to the proposed creation of a fishing zone within 12 nautical miles of the coastline of the Chagos Archipelago. "Mauritian fishing vessels," the FCO stated, should be allowed to exercise their "fishing rights" throughout the 12-mile zone. Any restrictions should be limited to "the immediate vicinity of islands which might in future be used for defence purposes […] and would be kept to the minimum compatible with our security requirements."[506] Beyond the six-mile limit, the FCO considered that there should be no restrictions at all on Mauritian fishing activities. Similarly, on 4 July 1975, the UK affirmed its recognition of Mauritius' "fishing rights" in the waters of the Chagos Archipelago.[507]

7.21 By adopting the "MPA", which imposes a "no take" regime with no accommodation for those acknowledged rights of Mauritius in the territorial sea of the Chagos Archipelago, the UK has breached Article 2(3) of the Convention.

(b) Legally binding undertakings

7.22 The UK has further breached Article 2(3) of the Convention because, in exercising rights in the territorial sea of the Chagos Archipelago, it has violated another rule of international law, namely its obligation to comply with its unilateral undertakings to respect the fishing rights of Mauritius in the Archipelago's territorial sea.

7.23 It is well-established in international law that a State which undertakes by unilateral act a binding commitment engages its international responsibility if it breaches that commitment. This is obviously a rule of international law that is compatible with the Convention, within the meaning of Article 293. The International Law Commission's Guiding Principles Applicable to Unilateral Declarations of States Capable of Creating Legal Obligations states:

> "Declarations publicly made and manifesting the will to be bound may have the effect of creating legal obligations. When the conditions for this are met, the binding character of such declarations is based on good faith; interested States may then

[504] Record of a Meeting Held in Lancaster House at 2:30 p m. on Thursday 23 September [1965], Mauritius Defence Matters, para. 22: Annex 19. For the context of the Lancaster House meeting, see paras 3.22-3.34 above. For the UK's recognition of Mauritian fishing rights, see further paras 3.85-3.102 above.

[505] See paras 3.85-3.102 above.

[506] Despatch dated 28 April 1969 from J. W. Ayres, Foreign and Commonwealth Office to J. R. Todd, Administrator, "BIOT", FCO 31/2763: Annex 52.

[507] Memorandum by the UK Secretary of State for Foreign and Commonwealth Affairs, "British Indian Ocean Territory: The Ex-Seychelles Islands", 4 July 1975, para. 6: Annex 72.

take them into consideration and rely on them; such States are entitled to require that such obligations be respected."[508]

7.24 The ICJ ruled in the *Nuclear Test* cases that:

> "[i]t is well recognised that declarations made by way of unilateral acts, concerning legal or factual situations, may have the effect of creating legal obligations. Declarations of this kind may be, and often are, very specific. When it is the intention of the State making the declaration that it should become bound according to its terms, that intention confers on the declaration the character of a legal undertaking, the State being thenceforth legally required to follow a course of conduct consistent with the declaration. An undertaking of this kind, if given publicly, and with an intent to be bound, even though not made within the context of international negotiation, is binding […]."[509]

The Court further held that:

> "One of the basic principles governing the creation and performance of legal obligations, whatever their source, is the principle of good faith. Trust and confidence are inherent in international co-operation, in particular in an age when this co-operation in many fields is becoming increasingly essential. Just as the very rule of *pacta sunt servanda* in the law of treaties is based on good faith, so also is the binding character of an international obligation assumed by unilateral declaration. Thus interested States may take cognizance of unilateral declarations and place confidence in them, and are entitled to require that the obligation thus created be respected."[510]

7.25 As described in Chapter 3 and at paras. 7.19 to 7.20 above, the UK, at Lancaster House and on many occasions thereafter, *inter alia* undertook unilateral acts that gave rise to binding legal obligations with regard to Mauritius' fishing rights in the territorial sea adjacent to the Chagos Archipelago.[511] For example, on 23 September 1965, the UK undertook to protect "as far as practicable" the "Fishing Rights" of Mauritius in "the Chagos Archipelago.[512] This commitment was reaffirmed and reiterated by the UK on numerous occasions thereafter. On 15 July 1971, for instance, the British Deputy High Commissioner in Port Louis informed Mauritius that because

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[508] *Guiding Principles Applicable to Unilateral Declarations of States Capable of Creating Legal Obligations*, para. 1, International Law Commission, 58th session, Geneva, 1 May-9 June and 3 July-11 August 2006, Unilateral Acts of States, Report of the Working Group, Conclusions of the International Law Commission Relating to Unilateral Acts of States. A/CN.4/L.703 (20 July 2006).

[509] *Nuclear Test Case* (Australia v. France), Judgment, 20 December 1974, para. 43.

[510] *Ibid.*, para. 46.

[511] See paras 3.85 to 3.102 above.

[512] Record of a Meeting Held in Lancaster House at 2:30 p m. on Thursday 23 September [1965], Mauritius Defence Matters, para. 22: Annex 19.

"the BIOT fishing zone" – which was located within what is now the territorial sea of the Chagos Archipelago – has been "fished traditionally by vessels from Mauritius," the UK would "enable Mauritian fishing boats to continue fishing" in those waters, "bearing in mind the understanding on fishing rights reached between HMG and the Mauritius Government at the time of the Lancaster House Conference in 1965."[513]

7.26 Further, in connection with these undertakings, the UK specifically undertook to continue to grant Mauritian vessels licences to fish in the territorial sea of the Chagos Archipelago. It did so, for example, in July 1991, when it stated that, in light of Mauritius' "traditional fishing interests" in the area, it had granted "licences free of charge" and "shall continue to offer" such "licences free of charge on this basis."[514] The specific undertaking to continue to grant licences to Mauritian fishing vessels was later repeated, when the UK informed the Prime Minister of Mauritius that "[i]t has issued free licences for Mauritius fishing vessels" to fish in the "original 12 mile fishing zone of the territory," that is, in the current territorial sea of the Chagos Archipelago, and that the UK "will continue to do so, provided that the Mauritian vessels respect the licence conditions laid down to ensure proper conservation of local fishing resources."[515]

7.27 By failing to comply with these undertakings to allow Mauritius to exercise its right to fish in the territorial sea of the Chagos Archpelago, the UK has breached Article 2(3) of the Convention.

(2) Exclusive Economic Zone

7.28 The UK is also internationally responsible for breaching its obligations under the Convention with regard to the exclusive economic zone. In particular, the Convention requires that a State purporting to exercise rights under Part V must do so in a manner that respects the rights of other States in the EEZ. This obligation is set forth in Article 56(2), which requires the coastal State to have "due regard" for the rights of other States in the EEZ:

> "In exercising its rights and performing its duties under this Convention in the exclusive economic zone, the coastal State shall have due regard to the rights and duties of other States and shall act in a manner compatible with the provisions of this Convention."

7.29 This provision imposes upon the UK a distinct obligation to "have due regard to the rights" of Mauritius. Such rights must include: (i) traditional rights to natural resources; and (ii) rights created or recognised by unilateral acts. Indeed, the duty of coastal States to respect traditional fishing rights in the territorial sea (discussed above at paras. 7.9 to 7.21) applies with equal force in the EEZ. As the Tribunal explained in *Eritrea v. Yemen*:

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[513] See para. 3.95 above.

[514] See para. 3.99 above.

[515] Letter dated 1 July 1992 from the British High Commissioner, Port Louis to the Prime Minister of Mauritius: Annex 103. See further para. 3.100 above.

> "The traditional fishing regime is not limited to the territorial waters of specified islands; nor are its limits to be drawn by reference to claimed past patterns of fishing. […] By its very nature it is not qualified by the maritime zones specified under the United Nations Convention on the Law of the Sea, the law chosen by the Parties to be applicable to this task in this Second Stage of the Arbitration. The traditional fishing regime operates throughout those waters beyond the territorial waters of each of the Parties, and also in their territorial waters and ports, to the extent and in the manner specified in paragraph 107 above."[516]

7.30 The general rule that a coastal State must respect historically acquired traditional rights in its EEZ is plainly compatible with the Convention. Indeed, its compatibility is confirmed by Article 51(1), which states that "an archipelagic State shall respect existing agreements with other States and shall recognise traditional fishing rights and other legitimate activities of the immediately adjacent neighbouring States in certain areas falling within archipelagic waters."[517] The consequence of the introduction of the regime of archipelagic waters in the Convention is that traditional rights of fishing and navigation (as dealt with in Article 53(4) and (12)) might be affected, resulting in precisely the type of conflict of rights described by Sir Gerald Fitzmaurice above (at para. 7.11). To the extent that Article 51 is not said to be directly applicable to the present dispute (on the basis that the UK might not have claimed the status of an archipelagic State under the Convention), the existence of Article 51 confirms that the rule of general international law that a coastal State which purports to change the legal regime applicable to its adjacent waters must respect traditional rights is not incompatible with the Convention.

7.31 Mauritius unquestionably has fishing rights in the exclusive economic zone of the Chagos Archipelago, which the UK has acknowledged and specifically undertaken to respect. For example, on 12 July 1967, the Commonwealth Office acknowledged that "Mauritius fishing vessels" have the right to "unrestricted access" to "the high seas within the [Chagos] Archipelago," referencing an area that is now encompassed by the Archipelago's exclusive economic zone.[518] Similarly, on 23 July 1991, the British High Commission in Port Louis, in conveying to Mauritius that the UK intended to extend its fishing zone around the Chagos Archipelago to 200 nautical miles, stated that it would continue to allow Mauritian vessels to fish in the waters of the Chagos Archipelago "[i]n view of the traditional fishing interests of Mauritius in the waters surrounding

[516] *Eritrea v. Yemen, Award of the Arbitral Tribunal in the Second Stage of the Proceedings (Maritime Delimitation)*, 17 December 1999, para. 109.

[517] This is an obligation that is also reflected in customary international law: R.R. Churchill & A.V. Lowe, *The Law of the Sea* (3rd. ed.), 1999, p. 130 ("The development of a special regime for archipelagos by the Law of the Sea Convention, and now reflected in customary international law, has succeeded in meeting the aspirations of archipelagic States while at the same time satisfying the interests of maritime States.").

[518] Letter dated 12 July 1967 from the UK Commonwealth Office to the Governor of Mauritius, FCO 16/226: Annex 50.

British Indian Ocean Territory […]."[519] Likewise, in July 1992, the British High Commissioner in Port Louis referred to the UK's undertaking to grant free licences for Mauritian fishing vessels to exercise their fishing rights, not only in the 12-mile territorial sea of the Chagos Archipelago, but also in "the wider waters of the [200 mile] exclusive fishing zone."[520] In December 2003, the UK, referring to the creation of the FCMZ around the Chagos Archipelago, stated that it would continue to "protect […] traditional Mauritian fishing rights […]."[521]

7.32 Mauritius' fishing rights in the Chagos Archipelago's EEZ, which the UK has acknowledged and undertaken to respect, are plainly rights and obligations to which the UK must have "due regard" under Article 56(2) of the Convention. By establishing an "MPA" that fails to accommodate Mauritius' rights, the UK has breached its obligations under that provision of the Convention.

7.33 The UK has also separately violated Article 55 of the Convention. Article 55 provides that:

> "The exclusive economic zone is an area beyond and adjacent to the territorial sea, subject to the specific legal regime established in this Part, under which the rights and jurisdiction of the coastal State and the rights and freedoms of other States are governed by the relevant provisions of this Convention."

7.34 Thus, by its terms, Article 55 requires that the exercise of rights under Part V be "subject to the specific legal regime established" in that Part of the Convention. This includes Article 56(2)'s obligation to have "due regard" for the rights of other States, which necessarily encompasses historically acquired rights to natural resources in the exclusive economic zone and rights created and recognised by unilateral acts. Consequently, because the UK has purported to establish and implement the "MPA" in a manner that fails to respect the rights of Mauritius in the Chagos Archipelago's exclusive economic zone, it has breached Article 55.[522]

7.35 In conclusion, the UK is obliged to respect and accommodate Mauritius' rights in the territorial sea and exclusive economic zone of the Chagos Archipelago. The "MPA", which violates those rights, breaches the UK's obligations to Mauritius under *inter alia* Articles 2, 55 and 56 of the Convention.

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[519] Note Verbale dated 23 July 1991 from British High Commission, Port Louis to Government of Mauritius, No. 043/91: Annex 99.

[520] Letter dated 1 July 1992 from the British High Commissioner, Port Louis to the Prime Minister of Mauritius: Annex 103.

[521] Letter dated 12 December 2003 from the Minister responsible for Overseas Territories, UK Foreign and Commonwealth Office to the Minister of Foreign Affairs and Regional Cooperation, Mauritius: Annex 124.

[522] In addition, Article 55 is further breached because, as detailed at paragraphs 7.55 to 7.61, the United Kingdom has also failed to adequately consult with Mauritius prior to promulgating the "MPA".

II. The United Kingdom Failed To Consult Adequately with Mauritius or Relevant Regional or International Organisations

7.36 In Chapter 4, Mauritius described the developments leading to the UK's purported establishment and implementation of the "MPA", and showed that the UK made no meaningful effort to engage in genuine consultation on the proposal. This is despite: (i) Mauritius' expressly recognised rights and interests in the waters of the Chagos Archipelago, especially as regards fishing and conservation generally; and (ii) Mauritius' frequent requests that it be consulted about such matters. Nor did the UK engage adequately with the relevant regional and international organisations, including most notably the IOTC, the regional organisation established for the express purpose of facilitating cooperative arrangements with respect to tuna, a highly migratory species listed in Annex I of the Convention.

7.37 The unilateral approach of the UK to the adoption of the "MPA" breaches, among other things, the following obligations under the Convention and the 1995 Agreement:

(i) the obligation under Article 2(3) of the Convention to consult with interested States with regard to the exercise of rights in the territorial sea;

(ii) the obligation under Article 56(2) of the Convention to consult with interested States with regard to the exercise of the coastal State's rights under Part V of the Convention;

(iii) the obligation under Articles 63 and 64 of the Convention and Article 7 of the 1995 Agreement to consult with interested States with regard to straddling stocks and highly migratory species;

(iv) the obligation under Article 194(1) of the Convention to "endeavour to harmonise" policies in relation to marine pollution with those of Mauritius and other States in the region; and

(v) the obligation under Article 62(5) of the Convention of a coastal State to "give due notice of conservation and management laws and regulations."

(1) The obligation to consult

7.38 The UK was required by the Convention to consult with Mauritius with regard to the purported adoption of the "MPA". With respect to the *territorial sea*, the UK's obligation to consult is imposed by Article 2(3) of the Convention, which requires a coastal State to exercise its rights in the territorial sea "subject to this Convention and to other rules of international law."

7.39 This includes the obligation under general international law to consult with interested States in relation to matters that can affect their rights. In that regard, the Arbitral Tribunal in the *Lac Lanoux Case* concluded that unilateral measures affecting another State's interests in a shared resource require consultations and negotiations

which are genuine, which comply with the rules of good faith and which are not conducted as mere formalities.[523] Numerous other cases confirm this basic proposition. As a general principle of law, where States are in dispute as to the delimitation of a shared maritime boundary the ICJ has held that:

> "The parties are under an obligation to enter into negotiations with a view to arriving at an agreement, and not merely to go through a formal process of negotiation or a sort of prior condition for the automatic application of a certain method of delimitation in the absence of agreement; they are under an obligation so to conduct themselves that the negotiations are meaningful, which will not be the case when either of them insists upon its own position without contemplating any modification of it."[524]

7.40 The ICJ has consistently repeated that States "are under an obligation so to conduct themselves that the negotiations are meaningful".[525] In a different context, the World Trade Organisation Appellate Body formulated the standard as requiring that measures which are undertaken for legitimate environmental purposes, but which may impact other States' rights under a treaty regime, must involve *inter alia* "ongoing serious, good faith efforts to reach a multilateral agreement,"[526] in order not to constitute an *abus de droit*.[527] As Professor Bin Cheng has put it:

> "Whatever the limits of the right might have been before the assumption of the obligation, from then onwards the right is subject to a restriction. Henceforth, whenever its exercise impinges on the field covered by [a] treaty obligation, it must be exercised bona fide, that is to say, reasonably. A reasonable and bona fide exercise of a right in such a case is one which is appropriate and necessary for the purpose of the right (i.e., in furtherance of the interests which the right is intended to protect). It should at the same time be fair and equitable as between the parties and not one which is calculated to procure for one of them an unfair advantage in the light of the obligation

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[523] *Lac Lanoux Arbitration* (Spain v. France), (1957) XII UNRIAA 281, 315 at para. 22; 24 ILR 101, 139 at para. 22 ("communications [...] cannot be confined to purely formal requirements, such as taking note of complaints, protests or representations made by the downstream State. The Tribunal is of the opinion that, according to the rules of good faith, the upstream State is under the obligation to take into consideration the various interests involved, to seek to give them every satisfaction compatible with the pursuit of its own interests, and to show that in this regard it is genuinely concerned to reconcile the interests of the other riparian State with its own.")

[524] *North Sea Continental Shelf Case* (Federal Republic of Germany v. Denmark), Judgment, ICJ Reports 1969, p. 3, at para. 85(a) (emphasis added).

[525] *Gabčíkovo-Nagymaros Project* (Hungary v. Slovakia), Judgment, ICJ Reports 1997, p. 7, para. 141; *Pulp Mills on the River Uruguay* (Argentina v. Uruguay), Judgment, ICJ Reports 2010, p. 14, para. 146.

[526] *United States - Import prohibition of certain shrimp and shrimp products* (Report of the Appellate Body, 22 October 2001), WT/DS58/AB/RW, paras 152-3.

[527] *United States – Import prohibition of certain shrimp and shrimp products* (Report of the Appellate Body, 12 October 1998), WT/DS58/AB/R, para. 158.

> assumed. A reasonable exercise of the right is regarded as compatible with the obligation. But the exercise of the right in such a manner as to prejudice the interests of the other contracting party arising out of the treaty is unreasonable and is considered as inconsistent with the bona fide execution of the treaty obligation, and a breach of the treaty."[528]

7.41 This principle is clearly applicable to Mauritius' historic fishing rights, as preserved under treaty by Article 2(3) of the Convention. Therefore, if the UK's imposition of a unilateral "MPA" which effectively extinguishes Mauritius' traditional fishing rights in the territorial sea surrounding the Chagos Archipelago is not to constitute an abuse of its rights, the UK must have either: (a) secured the agreement of Mauritius; or alternatively (b) at least entered into genuine, serious and good faith efforts to reach an agreement with Mauritius as to how those rights may continue to be exercised. Such discussions may not be conducted as mere formalities.

7.42 This must particularly be the case, given the clear intention of the drafters of the Convention, as expressed in the Third Resolution of the Final Act, that:

> "In the case of a territory whose people have not attained full independence or other self-governing status recognised by the United Nations [...] provisions concerning rights and interests under the Convention shall be implemented for the benefit of the people of the territory with a view to promoting their well being and development."

7.43 The obligation to consult also applies to a proposed regulation that affects a State which has rights appertaining to the coastal State's *exclusive economic zone*. In this regard, Article 56(2) of the Convention requires a coastal State to have "due regard" for the rights of other States when it exercises jurisdiction pursuant to Part V of the Convention.

7.44 The context of Article 56(2) supports the conclusion that coastal States are obligated to consult, including with regional and international organisations, when considering actions that could infringe upon the rights of other States. The *Virginia Commentary* makes clear that this provision "balances the rights, jurisdiction and duties of the coastal State with the rights and duties of the other States in the exclusive economic zone."[529] That balance must be struck amicably, and with the spirit of co-operation mandated throughout the Convention.[530] For that purpose, Article 56(2) not only establishes that a coastal State give "due regard" to the "rights" of other States, it also requires that the coastal State "act in a manner compatible with the provisions of this Convention." Those provisions include Article 61:

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[528] B. Cheng, *General Principles of Law as applied by International Courts and Tribunals* (Stevens and Sons, Ltd., 1953), p. 125.

[529] Center for Oceans Law and Policy, University of Virginia Law School, *United Nations Convention On The Law Of The Sea 1982: A Commentary*, vol. II, p. 543, para. 56.11(f) ("Virginia Commentary") (emphasis added).

[530] Convention, Articles 300-301.

> "The coastal State, taking into account the best scientific evidence available to it, shall ensure through proper conservation and management measures that the maintenance of the living resources in the exclusive economic zone is not endangered by over-exploitation. As appropriate, the coastal State and competent international organisations, whether subregional, regional or global, shall cooperate to this end."

7.45 The latter obligation is also embodied in Article 197, which establishes the Contracting States' obligation to cooperate on a regional basis, directly or through competent international organisations, in formulating and elaborating international rules consistent with the Convention, for the protection and preservation of the marine environment. Although the Convention itself does not explicitly set out the parameters of the co-operation that should take place, general international law recognises that the duty of co-operation includes the provision of information on a timely basis, and good faith consultations between the parties.[531]

7.46 The ICJ has stressed the importance of an adequate consultative process in circumstances where a coastal State seeks to regulate fisheries in a manner that could impinge upon the rights of other States. In the *Fisheries Jurisdiction* cases the Court held that:

> "The most appropriate method for the solution of the dispute is clearly that of negotiation. Its objective should be the delimitation of the rights and interests of the Parties, the preferential rights of the coastal State on the one hand and the rights of the Applicant on the other, to balance and regulate equitably questions such as those of catch-limitation, share allocations and 'related restrictions concerning areas closed to fishing, number and type of vessels allowed and forms of control of the agreed provisions (*Fisheries Jurisdiction (Federal Republic of Germany v. Iceland), Interim Measures, Order of 12 July 1973*, p. 314, para. 7). This necessitates detailed scientific knowledge of the fishing grounds. It is obvious that the relevant information and expertise would be mainly in the possession of the Parties. The Court would, for this reason, meet with difficulties if it were itself to attempt to lay down a precise scheme for an equitable adjustment of the rights involved.

[531] *The Mox Plant Case* (Ireland v. United Kingdom), ITLOS Case No. 10, Request for provisional measures, Order of 3 December 2001), para. 82; *Case Concerning Land Reclamation by Singapore in and Around the Straits of Johor* (Malaysia v. Singapore), ITLOS Case No. 12, Request for provisional measures, Order of 8 October 2003, para. 92; 1972 Stockholm Declaration, U.N. Doc. A/Conf.48/14, reproduced in 11 I.L.M 1416 (1972), Principle 24 ("Co-operation through multilateral and bilateral agreements or other appropriate means is essential to effectively control, prevent, reduce and eliminate adverse environmental effects resulting from activities conducted in all spheres, in such a way that due account is taken of the sovereignty and interests of all States."); ILC Draft Articles on the Prevention of Transboundary Harm from Hazardous Activities (2001), arts. 4, 9, 12; 1987 *Restatement of the Law: Foreign Relations Law of the United States*, para. 601.

> It is implicit in the concept of preferential rights that negotiations are required in order to define or delimit the extent of those rights, as was already recognised in the 1958 Geneva Resolution on Special Situations relating to Coastal Fisheries, which constituted the starting point of the law on the subject. This Resolution provides for the establishment, through collaboration between the coastal State and any other States fishing in the area, of agreed measures to secure just treatment of the special situation.
>
> The obligation to negotiate thus flows from the very nature of the respective rights of the Parties; to direct them to negotiate is therefore a proper exercise of the judicial function in this case. This also corresponds to the Principles and provisions of the Charter of the United Nations concerning peaceful settlement of disputes."[532]

7.47 The Court went on to state that "this obligation merely constitutes a special application of a principle which underlies all international relations, and which is moreover recognised in Article 33 of the Charter of the United Nations as one of the methods for the peaceful settlement of international disputes."[533]

7.48 Consistent with the obligation to consult, the UK has repeatedly recognised that Mauritius has special interests and rights that entitle it to be consulted on actions proposed by the UK in relation to the maritime zones adjacent to the Chagos Archipelago.

7.49 For example, on 6 July 2001, the UK Foreign Secretary recognised that:

> "[t]he British Government acknowledges that Mauritius has a legitimate interest in the future of the islands and recognises Mauritius as the only State which could assert a claim to the territory in the event that the United Kingdom relinquishes its own sovereignty."[534]

Such recognition of a "legitimate interest" implies a particular duty to consult.

7.50 A similar statement was made by the British High Commissioner in Port Louis. On 1 July 1992, he wrote to the Prime Minister of Mauritius, stating that "[t]he British

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[532] *Fisheries Jurisdiction* (Federal Republic of Germany v. Iceland), Judgment, ICJ Reports 1974, p. 201, paras 65-67.

[533] *Ibid*. para. 67, citing the Court's decision in the *North Sea Continental Shelf* cases (Federal Republic of Germany v. Denmark; Federal Republic of Germany v. Netherlands), Judgment, ICJ Reports 1969, p.47, para. 86.

[534] Letter dated 6 July 2001 from the UK Secretary of State for Foreign and Commonwealth Affairs to the Minister of Foreign Affairs and Regional Cooperation, Mauritius: Annex 116.

Government has always acknowledged […] that Mauritius has a legitimate interest in the future of these islands."[535] The High Commissioner continued:

> "The British Government reaffirms that it remains open to discussions with the Government of the Republic of Mauritius over the present arrangements governing such issues and recognises the special position of Mauritius and its long-term interest in the future of the British Indian Ocean Territory. If the Government of the Republic of Mauritius has further concerns over the future of the British Indian Ocean Territory, the British Government remains ready to pursue these through normal bilateral discussions. If the Government of the Republic of Mauritius has proposals which it wishes to put to HMG concerning future arrangements, HMG remains ready to give these close consideration."[536]

7.51 The UK's commitment to consultation in relation to matters that implicate Mauritius' interests in the Chagos Archipelago is also reflected in an exchange of letters between the Prime Ministers of the two States. On 1 December 2005, Prime Minister Ramgoolam wrote to Prime Minister Blair noting that at their meeting on 26 November 2005 they had "discussed the issue of the Chagos Archipelago." Prime Minister Ramgoolam stated that he "look[ed] forward to discussing with you in the near future the important issue of fishing rights of Mauritius in the Chagos waters. This has become particularly important in view of the plans of my Government to turn Mauritius into a seafood hub."[537] In his response of 4 January 2006, Prime Minister Blair acknowledged the need for consultations: "The question of fishing rights in the Archipelago and its implications needs to be talked through."[538]

7.52 In keeping with these undertakings by the UK, Mauritius has always insisted that conservation measures require consultation with, and consent by, Mauritius. In 1999, upon learning that the UK was considering making the Chagos Archipelago a World Heritage Site, the Mauritius High Commissioner in London wrote to the Minister of State at the FCO:

> "Whilst we acknowledge that Diego Garcia is temporarily occupied, we strongly object to any suggestion of the UK Government to propose Chagos Archipelago as a possible World Heritage site.

[535] Letter dated 1 July 1992 from the British High Commissioner, Port Louis to the Prime Minister of Mauritius: Annex 103.

[536] *Ibid*.

[537] Letter dated 1 December 2005 from the Prime Minister of Mauritius to the Prime Minister of the United Kingdom: Annex 132.

[538] Letter dated 4 January 2006 from the Prime Minister of the United Kingdom to the Prime Minister of Mauritius: Annex 133.

> The Government of Mauritius is fully aware of its responsibilities and environmental legacy on the Chagos Archipelago, which is an integral part of the Mauritian territory.
>
> Any proposal regarding the Chagos Archipelago would necessitate the concurrence of the Government of Mauritius."[539]

7.53 Indeed, the need for Mauritian participation in decisions that may affect Mauritius' interests has been recognised by the UK. For example, in 1976 the Mauritius High Commissioner in London requested that Mauritius be included in upcoming tripartite talks between Seychelles, the UK and the US on the islands that had been excised from Seychelles, including their possible return to Seychelles. The High Commissioner stated that Mauritius should be represented at the talks because he understood that issues affecting Mauritius' interests in the Chagos Archipelago would be discussed, including the "Law of the Sea and mineral rights."[540]

7.54 The UK's response to Mauritius' request did *not* reject the view that Mauritius has interests in the matters identified by the High Commissioner, namely the Law of the Sea and mineral rights with respect to the Chagos Archipelago. Rather, the UK responded that Mauritian participation was unnecessary because those matters "would not be under consideration at these talks."[541] But the UK conceded the fundamental point: when matters which implicate the interests of Mauritius in the Chagos Archipelago are at stake, including specifically matters that relate to the law of the sea, then consultation with Mauritius is required.[542] Further consultations took place in 2009, notably with regard to the submission to be made by the coastal State in relation to the extended continental shelf, which eventually led to submission of Preliminary Information by Mauritius only, and no protest or objection by the UK.[543]

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[539] Letter dated 16 August 1999 from the Mauritius High Commissioner, London to Mr. G. Hoon MP, UK Foreign and Commonwealth Office: Annex 110.

[540] Record of Conversation between the Parliamentary Under Secretary of State for Foreign and Commonwealth Affairs and the High Commissioner for Mauritius at the FCO on 8 March 1976 at 4 p m., para. 1: Annex 77.

[541] *Ibid*.

[542] To that end, on 15 March 1976 the Parliamentary Under Secretary of State for Foreign and Commonwealth Affairs wrote to the High Commissioner of Mauritius, stating that the forthcoming tripartite meeting would be of a "technical nature between British and American officials and a delegation from Seychelles" and that "[i]t is not our intention to discuss matters such as mineral rights or the law of the sea," but that he "quite take[s] the point that matters involving the British Indian Ocean Territory generally are of interest to your Government and for this reason I will be glad to keep your Government fully informed of the outcome of the talks." (Letter dated 15 March 1976 from Parliamentary Under Secretary of State, UK Foreign and Commonwealth Office, to the Mauritius High Commissioner, London: Annex 78). Later, the point was stressed internally within the British Government that it was necessary to "emphasise to the Mauritians that, as foreseen, there was no discussion whatsoever of matters such as mineral rights, Law of the Sea considerations or any BIOT issues not directly connected with the return of the ex-Seychelles islands. Diego Garcia was not discussed at all. The Mauritians have no grounds for thinking that their interests have been in any way affected by the talks." (Telegram No. 43 from FCO to British High Commission, Port Louis, 19 March 1976, para. 4: Annex 80).

[543] See paras 4.31 to 4.35 above.

(2) Breach of the obligation to consult

(a) The establishment of the "MPA"

7.55 Despite the UK's obligation to consult with Mauritius, it failed to conduct any meaningful consultations on the proposed establishment of the "MPA". Consultation implies the provision of timely information, yet Mauritius was never told in advance by the UK of its proposed "MPA", and learnt about it only from reports in the media: on 9 February 2009, several British publications, including *The Independent*, *The Economist*, and *The Telegraph*, reported on the proposed "MPA". Mauritius immediately expressed its concern to the UK by Note Verbale.[544] It was only in response to Mauritius' note, more than a month after the initial press reports, that the UK informed Mauritius of the possibility that an "MPA" might be declared around the Chagos Archipelago.[545] Even then, the UK sought to distance itself from the proposal, informing Mauritius that it "is the initiative of the Chagos Environment Network and not of the Government of the United Kingdom of Great Britain and Northern Ireland."[546] This response was misleading and inaccurate.

7.56 The first time that the UK notified Mauritius of the possibility of its official endorsement of an "MPA" around the Chagos Archipelago was on 21 July 2009, during the two States' bilateral talks on the Chagos Archipelago. In particular, the Parties' Joint Communiqué records that the "British delegation proposed that consideration be given to preserving the marine biodiversity in the waters surrounding the Chagos Archipelago […] by establishing a marine protected area in the region."[547] Mauritius "welcomed, in principle, the proposal for environmental protection," but insisted upon the need for consultation. In that regard, Mauritius agreed that "a team of officials and marine scientists from both sides" should "meet to examine the implications of the concept with a view to informing the next round of talks."

7.57 The UK chose to ignore the call for bilateral consultations. Instead, on 10 November 2009, again without prior information to Mauritius, the UK unilaterally published a document entitled "Consultation on whether to establish a marine protected area in the British Indian Ocean Territory," inviting public comment on the proposed "MPA". Mauritius objected: not only did the document falsely state that Mauritius "welcomed the establishment" of an "MPA", but its unilateral publication was inconsistent with Mauritius' insistence that the UK should first consult with Mauritius through bilateral diplomatic channels. As Mauritius stated in its Note Verbale,

[544] Note Verbale dated 5 March 2009 from the Ministry of Foreign Affairs, Regional Integration and International Trade, Mauritius to the UK Foreign and Commonwealth Office, No. 2009(1197/28): Annex 139. See further paras 4.39-4.40.

[545] Note Verbale dated 13 March 2009 from the UK Foreign and Commonwealth Office to the Ministry of Foreign Affairs, Regional Integration and International Trade, Mauritius, No. OTD 04/03/09: Annex 140. See para. 4.42.

[546] *Ibid*.

[547] Joint Communiqué, Second round of bilateral talks on the Chagos Archipelago, 21 July 2009, Port Louis, Mauritius: Annex 148. See further paras 4.36-4.38 above.

> "since there is an on-going bilateral Mauritius-UK mechanism for talks and consultations on issues relating to the Chagos Archipelago and a third round of talks is envisaged early next year, the Government of the Republic of Mauritius believes that it is inappropriate for the consultation on the proposed marine protected area […] to take place outside this bilateral framework."[548]

Mauritius stressed that "the existing framework for talks on the Chagos Archipelago and the related environmental issues should not be overtaken or bypassed by the consultation launched by the British Government on the proposed "MPA"."[549]

7.58 Mauritius made clear that the UK's unilateral public consultation document did not satisfy its obligation to consult directly with Mauritius, and that the UK's promotion of a sham public consultation process was incompatible with engaging in good faith bilateral consultations with Mauritius. For that reason, Mauritius' Minister of Foreign Affairs, in a letter to the UK Foreign Secretary dated 30 December 2009, stated that "Mauritius is not in a position to hold separate consultations with the team of experts of the UK on the proposal to establish a Marine Protected Area."[550] Similarly, on 4 February 2010, the High Commissioner of Mauritius in London informed the UK House of Commons Select Committee on Foreign Affairs that the "existing framework of talks between Mauritius and the UK on the Chagos Archipelago and the related environmental issues should not be overtaken or bypassed by the public consultation launched by the British Government on the proposed MPA."[551] On 19 February 2010, the Secretary to Cabinet of Mauritius wrote to the British High Commissioner in Port Louis, reiterating "the position of the Government of Mauritius to the effect that the consultation process on the proposed MPA should be stopped and the current Consultation Paper, which is unilateral and prejudicial to the interests of Mauritius withdrawn". He added that "the Consultation Paper is a unilateral UK initiative which ignores the agreed principles and spirit of the ongoing Mauritius-UK bilateral talks and constitutes a serious setback to progress in these talks." He also informed the British High Commissioner that "the Government of Mauritius insists that any proposal for the protection of the marine environment in the Chagos Archipelago area needs to be compatible with and meaningfully take on board the position of Mauritius on the sovereignty over the Chagos Archipelago and address the issues of resettlement and access by Mauritians to fisheries resources in the area."[552] The Secretary to Cabinet's offer to the British High Commissioner "to resume the bilateral talks on the premises outlined above" met with no response.

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[548] Note Verbale dated 23 November 2009 from the Ministry of Foreign Affairs, Regional Integration and International Trade, Mauritius to the UK Foreign and Commonwealth Office, No. 1197/28/10: Annex 155. See para. 4.57 above.

[549] *Ibid*.

[550] See para. 4.67 above. As to the remainder of the events summarised in para. 7.58-7.60, see paras 4.72-4.77 above.

[551] Para. 4.70 above.

[552] Paras 4.72-4.74 above.

7.59 A month later, on 19 March 2010, the British High Commissioner informed Mauritius that "no decision on the creation of an MPA has yet been taken," and that "the United Kingdom is keen to continue dialogue about environmental protection within the bilateral framework or separately."[553] The same commitments were repeated by the UK a week later, in a Note Verbale dated 26 March 2010.[554]

7.60 Despite these assurances, just six days later and without any further effort at consultation or communication, the UK announced the creation of the "MPA". No further consultation with Mauritius took place.

7.61 In short, it is plain that the UK made no serious effort to engage Mauritius in proper consultations prior to creating the "MPA". As is clear from the discussion above, and the facts set out in more detail in Chapter 4, the UK's failure to attempt meaningful consultations with Mauritius breached both its obligations to engage Mauritius in "ongoing serious, good faith efforts to reach […] [an] agreement",[555] and to have "due regard" for the rights of Mauritius in the maritime zones of the Chagos Archipelago.

(b) Straddling stocks and highly migratory species

7.62 The UK has further breached its specific obligations to consult in relation to straddling stocks and highly migratory species.

7.63 With respect to stocks that occur within the exclusive economic zones generated by the entire territory of Mauritius, including the Chagos Archipelago, Article 63(1) requires cooperation in relation to measures for their conservation and development. This provides:

> "Where the same stock or stocks of associated species occur within the exclusive economic zones of two or more coastal States, these States shall seek, either directly or through appropriate subregional or regional organisations, to agree upon the measures necessary to coordinate and ensure the conservation and development of such stocks without prejudice to the other provisions of this Part."

7.64 Article 63(2) concerns stocks that straddle the EEZ of the Chagos Archipelago and the adjacent high seas. It also imposes on the UK an obligation to consult with Mauritius:

> "Where the same stock or stocks of associated species occur both within the exclusive economic zone and in an area beyond and adjacent to the zone, the coastal State and the States fishing

[553] Para. 4.75 above.

[554] Para. 4.76 above.

[555] *United States – Import prohibition of certain shrimp and shrimp products* (Report of the Appellate Body, 22 October 2001), WT/DS58/AB/RW, paras 152-3; *United States – Import prohibition of certain shrimp and shrimp products* (Report of the Appellate Body, 12 October 1998), WT/DS58/AB/R, para. 158.

> for such stocks in the adjacent area shall seek, either directly or through appropriate subregional or regional organisations, to agree upon the measures necessary for the conservation of these stocks in the adjacent area."

7.65 Further, the obligation to consult attaches in particular with respect to measures regarding highly migratory species. In that regard, Article 64 of the Convention provides:

> (i) The coastal State and other States whose nations fish in the region for the highly migratory species listed in Annex I shall cooperate directly or through appropriate international organisations with a view to ensuring conservation and promoting the objective of optimum utilisation of such species throughout the region, both within and beyond the exclusive economic zone. In regions for which no appropriate international organisation exists, the coastal State and other States whose nationals harvest these species in the region shall cooperate to establish such an organisation and participate in its work.
>
> (ii) The provisions of paragraph 1 apply in addition to the other provisions of this Part.

7.66 These obligations are supplemented by the 1995 Agreement. The UK purported to sign the 1995 Agreement on behalf of the "BIOT" on 4 December 1995; Mauritius protested against this action upon acceding to the 1995 Agreement on 25 March 1997.[556] The UK ratified the 1995 Agreement in respect of the "BIOT" on 3 December 1999, and as regards its metropolitan territory on 10 December 2001.[557] Article 3(1) of the 1995 Agreement provides that Article 7 of that instrument "appl[ies] […] to the conservation and management of such [fish] stocks within areas under national jurisdiction."[558] Amongst the obligations included in Article 7 is the obligation that, "[i]n giving effect to their duty to cooperate, States shall make every effort to agree on compatible conservation and management measures within a reasonable period of time."

7.67 Articles 63 and 64 of the Convention, and Article 7 of the 1995 Agreement, are applicable to the waters in question and to the relevant stocks located therein. Further, with respect to Article 64, Annex I of the Convention lists tuna (which is present in the exclusive economic zone of the Chagos Archipelago) amongst those highly migratory species for which cooperative efforts are required.

7.68 The failure of the UK to consult directly with Mauritius prior to promulgating the "MPA", as described in paragraphs 7.55 to 7.61, thus breaches the obligations set

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[556] See, in particular at End Note 5: http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXI-7&chapter=21&lang=en

[557] *Ibid*. (The UK explained this delay by reference to certain requirements of EU law.)

[558] This is "subject to the different legal regimes that apply within areas under national jurisdiction": see Art. 3(1).

forth in Articles 63(1), 63(2) and 64 of the Convention, and Article 7 of the 1995 Agreement.

7.69 Further, the UK has violated its obligation to consult with the IOTC, which is the relevant international organisation for the purposes of Articles 63 and 64 of the Convention. In lieu of consultation, the UK did nothing more than inform the IOTC that it was considering various options in regard to the establishment of an "MPA", and that its decision "could have implications for the IOTC". Such implications were not spelt out or explained in any detail, but the statement constitutes a clear admission by the UK that its purported actions touched on the interests of the IOTC. This information was communicated in the UK's report to the IOTC Scientific Committee at the Committee's 30 November-4 December 2009 Session:

> "The Chagos Environmental Network have advocated the creation of an MPA encompassing the whole of the BIOT FCMZ. In order to assess whether this is the right option for environmental protection in BIOT the FCO launched a public consultation on 10 November 2009. Details of the consultation are available at: [internet address]. The consultation refers to 3 broad options for a possible MPA framework:
>
> (i) Declare a full no-take marine reserve for the whole of the territorial waters and Environmental Preservation and Protection Zone (EPPZ)/Fisheries Conservation and Management Zone (FCMZ);
>
> (ii) Declare a no-take marine reserve for the whole of the territorial waters and EPPZ/FCMZ with exceptions for certain forms of pelagic fishery (e.g., tuna) in certain zones at certain times of the year;
>
> (iii) Declare a no-take marine reserve for the vulnerable reef systems only.
>
> The final decision is expected in April 2010 following public consultation, and depending upon the option selected could have implications for the IOTC."[559]

[559] IOTC Twelfth Session of the Scientific Committee, Mahé, Seychelles 30 November-4 December 2009, UK ("BIOT") national report, IOTC-2009-SC-INF08, p. 7. In response to the UK's submission to the IOTC, Mauritius stated that because "the Chagos Archipelago is under the sovereignty of Mauritius," the "creation of any Marine Protected Area […] would therefore require the consent of Mauritius." Further, with respect to the United Kingdom's public consultation document, Mauritius stated that "Since there is an ongoing Mauritius-UK mechanism for talks and consultations on issues relating to the Chagos Archipelago and a third round of talks is envisaged early next year, it is inappropriate for the British Government to embark on consultation globally on the proposed Marine Protected Area outside the bilateral framework": Report of the Twelfth Session of the Scientific Committee, Victoria, Seychelles, 30 November-4 December 2009, Indian Ocean Tuna Commission, IOTC-2009-SC-R[E], Appendix VII. See also *ibid.* at para. 31 ("The SC was informed that UK is launching a consultation on whether to establish a Marine Protected Area in the Chagos archipelago (British Indian Ocean Territory). The principle of such consultation gave rise to an objection by Mauritius which stated that the setting up of any "MPA" in the

7.70 As is readily apparent, the UK's submission to the IOTC's Scientific Committee merely informed the Commission that the UK was engaged in a public consultation process. It did not seek to utilise the machinery of the IOTC in any efforts to consult with the organisation itself or its Member States. Thus, the UK has plainly violated its obligation to "cooperate directly or through appropriate international organisations" as required by Article 64 of the Convention. Nor, as required by Article 7 of the 1995 Agreement, has the UK complied with its obligation to "make every effort to agree on compatible conservation and management measures within a reasonable period of time." The mere provision of information with respect to the conduct of a consultation, as described above, is not sufficient to meet the requirements of Article 7. Specifically, if the obligation is to be implemented in good faith this must entail entering into "ongoing serious, good faith efforts to reach […] [an] agreement".[560]

7.71 This could, for example, take the form of seeking to agree upon a multilateral measure better designed to protect highly migratory species. The IOTC has noted that mere closure to fishing of areas of the Indian Ocean is unlikely to benefit tuna stocks, and indeed such measures are "likely to be ineffective, as fishing effort will be redirected to other fishing grounds in the Indian Ocean."[561] In the cases of a highly migratory species, closing only one part of the total ocean area through which a stock moves is self-evidently unlikely to provide an effective safe haven from the impacts of fishing. The UK failed, however, to engage in any such efforts.

(3) Marine pollution

7.72 The UK has also breached its obligations under the Convention to cooperate with respect to the adoption of measures concerning pollution of the marine environment.

7.73 In particular, Article 194(1) of the Convention provides:

> "States shall take, individually or jointly as appropriate, all measures consistent with this Convention that are necessary to prevent, reduce and control pollution of the marine environment from any source, using for this purpose the best practicable means at their disposal and in accordance with their capabilities, and they shall endeavour to harmonise their policies in this connection."

Chagos Archipelago should be dealt under the ongoing bilateral talks between Mauritius and the UK. Both parties made a statement on their respective position, those statements are presented in Appendix VII. No further discussion took place on this issue as it was not related to scientific matters.")

[560] *United States – Import prohibition of certain shrimp and shrimp products* (Report of the Appellate Body, 22 October 2001), WT/DS58/AB/RW, paras 152-3; *United States – Import prohibition of certain shrimp and shrimp products* (Report of the Appellate Body, 12 October 1998), WT/DS58/AB/R, para. 158.

[561] Indian Ocean Tuna Commission, Report of the 14th Session of the Scientific Committee, 12-17 December 20122, IOTC-2011-SC14-R[E], at pp. 34-5 and especially at para. 178.

7.74 This requirement serves an important function. According to Professor McCaffrey, the "requirement of harmonisation" provided for by Article 194 "addresses the problems that can arise when States adopt different policies and standards for the prevention, reduction and control of a watercourse they share". In that regard, he observes that "[f]ailure to coordinate pollution control efforts may frustrate, or at least reduce the effectiveness of, measures taken by individual countries."[562]

7.75 This interpretation of Article 194 is also expressed in the *Virginia Commentary*:

> "In the concluding expression 'shall endeavour to harmonise their policies in this connection,' the harmonisation relates both to the substantive rule of law and to the enforcement of national legislation, including the penalties. This is to avoid creating a mosaic of legal regimes, differing in their content as in their provenance. This aspect is developed in detail in section 5 (articles 207 to 212) as regards the establishment of the international standards and in section 6 (articles 213 to 222) as regards the enforcement of those standards through national organs, whether judicial or others, operating on the basis of the national legislation; in those provisions the relationship between the international rules and the national legislation is specified. In all cases the State adopting laws and regulations has the initial responsibility of meeting the requirements of the Convention, and the Convention lays down the degree of conformity with the international rules, standards and recommended practices and procedures required on the national level."[563]

7.76 Thus, as one commentator has observed, referring to Articles 194-196, "[w]hereas previously states were to a large degree free to determine for themselves whether and to what extent to control and regulate marine pollution, they will now in most cases be bound to do so on terms laid down by the Convention."[564]

7.77 By its plain terms, the imposition of an obligation in Article 194(1) to "endeavour" requires that States must "try hard to do or achieve" the harmonisation of policies regarding pollution prevention, reduction and control.[565] The objective of "harmonis[ation]" therefore requires, at a minimum, undertaking such efforts to make

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[562] Stephen C. McCaffrey, "International Watercourses, Environmental Protection", in *Max Planck Encyclopedia of Public International Law* (2012).

[563] Center for Oceans Law and Policy, University of Virginia Law School, *United Nations Convention On The Law Of The Sea 1982: A Commentary*, vol. IV, p. 64 (para. 194.10(d)).

[564] Alan E. Boyle, "Marine Pollution Under the Law of the Sea Convention," 79 *American Journal of International Law* 347, 350 (Vol. 79, 1985).

[565] "Endeavour," Oxford Dictionaries Online (last accessed 20 July 2012). See also *New Oxford American Dictionary* (2001).

pollution-related policies for the Chagos Archipelago "consistent or compatible"[566] with those of regional States.

7.78 The UK, however, manifestly failed to comply with this obligation. It purported to establish the "MPA", including all measures thereunder to prevent, reduce and control pollution of the marine environment. But it made no attempt to engage with Mauritius or other States to harmonise the pollution policies of them "MPA" with their own. Instead, the UK proceeded unilaterally and without proper notice. In so doing, the UK breached its obligations under Article 194(1).

(4) Notice of laws and regulations

7.79 Finally, the UK has breached its obligation to make its laws and regulations concerning the "MPA" readily accessible. In that regard, Article 62(5) of the Convention provides that "[c]oastal States shall give due notice of conservation and management laws and regulations." However, the UK has not done so. As set out in Chapter 4, any implementing legislation would be expected to be published in the 2011 edition of the "BIOT" Gazette, a publication in very limited circulation, though usually deposited in the British Library in London in January following the relevant year. This was not done in January 2012. A copy of Issue 1 of the "BIOT" Gazette for 2011 had been filed at the library of the Institute of Advanced Legal Studies in London on 13 July 2012, shortly before the filing of this Memorial. This contained no regulations relating to the "MPA".

7.80 In conclusion, by failing to consult meaningfully with Mauritius and/or the relevant international organisations, the UK breached Articles 56, 62, 63, 64, and 194 of the Convention and Article 7 of the 1995 Agreement.

III. The United Kingdom Has Acted in Abuse of Rights

7.81 The UK has further failed to fulfil its obligations under the Convention by exercising its purported rights in ways that constitute an abuse of the rights of third States, including especially Mauritius, in violation of Article 300.

7.82 Article 300 of the Convention provides:

> "States Parties shall fulfil in good faith the obligations assumed under this Convention and shall exercise the rights, jurisdiction and freedoms recognised in this Convention in a manner which would not constitute an abuse of rights."

7.83 By its plain terms this provision imposes upon States an obligation not to undertake actions that constitute an "abuse of rights", even if those actions are otherwise permitted by the Convention. This provision reflects the well-established principle in general international law that, as Professor Lauterpacht has stated, "the

[566] "Harmonise," Oxford Dictionaries Online (last accessed 20 July 2012).

prerogatives of State sovereignty do not imply an unrestricted and indiscriminate use of formal rights".[567]

7.84 The principles of general international law, which are reflected in Article 300, make clear that an abuse of rights arises where a State exercises rights in a manner that prevents the fulfilment of rights possessed by another State. As Professor Bin Cheng has observed, the doctrine requires a State to balance the exercise of its rights "in a manner compatible with its various obligations arising either from treaties or from the general law."[568] Thus, as noted by another commentator, a State commits an abuse of rights when it "exercises its rights in such a way that another State is hindered in the exercise of its own rights."[569] The WTO Appellate Body reflected this view when it ruled that the "doctrine of *abus de droit*" reflects the "general principle" that "prohibits the abusive exercise of a state's rights and enjoins that whenever the assertion of a right impinges on the field covered by [a] treaty obligation, it must be exercised bona fide, that is to say, reasonably.'" The Appellate Body accordingly held that:

> "An abusive exercise by a Member of its own treaty right thus results in a breach of the treaty rights of the other Members and, as well, a violation of the treaty obligation of the Member so acting."[570]

7.85 Incorporating the general international law rule regarding abuse of rights was an important achievement of the Convention. It reflects the intention of the drafters to ensure that States exercising rights provided by the Convention do not do so in ways that transgress other States' rights. In that regard, the Report of the President on the Work of the Informal Plenary meeting of the Conference on General Provisions states that the "acceptance" of the prohibition against the abuse of rights "by consensus" was predicated on the "understanding" that it would be "interpreted as meaning that the abuse of rights was in relation to those of other States."[571]

7.86 The Convention's prohibition on exercising rights in an abusive way is especially important in circumstances that involve "common space" and "matters of

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[567] H. Lauterpacht, The *Doctrine of Abuse of Rights as an Instrument of Change* 286, 287 (1933). See also, e.g., *Case Concerning Certain German Interests in Polish Upper Silesia (Germany v. Poland)*, 1926 P.C.I.J. (ser. A) No. 7, p. 30 (holding that although "Germany undoubtedly retained until the actual transfer of sovereignty the right to dispose of her property" a "misuse of this right could endow an act of alienation with the character of a breach of the Treaty"); *Case of the Free Zones of Upper Savoy and the District of Gex (France v. Switerland)*, 1932 P.C.I.J. (ser. A/B) No. 46, p. 167 ("A reservation must be made as regards the case of abuses of a right, since it is certain that France must not evade the obligation to maintain the zones by erecting a customs barrier under the guise of a control cordon.").

[568] Bin Cheng, *General Principles of Law as Applied by International Courts and Tribunals* (London: Stevens & Sons, 1953), 131, quoted in Michael Byers, "Abuse of Rights: An Old Principle, A New Age", 47 McGill L. J. 389, 411 (2002).

[569] Alexandre Kiss, "Abuse of Rights", in *Max Planck Encyclopedia of Public International Law* (2012).

[570] *United States – Import prohibition of certain shrimp and shrimp products* (Report of the Appellate Body, 12 October 1998), WT/DS58/AB/R, (quoting B. Cheng, *General Principles of Law as Applied by International Courts and Tribunals*, 1953).

[571] See Report of the President on the Work of the Informal Plenary Meeting of the Conference on General Provisions, U.N. Doc. A/CONF.62/L.58, para. 4 (22 August 1980).

common concern."[572] In that regard, the UK has itself recognised that the "abuse of rights" doctrine is especially germane in relation to rights of access to marine resources, where a coastal State exercises jurisdiction in waters that historically have been used by other States. In a section of its Memorial in the *Fisheries Jurisdiction* case dealing with "the general rules of law that are relevant to claims by coastal States to exercise fisheries jurisdiction in waters adjacent to their coasts," the UK stated that:

> "[T]he sovereign right of a State to delimit in the first instance the sea areas to which it is entitled (or which it is bound to possess) is matched by the duty under international law to respect the rules concerning the delimitation which international law prescribes for the protection of other States. Moreover, this correlation between rights and duties – a point emphasised by Judge Huber in the *Island of Palmas* case – is not confined to the delimitation of the sea areas in question. It covers, too, the rights that may be exercised in the relevant zones and the corresponding duties.
>
> This correlation was emphasised by Judge Alvarez in his individual opinion in the *Anglo-Norwegian Fisheries* case:
>
> > '2. Each State may therefore determine the extent of its territorial sea and the way in which it is to be reckoned, provided that it does so in a reasonable manner, that it is capable of exercising supervision over the zone in question and of carrying out the duties imposed by international law, that it does not infringe rights acquired by other States, that it does no harm to general interests and does not constitute an abus de droit. […]
> >
> > 3. States have certain rights over their territorial sea, particularly rights as to fisheries; but they also have certain duties […]
> >
> > 4. States may alter the territorial sea which they have fixed, provided that they furnish adequate grounds to satisfy the change.
> >
> > 5. States may fix a greater or lesser area beyond their territorial sea over which they may reserve for themselves certain rights: customs, police rights, etc. […]
> >
> > […]
> >
> > 7. Any State directly concerned may raise an objection to another State's decision as to the extent of its territorial sea or of the area beyond it, if it alleges that the conditions

[572] Michael Byers, *Abuse of Rights: An Old Principle, A New Age*, 47 McGill L. J. 389, 423 (2002).

> set out above for the determination of these areas have been violated.'"[573]

It is therefore clear that the UK has long recognised the significance and the application of the abuse of rights doctrine in relation to marine resources. This predates the adoption of Article 300, which reinforces its central importance to the law of the sea.

7.87 In the present case, even if *quod non* the UK had rights as a coastal State that entitled it to declare the "MPA", and even if the creation and enforcement of the "MPA" did not violate the Convention in relation to obligations owed to Mauritius, its purported establishment of the "MPA" does not meet the requirements of Article 300.

7.88 First, enforcing the "MPA" vis-à-vis Mauritius is an abuse of rights because Mauritius has rights over the natural resources of the waters adjacent to the Chagos Archipelago. This is not in dispute. As described in Chapter 3, Mauritius has traditionally fished in these waters, a fact that the UK has repeatedly acknowledged.[574] Thus, even if the establishment of the "MPA" can be said to be a lawful exercise of rights in the territorial sea and exclusive economic zone of the Chagos Archipelago (which it is not), the particular circumstances in which the UK has purported to exercise those rights make it abusive and thus a breach of Article 300.

7.89 Second, that the UK has engaged in an abuse of rights is reinforced by the fact that the UK is purporting to apply and enforce the "MPA" restrictions in ways that are opposable to Mauritius. This is despite the fact that, as described in Chapter 3,[575] the UK has repeatedly undertaken to allow Mauritius continuing access to the marine resources in the area covered by the "MPA". Thus, even if the UK was permitted by the Convention to adopt and enforce the "MPA", its exercise of that right, in the circumstances present here, constitutes an abuse of that right.

7.90 Third, the conclusion that the UK has abused any right it may have under the Convention to create the "MPA" is strengthened because, as set out in detail in paragraphs 7.55 to 7.61, the UK enacted the "MPA" without engaging in any meaningful consultations with Mauritius, either bilaterally or through the diplomatic machinery of the relevant regional and international organisations. The UK failed to do so despite the fact that it has repeatedly acknowledged that Mauritius has a legitimate interest in the future of the Chagos Archipelago, and has accepted that a coordinated approach is required in relation to the extended continental shelf. Consequently, even if the UK's creation of the "MPA" was otherwise a lawful exercise of authority under the Convention, the particular circumstances present here make the exercise of that authority abusive and, as a result, a breach of Article 300.

7.91 Fourth, the abuse of rights by the UK is confirmed and reinforced by the circumstances surrounding the adoption and enforcement of the "MPA". As Alexandre

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[573] Memorial on the Merits of the Dispute Submitted by the Government of the United Kingdom of Great Britain and Northern Ireland, *Fisheries Jurisdiction* (UK v. Iceland), 1975 ICJ Pleadings paras 150, 153-154 (July 31, 1973) (emphasis added).

[574] Paras 3.85-3.102 above.

[575] *Ibid*.

Kiss has observed, an abuse of rights may arise where a State exercises a right "intentionally for an end which is different from that for which the right has been created."[576] Thus, according to Lauterpacht, "the exercise of a hitherto legal right" may become an unlawful abuse of right when "the general interest of the community is injuriously affected as the result of the sacrifice of an important social or individual interest to a less important, though hitherto legally recognised, individual right."[577]

7.92 This is the case here. The protection of the environment is a laudable objective, and Mauritius puts a very high value on it.[578] But the UK's conduct is not entirely consistent with the purpose of protecting the environment.

7.93 In the first place, it is usual to expect the adoption of any "MPA" to be accompanied by detailed implementing regulations that would set out with particularity measures to protect and conserve the environment. Indeed, the 1 April 2010 Proclamation that purports to establish the "MPA" around the Chagos Archipelago states that "[t]he detailed legislation and regulations governing the said Marine Protected Area and the implications for fishing and other activities in the Marine Protected Area and the Territory will be addressed in future legislation of the Territory."[579] However, at the time of the submission of this Memorial – more than two years after the proclamation of the "MPA" – Mauritius is not aware of any such legislation or regulations having been enacted.[580]

7.94 The lack of implementing regulations for the "MPA" stands in marked contrast to other MPAs of comparable scale and purpose. For example, the US Proclamation in 2006 establishing the Northwestern Hawaiian Islands Marine National Monument (subsequently renamed the Papahānaumokuākea Marine National Monument), which covers over 360,000 square km, includes detailed regulations regarding all relevant aspects of the area's environmental management.[581] The Proclamation was later supplemented by additional regulations which address in detail, *inter alia*, the Monument's scope and purpose and which promulgate rules that prohibit or otherwise regulate activities in the area.[582] In addition, the United States prepared and published a 411-page Monument Management Plan that sets out a comprehensive and coordinated management regime for the next 15 years.[583] No comparable document has been produced and made public by the UK for its purported "MPA".

7.95 Second, it is to be expected that the enforcement of a maritime zone to protect the environment would require significant expenditure. Yet the UK has failed to

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[576] Alexandre Kiss, "Abuse of Rights", in *Max Planck Encyclopedia of Public International Law* (2012).

[577] H. Lauterpacht, *The Function of Law in the International Community* p. 286 (1933).

[578] See para. 1.2 above.

[579] "British Indian Ocean Territory" Proclamation No. 1 of 2010, paras 1-2 (1 April 2010): Annex 166.

[580] See paras 4.82 to 4.83 above.

[581] Establishment of the Northwestern Hawaiian Islands Marine National Monument, United States Presidential Proclamation 8031 of June 15, 2006. F.R. Vol. 71, No. 122, p. 36433.

[582] 71 F.R. 51134, 40 C.F.R. Part 404.

[583] Papahānaumokuākea Marine National Monument, Monument Management Plan (December 2008), located at http://www.papahanaumokuakea.gov/management/mp/vol1_mmp08.pdf

appropriate any budget for the "MPA" which is commensurate with what is required to implement the purported environmental objectives of the "MPA". This again contrasts with the Papahānaumokuākea Marine National Monument, the Monument Management Plan for which estimates that it will cost over 15 years in excess of US$358 million to fund the relevant activities, including "understanding and interpreting" the Monument, "conserving wildlife and habitats," "reducing threats to Monument resources," and "coordinating conservation and management activities".[584]

7.96 Third, a maritime zone to protect the environment must, in order to be effective, be properly enforced. Yet the UK has not provided any effective enforcement presence in the "MPA": there is only one vessel to patrol the 640,000 square kilometres of the "MPA".[585]

7.97 Fourth, there is a substantial area carved out from the "MPA": according to the UK's submissions to the IOTC, the "MPA" is itself subject to an "MPA exclusion zone covering Diego Garcia and its territorial waters."[586] In this large exclusion area, "pelagic and demersal recreational fisheries are permitted," including the catching of tuna and tuna-like species.[587] The amount of fish caught in this area is very significant indeed: the UK reports that "28.4 tonnes of tuna and tuna like species were caught in 2010 representing 67% of the recreational catch…"[588]

7.98 These facts raise doubts as to the effectiveness of the "MPA" with regard to its purported objectives, and therefore as to the objectives themselves. The doubts are reinforced by evidence of views within the FCO. As noted in Chapter 4, in May 2009 the Director of the Overseas Territories Department at the FCO, Colin Roberts, is reported to have told a Political Counsellor at the US Embassy in London that the UK Government's "thinking" on the "MPA" was that there would be "no human footprints" or "Man Fridays" on the uninhabited islands of the Chagos Archipelago and that "establishing a marine park would, in effect, put paid to resettlement claims of the archipelago's former residents."[589]

7.99 In summary, even if *quod non* the UK possessed any rights as the coastal State, and even if it could exercise those rights in a manner that does not violate its obligations under Article 2, 55, 56, and 191 of the Convention, the creation of the "MPA" is an abuse of rights and thus breaches the UK's obligations under Article 300 of the Convention.

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[584] *Ibid.*, p. 113-115.

[585] Hansard, House of Commons Written Answers, 16 May 2011: Annex 171. See para. 4.83.

[586] UK (British Indian Ocean Territory) National Report to the Scientific Committee of the Indian Ocean Tuna Commission, 2011 (Received 25 November 2011), IOTC-2011-SC14-NR28, p. 3.

[587] *Ibid*.

[588] *Ibid* (emphasis added).

[589] Cable from US Embassy, London, on UK Government's Proposals for a Marine Reserve Covering the Chagos Archipelago, May 2009: Mauritius Application, 20 December 2010, Annex 2: Annex 146. See paras 4.45-4.49 above.

IV. Conclusion

7.100 The UK has engaged its international responsibility by failing to accommodate Mauritius' traditional rights in the waters within the "MPA", and by adopting the "MPA" in an unlawful, unilateral manner without the legally required bilateral and multilateral consultations.

RELIEF

Mauritius requests the Annex VII Arbitral Tribunal to declare, in accordance with the provisions of the Convention and the applicable rules of international law not incompatible with the Convention that, in respect of the Chagos Archipelago:

(1) The United Kingdom is not entitled to declare an "MPA" or other maritime zones because it is not the "coastal State" within the meaning of *inter alia* Articles 2, 55 and 76 of the Convention; and/or

(2) Having regard to the commitments that it has made to Mauritius in relation to the Chagos Archipelago, the United Kingdom is not entitled unilaterally to declare an "MPA" or other maritime zones because Mauritius has rights as a "coastal State" within the meaning of *inter alia* Articles 2, 55 and 76 of the Convention; and/or

(3) The United Kingdom's purported "MPA" is incompatible with the obligations of the United Kingdom under the Convention, including *inter alia* Articles 2, 55, 56, 62, 63, 64, 194, 300, as well as under Article 7 of the 1995 Agreement.

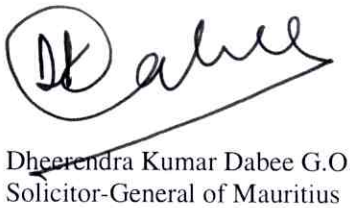
Mauritius reserves the right to supplement and/or amend its claim and the relief sought as necessary, and to make such other requests from the Arbitral Tribunal as may be necessary to preserve its rights under the Convention.

Dheerendra Kumar Dabee G.O.S.K, S.C.
Solicitor-General of Mauritius
Government of the Republic of Mauritius Agent

1 August 2012

CERTIFICATION

I certify that the annexes are true copies of the documents referred to.



Dheerendra Kumar Dabee G.O.S.K, S.C.
Solicitor-General of Mauritius
Government of the Republic of Mauritius Agent

1 August 2012

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Annex 168 African Union Assembly of Heads of States and Government, Decision on the Sovereignty of the Republic of Mauritius over the Chagos Archipelago, Assembly/AU/Dec.331(XV), 27 July 2010, Kampala, Uganda

Annex 169 Hansard, House of Commons Written Answers, 21 October 2010

Annex 170 African Union Assembly of Heads of States and Government, Resolution adopted at the 16th Ordinary Session,

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Aerial Photograph of Chinese Land Reclamation Activities on Gaven Reef (4 Oct. 2014), *The Asahi Shimbun* (23 Jan. 2015)

AERIAL PHOTOGRAPH OF CHINESE LAND RECLAMATION ACTIVITIES ON GAVEN REEF (PHOTO TAKEN ON 4 OCTOBER 2014)

Source: The Asahi Shimbun, 23 January 2015

(Martin 1) Figure 2

Annex 583

Points and Information Regarding Geographic and Hydrographic Data Provided by the Philippines
(12 July 2015)

Points and Information Regarding Geographic and Hydrographic Data Provided by the Philippines

The Tribunal has invited the Philippines to provide "dates that submitted satellite photos were taken with precision as to existing tide." Dr. Robert Smith, an expert who served as Geographer for the United States Department of State from 1975 to 2006[1] has calculated the existing tide for the photographs based upon the best available data. Two caveats must be noted. *First*, due to the paucity of tidal monitoring stations in the South China Sea, the existing tide was calculated using tide tables generated at Puerto Princesa on the island of Palawan.[2] *Second*, in some cases (which are noted), the tide tables only provided one high tide and one low tide, forcing Dr. Smith to extrapolate to determine the existing tide. The following table provides the requested information.

Feature	Satellite imagery date and time (local time; GMT+8)	Tide time difference
Alicia Annie Reef	12 March 2014 10:08:22	1 hr 3 minutes before high tide; 84.0% towards high tide from low tide
Alison Reef	4 December 2014 09:43:55	1 minute after high tide
Amboyna Cay	6 March 2014 09:20:06	2 hrs 13 minutes after low tide; 34.9% towards high tide from low tide
Ardasier Reef	2 May 2014[3] 09:06:14	4 hrs 14 minutes after low tide; 63.0% towards high tide from low tide.
Barque Canada Reef	20 May 2013 Time unavailable	Unable to calculate
Collins Reef	20 March 2013 Time unavailable	Unable to calculate
Commodore Reef	9 August 2014 09:32:51	48 minutes after high tide; 9.9% towards low tide from high tide.
Cornwallis South Reef	12 March 2014 10:08:39	1 hr 3 minutes before high tide; 84.0% towards high tide from low tide
Dallas Reef	20 March 2014 10:13:14	3 hrs 54 minutes after low tide; 63.2% towards high tide from low tide
Eldad Reef	2 February 2014 10:07:49	3 hrs 10 minutes after low tide; 53.8.2% towards high tide from low tide.

[1] Dr. Smith's *curriculum vitae* is attached to the Supplemental Written Submission as Annex 573, in Volume XI.

[2] This station is located at 09°45' N - 118°44' E.

[3] Volume II of the Supplemental Written Submission contains a typographical error identifying the date of this photograph as 2 May 2014.

Feature	Satellite imagery date and time (local time; GMT+8)	Tide time difference
Erica Reef	26 October 2014 09:58:55	3 hrs 40 minutes after low tide; 61.3% towards high tide from low tide.
Fiery Cross Reef	17 January 2012 09:33:20	41 minutes after low tide; 9.0% towards high tide from low tide.
Flat Island	5 April 2014 10:22:03	4 hrs 6 minutes after low tide; 69.3 % towards high tide from low tide.
Gaven Reef	15 January 2012 10:00:20	.1 hr 30 minutes after low tide; 23.4% towards high tide from low tide.
Great Discovery Reef	28 April 2013 10:17:55	1 hr 10 minutes before high tide; 82.6% towards high tide from low tide.
Grierson Reef (Sin Cowe East Island)	18 October 2014 09:52:33	5 hrs. 26 minutes after high tide; 56.1% towards low tide from high tide.
Investigator Shoal	Date and time unavailable for image	Unable to calculate
Itu Aba Island	12 April 2014 09:29:53	16 minutes before high tide; 4.3% towards high tide from low tide.
Johnson South Reef	20 March 2013 Time unavailable	Unable to calculate
Ladd Reef	17 October 2014 10:31:04	7 hrs 15 minutes after high tide; 74.8% towards low tide from high tide (note: only two tide times were available for this date).
Landsdowne Reef	9 March 2014 09:14:25	1 hr 53 minutes after low tide; 26.0% towards high tide from low tide.
Lankiam Cay	10 November 2012 09:00:47	38 minutes before high tide; 10.5% towards low tide from high tide.
Loaita Island	10 November 2012 09:00:47	38 minutes before high tide; 10.5% towards low tide from high tide.
London Reefs: Central Reef	22 November 2014 10:00:45	1 hr10 minutes before high tide; 80.7% towards high tide from low tide.
London Reefs: Cuarteron Reef	14 January 2012 09:30:19	1 hr 19 minutes after low tide; 21.4% towards high tide from low tide.
London Reefs: East Reef	2 May 2014 10:29:09	1 hr 6 minutes before high tide; 83.6% towards high tide from low tide.
London Reefs: West Reef	1 March 2014 10:13:52	1 hr. 2 minutes before high tide; 82.4% towards high tide from low tide.

Feature	Satellite imagery date and time (local time; GMT+8)	Tide time difference
Macclesfield Bank	1 March 2003[4] 09:30:13	3 hrs 50 minutes after low tide; 38.4% towards high tide from low tide.[5]
Mariveles Reef	18 September 2014 09:38:17	5 hrs 26 minutes after high tide; 44.6% towards low tide from high tide.
McKennan/Hughes Reef	10 August 2011 09:25:48	2 hrs 22 minutes after high tide; 26.8% towards low tide from high tide.
Mischief Reef	24 January 2012 09:08:35	2 hrs 44 minutes after low tide; 44.7% towards high tide from low tide.
Namyit Island	12 September 2014 09:36:52	3 hrs 11 minutes after low tide; 52.6% towards high tide from low tide.
Nanshan Island	27 December 2014 09:59:44	1 hs 8 minutes after low tide; 17.8 % towards high tide from low tide.
Northeast Cay	24 January 2014 09:02:17	15 minutes after low tide; 3.6% towards high tide from low tide.
Pearson Reef	5 August 2014[6] 10:24:49	14 minutes after low tide; 4.6% towards high tide from low tide.
Petley Reef	5 November 2014 10:29:30	57 minutes after high tide; 16.5% towards low tide from high tide.
Reed Bank	Date and time unavailable for image	
Sand Cay	26 October 2014 09:58:27	3 hrs 49 minutes after low tide; 63.8% towards high tide from low tide.
Scarborough Shoal	12 October 2012 10:16:21	2 hrs 20 minutes after high tide; 31.9% towards low tide from high tide.
Second Thomas Shoal	18 March 2011 09:36:38	51 minutes before high tide; 82.8% towards high tide from low tide.
Sin Cowe Island	4 January 2015 10:13:08	2 hrs 41 minutes after low tide; 43.6% towards high tide from low tide.[7]
Southwest Cay	24 January 2014 09:02:17	15 minutes after low tide; 3.6% towards high tide from low tide.

[4] Volume II of the Supplemental Written Submission contains a typographical error identifying the date of this photograph as 1 March 2002.

[5] This calculation is based off of the tide tables for 2008.

[6] Volume II of the Supplemental Written Submission contains a typographical error identifying the date of this photograph as 8 August 2014.

[7] This calculation is based off of the tide tables for 2014.

Feature	Satellite imagery date and time (local time; GMT+8)	Tide time difference
Spratly Island	17 September 2014 10:39:11	2 hrs 19 minutes before low tide; 19.4% towards low tide from high tide (note: only two tide times were available for this date).
Subi Reef	8 August 2012 09:19:00	1 hr 2 minutes after low tide; 19.3% towards high tide from low tide.
Swallow Reef	5 March 2014 10:01:47	3 hrs 9 minutes after low tide; 51.8% towards high tide from low tide.
Tennent Reef	9 March 2014 10:18:17	3 hrs 34 minutes after high tide; 41.3% towards low tide from high tide.
Thitu (Pegasa Island)	24 August 2008 09:58:03	38 minutes before low tide; 92.3% towards low tide from high tide.
West York Island	11 April 2011 09:18:45	3 hrs 31 minutes after low tide; 49.2% towards high tide from low tide (note: this calculation is based on the data for 9 April 2011 due to the lack of reliable data from 10 & 11 April 2011).
Whitsun Reef	4 October 2014 10:09:42	4 hrs 37 minutes after high tide; 50.1% towards low tide from high tide.

The Tribunal has also invited the Philippines to supply "dates of surveys on which submitted navigational charts are based." The Philippines has collected this information to the extent possible and provides that information in the chart appearing on the following pages. In a number of cases, it appeared that navigational charts were based on of sources other than surveys; these have been noted. With respect to the charts produced by the Russian Main Department of Navigation and Oceanography, the Philippines has not been able to identify the dates of the surveys upon which those charts were based. Accordingly, those charts are not included in the chart on the following pages.

Sources of Nautical Charts Produced in Response to Question 17 of the Request for Further Written Argument

Producing Agency	Title of Chart	Year of Production	Annex Number	Years/dates of surveys	Other sources
Japan Coast Guard	Chart No. W1676 (Northern Part of Philippine Islands and Adjacent Seas)	2005	NC7	Up to 1999	None indicated
Japan Coast Guard	Chart No. W1500 (Taiwan Strait to Mindoro Strait)	2008	NC8	Up to 2008	British and Chinese Charts
Japan Coast Guard	Chart No. W1501 (Hainan Dao and Adjacent Seas)	2008	NC9	Up to 2008	US, British and Chinese Charts
Japan Coast Guard	Chart No. W1502 (South China Sea: Southern Portion, Western Sheet)	2008	NC10	Up to 2008	US, British and Chinese Charts
Japan Coast Guard	Chart No. W1801 (South China Sea: Southern Portion, Eastern Sheet)	2008	NC11	Up to 1999	US Charts
Japan Coast Guard	Chart No. W1677(A) (Southern Part of Philippine Islands and Adjacent Seas)	2009	NC4	Up to 2008	US and British Charts
Japan Coast Guard	Chart No. W2006 (South China Sea)	2009	NC12	Up to 2008	Various sources
Malaysia National Hydrographic Centre	Chart No. MAL 6 (Sabah - Sarawak)	1996	NC13	Unable to determine	None indicated
Malaysia National Hydrographic Centre	Chart No. MAL 781 (Peninjau) (2013)	2013	NC14	2010, 2007, 2002, 2001, 2000, 1998, 1987-1988	None indicated
Malaysia National Hydrographic Centre	Chart No. MAL 885 (Beting Mantanani - Selat Balabac)	2013	NC15	1909-1910, 1992, 2000, 2004-2005, 2007, 2008	None indicated
Malaysia National Hydrographic Centre	Chart No. MAL 884 (Terumbu UBI - Terumbu Laksamana)	2014	NC16	1992, 1998, 2000, 2001, 2002, 2007	None indicated
Navigation Guarantee Department of the Chinese Navy Headquarters	Chart No. 18400 (Zhenghe Qunjiao to Yongshu Jiao)	2005	NC17	Unable to determine	Based on UKHO Chart No. 12319 (1998)

Producing Agency	Title of Chart	Year of Production	Annex Number	Years/dates of surveys	Other sources
Navigation Guarantee Department of the Chinese Navy Headquarters	Chart No. 18500 (Nanfang Qiantan to Haikou Jiao)	2005	NC18	Unable to determine	Based on UKHO Chart No. 12319 (1998)
Navigation Guarantee Department of the Chinese Navy Headquarters	Chart No. 00104 (South China Sea)	2006	NC2	Unable to determine	Based on UKHO Chart No. 12319 (1998)
Navigation Guarantee Department of the Chinese Navy Headquarters	Chart No. 10019 (Huangyan Dao (Minzhu Jiao) to Balabac Strait)	2006	NC3	Unable to determine	Based on UKHO Chart No. 12319 (1998)
Navigation Guarantee Department of the Chinese Navy Headquarters	Chart No. 10017 (Zhongsha Qundao to Bashi Chan)	2006	NC19	Unable to determine	None indicated
Navigation Guarantee Department of the Chinese Navy Headquarters	Chart No. 10018 (Xisha Qundao to Nansha Qundao)	2006	NC20	Unable to determine	Based on UKHO Chart No. 12319 (1998)
Navigation Guarantee Department of the Chinese Navy Headquarters	Chart No. 18050 (Northern and Central Portions of Nansha Qundao)	2006	NC21	Unable to determine	Based on UKHO Chart No. 12319 (1998)
Navigation Guarantee Department of the Chinese Navy Headquarters	Chart No. 10021 (Kep. Natuna to Balabac Strait)	2008	NC22	Unable to determine	Based on UKHO Chart No. 12319 (1998)
Navigation Guarantee Department of the Chinese Navy Headquarters	Chart No. 17310 (Huangyan Dao)	2012	NC23	2008	Based on UKHO Chart No. 12319 (1998)

Producing Agency	Title of Chart	Year of Production	Annex Number	Years/dates of surveys	Other sources
Navigation Guarantee Department of the Chinese Navy Headquarters	Chart No. 18600 (Yinqing Qunjiao to Nanwei Tan)	2012	NC24	1990, 1988, 1998, 2001, 2002, 2003, 2007	None indicated
Navigation Guarantee Department of the Chinese Navy Headquarters	Chart No. 18100 (Shuangzi Qunjiao to Zhenghe Quojiao)	2013	NC25	1988, 1990, 1991, 1992, 1994, 1995, 1997, 2002, 2012	Based on UKHO Chart No. 12319 (1998)
Navigation Guarantee Department of the Chinese Navy Headquarters	Chart No. 18200 (Liyue Tan)	2013	NC26	1991, 1992, 1993, 2001, 2002, 2011	None indicated
Navigation Guarantee Department of the Chinese Navy Headquarters	Chart No. 18300 (Yongshu Jiao to Yinqing Qunjiao)	2013	NC27	Unable to determine	Based on UKHO Chart No. 12319 (1998)
Navigation Guarantee Department of the Chinese Navy Headquarters	Chart No. 18700 (Wumie Jieo to Huanglu Jiao)	2013	NC28	Unable to determine	Based on UKHO Chart No. 12319 (1998)
Navigation Guarantee Department of the Chinese Navy Headquarters	Chart No. 18800 (Haikou Jiao to Yuya Ansha)	2013	NC29	1990, 1991, 1994, 1998, 2001, 2002, 2010, 2011, 2012	None indicated
Philippine Coast and Geodetic Survey	Chart No. 200 (Republic of the Philippines)		NC30	Unable to determine	None indicated
Philippine National Mapping and Resource Information Authority	Chart No. 4200 (Philippines)	2004	NC31	Unable to determine	None indicated

Producing Agency	Title of Chart	Year of Production	Annex Number	Years/dates of surveys	Other sources
Philippine National Mapping and Resource Information Authority	Chart No. 4803 (Scarborough Shoal)	2006	NC32	1999, 2001, 2003	Philippine Charts: 4209 (1958, Rev. 1980); 4210 (1980, Rev. 1975) US DMA Chart 91004 (1980, Corrected 1983)
Philippine National Mapping and Resource Information Authority	Chart No. 4723 (Kalayaan Island Group)	2008	NC33	Unable to determine	US DMA Charts: 71027, 93030, 93044, 93045, 93046, 93047, 93048 and 93049
Philippine National Mapping and Resource Information Authority	Chart No. 4723(A) (Kalayaan Island Group and Recto Bank including Bajo De Masinloc)	2011	NC5	1999-2003	Philippine Chart 4723 UKHO Chart 2660B (1990) NAMRIA multibeam surveys from 1999 to 2003, nautical charts from PH, US DMA and UK Admiralty and other sources
United Kingdom Hydrographic Office	Chart No. 967 (South China Sea; Palawan)	1985	NC44	1868-1869, 1850-1854, 1912, 1937, 1940, 1954-1955	Philippine Government Charts up to 1976 with later corrections; US and Japanese reconnaissance surveys pre-1940
United Kingdom Hydrographic Office	Chart No. 3488 (Song Sai Gon to Hong Kong)	1997	NC45	1863-1868, 1926, 1937	Chinese charts; hydrographic information from hydrographic offices of France, Japan, Russia, Taiwan and US
United Kingdom Hydrographic Office	Chart No. 3489 (Manila to Hong Kong)	1998	NC46	1863-1891, 1926-1936, 1941, 1964	Japanese and US surveys; Chinese, Taiwanese, Philippine & US charts; hydrographic information from hydrographic offices of France, Japan, Russia and US

Producing Agency	Title of Chart	Year of Production	Annex Number	Years/dates of surveys	Other sources
United Kingdom Hydrographic Office	Chart No. 3483 (South China, Sulu and Celebes Seas; Mindoro Strait to Luconia Shoals and Selat Makasar)	2002	NC1	1849-1971	Compiled using the latest information in the United Kingdom Hydrographic Office and includes: British Government Surveys 1849-1971; Charts produced by the hydrographic offices of China, France, Indonesia, Japan, Malaysia, Philippines, Russia, Taiwan and US
United Kingdom Hydrographic Office	Chart No. 4508 (South China Sea)	2003	NC47	Unable to determine	None indicated
United Kingdom Hydrographic Office	Chart No. 3482 (Singapore Strait to Song Sai Gon)	2012	NC48	1849-1899, 1900, 1908-1926, 1937, 1956-1971	Netherlands and US Government Surveys; hydrographic information from the publications of the hydrographic offices of China, France, Indonesia, Japan, Malaysia, Russia, Taiwan, Thailand and US
United Kingdom Hydrographic Office	Chart No. 4411 (Cabra Island to Cape Bojeador)	2012	NC49	Not available	Philippine government charts from 1966-2010
United States Defense Mapping Agency	Chart No. 93061 (Reefs In the South China Sea)	1944	NC50	1867-1938	Japanese Chart No. 249; British Admiralty Chart No. 1201; Miscellaneous Data
United States Defense Mapping Agency	Chart No. 93043 (Tizard Bank South China Sea)	1950	NC51	1936, 1937	Japanese Chart No. S523

Producing Agency	Title of Chart	Year of Production	Annex Number	Years/dates of surveys	Other sources
United States Defense Mapping Agency	Chart No. 93046 (Indonesia; South China Sea; Palawan Passage; Mantangule Island to Eran Bay)	1982	NC52	1976	Various sources to 1976 (Philippine Charts 4720 (1960, corr. to 1976); 4326 (1960, corr. to 1976); 4325 (1958, corr. to 1975); 4324 (1958, corr. to 1972) 4716 (1959, corr. to 1976)) Taiwan Chart 476 (1953)
United States Defense Mapping Agency	Chart No. 93048 (Duhu Ansha to Kimanis Bay)	1982	NC53	Not indicated	British, Taiwanese and Philippine charts to 1964; B.A. Chart 2109 (1962, corr. to 1981); Philippine Chart 4309 (1958, rev. 1973); B.A. Chart 2111 (Ed., 1952, corr. 1968); B.A. Chart 2112 (1950, corr. 1958); B.A. Chart 3728 (1964); Philippine Chart 4720 (1961, rev. 1979); Taiwan Chart 476 (1953); Miscellaneous data.
United States Defense Mapping Agency	Chart No. 93044 (Indonesia South China Sea: Yongshu Jiao to Yongdeng Ansha)	1983	NC6	Unable to determine	Various sources to 1983. Taiwan Charts: 474 (1974); 476 (1953); 478 (1953); 477 (1954); and 477A. Miscellaneous Data.
United States Defense Mapping Agency	Chart No. 93045 (Heng Jiao (Livock Reef) to Haima Tan (Routh Shoal/Seahorse Shoal)	1984	NC54	Unable to determine	Various sources to 1983 Philippine Chart 4716 (1959); Taiwan Chart 476 (1953)
United States Defense Mapping Agency	Chart No. 93047 (South China Sea: Yongshu Jiao to P'o-Lang Chiao)	1984	NC55	1974	Taiwan Charts: 474 (1974); 476 (1953) Miscellaneous data

Producing Agency	Title of Chart	Year of Production	Annex Number	Years/dates of surveys	Other sources
United States Defense Mapping Agency	Chart No. 93042 (Plans In the South China Sea)	1985	NC56	North Danger Reef (1936) Jackson Atoll (1933) Mischief Reef (1933)	North Danger Reef - Japanese survey (1936); corrected through NM 51 (1977) Jackson Atoll- Survey by Comm. N.A.C. Hardy, R.N. H.M.S. "Herald" (1933) Mischief Reef: Sketch Survey by H.M.S. "Herald" (1933), additions and corrections through 1938
United States Defense Mapping Agency	Chart No. 92033 (Palawan, Philippines)	1986	NC57	1937	Topography from other sources to 1960
United States Defense Mapping Agency	Chart No. 92006 (Philippine Islands: Southern Part)	1989	NC58	Unable to determine	Bathymetry compiled from the latest information to Oct. 1970
United States Defense Mapping Agency	Chart No. 91005 (Philippines: Central Part)	1996	NC59	Up to 1964	Various sources to 1957 with additions to 1969; Bathymetry compiled from the latest information to Feb. 1968
United States Defense Mapping Agency	Chart No. 93030 (Mui Da Nang to Mui Bai Bung)	1996	NC60	Unable to determine	Various sources to 1986
United States Defense Mapping Agency	Chart No. 93049 (Vanguard Bank to Spratly Island)	1997	NC61	Unable to determine	British Admiralty Charts: 3986 (1974, corr. to 1996); 2660A (1972 corr. to 1997; 2660B (1971 corr. to 1997) US Charts: 93020 (1983 corr. to 1997); 93047 (1984 corr. to 1997) Additions from other sources

Producing Agency	Title of Chart	Year of Production	Annex Number	Years/dates of surveys	Other sources
United States Defense Mapping Agency	United States Defense Mapping Agency, Chart No. 71027 (Pulau Bintan to Mui Ca Mau Including North Coast of Borneo and Adjacent Islands)	1998	NC62	Unable to determine	Various sources to 1991
United States Defense Mapping Agency	Chart No. 91004 (South China Sea: Scarborough Shoal)	2012	NC63	1964 and 2005	None indicated
Vietnamese People's Navy	Chart No. I-1000-04 (Cam Ranh - Quần Đảo Trường Sa)	2008	NC64	1993-1995	Based on Nautical Chart I - 1000-04 reprinted in 1995, supplemented with survey materials from 1993-1995
Vietnamese People's Navy	Chart No. I-2500-01 (Việt Nam)	2010	NC65	Unable to determine	Vietnamese Nautical Charts and Russian Nautical Chart
Vietnamese People's Navy	Chart No. I-2500-04 (Phi-Líp-Pin Và Dao Dài Loan)	2010	NC66	Unable to determine	Vietnamese Nautical Charts and Russian Nautical Chart