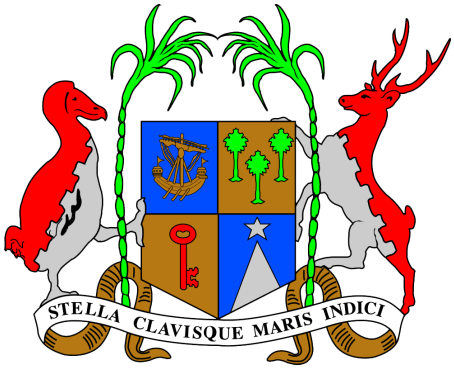
ARBITRATION UNDER ANNEX VII OF THE 1982 UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

REPUBLIC OF MAURITIUS

v.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND



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ANNEX 81

Mauritius Legislative Assembly, 15 March 1977, Speech from the Throne – Address in Reply, Statement by Hon. M.A. Peeroo

ANNEX 81

EXTRACT

If not, will he take immediate steps to remedy the situation.

Mr. E. François : Sir, the " Calimaye " as well as the wall stands on the private property of Beau Champ Sugar Estate. Government authority was not necessary for the erection of the wall, because, under the law, an owner can enclose his property without asking for Government permission.

FOREIGNERS — GRANT OF MAURITIAN NATIONALITY

(No. B/74) Mr. B. A. Khodabux (First Member for Port Louis Maritime and Port Louis East) asked the Prime Minister whether he will give the names of all foreigners who, since March 1968, have been granted Mauritian nationality stating in each case the grounds on which naturalisation was granted.

The Prime Minister : Seven hundred and nineteen foreigners, who satisfied the provisions of the Mauritius Citizenship Act, 1968, have been granted Mauritian nationality since 1968. The list of names is being compiled and will be laid in the Library as soon as it is ready.

TRANQUEBAR — CHILDREN'S PLAYGROUND

(No. B/75) Mr. R. T. Servansingh (Third Member for Port Louis South and Port Louis Central) asked the Minister of Local Government whether he will use his good offices with the Administrative Commission of the Municipality of Port Louis to set up forthwith a children playground in the Tranquebar area.

Mr. Espitalier-Noel : Sir, the creation of a recreation complex in the Tranquebar area has already been envisaged and steps are being taken to acquire the necessary land.

VALLEE PITOT — WATER SUPPLY

(No. B/76) Mr. K. Bhayat (First Member for Port Louis South and Port Louis Central) asked the Minister of Power, Fuel & Energy whether, in view of the great inconvenience caused to the inhabitants of the Vallée Pitot area through a deplorable water supply, he will use his good offices with the Central Water Authority to provide an individual water prise to every householder of the locality.

Dr. Busawon : Sir, some inhabitants of Vallée Pitot area have constructed their houses up the hillsides and it is difficult to convey water to these individual households by gravity pressure. The C.W.A. is however making designs for water to be supplied generally to the area by means of pumps. In the meantime, water supply to the area is ensured by tankers.

SPEECH FROM THE THRONE — ADDRESS IN REPLY

Order read for resuming adjourned debate on the following motion of the hon. First Member for La Caverne and Phœnix (Mr. R. Purryag) :

> "That an Address be presented to His Excellency the Governor-General in the following terms :-
>
> 'We, the Members of the Mauritius Legislative Assembly here assembled, beg leave to offer our thanks to Your Excellency for the Speech which Your Excellency has addressed to us on the occasion of the Opening of the First Session of the Fourth Legislative Assembly'.

Question again proposed.

M. A. Peeroo (Third Member for La Caverne and Phœnix) : M. le président, on a eu l'honneur à la dernière

séance de ce Parlement d'écouter attentivement les discours prononcés jusqu'ici. Alors qu'il est encourageant de constater que des critiques constructives ont été faites en vue d'améliorer le sort du peuple mauricien, il a été cependant décourageant, dirai-je, d'entendre certaines critiques injustifiées de la part de l'Opposition concernant l'état d'urgence, l'existence de la démocratie dans notre société, et surtout concernant le problème de Diégo Garcia.

Sir Satcam Boolell : On a point of order, Sir, last time the adjournment was proposed by the hon. First Member for Belle Rose and Quatre Bornes (Mr. Bérenger).

Mr. Speaker : I had overlooked that for which I apologize. But now that the Hon. the Third Member for La Caverne — Phœnix has started, I will call the Hon. the First Member for Belle Rose and Quatre Bornes immediately afterwards.

M. Peeroo : Je dirai même, M. le président, que les critiques du chef de l'Opposition ont frôlé la surenchère. Je relève de son discours certaines critiques injustifiées concernant, comme je viens de dire, l'état d'urgence, Diégo Garcia, et la démocratie si elle existe à Maurice ou non. Tout d'abord, je m'attaquerai a cette critique particulière du chef de l'Opposition concernant l'incompétence du Gouvernement. Nous devons analyser les faits, les réalisations du Gouvernement dans le passé, surtout l'accomplissement du plan 1971 à 1975 pour savoir si le Gouvernement n'a rien fait, si le Gouvernement est incompétent.

Mr. Speaker : We are not discussing whether the last Government was competent or not, we are discussing whether this Government is competent, so that we might forget all about the past.

M. Peeroo : M. le président, si j'ai fait mention du passé, c'est pour m'en servir comme base, pour revenir sur les questions qui se trouvent dans le discours du Trône. Nous savons que notre société évolue, et toute société qui est vivante, toute société qui évolue est une société qui connait des problèmes. L'île Maurice n'est pas une exception. Donc, nous devons nous attendre à ce que notre société connaisse des problèmes, et notre devoir ici est d'aider le Gouvernement, d'aider le pays à trouver des solutions à ces problèmes. Nous savons aussi qu'après l'indépendance notre pays a hérité d'un système que je qualifierai de colonial, un système qui doit être définitivement réformé afin que les aspirations légitimes du peuple soient satisfaites. Mais, quelle a été la politique du Gouvernement après l'indépendance ? Je dois dire ici que le Gouvernement a poursuivi une politique réaliste mais tout en tenant compte des réalités et des besoins de notre pays. Il n'y a pas lieu pour moi, M. le président, de parler des détails, mais je dirai que dans toutes ses entreprises le Gouvernement a réalisé des réussites. Si je viens de dire que nous avons des problèmes, nous sommes conscient dans le Gouvernement que ces problèmes sont difficiles, mais nous pouvons garantir au peuple de ce pays que le Gouvernement actuel est disposé à travailler avec courage et détermination pour trouver des solutions justes afin que nous puissions créer une société où chaque Mauricien aura une sécurité concernant l'emploi, le logement, l'éducation, et ainsi de suite.

M. le président, le chef de l'opposition a parlé de l'incompétence du Gouvernement. Cette critique, il me semble, est facile. Il est facile de critiquer, il est facile de dire que ce pays connaît des problèmes, mais jusqu'ici l'opposition

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n'a pas donné des solutions à nos problèmes. Mais, M. le président, nous pouvons en prenant compte, je dirai, des évènements économiques dans le passé, voir si notre pays est dans la bonne direction. On sait très bien que les gens qui demeurent dans l'oisiveté critiquent toujours ceux qui vraiment travaillent et connaissent les difficultés dans l'action. Le Gouvernement s'efforce de résoudre les problèmes, mais par contre il y a des gens qui se tiennent sans rien faire et qui critiquent le Gouvernement. Le Gouvernement est disposé à accepter des critiques, comme mon ami, le Premier député de Phœnix et La Caverne a dit. Nous sommes ici au Gouvernement disposé à accepter les critiques, mais les critiques, je le répète, doivent être constructives et non pas destructives.

M. le président, je prendrai un peu de temps peut être pour parler de nos difficultés. Nous avons une population de 850,000 âmes, et une qui augmente par 17,000. En 1960, la population a connu une augmentation de 3%, mais par contre avec une politique réaliste et clairvoyante du Gouvernement, nous constatons qu'aujourd'hui le taux de naissance est de 2%, c'est-à-dire il y a une réduction sensible de naissances à Maurice, c'est-à-dire 1%, ou une réduction de 50% en ce qui concerne les naissances pendant une année. Donc, avec une population de 850,000 âmes, comme je viens de dire, M. le président, et une qui augmente par 17,000 par an, la tâche du Gouvernement n'est pas facile. Nous devons tenir compte des réalités. Je viens de dire que notre tâche ne serait pas si difficile, car nous savons au Gouvernement que le peuple est derrière nous et le peuple est disposé à coopérer afin de mettre fin à la politique de destruction lancée jusqu'ici par l'Opposition.

Le premier objectif de notre Gouvernement est de créer des emplois. On sait quelle était la situation sur le marché du travail avant 1975, mais nous pouvons dire aujourd'hui avec satisfaction que grâce aux efforts de ce même Gouvernment, qualifié d'incompétent par le chef de l'Opposition, 53,000 emplois ont été créés durant la période 1969 à 1975, alors que nous savons que durant les années 1960 seulement 20,000 emplois ont été créés. C'est-à-dire que durant la période de 1969 à 1975 on a créé environ 33,000 nouveaux emplois. Il ne faut pas oublier que dans d'autres secteurs de l'économie, comme l'industrie touristique, le Gouvernement est responsable du progrès accompli. Grâce à cette industrie, encouragée et développée par le Gouvernement, nous avons réalisé en termes de devises étrangères une somme de Rs. 135 m. en 1975, et nous savons aussi que le revenu national a augmenté de 10% alors qu'on s'attendait à 7% comme prévu par le Gouvernement dans le passé. D'autre part, M. le président, il nous faut tenir compte des ressources limitées de notre pays. Nous savons très bien que notre économie est purement agricole, c'est-à-dire que nous dépendons sur le sucre qui represente 90% de nos exportations mais avec de telles limitations économiques nous avons tout de même un travail à faire au niveau national parceque, chaque année, prenant en consideration l'augmentation de la population et aussi le pourcentage des jeunes à Maurice, et le fait que 40% de la population ont moins de 15 ans, le Gouvernement a un programme que je qualifierai de pilote afin que ces jeunes de moins de 15 ans dont le nombre s'élèvent à 40,000 trouveront de l'emploi, de logement. Comme les membres sont au courant ces jeunes-là reçoivent déjà une éducation gratuite. Mais le problème épineux auquel nous avons à faire face, c'est la création

d'un nombre maximum d'emplois pour assurer une vie décente à nos jeunes de moins de 15 ans. Il est à noter, M. le président, que le secteur agricole est un domaine où on ne peut pas créer plus de 2% d'emplois. Dans ce secteur un peu plus d'un pour cent d'emplois est créé, par contre je constate avec satisfaction que le Gouvernement a choisi le secteur industriel pour investir afin de créer plus d'emplois et nous savons que dans ce secteur beaucoup d'emplois ont été crées. En 1974, le Gouvernement a aidé à la création de 30,000 emplois. Nous ne prenons pas compte du nombre d'emplois créés dans l'industrie sucrière, je dis seulement 30,000 dans les industries, dans les usines. 9,000 ont été crées dans la zone franche et 12,000 emplois ont été créés dans les petites industries, les petites usines et les "cottage industries." Avec toutes ces réalisations, M. le président, je vois fort drôle comment le chef de l'opposition a pu qualifier ce Gouvernement d'incompétent, comment se fait-il que le chef de l'opposition n'a pas pris en considération les réalisations du Gouvernement, un Gouvernement qui se lance toujours dans la bonne voie de créer d'autres emplois. C'est difficile de digérer cette critique à l'effet que ce Gouvernement est incompétent. S'il l'est, le temps dira, parceque les réalisations du Gouvernement nous permettent d'espérer qu'il en fera mieux dans l'avenir. Je saisirai cette occasion pour dire que notre Gouvernement ne va jamais abdiquer devant ses responsabilités envers le peuple et ses responsabilités envers la nation mauricienne, malgré l'obstruction systématique de l'opposition pour embarrasser le Gouvernement dans plusieurs secteurs. Nous sommes dans une position dificile. Nous reconnaissons que notre tâche n'est pas impossible, mais nous ferons notre mieux pour déjouer les manœuvres immorales de l'opposition. Notre but c'est de créer une société juste, une société socialiste, mais pas une société qui tolère les réactionnaires; et une société au visage humain.

M. Jugnauth : Soyez moins ridicule.

M. Peeroo : Je repondrai au commentaire du chef de l'opposition seulement par ceci " rira bien qui rira le dernier."

Maintenant passant à l'item de Diégo Garcia, M. le président, c'est un problème qui concerne tous les Mauriciens, je dirai même ce problème a un aspect assez triste et malheureux parceque là aussi on a dit que le Gouvernement n'a rien fait concernant la démilitarisation de l'ocean indien. Tout d'abord je dirai que notre ministre des affaires étrangères lors de la conférence des pays non alignés, a soulevé la question et a exercé des pressions diplomatiques, et aussi lors de la conférence de l'OUA à Maurice, le Gouvernement a tout fait pour soulever l'opinion mondiale sur ce problème. Mais on critique très souvent le Gouvernement. On a voulu faire comprendre à la population que le Gouvernement est responsable de la vente de Diégo. Mais il y a une explication. D'après un principe de droit international, mes collègues de la profession qui sont de l'autre côté sont au courant qu'un article a été publié dans *Modern Law Review* No. 30 ou 31, un article écrit par le professeur de Smith, qui a pour titre " *Constitutionalism in Mauritius* ". Dans cet article, M. le président, un point de droit international a été mentionné. La première question qu'on doit se poser est celle ci : quand la vente de Diégo a été faite, à cette époque là, est-ce que l'île Maurice était indépendante ? La réponse est clairement non. Ce Gouvernement qui vous

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dites, est responsable de la vente de Diégo Garcia n'était pas le Gouvernement d'un état souverain. On ne peut pas donc blâmer ce Gouvernement. Mais je dois donner l'assurance à mes amis de l'opposition que des efforts sont déployés afin de voir que l'océan indien soit une zone de paix.

Je viens de mentionner l'intervention et l'action mauricienne lors des conférences de pays non-alignés et aussi l'action du Gouvernement mauricien lors de la conférence de l'organisation de l'unité africaine. Les efforts du Gouvernement dans ce sens continuent parceque il y a encore des pressions diplomatiques qui sont exercées auprès de certaines super-puissances.

M. le président, je passe maintenant à une certaine critique du chef de l'opposition qui a dit que dans ce pays, où l'état d'urgence existe, où semble-t-il il n'y a plus de démocratie. Tout d'abord je dois dire que tout mouvement organisé et enregistré conforme à la loi est libre de publier ce qu'il veut, et tout groupe d'individus, de travailleurs est libre de s'organiser en syndicat. Et ces gens qui disent qu'il n'y a pas de démocratie dans ce pays, savent très bien qu'ils sont libres d'organiser des meetings privés et des meetings publics et même des rassemblements, et je dirai même que cette liberté est tolérée jusqu'à tel point qu'ils sont libres de publier des critiques à l'égard de ceux qui permettent cette liberté. Je dois dire aussi, M. le président, que l'état d'urgance existe sur papier. En pratique les libertés fondamentales du peuple sont là, parcequ'elles ont été expliquées et traduites par des élections municipales à venir aussi bien que par les récentes élections générales. D'ailleurs s'il n'y avait pas de démocratie dans ce pays, comment donc expliquer la présence de cette opposition dans cette assemblée.

M. le président, il y a un problème que les consommateurs sans distinction de classe connaissent dans ce pays — on avait tout dernièrement parlé de l'augmentation concernant le prix du pain. Sur ce point je dirai en toute franchise et sincérité que je suis d'accord avec le premier député de Quatre Bornes (M. Bérenger) quand il a parlé sur le prix du pain. Personnellement je ne suis pas d'accord avec une augmentation de prix sur le pain parceque quand l'augmentation a été recommandée, (une augmentation de deux sous), la première question qu'on devrait se poser est la suivante: quels chiffres avait-on considérés pour recommander une telle augmentation ? Et nous savons très bien que parmi les membres du Gouvernement, il y a un qui fait tout son mieux pour prouver qu'on peut vendre le pain à dix sous et en même temps réaliser un profit. Je suis, M. le président, contre l'augmentation de prix sur le pain.

Concernant l'augmentation de prix sur le poisson frigorifié, il a passé de Rs. 2.40 à Rs. 2.90. Cette augmentation est injustifiée. D'autre part, il est nécessaire, étant donné les circonstances, que les prix soient contrôlés strictement. M. le président, hier j'ai été au marché de Rose Hill pour acheter deux livres de poisson. On m'avait demandé Rs. 6 la livre quand nous savons très bien que le prix de poisson est fixé par le Gouvernement à Rs. 4.50. Ce que le marchand m'avait dit: '*Nous pas rente dans zaffaire prix, nous vanne prix qui nous content*'. Sur ce problème, j'ai formulé des critiques mais il y a aussi une solution. Je préconise, M. le président, l'amendement des lois dans ce domaine et il faut aussi donner plus de pouvoirs aux officiers

du ministère des prix et créer une escouade pour contrôler les marchands qui exploitent le petit peuple. Et je suggererai également la création d'un comité populaire de surveillance pour surveiller à ce que les marchands, qu'ils soient grands ou petits, n'exploitent pas la population, ou les consommateurs. Quand j'ai parlé du comité populaire, M. le président, je n'ai pas voulu dire milice populaire. Ici au Gouvernement, si nous faisons des critiques, nous disons quels sont aussi les solutions parceque je repète, M. le président, nous critiquons pour construire non pas pour détruire. Quand j'ai parlé du comité populaire, M. le président, j'ai voulu dire, un comité composé de membres du public, des volontaires disposés à aider le ministre ou le ministère des pêcheries parceque surveiller à ce que l'exploitation est éliminée dans le pays n'imcombe pas seulement au Gouvernement ou au ministre mais aussi incombe à la population, parceque le ministre ou le Gouvernement ne sont pas seulement responsables de ce que la population subit mais il est le devoir de tout un chacun, de tout Mauricien de coopérer, de collaborer afin que l'exploitation d'où qu'elle vienne soit éliminée.

Il y a un autre problème, M. le Président, qui jusqu'ici a été ignoré et ce problème concerne la planification du pays. Quand nous allons vers Curepipe, passant par St. Jean, nous voyons avec regret aujourd'hui que nos meilleures terres sont vendues à des gens qui veulent construire des maisons. Par contre, il est connu de tous que ce pays est purement agricole, que nous ne pouvons pas sacrifier nos meilleures terres; si nous voulons encourager les gens à construire des maisons, il nous faut les encourager à le faire dans des zones où les terres ne sont pas fertiles, ne sont pas productives. Dans ces sites ou ces endroits là, il nous faut encourager la construction mais non pas à St. Jean ou dans d'autres coins de l'île Maurice qui doivent être réservés pour l'agriculture, parceque comme je viens de dire, notre pays est un pays agricole. L'agriculture, c'est l'épine dorsale de notre économie.

Ce que je préconise, M. le président, c'est la refonte des lois concernant la planification et de créer des zones industrielles, des zones réservées purement à l'agriculture et des zones résidentielles. Par exemple, M. le président, passant par la nouvelle route, on voit des petites collines qui sont vraiment improductives dans ce sens qu'on ne peut pas les cultiver. Quoi faire avec eux ? Ce que je suggère, c'est developper ces collines afin d'encourager les gens à aller construire des maisons là-dessus ou au pied de ces collines, afin de préserver nos meilleures terres.

Et concernant le transport, M. le président, je félicite le Gouvernement pour avoir pris la décision d'accorder des permis à tous ceux qui veulent rouler des autobus. Mais je dirai que cette mesure n'est pas une solution. Cette mesure, je vais la qualifier, comme étant un palliatif. Tôt ou tard, dans cinq ou dans dix ans le problème va apparaître de nouveau parceque quand ces gens qui dans l'avenir recevront des permis pour faire rouler des autobus arrivent à trouver qu'ils font des pertes, ces gens là vont se grouper en compagnie et ce sera la même situation que nous avons aujourd'hui. La solution, je la dirai avec franchise, c'est la nationalisation de l'industrie du transport. Mais je dois dire, M. le président, que la nationalisation ne vient pas de l'Opposition, d'abord parceque dans le programme gouvernemental du parti travailliste, dès 1945, nous avons parlé de nationalisation mais nous devons dire que

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Mauritius Legislative Assembly, 8 November 1977,
Reply to PQ No. B/539

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SALE OF CEMENT — CONTROL

(No. B/535) Mr. S. K. Baligadoo (Second Member for Port Louis North and Montagne Longue) asked the Minister for Prices & Consumer Protection whether he will exercise strict control on the sale of cement with a view to avoiding black marketing ; and whether he will make a statement thereon.

Mr. Virah Sawmy : Sir, an enquiry was conducted last week at the Mauritius Portland Cement Co. Ltd. and at the level of the main cement distributors in Port Louis, and checks were also made in different localities of the island concerning the sale of cement.

The enquiry indicates that the supply of cement currently distributed on the local market is sufficient to satisfy the demand for that commodity, without giving rise to any black marketing opportunities.

I would like to invite the hon. Member to refer to my Ministry the case of any member of the public who may be finding difficulties to obtain cement. I can assure the hon. Member that every assistance will be given to him and others in the same situation.

ASSISTANCE TO BUS INDUSTRY

(No. B/536) Mr. A. Asgarally (Fifth Member for Montagne Blanche and G.R.S.E.) asked the Minister of Works whether he will make a statement on the form of assistance, technical or otherwise, he has already given and which he proposes to give to the bus industry.

Mr. Bussier : As from June 1976, no Customs duty is levied on bus chassis, as well as on complete buses, provided the buses are licensed by the Road Traffic Licensing Authority.

Certain buses which were running on uneconomical routes received subsidies during the period February 1976 to June 1977.

Further, duty paid on diesel oil imported by bus companies during period July 1976, to June 1977, was refunded to them. Recently, to enable certain bus companies to meet payment of wage increases, it has been decided to refund to them the duty paid by them on diesel oil imported since 1st July 1977.

Further forms of assistance to bus companies will be considered as and when the need arises.

INCREASE IN BUS FARES

(No. B/537) Mr. A. Asgarally (Fifth Member for Montagne Blanche and G.R.S.E.) asked the Minister of Works whether he will give the assurance to the House that there will be no increase in bus fares until the recommendations of the Lavoipierre Commission have been published, studied and debated in the Legislative Assembly.

Mr. Bussier : Sir, Government has no intention to approve any increase in bus fares until the report of the Lavoipierre Commission has been studied.

COMPENSATION TO POLICEMEN WORKING EXTRA TIME

(No. B/538) Dr. J. B. David (Second Member for Belle Rose and Quatre Bornes) asked the Prime Minister whether he will say if Policemen working extra time, in Parliament or in any official function, are duly compensated.

The Minister of Finance : Sir, this matter has been investigated by the Chesworth Committee which has made recommendations for implementation with effect from the 1st July, 1977.

DIEGO GARCIA — ANGLO-AMERICAN TREATY

(No. B/539) Dr. J. B. David (Second Member for Belle Rose and Quatre Bornes) asked the Prime Minister whether he will say if

(a) Government proposes to question the Anglo-American treaty over Diego Garcia ; and

(b) there are any immediate or far reaching possibilities for Mauritius to get Diego Garcia back.

The Minister of Finance : Sir, taking all factors into consideration, the way of trying to recuperate Diego Garcia is by patient diplomacy at bilateral and international levels, and no opportunity is lost by the Government towards this end.

COMMERCIAL RELATIONS WITH SOUTH AFRICA

(No. B/540) Dr. J. B. David (Second Member for Belle Rose and Quatre Bornes) asked the Minister of External Affairs, Tourism & Emigration whether he will say if Government proposes to sever all commercial ties with the Republic of South Africa.

Sir Harold Walter : Such action to be effective, pressure should be exerted by the international community as a whole and, to this end, Government has diligently and consistently been calling for global trade sanctions against South Africa both at the UN and at the OAU.

RESEARCH CENTRE — HISTORY, ART AND CULTURE OF MAURITIUS AND OF THE INDIAN OCEAN

(No. B/541) Dr. J. B. David (Second Member for Belle Rose and Quatre Bornes) asked the Minister of Education & Cultural Affairs whether he will say if he proposes to create a Research Centre to study the History, Art and Culture of Mauritius and of the Indian Ocean.

Mr. Jagatsingh : Sir, this project will be studied in the light of the report of a UNESCO Consultant who is arriving shortly to advise on its elaboration.

APPLICATION BY POLITICAL PARTY TO USSR EMBASSY FOR FINANCIAL OR OTHER ASSISTANCE

(No. B/542) Mr. C. Guimbeau (First Member for Rodrigues) asked the Prime Minister whether he will make a statement on the action he proposes to take following the publication in *Le Cernéen* of the 21st October, 1977 of a letter addressed by a political party to the USSR Embassy applying for financial or other assistance.

The Minister of Finance : I refer the hon. Member to my reply to P.Q. B/230. In this particular case I am sure the public will draw their own conclusions.

AGENCE FRANCE PRESSE — PUBLICATION OF INFORMATION ABOUT MAURITIUS

(No. B/543) Mr. C. Guimbeau (First Member for Rodrigues) asked the Prime Minister & Minister of Information & Broadcasting whether he will give the name and status of the official correspondent of Agence France Presse in Mauritius and state what measures he has taken with the " Agence " to prohibit the publication of erroneous information concerning Mauritius.

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Mauritius Legislative Assembly, 29 November 1977,
Reply to PQ No. B/634

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short services to Chemin Grenier and Chamouny. However, the service provided by the Company is unsatisfactory and the Manager of the Company has, on two occasions, been summoned to appear before the RTLA and has been warned that the Company should improve its service. Should the service provided by the Savanne Bus Service continue to be unsatisfactory, the Road Traffic Licensing Authority will consider whether the Company's road service licences on that road should not be revoked.

In the meantime, in order to ease up the transport difficulties along this route, short term road service licences have been issued to five individual bus owners to operate six buses between Curepipe and Baie du Cap.

DIEGO GARCIA — MAURITIUS JURISDICTION OVER SURROUNDING WATERS

(No. B/634) Mr. A. Darga (Fourth Member for Mahebourg and Plaine Magnien) asked the Prime Minister whether he will say if the British Government has recognised the jurisdiction of Mauritius over the waters surrounding Diégo Garcia.

The Prime Minister : The British Government has since July 1971 recognised the jurisdiction of Mauritius over the waters surrounding Diégo Garcia.

DIEGO GARCIA — LANDING RIGHTS, CESSION ETC.

(No. B/635) Mr. A. Darga (Fourth Member for Mahebourg and Plaine Magnien) asked the Prime Minister whether, in regard to Diégo Garcia, he will —

(1) state if Mauritius has retained its landing rights over the island ;

(2) say if there has been any breach of the agreement reached in 1965 when the island was detached from Mauritius ; and

(3) consider the advisability of laying now before the Assembly a copy of the Minutes of Proceedings of the meetings when negotiations were held regarding the cession of the island and all the correspondence relating thereto.

The Prime Minister : Sir, the reply to parts one and two is generally negative because it is not our territory, although the plea was made during the Constitutional Conference that any plane in difficulty should get the right of landing. Hence there is no breach of any agreement.

As regards the third part, it will not be in the public interest to do so.

WORKERS' EDUCATION UNIT

(No. B/636) Mr. A. Darga (Fourth Member for Mahebourg and Plaine Magnien) asked the Minister of Labour and Industrial Relations whether, in respect of the Workers' Education Unit, he will state :

(1) when it was set up ;

(2) the nature of the work performed by it ; and

(3) the reasons why duly recognized trade unions have not been consulted in connection with its activities and associated therewith.

Mr. Mohamed : Sir, the Workers' Education Unit was set up in September and is doing the spade work for the

implementation of some of the r
dations formulated by an advi
mittee appointed by me and
nine of the thirteen members
union representatives. The la
the question does not arise.

MAURITIUS FEMALE CIT DIVORCE AND CUSTOD

(No. B/637) Mr. S. Cziffr Member for Stanley and
asked the Prime Minister whe
consider the advisability of
legislation with a view to re
ban on female citizens of tl
to enter divorce and custod
reason only of their husbanc
not being in Mauritius.

The Prime Minister : Sir,
citizens of Mauritius have
of the Courts to institute
for custody of children, ev
husbands are not domiciled i

As regards divorce cases,
priate amendment of the law
been envisaged and will be
at the same time as the other
to the Civil Code.

WOMEN STATU

(No. B/638) Mrs. S. Cziff Member for Stanley and
asked the Prime Minister
will lay before the Assemb
the actions taken by Go
improve the status of wo
country since our particip
various international confere
the International Women's

The Prime Minister : Si
being compiled and will l
as soon as it is ready.

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Mauritius Legislative Assembly, 5 July 1978, Committee of Supply

EXTRACT

mettre de l'ordre dans sa propre maison avant de se lancer dans des campagnes nationales.

J'ai terminé, M. le président.

On the Assembly resuming, with the Deputy Speaker in the Chair.

MOTION

Suspension of Standing Order 10(2)

The Prime Minister : Sir, I beg to move that Government business be exempted at this day's sitting from the provisions of paragraph (2) of Standing Order 10.

Sir Veerasamy Ringadoo *rose* and *seconded.*

Question put and agreed to.

COMMITTEE OF SUPPLY

(*The Deputy Speaker in the Chair*)

Consideration of Vote 15-1 *Ministry of Power, Fuel & Energy was resumed.*

Dr. K. Coonjan (Third Member for Quartier Militaire and Moka) : Sir, I would also like to refer to item 15-1.15 *Contribution to National Antiwaste Campaign.* Sir, in view of the fact that water to-day is a very scarce commodity, I think that there is no doubt that all types of campaign should be launched in Mauritius so as to make the people become conscious as to the importance of water.

However, Sir, last year I referred to this very item and I said that at Piton du Milieu for example, where we have a reservoir which is supposed to contain water, we had lots of equipment which had been lying idle for the last four or five years; in fact if anyone would care to go to the place, he will still find the same situation there.

However, Sir, we have lots of dams, of reservoirs, plenty of water which is in fact not being used for the welfare of the people. Here, Sir, I would like to refer to La Digue Valetta which is on the way from Quartier Militaire to Curepipe. There it is said that we have got perhaps millions of cubic gallons of water. However the water is not being used. What I would have suggested is that such places where we already have a good reserve of water and places which get sufficient rainfall and where often when rain falls too much, the dams overflow and cause a lot of damages to the crops in the vicinity, I would have suggested to the hon. Minister that such places should be located and reservoirs built where water could be stored and used in times when it is in short supply.

Secondly, we know, even last year I said it, we have got two big rivers, GRNW and GRSE. It is a pitiable sight to see that every day, every hour, millions of gallons of water are going to the sea without any effort from the Ministry to stop this and to use the water for purposes for which it can be used. In fact, Sir, we know that the industrial zone right now is making use of water which is already chlorinated and purified for domestic purposes. I feel that the Ministry could consider building a few reservoirs on the sites of GRNW and water could have been pumped from the river and utilized for the EPZ there. Beside this, Sir, when we are talking about an anti-waste campaign and we are spending Rs. 20,000, I think it is not a bad idea but first and foremost the Minister and the Ministry should give the example and even the other institutions which are concerned with water. As the

hon. Member who has spoken before me has said, we have got lots of leakages in the pipes in Mauritius. It is indeed a fact and I feel nobody can deny it that most of our piping system around the country was laid 30, 40 or perhaps 50 years ago. And most of these pipes leak, they have become defective and this causes loss of a lot of water, wastage of water. Therefore, I say, we have our mass media, we have the TV, we have got the press and in fact if the Government is interested there are so many avenues which can be used to make the public become conscious of the necessity for water and thereby to caution the people to waste less water so as to have more water in times of need.

Sir, here I find that we have in fact a lack of planning. If we look at La Nicolière, we have got plenty of water and most of the time even there the water is not used for the purpose it should have been. We have the dam at Valetta, we have the dam at Piton du Milieu and these dams have plenty of water but the water is not being used for the proper purposes. Hence, what I would have said, is that in the Ministry, when we are spending about Rs. 40m., I would have perhaps liked the Minister to take note of it that in the future it would be senseless for us to come every year in the budget speech and at the Committee of Supply stage, and talk about the defects, to come and talk about the propositions when we are sure every year to find the same situation. We talk a lot about administration and planning, every year we criticize administration and planning, but when we come to Parliament we find the situation is still the same. So, in this connection, Sir, I would like the Minister to take note and just as it is the practice in the British and other Parliaments, once a Minister gives his assurance on a certain thing he should see to it that that particular thing is done. And we have seen when we have been voting for the other Votes here in this House, in Committee of Supply many Ministers have come and said all right the matter will be looked into and the situation will be remedied. But however we have got an experience of one year and we find that this in fact is not done.

So, Sir, what I would have said is that together with these Rs. 20,000 that are voted for an anti-waste campaign, the Government should make proper use of the mass media and the Government should also make proper use of the available stock of water so as to allow this water to go to the people. What is happening in fact is that in the towns the situation is already calamitous and in the rural areas it is equally calamitous. It is shocking to know — I live in a village where we have got a river, where we have got plenty of water and the water could have been used for better purposes but in the village where I live, Sir, I am sorry to say that ten years after independence, the water which is flowing in the pipes refuses to fall in the taps of the people and more so, if you have got an installation to have your bath in a bathroom, the water will never follow the normal course. It is shocking, Sir, that ten years after independence, the people on one side are having numerous difficulties and on the other we have got a Ministry but yet there is no planning, there is no proper administration of it and, every year we are coming here to talk on the same matter. I would have liked the Minister to take note of what I am saying and to see that next year when we come on the budget speech, at least something will have been done.

M. Simonet : M. le président, je voudrais parler à l'item 15-1.16. Puis-je attirer l'attention du ministre sur le

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under items 21-1.1(7) and (8). I make a suggestion to Government that all the existing shells which are being sold be purchased and stored if necessary even if it costs some money to Government in order to prevent our having to say "I had those shells before". I am told by people who know the matter very well that the trading of sea shells is causing a tremendous harm to our sea shell resources.

Mr. Boodhoo : Mr. Chairman, I shall be very brief. I shall speak on items 21-1.1(1) and 21-1.1(30) I would have liked to congratulate the hon. Minister for his special efforts for (1) wiping out almost all the banians who were selling fish at exorbitant prices in the country and (2) creating various cooperative societies for fishermen.

Now, at item 21-1.1(30) I have already brought various suggestions, how to reorganise this Ministry. I would have liked to point out that the sum voted for this Ministry should be increased. The fishing industry if well developed will become the third main industry of this country.

Mr. Gungoosingh : Mr. Chairman, Sir, I am speaking under item 21-1.1(1). I am making a request to the hon. Minister to have a station opened at Bambous Virieux so as to have a better control on illegal fishing.

The Minister of Fisheries : Mr. Chairman, Sir, I would like to thank all my Friends for their encouragement. Even my hon. Friend, the First Member for Belle Rose and Quatre Bornes has realised that a very good work is being done in my Ministry and the First Member for Rivière des Anguilles and Souillac too.

Well, according to our plan, in the near future we shall be able to control illegal fishing in our lagoon by means of dynamite and other means. You know, Sir, presently, as the law is, anyone may go in any place with a contractor's permit, and he may buy dynamite but instead of using the whole lot, he spares a few and he sells it to unscrupulous amateurs, not genuine fishermen. Because those who fish illegally are not genuine fishermen because genuine fishermen know that when they use dynamite it is going to destroy the very habitat of the fish and it will be very difficult for them one day to have enough fish. Well, this the Government is taking into consideration and they will hear about it soon.

In connection with underwater fishing, you know, Sir, according to the amendments which will be presented here and which this House will have to approve, many clauses in our Fisheries Ordinance will be amended. To begin with, the use of dynamite, underwater fishing, the collection of sea shells will be prohibited. But one request I would make the day I said that underwater fishing will be stopped, an hon. Member of the Opposition, came with a delegation of underwater fishermen, requesting me, if possible, not to introduce that measure. I am not going to divulge his name. If anyone would like to have it privately, I will tell him. But I ask hon. Members please not to interfere the day this amendment will come in front of the House. So, underwater fishing will be banned, control of the use of dynamite will be stricter.

The hon. First Member for Belle Rose and Quatre Bornes has said that fish will no more be available in our lagoon. Sir, I do not agree because there are

different species of fish that are found in our lagoon. They are not there all the year round. They come here only at a certain time of the year. To give you an example, sardines come here only in the months of May, June, July and they return to the place where they live. Therefore, there are many species of fish that come here at a specific period of the year. The point is that our lagoons are full of fish and the amount of reserves that are under our control and through the policy that the Ministry is executing, there is no risk of the total disappearance of fish. But I am sure the amount of fish available in our lagoon is increasing, if we compare the statistics of the catch that we had last year and that we have had this year.

Now, in connection with Saya de Malha, I gave an answer to a parliamentary question asked by one of my Friends and I am sticking to that answer that at this stage we cannot say anything but let the House rest assured that everything is following the proper course.

In connection with the exploitation of tortoises and other industries at Tromelin, well, there is a proper forum for Ministers where they debate this, it is the Council of Ministers. I think at this stage it is being considered thoroughly and when the time comes, Members of the House will get the opportunity to learn about it.

Well, Sir, the Third Member for Port Louis North and Montagne Longue said when I went to St. Brandon, I invited a few friends. As I have said previously, when I will move to another island I will make it a duty to select a few friends who would like to go there. But one thing they must bear in mind. Your constitution must be very strong otherwise it is very difficult to resist seven days' travel at sea !

And in connection with the patrol boat, the hon. Member need not worry. When I returned from Korea I said that we are getting this and that. We have received part of it and I am sure the rest will follow.

In connection with Chagos, as the Prime Minister said, we have fishing rights. And let it be known to the House that one of our fishing vessels, the Nazareth went to fish in that particular region but the type of fish which is caught there, Sir, is not sold here in Mauritius being given that we Mauritians like a different type of fish, white fish that we get from St. Brandon. Therefore, as Mauritians, we like fish from St. Brandon. But there are other types of fish like vara vara that they get and it is not consumed by Mauritians, and the proprietors of our companies are not interested in catching the fish which are found in abundance there. The last time when a few tons were brought, they were salted instead of being sold to the public. But there are other species that could be caught and converted to be sold perhaps to other countries. But the point is that the fishing rights are still there and our companies are free to go and fish there.

My hon. Friend the First Member for Rivière des Anguilles and Souillac made a suggestion that the Budget of my Ministry should be increased, it is noted and next time I hope that it will be done.

Sir, I think these are all the points that have been raised by my hon. Friends.

Vote 21-1 *Ministry of Fisheries* (*Rs.* 5,425,000) *was, on question put, agreed to.*

Vote 22-1 *Attorney General's Office was called.*

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Mauritius Legislative Assembly, 11 April 1979,
Speech from the Throne – Address in Reply,
Statement by the Prime Minister of Mauritius

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EXTRACT

However, after the Commission has reported, nothing prevents any hon. Member to put down a question to inquire about the Government's intentions about laying the report on the Table of the Assembly.

MOTION

Speech from the Throne — Address in Reply

Order read for resuming the adjourned debate on the following motion of the hon. First Member for Curepipe and Midlands (Mr. P. Simonet) :

> "That an Address be presented to His Excellency the Acting Governor-General in the following terms :
>
> 'We, the Members of the Mauritius Legislative Assembly here assembled, beg leave to offer our thanks to Your Excellency for the Speech which Your Excellency has addressed to us on the occasion of the Opening of the Third Session of the Fourth Legislative Assembly.' "

Question again proposed.

M. P. Bérenger (First Member for Belle Rose and Quatre Bornes) : M. le président, on me dira peut-être qu'il est de la nature même des discours du Trône de ne pas coller à la réalité de la situation dans laquelle se trouve l'île Maurice. Cela ne m'empêchera néanmoins pas de dire pour commencer, M. le président, que le discours du Trône prononcé le 27 mars dernier par le Gouverneur-Général n'a véritablement rien à voir, ni avec la situation dans laquelle se trouve actuellement notre pays, ni avec les solutions qui, du point de vue de l'opposition, du point de vue du MMM devraient être apportées d'urgence à ces problèmes. Mon discours, M. le président, va s'axer sur quatre volets : la situation économique d'abord. A l'inverse du *Leader* de l'opposition, qui avait commencé par les affaires étrangères, je commencerai, moi, par la situation économique, pour passer ensuite à l'éducation, à la politique intérieure, et quatrièmement donc, à la politique étrangère avant, en conclusion, de suggérer ce qui de notre point de vue, pourrait s'avérer être des solutions à la situation actuelle.

Lorsque, je commence par la situation économique, M. le président, ce n'est pas sans raison, c'est parce que véritablement de mon point de vue, ce devrait être la situation économique actuelle du pays et l'avenir économique du pays qui devrait avant tout retenir notre attention, l'attention de cette Chambre, comme l'attention de la nation tout entière. J'estime, en effet, M. le président, que non seulement la situation économique actuelle est-elle catastrophique, mais j'estime, ce qui est encore plus grave, que l'avenir est terriblement sombre.

Je commencerai, M. le président, par le chômage, Je vous rappelle que dans son dernier discours du budget l'année dernière, le ministre des finances lui-même était venu dire que le chômage était redevenu à l'île Maurice, la priorité des priorités. Dans l'intervalle, depuis ce discours du budget, donc, non seulement l'emploi n'a-t-il pas progressé, mais au contraire l'emploi a régressé. Des licenciements ont eu lieu dans l'industrie sucrière, dans l'industrie du thé, dans la zone franche, dans le commerce, et même dans l'industrie de construction. De mon point de vue, donc, M. le président, lorsqu'à la page 2 du discours du Trône, le Gouvernement déclare tout simplement dans une situation d'emploi aussi explosive, aussi catastrophique, que "*my government's main objectives remain the continued growth of our economy and the fulfilment of our employment objectives*" il passe completement à côté du problème,

car le drame est que les "*employment objectives*" du Plan de Développement 1975-1980 sont absolument dépassés et qu'il ne s'agit plus en fait de "*continued growth of our economy*", en particulier, de "*continued growth of employment*" mais au contraire d'une situation où le chômage malheureusement progresse. En attendant donc, de venir aux moyens de créer de l'emploi à l'île Maurice, je commencerai mon discours en insistant cette année, M. le président, sur le fait que, comme l'a dit mon collègue, Sylvio Michel, dans une motion déposée en son nom, nous estimons de ce côté de la Chambre, j'estime en particulier qu'il est absolument essentiel et urgent de mettre sur pied dans les plus brefs délais un système d'allocation chômage. Je me permets de rappeler à la Chambre qu'en 1971 la Chambre avait nommé un *Select Committee* qui avait soumis son rapport intitulé "*Report of the Select Committee on the Setting up of Unemployment Benefit Scheme*". Dépose en mai 1971, ce rapport, comme nous le savons tous, est demeuré lettre morte, et je ne prétends nullement que ce rapport devrait aujourd'hui être mis en pratique. Je rappelle cela à la Chambre uniquement afin que nous ne répétions pas cette erreur de nommer un *Select Committee* qui produirait un rapport, rapport qui disparaîtrait dans un tiroir, dans un ministère quelconque. Nous savons, M. le président, alors qu'il nous avait été dit lorsque le *National Pension Fund* avait démarré, les officiels du Gouvernement, ceux du ministère de la sécurité sociale, et même ceux du Gouvernement, nous avaient donné l'assurance que des années durant, le *National Pension Scheme* travaillerait à perte, que durant des années, le Gouvernement aurait à verser des subsides, si je puis dire, au fonds de pension national. Or, il s'est avéré que ces prévisions des experts du Gouvernement, ces prévisions du secteur privé se sont avérées complètement fausses. En quelques mois, le *National Pension Scheme* a réussi à mobiliser des fonds considérables, à développer un surplus qui a permis que dix millions de roupies, par exemple, soient prêtées à la *Mauritius Housing Corporation*. Ma suggestion c'est qu'à partir de cette base posée par le *National Pension Scheme*, si nécessaire en augmentant de, disons, 1 ou 2% la contribution des employeurs, à partir de la base posée par le *National Pension Scheme*, avec, si nécessaire, une legère augmentation des contributions, qu'un vrai système d'allocation-chômage qui se grefferait sur le *National Pension Scheme* pourrait être développé. Malgré, donc, l'expérience malheureuse du *Select Committee* de 1971, je suggère au Gouvernement devant la montée du chômage constatée par le ministre des finances lui-même, mais en fait constatée je suis certain, dans nos circonscriptions par tous les députés de cette Chambre, je suggère que le Gouvernement nomme un *Select Committee* de cette Chambre pour se pencher à nouveau sur "*the setting up of an Unemployment Benefit Scheme*" et qui se penche donc sur le fonds de pension national et propose quelquechose de concret, quelquechose de positif mais en même temps quelquechose de réaliste au Gouvernement et à la Chambre.

Le deuxième point sur lequel je m'étendrai concerne l'inflation. Là encore, M. le président, le discours du Trône passe complètement à côté de la situation réelle. Le discours du Trône dit ceci, en termes d'inflation, "*Price control will remain a priority of my Ministers*". En fait, nous savons, M. le président, qu'en cette année 1979, l'inflation depuis janvier a réagi sous un nouveau coup de fouet. Dans le seul mois de janvier 1979, le coût de la vie a augmenté de 2.3%,

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pas tomber d'accord, l'*Industrial Relations Commission* devra se servir d'un *secret ballot*. Mais ce n'est pas *compulsory*, et la Commission des relations industrielles a jugé qu'il serait trop politique de faire un tel vote par bulletin secret. C'est pourquoi nous, nous estimons qu'il faudrait imposer cela, il faudrait empêcher quelque manipulation, quelque pression politique que ce soit, permettre aux travailleurs d'exprimer leur choix. Cela vient rejoindre, je le dis surtout à l'intention du ministre des finances cette fois-ci, mais aussi le Premier ministre. Il faut bien réaliser comment fonctionnent les choses. Si un syndicat est reconnu, il est à la table des négociations, il est amené à prendre connaissance des faits, des réalités, on lui soumet des *balance sheets*, il discute des *balance sheets*, etc. mais quand un syndicat, comme la *Sugar Industry Labourers' Union* et la *Union of Artisans of the Sugar Industry*, est systématiquement boycotté, alors qu'il était reconnu et qu'il est toujours majoritaire, ce syndicat ne peut pas dialoguer avec le patronat, quelle est la tentation ? La tentation est naturellement de demander des augmentations de salaires fortes puisqu'on n'est pas devant les faits, on ne discute pas les *balance sheets*, on n'a pas des réunions régulières avec le patronat. Et dans le cas de la fermeture de Solitude et de Réunion la réaction immédiate des syndicats, qui ne discutent pas avec le patronat, la réaction immédiate est de dire non tout de suite avant même d'avoir pris connaissance des faits. Alors, j'estime donc, que l'*Industrial Relations Act* doit être amendé, et qu'une clause doit prévoir que dans les cas de *recognition* un *secret ballot* tranchera, permettra aux travailleurs de se prononcer.

Je passe au quatrième volet de mon intervention, M. le présiddent, la politique étrangère, sujet sur lequel s'est étendu hier le président du parti travailliste. Là, comme l'a dit le *leader* de l'Opposition, il fait nul doute que les intentions déclarées dans le discours du Trone sont plus que louables. Participer à fond au fonctionnement de l'OUA, la libération du continent africain, participer à fond au mouvement des pays non-alignés, " *work closely with its neighbours* ", faire de l'Océan Indien une zone de paix, participer au dialogue ou plutôt à l'affrontement Nord/Sud au profit du sud sous-développé, participer aux discussions ACP/CEE au profit des pays ACP, tout cela est plus que louable. Ce que nous nous considérons obligés de rappeler, c'est que la réalité contredit cela. Malgré que le Parti travailliste, à travers son président et son secrétaire général, ait demandé à participer à la conférence des partis et organisations progressistes des îles du sud ouest de l'Océan Indien. Malgré le récent voyage du Premier ministre et d'une délégation ministérielle en Libye, malgré la déclaration positive — et je félicite le Premier ministre de l'avoir faite, rapidement hier — en faveur du peuple palestinien, nous sommes obligés d'attirer l'attention sur un certain nombre de contradictions, et sur un certain nombre pour nous de positions qui ne sont pas acceptables. Je pense que certains sont en train d'essayer de changer la politique étrangère du Gouvernement. Très bien, très louable effort qui se traduit par les mots utilisés, donc, dans le discours du Trone. Mais, les mentalités ne changent pas aussi facilement, et certaines réactions que nous avons vues ici même ces derniers jours nous permettent de le constater. En effet, premièrement, au moment même ou le discours du Trone déclare que l'île Maurice va participer pleinement au mouvement des pays non-alignés,au moment même ou l'île Maurice établit des relations diplomatiques avec Cuba, au moment donc où mon ami l'ambassadeur posté à Tanarive, Cardozo, viendra visiter l'Ile Maurice, c'est précisément à ce moment que le ministre des affaires étrangères a choisi, il y a à peine quelques jours, pour s'attaquer à Cuba, pour poser la question " Cuba *non-aligned* ? " sur un ton agressif qui n'était pas nécessaire dans ce contexte. Nous savons tous que Cuba a les positions que Cuba a. La coincidence veut que le mouvement des pays non-alignés se réunissent au sommet cette année à Cuba. Nous demandons de ce côté de la Chambre que le Premier ministre se rende à Cuba pas parceque c'est Cuba, mais parceque c'est la conférence au sommet des non-alignés. Ils se réuniront ailleurs à un autre moment. Si on s'y rend pour critiquer le non-alignement — ce n'est pas aussi simple que ça — mais l'alignement de Cuba, faites-le, si c'est votre conviction, faites-le, c'est la notre que Cuba n'est pas suffisamment non-aligné, mais ne boycottez pas, et n'attaquez pas sans explication Cuba au moment où vous établissez des relations diplomatiques officielles. Je dois faire remarquer que cela, que quand même l'île Maurice aura fait bien du chemin — je regardais ce matin même, j'ai oublié d'apporter le journal en question, je crois que c'était à la veille de l'élection partielle de Vacoas-Phœnix, une belle photo dans le journal travailliste " *Nation* " une photo de Guy Sinon, ministre des affaires étrangères des Seychelles, de moi-même, et moi je suis entre Guy Sinon et un ami personnel à moi, Cardozo, qui est ambassadeur à Madagascar de Cuba et qui sera donc accrédité auprès de l'île Maurice, et toute une tartine, " Subversion dans l'Océan Indien ", et le pauvre Cardozo n'en a pas cru ses yeux lorsque je lui ai porté le journal, " le pauvre Cardozo qui est l'agent numéro 1 de la déstabilisation communiste ", tout ça aujourd'hui est réduit à quoi ? Heureusement à rien du tout dans la mesure où ce sera, ce même déstabilisateur professionnel qui va venir à l'île Maurice représenter officiellement le Gouvernement de Cuba.

Deuxième point où nous constatons un désaccord ou plutot une contradiction...

The Prime Minister : Avec Georges Marchais aussi.

An hon. Member : Marchais a demandé le retour de Tromelin, ne parlez pas de Marchais ! Marchais est le stabilisateur !

Mr. Bérenger : I'll come to that.

J'en viens au deuxième point, le Moyen Orient. Oublions les faux pas passés, ce n'était pas des pas dans la bonne direction, plutot dans la mauvaise direction mais oublions cela. Oublions les félicitations, l'appui officiel à Camp David, au voyage de Sadate à Jérusalem etc. Ça c'est le passé. C'est avant le grand voyage en Libye. Oublions aussi les félicitations empressées au pauvre Bhaktiar en Iran. Oublions cela, venons à la situation actuelle où le ministre des affaires étrangères a jugé bon de déclarer — pour une fois il a essayé de ne pas dire beaucoup, il a dit une petite phrase, naturellement pas la bonne — que le traité de paix qui vient d'être signé est un pas dans la bonne direction. Chaque ministre a la dignité qu'il a. La déclaration d'hier du Premier ministre, je laisse le soin au ministre des affaires étrangères de la comparer au pas dans la bonne direction qu'il avait jugé nécessaire de prendre à peine une semaine plus tôt. Mais enfin, dans le Moyen Orient le tir est rectifié. C'est très bien mais j'espère quand même que ce ne sera pas simplement quelque vœu pieux, qu'une déclaration comme ça. Le Gouvernement devrait faire tout ce qu'il peut aux Nations Unies, à l'OUA, ici-même vis-à-

vis des Etats Unis pour obtenir d'abord que tous les territoires occupés par Israël après 1967 soient évacués, que Jérusalem en particulier retourne à son statut d'avant 1967, que le peuple palestinien ait un état, ait une terre, ait un pays à lui. J'estime donc qu'il faut que le Gouvernement, quoique l'île Maurice soit un petit pays, fasse pression dans cette direction. Sur l'océan indien, nous considérons choquant de ce côté de la Chambre qu'après les évènements en Iran, le Président René d'un tout petit pays de moins de 100,000 habitants, comparé à notre pays d'un million d'habitants, que le Président René le premier ait réagi et envoyé un message au Président Carter pour protester contre la décision américaine d'intensifier sa présence militaire, pour demander qu'il n'y ait pas une nouvelle flotte de guerre américaine postée dans l'océan indien. Le Président René du petit pays seychellois a le premier réagi. Le Président Ratsiraka a réagi lui aussi et a envoyé lui aussi un message de solidarité au Président René et est intervenu auprès du Président Carter mais l'île Maurice n'a pas réagi à ce jour. Aucune réaction, la servilité habituelle ! Là je suis obligé de venir m'étendre quelque peu sur ce que le président du parti travailliste a dit, sur le cours d'histoire absolument faussée que le président du parti travailliste a jugé utile de nous faire hier. Je n'avais pas l'intention de m'étendre là-dessus mais le président du parti travailliste l'ayant fait, je suis obligé de réfuter ce qu'il a dit et de mettre les faits devant la Chambre.

Le président du parti travailliste est venu nous dire, en quelques mots, d'abord en 1965 le Gouvernement mauricien d'alors, le parti travailliste essentiellement, ne pouvait rien faire. Deuxièmement, qu'il avait été entendu dès le départ, que le Premier ministre et le ministre des finances avaient compris dès le départ, qu'il s'agirait d'une base de communications, un point c'est tout et ensuite, à partir de petites coupures de différents journaux il a essayé de prouver que le parti travailliste a pris position comme il fallait le prendre en ce qui concerne l'océan indien. Je regrette, mais cela n'est pas la vérité historique. Revenons donc aux choses sérieuses. 1965, l'archipel des Chagos est détaché de l'île Maurice de même que certaines îles seychelloises pour former le *British Indian Ocean Territory*. Ce n'est pas sérieux de réagir à partir de coupures de presse. Lisons plutôt ce qui est déclaré à l'Assemblée Legislative le 14 décembre 1975 en réponse à une question de Monsieur J. R. Rey, Monsieur Robert Rey donc, qui n'est pas présent, député de Moka à cette occasion. J'ai pris cela au Secrétariat il y a déjà plus de cinq ans parcequ'entre temps nous nous sommes renseignés, — le Secrétariat de la Chambre nous l'a communiqué " *Extract from Debates of* 14*th December*, 1965. *Mr. Forget on behalf of the Premier and Minister of Finance tabled a reply to a parliamentary question.*" Donc ça c'est sur le premier point que le Gouvernement ne pouvait rien faire, que Diégo et les autres îles ont été détachés et que nous ne pouvons rien faire. Le ministre qui remplace donc Sir Seewoosagur Ramgoolam, pas encore "Sir" en ce temps là, dépose sur la table la réponse à la question et il dit ceci : *"In reply to a parliamentary question, the Secretary of State made the following statement in the House of Commons on Wednesday November the* 10*th, " With the agreement of the Governments of Mauritius and the Seychelles new arrangements for the administration of certain islands were introduced by an Order-in-Council made on the* 8*th November.*"

Voilà la vérité et d'ailleurs le Premier ministre l'a dit ici, je le citerai tout à

l'heure. Je le répète " *With the agreement of the Governments of Mauritius and the Seychelles etc.*" L'accord du Gouvernement mauricien a été obtenu, le Gouvernement d'alors, le Gouvernement du parti travailliste. Premier point donc, cela. Le premier ministre a eu le temps : 1965, 1967, 1968, 1969 on n'entend pas grand'chose sauf en ce qui concerne le PMSD — je viendrai là-dessus tout à l'heure. Mais finalement à l'Assemblée, le 26 juin 1974 en réponse à Dev Virah Sawmy, dans cette Assemblée même, le Premier ministre, Sir Seewoosagur Ramgoolam parlant de Diégo Garcia, dit ceci : " *The Government of Mauritius was nevertheless informed after we had discussed in England that this had taken place* — c'est-à-dire le détachement des îles — *and we gave our consent to it.*" Les mots prononcés par le Premier ministre dans le Hansard officiel. " *It was not done like this. But the day it is not required it will revert to Mauritius. But Mauritius has reserved its mineral rights, fishing rights and landing rights* — je viendrai là-dessus tout à l'heure, dans une réponse à une question parlementaire il répond exactement le contraire, il y a peine quelques mois — *landing rights and certain other things that go to complete in other words some of the sovereignty which obtained before on that island. That is the position. Even if we did not want to detach it I think* — un Premier ministre parlant de l'intégrité territoriale de son pays — *even if we did not want to detach it* — avant il a dit " *we gave our consent to it* " catégoriquement — *even if we did not want to detach it I think from the legal point of view Great Britain was entitled to make arrangements as she thought fit and proper. This in principle was agreed even by the PMSD who was in the Opposition at the time and we had consultations etc.*" D'abord, il vient dire catégoriquement que le parti travailliste donna son *consent* au détachement de ces îles et en fait de quelle loi parlons-nous ? Vous rirez peut-être mais ça fait des années que j'ai demandé au secrétariat de cette Chambre de me faire avoir copie. C'est à partir de ce petit bout de papier. C'est tout le texte de loi qui a permis au Gouvernement britannique de détacher tous ces territoires de l'île Maurice. C'est tout. Le *Colonial Boundaries Act* de 1895 et que dit le *Colonial Boundaries Act ? " Alteration of boundaries of Colony : Where the Boundaries of a Colony have etc etc.*" on peut changer " *provided* (2*me clause*) *that the consent of a self-governing Colony shall be required for the alteration of the boundaries thereof*". En d'autres mots, non seulement, le Gouvernement, le parti travailliste d'alors avait les moyens même légaux de protester mais ce n'était pas une protestation légale qui s'imposait. C'est en fait une protestation politique et le Premier ministre a au moins eu la décence de dire qu'il donna son *consent*. D'après mes renseignements c'est uniquement le Premier ministre et le ministre des finances qui furent associés aux discussions avec le Premier ministre d'alors, Sir Harold Wilson. Donc, le point-clé c'est qu'ils donnèrent, le parti travailliste donna, son *consent*. Mais je vais plus loin. Puisque le Premier...

The Prime Minister : We had no choice.

Mr. Bérenger : You had a choice.

Mais je vais plus loin. Après que le 27 avril 1975, lorsque les Anglais s'en vont, on a honte en relisant tout ça. Seulement le président du parti travailliste choisit les journaux qu'il lit. " Maurice regrette le départ des Britanniques " En Avril 1975, lorsque les Britanniques quittent le HMS Mauritius et s'en vont. " *It*

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is a tearing away of hearts ", a déclaré hier Sir Seewoosagur, Premier ministre en invoquant le retrait du HMS Mauritius. Sir Seewoosagur a déclaré qu'il aurait souhaité qu'une telle décision ne fusse jamais prise ". Ce n'est pas *Le Militant* ou *Le Peuple*, mais *Le Nation*, journal travailliste qui rapporte les cérémonies déchirantes " *a tearing of hearts* ". Ça, c'est le 27 avril 1975, quelques mois plus tard — puisque le président du parti travailliste aime collectionner les coupures de journaux, le 26 septembre, 1975 " Conférence de Sir Seewoosagur Ramgoolam à Londres ". Je cite *l'Express* du 26 septembre 1975. Titre : "La Grande Bretagne a le droit de construire une base à Diégo " Texte : "La Grande Bretagne a le droit souverain de faire construire dans l'ilot de Diégo Garcia une base aéro-navale pour le compte des Etats Unis." Le reste suit. ,, Mais tous les pays riverains de l'océan indien espèrent qu'il sera possible de transformer cet océan en une zone de paix, a déclaré mercredi le Premier ministre, Sir Seewoosagur Ramgoolam " rapporte l'AFP. En d'autres mots, il reconnait le droit souverain aux Anglais de faire ce qu'ils veulent de Diégo Garcia et ensuite on va venir nous citer je ne sais combien de bouts d'interviews raccolés ci et là. Voilà les faits. On ne peut pas réfuter, qu'en 1965 ces îles furent détachées de l'île Maurice " *in agreement with the Labour Party, with the Government* " d'alors, que le Gouvernement avait les moyens non seulement politiques mais légaux de le contester et qu'ils ne l'ont pas fait.

Maintenant je passe au deuxième point que il fut toujours clair au dire du parti travailliste, qu'il ne pouvait s'agir que d'une base de communications. Lisons le même texte que l'*Acting Prime Minister*, l'hon. Forget, déclare à cette Chambre. Il continue " *It is intended that the islands will be available for the construction of defence facilities by the British and U.S. Governments* ". Dès 1965, dès le 14 décembre 1965. Et plus loin " *If the British Government decides that the Chagos Archipelago is no longer required for defence purposes, the islands will be returned to Mauritius.*" " Communications ", cherchez où vous voulez, il n'y a pas, on ne parle pas de " Communications Centre ". Le texte officiel lu par l'*Acting Prime Minister* ici parle lui-même de " *defence purposes* ". D'ailleurs, j'ai pris la peine de relire tous les journaux de l'époque. A partir du 9 août, *le Mauricien* pose des questions " La question d'une base anglo-mauricienne à Diégo serait actuellement la clé de notre avenir constitutionnel ". Le 5 octobre, feu Jules Kœnig déclare à propos de la base ,, Je ne sais rien qui puisse être publié. Les conclusions sont au stade confidentiel." Déclaration de feu Jules Kœnig au journal *Le Mauricien*. Il y a plus : le 6 novembre, meeting PMSD du 5 novembre, rapport le 6, à Rose Hill. Je cite tel quel ce que *Le Mauricien* rapporte : " Un membre du public — 1965 toujours là, toujours en pleine conférence constitutionnelle — Charles Gaëtan Duval parle ,, Un membre du public : Parlez-nous de la base. Quelqu'un qui crie dans la foule. Monsieur Duval dit qu'il ne peut reveler les secrets du Conseil des ministres. "Personnellement, Monsieur Duval n'est ni contre les Américains ni contre les Anglais. Il réclame d'ailleurs une forme d'association, l'installation d'une base n'est pas sans risque mais il se déclare d'accord pour une base si d'abord ils obtiennent un prix de sucre et deuxièmement un contingent d'émigrants. Donc, le PMSD lui-même reconnait que c'est d'une base qu'on parle et que cela présente des dangers pour l'avenir mais on est encore en train de marchander

émigration, quota de sucre. Ça continue et, au cours d'une conférence de presse que tient le PMSD immédiatement après la rupture de la coalition d'alors, le 12 novembre, Conférence de Presse du PMSD. " Je tiens à déclarer ", Jules Kœnig parle, rapporté par *Le Mauricien* ,, Je tiens à déclarer de la façon la plus formelle que le PMSD n'est pas contre le principe de céder les Chagos, ou que cet archipel devienne un centre de communications pour faciliter la défense de l'Occident — et là on joue sur les mots — le PMSD en approuve le principe ; il est en désaccord sur les termes et les conditions de cette cession ". Duval, comme toujours, les pieds dans le plat ajoute, Duval est lui aussi d'accord en principe et ajoute, " Si l'Angleterre et les USA... n'avaient pas d'argent, l'île Maurice leur aurait donné la base." Qu'on ne vienne pas fausser les faits historiques. Tout cela montre que non seulement le parti travailliste, mais que le PMSD aussi était parfaitement conscient que c'était une base *for defence purposes* et pas seulement de communications et que, il y a eu en fait un faux pas historique — cela arrive à tout le monde, on peut demander que le manque d'expérience entre en considération mais qu'on n'essaie pas de fausser la vérité jusqu'à la fin de l'histoire finalement. Tout à l'heure j'entendais le ministre des affaires étrangères dire " Correct, Correct " quand je lisais, le Premier Ministre disant à la Chambre ici le 26 juin 1974 que l'île Maurice avait gardé ses *landing rights*, entre autres, à Diégo Garcia. En réponse à une question parlementaire ici à la Chambre, Question B 635, de l'Hon. Amédée Darga, qui demande " *... state if Mauritius has retained its landing rights over the island, state if there has been any breach of agreement etc.* " Le Premier Ministre lui-même répond " *Sir, the reply to parts* 1 *and* 2 c.à.d. *landing rights, is generally negative, because it is not our territory although the plea was made during the constitutional conference, that any plane in difficulty should get the right of landing ; hence, there is no breach of any agreement* ". " *It is not our territory ; we don't have landing rights* ", et puis ici, on nous dit " correct, correct " comme si l'île Maurice avait gardé ses *landing rights*.

Le député Finlay Salesse, Question B/510 " *Will the Prime Minister give a list of all territories which constitute the State of Mauritius* ". Je me demande si le Premier Ministre, je sais qu'il est débordé de travail, mais avant de mettre des choses pareilles sur papier, est-ce qu'on ne peut pas refléchir ? On lui demande une liste " *of all territories which constitute the State of Mauritius*" et il donne la liste, " *Round and Flat Islands, Rodrigues, Agalega, Tromelin, Cargados Carajos Archipelago* ", et *Chagos Archipelago* pas question. Vous savez que le Cargados Carajos Archipelago c'est St. Brandon etc. Lui, en tant que Premier Ministre il donne une réponse parlementaire, il exclut lui, Diego Garcia alors qu'il dit ailleurs que cela nous sera retourné lorsqu'on n'en aura plus besoin. En d'autres mots, *he builds up the case against the return of Diego Garcia to Mauritius*. Naturellement Sir Harold Walter n'a pas manqué lui aussi une occasion de mettre les pieds dans le plat. Autre question, cette fois-ci, de James Burty David, président du parti travailliste, Question B/760, *asking* " *the Minister of External Affairs whether he will consider the advisability of arranging for a delegation of members of the Legislative Assembly to visit Diego Garcia. If not, why not ?* " *It is hardly possible to arrange any sort of visit to any territory which is not within this country's jurisdiction* ". Donc ce n'est pas notre territoire, c'est en dehors de notre jurisdiction. Je laisse au prési-

dent du parti travailliste le soin de se retrouver. Pour conclure, je rappellerai pour ceux qui nous disent qu'on n'a pas vendu Diégo Garcia, je rappellerai que le *Financial Return*, c.à.d. le *Financial Report* — je crois que tous les membres savent que chaque année il y a les *Estimates*, et puis après une année d'exercice financier, l'*Accountant General* dépose son rapport pour l'année écoulée, il certifie que les sommes ont été dépensées ; telle somme, telle somme etc. Il certifie, en tant qu'*Accountant General*. Dans le rapport de l'*Accountant General* donc, pour l'année 1965-66, *Statement* (G) *Capital Revenue, Head* L15 *Miscellaneous — Sub-heading* 4 — *Sale of Chagos Island* — 40 *millions of rupees*. Donc, le Gouvernement lui-même, dans ses propres comptes financiers, a fait inclure 40 millions de roupies, représentant *the sale*, la vente, pas la cession, mais *the sale*. Donc je crois, M. le président, qu'il était nécessaire d'être un petit peu long, pour bien préciser les choses, et je crois que l'heure est arrivée pour le parti travailliste, au nom du bien du pays,et de son intégrité pour une fois, de faire son *mea culpa* et de se joindre aux autres pour obtenir que la base de Diégo Garcia, soit démantelée tout de suite et que l'île de Diégo Garcia soit rendue à l'île Maurice dans les plus brefs délais.

Pendant que je suis sur cette question de l'océan indien, je parlerai aussi donc de Tromelin, et de Saya de Malha rapidement. Dans le cas de Tromelin, nous nous élevons contre la déclaration faite par le Ministre des affaires étrangères. Nous ne pouvons pas accepter sa suggestion d'un tribunal international — je me demande si le Premier Ministre lui a donné le feu vert pour ça — nous sommes ici au cœur de l'océan indien ; Madagascar est à côté, les Seychelles sont là ; il y a une géopolitique explosive dans notre région que le président du parti travailliste lui-même souligne le premier. La géopolitique, la décolonisation exige que ces îles soient rendues à Madagascar ou à l'île Maurice. Dans le cas de Tromelin, Madagascar a reconnu officiellement que Tromelin devrait retourner — à moi le Président Ratsiraka a dit " Nous n'allons quand même pas nous battre entre nous. L'important est que la France ne reste pas dans cet océan indien à travers des mini-colonies pareilles ". Le Président Ratsiraka m'a dit à moi donc, " Maurice revendique Tromelin, nous revendiquons Les Glorieuses, Bassas da India, Juan de Nova ". Est-ce que nous pouvons accepter que sur la base de pseudo-légalisme, la France transfére Madagascar à partir de tout un chapelet d'îles. Ce n'est pas sur le terrain légal qu'il faut se battre ; même le terrain légal est solide ; mais ce n'est pas sur le terrain légal qu'il faut se battre, mais sur le terrain géopolitique, sur le terrain diplomatique. Je demande donc au Gouvernement, de faire un pas dans la bonne direction pour de vrai, pour une fois de corriger le tir, de ne pas suivre cette ligne d'un tribunal international, avee un juge international etc. mais plutôt de s'associer aux Seychelles, à Madagascar, au Mozambique, à la Tanzanie, aux pays de la région, pour exiger que Tromelin soit rendu à l'île Maurice et que Juan de Nova, Bassas de India et Les Glorieuses soient rendus à Madagascar. Il est révoltant que tout à l'heure — encore une fois c'est la nature profonde du réactionnaire qui parle, il est étonnant qu'au moment où Ratsiraka prend position officiellement en faveur du retour de ces îles à Madagascar et à Maurice, au moment où Georges Marchais, Secrétaire-Général du Parti Communiste français, à la Réunion — vous savez que Tromelin dépend de la Réunion administrativement, le Préfet de la Réunion administre Tromelin, notre

territoire — Georges Marchais vient faire la leçon à Sir Harold Walter, à la Réunion — et lui se permet ici au lieu de se servir de cet argument, au lieu de prévoir l'avenir où il est inévitable que la Gauche arrive au pouvoir en France, à ce moment-là il faudra déterrer cette déclaration du Secrétaire-Général du Parti Communiste et le lui mettre sous le nez pour obtenir que Tromelin nous soit rendu. Au lieu de cela, on se moque de Georges Marchais, on fait de l'ironie aux propos de Georges Marchais. Donc, nous demandons en ce qui concerne Tromelin, que le Gouvernement ...

(*Interruption*)

Mr. Bérenger : If you don't even know what you say, it's not my fault.

Sir Harold Walter : Je n'ai rien dit.

M. Bérenger : Pour une fois je vous félicite.

Je passe maintenant à Saya de Malha. Sur Saya de Malha, j'ai entendu avec intérêt, lorsque mon collègue Doongoor parlait, j'ai entendu avec intérêt, quoique cela n'a pas été rendu public, le ministre des affaires étrangères dire, " D'après ce que les Soviétiques ont déclaré ..." Qu'ont déclaré les Soviétiques ? Nous avons dénoncé les Soviétiques. Je me souviens d'un grand placard sur neuf colonnes dans *Le Militant* — Pillage des banc de Saya de Malha et de Nazareth — Les coupables : Coréens, Japonais, Soviétiques " C'était resté dans la gorge des Soviétiques, en passant. Qu'ont dit les Soviétiques ?. Les Soviétiques ont dit " Nous pêchons sur Saya de Malha ; en dehors de la zone des 200 milles ". Or tout le monde sait, enfin, plutôt dans le Gouvernement, très peu savent mais tout le monde ailleurs sait que quand on mesure la zone de 200 milles ...

(*Interruption*)

— je vais vous prouver comment vous ne savez pas, dans quelques minutes — quand on mesure la zone de 200 milles à partir d'Agaléga, dernier territoire mauricien, le territoire mauricien le plus rapproché des bancs de Saya de Malha, lorsqu'on mesure la zone de 200 milles, nous coupons à peu près un dixième des bancs de Saya de Malha, moins d'un dixième. Tout le reste tombe en dehors de la zone des 200 milles. Quand on coupe 200 milles, à partir de Coetivy, la dernière île seychelloise la plus rapprochée des bancs de Saya de Malha, on coupe encore un plus petit bout, presque rien des bancs de Saya de Malha. Ce qui veut dire que la vérité, est que 90 p. 100 des bancs de Saya de Malha tombe en dehors des 200 milles. Qu'est-ce que nous sommes en train de dire ? Nous sommes en train de dire nous, que l'île Maurice et les Seychelles ont des revendications sur les bancs de Saya de Malha, en dehors des 200 milles, non pas en se basant sur le concept des 200 milles mais sur le concept du plateau continental et des eaux historiques, du droit historique sur certaines eaux de cette région, mais malheureusement la vérité nous oblige de reconnaître ces deux autres concepts. La zone de 200 milles est aujourd'hui acceptée par les Nations Unies. La conférence n'a pas encore terminé ses travaux. Mais je pense que le ministre des affaires étrangères est suffisamment informé pour savoir que le concept des 200 milles est accepté, ça, c'est un acquis, quoique ce ne soit pas encore officiellement dans un texte des Nations Unies, mais tout le monde l'accepte, cette zone. Mais les deux autres concepts du plateau continental et des eaux historiques ne sont pas encore

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région de l'océan indien, mais en même temps nous disons que ce pays ne sortira pas — et cela le discours du Trône aurait dû l'avoir dit clairement — ce pays ne sortira pas de la situation présente s'il ne prend pas un nouveau départ. Pour cela pour nous, quelles conditions doivent être remplies ? D'abord, je le repète, que l'exemple vienne d'en haut, réduire le nombre de ministres, réduire symboliquement ne serait-ce les salaires des ministres, abolir les privilèges de *duty free*, éliminer les scandales, révoquer les nominations scandaleuses dans les ambassades, arrêter les ingérences politiques dans l'administration, le protectionisme, la politique des petits copains. L'exemple doit d'abord venir d'en haut, chaque jour que nous perdons est un drame pour le pays. L'exemple vient d'en haut d'abord. Deuxièmement, il faut un Gouvernement en lequel les travailleurs, les syndicats se reconnaissent, il faut un Gouvernement en lequel d'abord les syndicats se reconnaissent, un Gouvernement qui révoquera l'IRA, qui le remplacera par un texte de loi permettant la démocratie industrielle, qui réformera les entreprises, qui donnera le vrai pouvoir aux salariés, troisièmement, cela vient rejoindre ce que mon Collègue, Rajeev Servansingh avait dit sur le *self-reliance*, troisièmement il faudra promouvoir un nationalisme sain, mobilisateur, que tout ce peuple mauricien se sente un peuple, une nation, en marche vers un avenir. Quatrièmement, qu'il faut qu'il y ait étape par étape avec les nationalisations, les réformes fiscales, la démocratisation et la décommunalisation de la vie politique en général, il faut qu'il y ait un programme socialiste sur lequel s'appuierait un tel Gouvernement. Ce n'est que dans ces conditions que, de notre point de vue, on pourra parler de relance de la production, de relance de la productivité. Nous constatons malheureusement que le Gouvernement actuel ne peut pas le faire. Je le dis avec beaucoup de chagrin dans le cœur, nous constatons aussi qu'il nous serait impossible nous autres d'entrer au Gouvernement actuel et de résussir à faire cela. Nous entrerions au Gouvernement pour devenir des ministres, nous ferions certainement mieux que la plupart des ministres, certainement, mais le pays ne prendrait pas un nouveau départ, il n'y aurait pas cette relance, ce nouveau départ du pays. C'est pourquoi nous disons nous entrons au Gouvernement, cela ne change en rien fondamentalement au sort du pays, c'est pourquoi nous resterons donc dans l'Opposition. Mais nous demandons au Gouvernement soit de prendre ce chemin, mais nous considérons qu'il ne peut pas prendre ce chemin, nous considérons qu'il est condamné, qu'il est prisonnier de ses différences de classe, qu'il est prisonnier de ses choix politiques passés, qu'il ne peut pas le faire. Donc nous considérons, le cœur lourd, que dans le pays la situation va aller s'empirant, chômage, endettement, dévaluation possible, explosion sociale, dans un an, deux ans, trois ans. C'est dramatique, mais nous sommes en train d'évoluer à rebours de la situation 1969/70 ou le chômage était explosif, la situation était catastrophique, le prix du sucre nous a permis d'aller vers une situation d'emploi, de création d'emplois et de chômage camouflé, parceque cela aussi il faut le dire le prix du sucre nous a permis de camoufler le chômage avec des baisses de productivité qui s'ensuivent, aujourd'hui nous sommes dans l'évolution inverse, nous allons vers la catastrophe. C'est pourquoi non pas au nom du parti, mais au nom du pays, nous estimons étant donné que nous sommes persuadés que le Gouvernement ne peut pas sortir le pays de la situation où il est, ne peut pas lui permettre de prendre un nouveau

départ, nous considérons que nous ne pouvons pas décemment vis-à-vis de notre moral, vis-à-vis de nos engagements, vis-à-vis du pays, et vis-à-vis de l'avenir de ce pays, que nous ne pouvons pas entrer au Gouvernement parceque nous étoufferions dans un carcan qui mène le pays vers la catastrophe, nous estimons étant donné que le Gouvernement n'a plus véritablement une majorité, étant donné les méthodes abjectes dont nous venons d'être témoins, et qui font qu'à Beau Bassin/Rose Hill ce qui se passe, met en jeu l'avenir du pays lui-même, est extrêmement grave pour tout le pays, et nous considérons troisièmement étant donné la situation dramatique qui se développe du côté de l'économie, du côté de l'éducation, et en termes de politique intérieure aussi, nous estimons qu'à ce stade il serait préférable de permettre à la population mauricienne de se prononcer. Qu'on aille donc à de nouvelles élections générales, que la population se prononce, d'un côté ou de l'autre, son verdict finalement aura force de loi et au moins, le pays, souhaitons-le, pourra respirer après cela.

Voilà donc ce que nous estimons de ce côté de la Chambre ce que j'estime — j'ai été très long — de ce côté de la Chambre que ce discours du Trône devrait contenir, mais que malheureusement il ne contient pas.

Merci, M. le président.

→ **Mr. C. Mourba** (First Member for Port Louis North and Montagne Longue) : Mr. Speaker, Sir, of course, I shall not be as long as my Friend has been. I shall try to be as brief as I can and before I begin my speech, Mr. Speaker, Sir, I would like to congratulate the Third Member for Quartier Militaire and Moka for his last intervention because I consider his intervention to be an able one, a clear one and a courageous one. Sir, in fact too much has been said upon our foreign relationship. The hon. First Member for Belle Rose and Quatre Bornes had spared no effort to speak on Tromelin, Diégo Garcia and so on.

I am aware that my hon. Friend, the First Member for Belle Rose and Quatre Bornes is not a lawyer but he is flanked on all sides by fairly good lawyers. For the hon. First Member for Belle Rose and Quatre Bornes to have said legally, to have insinuated at least, if legally enough Mauritius and the people of Mauritius through its representatives could have protested against the incidence of tearing away Diégo Garcia, Sir, anyone with an inkling of international law, I mean, public international law, not private international law which has to do with conflict of laws, having to do with marriage etc. I am saying, Sir, anyone with an inkling of public international law would ask oneself the question : was Mauritius at that particular moment in our history a sovereign territory ? Mauritius was not independent. Mauritius was a dependent land and legally speaking part of the extra territorial basis of U.K. At that moment in our history, we had two courses to follow. We could either have followed the legal procedure that is attended upon by the force of negotiation at diplomatic levels or we could have, as a people, declared war and opened war against Great Britain. We had only two courses open to the island which is a very small one at that, either we follow diplomatic courses at procedural levels or we declare war against Great Britain. And at that time guerilla warfare and all that was not yet imported into our local political parlance. In my opinion the people of the day who had limited powers because powers were being wielded from Westminister, the

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men of the day did what they could. They had a very narrow space to manœuvre. They did not have the opportunity to do otherwise ; they were not speaking as representatives of an independent nation.

Sir, even if those men wanted to go before an international forum, we know what the International Court of Justice is, apart from declaratory judgment, apart from the fact of giving legal opinions on certain factual data — we know, going to the International Court of Justice would not have meant much ; but it is very good to stand up, to speak up and to say that it could all have been done in a better way. I am only saying at least the hon. Second Member for Belle Rose and Quatre Bornes, in an attempt not to defend certain people, but to situate history in its right perspective, has made certain quotations from certain valuable newspapers, the hon. Second Member for Belle Rose and Quatre Bornes has tried and successfully so, I believe, to situate the problem in its real perspective. No one in Mauritius, no one on this side of the House is happy with the actual predicament in the Indian Ocean. What should be congratulated is the fact that at least in 1964/65, we were not sovereign, we were not independent. Things were forced upon us but to-day we have taken conscience of it all. The Prime Minister again and again has made public statements, both local and abroad about our position in this country. We want the Indian Ocean to remain a lake of peace, not an American lake nor a *mare sovieticum*.

I am not going to labour the Diégo Garcia problem. Anyone in this country, would have done what these men did at that time, unless it were a revolutionary party which would have taken to guerilla warfare. And there can be no guerilla warfare in this country. All our mountains are naked and bare. A simple helicopter would catch all the guerilleros of this country. There are no objective conditions for guerilla in this country. So I am speaking to my ex-associates. In 1965 what would they have done if they were in the shoes, in the skin of the actual Prime Minister ? No more, no less but I am not going to labour a point which the hon. Second Member for Belle Rose and Quatre Bornes has already done so well.

Sir, the hon. First Member for Belle Rose and Quatre Bornes has mentioned the problem of the Middle East. We are all aware that the Palestinian cause is a genuine one, it is a cause to be supported ; but as a back bencher of this Government, being free to speak my personal opinion, I am saying in trying to reach a peaceful solution in the Middle East, there must be compromise on either side.

It is not a question where one side is going to invade another side to its last entrenchment. I am saying that in the Middle East, there must be a vision based on compromise, on tolerance and on mutual understanding. Although we are not 100 per cent in agreement with the Peace Treaty, I repeat, Sir, although we may not be hundred per cent in agreement with the Peace Treaty of Egypt and Israël, yet one must be bold, must be courageous enough to say that Mr. Sadate, at least one man rising against a world of many, has had the courage to take the first step. I am not congratulating him for what he did. Still less am I condemning him. But I am finding out a fact that at least Mr. Sadate of Egypt took the first step. Whether he will be thrown into the dustbin of Middle East history, I do not know, Sir, but I for one, without

engaging this Government, speaking as a backbencher, I say that I believe in a moderate attitude towards critical problems. Sir, when you have got a crisis, it is not a man with high fever who will come and solve the critical situation out of it. It is a man with a cold head. It is a man with some moderation. Everywhere in the world where moderate men have come towards crises, they have solved critical problems ; but where people with high political temperament based on ideological extremism have tackled such problems they have only grafted upon one problem, a thousand ones more.

I am saying, I for one, I am not condemning Mr. Sadate. I am not congratulating him but I am saying he took the first step and others now may do the rest and finish the arduous jobs. Perhaps better than he did, perhaps he has not been reasonable at all, but follow him at least in that pursuit of peace.

Sir, having listened to the hon. First Member for Belle Rose and Quatre Bornes one would be tempted to think that we are living in a continent, full of mineral wealth, thinly populated, almost in a cold region, one would think that Mauritius is not Mauritius but we are living somewhere in a quiet cool corner with a high standard of living as in Europe. But this country, Sir, is poor, very poor. Apart from sugar, we do not have anything in terms of economic productivity. Our tea is not in economic terms, a productive commodity. Apart from sugar, we have no underground wealth. We have no mineral resources. We are walking on one leg, a monocrop economy based on sugar. We are being visited by cyclones, if not by anti-cyclones year in year out. We are a tiny speck of a country. We are small. We are not larger than Surrey in England. And if you take a few golf courses in England, that would be enough to make Mauritius. We are not living in a big continental mass of land. It is a tiny speck. We are devoid of mineral wealth, underground resources, only sugar and this is battered by cyclonic occurrences year in and year out. And what is worse, Sir, we are living in the midst of a fragile society made up of multi-racial components.

If you have all these problems and then you have a bomb in it called literacy, — we have given free education. Our people are the most literate people in Africa. You are poor, you are overpopulated, you are small, and you are highly literate. Mr. Speaker, Sir, it is no wonder that this country despite its poverty, despite its tininess is considered to be the fourth or the fifth richest country in Africa after South Africa, Libya, Gabon, and Nigeria. I repeat, Mr. Speaker, this country despite its physical tininess, its poverty of natural resources, its over-population, its multi-racial social texture, is fourth or fifth of the richest country in Africa after South Africa, Libya, Gabon and Nigeria, and to whom does the credit go ? Mr. Speaker, Sir, just now the hon. First Member for Belle Rose and Quatre Bornes was speaking about the POA. But, Mr. Speaker, Sir, there are lawyers on the other side who have studied the Public Order Act. The Public Order Act does not cut only on one side. If somebody with a legal understanding reads the Public Order Act, even the Chief Justice and the Prime Minister can be arrested under the Public Order Act. I challenge any lawyer in this country to tell me if according to the Public Order Act the Chief Justice cannot be arrested in his slippers, and the Prime Minister in his pyjamas. This is in the Public Order Act. I have studied it many times. So, when

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Mauritius Legislative Assembly, 10 July 1979,
Reply to PQ No. B/754

Rose Belle) asked the Minister of Health whether he will say if patients attending rural dispensaries are given in regard to dental care the same facilities as are available to patients attending Curepipe dispensary.

Mr. Teeluck : Sir, dental care is not provided in dispensaries but in dental clinics. Dental care is provided at the Curepipe Dental Clinic and not at the Curepipe Dispensary. Dental care and dispensary services in Curepipe are provided in separate buildings which are at close proximity.

VILLAGE COUNCILS — TELEPHONE SERVICE

(No. B/746) Mr. R. K. Gungoosingh (First Member for Vieux Grand Port and Rose Belle) asked the Prime Minister whether he will say if telephone services will be provided to all the village councils where no such service is available at present.

The Prime Minister : Sir, the development programme of the Telecommunications Department includes the provision of telephone services to all the Village Council areas as soon as this becomes technically possible.

Mr. Boodhoo : As a supplementary question, Sir, is the Rt. hon. the Prime Minister in a position to tell the House how long will it take to provide each Village Council with a telephone ?

The Prime Minister : I cannot say at present.

CYCLONE GERVAISE VICTIMS — RIVIÈRE DES CREOLES AND OLD GRAND PORT

(No. B/747) Mr. R. K. Gungoosingh (First Member for Vieux Grand Port and Rose Belle) asked the Minister of Housing, Lands and Town and Country Planning whether he will say when houses for *Gervaise* victims of Rivière des Créoles and Old Grand Port Villages will be built.

Mr. E. François : Sir, construction in these localities is programmed to start in May 1980.

SILWF HOUSING ESTATES — FERNEY AND ROSE BELLE — ROADS

(No. B/748) Mr. R. K. Gungoosingh (First Member for Vieux Grand Port and Rose Belle) asked the Prime Minister and Minister of Social Security whether he will use his good offices with the Sugar Industry Labour Welfare Fund to have the roads along the housing estate of Ferney and Rose Belle repaired.

The Prime Minister : Yes, Sir.

FOOTBALL GROUNDS — BON ACCUEIL AND CAMP ITHIER

(No. B/749) Mr. D. Gungah (First Member for Flacq and Bon Accueil) asked the Minister for Employment whether he will, for the benefit of the House, obtain from the Development Works Corporation, information as to the cost of the football grounds constructed by the Corporation at

(i) Bon Accueil and

(ii) Camp Ithier respectively.

Mr. Saccaram :

(i) Bon Accueil Football Ground — Rs. 553.956.05

(ii) Camp Ithier Football Ground — Rs. 981,261.98

MARE LA CHAUX SOCIAL WELFARE CENTRE — VOLLEY BALL PITCH

(No. B/750) Mr. D. Gungah (First Member for Flacq and Bon Accueil) asked the Prime Minister and Minister of Social Security whether he will arrange for the installation of electric bulbs around the volley ball pitch situated at Mare La Chaux Social Welfare Centre.

If so, when and if not, why not.

The Prime Minister : Sir, the Sugar Industry Labour Welfare Fund Committee will consider any such request provided a formal application to that effect is submitted by the Social Welfare Committee of the locality through the Social Welfare Commissioner.

FOOTBALL GROUND — LALMATIE

(No. B/751) Mr. D. Gungah (First Member for Flacq and Bon Accueil) asked the Minister of Youth and Sports whether he will state if the construction of the football ground at Lalmatie will start immediately after the present sugar cane harvest at Lalmatie.

If not, why not.

Mr. Ramchurn : Sir, the construction of a football ground will be started once the permission to enter the land is obtained after this crop season.

DIEGO GARCIA — CESSION TO THE U.K.

(No. B/752) Mr. H. Boodhoo (First Member for Rivière des Anguilles and Souillac) asked the Prime Minister whether, in regard to the cession of Diégo Garcia to the U.K., he will state :

(i) if the islands were required by the British Government for communication purposes only and not for military purposes ;

(ii) if the Government had to opt for either the Independence of the country or the cession of the islands ;

(iii) the reasons why the islands were sold without prior consultation with the public or their representatives ;

(iv) if the British Government informed him of the lease of the islands to the Americans for use as a military base at the initial stage and, if not, will he state if he made representations with the British Government after this came to his knowledge ;

(v) where, when and with whom were the negotiations carried out ; and

(vi) whether he will lay before the Assembly a copy of the contract, if any.

The Prime Minister : Yes, Sir. The answer is as follows :

(i) for communications and defence purposes ;

(ii) no ;

(iii) Government Ministers and the Opposition then in post were consulted ;

(iv) No. We were informed of the intention of the American Government to construct a naval communications facility there ;

(v) in London in September 1965 with the British Colonial Secretary ;

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(vi) no. There was no contract as such in as much as Diégo Garcia was part of the colony prior to independence and the Colonial power only excised it at such time.

Mr. Boodhoo : As a supplementary question, Sir, is it a fact that the Rt. hon. Prime Minister was informed by the British Government while negotiations were going on, that the base would be an Anglo-American venture, and if not, when did the Rt. hon. Prime Minister came to know about it ?

The Prime Minister : We only came to know much later.

Mr. Michel : I would like to know from the Prime Minister whether he will say how he intends to recuperate Diégo Garcia from the Britsih and the Americans ?

The Prime Minister : We will organise a fleet expedition.

DIEGO GARCIA — SALE PRICE

(No. B/753) Mr. H. Boodhoo (First Member for Rivière des Anguilles and Souillac) asked the Prime Minister whether he will make a statement on the discrepancy between the sale price of Diégo Garcia as disclosed by the British High Commission in India in 1976 i.e. £ 5 million, and the amount accounted for i.e. £ 3 million.

The Prime Minister : Yes, Sir. As far as the Government is concerned, there is no discrepancy in the figures relating to the detachment of the Chagos Archipelago. The Government received £ 3 million from the British Government.

Mr. Bhayat : Is the Prime Minister therefore saying that the High Commissioner for England in New Delhi lied when he said that £ 5 m. had been paid ?

The Prime Minister : I cannot say anything on it.

DIEGO GARCIA — SALE TO U.K.

(No. B/754) Mr. H. Boodhoo (First Member for Rivière des Anguilles and Souillac) asked the Prime Minister whether in regard to the sale of Diégo Garcia to the U.K., he will state :

(i) whether the £ 3 million paid by way of compensation was meant for the transfer of all the inhabitants and, if not, will he state the purpose therefor ;

(ii) whether the British Government paid an additional sum for the rehabilitation of the inhabitants and, if so, when and how much ;

(iii) whether Mauritius has kept its civil rights over the islands and, if so, will he make a statement thereon ; and

(iv) the purpose of the American base there and say if Government has lodged in international forums, official protests in that connexion and, if so, will he say where, and state the result of the representations made.

The Prime Minister : Yes, Sir. The answer is as follows :

(i) The compensation of £ 3 million was meant for implementation of development projects in Mauritius ;

(ii) In September 1972, a sum of £ 650,000 was accepted by the Government for the rehabilitation of the displaced inhabitants ;

(iii) Yes, the islands would be returned to Mauritius if the need for the facilities there disappeared. Furthermore, the benefit of any minerals or oil discovered in or near the Chagos Archipelago would revert to Mauritius ;

(iv) The islands are used for communications and defence purposes. In many international forums the Government made the point that it would not like the islands to be used as a military base, equipped with nuclear weapons. The Government maintains that the whole of the Indian Ocean should be a zone of peace.

Mr. Boodhoo : As a supplementary question, Sir, in view of the fact that we have preserved the civil rights, will the Rt. hon. the Prime Minister consider the advisability of sending a delegation comprising Members from both sides of the House to inspect and report back on the islands ?

The Prime Minister : We have no jurisdiction over it, Sir.

Dr. David : Mr. Speaker, apart from the fleet expedition which is, according to us, but a joke, will the Prime Minister tell us what he seriously intends to do to recuperate Diégo Garcia ?

The Prime Minister : I have already replied to that.

Mr. Boodhoo : I have another sup elementary question : is it a fact that after 50 years of the signing of the contract, the islands will be returned back to Mauritius in case the super powers do not need them, as revealed by the reply to a Parliamentary Question in the House of Lords ?

The Prime Minister : If talking and doing were the same things, Sir, the dogs of Turkey would be butchers.

Mr. Bérenger : As a supplementary question on that matter, Mr. Speaker, I would like to ask the Prime Minister how he reconciles the following statements or answers : to-day he has said that the islands will be returned to Mauritius once the Americans and the British no longer need them ; secondly he has said that we have no jurisdiction on these islands, so that's why a delegation cannot go ; in this House to P.Q. No. B/510 set by my Colleague Salesse, asking what islands form part of the State of Mauritius, he states that the Chagos Archipelago is excluded ; but, again to P.Q. No. B/760 set by the hon. David, the hon. Minister of External Affairs replied that this territory is not within this country's jurisdiction ; whereas, to P.Q. No. B/634, the Prime Minister replied that the British Government has, since July, 1971, recognised the jurisdiction of Mauritius over the waters surrounding Diégo Garcia. Can the Prime Minister tell us how he reconciles those different statements, and whether, since we have jurisdiction on the waters surrounding Diégo Garcia, it is not possible for a delegation to go as near as the shore of these islands ?

The Prime Minister : Well, we may have to swim it.

Mr. Dyalah : As a supplementary question, of the total amount of £ 3 m. paid as compensation by the British

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Government could we know from the Prime Minister the total amount paid until now to the ex-Diégo Garcians ?

The Prime Minister : I need notice of that question.

Mr. Bhayat : As a supplementary question, Sir, will the Rt. hon. the Prime Minister inform the House whether we have retained mining rights and fishing rights over the waters surrounding Diégo Garcia ?

The Prime Minister : I have already given a positive reply to that.

Mr. Bhayat : I want to have a precision — whether they are the rights themselves, or whether they are the beneficial rights ? There is a fundamental difference. What I want to know is whether we have sovereign mining rights and fishing rights, or whether we have merely the beneficial rights ?

The Prime Minister : We have the right to prospect and we have the right to whatever accrues from it, I presume. But this is a matter which was taken up and I was told that we could not prospect for the time being.

Mr. Bérenger : I put a supplementary question a few minutes ago — as I said, the Prime Minister said since July 1971 the British Government recognises the jurisdiction of Mauritius over the waters surrounding Diégo Garcia. Is the Prime Minister aware that, on the 26th June, 1974, in this very Assembly, he made a statement that — I am quoting Hansard, page 1947 of the 26th of June, 1974 — I quote the Prime Minister : " Mauritius has reserved its mineral rights, fishing rights and landing rights."

The Prime Minister : We have.

Mr. Bérenger : What is the problem, therefore, of a delegation landing, within its right, on those islands ?

Dr. David : Mr. Speaker, we've had but jokes, timid and half-answers concerning Diégo Garcia. Can this House have a serious statement from the Prime Minister as to what Government proposes to do for the recuperation of this island ?

The Prime Minister : I have just said : You must send a fleet there perhaps.

An hon. Member : This is not serious, from a Prime Minister.

Mr. Michel : I would like the Prime Minister to say when those persons who have not yet been compensated will receive their due.

The Prime Minister : It is already in the process of being done.

Mr. Bérenger : Will the Prime Minister say whether he is satisfied that the British Government has met the full cost of the resettlement of Mauritians who were living in the Chagos Archipelago ?

The Prime Minister : The matter is still being pursued, Sir.

GOVERNMENT SHARES IN STATE COMMERCIAL BANK, DBM AND BANK OF MAURITIUS

(No. B/755) Dr. N. Beedassy (First Member for Vacoas and Floréal) asked the Minister of Finance whether he will state the percentage of shares held by Government in the following Banks :

(1) The State Commercial Bank

(2) The Development Bank of Mauritius ; and

(3) The Bank of Mauritius.

Sir Veerasamy Ringadoo :

(1) 75%

(2) 93.6%

(3) 100%

Mr. Boodhoo : In view of the fact that Government owns 75% of the shares in the State Commercial Bank, will the hon. Minister inform the House of the reasons why, despite other replies on para-statal bodies by other hon. Ministers, and despite one of his replies in or about 1973 on the State Commercial Bank, he refused to reveal any information on the Bank at the last sitting ?

Sir Veerasamy Ringadoo : I have already answered that question last time.

Mr. Bérenger : As a supplementary question, Sir, will the Minister of Finance tell us whether he has received from the Ministers on the PMSD side letters or notification in any other form, that they disagree with the State Commercial Bank extending financial help to the Flacq/Long Mountain Bus Service because, in their opinion, this is either illegal or incorrect.

Sir Veerasamy Ringadoo : I have not received anything.

Mr. Boodhoo : In view of the fact that Government holds the majority of shares in the State Commercial Bank, will the hon. Minister agree that it is indecent to hide information ?

Sir Veerasamy Ringadoo : I have no further statement to make, Sir.

Mr. Bhayat : As a supplementary question, Sir, will the hon. Minister inform the House who owns the remaining 25% of the shares ?

Sir Veerasamy Ringadoo : As far as I can recollect, I think it is the Development Bank of Mauritius. It is a private company under the Companies Ordinance.

AMBASSADOR OF MAURITIUS IN CAIRO — FURNITURE ETC

(No. B/756) Dr. N. Beedassy (First Member for Vacoas and Floréal) asked the Minister of External Affairs, Tourism and Emigration whether, in regard to the purchase of furniture, kitchen utensils, household materials for the Ambassador of Mauritius in Cairo in 1976, he will :

(1) give a list thereof ;

(2) state the amount paid therefor in (a) U.K. and (b) Mauritius ;

(3) say whether a whole set of furniture is still in store and not put to use in Cairo, and if so, will he make a statement thereon.

Sir Harold Walter :

(a) & (b) Sir, the information is being circulated. (*Appendix* VII)

(c) No, Sir.

OCAM & OAU CONFERENCE — VEHICLES PURCHASED

(No. B/757) Dr. N. Beedassy (First Member for Vacoas and Floreal) asked the Prime Minister whether, in regard to

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Mauritius Legislative Assembly, 13 November 1979,
Reply to PQ No. B/844

CHAGOS ARCHIPELAGO — MAURITIUS RIGHTS

(No. B/844) Mr. H. Boodhoo (First Member for Rivière des Anguilles and Souillac) asked the Prime Minister whether, in regard to Chagos Archipelago, he will state if the islands still form part of the Mauritian territory and, if not, will he

(1) give the reasons therefor; and

(2) say if Mauritius has reserved its rights on the natural resources thereof and whether a study of those resources has been made, and, if not, why not.

The Prime Minister : Yes, Sir. The answer is as follows :

(1) the Chagos Archipelago was excised from Mauritius before its Independence.

(2) the benefit of any minerals or oil discovered in or near the Chagos Archipelago will return to Mauritius. No study has been made of these resources.

Mr. Boodhoo : Can the Right hon. the Prime Minister say what steps Government has taken to exploit the natural resources of the island ?

The Prime Minister : We have had no opportunity.

Mr. Jugnauth : Does Government intend doing so in the near future ?

The Prime Minister : If there is a client, yes perhaps.

Mr. Boodhoo : Will the Right hon. the Prime Minister consider the advisability of sending a Parliamentary delegation to the islands ?

The Prime Minister : The island does not belong to them.

POST OFFICE SAVINGS BANK DRAW

(No. B/845) Mr. R. K. Gungoosingh (First Member for Vieux Grand Port and Rose Belle) asked the Minister of Finance whether, in view of the fact that the Post Office Draw is sponsored by Government, he will say what measures he intends to take to protect depositors against the effects of the devaluation of the rupee.

Sir Veerasamy Ringadoo : Sir, the Post Office Draw has been introduced to encourage people to save. The prizes are of fixed amounts but are subject to review periodically. They are not, however, linked with the parity of the Mauritian rupee.

Mr. Boodhoo : Does not the hon. Minister think that Government should give special privileges to the depositors to motivate others to have recourse to this system ?

Sir Veerasamy Ringadoo : The rate of interest has been raised from 7.5% to 9%.

GENERAL MANAGER, CWA

(No. B/846) Mr. R. K. Gungoosingh (First Member for Vieux Grand Port and Rose Belle) asked the Minister of Power, Fuel & Energy whether he will, for the benefit of the House, obtain from the Central Water Authority, the following information in respect of the present General Manager of the Authority :

(1) the monthly salary and fringe benefits, if any, drawn by him; and

(2) the total expenditure incurred on his missions overseas since his appointment to-date.

Dr. Busawon : Sir, the gross monthly salary drawn by the General Manager of the Central Water Authority is Rs. 6,935. Further the General Manager is entitled to the following benefits :

(i) the free use of a car

(ii) the service of a driver

(iii) a monthly petrol allowance of Rs. 400

(iv) a rent free telephone and fifty free calls.

The total expenditure incurred by the present General Manager on overseas missions is Rs. 41,383.30.

CWA — PROGRAMME FOR IMPROVEMENT OF WATER SUPPLY

(No. B/847) Mr. R. K. Gungoosingh (First Member for Vieux Grand Port and Rose Belle) asked the Minister of Power, Fuel & Energy whether he will, for the benefit of the House, obtain the following information from the Central Water Authority in regard to its programme for the improvement of water supply in Mauritius, constituency-wise, since the appointment of the present General Manager :

(1) whether the Authority proposes to issue a progress report;

(2) the criteria used for establishing priorities; and

(3) the total expenditure incurred.

Dr. Busawon : Sir, the information is being compiled.

(*Vide* Appendix VII of Debate No. 31 of 27.11.79)

ERECTION OF TENT ON Mr. PADYA'S PREMISES — USE OF CWA LABOUR AND EQUIPMENT

(No. B/848) Mr. R. K. Gungoosingh (First Member for Vieux Grand Port and Rose Belle) asked the Minister of Power, Fuel & Energy whether he will, for the benefit of the House, ascertain from the Central Water Authority, in respect of the erection of a tent on the premises of Padya, the former Director of the Meteorological Services, if labour and equipment belonging to the Authority were used.

If so —

(1) on whose instructions; and

(2) whether he will impress upon the Authority the necessity of conducting an enquiry into the matter, and, if not, why not.

Dr. Busawon : Sir, the Central Water Authority is carrying out an investigation in that matter.

Mr. Boodhoo : Will the hon. Minister say whether he will lay a copy of the report of that Commission ?

Dr. Busawon : I'll look into it.

PRIME MINISTER — ALLOWANCES FROM PUBLIC FUNDS

(No. B/849) Dr. N. Beedassy (First Member for Vacoas and Floreal) asked

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Mauritius Legislative Assembly, 20 November 1979,
Reply to PQ No. B/967

Mr. Jagatsingh : The hon. Member is quoting from the Constitution. As far as I know, I sought legal advice and this is the advice I have got and I have given to the House.

CHA HOUSES — ALLOCATION

(No. B/964) Mr. O. Gendoo (Third Member for Port Louis Maritime and Port Louis East) asked the Minister of Housing, Lands & Town & Country Planning whether, in regard to the allocation of Central Housing Authority houses, he will state :-

(1) his policy ; and

(2) if priority will be given to the eligible persons living in Plaine Verte and Camp Yoloff for houses built there.

Mr. E. François : Sir,

(a) the policy is laid down in a paper which is being circulated.
(Appendix VIII)

(b) This policy will be followed strictly.

CONSUMER COOPERATIVES

(No. B/965) Mr. O. Gendoo (Third Member for Port Louis Maritime and Port Louis East) asked the Minister for Prices and Consumer Protection whether he will say when essential commodities will be delivered direct to consumer co-operatives and give a list of those commodities.

Mr. Virah Sawmy : Sir, delivery will start as soon as the financial and other arrangements are completed. The essential commodities will include to begin with rice, flour, sugar, edible oil, laundry and toilet soap, split peas and eventually cement and iron bars.

"NO PARKING" AREAS — PORT LOUIS — TOWING AWAY OF VEHICLES

(No. B/966) Mr. O. Gendoo (Third Member for Port Louis Maritime and Port Louis East) asked the Minister of Works whether, in regard to the proposed towing away of vehicles on "No Parking" areas in the commercial centre of Port Louis, he will say what decision has been taken following the recommendation of the Joint Traffic Committee of the Municipality of Port Louis.

Mr. Bussier : Sir, the matter is being discussed with the Police authorities and the Ministry of Finance, in as much as it involves purchase of new equipment and recruitment of additional personnel.

Mr Gendoo : Does the hon. Minister think that the towing away of vehicles will improve the traffic conditions in the centre of Port Louis ?

Mr. Bussier : This is being done in many countries.

DIEGO GARCIA — RETURN TO MAURITIUS

(No. B/967) Dr. B. David (Second Member for Belle Rose and Quatre Bornes) asked the Prime Minister whether, in view of the fact that the militarization of Diégo Garcia is a serious threat to peace in the whole of the Indian Ocean, he will state :

(1) if there are any indications that Diégo Garcia will soon be returned to Mauritius ;

(2) whether he will show greater political will to recuperate Diégo Garcia and whether he will make a statement thereon ;

(3) whether he has already discussed the Diégo Garcia issue with the United States Government ;

If so, what has been the outcome of the discussion.

If not, will he initiate immediate negotiations thereon and, if not, why not ; and

(4) whether he will say when and with whom he last discussed the Diégo Garcia issue and with what result.

The Prime Minister : Yes, Sir. The answer is as follows :

(a) The islands will be returned to Mauritius if the need for the facilities there disappeared. How soon this will be done, I cannot say.

(b) The Government believes that the best way of trying to recuperate Diégo Garcia is by patient diplomacy at bilateral and international levels, and no opportunity is lost towards this end.

(c) The United States Government is aware of our stand on this issue and we shall no doubt press our view point when opportunity arises.

(d) It is difficult to give precise dates, but whenever opportunity arose, discussions took place with the United Kingdom.

Mr. Bérenger : Sir, the last part of the question was whether he will say when and with whom he last discussed the Diégo Garcia issue. Can the hon. Prime Minister confirm that he discussed that issue this morning with Vice Admiral Foley who has just flown to Mauritius in a military plane ?

The Prime Minister : My hon. Friend is full of irrelevancies, Sir.

MULTINATIONALS OPERATING IN MAURITIUS

(No. B/968) Dr. B. David (Second Member for Belle Rose and Quatre Bornes) asked the Minister of Finance whether, in regard to the multinationals operating in Mauritius, he will state —

(1) their names ;

(2) the names of the members of the Board of Directors of each company ;

(3) the goods they produce and the countries where they are sold ;

(4) the nature of the control exercised by Government thereon ; and

(5) the amount of money which they took out of the country for each of the years 1975 to date.

Sir Veerasamy Ringadoo : Sir, the information is being compiled and will be circulated as soon as possible.

PRIME MINISTER — PUBLIC ENGAGEMENTS 20.11.79

(No. B/969) Mr. G. Fokeer (Third Member for Grand'Baie and Poudre d'Or) asked the Prime Minister whether he will give a list of his public engagements for Tuesday 20th November, 1979.

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Mauritius Legislative Assembly, 27 November 1979,
Reply to PQ No. B/982

Mr. Peeroo : Sir, I am investigating this matter with the Chairman of the Commission.

COMMODITIES — REDUCTION OF SUBSIDIES

(No. B/978) Mr. A. Darga (Fourth Member for Mahebourg and Plaine Magnien) asked the Minister of Finance whether he will state the commodities on which subsidies have been recently reduced and the amount involved in each case.

Sir Veerasamy Ringadoo : Sir, I take it that the Hon. Member is referring to reduction in subsidies made since the introduction of the Financial Programme agreed with IMF. Subsidies have been reduced only in the case of rice and the amount involved is estimated to be about Rs. 33 million.

Mr. Boodhoo : As a supplementary question, Sir, while reducing the subsidy, did not the hon. Minister realise that the poor working class would be the most affected one ?

Sir Veerasamy Ringadoo : That does not arise out of the Question.

Mr. Asgarally : Could we know from the hon. Minister whether the reduction of subsidies is one of the conditions imposed by the IMF in the package deal ?

Sir Veerasamy Ringadoo : I have already stated that.

Mr. Boodhoo : Is the hon. Minister in a position to inform the House whether big poultry breeders and shipping companies buy our subsidised commodities at the same price ?

Sir Veerasamy Ringadoo : The matter will be looked into.

TAXI LICENCES — ISSUE 1975 TO-DATE

(No. B/979) Mr. A. Darga (Fourth Member for Mahebourg and Plaine Magnien) asked the Minister of Works whether he will give the number of taxi licences issued each year from 1975 to date.

Mr. Bussier : Sir, the information is being compiled by the RTLA and will be placed in the Library.

Mr. Baligadoo : Will the hon. Minister say whether he will list the licences on a regional or district basis ?

Mr. Bussier : I will look into the matter, Sir.

Mr. Bérenger : Will the hon. Minister confirm to the House that, in no case, does he, personally, ever interfere with the RTLA as far as the granting of taxi licences is concerned ?

Mr. Bussier : There is absolutely no difficulty in giving that undertaking.

Mr. Michel : I would like to know from the hon. Minister whether he has received requests from taxi-drivers to grant them two gallons of petrol at a reduced price ?

Mr. Speaker : This does not arise under the Question.

SAFETY, HEALTH AND WELFARE AT PLACES OF WORK — REGULATIONS

(No. B/980) Mr. A. Darga (Fourth Member for Mahebourg and Plaine Magnien) asked the Minister of Labour and Industrial Relations whether he will say when he proposes to implement the new Safety, Health and Welfare at Places of Work Regulations which were approved by the Labour Advisory Board on 29th September 1978.

Mr. Peeroo : Sir, the Labour Advisory Board submitted recommendations which had to be closely examined and processed. This exercise will be completed next month and the regulations will then be issued.

DIEGO GARCIA AND CHAGOS ARCHIPELAGO — EXCISION

(No. B/981) Mr. H. Boodhoo (First Member for Rivière des Anguilles and Souillac) asked the Prime Minister whether, in regard to the excision of Diégo Garcia and the Chagos Archipelago from Mauritius in 1965, he will state

(a) where and when Cabinet Ministers and the Opposition were consulted; and

(b) whether members of the P.M.S.D. and the I.F.B. gave their consent thereto and, if so, when and where.

The Prime Minister : Yes, Sir. The answer is as follows :-

(1) The consultations were held both in London and Mauritius in 1965. Before the final stage the PMSD walked out of the Constitutional Conference, although at that time there was a Government of national unity in Mauritius.

(2) Both the PMSD and the IFB formed part of the Government when the decision was taken in 1965.

Mr. Boodhoo : Is it not a fact that secret negotiations were carried out initially between the British Government and the Prime Minister in the hotel where he was staying ?

The Prime Minister : No, Sir.

The Leader of the Opposition: Is it not a fact that, when the IFB was consulted, they were told that only certain facilities for communications were going to be granted to the British Government ?

The Prime Minister : So, we were informed.

Mr. Boodhoo : Will the hon. Prime Minister inform the House whether the excision of the islands was a pre-condition for independence and, if not, can he state the reasons why he, personally, gave his consent to it ?

The Prime Minister : There was no such question, Sir.

CHAGOS ARCHIPELAGO — EXCISION

(No. B/982) Mr. H. Boodhoo (First Member for Rivière des Anguilles and Souillac) asked the Prime Minister whether, in regard to the excision of Chagos Archipelago from our territory, he will state :-

(a) whether the archipelago was included in the deal of £3 m with the British Government ;

(b) when the excision took place ;

(c) whether any Cabinet Minister or Government official visited the archipelago and, if so, will he

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state his name, status and the date on which the visit took place and, if not, why not ; and

(d) whether compensation to the inhabitants concerned was included in the deal and, if not, why not.

The Prime Minister : Yes, Sir. The answer is as follows :-

(a) The amount of £3 m. was meant for the implementation of development projects in Mauritius.

(b) 8th November, 1965.

(c) As far as our records show, no such visit had taken place.

(d) At the time of the excision, it was agreed that the cost of resettling the inhabitants would be the responsibility of the British Government.

Mr. Boodhoo : Is it a fact that the islands were first sold to the British Government, and it's only later, after the inhabitants protested, that negotiations were opened with the British Government for their compensation ?

The Prime Minister : I cannot say. At this late stage, I need notice of the question.

Mr. Boodhoo : Will the hon. Prime Minister inform the House when and where did negotiations take place concerning compensation to the inhabitants of the islands ?

The Prime Minister : It's difficult to say, but as far as I remember, I think it was a Committee that discussed the matter with the British Government.

Mr. Boodhoo : Could the Rt. hon. the Prime Minister inform the House whether the inhabitants were first consulted before their country was sold and, if not, does not the Prime Minister think that he acted against their constitutional rights ?

The Prime Minister : I cannot reply to that, Sir, because I do not know what the answer should be.

Mr. Bérenger : Is the Prime Minister aware that the sum of £3 m. appears in the Financial Statement prepared by the then Government under item Capital Revenue, Statement G, under the heading " Sale of Chagos Islands " ?

The Prime Minister : I need notice of that question, Sir.

Mr. Boodhoo : Could the Rt. hon. the Prime Minister inform the House whether, in view of the fact that we are still exercising our rights on natural resources, the 200-mile maritime zone, around the island still belongs to Mauritius ?

The Prime Minister : I would assume that, Sir.

TROMELIN ISLAND — METEOROLOGICAL INSTALLATIONS

(No. B/983) Mr. H. Boodhoo (First Member for Rivière des Anguilles and Souillac) asked the Prime Minister whether, in regard to the meteorological installations put up by France on Tromelin Island, he proposes :-

(a) to claim compensation therefor.

If so, in what form.

If not, why not.

(b) to support the stand taken by the Malagasy Republic at the recent OAU Summit Conference to protest against the use of the island by France.

The Prime Minister : Sir, the need to claim compensation does not arise as Mauritius benefits from the meteorological data emanating from Tromelin.

As regards the second part, I am informed that the question of Tromelin was not specifically discussed at the recent OAU Summit.

Mr. Boodhoo : Is the Rt. hon. the Prime Minister in a position to inform the House whether the French Government has set up any military installation on the island and, if not, can he say what steps Government is taking to exercise control over the island ?

The Prime Minister : I cannot answer questions like that, because I am not aware of anything there.

Mr. Boodhoo : Is it not a fact that the French Government has declared Tromelin a " *Departement français* " and, if yes, since when is the Prime Minister aware of it ?

The Prime Minister : I am not aware of it.

The Leader of the Opposition : May I ask the hon. the Prime Minister whether, by his answer, we are to understand that the Prime Minister does not know what is taking place in all the territories outside Mauritius and belonging to Mauritius ?

The Prime Mnister : I am not aware of it personally, but I will enquire.

Mr. Boodhoo : Will the Rt. hon. the Prime Minister agree that it is strange and mysterious for a super power, with whom the Rt. hon. the Prime Minister has intimate and close fraternal relations, to take possession of the island without the Mauritian Government even knowing it ?

The Prime Minister : If it is the morality of certain Governments, what can I say ?

Mr. Boodhoo : Will the Rt. hon. the Prime Minister state whether, in view of the fact that we have an international figure as the State Security Adviser, he will send him to Tromelin Island to have first-hand information of the situation there ?

The Prime Minister : It is not his job, unfortunately.

Mr. Bérenger : Is the Prime Minister aware that first, the French Government is considering exploiting nodules that have been found lately in the 200-mile economic zone around Tromelin Island ? And, second, is the Prime Minister aware that the French Government is granting authorisation to foreign fishing vessels to fish in the 200-mile economic zone around the same Tromelin Island ?

The Prime Minister : We can do the same, I suppose.

PRIME MINISTER DECORATION " GRAND CROIX DE L'ORDRE DU MERITE " OF CENTRAL AFRICA

(No. B/984) Mr. H. Boodhoo (First Member for Rivière des Anguilles and Souillac) asked the Prime Minister whether, in regard to the decoration of the

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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

nominated to the Legislative Council then, by the British Colonial Administration. But, I think, for historical record's sake, it is worth pointing out that, in 1946, under these thirty hard colonial masters of ours, when the Hindu Maha Jana Sangham Incorporation Ordinance was introduced in the House, it was done, Mr. Deputy Speaker, by way of Private Bill. As I said, I have not had the opportunity to look, since 1940, how many times such fit legislation, such positive legislation has found a way to be introduced through a Private Bill. But, I think, it is worth putting it on record that this Ordinance of 1946 was introduced by way of Private Bill by, of all people, Mr. André Raffray — I won't go into that part of things — but, in fact, it was a private Bill in 1946, and we hope that Government will think over this past event and will allow the House to go back to such positive procedure in the future. Thank you, Mr. Deputy Speaker, Sir.

Bill read a second time and committed.

Question put and agreed to.

(3.43 p.m.)

THE FISHERIES BILL
(No. IV of 1980)

Order for Second Reading read.

The Minister of Fisheries and Co-operatives and Co-operative Development (Mr. Seetaram) : Sir, I beg to move that the Fisheries Bill (No. IV of 1980) be read a *second* time.

The first law regulating fisheries in Mauritian waters dates from the eighteenth century. Even in these early days, when the population of the island as a whole probably did not exceed fifteen thousand people, it was necessary to afford some measure of protection to fish stocks and to the environment.

The population of the island is now nearing one million — of these, there are some 3,000 full-time professional fishermen, and it is estimated in addition that some 75,000 people go fishing in the sea at least on an occasional basis. This fishing effort would subject fish stocks to intolerable pressure — which might even result in extinction for certain species, — if no measures were taken to regulate the fishery.

The simplest form of regulation consists in limiting, to a very small number, the people allowed to catch fish. Although a step of this nature might eventually become necessary, I consider that it would, at this stage, be a serious limitation on the liberty of the Mauritian people.

The new bill placed before you to-day has therefore been constructed along a different principle — a principle that has been tested by time, since this bill is a direct descendent of the Fisheries Ordinance of 1948. The existing law relating to Fisheries which was adequate in the past is now incapable of meeting the challenges of the present world as regards fishing activities. The Fisheries Ordinance has had to be amended on many occasions and it has become so complex that I felt I had to do something about it.

The object of the Fisheries Bill is to consolidate and modernise the law relating to Fisheries and the opportunity has been seized to tie up the fisheries legislation with the Maritime Zones Act, 1977 and with emerging international legislation on this matter.

The extension of our jurisdiction over this vast expanse in the Indian Ocean necessitates a wide range of legislation covering everything from the exercise of sovereign rights to the final benefits accruing to our people from exploitation of the resources of our Maritime Zones. The Maritime Zones Act 1977 laid the foundation for this jurisdiction and the Fisheries Bill 1980 is a natural development in the field. It is by no means the final word — it is just a first step in this direction.

This Bill is predicated on the premise that the seas around us have tremendous potential not only in satisfying the nutritional requirements of our increasing population but also in providing employment opportunities and in creating subsidiary industries dependent upon fishing operations. This Bill attempts to achieve a balance between the needs of fishermen and the needs of society as well as the necessity to manage the fish stocks with a view to their optimum utilisation. Fish stocks are very fragile and in the absence of effective conservation measures, these stocks can be depleted very fast. My Colleagues will undoubtedly appreciate the multi-faceted nature of the Bill and I shall now highlight a few of the issues that are contained therein. This Bill, to begin with, prohibits the use of any fishing method which is damaging to the environment — poisons and explosives are in this category. It severely limits the use of fishing methods which scare fish into deeper waters, and deny them access to their normal feeding grounds. An extreme example is underwater fishing which, in addition, is frequently a cover for other illegal activities, and this must be banned completely.

At this stage I have to lay stress on the fact that, when underwater fishing was introduced, it was done as a sport, but, during the course of time, many persons have made it their profession and thus are getting their daily bread. My Ministry is fully aware of it, this is why we have been as lenient as possible to them up to now, although we know it has been illegal practice.

No professional underwater fisherman is registered with my Ministry ; all genuine ones, who will be affected by the prohibition of underwater fishing, appropriate steps will be taken to recycle and invite them to join multipurpose fishermen cooperative societies.

Finally, it gives the basis for protecting fish until they have reached a harvestable size, by direct size restriction, by placing minimum mesh sizes on nets and basket traps, in order that small fish may harmlessly swim out and by protecting nursery areas where small fish can grow unhindered. The protection afforded to small fish is also extended to rare endangered species, through the possibility to control exports of rare shells and of carols, and through the protection afforded to sea turtles, and marine mammals. In the case of these animals, we are committed internationally as signatories of the Addis Ababa Convention on the Protection of Nature, and as parties to the Indian Ocean Whale Sanctuary. The welfare of the general public has not been forgotten either — the landing of toxic fish is prohibited and the conditions under which fish is kept, transported and sold are regulated.

Since the adoption of the Maritime Zones in 1977, our fishery limits have expanded considerably, and now cover not only the 200 mile EEZ's around the islands of Mauritius, Rodrigues, St. Brandon, Agalega and Tromelin, but also the

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waters of Saya de Malha Bank and the Chagos Archipelago, where Mauritians have exercised traditional fishing rights for a long, long time. The future needs of Mauritius in fish reside in these waters, and this Bill provides the necessary extension to the Maritime Zones Act by permitting regulation of the fishing by citizens as well as by foreigners, for the proper management of the stocks.

These days complaints are regularly being made in the press about rampant illegal fishing. The main reason for such a situation is the lack of strong legislation and the somewhat light penalties inflicted upon those persons accused of illegal fishing. This Bill provides for the imposition of heavier penalties which, it is expected, will serve as a deterrent to hardened offenders. The number of persons caught fishing illegally in 1977 was 319. In 1979 this number increased to 328. During the last two-and-a-half months alone the flying squads of my Ministry have seized not less than 10,950 feet of illegal nets, Mr. Speaker, Sir.

I consider, and you will agree with me, that the time has come to do away with underwater fishing for, under the present legislation, it is not lawful for any person to fish ten fishes in a day or to be in possession of ten fishes. The law, as it is, prevents effective control being exercised on the activities of the underwater fishermen. For example, someone can catch ten fishes at Cap Malheureux in the morning and catch the same number at Souillac in the afternoon. Also, the present legislation makes no mention of the size of the fish. Ten fish can weigh 4,000 lbs !

There is also the point that people who do underwater fishing usually carry with them spear guns and other implements to catch fish, lobsters, octopus, shells etc., which live in the cavities of the reef structure and at the bottom of the sea. Most of them take advantage of their diving equipment to kill the fish in their habitats and make them desert the place. Others ransack the basket traps of professional fishermen and thus cause a social conflict among them. There is yet another group using diving equipment to lay explosive charges into the cavities at the base of the live coral reefs. These charges are connected by means of an electric wire to a dry cell ashore or in a boat. This method, which is rampant all round the island, results into severe damage to the fish habitat and affects the marine environment and resources.

I should like to point out that this Bill does not ban underwater fishing in respect of aquarium fish. The trade in aquarium fish which is developing is seen as a way of putting to value a considerable stock of fish which have no possible use as food.

The Bill provides for the establishment of a Fishery Advisory Board wherein all categories of fishermen will be represented. The intention is to provide a forum for the discussion of all problems connected with fisheries, whether of an artisanal nature or of an industrial one, whereby all groups can put forward their views on problems which affect them and on improvements which may be brought to the fishing industry. At present, only lobby groups are active and this does not permit discussion of problems with all concerned.

Pollution has been a main hazard to our fish stock. The Bill also has provisions for the protection of the environment. It would prevent any person from throwing or discharging within the fishing

limits of Mauritius or in rivers or lakes any substance likely to injure any fish. This measure is also directed against the use of polluants for fishing in small scale — accidental or chronic cases. It is expected that the water law which is in preparation will cover industrial scale aquatic pollution more comprehensively and with higher penalties.

The Bill aims at rationalising the conditions for fishing generally and those for the sale of fish. It will be possible to frame regulations for carrying into effect the provisions of the Act. These regulations will provide for all aspects of the fishing sector, namely the formulation of measures for the efficient protection of the fisheries resources, the planning and implementation of research project and the development of the fishing industry. As regards the sale of fish, this Bill will compel all fishmongers to have a licence, which will automatically entail certain conditions to be satisfied. Also, no fishmonger can refuse to sell fish at a fish landing station. This measure will surely satisfy the public, especially those from the coastal villages.

In this Bill, fish means any animal organism but does not include fresh water fish, camaron or any other animal organism living in fresh water. The intention is to frame a separate legislation in view of the development of freshwater fish and camarons in lakes and ponds.

In short, the Bill aims at rationalising the conditions for the issue and the use of various types of nets and fishing implements. This will ensure the conservation of fish stocks and the protection of marine resources. The proposed measures will also aim at avoiding the elimination of stocks and the replenishment of those which have been overfished. In the long run, it is expected that the application of general conservation measures will lead to an increase in the profitability of fishing activities and will have a beneficial effect not only on the social and economic life of the professional fishermen but also on the fishing industry as a whole.

It must be remembered, hon. Members, that this Bill which is before you to-day is not one which touches the fundamental liberties of our people and which should therefore be considered immutable — its object is to derive for the benefit of the people the maximum sustainable benefit from the resources of the waters which surround us. As such, it should be effective and sufficiently flexible to cater for change.

Sir, with this, I commend the Bill to the House.

Mr. Purryag *rose* and *seconded.*

(4.00 p.m.)

The Leader of the Opposition (Mr. A. Jugnauth) : Sir, this Bill, is in fact, if I may call it like this, modernising and consolidating the law that already exists, with certain exceptions, regulating the fishing industry. As we are aware, there are many clauses which already exist, for example, dealing with fishing with dynamites, with explosives, nets which are allowed during a certain season and for which a licence is to be obtained, and registration of boat and all the rest — we already had provisions in the existing law. But, as we know now, there are certain new clauses which are being added and, naturally, we are pleased to see that Government is attempting, at least, to do something in that direction, and for that we welcome the Bill, although we

are not fully satisfied that everything that ought to be done is being done. Nevertheless, as we say, on this side of the House, it is one step forward in the right direction ; we always welcome it.

Sir, what is to be regretted is that, as we know, there is an important number of people already engaged in this industry and naturally, we know with what difficulties this class of people have to struggle in order to make ends meet, so far, they have been left, to a great extent, to fend for themselves, and there has not been in that direction real development in order to industrialise the fishing industry.

We may say that it is being done, up to now, on a very small scale so that, although we know that Mauritius is surrounded by sea and that one of our resources is to be found in the sea surrounding the country — and especially now with the new economic zone, with the Maritime Chart that is going to be published and which naturally will expand the limits in which the fishing industry of Mauritius operates — it is a pity to see that, up to this stage, really not much has been done in that direction.

Sir, how many times has this question been raised in this Assembly ? Have we not been told that, for a long time now, the sea which should have been exploited by the Mauritian nationals, in fact, are being exploited, in very irregular and unlawful manner, by foreigners, be they Russians, be they Koreans, be they Japanese, Vietnamese or whoever they are ? The fact remains that it is admitted by one and all, on both sides of the House, that, in fact, they are exploiting all the seas which should have been exploited by the Mauritian people and in a very crude way, in certain cases, in a very criminal way. So that when the Minister says as a matter of fact : all our riches, the marine life is being depleted, that is true. Therefore, it is not enough to pass certain laws in order to protect certain waters surrounding Mauritius — because we know that this does not deal with fresh water fish, it deals with the sea and with the '*barachois*' that we have around the coast. We, on this side of the House, we have always maintained that Mauritius cannot afford to do otherwise than exploit to a maximum all the natural resources that are available in this country ; and when we say that, we have always meant that it should have been a priority of Government in order to industrialise the fishing industry, to modernise it, have a fishing fleet and train our people so that we could stretch our fishing industry up to the last limit of the ocean where we have a right to fish. And therefore, we believe that Government should have started on this line long ago, instead of wasting large amounts in other sectors ; take for example, in the cooperatives how many millions have been spent, when these amounts which have been spent year in and year out could have been made better use of, if we had really had a plan and had started industrialising and developing our fishing industry.

Now, there are certain clauses obviously in this Bill with which we are dealing to-day, which aim in a way at protecting the new limits that we have now, and within which we have the economic right to exploit and to fish and what not. But, Mr. Deputy Speaker, we know that, being given our resources, although we may have laws, yet it is one thing to have the law in the Statute books, and it is another to have this law implemented, this law put into real force and practice. Now insofar as the neighbouring sea is concerned, within a certain limit, where

our Mauritian fishermen fish with their small boats, we know that we have in the Ministry the Enforcement Branch with Inspectors and what not, they have certain facilities at their disposal, and for the local fishermen definitely these laws can be applied and can be implemented ; naturally this is being done, even during the past years, under the existing law — except for a few changes, for example, now any person who is engaged in fishing must have a licence and, therefore, there will be better control of the number of fishermen who are real professionals, and who are really engaged in fishing ; and through that better control of the other things that are meant to be controlled under the law. Nevertheless what we consider is still of great importance to this country is not only to limit ourselves to the small scale fishing, but what we should do is to expand and make sure that we can protect our rights far beyond where our local fishermen are able to reach and fish. In order to do that, although we have heard statements being made here and outside that there are certain friendly countries which are prepared to help us and to put certain vessels at our disposal for controlling and supervising the sea, and that a sort of patrol was going to take place, nevertheless up to now we have not heard anything materialising in that line. Here I will appeal to this Government, whether help is coming from this country or that country, I think that if there are friendly countries which sincerely want to help us, personally we, on this side of the House, we believe in that, in fact there is tremendous and unlimited scope in the fishing industry for this country. Because when you realise, Mr. Deputy Speaker, it is one of the main industries of some countries. We believe that in Mauritius, after the sugar industry, we can make of the fishing industry the next main industry of this country. Because with it, not only can we get all the fish that we require. As you know we are still importing, we are still depending on other nations to provide us with the fish that we require for our local consumption — but there is more than that : we can still export, and that is why we say that with the other neighbouring countries of the region, we can work in cooperation in order to make the fishing industry a success, because there will be markets not only locally, but we can also find markets elsewhere and there is tremendous scope for a canning industry, and with the by-products, for animal feed and all the rest.

Therefore, I think Government should really start thinking seriously on that line and we should, instead of asking help and getting money from other sources, and spending that money on useless things, one of the priorities of this country ought to be to develop the fishing industry and try to get the know-how and the necessary help from friendly countries which genuinely want to help us in that line. And for that matter, it may come from anywhere, be it from the West, be it from the East, be it from India ; because we know that there are certain countries that have been willing to help in that direction, but so far we have not availed ourselves of that help, and that is why, I may say, that our fishing industry has remained stagnant as it has been for so many years past. Therefore, Mr. Deputy Speaker, I do not want to be very long on this, but we know that now we have a fishing vessel like the " Lady Sushill " which, of course, is a good thing for this country — one example of how interesting it is to have this sort of vessel modern, fully equipped, that can do a lot of service and a lot of good to this industry — but we should not content ourselves with having one vessel.

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As I said, we must have a fleet of fishing vessels, we must have properly trained people and being given that we are going through a very crucial moment, with the economic crisis, with unemployment problem, we can have a fair number of our population engaged in that industry. That is why I am appealing to this Government, although it is late, but it is not too late, that we should do our best to bring all that we can in that direction in order, at least, to make a start and to go on developing that industry.

Mr. Deputy Speaker, I don't want to enter into all the details of the clauses that have been introduced, and the new clauses specially that are being introduced ; I wanted to give our opinion on what we believe should be done and where we are lagging behind, and as I said, we appeal to this Government to try and make use of every help possible and help that can be even asked for, because it will be spent in a worthwhile way if we really develop that industry for the benefit of our country.

There is a clause in this law where it is stated that even fishing with explosive can be done, provided there is a permit that has been obtained from the PAS of the Ministry.

I fail to see why there should be this question of permit from the PAS, why this power is granted to the PAS, even to allow fishing with explosives, because we know how destructive it is to fish with explosives. In fact wherever it is used — I am no expert, but I have been told that for a long time — fish is completely destroyed and won't come in that region again. It destroys almost everything. Therefore, I think this should be completely banned. There should be no question of anyone, at anybody's discretion, to grant any permit, or licence, to fish, in any circumstances, with explosives.

With these remarks, Sir, as I was saying, we, on this side of the House, we welcome the Bill, because we believe that, as a matter of fact, it is a move in the right direction and we hope that from there on, we will go further still in order to be able to make the most, and exploit to the maximum all the resources of the sea, and especially with the economic zone that has been declared as belonging to this country.

(4.18 p.m.)

Mr. M. Dulloo (Second Member for Grand'Baie and Poudre d'Or) : Mr Deputy Speaker, Sir, I won't be long. We have just heard the Minister of Fisheries commending this Bill to the House, make certain remarks, and he has been putting emphasis on certain figures as if he has done a good job ; but, I, for my part, I would say that very little in fact is being done by this Bill, because this Bill does not touch upon the fundamental question that has been raised by the Leader of the Opposition, namely, the question of the fishing industry itself on the proper scale as required from our economical point of view, and based on the social point of view, especially the point of view of food for our people.

The Bill itself, in fact, we should put it, is a sort of consolidation of past legislation, with a few touches here and there, and most of the new legislation that has been brought will only affect small fishermen, those we find in our villages, round the coast. I won't go back on the fundamental issue raised by the Leader of the Opposition, but suffice it to say that, in fact, we are losing a lot of our

potential resources from the sea because these are not being properly exploited. The Leader of the Opposition has referred to the " Lady Sushil ", but, unfortunately whatever fish is being caught by the " Lady Sushil " goes, as we know, for industrial purposes. And, even then, I have been told that the recent trip of the " Lady Sushil " has not been that successful and that there has been the necessity for making provision from the Seychelles.

To come to the legislation itself, I, as a lawyer, have had the opportunity of having to deal with the former legislation in Courts of Law, and we know that the law, formerly, was in a mess. We have a representative of the Crown Law Office here, they too have had headaches in drafting their information, and there have been a lot of loopholes ; we have taken pleasure in having cases before the Courts of law. But, unfortunately, going to the new legislation I see that some of the difficulties would not be eliminated by this new legislation. This Bill, as has been pointed out, aims at organising, regulating and controlling fishing generally in Mauritius. As we see, there is a vast number of powers given to the PAS. As has been pointed out by the Leader of the Opposition, in various instances he has to use his discretion. But I, for one, submit that, in fact, there is a danger here. At a time when we should try to aim at decentralising, we see we are going the other way in this Bill : we are centralising all powers in the hands of the PAS. For any matter, the least licence, the poor fisherman would have to come up to the PAS. So, I hope that a proper procedure will be established — perhaps he may be the person having the last say in the matter — but a procedure should be established that all these applications, all these formalities, should be able to be done by the poor fisherman in his own village, and that he would not have to come up to the office of the PAS for them. Because, what is the fisherman being given in return ? We have all that red tape being set up, all those formalities to go through — the poor fisherman, has got to go through all that — but, in fact, we see very little protection given to him in return. Because, if we are regulating as far as their activities are concerned, we should try to see that they are given adequate protection ; not only that, but also encouragement for their daily activities, specially when they depend on that for their daily bread. Recently, we have had a lot of cases of fishermen, specially during the bad weather, who have been affected, they have not been able to go out to sea and they have been compensated for certain days when they were out of activities, but many of them have not been so compensated ; only a few days have been actually reckoned as bad weather and have been credited to them, whereas there have been many other days when the sea was very rough — though the weather was bright — and they have not been able to put to sea, and they have not been adequately compensated for that.

It is one thing to pass legislation for the sake of controlling, for regulating, certain activities. But we should also see to it that, at the same time, we have the man-power necessary and the training necessary to put into effect that legislation, and that abuse be not made possible and that, the law, in the last alternative, does not become arbitrary. I have here in mind the many Fisheries Officers around the coast who, I submit, should be given the proper training of how to deal with the fishermen in certain circumstances. Because — it is sad — we have had many

cases of conflict between the fishermen and the Fisheries Officers; there have been cases also where people have been very seriously assaulted — Fisheries Officers — as a result of the bad relationship between the Fisheries Officers and the members of the public. This is the result of the poor training the persons in charge have had. In fact, we see here that powers are being given to the PAS and also to some Officers — for example, under Section 7 and Section 8 — when those Officers can, when fish is being landed at a particular fish-landing station, declare that the fish is fit for consumption or not; and, when a person is selling fish in the street, he, too, can be arrested and it is for the Fisheries Officer or the Police Officer to decide whether the fish is fit for human consumption, to arrest that person or not. In the case of fish landing stations, the Fisheries Officer can decide that the sale be prohibited and the fish destroyed, without compensation, straightaway. So, there is the danger of abuse, there is the possibility of abuse. We should see to it that, in practice, the proper training is given and that these people know how to go about doing their work.

There is the question of supervision itself. We don't have enough Fisheries Officers to go around our coasts for the proper supervision of our coasts. We have, for example, in Section 9, subsection (3) the question of supervising our rivers, lakes and all that, the question of pollution and so on. Most of our rivers, in fact, have been polluted, specially during crop season, and we have had the recent case which has been brought up before the House here by one Parliamentary Secretary — the question of the ponds in Pamplemousses Botanical Gardens where there has been outright pollution by factories nearby. So, we should have trained Officers to go around seeing to it; because, in the long run, who would be responsible to draw the attention of the authorities concerned to such type of pollution ? Most of the time, it is the members of the public — when they are suffering from the repercussions of the pollution then they draw the attention of the authorities to it. But, when they do this, the damage has already been done. And, very often, in most of our villages, the members of the public have been accustomed to a certain state of affairs, they take it for granted that the river should be in such a state and, sometimes, the matter is never brought to the notice of the authorities concerned.

There have been a few instances of the law being amended but, in my humble opinion, far from contributing to redressing matters, on the contrary we are going back to a situation which was creating injustice. We can come to that when we come to the Committee stage, but I would draw attention here to the question of the disposal of fish which has been obtained by means of explosives. Formerly, when the fish was seized, it was offered to orphanages and charitable institutions; but now we see that the whole matter is left at the discretion of the PAS. We are not imputing anything as far as the present PAS, or any future PAS, is concerned; we are just saying that if such discretion is given to one man, there is the danger of abuse. And once there is the possibility of such abuse, we should be very careful as to how we entrust powers to one particular person.

There are, also, certain anomalies in the legislation which, I think, are best taken up at Committee Stage. But I should say one thing — and I make a plea here to the Minister and, through him, to the Officers concerned — to see to it that the law be implemented, yes, but in the true spirit of

the law. And, secondly, that the authority or department be given the manpower necessary; and, thirdly, that ways and means be found to protect and to encourage those small fishermen, let alone the small fishmongers along the high street. Here I have specially in mind a lot of our youngsters in our villages along the coast who have nothing to do, and, as a hobby, go fishing with a rod and line; they may catch some fish more than is necessary for their own personal consumption, and they just go around in the village selling to their neighbours, to the people around, thereby earning some extra money. So, if we are regulating that each fishmonger should have a licence, these people will have a lot of hardship to go through. So, we should see to it that the law be applied, yes, but not as stringently as to affect our traditional way of life, specially village life, and cause such hardship to these people. At Committee Stage, I will come with a few specific points on this legislation. Thank you, Mr. Deputy Speaker.

(4.33 p.m.)

Mrs. S. Cziffra (Second Member for Stanley and Rose Hill) : Mr. Deputy Speaker, Sir, this new piece of legislation is very complex and various points have been raised by my friend and colleague, the member for Grand Bay and Poudre d'Or. For my part, I would like to join him specially on the question of hardship and raise a point only as concerns the sentences and penalties which a Court could inflict in cases of infringement of the various sections.

Sir, it is very difficult for any legislator to strike the right balance for the protection of society and, at the same time, for the protection of the individual. But the section concerning penalties in general — section 34 (5) provides that a Court

"may forfeit implements and any boat..."

that is, the instrument of the offence — which is nothing new. Of course the magistrate has the discretion to apply this penalty or not. But I wish to make the point, Sir, that the fishing immplements, and the boat specially, are instruments of work; and, in cases of the person having already been either fined or imprisoned, I think it would be very harsh, specially in cases of very poor families where, perhaps, a father may have committed the offence and the children may still carry on fishing, using the same instruments, the same boat etc. — it would be very hard on them if such instruments were forfeited. Because it might mean that we are removing from these families their very *gagne-pain*. I don't know whether this should be done away with completely because, on the other hand, I can quite see that other people who do not fish for a living might be abusing. I think it should, probably, be restricted to the cases where the boat itself, for example, is being used repeatedly — dans des cas de récidive de la chose et non pas de la personne, je pense qu'on pourrait, éventuellement, proposer un amendement à cette section.

That is all, Mr. Deputy Speaker.

(4.34 p.m.)

Mr. Bérenger (First Member for Belle Rose & Quatre Bornes) : M. le président, si le ministre du plan et du développement n'était pas entré dans la salle des débats, j'allais commencer mon intervention en soulignant que l'intérêt avec lequel les *senior Ministers* de l'autre côté suivent ce débat — ou plutôt l'absence d'intérêt, le peu d'intérêt — est, en lui même, la preuve, si preuve était encore nécessaire, d'abord

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que le Gouvernement lui-même dans sa majorité n'est pas conscient de l'importance du projet de loi que le ministre des pêcheries apporte aujourd'hui devant cette Chambre, et, deuxièmement, que ces *senior Ministers* ne sont certainement pas conscients de l'importance que l'industrie de la pêche — que la pêche, en général, et l'industrie de la pêche en particulier — devrait avoir dans une Ile Maurice véritablement en développement. De ce côté de la Chambre, j'ajouterai des commentaires à ce que le *Leader* de l'Opposition, mon Collègue Madun Dulloo et d'autres ont dit, et j'utiliserai ces mots qui figurent dans le *White Paper* annonçant les amendements au *Companies Ordinance*. Vous vous souviendrez, M. le président, les mots utilisés à cet effet pour dire que des amendements au *Companies Law* de 1973 sont depuis longtemps nécessaires — les mots suivants sont utilisés : *long overdue*. Je dirai que dans le cas qui nous intéresse ici, c'est-à-dire l'industrie de la pêche, le texte de loi et surtout les mesures qui devraient suivre ce texte de loi, sont *long overdue*. Pour rester à l'ile Maurice, je veux dire que, dans une large mesure, en langage mauricien, c'est aussi une question *" d'après la mort la tisane "*.

Lorsque nous constatons ce qu'on a fait de nos lagons, de nos passes et du corail en dehors de nos brisants, en utilisant la dynamite mais aussi la pêche sous-marine pendant des années, lorsque nous considérons le pillage systématique, criminel qui a été fait de nos coquillages depuis des années — et je constate que le ministre n'a même pas fait mention du mot coquillage qui a une importance quand même — je répète malheureusement nous sommes en présence ici d'un cas d' *" après la mort, la tisane !"* Voyons où en sont les choses ! Et là, je rejoins totalement mon Collègue Madun Dulloo lorsqu'il est venu dire qu'en écoutant le ministre des pêcheries on aurait l'impression que malgré tout, il a fait son travail plus ou moins comme il le fallait jusqu'à présent, que la situation était plus ou moins ce qu'elle devrait être ! Mais en fait, je dirais sans hésitation, au nom de l'Opposition que, lorsque nous nous penchons sur l'évolution de l'industrie de la pêche, au cours de ces dernières années à ce jour, nous sommes en présence d'une faillite plus grande encore que celle constatée dans le cas de la diversification agricole. Finnalement, la faillite de la pêche à l'île Maurice et dans les régions avoisinantes, forme partie de la faillite de la diversification agricole. Pour moi, il n'y a rien de plus éloquent que le fait que le ministre de l'agriculture et des *ressources* naturelles n'estime même pas nécessaire de suivre ces débats ! Les pêcheries ont été la responsabilité de ce ministre pendant des années. On lui a retiré la responsabilité des pêcheries, mais il est encore ministre de l'agriculture et des *ressources* naturelles de l'île Maurice ! Une des ressources naturelles les plus précieuses et appelée à connaître un avenir des plus importants est précisément l'industrie de la pêche. Et ce ministre, ne mesurant absolument pas la portée de ce projet de loi et des mesures qui devraient le suivre, n'estime même pas nécessaire de suivre les débats ! Pour moi, rien n'illustre plus l'absence de sérieux avec lequel le Gouvernement s'attaque à ce problème. Quand je dis donc que la faillite de l'industrie de la pêche est à la mesure de la faillite de la diversification agricole, je ne vais pas seulement me payer de mots, je vais mettre quelques faits et quelques chiffres en avant.

Pillage de nos lagons, du corail se trouvant juste à l'extérieur des récifs et même de l'ile Plate et des autres iles avoisinantes — le ministre sait autant que moi que ces régions ont déjà été pillées à la dynamite; c'est le pire crime qui puisse

être commis; lorsqu'on a utilisé la dynamite c'est la mort des coraux, de la vie marine sous toutes ces formes pour des années sinon des décennies à venir — je parle de faillite parcequ'en fait la dynamite a, plus ou moins, tout nettoyé, non seulement dans nos lagons mais en dehors de nos lagons; non seulement en dehors de nos lagons, à l'extérieur de nos récifs mais dans des iles comme l'ile Plate, le Coin de Mire et tant d'autres iles encore. Pillage donc des lagons et de ses régions !

Je prends une autre référence pour constater la faillite : les *" barachois "*. Dans le plan de développement de cinq ans 1975/80 — dans la mesure où il est décent d'y faire référence — il est prévu dans ce plan de développement qu'en 1980, l'Ile Maurice produirait trois cent tonnes de poissons à partir des *" barachois'* — pages 84 et 85 du plan de développement. Les chiffres sont là, M. le président — douze tonnes en 1977; seize tonnes en 1978; les chiffres de 1979 n'ayant pas encore été publiés. Le pillage dont je parlais tout-à-l'heure n'a pas seulement meurtri les lagons et les régions avoisinantes de l'ile Maurice. Ce pillage a déjà — à ce stade le ministre sera d'accord avec moi, je suis sûr — meurtri Rodrigues. Depuis combien d'années à Rodrigues pêche-t-on les homards de nuit, illégalement avec des sennes ? Depuis combien d'années permet-on, qu'à Rodrigues aussi, les lagons et les régions à l'extérieur des lagons, s'essoufflent. J'ai parlé de Rodrigues, de l'ile Plate; je vais plus loin ! Je vais à St. Brandon. De 678 tonnes péchées à St Brandon en 1972, nous tombons à 408 tonnes péchées en 1978. Encore une fois, les chiffres de 1979 n'ont pas encore été publiés et il est prévisible que les chiffres seront encore, plus bas à St. Brandon. A moi, la compagnie qui gère St. Brandon — compagnie qui forme partie du groupe Rogers — s'est plainte et se plaint toujours que le pillage existe aussi à St Brandon. Je ne citerai pas de noms — le ministre sait sûrement de qui je veux parler — certain capitaine de petit bâteau — la tentation me vient de citer son nom. Ils sont entrain de piller — parceque ce sont comme on le dit à Maurice, des „ butors " — les iles de St. Brandon et les alentours. Ils sont entrain de débarquer illégalement, ils font ce qu'ils veulent : torpillage de tortues, pillage systématique dont se plaint la compagnie elle-même, mais il n'y a pas un seul policier sur cette île. Il n'y a aucun moyen de contrôle. Donc, St. Brandon, aussi est entrain d'être meurtri. Agaléga qui était géré par une compagnie privée; actionnaire majoritaire, seychellois; actionnaire minoritaire, mauricien; Agalega était donc une compagnie gérée précisément, par seychellois majoritaire et mauricien minoritaire. Agalega était une entreprise rentable. Agalega produisait, en tant qu'entreprise, non seulement du copra mais du poisson. Le Gouvernement est intervenu dans un louable effort de récupérer le patrimoine national, de le développer dans l'intérêt du pays. Bravo! Le *Agalega Corporation* a été mis sur pied à travers une loi ! Le *Agalega Corporation Act* voté en octobre 1976 ! Où en est-on aujourd'hui ? Agalega peut non seulement fournir à l'ile Maurice du poisson en grande quantité mais aussi des légumes ! Agaléga — j'en ai discuté longuement avec ceux qui connaissent l'ile — a un potentiel énorme de production non seulement en ce qui concerne la pêche, mais aussi en ce qui concerne l'agriculture. Qu'en est-il aujourd'hui ? Qu'importons-nous d'Agalega ? Poisson ? Zero, rien ! Plus de poisson importé d'Agalega ! Et pourtant, M. le président, je dois vous citer du texte de loi — je suis sûr que l'hon. premier ministre a dû complètement oublier, c'est l'impression qu'il me fait — *the objects of the Corporation. There are two objects — paragraph 4 of The Agalega*

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Corporation Act of 1976 — (1) *" to exploit and develop coconut plantations in Agalega "* (2) *" to carry on such other agricultural activities or fishing activities as may be determined by the Prime Minister "*. Encore une fois, je constate une faillite totale. Agalega dégringole, nous ne faisons plus rien entrer dans le pays, à partir d'Agalega, comme poisson, comme c'était le cas dans le passé.

Faillite encore, que je constate, dans les bancs de pêche. Je prendrai un exemple entre dix mille que je pourrais prendre. Un article dans PROSI — le mensuel du secteur privé — en date d'août 1974. " Les Produits de la Mer "; " L'Avenir de l'Industrie de la Pêche ". Cela date d'août 1974 pour ne prendre qu'un exemple ! " Les industriels de la pêche sont inquiets; les rapports pessimistes de certains experts sur le potentiel des bancs de Nazareth et de Saya de Malha, l'intention rapportée de certaines nations de venir exploiter les endroits traditionnellement exploités par les mauriciens ". Cet article fait état de la publication du rapport Lebeau et Queff qui constate un essoufflement des bancs de Saya de Malha et de Nazareth. La chose a continué allégrement. Les bancs de Nazareth et de Saya de Malha — je vous vais citer des chiffres— permettaient en 1974 à l'île Maurice d'obtenir 3,079 tonnes de poisson au moment où est écrit cet article alarmiste qui tire la sonnette d'alarme en regardant l'avenir. De 3,279 tonnes de poisson qui nous parvenaient des bancs en 1974 donc, nous tombons, en 1978 à 1,900 tonnes — derniers chiffres disponibles. Le ministre sait que les chiffres pour l'année 1979 seront écrasants et ce sera encore pire pour 1980.

Les deux grosses compagnies de pêche ont déposé leur bilan; elles ne fonctionnent plus. " *Nazareth Fishing* " d'un côté, " *Fishing Development* " de l'autre côté ! Malgré l'appui accordé par Rogers d'une part, et par la Banque Commerciale d'autre part, les deux grosses compagnies de l'Ile Maurice ont déclaré faillite. C'est le cas de le dire ! Elles ont déposé leur bilan. Les deux plus grosses unités que nous avons — il y a de quoi pleurer pour ceux qui connaissent cette rade — et qui peuvent vraiment faire face à la mer, dorment à côté des bateaux japonais. Elles dorment dans cette rade, elles ne fonctionnent plus depuis des mois déjà et les deux compagnies cherchent à vendre ces deux unités. Je parle du " *Nazareth* " et je parle de " *La Perle* ". Ces deux bateaux sont amarrés dans la rade avec des gardiens à bord depuis des mois ! Monument à la faillite de l'industrie de la pêche mauricienne ! Ces deux bateaux dorment là, en attendant d'être vendus ! Est-il étonnant donc que pour l'année 1979/80 le chiffre sera de loin inférieur à 1,900 tonnes puisque les trois autres compagnies — à part ces deux grosses compagnies, il nous reste trois autres compagnies dont deux sont sur le point, elles aussi, de déposer leur bilan — et dans le cas de Seeyave, Happy World & Co., s'il n'utilisait pas des Coréens pour pêcher, s'il ne *chartered* pas des bateaux, depuis longtemps il aurait déposé le bilan de sa compagnie en ce qui concerne son bateau de pêche sur les bancs.

Donc, de manière générale, je constate — les faits sont là, les chiffres sont là — la faillite de l'industrie de la pêche. Je ne le constate pas de gaieté de cœur, je le constate pour en tirer des leçons. Tout-à-l'heure quelqu'un parlait des importations, des *fish imports globally* — importation de poissons sous différentes formes, je dirai que la montée en flèche des importations est elle aussi une constatation; elle nous met l'évidence sous le nez. Je cite le *Mauritius Economic Review*, très lucide d'ailleurs, présenté par le ministre du Plan et du Développement. Les importations se chiffraient à 1,800 tonnes en 1970; dernier chiffre dont parle ce rapport — 1977 — 5,500 tonnes.

Vous m'entendez bien: de 1,800 tonnes d'importation de *fish products* à 5,500 tonnes de 1970 à 1977. Et, si nous prenons 1978-79, nous verrons, qu'encore une fois, la faillite continue, s'approfondit et que les importations augmentent. La première remarque, donc, que je voulais faire: constater très amèrement que l'industrie de la pêche qui devrait être, comme l'a dit quelqu'un, qui devrait venir immédiatement après l'industrie sucrière est en faillite. Le deuxième point que j'aimerais souligner, c'est que le ministre, d'après moi, aurait dû quand même, en commentant son projet de loi, faire remarquer que nous avons eu affaire ici à différents genres de pêche. Présenter le tout comme un amalgame ne fait que créer de la confusion. Je prends un exemple. Si quelqu'un se référait au *' Lady Sushill '*, aux poissons capturés par le *' Lady Sushil '* pour montrer que l'industrie de la pêche est, à Maurice, en bonne santé, ce serait faire dangereusement fausse route; car la *' Lady Sushil '* fait un genre de pêche; la pêche au thon, qui n'a absolument rien à voir avec la pêche sur les bancs. C'est une autre entreprise complètement — une se fait à partir des chalutiers en haute mer, l'autre se fait à partir des bateaux qui débarquent, les petites pirogues qui vont pêcher sur les bancs, qui reviennent — deux genres de pêche totalement différents. Et, encore une fois, deux genres de pêche à leur tour différents du genre de pêche pratiquée sur les îles elles-mêmes; encore une fois, différente du genre de pêche pratiquée à partir des bateaux qui quittent l'Ile Maurice pour se rendre dans les régions avoisinantes hors des lagons; encore une fois, différents du genre de pêche pratiquée dans les lagons; encore une fois différents du genre de pêche pratiquée dans les " *barachois* ". Donc, ne pas insister sur la réalité des différents genres de pêche pratiquée à Maurice, c'est causer de la confusion, et c'est empêcher de voir la vérité: que certains secteurs ont été profondément meurtris, comme je le disais plus tôt. Je ne puis m'empêcher d'être pessimiste, malgré les déclarations d'intention du ministre en question qui, je suis sûr, a véritablement les meilleures intentions au monde; je ne puis m'empêcher d'être pessimiste. Vous me demanderez pourquoi ? Je vous répondrai à cause de deux précédents. Le précédent du *Maritime Zones Act* voté par cette Chambre en 1977, et le précédent de l'*Agalega Corporation*. Je ne reviendrai pas en détail sur l'*Agalega Corporation*. L'occasion nous sera donnée en d'autres circonstances, quand il nous faudra nous pencher sur toute cette affaire de l'*Agalega Corporation*, sur tout ce morceau de patrimoine mauricien absolument sacrifié, absolument délaissé. Mais le fait que, comme je le disais tout-à-l'heure, une législation ait été votée en octobre 1976 visant à promouvoir le développement de l'industrie de la pêche à Agalega, et que cela ait débouché sur le fiasco dont je viens de faire état, est un précédent qui, de mon point de vue, augure mal pour l'avenir. Deuxième précédent donc, dont je parlais: le *Maritime Zones Act* de 1977; nous avons voté le cœur plein de patriotisme en 1977 ce texte de loi. Qu'en est-il advenu ? Qu'est-ce qui a suivi dans la pratique le vote par cette Assemblée de ce projet de loi ? Quel moyen de contrôle l'Ile Maurice, le Gouvernement mauricien s'est-il donné pour appliquer ce *Maritime Zones Act* de 1977 ? Rien 1,000 fois, 100,000 fois rien ! On nous a promis la collaboration avec les Seychelles, surtout dans le cas

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de Saya de Malha, une collaboration étroite, pour empêcher que des tierces parties ne viennent piller les bancs de Saya de Malha. Je citerai l'accord du 15 avril 1977. M. Albert René alors Premier ministre, entretemps devenu président de par la grâce de Dieu, visitait l'Ile Maurice. Le 15 avril 1977 un communiqué conjoint, signé par Sir Veerasamy Ringadoo, le ministre Busawon, le ministre Seetaram, le ministre Chong Leung et la délégation seychelloise, fait état au paragraphe 8 de la chose suivante :

> 'The two delegations agreed that should problems of delimination arise in the exercise of the respective jurisdictions of the two countries over the maritime space, amicable solutions in the spirit of the traditional type binding the two countries, would be sought having regard to the principles of international law and state practice governing the matter'.

Au paragraphe 9 nous allons plus loin :

> " The two delegations further agreed that the two countries should cooperate in all activities geared to the development, control, management and conservation of resources, the prevention of pollution and the conduct of scientific research in the maritime space under their respective jurisdiction ".

Force m'est de constater que cette coopération, de plus en plus étroite avec les Seychelles dans ce secteur, ne s'est absolument pas concrétisé. Trois officiers du Gouvernement se sont rendus, il y a quelques jours, à la conférence régionale ACP qui a discuté, entre autres choses de la pêche aux Seychelles, Souhaitons que l'avenir soit meilleur que le passé. Mais, je constate, quant à moi, qu'absolument rien n'a été fait pour que l'Ile Maurice et les Seychelles ensemble contrôlent leurs ressources maritimes, collaborent autant que possible, pour empêcher le pillage de nos bancs et la pollution dans les régions qui nous intéressent conjointement, surtout dans le cas de Saya de Malha. Je ne ferai pas de violence au ministre en lui rappelant qu'il avait absolument tort, en 1977, lorsqu'il déclarait ici à la Chambre :

> " But if you are going to take into consideration the 200 miles limit you will see that the Saya de Malha Bank is almost covered by the extension of our territory ".

Je sais que depuis le ministre s'est certainement renseigné, et que tel n'est pas le cas. Si nous mesurons 200 milles à partir du dernier morceau de territoire mauricien qui est précisément, Agalega, et que nous mesurons 200 milles à partir du dernier morceau de territoire seychellois qui est l'île de Coetivy, nous trouvons un huitième des bancs de Saya de Malha. Les Seychelles couvrent légèrement plus les bancs de Saya de Malha — 90% des bancs de Saya de Malha tombe en dehors des zones de 200 milles de l'Ile Maurice comme des Seychelles. Si le ministre a des difficultés, je peux aisement lui prêter un compas; mais s'il va faire état du concept des droits historiques, c'est une toute autre affaire. Si le ministre croit pouvoir faire état des droits historiques sur telle ou telle région de l'océan indien, c'est une toute autre affaire! Je parlais moi, uniquement du concept de 200 milles qui est lui, au moins, bien établi à ce stade, et qui montre, donc — je le répète — que la plus large partie des bancs de Saya de Malha tombe en dehors de la zone économique et de Maurice et des Seychelles, et que c'est bien pourquoi la collaboration entre les Seychelles et Maurice est, non seulement, nécessaire mais indispensable. Le ministre — je ne reviendrai pas là-dessus longuement — comme moyen de contrôle, nous avait aussi annoncé un patrouilleur, qui est une nécessité vitale pour l'Ile Maurice. J'y reviendrai tout-à-l'heure. Le ministre nous avait annoncé un patrouilleur qui est resté, sans doute, en cale véritablement sèche en Corée du Sud. En tout cas, nous attendons toujours le patrouilleur. On nous

avait promis les cartes maritimes. Je vous rappelle que le Premier ministre avait déclaré à cette Chambre :

> " They are being prepared. To avoid doubts... "

Je me souviens des mots du Premier ministre, je n'aurais pas le temps de chercher sa déclaration, mais je me souviens des mots du Premier ministre en 1978 :

> " To avoid doubt a chart will be published in a few days, in a very few days ".

Nous attendons encore la carte en question, délimitant ne serait-ce que notre zone économique de 200 milles. Nous attendons toujours ce document. Au fil des mois le Gouvernement a systématiquement promis — je retrouve le document, ce n'est pas 1978 mais le 18 octobre 1977 le Premier ministre répond :

> " For the avoidance of doubt... "

Comme toujours, ma mémoire est quasiment infaillible.

> " ...charts will be published shortly setting out the limit of our historic waters ".

Plus que notre zone de 200,000 — les *historic waters*. Nous attendons toujours, comme je le disais, la publication de ces cartes. Le pillage maintenant, faute de ces moyens de contrôle, le pillage de nos bancs continue. Je ne citerai qu'une déclaration d'un des directeurs d'une des compagnies. Le 26 février 1980, problème numéro 1 de l'industrie de la pêche à en croire M. George Eynaud directeur de la *Mauritius Fishing Development* — il aurait tout à gagner à dire que le problème No. 1 est la productivité des pêcheurs — il en parle! Il aurait tout à gagner de dire que c'est la manque de financement de la part du Gouvernement — il n'en parle pas. Mais, la raison numéro 1 qu'il met en avant, les bancs sont systématiquement pillés par les bateaux de pêche étrangers ! Donc, ce précédent, M. le président, me fait être très pessimiste. Mais, en même temps qu'il me rendent pessimiste, ces deux précédents me poussent à demander au Gouvernement cette fois, au moins, — puisqu'il y va du cœur même de l'Ile Maurice, du patrimoine le plus précieux même de l'Ile Maurice pour une fois d'agir d'urgence. Il faut agir d'urgence véritablement pour mettre fin aux méfaits de la dynamite, et de la pêche sous-marine. Je crois que le ministre m'avait très mal compris l'autre jour lorsque j'avais soulevé le cas des pêcheurs sous-marins. J'y reviendrai dans quelques minutes. Nous disons depuis des années — je me suis mis debout en 1977 si le ministre se rappelle, pour dire que, comme aux Seychelles, la pêche sous-marine doit être interdite à l'île Maurice. Nous le répétons depuis des années. La dynamite d'abord, mais la pêche sous-marine aussi. J'ai écouté le ministre tout-à-l'heure, et il a dit deux choses. Il a dit d'une part — il se souviendra du mot qu'il a utilisé. Je ne mets pas le mot dans sa bouche — en parlant de la pêche à la dynamite il a été jusqu'à dire : " *It is rampant* ". Constater le 13 mai 1980, que l'utilisation de la dynamite *is rampant*, ce que nous constatons nous tous qui allons quelquefois au bord de la mer ! Qui n'entend pas régulièrement le son sourd de la dynamite suivie de la gerbe d'eau qu'on aperçoit n'importe où à l'Ile Maurice, a l'est, au nord, au sud ? Et venir dire en mai 1980 que l'utilisation de la dynamite pour pêcher " *is rampant* "! Quel aveu de défaite, quel aveu d'impuissance incroyable de la part du Gouvernement ! Et, j'ai écouté aussi avec attention le ministre lorsqu'il nous a dit que, dans le cas des pêcheurs sous-marins son ministère — encore une fois je ne mets pas des mots dans sa bouche — encore une fois le ministre nous dit que,

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dans le cas de la pêche sous-marine, quoique son ministère savait que c'était illégal, depuis des années :

" *My ministry has been lenient* "

Ce sont les mots utilisés par le ministre ! Pendant des années, donc, plus l'Opposition criait — depuis 1977 j'avais suggéré de trouver de l'emploi alternatif pour ces gens-là, empêcher la pêche sous-marine — on a été *lenient* ! Pendant des années, on a permis que ce problème se multiple pour finalement,aujourd'hui, d'un coup de loi, si je puis dire, vouloir trancher le problème. Mais, cela fera mal, ce ne sera pas aussi facile que ça. J'ai heureusement entendu aussi le ministre dire que, lorsque son ministère va appliquer son projet de loi, il sera *sufficiently flexible* parcequ'il faut être humain. C'est *grosso modo* ce que le ministre a dit, nous faisons, de ce coté de la Chambre, un appel particulier au Gouvernement sous cet aspect de choses. C'est un problème explosif. Je serais étonné si le ministre n'a pas eu des menaces etc., je souhaite que non. Mais, c'est un problème explosif, et je souhaite, pour le bien du ministre lui-même et pour le bien de toute l'Ile Maurice, que la mise en pratique de cette loi soit bien étudiée. En ce qui concerne la dynamite il faut être sans pitié, mais en ce qui concerne la pêche sous-marine il faut être *sufficiently flexible.*

Il faudra offrir à des pères de famille, qu'on le veuille ou non — parceque le ministère a été *lenient* depuis des années, parceque le chômage était là. Il y a des centaines de pécheurs sous-marins professionnels, qu'ils soient enregistrés avec le ministère ou non, qu'ils aient agi dans la légalité ou non, que le ministère ait été *lenient*, alors qu'ils étaient dans l'illégalité ou non, peu importe tout cela — nous faisons un appel particulier au Gouvernement pour lui dire de traiter ces pères de famille et ces pécheurs sous-marins professionnels comme des Mauriciens à part entière, comme des humains et, donc, de ne pas les mettre au pied du mur du jour au lendemain. Le ministre a suggéré qu'ils soient intégrés dans des coopératives de pêche. Je souhaite sincèrement que cela soit possible dans la quasi-totalité des cas; mais tout comme certains ministres ont eu recours à des *hardship cases*, si nous nous trouvons dans le cas de ces pêcheurs, devant des cas de *genuine hardship cases*, je fais un appel personnel et particulier au Gouvernement, qu'il accorde toute son attention à ce problème.

Je reprendrai maintenant quelquechose que le *Leader* de l'Opposition a dit. Le Leader de l'Opposition a eu raison de dire — et je crois que le Premier ministre d'ailleurs s'est mis en colère contre le ministre des pêcheries — qu'il faudrait *delete* cette section de la loi qui permet au PAS du ministère des pêcheries de permettre, si bon lui semble, à certains de pêcher à la dynamite. Je crois que la suggestion a été acceptée et que *at Committee stage, we will do away with that.* Mais je note que la même clause couvre la pêche sous-marine, que le PAS est autorisé à permettre à certains de continuer à exercer leur métier de pêcheur sous-marin. J'aimerais donc, savoir du ministre concerné, si cela a été fait volontairement, pour *phase out* le problème, si je puis dire, ou, si du jour au lendemain, l'interdiction de la pêche sous-marine va être appliquée comme une guillotine.

J'aimerais attirer l'attention du ministre pour lui demander de porter une attention particulière aux touristes. Mes informations sont que des touristes, régulièrement, dans les quatre coins de l'île, pêchent avec bonbonne d'oxygène, etc., donc, non seulement pratiquent ce genre de pêche

sous-marine que pratiquent nos pêcheurs sous-marins professionnels à partir de la surface, mais avec bonbonne, ce qui est encore plus criminel que la pêche sous-marine ordinaire. Je dirai donc au ministre, sans appeler les foudres de notre ministre du tourisme — je ne crois pas qu'interdire la pêche sous-marine aux touristes, va les faire fuir pour d'autres cieux — qu'il y a là quelquechose à faire en particulier.

Je parlais de l'urgence avec laquelle le Gouvernement...

Sir Harold Walter : Un de vos députés vient de demander une permission pour la pêche sous-marine.

Mr. Bérenger : Well, refuse him, for once you will do a good thing !

Sir Harold Walter : Cela vous gêne !

Mr. Bérenger : Sir, I cannot help being precise and exact.

(*Interruption*)

Ta lère poisson rouge là. Tout-à-l'heure je vais venir sur cette économie rouge qui va devenir poisson rouge, M. le président...

Sir Harold Walter : Vous allez faire une expérience de cobaye...

M. Bérenger : Heureusement que le *Muppet Show* ne se manifeste pas sous l'eau parcequ'autrement cela ferait un raz de marée lorsque la belle pénètrerait les flots !

M. le président, je retourne à mes poissons, pour ne pas dire, mes moutons. Je demanderai au ministre et au Gouvernement d'agir avec toute l'urgence nécessaire dans le cas de l'ile Maurice, dans les lagons, hors des lagons, d'agir aussi vite que possible, surtout en ce qui concerne la dynamite, mais aussi en général.

Je demanderai au ministre de le faire avec encore plus d'urgence dans ce qu'il nous reste à l'île Plate, dans les autres iles entourant l'ile Maurice, à Rodrigues, à St. Brandon; et tout-à-l'heure je viendrais sur les moyens qu'on refuse au ministre en question. Sans doute par solidarité collective, il n'a pas critiqué l'absence des moyens qui lui lient les mains. Je ne dirai pas qu'il est venu me dire de dire cela à sa place, non, du tout pas; ce n'est pas qu'il est venu me dire de dire à sa place, parceque le ministre ne peut pas le dire. Mais je sais que, fondamentalement, cela doit être ce qu'il ressent; qu'il n'a pas les moyens de sa politique; et je lui demanderai, donc, d'accorder son attention d'urgence à ces îles et d'aller plus loin même; de pousser le Gouvernement à agir en coopération avec les Seychelles pour empêcher que continue le pillage de nos bancs de Saya de Malha et de Nazareth.

Je lui demanderai aussi, puisqu'il est ministre des pêcheries et que l'*Agalega Corporation* ne tombe pas sous sa responsabilité, mais quand même, en tant que ministre des pêcheries, de pousser le Gouvernement a exploiter à fond le *fishing potential*, si je puis dire, d'Agalega, de faire revivre Agalega, en ce qui concerne les possibilités de pêche.

Je lui demanderai aussi d'agir d'urgence dans le cas des „ *barachois* ". Les chiffres que j'ai cités tout-à-l'heure sont éloquents. S'il faut reprendre les „ *barachois* " à des individus privés, pour que les chiffres mis en avant dans le plan de développement soient atteints, qu'on le fasse ! On vient toujours nous corner les oreilles avec l'efficience du secteur privé, le potentiel de

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production, la rentabilité du secteur privé ! Je ne vais pas faire un discours là-dessus aujourd'hui mais dans le cas des "*barachois*", le secteur privé est coupable ! J'ai cité les chiffres officiels du Gouvernement, j'ai cité les chiffres que je répète : alors que le plan de développement prévoyait 300 tonnes en 1980, 16 tonnes ont été produites en 1978 ! Je n'oserai pas dire que le seul et unique "*barachois*" gouvernemental de Mahebourg est un exemple de productivité sous-marine, mais je dis que, là aussi, il y a quelquechose à faire très vite. Comme il y a quelquechose à faire très vite, dans le cas de la pollution; mais je le disais tout-à-l'heure, le ministre en question, qui a certainement les meilleures intentions au monde, a-t-il les moyens de sa politique ?

Je vous rappelle, M. le président, que le plan de développement quinquennal 1975/80, le ministère des pêcheries — je cite à la page 173 du plan de développement :

> "Il était prévu que pour le projet de développement au cours de ces cinq années, le ministre en question dépenserait Rs. 25 m."

C'est le cas de dire que ce n'est pas la mer à boire ! Pour une industrie de cette importance, ce n'était pas la mer à boire, Rs. 25 m. en cinq ans supposément, pour développer l'industrie de la pêche ! Vous savez, en cinq ans, combien a été dépensé, M. le président ? En cinq ans, moins que Rs. 2.5 m. pour être exact, Rs. 2.3 m. en projet de développement ! Rs. 25 m. prévus au projet de développement, Rs. 2.3 m., dépensés y compris l'année financière en cours. J'ai inclus l'année 1979/80 où à peu près Rs. 400,000 ont été alloués au budget de développement, c'est-à-dire moins de 10%. Il suffit de regarder *Plan Projects* du *Draft Capital Budget* de 1979/80, à la page 36, *Services under the control of the Minister of Fisheries*, et vous verrez la vérité des chiffres que je cite. Rs. 25,600,000 de projets, *Actual Expenditure* 1975/78 : Rs. 1.5 m., *Revised Expenditure* 1978/79 : Rs. 393,000. Nous avons voté pour 1979/80, Rs. 442.010 malheureuses roupies ! Dans les seuls centres co-opératifs, où on ne produit absolument rien finalement, nous votons Rs. 12.5 m. par an; mais pour l'industrie de la pêche, l'île Maurice a trouvé moyen de voter Rs. 2.3 m. en cinq ans ! Le ministre l'autre jour m'a étonné, lorsque je lui ai posé un *Supplementary Question*, pour savoir où en était le *Fish Farm* du Gouvernement ? Il m'a dit : "*If the hon. Member had read the Speech from the Throne, he would have seen that we mean to have one at la Ferme*". L'item 140.11 du Budget de Développement, la *Ferme Fish Culture Project*, un nom retentissant, *Project Value* Rs. 2,600,000. En 1975, le projet de *Fish Culture Project* à la Ferme faisait surface. *Actual Expenditure* 1975/78 : zero sous, *Revised Estimates* 1978/79 : zero sous, *Balance of Project Value* : Rs. 2,600,000. *New Provision* : Rs. 10 symboliques. En d'autres mots, au départ même, le *Fish Farm* est mort, même pas né. Tous les autres projets ont été traités de la même façon par le Gouvernement.

Si nous prenons un exemple, le plus gros projet, Rs. 12 m. pour *the construction of a Central Cold Store for fish at Pointe aux Sables*, si je ne me trompe, parce que le document n'en parle pas. Finalement qu'est-ce-qui a été dépensé : zero sous depuis 1975 jusqu'à 1980. Donc, je ne parlerai pas de l'aquarium public annoncé, encore une fois, et qui coûterait Rs. 65,000. Quelle précision ! En 1975, Rs. 400 — c'est sans doute pour le bouquet de fleurs le jour de l'inauguration. Rs. 65,400 ! C'est un rêve d'avoir un aquarium pour Rs. 65,400 en 1975 ! Où est l'aquarium ? Il y avait, je me souviens à la télévision un ministre des pêcheries qui avait dit qu'avec

le cyclone 'Gervaise' : "*Boucoup poissons fine noyer dans barachois Mahebourg*" A la télévision, j'ai entendu cela ! Je suis sûr que le ministre s'en rappelle, un des ministres qui a précédé le ministre actuel, lorsque le *reporter* lui a demandé :— "*Est-ce qui cyclone 'Gervaise' fine faire boucoup dommages ?*" "*Boucoup poissons fine noyer dans barachois Mahébourg*" Avec les deux oreilles, j'ai entendu la chose ! Alors, sans doute, on nous dira que *Gervaise* a emporté avec elle l'aquarium et tout le reste. Je ne m'appesantirai donc pas sur les moyens qu'on refuse sous le *Capital Budget* au ministre en question.

Quant aux moyens, sous le *Recurrent Expenditure*, je suis certain et le ministre rendra l'île Maurice service en étant d'accord avec moi. Je crois qu'on va changer de ministre. Comme dans le cas de Sir Harold Walter, je crois que c'est un officier qui va prendre la relève.

Comme je disais, si nous regardons les Estimates de 1979/80...

(*Interruption*)

Comme les poissons, il a émigré.

Si nous regardons les *Estimates* de 1979/80, je demande au ministre de me donner raison et de rendre service à l'île Maurice. Avec l'*establishment* qu'il a, on ne pourra pas appliquer ce texte de loi, surveiller vraiment les lagons, la mer hors des récifs, les iles avoisinantes, St. Brandon Rodrigues, Agalega, les bancs. Il est clair que, si nous allons, en tant que Mauriciens, appliquer véritablement ce texte de loi, il faut mettre à la disposition du ministère concerné les moyens de sa politique, pour la surveillance d'abord, le nombre d'officiers; je m'attendais à ce que le ministre m'explique comment, dans la pratique, tels officiers de son ministère, chargés de la surveillance et de l'application de la loi, travailleraient avec la Police ? Quelle serait la relation entre eux, quel rôle les officiers de Police joueraient dans l'application de cette loi concrètement, pratiquement ?

Pour le nombre de bateaux dont disposent ces officiers, pour la surveillance des lagons et hors des lagons, pour la surveillance de l'ile Plate et des autres iles, quel est le nombre de postes de surveillance — je ne parle pas de postes de débarquement des poissons — mais le nombre de postes de surveillance, l'utilisation nécessaire d'hélicoptères ou même d'avions. Un petit pays comme les Seychelles, qui a bien moins de 10% de notre population, a trouvé moyen d'obtenir de l'étranger, y compris de la France, de l'aide pour avoir patrouilleurs et avions patrouilleurs. L'ile Maurice en est encore au point mort. Je ne suggèrerai certainement pas que l'*AMAR* soit utilisé dans ce sens; l'*Amar* est un puissant outil de défense nationale. Je pense que nous devrions laisser l'*Amar* à son rôle de puissant outil de défense nationale. Je parle de patrouilleurs armés, et d'avions patrouilleurs, et je parle aussi de l'utilisation qu'il faudra faire des hélicoptères, si nous allons véritablement exercer la surveillance nécessaire, non seulement à Maurice, mais à Rodrigues, à St. Brandon, à Agalega et ailleurs. J'ai parlé aussi du cas des "*barachois*"; si nous allons, véritablement, exploiter les "*barachois*" de l'Ile Maurice, comme il faut les exploiter, il est clair que le personnel du ministère en question aura à être augmenté sérieusement, quoique nous ne soyons pas en temps de *boom* économique, de prospérité sans précédent; mais, encore une fois nous parlons là d'un secteur clef de l'économie mauricienne.

Lorsque nous parlons de bâteaux de pêche, je ne serai pas méchant, je ne ferai

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pas référence, comme je l'ai fait l'année dernière lorsque j'ai parlé sur le discours du budget, j'ai cité le ministre du plan. Il nous avait annoncé combien de bateaux de pêche l'île Maurice aurait dans les jours à venir. J'ai oublié d'apporter mon dossier. Si je ne me trompe — le ministre m'aidera, tout-à-l'heure, il me rafraîchira la mémoire — il s'agissait de huit chalutiers de pêche; pas un, pas deux, pas trois, pas quatre, pas cinq, pas six, pas sept — huit chalutiers de pêche, si ma mémoire ne me fait pas défaut, mais il est possible que cela m'arrive, à moi aussi, de temps en temps; le ministre me corrigera tout-à-l'heure ! En tous cas, le ministre nous avait annoncé un nombre considérable de chalutiers : Zéro ! Au contraire, deux chalutiers dorment; et ces chulutiers — je ne suis pas expert en la matière, mais je me suis interessé depuis des années personnellement à ce problème de l'industrie de la pêche à Maurice — et je sais que ces deux bâteaux qui dorment, j'ai oublié leur tonnage exact, mais leur grosseur est telle que ces deux bateaux ne pourront pas être utilisés tout simplement pour aller faire une campagne sur les bancs de pêche et revenir. Cela exige une trop longue durée de campagne qui éreinte les hommes, et qui finalement, jette à bas la productivité. Mais le ministre me donne raison : Oui. Est-il possible de permettre que ces deux bâteaux de pêche mauriciens soient vendus à je ne sais qui, disparaissent du patrimoine mauricien, pour qu'ensuite, supposément, si nous allons véritablement développer l'industrie de la pêche, nous allions commander d'autres bâteaux — qui ne couleront pas cette fois, j'en suis certain — mais que nous allions commander d'autres bateaux neufs au prix que cela coûte actuellement. Je reviendrai tout-à-l'heure sur un genre de rêve que moi-même, et certains cadres progressistes du secteur privé, avons caressé et que nous caressons toujours en ce qui concerne l'industrie de la pêche. Quand je viens là-dessus, cela me fait me rappeler que, aussi étonnant que cela soit, M. le président, lorsque j'ai posé une question au ministre des pêcheries la semaine dernière, il m'a dit : " *If the Member had read the Speech from the Throne, he would have seen that we mean to have our fish farm at La Ferme* ". But it seems that the Minister has not read the whole of the Speech from the Throne. I was listening intensely today, waiting to hear the Minister speak of the National Fishing Corporation which is in the Speech from the Throne. And how amazing, how disturbing it is, to hear the Minister speak at length on fishing in Mauritius, on such an important Bill, without even mentioning the National Fishing Corporation which has been announced in the Speech from the Throne !

Devons nous déduire de cela que — ce *National Fishing Corporation*, absolument indispensable, absolument urgent, subira le même sort que le *State Trading Corporation ?* Je me souviens de Sir Veerasamy Ringadoo, se mettant debout, et annonçant, il y a des mois de cela, au sujet du *State Trading Corporation : " My legislation is almost ready "*. C'est pour cela, que j'ai utilisé ces mots l'autre jour, à l'adresse du ministre de l'éducation, en référence à l'*Education Broadcasting Authority*, qui va regrouper le MCA etc. *" My legislation is almost ready "*. Le *legislation is almost ready*, mais comme dirait le ministre du logement, the *Corporation is a dead duck, despite the legislation which is almost ready*. Donc, ce *National Fishing Corporation* subira-t-il le même sort que le *State Trading Corporation* où que le *Cargo Handling Corporation*, porté courageusement à dos par le ministre de l'éducation ? Nous attendons voir, mais en tous les cas, vous serez d'accord avec moi, M. le président, que le fait que le ministre n'ait pas fait mention du

National Fishing Corporation en question, is *very fishy indeed.* Et qu'il semble que ce soit là une des victimes de l'épidémie de capitulation actuellement en cours dans certains milieux.

Avant de conclure sur le rêve dont je parlais tout-à-l'heure, j'aimerai quand même dire deux mots sur Diégo Garcia et Tromelin. Dans le passé, le Premier ministre a fait des déclarations largement contradictoires à propos de Diégo Garcia; mais, au moins, en une occasion, il a déclaré que l'ile Maurice avait gardé ses *fishing rights* à Diégo Garcia, ou plutôt sur l'archipel des Chagos, et que nous avions même gardé nos *landing rights*. J'espère que le PAS aura les épaules solides. J'espère qu'il sera au moins — je ne dirai pas *green beret*, parceque le CAM va sauter — mais enfin un " *calipa* ", comme on dit à Maurice, parcequ'en fait, c'est le PAS qui va interdire aux Américains, aux Chagos d'utiliser plus que huit filets de pêche ! Et qui va interdire aux Français, à Tromelin, d'utiliser plus que huit filets de pêche ! Il ira dire aux Américains — je suis sûr que le ministre des pêcheries va l'accompagner courageusement — à Diégo Garcia, et aux Français à Tromelin : Attention ! Sous la loi, maintenant, à Agalega, à St. Brandon, à Tromelin et dans l'archipel des Chagos, tout ça ajouté ensemble, vous n'aurez pas le droit d'utiliser plus que *eight large nets, eight " canard " nets, and eight gill nets !* Je félicite le ministre pour le courage dont il a fait preuve d'inclure ces régions de notre territoire national dans son texte de loi. Je me souviens que, lorsque mon Collègue, Finlay Salesse, avait posé une question — au Premier ministre, si je ne me trompe, ou au ministre des affaires étrangères — *Will you give a list of all the islands and territories forming part of the Mauritian territory ?* Le Gouvernement de Maurice avait été jusqu'à en exclure l'archipel des Chagos et l'île de Tromelin. Aujourd'hui, nous voyons que ces territoires sont inclus dans ce texte de loi. Il faut, donc, s'attendre à ce que, dans le cas des Chagos, comme dans le cas de Tromelin je cesse de faire rire, que le Gouvernement fasse les effets suivre l'intention déclarée. Qui n'a pas, à l'ile Maurice, regardé la télévision réunionnaise lorsque le programme en question y passait et vu un avion quitter Gillot de la Réunion, se rendre à Tromelin, les réalisateurs soulignant que le drapeau français y flotte, la camera filmant ce drapeau et donnant les détails de l'exploitation massive des tortues, à la Réunion même, et faite à partir du pillage de Tromelin ? Les petites tortues utilisées pour cet élevage de tortues à la Réunion sont retirés par milliers ! Alors, nous demandons au Gouvernement, puisque dans ce projet de loi, il est fait mention de Diégo et de Tromelin, de prendre les choses au sérieux, et d'obtenir que ces activités cessent dans un premier temps, en attendant que, et Tromelin, et l'archipel des Chagos soient véritablement retournés au patrimoine, au territoire mauricien. Nous votons, donc, aujourd'hui, M. le président, je le répète, en conclusion, un texte de loi fondamental, qui nous le souhaitons, en tant que patriotes, en tant que mauriciens, sera suivi des faits, et qui fera, donc, que l'industrie de la pêche à Maurice — sous ses différents aspects, artisanal, industriel, sur les bancs, sur les îles, à Maurice même, dans les " barachois', hors des lagons, à l'intérieur des lagons, sous tous ces différents aspects — que l'industrie de la pêche devienne vraiment ce qu'elle devrait être à l'ile Maurice, c'est-à-dire un des secteurs les plus importants de notre économie et de notre pays. Nous souhaitons et nous demandons que le Gouvernement mette à la disposition du ministère — je n'en fais pas une affaire personnelle, je ne dis pas du ministre —

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du ministère concerné, tous les moyens en terme de cadres, d'équipements, de surveillance et autres, et de *staff;* et en terme de capital pour le fonds de développement — qu'on mette à la disposition de ce ministère, tous les moyens dont il a désespérément besoin. Je disais tout-à-l'heure, qu'après de longues discussions, et je conclurai là-dessus, avec certains cadres du secteur privé qui ont été directement mélés à cette industrie de la pêche depuis des années, nous avons constaté que la relance, sur une vaste envergure, de l'industrie de la pêche, qui engloberait donc, les bancs, les îles, sera extrêmement difficile si nous n'innovons pas. Et à discuter avec certains, un rêve qui peut se réaliser commence à prendre forme, et pour parler plus économie, plus technique, un projet de développement qui lierait Agalega, St. Brandon, les bancs eux-mêmes, les bâteaux de pêche, pêchant dans ces régions, des chambres froides à être construites sur certaines de ces îles, et une piste d'atterissage à Agalega — possiblement ailleurs, mais en principe, je pense que cela devrait se faire à Agalega. En jouant sur ce clavier, en associant bateaux à faciliter à terre, chambre froide à terre, pêche autour de ces îles — Agalega, St. Brandon — pêche sur les bancs, bateaux qui pêcheraient, mais plus petits bateaux qui amèneraient les équipages à terre, à Agalega, pour qu'un autre équipage de relève vienne prendre la relève pendant que d'autres rentreraient à Maurice par avion pour se reposer, ce qui permettrait aux bateaux de rester plus longtemps en campagne de pêche, ce qui permettrait d'utiliser à fond les chambres froides — cette idée n'a pas été discutée à fond, mais contient l'avenir de l'industrie de la pêche dans une large mesure. Nous, en tant qu'Opposition sur des questions pareilles, nous sommes prêts à collaborer à fond. Si le Gouvernement dans des cas pareils est prêt à accepter des idées positives, des suggestions concrètes — bien sûr nous ne sommes pas expert en pêcherie, la première chose que nous ferions, si nous avions la possibilité d'agir en tant que Gouvernement, ou au sein d'un *Select Committee or what-have-you*, la première chose que nous ferions serait comme nous le faisons toujours, d'écouter les experts, de rechercher les opinions, d'écouter ce que ceux qui connaissent ce secteur auront à dire et ensuite de créer. Je le dis, nous estimons que tout reste à être fait, et que tout peut être fait, dans ce secteur. Je pense que ce rêve que j'ai ébauché de marier tous ces différents secteurs — navires de pêche, chambres froides sur les îles, facilités sur les îles d'Agaléga, St. Brandon, bancs de pêche au Saya de Malha, de Nazareth — à partir du *National Fishing Corporation* qui ne doit pas rester lettre morte, qui ne doit pas disparaître — à partir d'un tel ' *Corporation* ', tout doit être fait, et tout peut être fait, pour l'industrie de la pêche à l'Ile Maurice. C'est sur une note positive que je voulais conclure. Je veux même aller plus loin et dire au Gouvernement — je ne sous-estime pas le ministre en question. Je ne suis pas expert dans tous les domaines, mais je connais le secteur concerné — si le Gouvernement estime que ce serait positif pour l'Ile Maurice, non pas pour le gouvernement ni pour l'Opposition, pas pour un parti, mais pour l'île Maurice, de mettre nos têtes ensemble pour voir comment, à partir de maintenant, quelle forme prendrait ce *National Fishing Corporation.* Est-ce que ce rêve que j'ai ébauché peut se réaliser, est-ce que le développement de la pêche devrait prendre d'autres formes ? De ce côté de la Chambre nous n'en faisons pas une question partisane. Nous sommes prêts à offrir notre collaboration, comme dans de nombreux autres cas, qu'il s'agisse du " *National Transport Corporation* , du "*Cargo Handling Corporation*" ou du vrac dans le port, où nous avons donné maintes

preuves de nos capacités de travail et de l'aspect constructif de notre action parlementaire. Il s'agit ici d'un secteur ou nous sommes particulièrement interressés, en tant que patriotes, et Mauriciens, de donner le meilleur de nous-mêmes. Je conclurai en disant que notre aide soit acceptée ou non, je demanderai au gouvernement, encore fois de suivre, l'exemple seychellois, uniquement en ce qui concerne la présence du président de la République des Seychelles sur les îles. Je n'ai pas besoin de circuler une carte pour vous rappeler de combien d'îles se compose l'archipel des Seychelles — le Mahé *group*, l'Aldabra *group*, etc., Il est une politique déclarée du président de la République des Seychelles, et il l'a déjà mis en pratique, de visiter régulièrement ces îles, de s'y rendre personnellement, d'encourager les Seychellois qui travaillent sur ces iles dans des conditions extrêmement difficiles. Ce n'est certainement pas le paradis — c'est sûrement le paradis pour les touristes, les îles — j'allais dire paradisiaques de l'océan indien — mais ce n'est pas ainsi pour ceux qui y travaillent. De par sa présence, le président de la République des Seychelles les encourage. Je ne demande pas au Premier ministre de se rendre à St. Brandon, à Agaléga, à Diégo Garcia et ailleurs. Mais je crois que ça devrait être une politique du Gouvernement de montrer, par la présence des *senior Ministers* et d'autres ministres, par la présence des dirigeants de notre pays, que ces îles forment vraiment partie du territoire mauricien, sont vraiment une partie importante de notre patrimoine et doivent contribuer au développement de l'Ile Maurice d'une façon extrêmement précieuse pour l'avenir.

Voilà les remarques générales, M. le président, que je voulais faire sur le texte de loi. Je reviendrai sur certains commentaires *au Committee Stage* quand nous examinerons certains paragraphes particuliers de la loi. Merci, M. le président.

(5.30 p.m.)

Mr. Seetaram : Mr. Deputy Speaker, Sir, I am thankful that hon. Members have paid so much attention to this Bill and a considerable amount of participation has been made, in particular, to the various points raised in connection with this Bill.

Sir, as you may see, in the very first page of the Bill, in the explanatory memorandum, it is said that a few of the objects of the Bill are to :—

> " to regulate and control all fisheries within the fishing limits.....a licensing system.....to improve the system for the distribution of fish etc.....
> to ban underwater fishing.....
> to control polluants thrown into the marine environment.....

I quite agree with the suggestion which has been made by the first Member for Belle Rose and Quatre-Bornes, in connection with the industrial side of the fishing industry. The omission of a National Fishing Corporation is not something I have done deliberately. Considering that this Bill has nothing to do with the industrial side of the fishing industry I have not referred to it at all. I have laid stress on the aspect of the law which exists presently, and the various amendments that have taken place and what are the changes we are going to bring to-day. I have devoted my speech to these points.

Now, Sir, I would like to refer to a few comments made by hon. Members. I would like to refer to the Clause, on which the hon. Leader of the Opposition and the hon. Second Member for Grand'Baie and Poudre d'Or talked, that is of the prohibition of the use of explosives where it is said that :

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> "No person shall, except with the written approval of the Principal Assistant Secretary, fish with an explosive in, above or near any water within the fishing limits".

Even our friends on this side of the House are a bit confused about it. I will explain to the House what we mean by this Clause. We don't want to say that we shall give a license or permission to any one to fish with explosives. That is not the point. The problem, Sir, is that we have reefs all around Mauritius. So, where these pass become too narrow we have to get them enlarged. In that particular case, explosives are required and the Special Mobile Force does the work. Assuming that, to-morrow, we are going to have part of our port deepened, there too, explosives will be used. So, when such action takes place, there is killing of fish. If we look at our explanotory notes here, there is an interpretation of the meaning of the word fish :

> "fish"—
> means any aquatic animal organism; and includes shells and corals, whether live or dead; salted fish, dried fish....."

Therefore you see, and "fishing" includes catching or killing any fish, being given that fishing leads to the killing of fish, it is a technical term which is being used. This is the reason why it is put there. It is not meant to allow people to make use of explosives for fishing, Sir. It is only meant for giving permission to the authority which will be responsible for blasting or for deepening the sea, or for widening a pass. So, our ministry is approached to give such permission, and if we are not authorised to do so, we can't give it, because, in one way or another, it leads to the killing of fish when such an operation takes place. Well, the House will decide, when we come to the clause, whether you want to bring any change to it.

Sir, when we come to powers given to the Permanent Assistant Secretary, which was referred to by the Second Member for Grand'Baie and Poudre d'Or, we read the meaning of the ,, Principal Assistant Secretary" it is said :

> "the Principal Assistant Secretary of the Ministry of Fisheries, and Co-Operatives & Co-Operative Development; (b) includes any person deputed by him".

The Principal Assistant Secretary, of course, can't go in all the fisheries posts. He directs officers of his ministry to go and do all this work. He is going to delegate power to his officers who are responsible for holding registers and entering all requests or registration and what not. Therefore, there is no question of centralising all powers in the Principal Assistant Secretary. The work is done like that and it is a standing practice that these duties are done by officers in the name of the Principal Assistant Secretary with powers delegated to them. I should like to assure the hon. Member that such is not the case.

With regard to the bad weather he mentioned, Sir, in my ministry, we recommend to the Ministry of Social Security to pay a small sum to all registered fishermen who have not been at sea on such and such day. But we rely on the report of the Meteorological Services to know when were these various days, of bad weather. But assuming that, in the south of Mauritius the sea was rough, and, in the north, the sea was good, and the Meteorological Services has not been able to assess in which part it was a good day or a bad day, we, in the Ministry of Fisheries, can't take the decision on our own, Sir. We are at their mercy. Therefore, if any fisherman undergoes difficulty because of the procedure, I hope hon. Members will understand.

Now, in connection with the powers given to Officers who may stop anyone to inspect what type of fish a person is selling, or effecting any search, Sir, we have given these powers because there are many varieties of toxic fish. If hon. Members remember, a few years back at Bambous, in one family, out of nine who were poisoned, six lost their lives on the same day, for the sole reason that they had eaten toxic fish. And there are many cases where those who consume fish that is prohibited from being fished and sold, fall victims to this practice. Therefore, the duty of our Officers is to see that toxic fish is not put up for sale, Sir. There is no question of abuse of authority. These powers are entrusted to them for the proper performance of their duties. Let's take another example : there are undersized fish, and if this fish is caught and sold, it destroys the young stock that could be fished when it reached a certain size. Therefore, we have to stop people doing this kind of fishing. So, I maintain that these powers are necessary for our Officers to do their duty properly.

As regards pollution, we did not have this power previously and, according to the Bill, provision is made for our Officers to prevent the pollution that takes place. We are aware of this. Sugar factories and aloe fibre factories are causes of pollution of our rivers and this law will be very helpful to prevent such things happening.

Sir, I do agree that there is a lot of destruction of coral and reefs; even the stock of fish is being depleted every day. Sir, this type of illegal fishing is not done by genuine fishermen. It is done by people who have got all the facilities, during week-ends, they take a boat which is very powerful, they go to Ile Plate and other places where they do damage to our reefs. And they even collect corals and other shells, sell it at a very high price. Once we ban the collection of shells, corals, this practice will stop, Sir. These shells and corals are usually sold to tourists, to strangers, who take it to their country. And since authority will not be given for the export of such things, no-one will pick these corals and shells from our sea.

The hon. Member has referred to fishing in "*barachois*". Well, Sir, our Ministry is doing its utmost to encourage owners of "*barachois*", in order that the output per acre is increased; and if ever there is any practical difficulty — even at the Ministry we have faced it — we shall do our best to find solutions to these difficulties.

In connection with the incident to which the hon. Member has referred in St. Brandon, the Ministry is aware of it; and there is one thing which is very surprising : the gentlemen in question, not later than two months back, were working in close collaboration. The owner of the ship was even transporting the catch of that company to Mauritius. We don't know what has happened between them. And, once trouble arose between these two parties, both of them have come to the Ministry to report about illegal activities done by each other. My Ministry has set up a Committee where all parties concerned, even officers of the Meteorological Services, will have to come and depone before the Committee, and we are going to look for a solution to all the problems prevailing over there. But we must extend our thanks to the administrators of this company which has done a very good work since it has been looking after these islands.

The hon. Member has also referred to the chart that we were to publish. Sir, our

negotiations with the French authorities are over and, not later than last week, I wrote a minute in order to have a letter sent to my counter-part in Seychelles informing him that we shall be free next month to continue the negotiations I started when I was there, along with the Minister of Justice, in connection with the delimitation of our maritime zones. To help in the preparation of our chart, we have the services of Commander Peasley who is helping us. I would say to the hon. First Member for Belle Rose and Quatre Bornes that, when we have a map, showing our various islands, take a compass, draw a circle round them, putting the points — it is not that which gives a solution to the problem, because when we take a compass and draw a circle on a piece of paper which is flat. We know that the globe is round, thus the differences in the points are miles apart physically. He has made a confusion when he has mentioned that Seychelles has got part of Saya de Malha, when a circle is drawn round Coetivy. That is not the case. What Seychelles has done is take Coetivy as one point and St. Brandon as another point, and they have drawn a line at the middle. When they take this factor into consideration, it is only then that, according to their calculations, part of Saya de Malha falls into their map. This is one point which we raised in Mahé when we were there last time and discussed about this. We made it clear to our friend over there, that the two points, they have to take, are Coetivy and Agalega, but not Coetivy and St. Brandon. Therefore, what our Friend has said — that Seychelles has got a slight part of its economic zone in Saya de Malha, — is not correct.

Regarding the fish farm at La Ferme, hon. Members must not be surprised to see only a token vote in the budget. Because the amount that we will be spending for the farm will come from foreign sources. The reason why we have been late in starting the work there is very simple. The engineers and the surveyors had surveyed the land; they had worked a plan according to contour lines, and it was found that when the level of La Ferme Reservoir is high, the place which was earmarked for the farm would be flooded. Now they are making plans to have it at a higher level and, as soon as the plan is ready, work will start.

As regards the aquarium, this will not cost Rs. 65,000 but Rs. 6 m. I don't have information about the figure of Rs. 65,000 here, but, most probably this has been used for the maintenance of the one which exists at Pamplemousses Gardens. I am not very sure about this.

Regarding the two ships that are lying in the harbour, my hon. Friend fortunately confessed that these people were having great difficulties in recruiting fishermen. Because you know, Sir, those who were fishing there, were fishermen. who were traditionally fishing at Grand'Gaube or at Souillac. Whenever their services were required, they went on board on a contract and they had to stay longer at sea. And the money they were getting then, was easily earned here, in Mauritius, without going to sea for such a long time. There was even an incident. When one boat was fishing, a fisherman wanted to return home, he took a knife and held it at the throat of the Captain and said : " If you don't return, I'll push it in your throat ". These are the problems that they have had. This does not mean that these companies have stopped operating because of labour, but there are other problems — over-head expenses and what not. However, we are thinking about this

problem and, once we have done with the planning of the fishing industry, people will know the intention of Government and of my Ministry.

Sir, the hon. First Member for Belle Rose and Quatre Bornes said that we had the boldness of mentioning Agalega, Diégo Garcia and Tromelin in the bill. Well, it is not an initiative of mine. If the Bill is here today, it is with the blessing of all my Colleagues in Cabinet. Therefore his appreciation must not come to me alone, but to all my Friends who accepted the introduction of the Bill in the House and this is a concrete proof that we, as a Government, we are not going to renounce our rights on our territories.

I hope my explanations have convinced my Friends about the necessity of bringing this Bill, and I commend the Bill to the House.

Thank you, Sir.

(5.54 p.m.)

Mr. Bérenger : Sir, on a point of personal explanation, since the hon. Minister seems to imply that, in the course of my speech, I made reference to what the Seychelles Government has done as far as the Saya de Malha bank is concerned, I am perfectly aware that, in fact, what they have done is to place the whole of the Saya de Malha bank in the supposedly economic zone of the Seychelles — this is not at all what I said. What I said and I maintain — and I will prove the hon. Minister wrong — is that, if you measure two hundred miles from Coetivy on the one hand, and from Agalega on the other, only a small part of the Saya de Malha banks is covered either by the two hundred miles from Agalega or by the two hundred miles from Coetivy and that, therefore, most of the Saya de Malha banks fall outside this 200-mile zone measured either from Coetivy or Agalega. I do not think, Mr. Speaker, that I will have to take the hon. Minister there to make him understand that finally !

Question put and agreed to.

Bill read a second time and committed.

(5.55 p.m.)

The Prime Minister : Mr. Speaker, Sir, it would be good if the Committee Stage were taken next time. I therefore ask that the House be adjourned to Tuesday, 20th May, 1980 at 11.30 a.m.

Mr. Seetaram *rose* and *seconded.*

At 5.56 *p.m., the Assembly was, on its rising, adjourned to Tuesday,* 20*th May,* 1980 *at* 11.30 *a.m.*

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THE HINDU MAHA JANA SANGHAM BILL (NO. III OF 1980)

Clauses 1, 2 *and* 3 *ordered to stand part of the Bill.*

Clause 4 (Objects of the Association)

Motion made and question proposed: "that the clause stand part of the Bill".

Mr. Purryag: I move for a small amendment at clause 4 subsection (e), to add after subsection (e), a subsection (f) reading as follows: "to administer the Renganaden Seeneevassen Fund".

Amendment agreed to.

Clause 4 *ordered to stand part of the Bill.*

Clauses 5 *to* 11 *ordered to stand part of the Bill.*

The title and the enacting clause were agreed to.

The Bill, as amended, was agreed to.

THE FISHERIES BILL (NO. IV OF 1980)

Clause 1 *ordered to stand part of the Bill.*

Clause 2 (*Interpretation*)

Motion made and question proposed: "that the clause stand part of the Bill".

Mr. Seetaram: I want to move the following amendments in clause 2, the addition of the definition of "fishermen" immediately after the definition of the word "fish". "fisherman" means a person who fishes with a view to selling his catch and includes the owner of any boat used." There are two amendments. Last week we circulated one definition of gill net, and this week too we have given other consideration to it, and we want the House to take into consideration the definition of gill net as circulated to-day. In the papers that have been circulated no mention is made about the deletion of the words "professional fisherman". Therefore, I move accordingly that the words "professional fisherman" and its meaning be deleted. And there are other amendments as circulated.

Mr. Bérenger: Can I ask the Minister how things like that can happen? We have a Bill circulated with the definition of gill net. We met last week, and a new definition of gill net is circulated on the 13th of May. We met again on the 20th of May, and a third definition of gill net, correcting the one which we have not yet corrected, is circulated. Is this serious work? Are we going to have to move for amendments of different sections within a few weeks?

The Chairman: May I ask the Minister to dictate to the House the present and final definition of the words "gill net" so that the House will be made aware of exactly what the Minister wants?

Mr. Seetaram: For the information of the hon. Member, this definition has been added because we have had representations about the exact wording in order to have a good interpretation. Well, the meaning of "gill net" means a net which —

(a) is set for catching migrating fish;

(b) does not exceed 250 metres in length;

(c) is made up of square meshes measuring not less than 11 centimetres when stretched diagonally and when the net is wet. This is the amendment I want to include, Sir.

Amendments agreed to.

Mr. Seetaram: The next amendment is to add after the definition of "lure", the following definition:

> "Minister is the Minister to whom the subject of fisheries is assigned".

Amendment agreed to.

Mr. Seetaram: In the same clause, Sir, after "Principal Assistant Secretary" I want the definition of "professional fisherman" to be deleted.

Amendment agreed to.

Clause 2, *as amended, ordered to stand part of the Bill.*

Clause 3 (*Licences*)

Motion made and question proposed; "that the clause stand part of the Bill".

M. Michel: A la clause 3 sous-section (3) la dernière ligne:

> "and on payment of the prescribed fee".

Je voudrais demander au ministre, s'il n'a pas encore fixé le montant pour l'octroi d'un permis, à ce que ce montant soit le plus faible possible en tenant compte, naturellement, de la situation financière des pêcheurs.

M. Seetaram: Jusqu'à présent cela n'a pas été fixé, M. le président, mais nous allons prendre en considération tous les critères pour ne pas pénaliser les pécheurs.

Clause 3 *ordered to stand part of the Bill.*

Clause 4 (*Restriction on import and export of fish*)

Motion made and question proposed: "That the clause stand part of the Bill".

Mr. Venkatasamy: Clause 4(1) says:

> "No person shall, except with the written approval of the PAS import into or export from Mauritius —
>
> (a) any live fish;"

This concerns mostly the small fish from aquariums, and many small kids like possessing small coloured fish. I would like to know whether this Bill will not cause this pastime to disappear, from our shores where there are many kids.

Clause 4 *ordered to stand part of the Bill.*

Clause 5 (*General Prohibition of fishing*).

Motion made and question proposed: "that the clause stand part of the Bill".

Mr. Seetaram: I move the amendment as circulated that is, the words:

> "other than with hook and line".

should be deleted in the third line.

Amendment agreed to.

Clause 5, *as amended, ordered to stand part of the Bill.*

Clause 6 (*Restriction of fishing*)

Motion made and question proposed: "that the clause stand part of the Bill".

Mr. Seetaram: In clause 6 subsection (2) I move that the word "other" in the first line be replaced by the word "any".

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Mr. Bérenger : Has the Minister discovered, after presenting the Bill, that a turtle is not a marine mammal ? Is this the point ? I am asking why this amendment to the very substance of that paragraph ? Has the Minister discovered, after presenting the Bill, that a turtle is not a marine mammal ?

Mr. Seetaram : It is a question of misprint.

Mr. Bérenger : If a turtle is a marine mammal, it is not a misprint. The paragraph is correct. An amendment is required only if a turtle is not a marine mammal.

I do not pretend to be an expert on marine mammals. So, I am asking the Minister ; is he telling us that a turtle is not a marine mammal ?

(6.05 p.m.)

Mr. Seetaram : It is, Sir.

Mr. Bérenger : If the Minister is satisfied that a turtle is a marine mammal, then the amendment has got no reason.

Mr. Seetaram : The best word suited in the sentence, Sir.

Mr. Venkatasamy : In sub-section (1) of clause (6), it is said " except under a licence granted by the Prime Minister ", I would like to know whether this will not make confusion with the definition of " Minister " in the list of definition ? And why also should the licence be granted by the Prime Minister ? A person, for example, for industrial fishing, where has he to submit his application ? To the PAS of the Ministry of Fisheries or to the Permanent Secretary of the Prime Minister ? This is not clear.

Mr. Seetaram : For any industrial fishing, when an application is made for a licence, it is addressed to the Prime Minister's office. Then it is channelled to my Ministry for all proper work. This is the procedure which is being followed.

Mr. Bérenger : Is the Minister confirming that, for fishing within the territorial waters, which mean 12 miles — there is no definition here, but the definition can be found elsewhere ? Is the Minister saying that for fishing within the territorial waters which are 12 miles, or something like that, 12 miles but nautical miles — then the permit must be obtained from the Minister ? But once we move outside these territorial limits, then we have to go to the Prime Minister ? This is what the Minister is saying ?

Mr. Seetaram : Sir, for a licence for industrial fishing by trawlers in our high seas, the law that we take into consideration is the Maritime Zones Act.

The licence for industrial fishing is given, under the Maritime Zones Act, and as regards the other type of fishing, general fishing and what not, it concerns my Ministry.

Amendment agreed to.

Clause 6, as amended, ordered to stand part of the Bill.

Clauses 7 to 10 ordered to stand part of the Bill.

Clause 11 (Authorised fishing implements)

Motion made and question proposed : " that the clause stand part of the Bill ".

Mr. Seetaram : Sir, I move that in clause 11(2), the words " Principal Assistant Secretary " be deleted and replaced by the word " Minister ".

Mr. Dulloo : Sir, in clause 11, sub-section (1)(g) : Authorised fishing implements — cast net ; we know that, in the past, this was not so ; it was " unlawful or unauthorised implement." So I would just like to know why cast net has been included as an authorised fishing implement ?

Mr. Seetaram : This is the net which is usually used, as the hon. Member says ; in the definition, there is the word " cast net " in the second clause.

Mr. Dulloo : Why has it been introduced as an authorised fishing implement ; cast net ? What are the reasons ?

Mr. Seetaram : Sir, I cannot give the hon. Member a full explanation on this, but we feel that this type of net is necessary for proper type of fishing.

Mr. Bérenger : I would ask the hon. Minister — I think my colleague is talking of what is known in Mauritius as " *la pêche avec l'épervier* — so I think the hon. Member is asking whether this is it ? Is l'*épervier* becoming legal ? But when I look at the definition of " cast net ", " cast net " means " a conical net with weight attached to the open circumference of the base " it looks like it but wait for the rest. It seems that there are cast nets for mammals and having meshes measuring not less than nine centimetres ! Can you imagine an *épervier* with meshes measuring not less than nine centimetres ? So it seems that the definition of cast net excludes those *éperviers*. So we would like to be enlightened by the Minister.

Mr. Seetaram: The cast net type of net is not a destructive means of fishing, and this is the reason why we are including it.

Mr. Jugnauth : My hon. Colleague asked a simple question : that, in the previous law, cast net was not an authorised implement for fishing. Why is there the introduction of this type of net for fishing now ?

Mr. Seetaram : As I have just said, I repeat it again ; the cast net from the Ministry's point of view, is not a destructive way of fishing. This is why we are introducing it. I would like to give supplementary information to hon. Members ; there are about 250 professional cast net fishermen.

Mr. Bérenger : Can I ask the Minister whether he is confirming — because he has just said — that there are, I do not know how many hundreds of professional cast net fishermen, as he has called them — now is the Minister saying that these hundreds of cast net fishermen are using cast nets as defined in the law, that is, with meshes measuring not less than nine centimetres ?

Mr. Seetaram : Yes, Sir.

The Chairman : Going back to clause 11(2), the Minister has moved that only the words " Principal Assistant Secretary " should be deleted and replaced by the word " Minister ", but in accordance with the amendment circulated earlier, I find that he goes further and that the word " approval " is to be deleted and replaced by the word " advice of the Board and on such terms ". I should be grateful to the hon. Minister to read in full all he wants to have amended in sub-paragraph (2).

Mr. Seetaram : To make it easier for hon. Members to understand, I move that clause 11(2), should be amended to read :

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"the Minister may, on the advice of the Board and on such terms and conditions as he thinks fit, authorise the use of any fishing implement for any purpose".

Mr. Bérenger : The amendment has been moved in this way — already this section looked very fishy. It gave to the PAS, as the Bill stood at first, a blank cheque, "subject to the approval of the Board". Now it is only "on the advice of the Board". Now we are replacing "PAS" by "Minister". Would the Minister have any objection to adding a few words : that any such authority being granted the wording could be worked out very easily — would have to be gazetted ? I am not saying that the Minister is going to use this power in a very irresponsible manner, I am not saying that. But I am saying that for us, Members of this Legislative Assembly, for professional fishermen outside, and for many people who are interested in the situation of the fisheries sector in Mauritius, we would like to know when the Minister allows the use of any fishing implement for any purpose, what is happening when he is doing that ? And this would give an opportunity to the House to ask him questions on that. So I am asking the Minister — if the House does give to him the power to go completely outside this Bill, he can allow for any purpose, any fishing implement — whether he would have any objection to any such authority granted by him being gazetted ?

Mr. Seetaram : Sir, at this stage it cannot be accepted and perhaps the hon. Member must be explained the reasons why we have changed the wording, because in clause 35, the definition here is :

"35 (1) There is established for the purposes of this Act a Fishery Advisory Board".

And whereas, here, in clause 11, subsection (2) we have seen :

"may, subject to the approval".

Therefore, because of this difference in the interpretation, we have moved for this amendment.

Amendment agreed to.

Clause 11, *as amended, ordered to stand part of the Bill.*

Clause 12 (*Licensing of nets*)

Motion made and question proposed : "that the clause stand part of the Bill".

Mr. Seetaram : Sir, I move that in clause 12, this section should be amended as follows : "No person shall have in his possession any fishing net, other than a carlet net or a landing net, unless he holds a licence to that effect".

Amendment agreed to.

Clause 12, *as amended, ordered to stand part of the Bill.*

Clause 13 *ordered to stand part of the Bill.*

Clause 14 (*Disposal of nets*)

Motion made and question proposed : "that the clause stand part of the Bill".

Mr. Venkatasamy : This illustrates the type of bureaucracy that now we introduce into the fishing industry. In sub-section (b) of clause 14 (1) :

"(b) No licensee shall replace any licensed net unless —

(i) the net has become unserviceable ;

(ii) the net is returned to the PAS ;

(iii) the PAS approves the replacement in writing."

You imagine the loss of time that this is going to cause. What happens to the fishermen in the meantime ?

Mr. Seetaram : Sir, you know, we have the close season.

Mr. Bérenger : Sir, I am going to go a bit further. I agree that it is important that it should be so. May be what worries my Colleague is the fact that it should be the PAS who is to do all this work and so on. But, in fact, as we know, the Bill provides that "PAS" means the PAS or includes any person deputed by him. So I was going to ask the Minister, in this particular case, what does he envisage, at what level does he envisage that authority to be deputed ?

Mr. Dulloo : Sir, I understand in 14(1)(b), these three requirements are cumulative : that the net has become unserviceable, it is to be returned to the PAS and that he approves in writing. I am just wondering what happens if the net in question is lost ? If it is lost either by being stolen or lost at sea or something like that ; so what is the situation ?

Mr. Seetaram : According to the provisions in this Act, it is said that the owner of the net has to report to the officer immediately. In connection with the renewal of unserviceable nets, it is a practice which is in force for decades now. They are used to it, therefore there will be no problem. As the hon. Member has said the PAS delegates his power to the Chief Protection Officer of my Ministry who looks after all these. The point of having the approval of the PAS is to stop the buying of illeagl nets.

Clause 14 *ordered to stand part of the Bill.*

Clause 15 — *Restriction of importation, manufacture, etc.*

Motion made and question proposed : "that the clause stand part of the Bill".

(6.20 p.m.)

Mr. Venkatasamy : Does it mean that those persons who manufacture basket traps, what we call *casiers*, will now have to have a licence for it ?

Mr. Jugnauth : We are talking of nets generally, but we see above there has been an amendment whereby no permit or either licence is required for carlet and landing net ; therefore we fail to see why here we should include all type of nets.

Mr. Seetaram : Regarding carlet net and landing nets. When the fisherman returns from fishing, he has to make use of these nets for taking the fish out of his boat and bringing it ashore.

In connection with the manufacturing of the traditional basket traps, no licence is required.

Clause 15 *ordered to stand part of the Bill.*

Clause 16 *ordered to stand part of the Bill.*

Clause 17 — *Setting and removal of gill nets.*

Motion made and question proposed : "that the clause stand part of the Bill".

Mr. Bérenger : So far as gill nets are concerned, we have a definition of "gill net", which means a net which is set for catching migrating fish, etc. I have ample evidence — and I wonder whether the Minister will agree with me — that gill nets are being used on many

occasions as ordinary *la senne*, as ordinary fishing nets. Does not the Minister feel that a subsection should be added not allowing gill nets to be used in that way ?

Mr. Seetaram : It is not allowed, Sir, it is an offence. For example in (c) :

> " beat the surface of the water or make any noise for the purpose of luring any fish to enter gill net."

In fact the word " the " should be inserted between the words " enter " and " gill "

Mr. Bérenger : I suggest that we put " a gill net ", instead of " the gill net ".

Amendment agreed to.

Clause 17, *as amended, ordered to form part of the Bill.*

Clause 18 — *Fishing with artificial light.*

Motion made and question proposed : " that the clause stand part of the Bill ".

Mr. Venkatasamy : In section 18, Sir, there is no definition for " prawn net."

Mr. Seetaram : It has the same meaning as the word " shrimp net ", in clause 11 (k). In the definition ,, shrimp net " means " a net in the form of a bag not exceeding two square metres ". I don't have any objection if hon. Members would wish to have the words " shrimp net" instead of " prawn net ".

Mr. Bérenger : Before we suggest that, we want to know technically whether the Minister or his officials make a difference between a shrimp and a prawn as far as fishing with nets is concerned. If it makes no difference, then fine.

Mr. Seetaram : It makes no difference. There is no offence if prawns are caught with a net which is used for catching shrimps. The same type of net is used for fishing both species.

Mr. Bérenger : *Couma dire nous dans ène restaurant chinois.*

Mr. Chong Leung : On a point of order...

Mr. Bérenger : I just cracked a joke to say that : *" couma dire nous dans ène restaurant chinois "* and the hon. Minister...

(Interruption)

Sit down, I am on my feet. Can the Minister sit down ? I am on my feet, Mr. Chairman, you gave me the floor, so he will have to sit down, whether he likes it or not ! I simply made a joke saying that : *ti à croire nou dans ène restaurant chinois* because we are talking for 15 minutes, and the Minister thought fit to take it personally, so I don't know where we are going.

The Chairman : Is it what the hon. Member wants now, that in clause 18, sub paragraph (c), we should delete the word " prawn " appearing twice, and replace it by the word ,, shrimp " ?

Mr. Seetaram : Perhaps I would like to give an explanation. We use the word shrimp usually when we catch it from fresh water, and we call it prawn when we catch it from salt water ; but the same type of net is used for the fishing. I would prefer it to be : for the purpose of capturing " shrimps " with " shrimp net " instead of " prawns " with " prawn net ".

Amendment agreed to.

Clause 18, *as amended, ordered to stand part of the Bill.*

Clause 19 — *Fishing in reserved areas.*

Motion made and question proposed : " that the clause stand part of the Bill ".

Mr. Seetaram : There is an amendment here to the effect that paragraph (a) of clause 19 be deleted and replaced by the following :

> " (a) fish in a reserved area with a large net, gill net or canard net ; "

Amendment agreed to.

Clause 19, *as amended, ordered to stand part of the Bill.*

Clause 20 — *Fishing in a pass*

Motion made and question proposed : " that the clause stand part of the Bill ".

Mr. Bérenger : Can I ask the Minister whether I am not correct in saying that gill nets are used precisely in passes ? " Gill net " means a net which is set for catching migrating fish. Is the Minister saying that " gill nets " are not to be used in any pass ?

Mr. Seetaram : Not in the pass.

Clause 20 *ordered to stand part of the Bill.*

Clause 21 — *Prohibition of the use of explosives.*

Motion made and question proposed : " that the clause stand part of the Bill ".

Mr. Seetaram : I move that the words " except with the written approval of the Principal Assistant Secretary " be deleted.

Amendment agreed to.

Mr. Dulloo : I just want to get an explanation from the Minister. I see here " fish near any water with explosive ". How can one fish with explosives near water within the fishing limits ?

Mr. Seetaram : For example, Sir, there is the blasting of lime being done in Grand Port, the action takes place near the sea, near any water.

Mr. Bérenger : I was intrigued as well. Fishing limits as defined by the Bill is very far reaching. It is the continental shelf, of 200 miles area where Mauritius has traditional or historic rights and so on, as provided in the Maritime Zones Act ; but what that part says is that fishing with dynamites is not only prohibited inside those limits. Is it serious to say that it could not be used in water outside our fishing limits ? That is what it says : " above or near any water within the fishing limits ". In fact the Bill prohibits the using of dynamite outside our fishing limits, anywhere near our fishing limits. Is this what the Minister means ?

Mr. Seetaram : As I have just said, Sir, for example, if someone has to blast lime or rocks near the sea, he must have the prior permission of the Commissioner of Police, with the consent of the Ministry of Fisheries, before the blasting is done; and when such work is done, an Officer of the Ministry of Fisheries is present to see that no abuse is made.

Clause 21, *as amended, ordered to stand part of the Bill.*

(6.35 p.m.)

Clause 22 — *Prohibition of underwater fishing.*

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Motion made and question proposed : " that the clause stand part of the Bill ".

Mr. Bérenger : On this section, as the Bill had it in section 21, it allowed the PAS to approve of fishing with dynamite in certain cases. This has been amended and fishing with dynamite is prohibited in any condition. Fine, we agree fully with this. Now with this section 22 :

> " ... no person shall do any underwater fishing within the fishing limits of Mauritius without the written approval of the Principal Assistant Secretary. "

But it specifies that the PAS can grant the authority only for two purposes : for scientific purposes, or for the purpose of capturing aquarium fishes, " in accordance with such terms and conditions as he thinks fit to impose ". If we vote the Bill as it stands, the PAS cannot grant authority to a single fisherman to fish in any condition — except these two, as I said ; this is not called under-water fishing; for scientific purposes or catching aquarium fishes. Is this what the Minister intends doing ? That is, as soon as this Bill is voted, proclaimed, comes into force, that, from one day to the next, without any condition, underwater fishing will become illegal right across the island ? That is, is the Minister not allowing himself and his PAS any breathing space, if I may say so, any period through which the number of fishermen will de decreased, even if abruptly, but brought to zero within a given period ? Is the Minister saying that he wants that section to stand as it is, so that, from one day to the next, underwater fishing becomes illegal and the PAS has no authority to do anything about it ?

Mr. Seetaram : Yes, Sir.

Mr. Dulloo : Mr. Chairman, in 22 (6) we see that the PAS may decide how to dispose of fish. Formerly, in the previous legislation, we had it — section 11 (b) — that in circumstances where fish has been seized which come from fishing with explosives, or underwater fishing, wherever possible it would be offered to any orphanage or any charitable institution. So, I was just wondering why the same provision is not made in this legislation.

Mr. Seetaram : As usual, it will be given to charitable institution.

Clause 22 ordered to stand part of the Bill.

Clause 23 ordered to stand part of the Bill.

Clause 24 — Identification of fishing boats.

Motion made and question proposed : " that the clause stand part of the Bill ".

Mr. Seetaram : Sir, I move that in subsection 2 (a) the word 'stern' be deleted and replaced by the words " stern post ".

Amendment agreed to.

Clause 24, as amended, ordered to stand part of the Bill.

Clause 25 — Register of fishing boats etc.

Motion made and question proposed : " that the clause stand part of the Bill ".

Mr. Venkatasamy : Sir, I wanted to raise this point at clause 23, but I can do it as well. Mention is made of an identification badge, but I can't see any definition of it, what is the meaning of this identification badge ?

Mr. Seetaram : We are going to define it by regulations.

Clause 25 ordered to stand part of the Bill.

Clauses 26 and 27 ordered to stand part of the Bill.

Clause 28 — Search warrant to be issued by the P.A.S.

Motion made and question proposed : " that the clause stand part of the Bill ".

Mr. Venkatasamy : Perhaps my Friends who are barristers have understood this, but I would like some enlightenment. The clause states :

> " Where the Principal Assistant Secretary is satisfied upon sworn information... "

Does the Oath Act enable the PAS to take sworn information ?

Mr. Bérenger : More than that ! The PAS means anybody. That is the PAS could delegate his power to a Fisheries Officer who, then, supposedly, takes in sworn information.

Mr. Seetaram : This provision has been included here to cover the situation where our officers get information on week-ends and the Court does not sit. Then if there is any illegal activity which is taking place, or, according to information, which will take place, it is impossible for our officers to execute their work properly, Sir. Therefore they pass on the information to the PAS who does the work, then reports it to the Minister.

Mr. Bérenger : The point is that, as the paragraph stands, it authorises the PAS to issue a search warrant, authorising an Officer to, for example, enter and search any premises — that is the private house of any Mauritian citizen. Now, the further complication is that PAS means the PAS or anybody that he delegates his authority to. Therefore, if he delegates his authority under that section to an officer, it is an officer who is going to issue a search warrant to any other officer, and then the sworn information comes in. I think the Minister will agree that we are dealing here with fundamental freedom — the privacy of homes, of a fisherman's home or anybody's home.

The Prime Minister : But he does it now !

Mr. Bérenger : He does not do it now.

The Prime Minister : Of course he does it now !

Mr. Seetaram : It exists now, Sir, according to the law. But, in any case, the PAS, I am sure, is not going to delegate his powers in that particular case.

Mr. Bérenger : The Prime Minister is wrong. The Minister has just said that the PAS, in that clause, means only the PAS. Then, let us say so. Let us move an amendment that PAS means... I don't know, there is Learned Counsel there to define it.

The Prime Minister : It is there already !

Mr. Bérenger : It is not in there.

The Prime Minister : Don't talk nonsense !

Mr. Bérenger : You are not following the discussion !

The Prime Minister : You don't know whether this law exists already.

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Mr. Bérenger : Obviously, if it existed, the Minister would not have said that, in this clause, PAS means the person of the PAS only, as you are perfectly aware...

The Prime Minister : It means what is there.

Mr. Bérenger : And what is there is " the PAS or the person deputed by him ".

The Prime Minister : You are talking nonsense !

Mr. Bérenger : Well, you are free to say stupid nonsense !

Mr. Seetaram : For the guidance of the House, I will read what the existing law says : It is the Fisheries Ordinance No. 7 of 1948, clause 26 :

> " In case of emergency, when communication with a Magistrate might cause delay whereby the ends of justice might be defeated, any officer authorized in writing in that behalf by the Chief Agricultural Officer may, upon sworn information that a person has in his possession any undersized fish, or any unauthorised nets or other fishing implement, or that any boat, net or other fishing implements have been used in or about the commission of an offence against this Ordinance, issue a warrant to search for such fish, boat, nets or other fishing implement."

Mr. Jugnauth : That was an exception that was made in exceptional circumstances. But here, generally, we are giving the power to the PAS to issue a search warrant.

Mr. Seetaram : It is clearly stated here, Sir " when communication with a Magistrate for the purpose of securing a search warrant might cause delay... " And I am sure the PAS is not going to delegate his powers to an ordinary officer in that particular case.

The Prime Minister : It must be done speedly and quickly.

Mr. Bérenger : If I get the Minister right, he is saying that, as far as this section goes, it is only the PAS who will have the authority to issue a search warrant authorising an officer to enter any premises and so on. This is what the Minister is saying. In that case, as I say, because the Bill, as it stands, defines the PAS as either the PAS or any officer to whom he deputes his authority, does the Minister have any objection, in this clause, to finding a way of saying that it will be the PAS only who will have the authority to issue search warrants. Secondly, the point that we are raising is : in what form ? The Minister is saying that the PAS only will have authority to issue search warrants. What is the meaning of sworn information in this clause ? Is it sworn in front of the PAS ? This is what we are asking.

Mr. Seetaram : Sir, as I have said, this power is going to remain in the hands of the PAS, to be exercised by the PAS alone when he is certain that the information given to him by his officer is correct, and I give the assurance to my Friends about this.

Mr. Dulloo : If it will be used by the PAS alone, why is not provision for this made in the Act and so stipulated ? Why don't we say :... by the Principal Assistant Secretary if he is satisfied, upon sworn information, or in person is satisfied, and so on ? To limit it that way ?

The Prime Minister : It is all right as it is.

Mr. Venkatasamy : Sir, the question is not answered whether in the legal instance — in this case I think there is an Oaths Act — the PAS can be given the power of taking oath ?

Mr. Seetaram : I move that we leave it as it is. I have confidence that my PAS will do his work according to his conscience.

Clause 28 *ordered to stand part of the Bill.*

Clauses 29 *to* 32 *ordered to stand part of the Bill.*

Clause 33 — *Boats etc. used in the commission of an offence.*

Motion made and question proposed : " that the clause stand part of the Bill ".

Mr. Dulloo : I would like to say one thing. We have a similar provision in the existing law under section 10A — it states that, in such circumstances, that person will be committing an offence. Here we say that such person will be committing the same offence. So, I find it difficult to understand how, if a person has been found fishing with a net without licence, this has been so worded in the information, how can the owner of the net also be prosecuted for fishing without a licence ? If, in fact, it is proved that he has not fished with a net without a licence, can this person be prosecuted ? So, what I am suggesting is why don't we stick — unless the Minister gives us a special reason for not doing that — to the wording of the former legislation ? Namely, that the owner, or the person in charge thereof, shall "commit an offence."? We have here " shall commit the same offence " This will lead to confusion and difficulty.

Mr. Seetaram : It is done purposely to discourage owners of boats to leave their boats and fishing implements lying about hapzardly, and for any person to make illegal use of.

Clause 33 *ordered to stand part of the Bill.*

Clause 34 *ordered to stand part of the Bill.*

Clause 35 — *The Board*

Motion made and question proposed : " that the clause stand part of the Bill."

Mr. Seetaram : I move that, in subclause (2) (j) the full stop after " fishermen " should be replaced by a semi colon and the following added; (k) a representative of basket trap fishermen ; (l) a representative of net fishermen.

(6.50 p.m.)

Mr. Venkatasamy : I have an amendment. I was wondering whether a representative of the Ministry of Health and a representative of the Ministry for Prices and Consumer Protection should not be represented on the Board since the function of the Board will be to advise the Minister on all matters of general policy relating to fisheries ; matters concerning food — that is food poisoning, food contamination — should be under the control of the Ministry of Health. The Ministry for Prices and Consumer Affairs is responsible for the pricing of our fish products — I think there should be two representatives — one from each Ministry — on the Board.

The Chairman : The amendment proposed by the hon. Member is to the effect that in Clause 35(2) after ' (e) ' we should have (f) a representative of the Ministry of Health; (g) a representative of the Ministry for Prices & Consumer Protection; and the remaining paragraph to be relettered accordingly.

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Amendment agreed to.

Clause 35, *as amended, ordered to stand part of the Bill.*

Clauses 36 *to* 39 *ordered to stand part of the Bill.*

Clause 40 (*Repeal*)

Motion made and question proposed that the Clause stand part of the Bill.

Mr. Seetaram : Sir, there is an amendment and I move that Clause 40 be amended to read ' The Fisheries Ordinance 1948 is repealed '.

Mr. Bérenger : I would like to know from the hon. Minister how is it that, when the Bill was being prepared — since it deals with the sea and sea fishing — the Shrimps and Camarons Protection Ordinance which deals on the contrary with fresh water was included in that ?

Mr. Seetaram : At the beginning, we wanted to incorporate both of them but then we thought it better to have a separate legislation.

Mr. Bérenger : Just for my own information, is the hon. Minister preparing another Bill to deal with fresh-water fish ?

Mr. Seetaram : Yes, Sir.

Clause 40, *as amended, ordered to stand part of the Bill.*

The title and the enacting clause were agreed to.

The Bill as amended, was agreed to.

The Forests and Mountain and River Reserves (*Amdt.*) *Bill* (*No. VII of* 1980) *was considered and agreed to.*

On the Assembly resuming, with the Deputy Speaker in the Chair, the Deputy Speaker reported accordingly.

Third Reading

On motion made and seconded, the following Bills were read the third *time and passed :*

The Hotel and Catering Training School (Levying of Fees) Bill (No. I of 1980)

The Local Government Service Commission (Amendment) Bill (No. II of 1980)

The Hindu Maha Jana Sangham Bill (No. II of 1980)

The Fisheries Bill (No. IV of 1980)

The Forest and Mountain and River Reserves (Amendment) Bill (No. VII of 1980).

ADJOURNMENT

(6.58 p.m.)

The Prime Minister : I beg now to move the adjournment of the Assembly to Tuesday, 27th May, 1980, at 11.30 a.m.

ROADS AND DRAINS CONSTRUCTION — CONSTITUENCY No. 4

M. Michel (Third Member for Port Louis North and Montagne Longue) : M. le président, les problèmes causés par un système de tout-à-l'égout défectueux, des routes défoncées, des drains ne servant plus à rien, ne relevent pas seulement de deux ministères mais de six ministères, notamment : le ministère du logement, le ministère des travaux, le ministère des administrations régionales, le ministère du plan, le ministère de la santé et le ministère de l'emploi.

M. le président, ces problèmes-là ne datent pas d'aujourd'hui; ils remontent très loin dans le passé, avant même que mon Collègue Baligadoo et moi-même, ne fassions notre entrée à cette Assemblée. Si vous jetez un coup d'œil sur les *Hansards* de 1976 à 1979, M. le président, vous serez surpris de voir combien de fois nous sommes intervenus à l'Assemblée, à travers des questions, pour que ces problèmes soient résolus. Malheureusement, à ce jour, rien a changé. Au contraire, je dirai même que la situation a empiré. Dernièrement, M. le président, il y a eu même des cas de mortalité suite à ces problèmes qui, comme je le disais, datent d'assez longtemps. Nous n'avons pas seulement fait des interpellations et posé des questions, mais nous avons aussi rendu visite aux ministres, aux chefs de départements concernés. Malheureusement, nous avons toujours eu d'eux des réponses évasives et, finalement, leur attitude n'a pas aidé les gens qui habitent dans la circonscription numéro quatre à avoir un niveau de vie décent et les aménités nécessaires pour une vie agréable.

Je prendrai en premier lieu, M. le président, la question des drains. Dans ma circonscription, qui est une circonscription mi-urbaine et mi-rurale, il y a six cités, notamment : Cité La Cure, Cité Roche Bois, Cité Briquetterie, Cité Batterie Cassée, Cité Colombo et Cité Congomah. Les drains dans ces cités ne servent plus à rien parcequ'ils sont obstrués. Quand il pleut, naturellement toutes les maisons de ces cités sont inondées. Vous pouvez vous imaginer la vie des personnes qui habitent ces cités ! A Roche Bois, pour comble de malheur, le comblage de la Mer Rouge a rendu caduc tout le système des drains. Je lirai, avec votre permission, M. le président, une appréciation du ministre de la santé, Dr. Ghurburrun, lorsqu'il a rendu visite à cette localité de Roche Bois, après l'épidemie de typhoide. Il disait :

> " Le système des drains est depassé en 1980 et permet la prolifération des germes de la typhoide et de la malaria. Les drains ont été complètement obstrués par la boue et les immondices, créant un peu partout des mares d'eau contaminée par des matières fécales. Ce qui constitue un foyer idéal où se developpe la typhoide ".

M. le président, ce jugement du Dr. Ghurburrun, ministre de la santé. ne semble pas préoccuper les responsables du ministère des travaux et surtout du ministère du logement, car à toutes les questions posées à cette Chambre, ils ont préféré donner des réponses évasives, comme je viens de le dire. Au début même de notre arrivée à cette Assemblée j'avais envoyé une lettre au ministre du logement, lui signalant les problèmes dans les cités. Il n'a jamais daigné repondre à cette lettre. Mon Collègue Baligadoo, avait interrogé le regretté ministre de la santé, Mahess Teeluck, au sujet d'un canal qui traverse la cour de l'école Emmanuel Anquetil et d'un autre canal qui passe devant cette école. Ces canaux viennent d'une tannerie et constituent un foyer de microbes. La réponse du ministre à la question partlementaire B/24 était — je cite —

> " Mr. Ah To and the owner of Luxor Tannery cannot be compelled to demolish the drains as they are not the owners thereof."

Il y a eu trois grèves organisées par les parents d'élèves. Nous étions, mon Collègue Baligadoo et moi-même présents à ces grèves. Heureusement, le ministère de l'éducation a pu faire recouvrir le canal traversant la cour de l'école Emmanuel Anquetil, mais il est malheureux que le

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Mauritius Fisheries Act 1980, Act No. 5 of 1980

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THE FOREST AND MOUNTIAN AND RIVER RESERVES (AMENDMENT) ACT

Act No. 4 of 1980

I assent

23rd May, 1980.

D. BURRENCHOBAY
Governor-General

ARRANGEMENT OF SECTIONS

Section
1. Short title.
2. Interpretation.
3. Section 4 of the principal Act repealed and replaced.

To amend the Forest and Mountain and River Reserves Act, 1971

(24th May 1980).

Short title. ENACTED by the Parliament of Mauritius, as follows—

1. This Act may be cited as the Forest and Mountain and River Reserves (Amendment) Act 1980.

Interpretation. **2.** In this Act—
" principal Act " means the Forest and Mountain and River Reserves Act, 1971.

Section 4 of the principal Act repealed and replaced. **3.** Section 4 of the principal Act is repealed and replaced by the following section—

4. (1) Any person who—
(a) destroys or removes any tree from—
(i) any Crown land or reserves without the written consent of the Conservator; or
(ii) any private land without the written consent of its owner or occupier; or
(b) is found in possession of wood from and tree destroyed or removed contrary to subsection 1 (a) without being able to account satisfactorily for the possession,
shall commit an offence and shall, on conviction, be liable to a fine not exceeding one thousand rupees and to imprisonment for a term not exceeding twelve months.

(2) The Court before which a person is convicted of an offence under subsection (1) shall, in addition to any penalty imposed, order the offender to pay three times the value of the tree or wood in respect of which the offence was committed or such sum as it thinks fit to repair or make good the damage caused by the commission of the offence.

THE FISHERIES ACT 1980

Act No. 5 of 1980

I assent,

23rd May, 1980.

D. BURRENCHOBAY
Governor-General

ARRANGEMENT OF SECTIONS

Section
1. Short title.
2. Interpretation.
3. Licences.
4. Restriction on import and export of fish.
5. General prohibition of fishing.
6. Restriction of fishing.
7. Fish landing stations.
8. Sale of fish.
9. Protection of fish and the environment.
10. Oyster farming.
11. Authorised fishing implements.
12. Licensing of nets.
13. Duties of licensee of net.
14. Disposal of nets.
15. Restriction of importation, manufacture, etc.
16. Close periods.
17. Setting and removal of gill nets.

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ARRANGEMENT OF SECTIONS—*Continued*

Section

18. Fishing with artificial light.
19. Fishing in reserved areas.
20. Fishing in a pass.
21. Prohibition of the use of explosives.
22. Prohibiton of underwater fishing.
23. Fishing boats.
24. Identification of fishing boats.
25. Register of fishing boats etc.
26. Power to search boats and vehicles.
27. Power of entry and search.
28. Search warrant may be issued by the P.A.S.
29. Power to arrest and detain.
30. Origin or source of fish.
31. Seizure.
32. Disposal of articles seized.
33. Boats etc. used in the commission of an offence.
34. Penalties.
35. The Board.
36. Functions of the Board.
37. Meetings of the Board.
38. Regulations.
39. Transitional provision.
40. Repeal.

The Fisheries Act 1980

To amend and consolidate the law on Fisheries

(24th May 1980).

ENACTED by the Parliament of Mauritius, as follows—

Short title.

1. This Act may be cited as the Fisheries Act 1980.

Interpretation.

2. In this Act—

"accessory"—

(a) means any equipment used on a boat; and

(b) includes a sail, an oar and any motor of any description;

"bait net" means a net approved by the Principal Assistant Secretary for catching fish to be used as bait;

"barachois" means a pond enclosed towards the sea by a weir or dam fitted with one or more barred gates or grids through which the sea flows and reflows;

"basket trap" means a basket with one or more entrances and having meshes of sufficient size to allow a cylinder measuring not less than 4 centimetres in diameter to pass through easily;

"Board" means the Fishery Advisory Board established under section 35;

"canard net" means a net—

(a) used in conjunction with a large net for catching mullets;

(b) made by several layers of nets fitted with poles to maintain the whole net afloat on the surface of the water;

(c) the meshes of any of the layers of which measure not less than nine centimetres when stretched diagonally and when the net is wet;

"carlet net" means a net in the shape of a bag with meshes of any size, the mouth of which is kept open by a hoop not more than one metre in diameter;

"cast net" means a conical net with weights attached to the open circumference of the base and having meshes measuring not less than nine centimetres when stretched diagonally and when the net is wet;

"citizen" means a citizen of Mauritius;

"close period" means the periods specified in section 16 and any prescribed period during which fishing with any specified implement may be prohibited;

"explosive" has the same meaning as in the Explosives Ordinance, 1959;

"fish"—

(a) means any aquatic animal organism; and

(b) includes—

(i) shells and corals, whether live or dead;

(ii) salted fish, dried fish, cooked fish and frozen fish;

"fisherman" means a person who fishes with a view to selling his catch and includes the owner of any boat used;

"fishing" includes catching or killing any fish;

"fishing boat" or "boat" means any raft, craft or vessel of any size, used, intended to be used or capable of being used for fishing;

"fishing limits" includes—

(a) the territorial waters;

(b) the exclusive economic zone;

(c) the continental shelf; and

(d) areas where Mauritius has traditional or historic rights,

as provided for in the Maritimes Zones Act 1977;

"fish spear" includes a fouine, a gaffe and a hand propelled harpoon;

"gill net" means a net which—

(a) is set for catching migrating fish;

(b) does not exceed 250 metres in length;

(c) is made up of square meshes measuring not less than 11 centimetres when stretched diagonally and when the net is wet;

"implement" or "fishing implement" means any article or thing used or intended to be used for fishing;

"landing net" means a net in the form of a bag having—

(a) meshes of any size;

(b) a hoop measuring not more than 50 centimetres in diameter and fitted with a handle;

"landing station" means any area near the shore which is designated by the Minister as a landing place for fish;

"large net" means a net which—

(a) does not exceed 500 metres in length;

(b) is made up of square meshes measuring not less than 9 centimetres when stretched diagonally and when the net is wet;

"lure" means any artificial bait;

"Minister" is the Minister to whom the subject of fisheries is assigned;

"net" or "fishing net" means any net used or intended to be used for fishing;

"officer"

(a) means any Fisheries Officer; and

(b) includes a police officer, a customs officer, a forest officer;

"pass" means a channel through the reefs in which the sea flows and reflows and includes the entrance to any harbour, bay or creek;

"permit" means any written authority or approval granted by the Principal Assistant Secretary;

"Principal Assistant Secretary"—

(a) means the Principal Assistant Secretary of the Ministry of Fisheries, and Co-operatives & Co-operative Development;

(b) includes any person deputed by him;

"reserved area" means such area of the sea as the Minister may prescribe where fishing with a large net or a gill net is prohibited;

"sardine net" means a net used for catching sardines, lamames or mangoustes;

"sell" includes hawk, expose, keep, offer, transport and consign for sale;

"shrimp net" means a net in the form of a bag not exceeding two square metres which—

(a) is used for catching shrimps; and

(b) is fitted with a hoop measuring not more than 50 centimetres diametrically or diagonally; or

(c) is mounted on two handles and fitted with weights;

"undersized fish" means any species of fish the size of which may be prescribed;

3. (1) Any person who wishes to obtain a licence for any purpose under this Act shall make a written application to the Principal Assistant Secretary. Licences.

(2) Upon receipt of an application under subsection (1), the Principal Assistant Secretary may request the applicant to furnish such particulars as he may require for the purpose of determining whether the application should be granted.

(3) Where the Principal Assistant Secretary is satisfied that a licence may be issued, he shall, subject to subsection (6), issue the licence in the prescribed form, on such terms and conditions as he thinks fit and on payment of the prescribed fee.

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(4) No licence issued under this Act shall be transferable.

(5) Every licensee shall, on demand, produce to an officer any licence issued to him under this Act.

(6) The Principal Assistant Secretary shall not at any time license the use of more than—

(a) thirty three large nets, thirty three canard nets and twenty gill nets in the island of Mauritius;

(b) fourteen large nets, fourteen canard nets and ten gill nets in the island of Rodrigues;

(c) eight large nets, eight canard nets and eight gill nets for Cargados Carajos Archipelago, Agalega, Tromelin and the Chagos Archipelago and any other area where Mauritius has fishing rights.

Restriction on import and export of fish.

4. (1) No person shall, except with the written approval of the Principal Assistant Secretary, import into or export from Mauritius—

(a) any live fish;

(b) any coral or shell, whether live or dead.

(2) The Principal Assistant Secretary may, in writing, authorise the introduction into Mauritius of fish intended for release.

(3) No fish introduced under subsection (2) shall be released except—

(a) after it has been kept under observation and control for such period and on such terms and conditions as the Principal Assistant Secretary may think fit; and

(b) with the written approval of the Principal Assistant Secretary.

(4) Where the Principal Assistant Secretary is satisfied that fish introduced into Mauritius and intended for release is unsuitable for the purpose, he may order the fish to be forfeited and destroyed without any compensation to the importer.

General prohibition of fishing.

5. Subject to the other provsions of this Act, the Minister may, by Order published in the *Gazette*, prohibit fishing by any means in such area and for such period as may be prescribed in the Order.

Restriction of fishing.

6. (1) Notwithstanding any other law in force in Mauritius, no person shall fish within the fishing limits of Mauritius, other than the territorial waters, except under a licence granted by the Prime Minister.

(2) No person shall fish any turtle or any marine mammal within the fishing limits of Mauritius without the written approval of the Principal Assistant Secretary.

Fish landing station.

7. (1) No fisherman shall land any fish except at a fish landing station.

(2) Any fisherman who lands fish at a fish landing station shall—

(a) at the request of an officer, cause the fish to be weighed by the officer;

(b) keep or store the fish in such manner and at such place as an officer may direct;

(c) not expose the fish to rain, sun and flies and other unhygienic conditions.

(3) Where an officer is satisfied that fish landed is unsuitable for human consumption on account of its bad state of preservation or of its toxic nature, he shall order the fish to be forfeited and destroyed without any compensation to its owner.

Sale of fish.

8. (1) Subject to subsection (2), no person shall sell or have in his possession for sale any fish unless he holds a licence.

(2) Subsection (1) shall not apply to a fisherman who sells fish to a fishmonger at a fish landing station.

(3) No fishmonger who purchases fish at a fish landing station shall refuse to sell fish at the landing station.

(4) No person shall sell or have in his possession for sale any fish which is unfit for human consumption.

Protection of fish and the environment.

9. (1) Subject to subsection (2), no person shall fish or have in his possession any undersized fish, crab 'carlet' or spiny lobster in the berried state.

(2) The Principal Assistant Secretary may, subject to such terms and conditions as he thinks fit, authorise the capture of—

(a) the fishes specified in subsection (1) for scientific or reproductive purposes;

(b) undersized fish by the owner of a barachois for stocking the barachois.

(3) No person shall put, throw,discharge or cause to be put, thrown or discharged into the waters within the fishing limits of Mauritius and into any river, lake, pond, canal or tributary any substance likely to injure any fish.

Oyster farming.

10. (1) Subject to subsections (2) and (8), no person shall run an oyster farm without the written approval of the Minister.

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(2) Any person who wishes to run an oyster farm shall—

(a) make a written application to the Minister in the prescribed form;

(b) cause a notice of his application to be published in the *Gazette* and in two daily newspapers.

(3) Any person who wishes to object to an application made under subsection (2) may, within one month after the publication of the notice in the *Gazette*, lodge a written objection to the application with the Minister.

(4) The Minister shall, not later than fourteen days after receiving an objection under subsection (3), by written notice require the applicant to show cause, within such time as may be specified in the notice, why the objection should not be upheld.

(5) Where no objection is lodged in accordance with subsection (3) the Minister may grant or refuse the application.

(6) Where an objection to an application has been lodged in accordance with subsection (3), the Minister shall, after the time limit specified in a notice issued under subsection (4) has elapsed, hear and consider the application and any objection to it and, after making such enquiries as he considers necessary, grant or refuse the application.

(7) The Minister shall specify the grounds for refusing to grant an application or the reason for rejecting any objection lodged against the application, as the case may be.

(8) This section shall not apply to any person farming oysters in a barachois.

Authorised fishing implements.

11. (1) Subject to subsection (2) and the other provisions of this Act, no person shall fish with, or have in his possession at sea, any fishing implement other than—

(a) a hook, lure, line, rod or reel;
(b) a fish spear;
(c) a bait net;
(d) a basket trap;
(e) a canard net;
(f) a carlet net;
(g) a cast net;
(h) a gill net;
(i) a landing net;
(j) a large net;
(k) a shrimp net;
(l) a sardine net.

Licensing of nets.

(2) The Minister may, on the advice of the Board and on such terms and conditions as he thinks fit, authorise the use of any fishing implement for any purpose.

Duties of licensee of net

12. No person shall have in his possession any fishing net other than a carlet net or a landing net, unless he holds a licence to that effect.

13. The licensee of a fishing net shall—

(a) keep or store the net in such place as may be approved by the Principal Assistant Secretary;
(b) on demand, produce the net or indicate its location to any officer;
(c) return the net to the Principal Assistant Secretary upon the expiry or revocation of his licence;
(d) report to the Principal Assistant Secretary any damage to any seal affixed to the net by an officer.

Disposal of nets.

14. (1) *(a)* Subject to subsection (2), no licensee shall dispose of any licensed net without the written approval of the Principal Assistant Secretary.

(b) No licensee shall replace any licensed net unless—

(i) the net has become unserviceable;
(ii) the net is returned to the Principal Assistant Secretary;
(iii) the Principal Assistant Secretary approves the replacement in writing.

(2) The Principal Assistant Secretary shall cause to be destroyed any net which is returned to him under subsection (1).

Restriction of importation, manufacture, etc.

15. (1) No person shall, unless he holds a licence to that effect—

(a) import or deal in any net;
(b) manufacture or deal in fishing implements other than basket traps, fish spears, hooks, lines, rods, reels and lures.

(2) Any person who holds a licence under subsection (1) shall—

(a) keep a register in which he shall daily enter—

(i) every sale or purchase made by him;
(ii) the name and address of every seller or purchaser;
(iii) the description, measurement and number of nets sold or purchased by him;
(iv) the number and date of issue of the licence held by the seller or purchaser;

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(b) not later than fourteen days after any sale or purchase, inform the Principal Assistant Secretary in writing of the sale or purchase, giving the particulars specified in paragraph *(a)*.

Close deriods.

16. (1) No person shall, between sunset and sunrise, fish with or be in possession at sea of a large net or canard net.

(2) No person shall fish with or be in possession at sea of—

(a) a large net or a gill net from the first of October in any year to the last day of February of the year following;

(b) a canard net from—

(i) the first of May to the last day of July in any year;

(ii) the first of October in any year to the last day of February of the year following.

(3) The Principal Assistant Secretary may, subject to such terms and conditions as he thinks fit, authorise fishing with a large net, a canard net or a gill net in any barachois during any close period.

Setting and removal of gill nets.

17. No person shall between sunset and sunrise—

(a) set or remove a gill net at sea;

(b) displace a gill net after it has been set, except with the approval of the Principal Assistant Secretary;

(c) beat the surface of the water or make any noise for the purpose of luring any fish to enter a gill net.

Fishing with artificial light.

18. No person shall fish with the aid of any artificial light except—

(a) within a barachois of which he is the owner or lessee or with the permission of the owner or lessee;

(b) for the purpose of capturing undersized crabs to stock a barachois as the Principal Assistant Secretary may approve;

(c) for the purpose of capturing shrimps with a shrimp net as the Principal Assistant Secretary may approve;

(d) for the purpose of capturing flying fish outside the reef.

Fishing in reserved areas.

19. No person shall—

(a) fish in a reserved area with a large net, gill net or canard net;

(b) beat the surface of the water in a reserved area for the purpose of catching any fish or luring any fish to leave the reserved area.

Fishing in a pass.

20. No person fishing in a pass shall—

(a) make use of any net; or

(b) place in the pass any object likely to cause obstruction to navigation.

Prohibition of the use of explosives.

21. No person shall fish with an explosive in, above or near any water within the fishing limits.

Prohibition of underwater fishing

22. (1) Subject to subsection (2), no person shall do any underwater fishing within the fishing limits of Mauritius without the written approval of the Principal Assistant Secretary.

(2) The Principal Assistant Secretary shall not authorise any underwater fishing except—

(a) for scientific purposes; or

(b) for the purpose of capturing aquarium fishes, in accordance with such terms and conditions as he thinks fit to impose.

(3) No person shall import into or manufacture in Mauritius any underwater fishing implement without a licence.

(4) Any officer may seize any fish, other than fish captured with the written approval of the Principal Assistant Secretary granted under subsection (2), which he reasonably suspects has been caught by underwater fishing.

(5) No person shall unless he has a licence to that effect have in his possession any speargun.

(6) Any fish seized under subsection (4) may be disposed of as the Principal Assistant Secretary may approve.

Fishing boats.

23. (1) Any person who owns a fishing boat shall cause it to be registered.

(2) No person shall make use of a fishing boat which—

(a) is not registered;

(b) does not bear any identification badge and any identification mark assigned to it.

Identification of fishing boats.

24. (1) The Principal Assistant Secretary shall assign to every registered fishing boat an identification badge and an identification mark.

(2) The owner of a fishing boat shall—

(a) fix to the stem post of the boat any identification badge assigned to the boat;

(b) conspicuously display on both sides of the bow of the boat any identification mark assigned to the boat.

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Register of fishing boats etc.

25. (1) The Principal Assistant Secretary shall keep a register in which shall be entered—

(a) the particulars of every registered fishing boat;

(b) the identification badge and the identification mark assigned to every fishing boat.

(2) Every person who is a party to any sale or transfer of a fishing boat shall, within fourteen days after the sale or transfer, give notice thereof to the Principal Assistant Secretary.

(3) Every person who owns a fishing boat shall, within fourteen days from the loss or destruction of the boat, give notice thereof to the Principal Assistant Secretary.

Power to search boats and vehicles.

26. Any officer may stop and search any boat or vehicle on reasonable suspicion that—

(a) the boat or vehicle is being used or has been used in the commission of an offence under this Act; or

(b) the boat or vehicle is carrying any fish or fishing implement obtained contrary to, or the use or possession of which is prohibited by, the provisions of this Act.

Power of entry and search.

27. A Magistrate may, where he is satisfied by information upon oath that there is reasonable ground to believe that an offence against this Act has been, is being or is about to be committed, issue a warrant authorising an officer—

(a) to enter any boat, land or premises; and

(b) to search for any boat, fish or fishing implement.

Search warrant may be issued by the P.A.S.

28. Where the Principal Assistant Secretary is satisfied upon sworn information that—

(a) there is reasonable ground to believe that an offence against this Act has been, is being or is about to be committed; and

(b) communication with a Magistrate for the purpose of securing a search warrant might cause delay,

he may issue a search warrant authorising an officer—

(i) to enter any boat, land or premises; or

(ii) to search for any fish or fishing implement.

Power to arrest and detain.

29. An officer may without warrant arrest and detain any person found—

(a) fishing in breach of any of the provisions of this Act;

(b) in possession of any fish or fishing implement in breach of any of the provisions of this Act;

(c) selling undersized fish

unless he gives satisfactory information regarding his name and address and the place of origin of any fish in his possession.

Origin or source of fish.

30. Any fisherman or fishmonger found in possession of fish shall, on being required so to do by an officer, furnish the officer with particulars of the origin or source of the fish.

Seizure.

31. (1) An officer may, on reasonable suspicion that a net, a fishing implement or a boat has been or is being used in the commission of an offence under this Act, seize the net, the fishing implement or the boat with all its accessories.

(2) An officer may seize any fish caught, landed or sold in breach of the provisions of this Act.

Disposal of articles seized.

32. (1) Any article seized under section 31 shall be returned to its owner, if known, or to the person from whom it was seized if, upon examination, it is found not to have been used in the commission of an offence under this Act.

(2) Where the owner or person in charge of any article seized under section 32 does not claim the article within fifteen days after its seizure, the Principal Assistant Secretary may dispose of the article without any compensation.

(3) Any fish seized under section 31 may be disposed of as the Principal Assistant Secretary may direct and without any compensation to its owner or to the person from whom it was seized.

Boats etc. used in the commission of an offence.

33. Where any net, fishing implement or boat and accessories is used in the commission of an offence under this Act, the owner or the person in charge thereof shall commit the same offence unless he proves—

(a) that he was not a party or privy to the commission of the offence; and

(b) that he took all reasonable steps to prevent the use of the net, the fishing implement or the boat by unauthorised persons.

Penalties.

34. (1) Subject to subsections (2) and (3), any person who contravenes—

(a) any of the provisions of this Act or any regulation made under this Act; or

(b) any condition imposed in any permit or licence granted under this Act or any regulation made under this Act

shall commit an offence and shall, on conviction, be liable to pay a fine not exceeding one thousand rupees and to imprisonment for a term not exceeding twelve months.

(2) Any person who contravenes the provisions of sections 5, 6, 9, 10, 11, 12, 15, 16, 18, 19, 20 and 22 shall, on conviction, be liable in the case of—

(a) a first conviction, to pay a fine of not less than five hundred rupees and not more than one thousand rupees and to imprisonment for a term not exceeding twelve months;

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(b) a second or subsequent conviction, to pay a fine of not less than one thousand rupees and not more than two thousand rupees and to imprisonment for a term of not less than twelve months and not more than three years.

(3) Any person who contravenes the provisions of section 21 shall, on conviction, be liable in the case of—

(a) a first conviction, to imprisonment for a term of not less than one year and not more than five years together with a fine of not less than five hundred rupees and not more than one thousand rupees;

(b) a second conviction, to imprisonment for a term of not less than two years together with a fine of not less than one thousand rupees and not more than two thousand rupees; and

(c) a third or subsequent conviction, to imprisonment for a term of not less than three years together with a fine of not less than two thousand rupees and not more than five thousand rupees.

(4) The provisions of the Probation of Offenders Ordinance and sections 152 and 153 and Part XII of the Criminal Procedure Ordinance shall not apply to any penalty under this Act other than a penalty inflicted under subsection(1).

(5) The Court may, in addition to any other penalty, order the forfeiture of any fishing implement and any boat, including its accessories, used in the commission of an offence under this Act.

The Board.

35. (1) There is established for the purposes of this Act a Fishery Advisory Board.

(2) The board shall consist of—

(a) The Principal Assistant Secretary, Ministry of Fisheries, and Co-operatives & Co-operative Development as Chairman;

(b) a representative of the Attorney-General's Office;

(c) a representative of the Police Department;

(d) a representative of the Ministry of Agriculture, and Natural Resources & the Environment;

(e) a representative of the Ministry of Economic Planning & Development;

(f) a representative of the Ministry of Health;

(g) a representative of the Ministry of Prices and Consumer Protection;

(h) a representative of the Ministry for Rodrigues;

(i) a representative of the Mauritius Fishermen's Co-operative Federation Limited;

(j) a representative of the distributors of frozen fish;

(k) a representative of fresh water fish breeders delegated by the Chamber of Agriculture;

(l) a representative of deep sea fishermen;

(m) a representative of basket trap fishermen;

(n) a representative of net fishermen.

(3) Every member specified in subsection (2) other than an ex-officio member shall—

(a) hold and vacate office on such terms as the Minister may determine;

(b) not be considered as holding a public office by virtue of his appointment.

(4) The composition of the Board shall be published in the *Gazette*.

Functions of the Board.

36. The Board shall—

(a) advise the Minister on all matters of general policy relating to Fisheries;

(b) enquire and report to the Minister, on such specific matters relating to Fisheries as the Minister may refer to it.

Meetings of the Board.

37. (1) The Chairman shall convene a meeting of the Board whenever required to do so in writing by the Minister or by not less than 3 of the members.

(2) The Chairman shall preside at all meetings but in his absence, the members present shall elect from among themselves a member to preside at that meeting who shall exercise all the powers of the Chairman.

(3) The quorum of the Board shall be seven.

(4) Subject to the other provisions of this section, the Board shall regulate its own procedure.

Regulations.

38. (1) The Minister may make such regulations as he thinks necessary for carrying into effect the provisions of this Act.

(2) Any regulation made under subsection (1) may provide for—

(a) the levying of fees and charges;

(b) the grant and revocation of licences;

(c) measures relating to the furnishing of security for the return of seized articles and equipments.

Transitional Provision.

39. Any permit or licence granted under the Fisheries Ordinance shall be deemed to have been granted under this Act.

Repeal.

40. The Fisheries Ordinance, 1948 is repealed.

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Mauritius Legislative Assembly, 26 June 1980, Interpretation and General Clauses (Amendment) Bill (No. XIX of 1980), Committee Stage, Statement by Sir Harold Walter

(10.26 p.m.)

The Attorney-General and Minister of Justice (Mr. Chong Leung) : Mr. Speaker, Sir, I move that the Interpretation and General Clauses (Amendment) Bill (No. XIX of 1980) be now read a *second* time.

This Bill seeks to amend the Interpretation and General Clauses Act 1974 by remedying certain defects which have become apparent over the years whilst at the same time making provision for certain essentially technical matters.

In the present state of our law, the definition of " State of Mauritius " or " Mauritius " does not specifically include Tromelin and the amendment proposed in the Bill seeks to remedy this defect.

Moreover questions relating to the service of process on corporations generally and their representation in Court are not free from doubt. Clauses 7 and 8 of the Bill are designed to remedy this defect by making unambiguous provisions on that particular aspect of court procedure.

In the past, the prosecution of persons for offences under several enactments has given rise to avoidable difficulties. The proposed new section 46 of the Act which is embodied in clause 9 of the Bill seeks to put the law on a more rational basis by ensuring that, although a person may be prosecuted under several enactments for the same act or omission, he will nevertheless be punished only once for offences arising out of the same act or transaction.

The Bill further provides that on the issue of any licence, permit or authority, the Government may impose terms and conditions on the licence, permit or authority not only at the time of its issue or renewal but also during its currency.

New provision is made regarding certain corporations and other bodies. These new provisions are of an essentially technical nature. At present, certain bodies cannot operate because when they are just established, all the members thereof have not been or cannot be appointed. This Bill proposes to make provision for such bodies to operate notwithstanding vacancies when first established provided the requirements regarding quorum are satisfied.

Certain bodies may not operate in the absence of the Chairman. Provision is therefore made for these bodies to carry out their activities notwithstanding the absence of the Chairman, unless the Chairman is required to be present for the purpose of a quorum.

At present there are occasionally unavoidable delays in the reappointment of the members sitting on certain bodies. This prevents business from being transacted. This Bill therefore provides for the outgoing body to operate pending the appointment of the incoming body.

With these few remarks, Sir, I commend the Bill to the House.

Mr. Purryag *rose* and *seconded.*

(10.28 p.m.)

The Leader of the Opposition (Mr. A. Jugnauth) : Sir, this Bill again contains many provisions that are welcome by this side of the House and, there is that section 46 of the principal Act, wherein it is provided that :

> " Where a person on the same fact may be commiting more than one offence under different enactments, he should not be made to be punished twice."

It is very reasonable. As a matter of fact, I myself have experienced a case, where, on the same fact, even under one enactment, under the Public Order Act, someone was found with an offensive weapon in his possession with which he had threatened to strike somebody else. He was prosecuted for two offences :

(1) for being in possession of an offensive weapon and

(2) for intimidation with that offensive weapon.

I personally feel that this is not correct, this is not reasonable and in fact, it becomes a persecution, ultimately.

One other thing : it is provided also that, in case of societies and corporate bodies, anybody duly authorised, can represent that body. That is also a very good measure but, Sir, we, on this side of the House, feel that, in section 3 of this Bill which deals with the definition of " State of Mauritius ", there is a great omission on the part of those who have drafted this Bill ; and, if it is, in fact, done purposely, it is a policy matter, well we believe that those who have done it must take the blame for it. Because we think, on this side of the House, that in the definition of " State of Mauritius ", wherein we are now adding the word " Tromelin ", we believe that we should have gone further and added " Chagos Archipelago ".

Sir, I do not want to go into the whole history of the Chagos Archipelago, but we know that there have been certain deals between the Government of this country when it was a colony and before independence was granted to this country, and the British Government. There was an Order in Council, by which the Chagos Archipelago was taken away from the territories forming part of Mauritius, and it has since been called the British Indian Ocean territory. There has been a lot of controversy on that, and at the beginning, we know the explanation that has been given by the Rt. Hon. Prime Minister as to what was the real transaction concerning this. We were made to understand, at one time, that we had all our rights preserved over these islands and that, as a matter of fact, only certain facilities had been granted. Well, ultimately, as time went on, we were told finally that, in fact, there has been a sale and what not ; but one thing is certain — this is very clear to everybody in this House and the country at large, this has been mentioned throughout — that in fact, there is nothing in writing, that everything was done verbally. Therefore so far as we are concerned, we understand the position to be that the only thing that there is in writing is that Order in Council, nothing else ! And that is why we maintain that, being given that we were still a colony, and being given the United Nations Resolution, that, before a colony is granted its freedom, the power which had colonised that country has no right to extract any part of its territory, therefore we consider that it was something completely unilateral and it has no validity whatsoever ; and we, in the Opposition, have made it very clear, we have even written to the British Government, stating what is our position in the MMM, and that if ever we come to power in this country, what stand we are taking as regards the Chagos Archipelago. When Mr. Luce was here recently, I conveyed this very clearly to him and I even in-

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sisted that he should see to it that, even now as it is, we be allowed to use all facilities — except for Diego Garcia, where there are certain military installation, at least for the time being — that we be allowed even to make use of the other islands where there is no military installation. I can say that Mr. Luce listened to me with great attention and even promised me that he was going to raise this matter with his Government. I hope that, later on, we will hear from the British Government, we will know what is their stand concerning this matter.

Therefore, Sir, we believe that we will not be doing a good service to our country and to the generations that will be coming, if we ourselves to-day, commit that mistake of omitting, from the description of the " State of Mauritius ", the Chagos Archipelago.

For this reason, I want to make it very clear that at the Committee stage, I am going to move that this also be inserted in the description of the Mauritian territory. Thank you Sir.

(10.39 p.m.)

Mr. T. Servansingh : (Third Member for Port Louis South & Port Louis Central) Sir, I shall speak on clause 3 of this Bill, about the amendment which the hon. Leader of the Opposition proposes to introduce at Committee stage. Sir, I am sure that there can be a lot to say about future power politics in the Indian Ocean, about keeping Indian Ocean a zone of peace and so on ; but the point I would like to make to-day is that when we are talking of the definition of the national territory, we, on this side, want that the Chagos Archipelago should be included in this definition of ...

Mr. Speaker : It should be better if the point could be taken at the Committee stage, when the motion has been made, then the hon. Member would explain.

(10.40 p.m.)

Mr. Chong Leung : Mr. Speaker, Sir, the Leader of the Opposition has stated that there has been an omission in the definition of the State of Mauritius, because Diego Garcia has not been included in that definition. First of all the definition of the State of Mauritius is wide enough to cover any island which forms part of the State of Mauritius. In section 2 of the Interpretation Act No. 33 of 1974, State of Mauritius includes :

(1) the islands of Mauritius, Rodrigues, Agalega and any other island comprised in the State of Mauritius,

(2) the territorial sea and the air space above the territorial sea etc. etc.

But the main reason why it has not been included ...

Mr. Speaker : I am sorry to interrupt the hon. Minister. This point will be taken at the Committee Stage, because many Members are going to raise the same point. The Minister will have time to answer.

Mr. Chong Leung : I thought that if I could dispose of it once and for all, it would be better.

Mr. Speaker : All the arguments of the Opposition have not been canvassed.

Mr. Chong Leung : I accept your ruling.

Question put and agreed to.

Bill read a second time and committed.

THE LABOUR (AMENDMENT) BILL (No. XX of 1980)

(10.42 p.m.)

The Minister of Labour and Industrial Relations (Mr. R. Peeroo) : Sir, I beg to move that the Labour (Amendment) Bill be read a second time.

Sir, in 1965, the Termination of Contracts of Service Ordinance, which was afterwards incorporated in the Labour Act 1975, was amended to allow an employer to deduct from severance allowance payable to a worker the share of contributions made by the employer to any pension scheme or provident fund set up for the benefit of a worker. Since 1978 when contributions started to be made to the National Pensions Scheme, deduction of the employer's share of contributions continued to be made.

Many employees became redundant recently, particularly in the construction industry, and to those who joined just before or any time after contributions started to be made to the National Pensions Fund, practically no severance allowance was paid because the employers' share of contributions exceeded the severance allowance payable in such cases.

The Government is aware that redundant employees may face some difficulties in securing another job and that it is essential that they get a lump sum payment to tide them over their temporary financial problems.

With this aim in view, the Government has decided that an employer's share of contributions to the National Pensions Fund will no longer be deductible from the severance allowance payable to a worker on termination of his employment. Instead, the worker will be assured payment of a severance allowance equivalent to one quarter of a month's pay for workers employed monthly, or eight days' pay for other categories of workers, for every year of continuous service with an employer.

The normal severance allowance rate of half a month or fifteen days' remuneration will continue to be paid for any period during which contributions have not been made to the National Pensions Fund. This normal rate will also be paid in full on that part of the salary of a worker on which contributions are not payable under the National Pensions Act 1976. At present, no contributions are paid on that part of the salary which is in excess of Rs. 1,200 a month.

Under the provisions of the Bill, a worker whose employment is terminated will therefore be entitled to his full severance allowance at the rate of half a month or fifteen days' pay for every year of service before he started contributing to the National Pensions Fund. The same rate of severance allowance will be payable on that part of the salary on which no contributions are made.

With regard to that part of the salary on which contributions are paid to the Fund, the worker will nevertheless be guaranteed a severance pay of a quarter month's salary or eight days' pay wages for every year of service.

There will be no change regarding contributions made to a private Occupational Scheme or Provident Fund or in cases of retirement.

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Mr. Venkatasamy : In clause 3 (a)

" Any person may appeal to the Minister "

Subsection (b) :

" The Minister's decision on hearing the appeal "

but there is no mention about the decision on the appeal itself. There is a decision on hearing the appeal, but what about the decision of the Minister on the appeal itself ?

Sir Veerasamy Ringadoo : I think, to make it better English it is being suggested that I should delete the word ' on ' and replace it by ' after '.

Clause 3, *as amended, ordered to stand part of the Bill.*

The title and enacting clause were agreed to.

The Bill was agreed to.

The following Bills were considered and agreed to :

(1) The Intermediate and District Courts (Criminal Jurisdiction) (Amendment) Bill (No. XVI of 1980).

(2) The Courts (Amendment) Bill (No. XVIII of 1980).

(1.20 a.m.)

THE INTERPRETATION AND GENERAL CLAUSES (AMENDMENT) BILL (No. XIX of 1980)

Clauses 1 *and* 2 *ordered to stand part of the Bill.*

Clause 3 (*Section* 2 *of the Principal Act amended*)

Motion made and question proposed : " that the clause stand part of the Bill ".

Mr. Jugnauth : Sir, I move for the following amendment in clause 3 : that the word ' Tromelin ' " be deleted and replaced by the words " ' Tromelin ' and Chagos Archipelago ' ".

Mr. Doongoor : Sir, I also want to move an amendment to add to what the hon. Leader of the Opposition said : that " Seychelles " also should be included in this. (*Laughter*)

Mr. Jugnauth : When we have an amendment, Sir, my hon. Friend wants to move another amendment; it will come in time.

The Chairman : May I point out to Hon. Doongoor that Seychelles is an independent country, we cannot have this amendment ?

Mr. Chong Leung : On a point of order, Sir, when the hon. Parliamentary Secretary, Ministry of Power, Fuel & Energy proposed an amendment to include Seychelles, some Members have laughed. I do not think that this is a laughing matter.

Mr. Jugnauth : Sir, I am on my feet, I have moved an amendment and I have not finished.

The Chairman : If the hon. Member has not finished, he may continue.

Mr. Jugnauth : Sir, I will explain why I am moving this amendment; we all know that the Chagos Archipelago forms part of the territory of Mauritius;

that, before independence was granted to this country, this part of our Mauritian territory had been excised by the British Government unilaterally. I say " unilaterally ", because, as I said a moment ago, when we were having the second reading of this Bill, those who represented Mauritius then, were not representatives of a sovereign country. We were still a colony and, as we know, the British Government, before it gave independence to this country, had no right whatsoever to dismember the territory that belonged to Mauritius; for this reason, we maintain that we have all rights on the Chagos Archipelago, specially when we know, it has been said in this House and outside by the Rt. Hon. Prime Minister that, as a matter of fact, only certain rights were granted to the Britishers over these islands. Even at one time a period was mentioned, and we were told that we had reserved all our rights all round the island, over the islands; all the minerals that would be found, we were even told, could be exploited by Mauritius. The more so, we have been told that there is no written agreement whatsoever between this country and Great Britain. So far as we are aware, Sir, there is but an Order in Council which has created the British Indian Ocean Territory. Some people are speaking of Seychelles, but we know that there are some islands belonging to Seychelles, which were also excised in the same manner, but which Seychelles has recuperated and which have been given back to the State of Seychelles. Therefore, as I have said before, so far as the Opposition is concerned, we have made our position very, very clear, *vis-à-vis* the British Government and, in fact, I discussed this matter with Mr. Luce. For this reason, we are coming forward with this amendment. We know, on different occasions, there had been statements made by the Members on the other side. There have been even campaigns made on the question of Diego Garcia, outside and for all intents and purposes, we have even been told, in the past, by the Prime Minister : " What do you expect me to do ? Take a boat or to take guns and go and take Tromelin and Chagos and whatever it is ? " Therefore what we are saying is that, for whatever it is worth, I think we will be asserting our rights by doing what I am suggesting : adding, to the definition of Mauritian territory the Chagos Archipelago. Because, if we, to night, reject this, I think the whole nation realises that, in so far as the recuperation of these islands in future is concerned, how difficult we are going to make our own position in the international forum and *vis-à-vis* Great Britain and the United States.

Therefore I strongly appeal to all the Members on the other side. This is not a partisan question: this is something very serious and very important, something which has to do with the sovereignty and the territory of our country. We will appeal to them to take it as seriously as possible; this vote that we will be taking tonight will be of very great importance for this country, and I hope that my Friends on the other side do realise the importance of this matter.

Mr. Bhayat : Sir, it is very sad that in this House, at this very late hour, we are taking such a serious matter so lightly. This is not a laughing matter and I hope Members will listen carefully to what we are saying because, this very week in the Lok Sabha — and the Prime Minister will be glad to hear this — this very week in the Parliament in New Delhi, a Parliamentary Question has been put by a Member of the Assembly as to what stand has Mauritius taken regarding

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the return of Diego Garcia ? And in the Lok Sabha, Mr. Chairman, we do not hear wishy-washy answers, like " As far as I know, I do not know ". A very serious answer will, I am sure, be given there.

(*Interruption*)

By the Indian Government, of course we have to say, from information that they will receive. I do not know where they will get the information but they will give information and Ministers there will come to know about it. If they do not come to know about it, I will communicate the reply of the Minister concerned. I am sure that the reply will make Mauritius the laughing stock of the whole of India and of the whole of this region ! This is why I have said this is a very serious matter and we ought not to take it so lightly.

Having said this, Mr. Chairman, we have seen hon. Doongoor coming and saying that he will propose an amendment to include Seychelles in the territory of Mauritius. This is so laughable that I do not want to spend any time on this, except to say that Seychelles is so much so a sovereign country, and was so much so a soveriegn country in 1965 — there was an attempt to excise the islands belonging to it, in 1965, at the same time as the Chagos Archipelago was excised. There were the islands of Farquhar, Aldabra and two other islands — through the efforts of the Government of Seychelles which many Members of Government do not seem to like, through their intervention in international forum, these four islands have been returned to them. There is no question of sovereignty of the British Indian Ocean Territory. There is only one document purporting to create the British Indian Ocean Territory and it is fhe Order in Council published in England on the 8th November, 1965 and reproduced under the signature of the Colonial Secretary, Mr. Tom Vickers, on the 30th of November 1965. It is only reproduced here for general information, and in fact it says so, " for general information, this is the Order in Council that has been passed in Westminster ". But, we, in this country, we have never accepted this. We have always challenged this on the ground that, as a country which was on the verge of becoming independent, there is a very clear United Nations resolution that the Colonial power has no right to excise any part of a Colony before granting independence ! This has been said, this is being repeated again today, by the Leader of the Opposition; and when we say it, we do not say it in the air. Britain knows about it, England knows about it and the United States know about it ! If they did not know about it, they would not have sent Mr. Sheridan to Mauritius ! Everybody knows what happened ! When Mr. Sheridan came to Mauritius last year, sent by the British Government and received by the Prime Minister officially, in his *campement*, given an official car, given a Police escort, given an interpreter, officially here, sent by the British Government ! For what purpose ?

The Prime Minister : To help the people.

(1.35 a.m.)

Mr. Bhayat : To help the people ! To come and do what we called an act of treason ! To ask Mauritians to renounce their right to return to their country ! This, to me, is an act of treason ! Mr. Sheridan, when he came here, he committed an act of treason !

Mr. Sheridan, when he came here, he committed an act of treason ! Anybody who helped him, was not helping the people; he was helping Sheridan to commit an act of treason, to induce Mauritians to commit an act of treason, to renounce their sacred right, to renounce their right recognised internationally, to have their land, to belong to their land, and to own their land, and to be sovereign on their land ! If the BIOT was sovereign, as some Ministers are trying to say, why did they send Mr. Sheridan ? Why did the Prime Minister have to give help to Mr. Sheridan, to get him to get these poor people to sign these papers, to renounce ? And they have not renounced! The Prime Minister has not answered to several PQs which were put to him; he played the ignorant, the person who did not know anything, as usual, when he wants to hide things to the House ! But today, here, we, the Opposition, we want not only the Members of this House, not only the people of this country, but the world at large, more particularly all the people of this region; India, Pakistan, Australia, Madagascar, Seychelles, Comores, Tanzania, all the people in this area to know that we are laying claim to what is by right ours ! We are not going to give it up and we are proposing that, within the State of Mauritius, we should say that Mr. Sheridan has failed ! Whoever sent him here has failed, and whoever wanted to help him to renouce our right has failed ! So far we still recognise the Chagos Archipelago as still belonging to us and we want this to go on record in this Bill here ! Thank you, Sir.

Mr. Servansingh : I think after my Friend, Kader Bhayat, has spoken, I must also express my deception at the fact that when this matter has been taken up in this House, some people have found it right to make jokes about this. I think this is a very important matter, and I know that all of us here realise how important it is.

Mr. Speaker, the only point I would like to make is that this question of the Chagos Archipelago is a very delicate matter. For we all know, international political reasons, for reasons of the super powers, for reasons which are much beyond our control as our country is isolated in the Indian Ocean. But what I would like to say this morning is that what we have to do in Parliament, while we add the Chagos Archipelago in the definition of our national territory, is to affirm the right of Mauritius to this country, and I would go as far as to say, that I believe the Government which is in power at any time in this country, has the right, is perfectly free, to have a policy, as far as the Indian Ocean is concerned. A Government which is in power, democratically elected, has the right to define a policy which it wants towards the Indian Ocean. Just as we have seen the Government of Australia once, when the Labour Government was in power, taking the position that the Indian Ocean should be a zone of peace. And when a Labour Government succeeded this Government, they changed their position. So I would go as far as to say that I believe a Government, which is in power in Mauritius, has the right to choose its policy towards the Indian Ocean. But I only ask in the name of all Mauritians, I ask in the name of the youth of Mauritius, I ask in the name of generations to come, that we should give that generation which is coming, that we should give the next Government that is coming, a chance to claim its right over what is our territory, a chance to define another policy which might not be the same policy as this one. This is the only claim that we want to make when we say that we should include

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in the definition of the national territory, the Chagos Archipelago, Mr. Chairman. I know the line that will be taken is that it is understood, by the general definition that we already have, that the Chagos Archipelago forms part of our national territory. But we know that this is a matter of controversy, that tomorrow another Government might have to go to the International Court to fight this matter, to fight this case, and this is why we insist that this be included formally in the definition of the national territory. As I said, in respect for democracy, in respect for the next Government we will choose, in respect for the choice of future generations, I think we cannot fail, whether we are on this side of the House, or whether we are on the other side of the House, to add this archipelago to our definition of the national territory. Mr. Chairman, I have made my point. Thank you very much.

The Minister of Economic Planning and Development (Mr. R. Ghurburrun) : Mr. Chairman, years ago, I was the first person to have raised my voice, when I was the High Commissioner of Mauritius in New Delhi, that Mauritius should take this issue to the Hague, and I thought Mauritius had got a right to this land, and if we took the matter to the Hague, we were sure to win it. From that time to this day, I have not changed my mind. There is no doubt that, when the islands were excised, it was done through an undue influence. England was a metropolis, we were a Colony. Even all our leaders who were there, even if they consented to it, their consent was viciated, because of the relationship. The major issue was to gain independence, and therefore the consent was viciated, there was no consent at all. There is no doubt that everyone here would like this country to come back to the State of Mauritius; but there is unfortunately — and now I am appealing to the lawyers to see the legal issue about it — it is, as yet we have a claim one day I am sure we are going to get back this country. But at the moment, it is still with Great Britain. Today we have a very valid claim; unless we would have vindicated that claim, it won't be serving any purpose, if we were merely to add it.

(*Interruption*)

What we want to add here is what we own, Tromelin, which has never been excised; this is why we are putting it there. But this has been excised. I don't think it would, in the long run, do any good. The point I wanted to make, not only for record here, but for those outside also, is : even if it is not included here in this Act today, let it be known to everyone that it won't cause any prejudice to a claim we may have ! It is not by a tacit acceptance that we are giving it up. Our claim is there and one day, I very much hope and I can join any number of Members when the time comes; I am prepared to go and fight this case at the Hague when the time comes ! But then, we have to have the sanction of Government. We can't go and fight a case in the Court, unless you get the sanction of the Government. But so long as this is not done, I think it would be a bit futile for us to add this.

I would ask the Opposition, which has got very able lawyers there, to consider that very calmly. I have been giving some thought to this matter; because if I was satisfied that this was going to prejudice our case in the long run, I would have voted for this; but I don't want to take any step that is going to prejudice our claim in the future. That is why I am making my point, that if we don't include

it today, it should not be constructed as a tacit acceptance; because, I very much hope, the time is not very far away when we shall go and claim this. I am confident that we shall claim this land and this land will come back to us. Thank you, Sir.

M. Bizlall : M. le président, je me suis mis debout pour empêcher le secrétaire parlementaire de faire une gaffe au niveau du parlement. Je lui demanderai, bien humblement, de ne pas insulter la République des Seychelles en venant proposer que les Seychelles soient attachés au territoire de l'île Maurice. Il s'est mis debout, j'ai cru un instant qu'il allait venir avec cette motion.

Je voudrais attirer l'attention du ministre du plan en particulier, qui a parlé sur le *Chagos Archipelago*, en ce qui concerne son inclusion avec Tromelin et Agalega, comme territoires de l'île Maurice. M. le président, faudra-t-il se rappeler que la France a déclaré que Tromelin lui appartient, que la France a des soldats à Tromelin, que la France a fait des développements économiques à Tromelin ? Pour la France, Tromelin n'est pas un territoire mauricien, c'est un territoire fraçais. Mais cela n'a pas empêché le Gouvernement mauricien d'inclure, avec Agalega, Tromelin comme étant partie de notre territoire. Moi je crois que la même politique adoptée par ce Gouvernement en ce qui concerne Tromelin, devrait être étendu en ce qui concerne le *Chagos Archipelago*. Demain ce sera une loi — est-ce que le Gouvernement va prétendre que la semaine prochaine il pourra mettre le pied à l'île Tromelin et revendiquer ses droits là-bas ? Le Gouvernement est en train de rêver, si le Gouvernement pense qu'il pourra récupérer Tromelin en l'incluant dans le territoire mauricien ! Mais le Gouvernement a jugé, quant même, utile de le faire, bien que la France a exigé des droits sur Tromelin et se trouve en opposition directe avec le Gouvernement mauricien. Je vois mal comment le Gouvernement mauricien peut inclure Tromelin, et ne pas inclure l'archipel des Chagos !

(1.50 a.m.)

Mr. Doongoor : I want to remind the House — and you must remember also Mr. Chairman, you formed part of the delegation which left in 1977 for the United Nations — that at the last session of our work at the State Department, there were eleven countries represented. I voiced my opinion there concerning Diego Garcia. I stated that the occupation by the United States, of Diego Garcia, is a threat to peace in the Indian Ocean, and that it was the wish of the people and of the Government of Mauritius to recuperate that part of the territory of Mauritius, which is Diego Garcia. I did not stop there, Mr. Chairman. Recently I attended the conference held in Zambia where were present the President of the Labour Party, the Second Member for Belle Rose and Quatre Bornes, and my Friend, Mr. Fokeer. They both witnessed my stand at the conference, and heard what I said: that the occupation of Diego Garcia by the United States was resented by the Mauritian public. We don't feel, Mr. Speaker, that we are in complete security. What has been the history around the excision of Diego Garcia ? What I would like to see, and the public would like to see, is a copy of the agreement between the Mauritian Government, the British Government, and the United Nations, laid on the Table of the Legislative Assembly, so that more light be thrown on this issue. Mr. Chairman, when I mentioned that Seychelles

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also should be included in our territory, I must go far back to 1956, when I was still a student of Standard VI, when I was studying geography. I was thirteen at that time, Mr. Chairman. And through the study of geography I learnt that the dependencies of Mauritius were the Seychelles, Rodrigues — that both Mauritius and the Seychelles formed part of the territory of Mauritius, as also Diego Garcia. When I said that Seychelles should also be included in this, I did it with the intention of throwing more light on the matter, and informing Members when, how and in what circumstances Seychelles has been excised from the territory of Mauritius. Sir, not all the Members are against the retrocession of Diego Garcia. I myself, when I was in presence of this Bill, Sir, I was astounded to see...

The Chairman : I am sorry to interrupt the hon. Member, but I want to put something on record. I am given to understand that the Reporters of the Assembly have been working since 10.00 this morning. They want to help and they are extremely tired. So I am making an appeal that we should make the speeches as short as possible, to keep to the point, in order to help, so that the Reporters who are really doing a very big effort tonight, who have been put to really hard work since the beginning of this week, can cope with the work. They want to help but they ask for our collaboration. Mr. Speaker has asked me to pass on to you that piece of information. So, I make a special appeal to all Members to go straight to the point and to be short.

Mr. Doongoor : I wish also to remind hon. Members that when I recently went on a CAP Conference in Zambia, I appealed that this issue should be taken up at the Court of The Hague.

Mr. Chairman, we are not against the retrocession of Diego Garcia. We want Diego Garcia to be part and parcel of the territory of Mauritius. But we are given to understand that, after forty to fifty years, Diego Garcia will be given back to Mauritius. So, I mentioned that Seychelles also should be included, just to throw more light on it — how another dependency of Mauritius was excised.

Mr. Boodhoo : Mr. Chairman, we fully agree with the request of the Leader of the Opposition and I believe that this request will give a golden opportunity to Government to cast aside any doubt which has crept into the minds of the public.

Mr. Bérenger : Mr. Chairman, I'll try to be as short as possible. Je considère qu'il est extrêmement triste, M. le président, que,le débat, comme l'a dit mon collègue Kader Bhayat, ait demarré, comme il l'a fait avec un *front bench* le Premier ministre, le ministre des finances le ministre des affaires étrangères — encourageant un membre qui proposait ce qui, en fait, constitue une insulte à la Republique des Seychelles. Il est heureux, que, peu après, le débat soit redevenu ce qu'il doit être, c'est-à-dire, un débat aussi fondamental, aussi important que n'importe quel débat à cette Chambre peut l'être pour le pays. Il ne peut pas y avoir une question de Parti. Nous parlons de notre pays. Je suis d'accord avec ce que mon collègue...

Sir Harold Walter : Mr. Chairman, on a point of order. Section 51(1) of our Standing Orders reads thus :

> "Mr. Speaker, or the person presiding, shall be responsible for the observance of the rules of order in the Assembly or in any Committee thereof and his decision upon any point of order shall not be open to appeal and shall not be reviewed except upon a substantive motion made in the Assembly after notice".

The Chairman : In point of fact...

Sir Harold Walter : Wait a minute, Mr. Chairman. You ruled...

The Chairman : Please ! I have the Chair. I have the responsibility of order in this House ! Don't shout me down, please !

Sir Harold Walter : I did not shout.

The Chairman : Please ! Now, I have over-ruled the question of Seychelles. It has been shelved. The Member just alluded to it.

Sir Harold Walter : That is not the point.

The Chairman : He has not asked me to reopen the question. He has not appealed against my decision. He has simply said that it was, according to him, an insult to a sovereign country. But that is *en passant*. He is coming to the gist of the case. But I don't think the hon. Member is doing anything against the Standing Orders.

Sir Harold Walter : Mr. Chairman, if you will allow me to finish. Your ruling was based on the fact that Seychelles, being a sovereign country, and we having no sovereignty over it, the question cannot be debated. I want the same principle to be applied regarding the amendment which has been brought to this Bill. This is British Overseas Territory, excised, Mr. Chairman, by Order...

The Chairman : I am on my feet, Mr. Minister. This is why I expected you, as Minister, a long time ago to give some information to the House that it was some territory that formed part exclusively of some other territory. I was waiting for you. You did not do it. I can't help it if the Member now has the floor and speaks about it.

Sir Harold Walter : Therefore, on a point of order, your ruling is that it does not apply, Mr. Chairman ?

The Chairman : You are coming too late !

Sir Harold Walter : There are degrees in lateness.

Mr. Bérenger : I'll have to start again because he messed the whole thing, and I am very sorry for these ladies upstairs. Je répète...

Sir Harold Walter : Sir, I wish to state, on a point of order...

Mr. Bérenger : I am not giving way. I am also up on a point of order !

The Chairman : The hon. Member has the floor, if he does not want to give the Minister the floor, the Minister will have to wait until he has finished, then he will put to me his point of order. Then I shall be able to listen to the Minister. But, for the moment, he has the floor !

M. Bérenger : Je disais, M. le président, qu'il est triste que le débat ait démarré par une insulte, appuyée par le *front bench* d'en face, Riant, ricannant, alors que nous parlons du cœur même de notre pays, alors que nous parlons d'une republique indépendante qui est à deux pas de nous, M. le président !

Sir Veerasamy Ringadoo : I thought we had dealt with that.

M. Bérenger : Je le répèterai tant que j'aurais envie !

Sir Veerasamy Ringadoo : On a point of order, there is a Standing Order which says that unnecessary repetition is out of order.

Mr. Bérenger : Well, there is another Standing Order which says that interruptions like that are wasting the time of the House.

Sir Veerasamy Ringadoo : I was on a point of order, and I want the ruling of the Chair about it. Because I can't accept...

The Chairman : The Minister's point of order is absolutely receivable. I ask the Member to get to the gist of the matter now.

(2.05 a.m.)

Mr. Bérenger : If I am not stopped, I will do it. But I am stopped now and then by the front bench for no reason ! So, I carry on, as usual.

Comme je le disais, M. le président, je suis d'accord avec le député, mon camarade Servansingh, qui a proposé que, pour aujourd'hui, on sépare deux choses — la question de la politique du Gouvernement vis-à-vis de la militarisation de l'océan indien, vis-à-vis de la militarisation de Diego Garcia ou non. Qu'on sépare cela aujourd'hui de la question de la souveraineté de l'Ile Maurice sur ces îles, sur cet archipel.

J'irai loin. Je dirai qu'au nom du pays, ne retournons pas sur ce qui s'est passé en 1965 ! Qui a fait quoi, laissons cela de côté ! Au nom du pays, encore une fois ! *En passant*, je rappelle, M. le président, j'ai écouté le ministre du développement dire qu'il fut parmi les premiers, alors qu'il était à New Delhi, à soulever la question ! Non, il ne pourra pas me prouver, je suppose, qu'il a soulevé la question parceque nos dossiers sont complets pour la période avant 1974 ! Or, l'Inde, M. le président — le *Order in Council* est fait le 8 novembre 1965 — dont M. Dinesh Singh est le *Deputy Minister of State for External Affairs* d'alors — le 18 novembre 1965, c'est-à-dire moins de deux jours après l'Order in Council—a élevé la voix disant que l'Angleterre n'a pas le droit de le faire ! Que c'est contre les résolutions des Nations Unies ! Et il prend la part d'un pays qui n'est même pas indépendant ! Je crois qu'il est important de le souligner, sans vouloir revenir, en ce qui nous concerne, sur ce qui s'est passé en vérité en 1965.

M. le président, j'ai écouté le ministre du développement nous dire que, si nous n'incluons pas, dans la définition de notre territoire de l'Etat mauricien, l'archipel des Chagos, " *it will not be a tacit acceptance* ". *It will be worse than a tacit acceptance that this has been done once and for all !* M. le président, j'aimerais vous rappeler, le député Finlay Salesse dans une question B/510 de 1977 ou 1978 — je crois que c'est 1978 — demande au Premier ministre *whether he will state the list of all territories which constitute the State of Mauritius ?* Le Premier ministre répond :

> " Sir, the following islands form part of the State of Mauritius : Mauritius and the surrounding islands, such as, Round and Flat islands, Rodrigues, Agalega, Tromelin and Cargados Carajos Archipelago ".

C'est-à-dire, St. Brandon. Excluant Chagos — et ça c'est un précédent extrêmement grave, que des Français, comme Me Oraison, se permettent de nous faire la leçon, à nous, patriotes mauriciens; ça c'est déjà un précédent grave; ça peut être utilisé déjà contre nous, nonobstant

ce que nous allons faire aujourd'hui ! Ça, c'est déjà un précédent grave, M. le président ! Heureusement — et personne ne le dit aujourd'hui — le ministre des pêcheries m'écoute — qu'il y a d'autres faits que nous pouvons mettre devant cette Chambre et devant la communauté internationale pour nous défendre ! Il y a à peine quelques mois, cette année même — que dis-je ? quelques mois — quelques semaines — nous avons voté un *Fisheries Bill*, qui a été proclamé, qui est devenu un *Fisheries Act !* Dans ce *Fisheries Act*, il est donné des pouvoirs au *Principal Assistant Secretary* du ministère des pêcheries de décider combien de *nets* pourront être distribués in *the Chagos Archipelago !* Comment reconcilier ces deux choses ? Nous avons applaudi le ministre, de ce côté de la Chambre: les Chagos forment partie de l'Etat mauricien ! Ou est la logique dans tout cela ?

The Prime Minister : Fishing rights !

Mr. Bérenger : Fishing rights ! Je continue, M. le président, j'en viens à 1974 — *Hansard* du 26 juin 1974 — le Premier ministre répond :

> ' Mauritius has reserved its mineral rights, fishing rights and landing rights and certain other things that go to complete, in other words, some of the sovereignty which obtained before, on that island '.

Je suis d'accord que c'est confus ! Mais quand même, c'est quelquechose que nous pouvons utiliser, sur quoi vient se greffer le *Fisheries Bill* et la déclaration qui a été faite .Il y a d'autres déclarations qui ont été faites. Il y a cette déclaration du Premier ministre à cette question B/634 de 1978, de mon collègue Amédée Darga lui demandant

> ' whether he will say if the British Government has recognised the jurisdiction of Mauritius over the waters surrounding Diego Garcia '.

Le Premier ministre répond :

> ' The British Government has, since July 1971, recognised the jurisdiction of Mauritius over the waters surrounding Diego Garcia '.

Nous ne comprenons pas la réaction du Gouvernement ! Je dis que — après le précédent contenu dans la réponse parlementaire B/510 — nous considérons que ce serait un véritable acte de trahison que de voter, aujourd'hui, un texte de loi incluant Tromelin et excluant spécifiquement l'archipel des Chagos ! Ce serait un véritable acte de haute trahison ! Ce n'est pas une question de politique de parti ; il est question de territoire national, de richesse nationale ! Parceque, un jour, l'île Maurice exploitera — je ne parle pas du côté militaire de la chose — mais en terme de ressources agricoles, en termes de poissons, en termes de mineraies au fond de la mer. M. le président je crois que nous n'avons pas le droit de commettre cet acte de trahison ! Je pourrais aller plus loin ! Je pourrais citer le ministre des finances faisant campagne. Quand ? Pas des mois de cela ! En février, Sir Veerasamy Ringadoo promet une campagne internationale pour obtenir le retour de l'île à Maurice — on parle de Diégo Garcia: ' Nous sommes dans une position de force pour réclamer le retour de l'île à Maurice ", a dit Sir Veerasamy. C'est pourquoi nous avons le droit de dire et aux Anglais et aux Américains qu'ils devraient ficher le camp de Diégo Garcia. Là, n'est pas la question, pour le moment ! Pour le moment, nous demandons seulement qu'un acte de trahison ne soit pas commis vis-à-vis de la nation, vis-à-vis de la patrie mauricienne et que cet amendement soit accepté *without further discussions !* Hier, apparemment, — qu'on me démente si je me trompe — un nombre de députés et de ministres travaillistes ont signé une petition qu'ils ont remis au Premier

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ministre. Enfin, il faut être logique avec soi-même ! Comment peut-on signer une pétition hier, et aujourd'hui ne pas prendre position ? Il ne faut pas en faire une question de parti; nous aurions souhaité que le Premier ministre vienne lui-même avec l'amendement; nous aurions souhaité que lui-même propose que l'archipel des Chagos soit inclus dans l'Etat mauricien ! Ceci dit, M. le président, nous avons voulu ramener les débats au-dessus des partis. Je repète que ce ce que le ministre du plan et de développement économique a dit n'est pas correct. Ce serait pire qu'un *tacit agreement* si nous votions aujourd'hui ! Ce serait pire que de ne pas avoir inclus les Tromelin ! Inclure les Tromelin, en excluant les Chagos, serait pire que n'importe quoi ! C'est pourquoi nous demandons au Gouvernement — sur cette question, au moins, puisqu'il y va du sort du pays, du territoire mauricien, du territoire national — de ne pas en faire une question de parti, de prendre l'amendement — c'est un amendement qui n'appartient pas au MMM, c'est un amendement qui appartient au pays ! Nous le mettons devant tous les partis qui sont à cette Chambre et nous proposons que ce soit le Premier ministre, lui-même, qui, au nom de l'île Maurice, propose l'amendement, M. le président !

Sir Harold Walter : Sir, I know that it is late; we are in the early hours of the morning, after a hard day's work and our nerves are at the end of their tether. Therefore, we get excited; we use invectives and we allow steam to be let off after several defeats. I am prepared to concede that on a psychological platform. But, Mr. Chairman, we are dealing here with a very important question which goes to the root of the interpretation of the law regarding the definition of the State and the law governing such definition. I know that, to go to the philosophy of it, would go a long time. So, I will come back to it in a minute. But, before I do that, I would like to place on record that it is the second time in this House that the Prime Minister is taken to task in a personal manner !

The hon. Member, Mr. Bhayat, has considered it fit to tell the Prime Minister that, by acting in the way he acted, in the interests of the *Ilois*, he had committed an act of treason ! I know that my Prime Minister, in the Sheik Hossen affair, has been called a murderer ! He has been called somebody who has set fire to a dwelling-house, who has treated the Police with all the names possible ! Thank God, *il y a encore des juges à Berlin !* They *vindicated* the head of the SSS ! Unfortunately, said under the parliamentary immunity, the Prime Minister could not do any thing about it ! It is sad that to-day this voice has been re-echoed by somebody who sits on the front bench of the MMM, treating the Prime Minister of traitor ! A man who has brought independence to this country ! Who has given forty-two years of his life to the service of this country ! Who has given an uplift to everybody here for the respect of their dignity ! Who has given free education ! Who has made them what they are to-day ! Is that the man whom you call a traitor. When he was only acting in good faith, when he was acting in the interests of the Ilois ? What has happened to-day, Mr. Chairman ? Is it not the same Sheridan who has been requested to defend the interests of the *Ilois ?* So, where did the Prime Minister go wrong, Mr. Chairman ? Now, you cannot have your cake and eat it ! You cannot come and ask for compensation and say that 'I renounce all my rights to go there'

and, in the same breath, you come here and add to a Bill a territory over which you have no sovereignty ! We have been questioned, Mr. Speaker ! Why Tromelin is added ? Tromelin has never been excised, Mr. Chairman ! As early as 1956, this Government let Tromelin on lease to Mr. Britter. In 1956, when the French wanted to operate a meteorological station there, they asked for permission from this Government and they were granted it. For historical and juridical reasons, we are standing on firm ground ! But, Mr. Speaker, we do not believe *dans les mirages de la pensée idéologique de certains !* We only believe in dialogue ! Tromelin is on the good way ! Tromelin has been discussed at the highest possible level. The Prime Minister and the President of France ! Am I to disclose here the contents of that conversation when the results are not final yet ? You wait and see !

Now, Mr. Chairman, Diego Garcia : the statements of the Prime Minister have been quoted here, as if the Prime Minister has been saying a lie ! What the Prime Minister has been saying all along is that 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 ! To-day everybody wants to jump on that bandwagon ! Many of those sitting opposite where were they when independence was being fought ? Who were those who wanted independence ? To-day, independence is a nice basket of fruit and everybody wants his share out of it ! Mr. Speaker, when the excision took place, it became the British Overseas Territory and it is mentioned as such ! When the discussions took place, it was made clear that the mineral rights, the fishing rights were preserved even employment of Mauritians on Diego Garcia was promised but, unfortunately, the British who discussed with us, never told us that they were going to have a military base there ! What they told us was that they wanted a station for weather purposes.

They wanted a station for fuelling, for their transport and their fleet, that is all. A communications base; the British told us that. As to how the British leased it to the Americans, that's another matter. I am not going to enter into the merits and demerits of the presence of this base there, because it goes to the security of the area. So what is wrong in the answers given by the Prime Minister on Diego Garcia ? Is that an act of treason ? Now, it was by consent that it was excised. Even that has been mentioned to Mr. Luce when he was here only two or three weeks ago. We mentioned it at the Lusaka Conference to Lord Carrington in the presence of Mrs. Thatcher, we said : "When do you think we can get back Diego Garcia ?" "Oh, you know it is on a lease, but we bear it in mind, we bear it in mind". Is that type of action, going to be conducive to a dialogue leading to the restitution of Diego when the time comes ? There is no motive behind us ! There is no hurry for us to get it back. We don't want to see another one coming to put himself there and say : "We want peace, but I enter Afghanistan with 80,000 soldiers" ! Super powers again ! I don't want to change one for the other. I don't want to be involved in it. We know why all these words are said; the louder they are said, the more beneficial they will be, we understand that. We are not going

to play that game, Mr. Chairman. You ruled, Sir, that Seychelles was an independent country and, therefore, we had no sovereignty over it and therefore it could not be entertained. If this principle is acceptable, Mr. Chairman, then for the British Overseas Territory excised from Mauritius, your ruling must hold the same and must carry the same weight. I go further, Mr. Chairman: those who believe in the OAU — though they refuse to pair with me because I will go and vote against their policy, probably I would have been more useful here—will be interested to know that the wise men who founded the OAU when the three groups merged in Cairo, laid down a principle in the OAU Charter: that the frontiers inherited at the time of independence will not be disputed; and had there been such respect, Mr. Speaker, today we would not have seen the tearing away of Africa, we would not have seen blood all over Africa, we would not have seen this period of strike through which it is going. On these two principles, Mr. Chairman, I move that the question cannot be entertained.

The Chairman : Will the Minister of External Affairs say to this House whether the British, what you call it, the British Indian Ocean Territory forms part of the sovereign totally independent country or not ?

Sir Harold Walter : It forms part of Great Britain and its overseas territories, just as France has *les Dom Tom*; it is part of British territory there is no getting away from it; this is a fact, and a fact that cannot be denied; no amount of red paint can make it blue ! It is not receivable, Mr. Speaker, in this light, there is no point of order.

(*Interruption*)

There is no point of order, Mr. Speaker, any decision of the Speaker thereon shall not be opened to appeal.

(*Interruption*)

The Chairman : I know, I know and I am going to take my responsibility. I have ruled that the Seychelles being a sovereign country, the question of the Third Member for Rose Belle and Grand Port cannot be entertained. In the same way I regret that as the BIOT forms part of Britain and is, therefore, an independent and sovereign State, this amendment is declared not receivable by me.

M. Bizlall : Quand vous aviez rejeté la motion que Seychelles soit inclus du territoire mauricien, il existait des preuves, que Seychelles, effectivement, se trouve être un territoire indépendant; quand le ministre des affaires étrangères vient, par rapport à partir d'une motion, demander à ce que votre décision sur Seychelles soit étendue, en ce qui concerne les Chagos, la question que je me pose, M. le Président est : puisqu'il est prouvé qu'avant 1965 les Chagos formaient partie du territoire mauricien, il faudrait que le ministre des affaires étrangères prouve que cet archipel n'est plus à l'Ile Maurice et appartient à l'Angleterre ! Est-ce-que le Gouvernement peut, par un document, prouver ce que le ministre a avancé ?

Sir Harold Walter : Je réponds à cette question. L'hon. député a cité le ministre des affaires étrangères. Je réfère l'hon. membre à l'autorité qu'un propre député de son parti a cité: the Order in Council where Diego Garcia has been excised and forms part of British Overseas Territory.

The Chairman : This cannot be discussed. This is my ruling. I stand by it, whether it is right or not.

(At this stage, the Members of the Opposition left the Chamber)

Clause 3 ordered to stand part of the Bill.

Clauses 4 to 9 ordered to stand part of the Bill.

The title and the enacting clause were agreed to.

The Bill was agreed to.

The Labour (Amendment) Bill (No. XX of 1980) was considered and agreed to.

THE NATIONAL PENSIONS (AMENDMENT) BILL (No. XIV of 1980)

Clauses 1 and 2 ordered to stand part of the Bill.

Clause 3 — Section 20 of the principal Act amended.

Motion made and question proposed : "that the clause stand part of the Bill".

Mr. Purryag : Sir, there is an amendment — I move that the words "the prescribed amount" be deleted and replaced by the words "the amount specified in the Second Schedule".

Amendment agreed to.

Clause 3, as amended, ordered to stand part of the Bill.

Clauses 4 to 9 ordered to stand part of the Bill.

First Schedule ordered to stand part of the Bill.

On Second Schedule

Mr. Purryag : Sir, I move that, in regard to Section 45A(3), the following paragraph be added : " (c) in such cases as may be prescribed ".

Amendment agreed to.

Second Schedule, as amended, ordered to stand part of the Bill.

The title and the enacting clause were agreed to.

The Bill, as amended, was agreed to.

THE SUGAR INDUSTRY LABOUR WELFARE FUND (AMENDMENT BILL)

Clauses 1 to 3 ordered to stand part of the Bill.

Sir Harold Walter : Mr. Chairman, it is sad that the Members of the Opposition have left the Chamber in such a shameful way. Sir, it is very serious, what I am going to say : each time they suffer a defeat, they are in that state. Probably none of them ever box — so they never learn how to take blows and to give as many.

The Chairman : It is their right to behave as they wish.

The title and the enacting clause were agreed to.

The Bill was agreed to.

The Fire Services (Amendment) Bill (No. XV of 1980) was considered and agreed to.

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Resolution on Diego Garcia, AHG/Res.99 (XVII), adopted by OAU Summit, 1-4 July 1980, Freetown, Sierra Leone

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ORGANIZATION OF AFRICAN UNITY
Secretariat
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ORGANISATION DE L'UNITE AFRICAINE
Secretariat
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Addis Ababa

ASSEMBLY OF HEADS OF STATE AND GOVERNMENT
SEVENTEENTH ORDINARY SESSION
1 – 4 July 1980
Freetown, Sierra Leone

AHG/Res. 99 to 101 (XVII)

RESOLUTIONS ADOPTED BY THE SEVENTEENTH ORDINARY SESSION OF THE ASSEMBLY OF HEADS OF STATE AND GOVERNMENT

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AHG/Res. 99 (XVII)

RESOLUTION ON THE DIEGO GARCIA

The Assembly of Heads of State and Government of the Organization of African Unity meeting at its 17th Ordinary Session in Freetown, Sierra Leone from 1 to 4 July 1980,

Pursuant to article I, para 2, of the Charter of the Organization of African Unity, which stipulates "The Organization shall include the Continental African States, Madagascar and other islands surrounding Africa",

Considering that one of the fundamental principles of the Organization is the "respect for the sovereignty and territorial integrity of each state",

Aware of the fact that Diego Garcia has always been an integral part of Mauritius, a Member State of the OAU,

Recognizing that Diego Garcia was not ceded to Britain for military purposes,

Realizing the militarization of Diego Garcia is a threat to Africa, and to the Indian Ocean as a zone of peace,

DEMANDS that Diego Garcia be unconditionally returned to Mauritius and that its peaceful character be maintained.

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Hansard, House of Commons Debates, 11 July 1980, vol. 988
c314W

DIEGO GARCIA

HC Deb 11 July 1980 vol 988 c314W
314W

Mr. Newens asked the Prime Minister if she will make a statement on the talks she has had with the Prime Minister of Mauritius, and what references were made to the future of Diego Garcia during the course of these.

The Prime Minister I had a useful exchange of views on 7 July with the Prime Minister of Mauritius on political, economic and cultural matters. Diego Garcia was one of the subjects discussed. When the Mauritius Council of Ministers agreed in 1965 to the detachment of the Chagos Islands to form part of British Indian Ocean territory, it was announced that these would be available for the construction of defence facilities and that, in the event of the islands no longer being required for defence purposes, they should revert to Mauritius. This remains the policy of Her Majesty's Government.

ANNEX 95

Extracts from Annual Statements Made by Mauritius to the United Nations General Assembly (Chagos Archipelago)

ANNEX 95

REFERENCE TO THE CHAGOS ARCHIPELAGO IN ANNUAL STATEMENTS MADE BY MAURITIUS TO THE UNITED NATIONS GENERAL ASSEMBLY

1980 Statement by Sir Seewoosagur Ramgoolam, Prime Minister, at the 35th Session of the United Nations General Assembly (9 October)

Here it is necessary for me to emphasize that Mauritius, being in the middle of the Indian Ocean, has already – at the seventeenth ordinary session of the Assembly of Heads of State and Government of the Organization of African Unity [OAU], held at Freetown from 1 to 4 July this year – reaffirmed its claim to Diego Garcia and the Prime Minister of Great Britain in a parliamentary statement has made it known that the island will revert to Mauritius when it is no longer required for the global defence of the West. Our sovereignty having thus been accepted, we should go further than that, and disband the British Indian Ocean Territory and allow Mauritius to come into its natural heritage as before its independence. The United States should make arrangements directly with Mauritius for the continued use of the island for defence purposes. And then, there are the inhabitants of Diego Garcia who are domiciled in Mauritius and for whom better arrangements should be made. It must be the duty of both the United States and Great Britain to discuss with the Mauritius Government how best to give satisfaction to all concerned and at the same time provide better prospects for the islanders.

1982 Statement by Hon. Anerood Jugnauth, Prime Minister, at the 37th Session of the United Nations General Assembly (15 October)

At this juncture I should like to dwell on an issue which affects the vital interests of Mauritius; I mean the Mauritian claim of sovereignty over the Chagos Archipelago, which was excised by the then colonial Power from the territory of Mauritius in contravention of General Assembly resolutions 1514 (XV) and 2066 (XX). This dismemberment of Mauritian territory, the violation of our territorial integrity, has been made all the more unacceptable by the fact that one of the islands of that very Archipelago, Diego Garcia, is now a full-fledged nuclear base, which poses a constant threat to the security of Mauritius and to that of all the littoral and hinterland States of the Indian Ocean, the very Ocean declared to be a zone of peace by this Assembly in 1971.

I solemnly appeal to the peace-loving Members of the Organization to extend all their support to the legitimate Mauritian claim of sovereignty over the Chagos Archipelago. In helping Mauritius to regain its national heritage, the United Nations will be living up to its own principles and proclaiming loud and clear that it expects its resolutions to be implemented by its Members. As the Diego Garcia issue involves two fundamental principles of the United Nations, namely respect by the administering Power for the territorial integrity of its colony, and the right of peoples to live in peace and security, I venture to say that the return of the

archipelago to Mauritius will bring the Organization the respect that is so indispensable to its continued existence.

1983 Statement by Hon. Anerood Jugnauth, Prime Minister, at the 38th Session of the United Nations General Assembly (27 September)

I would like at this juncture to impress upon the Assembly the just and legitimate claim of my country over the Chagos Archipelago, which was excised from our national territory in contravention of General Assembly resolutions. I hope that in our endeavours to recover this part of our national territory by diplomatic and political means we shall continue to enjoy the unstinted support of all peace-loving countries.

1986 Statement by Sir Satcam Boolell QC, Minister of External Affairs and Emigration, at the 41st Session of the United Nations General Assembly (8 October)

In the same context of the objectives of the Declaration we note with satisfaction the renewed unanimous support of the non-aligned Member States as well as the backing of other members of the Assembly for our claim to sovereignty over the Chagos Archipelago, including Diego Garcia. The decolonization of Mauritius will not be complete and its territorial integrity restored until the Chagos Archipelago is returned to Mauritius. Moreover, the continuous expansion of the military base on Diego Garcia has led to increased rival military activity in the Indian Ocean region, thus seriously compromising the objectives of the Declaration of the General Assembly.

1987 Statement by Sir Satcam Boolell QC, Minister of External Affairs and Emigration, at the 42nd Session of the United Nations General Assembly (9 October)

I should like to remind this Assembly in this connection that the Chagos Archipelago, which belonged to Mauritius, was excised from our territory before we obtained independence, in clear violation of the principles of the United Nations. Its inhabitants were coerced into permanent exile to clear the way for a military base in Diego Garcia. The key strategic role now assumed by Diego Garcia has brought the nuclear peril right into the heart of the Indian Ocean region. The loss of Chagos has also meant the denial to the Mauritian people of access to the significant ocean resources around the archipelago. We renew our demand for the rightful restitution of the Chagos Archipelago to the national heritage of Mauritius. We are grateful to the States members of the Organization of African Unity (OAU) and of the Movement of Non-Aligned Countries, as well as to other friendly countries, for their strong and consistent support of our just claim.

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1988 Statement by Sir Anerood Jugnauth, Prime Minister, at the 43rd Session of the United Nations General Assembly (12 October)

In clear violation of the principles of the United Nations the island of Diego Garcia, along with the Chagos Archipelago, was detached from Mauritius by Britain prior to our independence in 1968. The island of Diego Garcia was ceded by Britain to the United States of America, which transformed it into a military base. The inhabitants of the island were summarily relocated to Mauritius. The key strategic role now assumed by Diego Garcia has brought the nuclear peril right into the heart of the Indian Ocean. We are determined never to give up our claim over Diego Garcia. With the support of other Indian Ocean States, we shall continue to mobilize international opinion for the restitution of the island to Mauritius. We are thankful to the States members of the Organization of African Unity and the Non-Aligned Movement, as well as other friendly countries, for their continued support of our just claim.

1989 Statement by Sir Satcam Boolell QC, Deputy Prime Minister and Minister of External Affairs and Emigration, at the 44th Session of the United Nations General Assembly (27 September)

As the Assembly is aware, the Government and people of Mauritius have not accepted the fact that an important part and parcel of their territory has been excised by the former colonial Power in contravention of United Nations General Assembly resolutions 1514 (XV) and 2066 (XX). The dismemberment of Mauritian territory constitutes an unacceptable affront to our sovereignty. Mauritius cannot and will not remain silent until Diego Garcia and the Chagos Archipelago, as well as the Tromelin Islands, are returned to us. Our claim is just and legitimate. We have the total support of the Organization of African Unity and the Movement of Non-Aligned Countries.

We appeal to the international community and to all peace-loving countries to assist us in the restoration of our territories. Our islands should not serve as a nuclear base and should not constitute a threat to our own security and to that of all the littoral and hinterland States of the region.

1990 Statement by Hon. Jean-Claude de L'Estrac, Minister of External Affairs, at the 45th Session of the United Nations General Assembly (9 October)

While we are addressing the issue of the Indian Ocean, we wish to reiterate our just and rightful claim to the Chagos Archipelago, including Diego Garcia, and express our deep appreciation of the whole-hearted support of the members of the Non-Aligned Movement and the Organization of African Unity, as well as that of other friendly countries.

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1991 Statement by Hon. Paul Bérenger, Minister of External Affairs, at the 46th Session of the United Nations General Assembly (10 October)

The issue of sovereignty brings me to the fact that Mauritius is itself still struggling to regain its sovereignty over the Chagos Archipelago, a cause which I believe should be supported by the Assembly in its entirety, considering the stand taken by the world community in the recent Gulf Crisis on, precisely, an issue of sovereignty. With the advent of the new era to which I have already referred, it should be possible for the past colonial Power to come to terms with the present situation and acknowledge the sovereignty of Mauritius over the Chagos Archipelago. It is also the fervent wish of my Government that nothing should be done by any party concerned to aggravate this issue any further, especially as concerns the extension of territorial waters.

1992 Statement by Hon. Paul Bérenger, Minister of External Affairs, at the 47th Session of the United Nations General Assembly (1 October)

Another issue that is of great importance to us in Mauritius is the need to respect the territorial integrity of nations. I should here like to place once more on record the appreciation of my country to all countries that have consistently expressed their support of our sovereignty over the Chagos Archipelago, including Diego Garcia. We should like to like to inform the Assembly that we have resumed exchanges with the United Kingdom on this issue.

1993 Statement by Dr the Hon. A.S. Kasenally, Minister of External Affairs, at the 48th Session of the United Nations General Assembly (30 September)

In our Indian Ocean region, on an issue of direct concern to us, I am happy to say that meaningful dialogue on the Chagos Archipelago is taking place with the United Kingdom authorities.

1994 Statement by Sir Anerood Jugnauth, Prime Minister, at the 49th Session of the United Nations General Assembly (5 October)

It is also my distinct pleasure to associate myself with all those who have extended a hearty welcome to non-racial democratic South Africa within the fold of the Assembly. The end of apartheid in South Africa also underscores the end of colonialism on the African continent. However, there still remain a few areas where the process is not complete, but I firmly believe that it will not be long before we can boast of a totally free world. In this regard, I should like to say that with respect to the question of the return of the Chagos Archipelago to the sovereignty of Mauritius, we have continued to pursue a positive dialogue with the United Kingdom and that some progress has been registered.

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1996 Statement by Dr. the Hon. Navinchandra Ramgoolam, Prime Minister, at the 51st Session of the United Nations General Assembly (10 October)

After this overview of the world situation, allow me to speak of a matter of national interest to us. One of the fundamental principles to which we all subscribe is that of respect for the sovereignty of Member States. Interference in the internal affairs of States and disregard for their national sovereignty has often been a source of tension and conflict. Now that the cold war is behind us and we move towards ever greater economic, commercial and cultural integration, we should be able to find amicable answers to questions of sovereignty. Mauritius has sovereignty disputes regarding the Chagos Archipelago and Tromelin Island with two countries with which we have historically close and friendly ties. These differences were referred to as friendly disputes by Sir Seewoosagur Ramgoolam, architect of our independence and father of our nation. We hope to resolve these differences through quiet diplomacy and dialogue.

1997 Statement by Hon. R. Purryag, Deputy Prime Minister, Minister of Foreign Affairs and International Trade, at the 52nd Session of the United Nations General Assembly (30 September)

This Assembly is by now well aware of the just and legitimate claim of Mauritius for the restoration of its territorial integrity through the return of the Chagos Archipelago, including Diego Garcia, to its national heritage. This Assembly should also note that this issue also hides a tragic human dimension. Before Mauritius acceded to its independence, all of the inhabitants of the Chagos were coerced to leave the land of their birth where they had lived for several generations. The plight of these inhabitants must now be comprehensively addressed.

1998 Statement by Dr the Hon. Navinchandra Ramgoolam, Prime Minister, at the 53rd Session of the United Nations General Assembly (23 September)

Finally, as on past occasions, we would like to bring up once more before this Assembly our lasting claim on the sovereignty of two territories which were taken from our patrimony: the island of Tromelin and the Chagos Archipelago. We reiterate our call to the former colonial Powers to enter into constructive bilateral dialogue with my Government for the early restoration of those territories to the sovereignty of Mauritius.

Regarding the Chagos Archipelago, this Assembly should also be reminded that some 1,500 inhabitants – the so-called “Illois” – were coerced to leave their homeland to clear the way for a military base. Most of the families, who had lived for generations on these islands, were moved to the main island of Mauritius, victims of the then prevailing cold war. Today, after more than 30 years, they still experience tremendous difficulties adapting to their present conditions. Many yearn to be resettled on these islands. As we are about to commemorate the fiftieth anniversary of this century’s seminal document on human rights, we

consider that we owe it to these Illois to fully re-establish their rights, including the right of return.

1999 Statement by Hon. R. Purryag, Deputy Prime Minister, Minister of Foreign Affairs and International Trade, at the 54th Session of the United Nations General Assembly (30 September)

For the majority of small States, the United Nations continues to be the main bulwark against infringements on their sovereignty and territorial integrity. We have consistently drawn the attention of the Assembly to the issue of the Chagos Archipelago, which was detached from Mauritius by the former colonial Power prior to our independence in 1968, and also to the plight of over 2000 people who were forced to leave the land of their birth, where they had lived for generations, for resettlement in Mauritius. This was done in total disregard of the United Nations declaration embodied in resolution 1514 (XV), of 14 December 1960 and resolution 2066 (XX), of 16 December 1965, which prohibit the dismemberment of colonial Territories prior to independence.

Mauritius has repeatedly asked for the return of the Chagos Archipelago, including Diego Garcia, on which a United States military base has been built, and thereby the restoration of its territorial integrity. The over 2,000 displaced Ilois people have been facing tremendous difficulties in adapting in mainland Mauritius, in spite of all the efforts that Mauritius has made to assist them in this process.

So far the issue has been discussed within the framework of our friendly relations with the United Kingdom, with a view to arriving at an acceptable solution. Unfortunately, there has not been significant progress. The United Kingdom has been maintaining that the Chagos Archipelago will be returned to Mauritius only when it is no longer required for defence purposes by the West. While we continue the dialogue for an early resolution of the issue on a bilateral basis, we urge the United Kingdom in the meantime to allow the displaced inhabitants to return to the Chagos Archipelago. At the dawn of the new millennium, when we so strongly uphold universal recognition of and respect for fundamental human rights, the inhabitants of Chagos should not continue to be denied the right to return to the Chagos Archipelago.

2000 Statement by Hon. A.K. Gayan, Minister of Foreign Affairs and Regional Cooperation, at the 55th Session of the United Nations General Assembly (22 September)

I wish to say a few words now about the Chagos Archipelago and the island of Tromelin. Respect for sovereignty and territorial integrity is, under the United Nations system, an acquired and inalienable right of every State, however big or small. We are conscious that the United Nations favours the completion of the process of decolonization.

For a number of years now, we have continuously brought before the General Assembly the question of the Chagos Archipelago, which has always formed part of the State of Mauritius. This Assembly will recall that the Chagos Archipelago, including the island of Diego Garcia, was detached by the colonial Power just before our independence, in violation of General Assembly resolutions 1514 (XV) of December 1960 – the Declaration on the Granting of Independence to Colonial Countries and Peoples – and 2066 (XX) of 16 December 1965, which prohibits the dismemberment of colonial territories prior to the accession of independence. We have all along sought to resolve this issue bilaterally with the United Kingdom through dialogue, but there has been no tangible progress so far. The issue has now reached a critical stage and we are extremely anxious to have meaningful negotiations with the United Kingdom with a view to resolving this matter within the shortest possible time. We also reiterate our demand that, pending a resolution of this issue, the former residents of the Chagos Archipelago and their families, who were forcibly evicted and sent to Mauritius by the colonial Power, be allowed to return to their homeland.

We launch a fresh appeal to the former colonial Power, the United Kingdom, to come forward and engage in serious and purposeful discussions with us towards the early settlement of the Chagos Archipelago question. We wish to stress that Mauritius will never abandon its intention to reunite its territory and to assert its sovereignty over the Chagos Archipelago.

2001 Statement by the Rt. Hon. Sir Anerood Jugnauth, KCMG, PC, QC, Prime Minister, at the 56th Session of the United Nations General Assembly (11 November)

We continue to claim our sovereignty over the Chagos Archipelago which was excised by the United Kingdom from the then Colony of Mauritius in violation of international law and UN General Assembly Resolution 1514. We are convinced that the time for the United Kingdom to engage in talks for the early retrocession of the Archipelago to Mauritian sovereignty is long overdue inasmuch as problems left over from colonial days cannot remain unresolved.

We are also concerned by the plight of all those Mauritians, commonly known as the Ilois, who were forcibly and in outright violation of their fundamental rights, removed from the islands forming the Archipelago by the then colonial power. We support their legitimate claim for all appropriate remedies.

2002 Statement by the Rt. Hon. Sir Anerood Jugnauth, KCMG, PC, QC, Prime Minister, at the 57th Session of the United Nations General Assembly (13 September)

Mauritius reaffirms its legitimate sovereignty over the Chagos Archipelago, including the island of Diego Garcia, which was detached from the territory of Mauritius by the United Kingdom prior to our independence. We renew our call

to the former colonial Power, the United Kingdom, to accelerate discussions with us for an early settlement of this issue.

The persons of Mauritian origin who were displaced from the Chagos Archipelago continue to claim redress for the serious human rights violations that they endured. We support their efforts to seek redress.

2003 Statement by the Rt. Hon. Sir Anerood Jugnauth, KCMG, PC, QC, Prime Minister, at the 58th Session of the United Nations General Assembly (24 September)

Before I conclude, however, Mr President, I renew my appeal to the United Kingdom to take all measures to complete the process of decolonization of Mauritius. For years, Mauritius has consistently reaffirmed its sovereignty over the Chagos Archipelago, including Diego Garcia, here and in all international fora. I sincerely regret that this issue has not been resolved. I therefore reiterate our appeal to the United Kingdom, as a country known for its fair play and for championing human rights, and to our friends in the US to engage in a serious dialogue with Mauritius over the issue of the Chagos Archipelago so that an early solution to this issue may be found.

The removal of the Chagossians under false pretences resulted in gross violations of human rights. Hopefully this aspect of the matter will be resolved through the British Courts shortly.

2004 Statement by Hon. Jaya Krishna Cuttaree, Minister of Foreign Affairs, International Trade and Regional Cooperation, at the 59th Session of the United Nations General Assembly (28 September)

As this august Assembly is aware, Mauritius has always favoured a bilateral approach in our resolve to restore our exercise of sovereignty over the Chagos Archipelago which, prior to independence from the United Kingdom, was unlawfully detached from our territory, in violation of the Declaration on the Granting of Independence to Colonial Countries and Peoples contained in General Assembly resolution 1514 (XV), and Assembly resolutions 2066 (XX), 2232 (XXI) and 2357 (XXII). Such bilateral approaches have unfortunately not yielded any result so far and certain recent regrettable unilateral actions by the United Kingdom have not been helpful.

Mr. President,

While we shall continue to favour a settlement of this matter through dialogue, we shall use all avenues open to us in order to exercise our full sovereign rights over the Chagos Archipelago. The Assembly should also note that this issue has a tragic human dimension. Before Mauritius acceded to its independence, all of the inhabitants of the Chagos were forced to leave the land of their birth, where they had lived for several generations. The plight of those inhabitants must now be comprehensively addressed.

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2005 Statement by Dr. the Hon. Navinchandra Ramgoolam, Prime Minister, at the 60th Session of the United Nations General Assembly (19 September)

Allow me to reiterate before this Assembly our legitimate sovereignty claim over the Chagos Archipelago, including the Island of Diego Garcia which was detached by the United Kingdom from the territory of Mauritius prior to our independence in violation of United Nations General Assembly Resolution 1514 of 1960 and Resolution 2066 of 1965. The people of the Chagos Archipelago, who were evicted from the islands, are still struggling for their right to return to their birth place. We reiterate our call to the United Kingdom to pursue discussions with us for an early settlement of this issue.

2006 Statement by Dr. the Hon. Navinchandra Ramgoolam, Prime Minister, at the 61st Session of the United Nations General Assembly (22 September)

My delegation wishes to draw the attention of this Assembly that, thirty-eight years after its independence, Mauritius has still not been able to exercise its sovereignty over the Chagos Archipelago, including Diego Garcia. The Archipelago was excised from the territory of Mauritius by the former colonial power to be subsequently used for military purposes behind our back, in total disregard of United Nations General Assembly Resolutions 1514 and 2066. This exercise also involved the shameful displacement of the inhabitants of the Chagos from their homeland, denying them of their fundamental human rights.

International law must prevail, as must respect for the sovereignty of all countries. We therefore call once again on the United Kingdom to pursue constructive dialogue in earnest with my Government with a view to enabling Mauritius to exercise its sovereignty over the Chagos Archipelago.

We view positively the visit jointly organised by the Governments of Mauritius and of the United Kingdom, in April this year, to enable the former inhabitants of the Chagos to visit the Archipelago for the first time since their displacement to pay respects at their relatives' graves on the Archipelago.

2007 Statement by Dr. the Hon. Navinchandra Ramgoolam, Prime Minister, at the 62nd Session of the United Nations General Assembly (28 September)

In 1965 when the Constitutional Conference for the granting of independence to Mauritius was convened, the Chagos Archipelago, amongst many other islands, formed an integral part of the territory of Mauritius and should have remained as such in accordance with the Charter of the United Nations and General Assembly resolutions 1514 of 1960 and 2066 of 1965. Resolution 1514 (1960) states inter alia:

"Any attempt aimed at the partial or total disruption of the national unity and territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations."

The excision of the Chagos Archipelago by the colonial power at the time of our independence constitutes a dismemberment of our territory in total disregard of resolutions 1514 of 1960 and 2066 of 1965. Furthermore, it is also a violation of the Charter of the United Nations itself.

We therefore, once again, reiterate our request to the United Kingdom to engage in bilateral dialogue with us as soon as possible with a view to enabling us exercise our sovereignty over the Chagos Archipelago.

Equally, on the question of our sovereignty over Tromelin, we note the progress registered at the recent Mauritius-French joint Commission.

The United Kingdom and France, two permanent members of the United Nations Security Council, are two major and important economic and trade and development partners of Mauritius. We fully appreciate their continued support in the development of our country. We have been striving to reach an amicable agreement on these issues but we cannot – and will not – compromise on our territorial integrity and our sovereignty over those islands.

2008 Statement by H.E. Mr. S. Soborun, Permanent Representative of Mauritius to the UN, at the 63rd Session of the United Nations General Assembly (29 September)

The principles and objectives enshrined in the Charter of the United Nations should continue to guide us in our actions. I would like to bring up once again before the august Assembly our legitimate sovereignty claim regarding the Chagos Archipelago, including Diego Garcia. This archipelago was excised from the territory of Mauritius, by the United Kingdom, prior to our independence in disregard of UN General Assembly resolutions 1514 (XV) of 1960 and 2066 (XX) of 1965. We have always favoured a settlement of the issue through constructive bilateral dialogue. In that regard, I wish to inform the Assembly that high-level talks are underway.

Government is very sensitive to the aspirations of citizens of Mauritius to return to the islands of their birth in the Chagos Archipelago. I wish to recall here that they were forcibly removed from the Archipelago prior to its excision from Mauritius. Likewise, we urge France to pursue dialogue with Mauritius on the issue of Tromelin. It is our firm conviction that such bilateral dialogue will further consolidate our historical and friendly relations with both the United Kingdom and France.

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2009 Statement by Dr. the Hon. Navinchandra Ramgoolam, GCSK, FRCP, Prime Minister, at the 64th Session of the United Nations General Assembly (25 September)

I take this opportunity to reaffirm the sovereignty of Mauritius over the Chagos Archipelago, including Diego Garcia, which was detached by the United Kingdom from the territory of Mauritius prior to our independence. The dismemberment of the territory of Mauritius was in total disregard of UN General Assembly Resolutions 1514 of 14 December 1960 and 2066 of 16 December 1965.

As President Obama said two days ago from this very rostrum, we must demonstrate that international law is not an empty promise.

We must all abide by it.

We have consistently urged the United Kingdom to engage in a meaningful dialogue with Mauritius for the early return of the Chagos Archipelago. We are pleased to inform the Assembly that two rounds of talks have been held with the United Kingdom this year.

We look forward to these discussions coming to fruition and hope that Mauritius will be able to exercise its sovereignty over the Chagos Archipelago, including Diego Garcia, in the near future.

2010 Statement by Dr. the Hon. Arvin Boolell, Minister of Foreign Affairs, Regional Integration and International Trade, at the 65th Session of the United Nations General Assembly (28 September)

We have in no uncertain terms drawn the attention of this august body every year to the fact that Mauritius has sovereignty over the Chagos Archipelago, including Diego Garcia. The Chagos Archipelago was illegally excised by the United Kingdom from the territory of Mauritius prior to our independence. This dismemberment was done in blatant violation of the UN General Assembly resolutions 1514 (XV) of 14 December 1960 and 2066 (XX) of 16 December 1965.

We have raised the issue of the sovereignty of Mauritius over the Chagos Archipelago with successive British Governments and initially pursued the matter as a friendly dispute. In view of the lack of progress, we suggested that the issue be addressed in bilateral talks. Although the process of bilateral talks was initiated in January 2009, the issue of our sovereignty over the Chagos Archipelago has yet to be addressed.

We are deeply concerned that the British Government decided on 1 April 2010 to unilaterally declare a marine protected area around the Chagos Archipelago allegedly to protect the marine environment. The unilateral establishment of this marine protected area infringes the sovereignty of Mauritius over the Chagos

Archipelago and constitutes a serious impediment to the eventual resettlement in the Archipelago of its former inhabitants and other Mauritians as any economic activity in the protected zone would be precluded. The Government of Mauritius has decided **not to** recognize the existence of the marine protected area.

The illegal excision of the Chagos Archipelago from the territory of Mauritius has indeed a tragic human dimension. All the inhabitants of the Archipelago at that time were forced by the British authorities to leave their homes in the Archipelago abruptly in total disregard of their human rights. Most of them were moved to the main island of Mauritius. The Government of Mauritius is sensitive to and fully supportive of the plight of the displaced inhabitants of the Chagos Archipelago and to their desire to resettle in their birthplace in the Chagos Archipelago.

Mauritius greatly appreciates the unflinching and unanimous support it has consistently received from the African Union and the Non-Aligned Movement for assertion of its sovereignty over the Chagos Archipelago. The last AU Summit held in Kampala last July and the last NAM Summit held in July 2008 in Sharm-el-Sheik reaffirmed that the Chagos Archipelago, including Diego Garcia, forms an integral part of the territory of the Republic of Mauritius. They also called upon the United Kingdom to expeditiously put an end to its **unlawful occupation** of the Chagos Archipelago with a view to enabling Mauritius to effectively exercise its sovereignty over the Archipelago.

We urge the United Kingdom once again to take the necessary steps for the **unconditional** return of the Chagos Archipelago, including Diego Garcia, to Mauritius without further delay.

2011 Statement by Dr. the Hon. Navinchandra Ramgoolam, GCSK, FRCP, Prime Minister, at the 64th Session of the United Nations General Assembly (24 September)

Allow me, Mr. President, to give as an example, the difficulties which my own country has experienced in resolving a dispute relating to decolonization with the former colonial power, the United Kingdom.

The Chagos Archipelago which is part of Mauritian territory, was excised from Mauritius prior to independence, in disregard of United Nations Resolutions 1514 and 2066 and the principles of international law, and declared as the so-called British Indian Ocean Territory. The United Kingdom has failed to engage in any meaningful discussions, with us on this matter.

When the Government of Mauritius consequently announced, in 2004, that it would refer the dispute to the International Court of Justice, the United Kingdom immediately amended its declaration, under Article 36 of the ICJ Statute, to oust the jurisdiction of the Court with respect to certain disputes with a member or former member of the Commonwealth.

This illustrates the kind of difficulties which a State may have in settling a claim under international law. The States involved in the dispute may refuse to negotiate in good faith and seek to ensure that no international tribunal can determine the law applicable to the dispute.

We call on the United Nations to keep under review the whole issue of settlement of disputes, including by judicial means, and to set standards of conduct for all States with respect to negotiation, conciliation, mediation or other forms of non-judicial and peaceful settlement of disputes or alternatively submission of the dispute to adjudication.

….

Mr President,

The continued unlawful occupation of the Chagos Archipelago by the United Kingdom is a matter of concern for the region. Mauritius welcomes the support of the African Union and of the Non-Aligned Movement for the territorial integrity of our country. The purported declaration of a Marine Protected Area around the Chagos Archipelago by the United Kingdom in breach of the United Nations Convention on the Law of the Sea is another cause for concern. This is why in December 2010 Mauritius commenced arbitration proceedings against the UK under the 1982 Convention on the Law of the Sea.

ANNEX 96

Mauritius Legislative Assembly, 25 November 1980,
Reply to PQ No. B/1141

CHAGOS ARCHIPELAGO — EXCISION

(No. B/1141) Mr. J. C. de l'Estrac (First Member for Stanley and Rose Hill) asked the Prime Minister whether he will give the reasons why, in 1965, he gave his agreement to the excision of the Chagos Archipelago from Mauritius.

The Prime Minister : Agreement was not necessary. We were a colony and Great Britain could have excised the Chagos Archipelago.

Mr. de l'Estrac : Will the hon. Prime Minister agree that the excision was done contrary to Resolutions of the United Nations ?

The Prime Minister : It is as it was.

Mr. Boodhoo : Was the excision of these islands a precondition for the independence of this country ?

The Prime Minister : Not exactly.

Mr. Bérenger : Since the Prime Minister says to-day that his agreement was not necessary for the " excision " to take place, can I ask the Prime Minister why then did he give his agreement which was reported both in Great Britain and in this then — Legislative Council in Mauritius ?

The Prime Minister : It was a matter that was negotiated, we got some advantage out of this and we agreed.

Mr. Bérenger : Can the Prime Minister confirm having said to the Christian Science Monitor this month the following :

" There was a nook around my neck. I could not say no. I had to say yes, otherwise the noose could have tightened ,'

Could I ask him to confirm that, in fact, he is referring to the referendum which the PMSD was then requesting against independence ?

The Prime Minister : Since my hon. Friend has raised it, let him digest it.

Mr. Boodhoo : We know that there was a delegation to London comprising all political parties in 1965. Can the Rt. hon. Prime Minister inform the House to whom did the British officials first disclose their intention of excising these islands ?

The Prime Minister : There was a committee composed of people who attended the Constitutional Conference. Some of them are dead, except myself and my Friend, Mr. Paturau.

Mr. Bérenger : Can I ask the Prime Minister to confirm that in fact those who discussed with Mr. Harold Wilson when that excision was agreed to, the two culprits were himself and the Minister sitting very next to him ?

The Prime Minister : We discussed this with a committee, not with Mr. Harold Wilson.

Mr. de l'Estrac : The Prime Minister has just said that Mauritius gave its agreement because we got some advantage; can we know the nature of that advantage ?

The Prime Minister : We had about £ 3 m.

TROMELIN ISLAND — REFUELLING BY MAURITIAN AIRPLANES

(No. B/1142) Mr. J. C. de l'Estrac (First Member for Stanley and Rose Hill

asked the Prime Minister whether he will say if he has had discussions with the French Government with a view to allowing Mauritian airplanes to refuel at Tromelin Island en route to Agalega and back.

The Prime Minister : No, Sir. In fact, there is no need for such discussion since Tromelin is an integral part of the State of Mauritius.

Mr. Jugnauth : Can I ask the Prime Minister whether officially the Government of this country has made known to the French Government that this is the official stand of this country ?

The Prime Minister : We have put it on our map.

Mr. Bérenger : If there is no need to ask for the right to land at Tromelin island, because it forms part of the State of Mauritius, can I ask the Prime Minister whether he has any objection to himself, the Leader of the Opposition, myself and the Minister of External Affairs — if he gets in the Twin Otter of Air Mauritius — to having the Twin Otter of Air Mauritius fly to Tromelin in the very next days ?

The Prime Minister : I don't know if arrangements can be made.

Mr. Boodhoo : Is the Rt. hon. Prime Minister in a position to explain to the House in what way the French are exploiting Tromelin island ?

The Prime Minister : I cannot say.

CITÉ ROCHES BRUNES — SEWERAGE SYSTEM

(No. B/1143) Mr. J. C. de l'Estrac (First Member for Stanley and Rose Hill) asked the Minister of Housing, Lands and Town and Country Planning whether he will give the reasons why, in spite of repeated requests no action has been taken in Cité Roches Brunes, Rose Hill, to solve the serious problems caused by the defective sewerage system.

Mr. E. François : Sir, I am advised by the CHA that the emptying of cesspits at Roches Brunes is already underway as a result of representations made by occupiers of the houses. Consideration is being given for the improvement of all pits in the estate.

Mr. de l'Estrac : Will the hon. Minister be honest enough to recognise that work has started after the question was put ?

Mr. Speaker : I would ask the hon. Member to withdraw that.

Mr. de l'Estrac : I withdraw the word " honest ". Will the hon. Minister agree...

Sir Harold Walter : The hon. Member has to withdraw the whole question.

Mr. de l'Estrac : I am going to put another question, Sir. Will the hon. Minister agree that work has only started after the question was put to him last Tuesday ?

Mr. François : I need prior notice of this question, Sir.

C.E.B. TRANSPORT WORKSHOP — REPAIRS OF PERSONAL STAFF CARS

(No. B/1144) Dr. J. B. David (Second Member for Belle Rose and Quatre Bornes) asked the Minister of Power, Fuel and Energy whether he will, for the benefit of the House, obtain from the C.E.B. the following information

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ANNEX 97

Extracts from the Mauritius Legislative Assembly,
Report of the Select Committee on the Excision
of the Chagos Archipelago, June 1983

ANNEX 97

Rs. 20.00

MAURITIUS LEGISLATIVE ASSEMBLY

REPORT

OF THE

Select Committee

ON THE

Excision of the Chagos Archipelago

(No. 2 of 1983)

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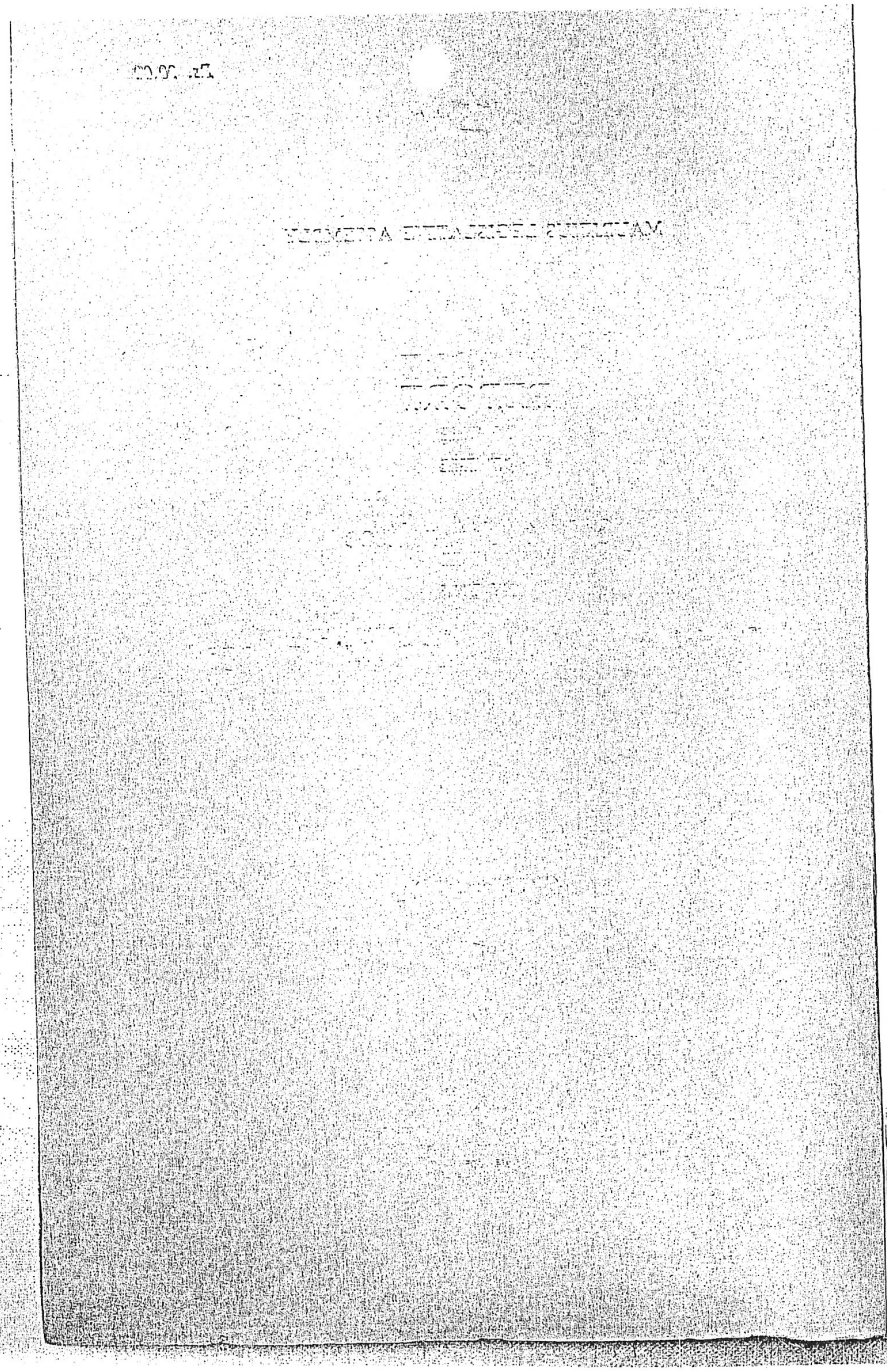

REPORT

OF THE

Select Committee

ON THE

Excision of the Chagos Archipelago

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REPORT
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The Select Committee on the Excision of the Chagos Archipelago

I — Introduction

1. On 21st July 1982, the following motion standing in the name of the Honourable The Prime Minister was unanimously approved:—

> " This Assembly is of the opinion that, in accordance with Standing Order 96 of the Standing Orders and Rules of the Legislative Assembly, a Select Committee of the House consisting of not more than nine members to be nominated by Mr Speaker, be appointed to look into the circumstances which led to and followed the excision of the Chagos Archipelago, including Diego Garcia, from Mauritius in 1965 and the exact nature of the transactions that took place with documents in support and to report; the said Select Committee to have powers to send for persons, papers and records." (1)

2. On 20th August 1982, Mr Speaker nominated the following Honourable Members to form part of the Select Committee (2):—

The Honourable Minister of Finance
The Honourable Minister of Commerce, Industry, Prices & Consumer Protection
The Honourable Minister of External Affairs, Tourism & Emigration
The Honourable Minister of Agriculture, Fisheries & Natural Resources
The Honourable Attorney-General and Minister for Women's Rights & Family Affairs
The Honourable Minister for Rodrigues & the Outer Islands
The Honourable A. Gayan
Dr the Honourable S. Peerthum
The Honourable Mrs F. Roussety

3. At its first meeting, the Select Committee unanimously elected the Honourable Jean-Claude de l'Estrac, then Minister of External Affairs, Tourism and Emigration, to the Chair.

4. The Committee met on 11 occasions and in the course of its proceedings heard witnesses whose names are listed in Appendix ' A ' of this Report.

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(1) Mauritius Legislative Assembly—Debates No. 8 of 21st July 1982—Col. 1026-1056.
(2) Mauritius Legislative Assembly—Debates No. 17 of 20th August 1982—Col. 2397--2398.

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These arrangements, within the terms of the 1966 Exchange of Notes, were approved, in principle, by the United Kingdom Government in 1968. A further Exchange of Notes was signed on 24th October, 1972, and the facility began operating in 1973 (1) when the United Kingdom Government agreed to "a limited expansion of the radio station" (2) in addition to the original defence facilities which were said then to "consist of a United States navy radio station, an 8,000 ft runway which is not capable of taking the larger transport and tanker aircraft fully laden; a natural anchorage restricted in draught and turning room; accommodation for some 450 personnel; and limited aircraft parking space and oil storage facilities." (2)

18. However, on 5th February, 1974, a statement made in the House of Commons by the Secretary of State for Foreign and Commonwealth Affairs, Mr Julian Amery, revealed that Her Majesty's Government had agreed in principle to a proposal of the United States Government made in January 1974 and in accordance with the 1966 Anglo-American Agreement (Command Paper No. 3231) to the expansion of the facilities at Diego Garcia and which would involve "improvements to the anchorage and to the airfield as well as to the shore facilities". The last part of the statement is however, indicative of military concern of a larger dimension:—

> "Her Majesty's Government have long felt that it is desirable in the general Western interest to balance increased Soviet activities in the Indian Ocean area. Accordingly, they welcome the expansion of the United States facilities which will also be available for British use. Against this background, the United States and the British Governments have agreed to consult periodically on joint objectives, policies and activities in the area. As regards the use of the expanded facilities in normal circumstances, the United States and British representatives in Diego Garcia will inform each other of intended movements of ships and aircraft. In other circumstances the use of the facilities would be a matter for the joint decision of the two Governments." (3)

Later, on 20th March, 1974, the Under-Secretary of State for Foreign and Commonwealth Affairs, Miss Joan Lestor, again stressed that one of the reasons for the United Kingdom's acceptance of the United States proposal was the fact that the Soviet naval presence in the Indian Ocean had increased steadily in quantity and quality over the last five years and is larger than that of the Western countries. (4)

(1) House of Commons debates—Vol. 870; Col. 1274.
(2) House of Commons debates—Vol. 897; Col. 204.
(3) House of Commons debates—Vol. 868; Col. 276-277.
(4) House of Commons debates—Vol. 870; Col.1275.

19. An assessment of the actual military arrangements on the islands is obviously difficult and whatever may be their size and nature is immaterial to this report. On two occasions at least,—11th March and 22nd July, 1975—the then British Secretary of State for Defence, Mr Roy Mason, declared to the House of Commons that it was not the policy of the British Government "to confirm or deny the presence of nuclear weapons in ships, aircraft or any particular location"—a statement pregnant with alarming military connotations.

Ten days after the announcement in regard to the constitution of the British Indian Ocean Territory, the then Secretary of State for the Colonies, Mr Anthony Greenwood, declared to the House of Commons: "There is certainly no question of any derogation from Britain's sovereignty of these territories." (1) And, later, the then Secretary of State for Foreign and Commonwealth Affairs, Mr Hattersley, re-echoed: "The island of Diego Garcia is British Sovereign Territory." (2) At this stage, the Committee cannot dismiss the fact that such sovereignty was claimed in the teeth of strong opposition from the United Nations Organisation, the Organisation of African Unity and most of the independent States in the Indian Ocean, including India, whose Prime Minister, Mrs Indira Gandhi, on 7th February, 1974, highlighted the danger that the militarization of the Chagos Archipelago constituted for the security of her country.

IV — The Mauritius Constitutional Conference, 1965

20. On 7th September, 1965, a Mauritius delegation comprising representatives of the Mauritius Labour Party, the Parti Mauricien Social Democrate, the Independent Forward Bloc, the Muslim Committee of Action and two independent Members of the Legislative Assembly (Appendix G) met at Lancaster House, under the chairmanship of the then Secretary of State for the Colonies, Mr Anthony Greenwood, "to reach agreement on the ultimate status of Mauritius, the time of accession to it, whether accession should be preceded by consultation with the people and, if so, in what form." (3) The Conference met until 24th September, 1965.

21. The claim for independence was supported at the Conference by the Mauritius Labour Party, the Independent Forward Bloc and the Muslim Committee of Action, although this party had put up certain conditions in regard to the electoral system. The Parti Mauricien Social Democrate advocated, as a substitute for independence, close constitutional associations with Great Britain and submitted that, in any event, the people of Mauritius should be allowed to express their preference in a free referendum.

(1) House of Commons debates Vol. 720, Col. 1309.
(2) House of Commons debates Vol. 872, Col. 327.
(3) Repart of the Mauritius Constitutional Conference—September 1965—Sessional Paper No. 6 of 1965, p. 1.

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22. In the final communiqué issued on 24th September 1965, the Secretary of State for the Colonies ruled out the proposal submitted by the Parti Mauricien Social Democrate for association with Great Britain on the ground that "given the known strength of the support for independence, it was clear that strong pressure for this would be bound to continue and that in such a state of association neither uncertainty nor the acute political controversy about ultimate status would be dispelled." The plea for a referendum which, in the Secretary of State's opinion would prolong "the current uncertainty and political controversy in a way which would harden and deepen communal divisions and rivalries" was also discarded. The United Kingdom's Government ultimate decision on the issue was "to fix a date and take necessary steps to declare Mauritius independent after a period of six months full internal self-government if a resolution asking for this was passed by a simple majority of the new Assembly." (1)

23. The final communiqué also referred to the following defence arrangements between the British and the Mauritius Governments:—

> 23. At this final Plenary meeting of the Conference the Secretary of State also indicated that the British Government had given careful consideration to the views expressed as to the desirability of a defence agreement being entered into between the British and Mauritius Governments covering not only defence against external threats but also assistance by the British Government in certain circumstances in the event of threats to the internal security of Mauritius. The Secretary of State announced that the British Government was willing in principle to negotiate with the Mauritius Government before independence the terms of a defence agreement which would be signed and come into effect immediately after independence. The British Government envisaged that such an agreement might provide that, in the event of an external threat to either country, the two governments would consult together to decide what action was necessary for mutual defence. There would also be joint consultation on any request from the Mauritius Government in the event of a threat to the internal security of Mauritius. Such an agreement would contain provisions under which on the one hand the British Government would undertake to assist in the provision of training for, and the secondment of trained personnel to, the Mauritius police and security forces; and on the other hand the Mauritius Government would agree to the continued enjoyment by Britain of existing rights and facilities in H.M.S. Mauritius and at Plaisance Airfield. (2)

(1) Report of the Mauritius Constitutional Conference—September 1965—Sessional Paper No. 6 of 1965, p. 4.
(2) Op. cit., p. 5.

That section of the communiqué which touches upon military arrangements makes no mention of any agreement in regard to the excision of any part of the Mauritian territory in the context of either mutual defence or what was ultimately termed "in the general western interest to balance increased Soviet activities in the Indian Ocean." (1)

However, in the light of evidence produced by representatives of the political parties which took part in the Mauritius Constitutional Conference 1965, and which is reviewed at paragraph 25 hereunder, the Committee is convinced, without any possible doubt, that, at a certain time while the Constitutional talks were on, the question was mooted. And, further, the Committee is satisfied that the genesis of the whole transaction is intimately connected with the constitutional issue then under consideration.

24. The Committee regrets that, apart from Sir Seewoosagur Ramgoolam who led the Mauritius Labour Party delegation, the leaders of the other participating political parties are no more. Nevertheless, the Committee has been fortunate enough to hear members from each of the parties present at Lancaster House, in September 1965.

25. Their reports to the Select Committee can be summarized as hereunder:

A *The Mauritius Labour Party*

The Mauritius Labour Party, led by the then Premier and Minister of Finance, Dr the Honourable Seewoosagur Ramgoolam, now Sir Seewoosagur Ramgoolam, was, numerically speaking, the most important political party which attended the Constitutional Conference. Sir Seewoosagur was heard by the Select Committee on 6th December 1982. He declared that the eventual excision of the Chagos Archipelago from Mauritius never appeared on the agenda of the Constitutional talks nor was it ever brought for discussion in Mauritius prior to the Conference. It was only, while the talks were on, that he had two private meetings with the British Authorities; one, at 10, Downing Street where the British Government's decision to grant independence to Mauritius was communicated to him by the then Prime Minister, and the second, on 23rd September, 1965, in one of the committee rooms of Lancaster House where he was, for the first time, informed by the Secretary of State, Mr Anthony Greenwood, of the United Kingdom's intention of detaching the Chagos Archipelago from Mauritius.

(1) House of Commons debates Vol. 868, Col. 277.

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Sir Seewoosagur declared that he accepted the excision, in principle, as (i) he felt he had no legal instrument to prohibit the United Kingdom Government from exercising the powers conferred upon it by the Colonial Boundaries Act 1895, which powers could not be resisted even by India when the partition of this country took place before its independence (ii) he could not then assess the strategic importance of the archipelago which consisted of islands very remote from Mauritius and virtually unknown to most Mauritians and (iii) it was concretely expressed to him that the islands would be used as a communications centre and not as a military base.

Sir Seewoosagur strongly emphasised that, at no time, during that meeting and during meetings he had subsequently with the Secretary of State — after the Constitutional talks — to discuss details of the excision, was he made aware that the United States of America were in the deal and that the islands would be required for a joint U.K./U.S.A. defence venture. So much so that the statement made in the Legislative Assembly, on 14th December 1965, by the then Acting Premier, Mr Guy Forget, (Appendix 'F') came as a surprise to him. He even declared to the Select Committee that the circumstances which led to the introduction in that statement of certain elements then unknown to him were still shrouded in 'mystery'. He did not deny, however, that while the Conference was on, a Mauritian delegation led by late Mr Guy Forget met the Minister in Charge of Economic Affairs in the American Embassy in London.

Sir Seewoosagur maintained that the choice he made between the independence of Mauritius and the excision of the archipelago was a most judicious one. He thought, however, that had all the political parties present at Lancaster House been united in the claim for independence, better conditions might have been obtained. But, the Parti Mauricien Social Démocrate (P.M.S.D.) walked out of the Conference, as soon as it became evident that independence could not be avoided.

Sir Seewoosagur recalled that at one of the meetings on the excision issue, with the Secretary of State, he stressed that the sovereignty of Mauritius over the islands should be maintained and all rights connected with fishing and mineral prospection should be preserved. He also claimed the possibility for planes to use the strip on Diego Garcia for any emergency landing on their route to and from Mauritius. No records of these proceedings were communicated to him, but he had the impression

that, apart from the claim for sovereignty, all the other points were agreeable to the British Government including a proposition that, in the event of excision, the islands would be returned to Mauritius when not needed by the United Kingdom Government. He recognised, however, that apart from certain statements made by himself and members of his Government in international meetings, no official request had been made for the retrocession of the islands to Mauritius.

Touching upon the question of the displacement of the Ilois community, Sir Seewoosagur said that it was never raised with him at any time in London and whatever correspondence he exchanged later in Mauritius with the British High Commission on the subject, had to take into account the unexpected nature of the statement made in the House by late Mr Guy Forget. (Appendix 'F')

Sir Veerasamy Ringadoo confirmed that, at no time, was the question of the excision of the Chagos Archipelago brought on the table of the Mauritius Constitutional Conference of September 1965. He might have been informed of such proposals after the private meeting Sir Seewoosagur Ramgoolam had with the Secretary of State, Mr Anthony Greenwood, on 23rd September, 1965. He did not object to the principle of the excision as he felt that, being given the defence agreement entered into with Great Britain (paragraph 23)—a decision which had the unanimous support of all political parties present at Lancaster House, most particularly in view of the social situation which had deteriorated in Mauritius—the United Kingdom Government should be given the means to honour such agreement. It was in this context that he viewed the excision of the islands which were to be used as a communications station.

Sir Veerasamy stated that, about one week after the Constitutional talks, Sir Seewoosagur Ramgoolam and himself had discussions with officials of the Foreign Office on the excision issue, where both of them stressed that (i) when no longer needed, the islands should be returned to Mauritius (ii) all rights connected with fishing and mineral prospection would be maintained for Mauritius (iii) the possibility for planes to use the strip on Diego Garcia, in any emergency, on their route to and from Mauritius should be recognized and (iv) 'all the requirements for the installation of the station and for the food and everything would, as far as possible, be taken from Mauritius.' Unfortunately, no minutes of this meeting were circulated.

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Sir Veerasamy supported Sir Seewoosagur's contention that nothing was heard in Mauritius about the excision until Mr Guy Forget made a statement in the Legislative Assembly on 14th December, 1965. He also maintained that the substance of this statement was absolutely alien to the nature of the talks he had, in company of Sir Seewoosagur, with the officials of the Foreign Office, in London.

Sir Harold Walter also stated that, at no time in Mauritius, prior to the Constitutional talks, was the question of the excision brought up for discussion. He happened to learn of this issue when he saw the definition of the State of Mauritius in a draft Constitution prepared for the country by the Colonial Office. He then questioned Sir Seewoosagur Ramgoolam on the matter and the latter revealed to him that he had to make some concessions on that score, as he felt that at one time during the Conference, the British Authorities tended to agree to the claim of the Parti Mauricien Social Democrate (P.M.S.D.) for a referendum.

Sir Harold did not resist the stand taken by the Leader of the Mauritius Labour Party as he knew the amount of pressure that was made to bear on the United Kingdom Government against the grant of independence to Mauritius. Moreover, public opinion in the country was largely divided on the nature of constitutional progress to be achieved. Indeed, he had got Sir Seewoosagur's assurance that the abandonment of the Chagos Archipelago had been agreed on certain conditions, namely, that (i) fishing and mineral prospection rights would be preserved for Mauritius (ii) the islands would be returned when no more needed and (iii) Mauritians would be employed to work there. He further stressed that no Mauritian delegate present at Lancaster House had expressed any dissent on the principle of the excision.

Sir Harold declared having been made aware of the United States' interest in the archipelago "years after" the Constitutional Conference. Everything that could have been published on that issue before or immediately after the talks might have escaped his attention as he was mainly interested in the accession of Mauritius to national sovereignty.

Sir Harold stated that the question of the Ilois was raised in London and they were considered as Mauritians who had migrated to work on the islands. However, the amount of compensation to be paid by the United Kingdom was not discussed at his level and he came to know about it much later.

Sir Satcam Boolell informed the Committee that the question of the excision of the Chagos Archipelago was raised by the British Officials in private with Sir Seewoosagur Ramgoolam, in London. He was not much concerned about it as he only had in mind the independence of Mauritius. He can vaguely recollect that the United Kingdom Government wanted Diego Garcia to be used as a signal station and that the whole archipelago would be returned to Mauritius when no more needed. He was further given to understand that all mineral resources around the islands would remain the property of the Government of Mauritius. At no time was he made aware of the United States involvement in the deal.

Sir Satcam further added that, in spite of the fact that he was then the Minister responsible for agriculture, he had no idea of any bid for the sale of Mauritian sugar on the American market as that transaction was in the hands of the Mauritius Sugar Syndicate.

Sir Satcam affirmed that he did not attend any meetings where the excision of the Chagos Archipelago was discussed and on this question he had put all his trust in the wisdom and experience of Sir Seewoosagur Ramgoolam.

B. *The Parti Mauricien Social Démocrate (P.M.S.D.)*

The first political commotion which took place in Mauritius, as a result of the excision of the Chagos Archipelago was the resignation, on 11th November, 1965, of the three P.M.S.D. Ministers (Messrs Koenig, Duval and Devienne) from the coalition Government. The next day, they convened a press conference in Port Louis and explained that the reason for their resignation was Government stand in regard to the excision of the Chagos Archipelago. The party's leader, Mr Koenig, stressed that the P.M.S.D. was not against the use of the archipelago for a joint United Kingdom/United States defence venture. But his party felt that Government should have retained the sovereignty of Mauritius over the islands and negotiated their occupation, on the best possible terms, direct with the occupying powers. The P.M.S.D. had in mind the possibility of securing a substantial sugar quota on the United States market and defining a policy of emigration to the United States for unemployed Mauritians.

This stand was supported by Sir Gaëtan Duval, Q.C., one of Mr Koenig's co-delegate, when he appeared before the Select Committee on 12th November, 1982. He underlined that a periodical review of such arrangements direct with the occupying powers would have been most beneficial to Mauritius. Sir Gaëtan further assured the Committee that the Council of Ministers was, from the very start, aware that the Chagos Archipelago would be used for defence purposes jointly by the United Kingdom and the United States. He indicated that this state of affairs is contained in official documents. The possibility of recruiting Mauritian workers for the construction of military installations at Diego Garcia and the purchase, as far as possible, of materials from Mauritius was even envisaged at that time.

Sir Gaëtan explained that, on 23rd September, 1965, while the Mauritius Constitutional Conference was discussing the proposition for a referendum put forward by his party, the chairman, Mr Anthony Greenwood, suspended the proceedings and invited the Mauritian delegates to meet him and offer their views on the future of the Chagos Archipelago. The P.M.S.D. refused to attend the meeting, feeling that such a question was outside the agenda of the Conference and that the party had no mandate to consider any possible excision of part of the Mauritian territory. Sir Seewoosagur Ramgoolam, Sir Abdool Razack Mohamed and Mr Sookdeo Bissoondoyal, representing respectively the Mauritius Labour Party, the Muslim Committee of Action and the Independent Forward Bloc responded to the invitation but Sir Gaëtan was not in a position to say if the final decision was taken in their presence or as a result of private consultations between Mr Anthony Greenwood and Sir Seewoosagur Ramgoolam. It was, revealed Sir Gaëtan, at the resumption of proceedings, after such a meeting extraneous to the Conference agenda, that the Secretary of State ruled out the suggestion for a referendum, leaving the clear impression that some sort of blackmailing had taken place.

Alluding to the question of the displaced Ilois, Sir Gaëtan argued that the excision having taken place in 1965, that is, three years before the independence of Mauritius, those persons cannot be considered as citizens of Mauritius but British nationals. He regretted that (i) the case of Mr Vencatassen had been withdrawn from the British Law Courts, thus depriving the community at large from obtaining the verdict of the Court on this delicate issue and (ii) the attitude of the Mauritius Government, after independence, vis-àvis the United Kingdom, might, in a large measure, have jeopardised the claim of Mauritius for recovering its sovereignty over the archipelago.

C *The Independent Forward Bloc (I.F.B.)*

Honourable Aneerood Jugnauth, Q.C., Prime Minister of Mauritius, who formed part of the Mauritius Delegation to the Constitutional talks 1965, under the banner of the I.F.B., was heard by the Select Committee. He stated that never, in the course of the talks, was the question of the excision of the Chagos Archipelago raised. Some time before the Conference ended, the Leader of the Mauritius Labour Party, Dr Seewoosagur Ramgoolam, came to the desk of the I.F.B. delegation and told the delegates that he had accepted a proposition from the United Kingdom to use Diego Garcia as a communications station. There was no indication that the islands would be used as a military base, nor was the question of an excision from the Mauritian territory mentioned. Mr Jugnauth said that, at the time, the I.F.B. "had not much to say about it", as the party thought that the installation of communications facilities on the islands was an innocuous venture.

Mr Jugnauth stressed that, at no time, did the Leader of the I.F.B. inform his co-delegates that he had taken part in any private talks on the issue with the British authorities, nor was the eventual excision of the islands ever discussed at party level. He added that the statement made by Mr Guy Forget in the Legislative Assembly on 14th December, 1965, (Appendix 'F') came as a surprise to him in the sense that it contained facts that were never brought to his knowledge or to that of his party before. He was not a minister when the excision was discussed in the then Council of Ministers and he was never informed subsequently of the decision then taken.

Mr Jugnauth recalled that the withdrawal of the P.M.S.D. from the Constitutional talks had nothing to do with the excision of the Chagos Archipelago which, he repeated, was never brought on the Conference agenda. The P.M.S.D. delegates left when they learnt of the United Kingdom's intention to grant independence to Mauritius.

The Committee wishes at this stage to reproduce a statement made in the Legislative Assembly, on 19th October, 1976 by late Mr. S. Bissoondoyal, then Leader of the I.F.B. on the excision of the archipelago and which supports substantially the evidence of Mr. Jugnauth:—

> The London Conference in 1965 witnessed this question coming out whether Mauritius would agree to part with Diego Garcia. That was the question put to me as a Member of the Government, put to me in private. I had an answer for it and that question was also put to the Leader

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of the Parti Mauricien. I am aware of the attitude of the Parti Mauricien at that time. Now let me make it clear to the House, the aftermath of all this matter was dealt with personally by the Prime Minister and no Government then existing. I was a Member of the Government, I knew what was taking place: (1)

D. *Mr Maurice Paturau, D.F.C., C.B.E.—Independent Member*

Mr Paturau appeared before the Select Committee on 13th December 1982. He formed part of the Mauritius delegation which attended the Constitutional talks of September 1965. He revealed that he participated in no less than two meetings with the British authorities on the question of the excision of the Chagos Archipelago, but all these meetings were extraneous to the open Constitutional Conference which was then in progress. it was in the course of the first of these meetings that Dr Ramgoolam himself and the other party leaders took cognizance of the amount of compensation proposed by the United Kingdom. When the possibility of securing a sugar quota on the American market was evoked by the Mauritian side, the British officials suggested that this question should be dealt with direct with the American Embassy in London. A meeting was accordingly arranged and Mr Guy Forget led the Mauritian delegation which comprised, *inter alia*, Messrs Abdool Razack Mohamed and Jules Koenig. The request of Mauritius was turned down by the American officials who stated that "as far as Chagos was concerned, they would not commit the American Senate or House of Representatives about anything like a sugar quota." They intimated that anything connected with the Chagos Archipelago issue was a matter for direct negotiation between the United States and the United Kingdom Governments, and not with Mauritius.

The second meeting took place after the P.M.S.D. had retired from the Conference and the Mauritius delegation was then represented by Dr Ramgoolam, Messrs Abdool Razack Mohamed, Sookdeo Bissoondoyal and himself. A final compensation of £3m was then proposed by the United Kingdom Government. He expressed dissent as he thought the compensation inadequate, but the other delegates agreed.

Mr Paturau stressed that during all the negotiations that took place, he had in mind the lease of the Chagos Archipelago by Mauritius. An initial period of thirty years was even proposed during which term a sugar quota at more remunerative prices would be negotiated, coupled with the possibility of obtaining

(1) Debates No. 28 of 1976, Col. 2885-2886.

rice and flour from America at subsidized rates. Such lease would have been, more or less, on the model of the North West Cape Agreement between Australia and the United States, signed in 1963. He did not agree that the idea of a communications station was devoid of any military connotation. The American sub-marines needed in fact a land base which would 'generate enough messages at low frequency, but of high power so that they could reach the sub-marine and give it the actual position it was in so that it could fire its missiles with as much precision.'

Referring to the attitude of the P.M.S.D. on the excision issue, Mr Paturau said that, at no time, either in London or in Mauritius, did that party express any opposition to the principle of the excision. The party was most concerned at Lancaster House with reservations in the electoral system and walked out of the Conference on that issue, whereas the resignation of the Ministers of that party from the then Council of Ministers was motivated by the inadequacy of the compensation offered by the United Kingdom Government. As regards the inhabitants of the islands, he explained that, to his mind, those who came from the Seychelles were considered as migrants, whereas the others were "established Mauritians" whose fate was never discussed at the meetings he attended.

V — The Lesser Dependencies in the Wake of a New Destiny

26. In November 1959, a Commission headed by Professor J. E. Meade was appointed to report to His Excellency the Governor of Mauritius, then Sir Colville Montgomery Deverell, K.C.M.G., C.V.O., on ways and means of improving the economic and social structure of Mauritius. Although the terms of reference of the Commission were wide enough, the Commissioners did not feel that a study of the economic potentialities of the dependencies of Mauritius, including Rodrigues, was justified. Indeed, the temptation of ignoring whatever contribution the lesser dependencies particularly, could make to the economy of Mauritius was so great that at paragraph 6:44 of their report, the Commissioners invited Government to reject an application for financial assistance made by the two private companies which were then engaged in copra production on the Chagos and Agalega islands. (1)

27. The outright ignorance of the lesser dependencies and of their possible contribution to the economy of Mauritius, by the Meade Commission, did not deter the private sector in its attempt to rehabilitate the islands by a more scientific approach to copra production. The sector felt that if the soap and oil industry were to be maintained in Mauritius, as a means of helping both to combat unemployment and to save foreign exchange,

(1) J. E. Meade & Others, The Economic and Social Structure of Mauritius—Frank Cases & Co. Ltd. p. 138.

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Conference of September 1965, the United States involvement was such that a delegation headed by the Deputy Leader of the Mauritius Labour Party visited the Minister in Charge of Economic Affairs at the American Embassy, in London, in an attempt to secure, for Mauritius, some benefits in return for the excision. (Para. 37). And later, the record of the meeting held at Lancaster House on 23rd September 1965, will, in no uncertain terms, at items (iv) (v) and (vi) bear testimony of the U.S. presence in the deal. (Appendix 'K').

In addition, all documents exchanged between the Secretary of State for the Colonies and the Mauritius Government preceding and following the then Council of Ministers' agreement to the excision (Appendices 'L', 'M', 'O', 'R') bear reference to a joint U.K./U.S. venture. Some of the letters, including the memorandum submitted to the Council of Ministers by the Chief Secretary on 4th November 1965 (Appendix 'M') were even boldly headed "U.K./U.S. Defence Interests".

Here again, the Select Committee cannot but strongly denounce such deliberate misleading of public opinion on the matter.

E. *The Blackmail Element*

Sir Seewoosagur Ramgoolam's statement before the Select Committee is highly indicative of the atmosphere which prevailed during the private talks he had, at Lancaster House, with the British authorities. He avered that he was put before the choice of either retaining the archipelago or obtaining independence for his country, but refused to describe the deal as a blackmail. Sir Gaëtan Duval argued that the choice was between the excision and a referendum on independence. This contradiction is substantially immaterial to the Committee. What is of deeper concern to the Select Committee is the indisputable fact that a choice was offered through Sir Seewoosagur to the majority of delegates supporting independence and which attitude cannot fall outside the most elementary definition of blackmailing. Sir Harold Walter, deponing before the Select Committee on 11th January 1983, will even go to the length of stating that the position was such that, had Diego Garcia which "was, certainly, an important tooth in the whole cogwheel leading to independence" not been ceded, the grant of national sovereignty to Mauritius "would have taken more years probably".

The Declaration on the Granting of Independence to Colonial Countries and Peoples voted by the General Assembly of the United Nations on 14th December 1960 (Appendix 'C') clearly sets out at para. 5 that the transfer of power to peoples living in "Trust and Non-Self Governing Territories or all other Territories" should be effected "without any conditions and reservations". In addition , at para. 6, it expressedly lays down 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."

Hence, notwithstanding the blackmail element which strongly puts in question the legal validity of the excision, the Select Committee strongly denounces the flouting by the United Kingdom Government, on these counts, of the Charter of the United Nations.

1st June 1983.

JEAN-CLAUDE DE L'ESTRAC
Chairman

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"British Indian Ocean Territory" Notice No. 7 of 1985

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The following notices are published by order of the Commissioner for general information:

No 7 of 1985

DESIGNATION OF MAURITIUS UNDER SECTION 4 OF THE FISHERY LIMITS ORDINANCE, 1984.

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 fishing traditionally carried on in areas within the fishery limits to be continued by fishing boats registered in Mauritius.

/No 8 of 1985

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ANNEX 99

Note Verbale dated 23 July 1991 from British High Commission,
Port Louis to Government of Mauritius, No. 043/91

ANNEX 99

NOTE NO 043/91

The British High Commission presents its compliments to the Government of Mauritius and wishes to advise the Government of Mauritius that the Commissioner of the British Indian Ocean Territory will declare on 7 August 1991 the intention to extend from 12 to 200 miles the fishing zone around the British Indian Ocean Territory, in accordance with international law and practice. This will come into effect on 1 October 1991.

There are good environmental reasons for this action. Tuna stocks migrate around the Indian Ocean, large numbers passing through the area to be included in the 200 mile zone. In the view of the British Government on the advice of technical experts, it is important that these waters are subject to regulatory control through licensing. If we fail to exercise our responsibilities tocks will dwindle to the detriment of other Indian Ocean states and territories. It is important also that we conserve the stock position and so protect the future fishing interests of the Chagos group. An extension of the zone will allow the application of regulations relating to types of net and fishing gear.

In view of the traditional fishing interests of Mauritius in the waters surrounding British Indian Ocean Territory, a limited number of licences free of charge have been offered to artisanal fishing companies for inshore fishing. We shall continue to offer a limited number of licences free of charge on this basis.

The Government of the United Kingdom appreciates that this development will be of interest to fishing companies in Mauritius and we shall be inviting expressions of interest after the declaration is made on 7 August 1991.

The Government of the United Kingdom avails itself of this opportunity to express to the Government of Mauritius the assurance of its highest consideration.

BRITISH HIGH COMMISSION
PORT LOUIS

FOREIGN AND COMMONWEALTH OFFICE
LONDON

23 JULY 1991

ANNEX 100

Note Verbale dated 7 August 1991 from Ministry of External Affairs, Mauritius to British High Commission, Port Louis, No. 35(91) 1311

ANNEX 100

No. 35(91)1311 7th August, 1991

The Ministry of External Affairs presents its compliments to the British High Commission and, with reference to the Note No. 043/91 of 23 July 1991 from the Foreign and Commonwealth Office concerning the declaration of the Commissioner of the British Indian Ocean Territory on 7 August 1991 of his intention to extend from 12 to 200 miles the fishing zone around the British Indian Ocean Territory, has the honour to inform the High Commission that the Government of Mauritius does not accept the said declaration.

The Ministry wishes to remind the High Commission that the Government of Mauritius considers that the Chagos Archipelago, referred to as the British Indian Ocean Territory in the note under reference, is an integral part of the territory of Mauritius, and that the Government of Mauritius has reaffirmed its sovereignty over the Chagos Archipelago and its maritime rights in respect of the Chagos Archipelago through the publication of Government Notice No. 199 of 1984. A copy of the Government Notice was forwarded to the High Commission by Note Verbale of 9 September 1985.

The Ministry furthermore wishes to point out that, in the light of the above, the Government of Mauritius does not ipso facto accept the validity of the offer of free licences for inshore fishing.

The Ministry of External Affairs avails itself of this opportunity to renew to the British High Commission the assurances of its highest consideration.

British High Commission,
King George V Avenue
Floreal

MINISTRY OF EXTERNAL AFFAIRS
MAURITIUS

ANNEX 101

"British Indian Ocean Territory" Proclamation No. 1 of 1991

ANNEX 101

PROCLAMATION

PROCLAMATION NO.1 OF 1991

IN THE NAME of Her Majesty ELIZABETH the Second, by the Grace of God, of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories, Queen, Head of Commonwealth, Defender of the Faith.

Richard Edis,
Commissioner

By Richard John Smale Edis, Commissioner for the British Indian Ocean Territory.

I, Richard John Smale Edis, Commissioner for the British Indian Ocean Territory, acting in pursuance of instructions given by Her Majesty through a Secretary of State, do hereby proclaim and declare that –

1. There is established for the British Indian Ocean Territory a fisheries zone, to be known as the Fisheries Conservation and Management Zone, contiguous to the territorial sea of the British Indian Ocean Territory.

2. The said fisheries zone has as its inner boundary the outer limits of the territorial sea of the British Indian Ocean Territory and as its seaward boundary a line drawn so that each point on the line is two hundred nautical miles from the nearest point on the low-water line on the coast or other baseline from which the territorial sea is measured or, unless another line is declared by Proclamation, the median line where this is less than two hundred nautical miles from the baseline. The median line is a line every point of which is equidistant from the nearest points of the baseline of the British Indian Ocean Territory and the corresponding points on the coasts of the Republic of the Maldives.

3. Her Majesty will exercise the same jurisdiction 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 provision as may hereafter be made by law for the control and regulation of fishing within the said zone.

4. In this Proclamation "the British Indian Ocean Territory" means the islands of the British Indian Ocean Territory set out in the Schedule to this Proclamation.

5. Proclamation No.8 of 1984 is hereby revoked.

GOD SAVE THE QUEEN

Given at the Foreign and Commonwealth Office, London this 1st day of October 1991.

ANNEX 101

SCHEDULE

The Islands of the British Indian Ocean Territory

The Chagos Archipelago consisting of:

Diego Garcia
Egmont or Six Islands
Peros Banhos
Salomon Islands

The Brothers Islands
Nelson or Legour Island
Eagle Islands
Danger Island

ANNEX 102

"British Indian Ocean Territory" Ordinance No. 1 of 1991

ANNEX 102

BRITISH INDIAN OCEAN TERRITORY

ORDINANCE No. 1 of 1991

An Ordinance to make fresh provision for the regulation, conservation and management of the fishing waters of the British Indian Ocean Territory and matters incidental thereto.

Enacted by the Commissioner for the British Indian Ocean Territory.

Richard Edis
Commissioner

1 October 1991

Citation and commencement

1. This Ordinance may be cited as the Fisheries (Conservation and Management) Ordinance 1991 and shall come into force on such day as the Commissioner may by notice in the Gazette appoint and the Commissioner may appoint different days for the coming into force of different provisions.

Interpretation

2. In this Ordinance unless the context otherwise requires:-

"Director of Fisheries" means the Director of Fisheries appointed under section 9(1);

"fish" means any marine animal not being a mammal or bird, whether fresh or cured including shellfish and any part of such animal;

"shellfish" includes crustaceans and molluscs of any kind, and includes any (or any part of any) brood, ware, half-ware or spat of shellfish and any spawn of shellfish, and the shell, or any part of the shell, of a shellfish.

"Fisheries Protection Officer" means the Director of Fisheries and any of the Fisheries Protection Officers provided for in section 9(3) and (4) or any person authorised by a Fisheries Protection Officer for the purposes of this Ordinance;

"fishing" means –

(a) the catching or taking of fish;

(b) any other activity which can reasonably be expected to result in the catching or taking of fish; or

(c) any operations at sea in support of, or in preparation for, any activity described in (a) and (b);

"fishing boat" means any vessel of whatever size and in whatever way propelled, which is for the time being employed in fishing operations or for the processing, storage or carriage of fish or of any operations (including transhipment of fish) ancillary thereto;

"fishing licence" means a licence provided for under section 4;

"fishing waters" means the fishing waters of the British Indian Ocean Territory provided for in section 3;

"Fisheries Conservation and Management Zone" means the zone of that name established by and defined in the Proclamation by the Commissioner of the 1st October 1991 as amended by any subsequent proclamation defining the zone;

"internal waters" means those seawaters on the landward side of the baselines from which the territorial sea is measured;

"master" includes, in relation to a fishing boat, the person for the time being in command or in charge of the boat or in charge of fishing operations on board the boat;

"transhipment licence" means a licence so described provided for in section 7;

"transhipment of fish" includes the passing of fish from one fishing boat to another whether or not the fish has first been taken on board the boat from which the fish is passed.

3. The fishing waters of the British Indian Ocean Territory comprise – Fishing waters.

(a) the internal waters;

(b) the territorial sea; and

(c) the Fisheries Conservation and Management Zone.

4. (1) Fishing by a fishing boat in the fishing waters is prohibited unless authorised by a licence granted under this Ordinance. Fishing prohibited without a licence.

(2) Where any fishing boat is used in contravention of subsection (1) the master, the owner and the charterer shall each be guilty of an offence.
PENALTY – £300,000.

(3) A fee may be charged for a licence.

(4) A fishing licence shall be granted to the master, owner or charterer in respect of a specified fishing boat and may authorise fishing generally or may confer limited authority by reference to, in particular –

(a) the area within which fishing is authorised;

(b) the period, times or particular voyages during which fishing is authorised;

(c) the descriptions, quantities, sizes and presentation of fish which may be taken; or

(d) the method of fishing and construction of fishing equipment.

(5) A fishing licence may authorise fishing either unconditionally or subject to such conditions as appear to the Director of Fisheries to be necessary or expedient for the regulation of sea fishing, the conservation or management of fisheries in the fishing waters or for the economic benefit of the British Indian Ocean Territory and in particular a licence may contain (without prejudice to the generality of the foregoing) conditions as to –

(a) the landing of fish taken under the authority of the licence;

(b) the use to which the fish taken may be put;

(c) the marking of the licensed fishing boat in a manner consistent with international accepted practice, including the display of its assigned international radio call sign;

(d) the records of fishing operations which shall be kept on board the licensed fishing boat;

(e) the navigation equipment and charts to be carried on board the licensed fishing boat; and

(f) the place or places where the licensed fishing boat may carry out transhipment of fish;

and if a licence condition is broken the master, the owner and the charterer of the fishing boat concerned in such breach shall each be guilty of an offence.
PENALTY – £100,000.

(6) It shall be an offence for a master to allow to remain on board a fishing boat within the fishing waters fish which has not been taken under the authority of and in accordance with a fishing licence:

Provided that it shall be a defence to a prosecution for an offence arising under this subsection if the person charged satisfies the court that the fish was not taken, caught or captured in the fishing waters.
PENALTY – £200,000.

(7) The master, the owner or the charterer of a fishing boat prior to making an application for a fishing licence shall notify the Director of Fisheries of such relevant information (including information in relation to any period before the commencement of this Ordinance) as he may direct, and a person who fails without reasonable excuse to comply with such a requirement or provides information which he knows to be false or recklessly furnishes information which is false shall be guilty of an offence.
PENALTY – £15,000.

(8) A fishing licence may be –

(a) varied from time to time, and

(b) revoked or suspended,

if this appears to the Director of Fisheries to be necessary or expedient for the regulation of sea fishing, the conservation or management of fisheries in

the fishing waters or for the economic benefit of the British Indian Ocean Territory.

(9) No exercise by the Director of Fisheries of the power contained in subsection (8) shall be liable to be challenged, reviewed, quashed or called in question in any court on the ground that the conditions for the exercise of the power by him had not arisen or had ceased.

(10) If a fishing licence is varied, revoked or suspended the Director of Fisheries may, if he considers it appropriate in all the circumstances of the case, refund the whole or part of any fee charged for the licence.

(11) Nothing in this Ordinance shall prohibit any person lawfully temporarily resident in or visiting the British Indian Ocean Territory from fishing in the course of sport, by rod and line only, and not for profit in any area in which that activity is not prohibited by the Commissioner by notice in the Gazette.

Notification of fish on board by fishing boats entering fishing waters.

5. (1) The master of a fishing boat that has fish on board shall

(a) prior to entry of the boat into the fishing waters, or

(b) prior to the boat leaving an area of the fishing waters in which the master, owner or charterer of that boat is licensed to fish,

notify a Fisheries Protection Officer of the amounts, descriptions, sizes and presentation of fish on board the boat.
PENALTY – £50,000.

(2) The giving of a notification under subsection (1) shall not of itself constitute a defence to a prosecution for an offence under section 4(6).

6. (1) At any time when a fishing boat is in any area of the fishing waters and either –

(a) it is prohibited by section 4 from fishing in that area; or

(b) it is permitted by fishing licence to fish only for certain descriptions of fish in that area,

then its fishing gear, or so much of the gear as is not required for permitted fishing, shall be stowed in such manner that it is not readily available for use for fishing or in such manner as may be prescribed.

(2) If this section is contravened in the case of any fishing boat –

(a) the master of the boat shall be liable on conviction to a fine; and

(b) the court may on convicting him order the forfeiture of any fish or fishing gear found in the boat or taken or used by any person from the boat.

PENALTY – £100,000.

Transhipment of fish prohibited without a licence.

7. (1) Within the fishing waters the transhipment from a fishing boat or the receiving of fish by a fishing boat from another fishing boat or the transport from the territorial seas or internal waters by any fishing boat of fish transhipped from any other fishing boat is prohibited unless authorised by a transhipment licence granted under this section.

(2) Where any fishing boat is used in contravention of a prohibition imposed by this section the master, the owner and the charterer shall each be guilty of an offence:

Provided that it shall be a defence to a prosecution for an offence arising under this subsection if the person charged satisfies the court that the fish was not taken, caught or captured in the fishing waters.

PENALTY – £50,000.

(3) A fee may be charged for a shipment licence.

(4) A transhipment licence shall be granted to the owner or charterer in respect of a specified fishing boat and may authorise the transhipment or transport of fish generally or may confer limited authority by reference to, in particular –

(a) the area within which the fish is to be transhipped;

(b) the periods or times during which the fish is to be transhipped or transported;

(c) the descriptions and quantities of fish that may be transported out of the fishing waters; or

(d) the number of times that the fishing boat specified in the licence may transport fish out of the fishing waters.

(5) A transhipment licence may authorise the transhipment or receiving of fish either unconditionally or subject to such conditions as appear to the Director of Fisheries to be necessary or expedient for the regulation of the transhipment of fish, or the economic benefit of the British Indian Ocean Territory including conditions as to the treatment on board a

fishing boat receiving fish of the fish received by it and different conditions may be so imposed with respect to different fishing boats or fishing boats of different descriptions.

(6) If a condition under subsection (5) is broken the master, the owner and the charterer of the fishing boat shall each be guilty of an offence.
PENALTY – £20,000.

(7) The Director of Fisheries may require the master, the owner and the charterer of the fishing boat named in a transhipment licence and any agent named in the licence to provide him with such relevant information as he may direct, and any person who fails without reasonable excuse to comply with such a requirement shall be guilty of an offence.
PENALTY – £15,000.

(8) Any person who –

(a) for the purpose of obtaining a transhipment licence or

(b) in purported compliance with subsection (7),

provides information which he knows to be false or recklessly furnishes information which is false shall be guilty of an offence.
PENALTY – £20,000.

(9) A transhipment licence –

(a) may be varied from time to time, and

(b) may be revoked or suspended,

if it appears to the Director of Fisheries to be necessary or expedient for the regulation of transhipment or for the economic benefit of the British Indian Ocean Territory.

(10) No exercise by the Director of Fisheries of the power contained in subsection (9) shall be liable to be challenged, reviewed, quashed or called in question in any court on the ground that the conditions for the exercise of the power by him had not arisen or had ceased.

(11) If a transhipment licence is varied, revoked or suspended the Director of Fisheries may, if he considers it appropriate in all the circumstances of the case, refund the whole or part of any fee charged for the licence.

Manner of exercise of licensing powers.

8. The licensing powers conferred by this Ordinance may be exercised so as to limit the number of fishing boats, or any description of boat (including boats of any description or boats registered in a specified country) engaged in fishing, transhipping or transporting fish to such an extent as appears to the Director of Fisheries necessary or expedient for the regulation of fishing or transhipment, the conservation or management of fisheries or for the economic benefit of the British Indian Ocean Territory.

Director of Fisheries and Fisheries Protection Officers.

9. (1) This Ordinance and regulations made hereunder shall be administered by the Director of Fisheries appointed by the Commissioner who shall be responsible for:-

(a) the conservation of fish stocks;

(b) the assessment of fish stocks and the collection of data, statistics and any other relevant information;

(c) the development and management of fisheries;

(d) the monitoring, control and surveillance of fishing operations;

(e) the regulation of the conduct of fishing operations and operations ancillary thereto;

(f) the issue, variation, suspension and revocation of licences for fishing, transhipment, export and ancillary operations;

(g) the collection of fees in respect of licences;

(h) the making of such reports to the Commissioner as the latter, acting in his discretion, may require;

(i) other matters referred to in this Ordinance.

(2) In the performance of his duties under this Ordinance the Director of Fisheries shall be subject to the direction of the Commissioner except that in the performance of his duties as a public prosecutor for cases arising under this Ordinance he shall be subject to the express directions of the Principal Legal Adviser.

(3) This Ordinance and regulations made hereunder shall be enforced by Fisheries Protection Officers acting subject to the direction of the Director of Fisheries, and for that purpose Fisheries Protection Officers shall have the powers set out in section 10.

(4) The following persons shall be Fisheries Protection Officers, that is to say every person appointed in that behalf by the Commissioner, every Peace Officer and Imports and Exports Control Officer of the British

Indian Ocean Territory, commissioned officers of any of Her Majesty's ships and persons in command or charge of any aircraft or hovercraft of the Royal Navy, the Army or the Royal Air Force.

10. (1) For the purpose of enforcing this Ordinance or of any regulation made hereunder a Fisheries Protection Officer or any person authorised by him may exercise the following powers with respect to any fishing boat within the fishing waters:-

(a) he may stop the boat;

(b) he may require the master to cease fishing and take back on board the boat's fishing gear;

(c) he may require the master to facilitate the boarding of the boat by all appropriate means;

(d) he may go on board the boat and take with him such other person as he may require to assist him in the exercise of his powers;

(e) he may require the master, the crew or any of them to produce and he may examine and take copies of any certificate of registry, licence, official logbook, official paper, article of agreement, record of fish caught, and any other document relating to the boat or to the crew or any member thereof, or to any person on board the boat, which is in their respective possession or control on board the boat;

(f) he may muster the crew of the boat;

(g) he may require the master to appear and to give any explanation concerning the boat and any crew, or any person on board the boat, and any document mentioned in paragraph (e);

(h) he may make any search, examination or enquiry which he considers necessary to find out whether any provision of this Ordinance or any regulation made hereunder has been contravened;

(i) he may take or require the master to take the boat to any place in the British Indian Ocean Territory for the purpose of carrying out of any search, examination or enquiry;

(j) in the case of any person who appears to him to have committed any offence against this Ordinance or any regulation

made hereunder, he may, without summons, warrant or other process, take the suspected offender and take or require the master of the boat to take the boat in respect of which it appears to him there has been an offence together with the crew thereof to the British Indian Ocean Territory, and bring him or them before a competent court and detain him and them and the boat in the British Indian Ocean Territory until the alleged offence has been adjudicated upon;

(k) he may, having regard to the safety of the boat, take steps to immobilise any fishing boat seized, taken or detained in accordance with this section for the purpose of preventing the boat being taken by any person prior to the release of the boat under section 12 or by the court;

(l) in the case of any offence against section 4(2) or (5) or section 7(2) or (6), he may seize any boat (together with its equipment, stores and cargo) which he believes has been used in the commission of such offence or in respect of which he believes such offence has been committed;

(m) he may seize any fishing gear, instruments or appliances which he believes have been used in the commission of such offence;

(n) he may seize any fish which be believes have been taken or fish products produced in the commission of such offence;

(o) he may seize or take copies of any documents which he believes are relevant to any such offence.

(2) In exercising the powers referred to in subsection (1) a Fisheries Protection Officer may use such force as may be reasonably necessary.

(3) The powers contained in this section may be exercised in respect of a fishing boat irrespective of whether the boat is at the time of such exercise engaged in fishing or any activities in any way related to fishing.

Release of boat or thing if no proceedings instituted.

11. Where a fishing boat or any other thing has been taken seized or detained in accordance with section 10 the Director of Fisheries shall on demand release the boat or other thing to the master, owner, charterer or agent of the owner or charterer if no proceedings are instituted within 14 days of the arrival of the boat or thing in the British Indian Ocean Territory.

Security for release of fishing boat.

12. (1) Where a fishing boat is taken, seized or detained under this Ordinance or any regulation made hereunder and an information or charge is laid against the master, the owner or the charterer or the agent of the owner or charterer of the boat in respect of the offence for which the boat has been detained, the master, the owner or the charterer of the boat may at any time before the determination of the information or charge apply to the court by which the information or charge will be determined for the release of the boat on the provision of security in accordance with this section.

(2) On hearing the application the court shall either:

(a) being satisfied that adequate security has been given to the Crown in respect of the aggregate of the maximum penalty to which the defendant may be liable and the costs and expenses that the Crown may recover under section 16(2), order the release of the fishing boat; or

(b) order the release of the fishing boat on the execution by any suitable person or persons approved by the court for the purpose of a bond in the prescribed form and conditioned in accordance with subsection (4) in an amount not less than the aggregate of the maximum penalty to which the defendant may be liable and the costs and expenses that the Crown may recover under section 16(2).

(3) Notwithstanding subsection (2) the court may, where it is satisfied that there are special circumstances to justify it in doing so, order that the bond shall be in a specified amount that is less than the amount required by that subsection.

(4) The condition of the bond shall be that if:

(a) the defendant is found not guilty to the information or charge; or

(b) the defendant on being convicted of the information or charge pays in full within 14 days after he is convicted the amount of the fine imposed by the court, and the amount of all costs and expenses due by him to the Crown under section 16(2),

then the bond shall be of no effect, but that otherwise the bond shall remain in full force and effect.

(5) The amount specified in the bond shall be recoverable in full, in any court of competent jurisdiction, as a debt due to the Crown jointly and severally by the person or persons by whom the bond is given, unless

the person or persons prove the due performance of the condition on which the bond is defeasible.

(6) In this section "fishing boat" includes all equipment on board or used by the boat, and also includes all fish that has been seized from the boat under this Ordinance or any regulation made hereunder and is detained on board the boat in the custody of the Crown.

Indemnity.

13. No civil or criminal action shall lie against a Fisheries Protection Officer in respect of any act done or omitted to be done by him in good faith in the purported exercise of his powers under this Ordinance or any regulations made hereunder if there shall have been reasonable cause for such action or omission.

Obstruction of Fisheries Protection Officers.

14. If any person obstructs a Fisheries Protection Officer when acting in the exercise of his powers under this Ordinance or any regulations made hereunder, or refuses or neglects to comply with any order, requisition or direction lawfully made or given by, or to answer any question reasonably asked by, a Fisheries Protection Officer in pursuance of this Ordinance, or prevents or attempts to prevent another person from complying with such orders, requisitions or directions or from answering such questions, such person shall be guilty of an offence.
PENALTY – £100,000.

Offence, penalties and proceedings.

15. (1) Any person who contravenes any provision of this Ordinance or any Regulation made hereunder where no offence is specifically provided commits an offence.

(2) Any person who commits an offence against this Ordinance or any regulation made hereunder, for which no other penalty is specifically provided, shall be liable to a fine not exceeding £100,000.

(3) Where a person is convicted of any offence against this Ordinance or any regulation made hereunder the court may, in addition to any other penalty it may impose, order that any fishing gear, instruments or appliances used in the committing of such offence, and any fish on board a fishing boat shall be forfeited to the Crown and if so forfeited shall be disposed of in such manner as the Commissioner, acting in his discretion, may direct.

(4) For the purposes of any proceedings under this Ordinance any fish found on board a fishing boat shall be presumed to have been caught

(a) within the fishing waters and

(b) within the vicinity of the boat at the time the fish was so found where the licence to fish, specifying the boat, restricts fishing to a particular area

unless the contrary is proved.

(5) An attempt to commit an offence under this Ordinance shall itself constitute an offence and may be dealt with in like manner as if the attempted offence had been committed.

(6) Any master who tranships, receives on board a fishing boat, transports or in any other manner deals with fish caught or transhipped in contravention of this Ordinance shall be guilty of an offence.

(7) Notwithstanding any law providing for the limitation of time within which proceedings may be commenced any proceedings in respect of an offence against this Ordinance or any regulation made hereunder may be commenced at any time after the commission of the offence.

(8) The Commissioner shall appoint the Director of Fisheries and may appoint any Fisheries Protection Officer or other officer under section 75(1) of the Criminal Procedure Code 1986 as a public prosecutor for all prosecutions and proceedings in respect of offences under this Ordinance or any regulation made hereunder.

(9) A certificate purporting to be signed by the Director of Fisheries or any officer authorised by him for that purpose to the effect that on a date specified in the certificate:

(a) a fishing boat specified in that certificate was not licensed under this Ordinance; or

(b) the defendant or any other named person was not the holder of a licence under this Ordinance;

shall in the absence of proof to the contrary be sufficient evidence of the matter stated in the certificate.

Jurisdiction of the Supreme Court and Magistrates' Court.

16. (1) All penalties, offences and proceedings under this Ordinance or any regulation made hereunder may be recovered, prosecuted and taken before the Magistrates' Court or the Supreme Court.

(2) In respect of offences charged under this Ordinance or any regulations made hereunder, and notwithstanding the provisions of the Criminal Procedure Code, 1986, the Magistrates' Court is hereby given extended jurisdiction to impose any fine provided for under this Ordinance or any regulation made hereunder and may award to the Crown such costs

and expenses (including expenses incurred in exercise of the power under section 10(1)(j) and (k)) incurred in relation to the prosecution of such charges or in relation to opposing an appeal against a conviction of such charges as may appear to it to be proper.

Forfeiture of licence

17. (1) Every person who is convicted of an offence against this Ordinance or any regulation made hereunder and is again convicted of an offence against this Ordinance or any regulation made hereunder shall, in addition to any other penalty, forfeit any licence granted under this Ordinance and any fees paid for that licence and shall be incapable, for a period of three years from the day of conviction, of holding any such licence under this Ordinance.

(2) Notwithstanding subsection (1) the Commissioner may in the circumstances of any particular case and upon application being made to him by the person concerned within 30 days from the date of conviction or such extended period as the Commissioner may allow direct that the provisions of that subsection may be varied or are not to apply.

Administrative penalties for minor.

18. (1) Where the Commissioner has reasonable cause to believe that:

(a) an offence against this Ordinance or any regulation made hereunder has been committed by any person in respect of any fishing boat;

(b) the offence is of a minor nature;

(c) having regard to the previous conduct of the boat and the person concerned it would be appropriate to impose a penalty under this section;

he may cause a notice in writing in accordance with subsection (2) in the prescribed form to be served on that person.

(2) A notice under subsection (1) shall specify:

(a) the date and nature of the offence;

(b) a summary of the facts on which the allegation that an offence has been committed is based (being a sufficient summary fully and fairly to inform the person of the allegation against him); and

(c) any other matters (not being previous convictions) that the Commissioner considers relevant to the imposition of a penalty;

and shall be endorsed with a statement setting out the provisions of this section.

(3) Any person on whom a notice under subsection (1) is served may, within 28 days after such service, by notice in writing in the prescribed form served on the Commissioner require that proceedings in respect of the alleged offence shall be dealt with by the court, in which case the following shall apply:

(a) no further proceedings shall be taken under this section by the Commissioner; and

(b) nothing in this section shall be construed to prevent the subsequent laying of any information or charge in respect of the alleged offence, or the conviction of the person of the offence by the court, or the imposition of any penalty or forfeiture under this Ordinance upon such conviction.

(4) Any person on whom a notice under subsection (1) is served who does not require that proceedings in respect of the alleged offence shall be dealt with by the court may by notice in writing served on the Commissioner:

(a) admit the offence; and

(b) make submission to the Commissioner as to the matters he wishes the Commissioner to take into account in imposing any penalty under this section.

(5) Where a person on whom a notice under subsection (12) is served does not within 28 days after the notice is served on him:

(a) require that proceedings in respect of the alleged offence shall be dealt with by the court; or

(b) admit the offence;

he shall on the expiration of that period be deemed to have admitted the offence.

(6) Where under this section a person admits or is deemed to have admitted an offence the Commissioner may, after taking into account any submissions made by that person under subsection (4), impose a monetary penalty on that person in respect of the offence not exceeding one third of the maximum monetary penalty to which the person would be liable if he were convicted of the offence by the court.

(7) An admission or deemed admission of an offence and the imposition of a penalty under this section shall not count as a conviction of an offence for the purposes of section 17.

(8) Where the Commissioner imposes a penalty on a person under this section in respect of an offence the Commissioner shall cause a notice in writing in the prescribed form of the particulars of the penalty to be served on the person.

(9) A person on whom a penalty is imposed under this section shall pay the amount of the penalty to the Crown within 28 days after the notice of the penalty is served on him in accordance with subsection (8).

(10) Without prejudice to the requirement of subsection (9), a penalty imposed under this section shall be recoverable by the Crown from the person on whom it has been imposed in the same manner as a fine is recoverable on conviction for an offence.

(11) Notwithstanding any other provision of this Ordinance or of any other enactment, where an offence has been admitted or is deemed to have been admitted under this section no information or charge may be laid in respect of the offence against any person by whom it is admitted or is deemed to have been admitted.

(12) Nothing in this section shall apply:

(a) in respect of any offence or alleged offence under section 4(2); or

(b) in respect of any offence or alleged offence in respect of which any information or charge has already been laid.

Detention or forfeiture of fishing boat on failure to pay or secure fine.

19. (1) If any fine or amount of costs is adjudged to be due by the master, owner or charterer of any fishing boat in respect of a contravention of any provision of this Ordinance or any regulation made hereunder, the court may, if no security or it considers that insufficient security has been given to the Crown, order that in default of payment forthwith the defendant shall give security for payment of the amount due, and if such security to the satisfaction of the court is not given, the court may order the detention of the fishing boat concerned with the contravention, and such fishing boat may accordingly be detained in the British Indian Ocean Territory until the amount due is paid or until sufficient security shall be given to the satisfaction of the court.

(2) If a fine is not paid or security given within 30 days of the date of the order of the court, or such longer period as the court may determine, the court may order that in the case of any offence against section 4(2) or (5)

or section 7(2) or (5) any boat and its equipment used in the commission of such offence shall be forfeited to the Crown and if so forfeited shall be disposed of in such manner as the Commissioner, acting in his discretion, may direct.

20. Pursuant to the provisions of the Immigration Ordinance 1971, no person on a fishing boat in the fishing waters shall land, or enter in any other way, the British Indian Ocean Territory unless he is in possession of a permit or his name is endorsed on a permit in accordance with the provisions of the Immigration Ordinance 1971.

21. (1) The Commissioner may make Regulations for the better carrying into effect of the purposes of this Ordinance. Regulations.

(2) In particular and without prejudice to the generality of the foregoing such regulations may provide for:

(a) anything which is to be, or may be, prescribed under this Ordinance;

(b) the forms to be used for the purposes of this Ordinance;

(c) the persons to whom and the manner in which applications may be made;

(d) the procedures to be followed by applicants for licences;

(e) terms and conditions that shall apply to licences issued under this Ordinance;

(f) the fees to be paid in respect of licences;

(g) the equipment to be carried on board fishing boats;

(h) the reports to be made for the purposes of this Ordinance;

(i) the designation by applicants for licences and licensees of authorised agents in the British Indian Ocean Territory in respect of fishing boat operations and otherwise for the purposes of this Ordinance;

(j) the provision by applicants for licences or licensees of bonds or other forms of security for securing their compliance with the obligations under the terms and conditions of their licences or their compliance with the provisions of this Ordinance;

(k) the placing of Fisheries Protection Officers and official observers on fishing boats and the terms for their presence thereon;

(l) a penalty not exceeding one hundred thousand pounds for contravention of any of such regulations.

(3) Regulations made under this section may make different provisions for different parts of the fishing waters.

22. The Fishery Limits Ordinance, 1984 is repealed.

Repeal of Ordinance No.11 of 1984.

ANNEX 103

Letter dated 1 July 1992 from the British High Commissioner,
Port Louis to the Prime Minister of Mauritius

ANNEX 103

BRITISH HIGH COMMISSION
MAURITIUS

1 July 1992

The Rt Hon Sir Anerood Jugnauth KCMG QC
Prime Minister
Government of the Republic of Mauritius
PORT LOUIS

Sir,

I have the honour to provide, at the request of Ministers in London, the following clarification about British policy towards Mauritian claims to sovereignty over the British Indian Ocean Territory.

As you will be aware, the United Kingdom and the United States of America entered into an Agreement in December 1966 under which the islands of Diego Garcia and the remainder of the Chagos Archipelago were made available to meet the defence needs of both Governments. This Agreement continues in force until 2016 and then for a further period of 20 years unless, not more than two years before the end of the initial period, either Government should give notice of termination to the other. The Agreement states specifically that the territory shall remain under United Kingdom sovereignty during this period. There is no lease involved in this Agreement and the US Government pays no rent to the United Kingdom for the use of the facilities.

The defence facilities of the British Indian Ocean Territory continue to make a vital security contribution, as events during the 1991 Gulf War illustrated, and the UK and the US Governments continue to attach importance to the maintenance of the present agreement.

The British Government has always acknowledged however that Mauritius has a legitimate interest in the future of these islands 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. The British Government has therefore given an undertaking to the Government of the Republic of Mauritius that, when the islands are no longer needed for the defence purposes of the United Kingdom and the United States, they will be ceded to Mauritius. There will be no sale or transfer by the British Government to a third party or any payment or financial obligation by Mauritius as a condition of such transfer. When the time comes for the transfer, the British Government will consult closely with the Government of the Republic of Mauritius and the Government of the United States over the modalities.

/The

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 eccnomic zone around the Chagos islands. HMG takes seriously its obligations to ensure the conservation of the resources of the Archipelago and 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. 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. It has issued free licences for Mauritius fishing vessels to enter both the original 12 mile fishing zone of the territory and now the wider waters of the exclusive fishing zone. It will continue to do so, provided that the Mauritian vessels respect the licence conditions laid down to ensure proper conservation of local fishing resources.

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.

I avail myself of this opportunity to renew to you, Sir, the assurance of my highest consideration.

Michael Howell

M E Howell
High Commissioner

ANNEX 104

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

Cable "HICOMIND"
Port Louis

भारतीय उच्चायोग
पोर्टलुई – मारीशस

HIGH COMMISSION OF INDIA
PORT LOUIS - MAURITIUS

Phone 208-3775 / 6
Telex : 4523 HICOMIN - IW
Fax 230 / 208-6859

No. POR/162/1/97

09 May 1997

The High Commission of India presents its compliments to the Ministry of Foreign Affairs, International and Regional Cooperation, Government of the Republic of Mauritius, and has the honour to reproduce herewith extracts relating to Chagos Archipelago from the Declaration adopted by the 12th Ministerial Conference of Movement of Non-Aligned Countries held in New Delhi on April 7-8, 1997.

> "133. The Ministers reiterated the support of the Non-Aligned Movement for the sovereignty of Mauritius over the Chagos Archipelago, including Diego Garcia, and called on the former colonial power to pursue the dialogue with the Government of Mauritius for the early return of the Archipelago. In this respect, they noted with satisfaction the initiation of certain confidence-building measures by the two parties."

The High Commission of India avails itself of this opportunity to renew to the Ministry of Foreign Affairs, International and Regional Cooperation, Government of the Republic of Mauritius, the assurances of its highest consideration.

The Ministry of Foreign Affairs,
International and Regional Cooperation,
Government of the Republic of Mauritius,
Port Louis

13 MAY 1997

ANNEX 105

Letter dated 10 November 1997 from the UK Secretary of State
for Foreign and Commonwealth Affairs to the
Prime Minister of Mauritius

Foreign &
Commonwealth
Office

London SW1A 2AH

From The Secretary of State

10 November 1997

Dear Dr. Ramgoolam,

It was a great pleasure to meet you again last Tuesday.

I promised to write to you to give my considered views on the points you raised on the British Indian Ocean Territory (Chagos Archipelago), and the Ilois in particular.

Firstly, I am pleased to reaffirm, as was publicly stated in 1992 under the previous Administration, the Territory will be ceded to Mauritius when no longer required for defence purposes. I also reaffirm that this Government has no intention of permitting the 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.

I welcome the useful cooperation between our two countries on fisheries matters, through our bilateral fisheries commission and joint observer programme, in the common objective of the long term conservation and management of the fisheries stock. Our officials will work closely within the Indian Ocean Tuna Commission as it starts its business. I welcome the election of a Mauritian candidate - whom we supported - as Secretary to the Commission.

His Excellency Dr The Hon Navinchandra Ramgoolam

There should be no barriers to Ilois working on Diego Garcia as part of the contractor work force, and I ensure that all necessary action is taken to encourage the contractor to continue to take all reasonable measures to employ more Mauritians, including Ilois.

I also agreed that we would be willing to issue a further invitation for a small delegation to visit the Territory, possibly including a Minister, officials and a representative of the Ilois. We are still considering the details. Our High Commissioner in Port Louis will consult your office as soon as possible.

You asked about the future prospects of the Ilois. I continue to believe that the only viable prospect for the remaining Ilois is better integration into Mauritian life. The reasons are both legal and pragmatic. Under the 1966 Agreement between Britain and the United States the whole of the Territory was made available to meet the possible defence needs of both Governments until, at least, 2016. Furthermore, it is now some thirty years since the Ilois left the Territory; most will have little memory of life there; there is no infrastructure to support any viable settlement, and there is no prospect of re-establishing the copra plantations on any commercially viable scale.

Yours sincerely

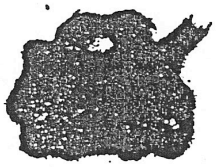
Robin Cook

ROBIN COOK

ANNEX 106

Letter dated 9 January 1998 from the Prime Minister of Mauritius to the UK Secretary of State for Foreign and Commonwealth Affairs

ANNEX 106



Prime Minister
Republic of Mauritius

9th Jaunary, 1998

Dear Mr. Cook,

Thank you for your letter of 10 November 1997 following our friendly and constructive meeting of 28 October 1997.

I am grateful to you for setting out your considered views on the Chagos Archipelago and on the plight of its displaced Mauritian inhabitants (known as the Ilois).

I welcome the offer of the British Government to facilitate a visit to the islands by a delegation from Mauritius that will include representatives of the Ilois. My Office will be in touch with the High Commission in Port Louis to arrange the details.

I also welcome the successful cooperation between our two countries on fisheries matters in the Indian Ocean. Our officials will work closely with British officials to ensure that the management of the fisheries stock is conducted in the interests of all the inhabitants of the region.

I am grateful for your assurance that there should be no barriers to the employment of the Ilois on Diego Garcia and that you will take steps to encourage the contractor to employ more Mauritians, including Ilois.

I welcome your reaffirmation that the British Government has no intention of permitting the prospecting for oil or minerals during the period that Great Britain exercises control over the islands.

I am also glad that you have reiterated the solemn undertaking of the British Government to ensure the return of the Chagos Archipelago to Mauritius when it is no longer required for the purposes of defence so that Mauritius may resume possession of the territory.

However, the Chagos Archipelago was severed from the territory of Mauritius in 1966, just prior to Independence, in disregard of UN General Assembly Resolution 1514 of 1960 on the Granting of Independence to Colonial Countries and Peoples. That Resolution, inter alia, declares that any act 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.

You will also recall that Resolution 2066 of 1965 specifically declares the detachment of the islands from the territory of Mauritius for the purpose of establishing a military base to be in contravention of Resolution 1415. Therefore, the Government of Mauritius cannot accept that the present assumption of sovereignty over the islands by the United Kingdom is in accordance with international law.

As I mentioned to you at our meeting, I feel that the British Government could take steps to alleviate the very real concerns that exists in Mauritius concerning the treatment of the Ilois and the continued possession by the United Kingdom of the Chagos Archipelago. For example, it was suggested at our meeting, as a first step, that since not all of the Chagos islands are needed for defence purposes, a measure of goodwill might be shown to the Ilois by permitting those who wished to do so to return to one or two of the outer islands such as Peros Banhos and the Solomon Islands. You thought that the subject might be raised informally with the United States whilst respecting the terms of the contract concluded between the United Kingdom and the USA.

There may be other goodwill measures which the British Government could take which would further demonstrate that the undertaking which you have been kind enough to reaffirm is not, by any means, an empty promise, but a sincere and practical avowal of the intent of the British Government to remedy the strongly held perception of an historic injustice committed in 1966.

I am particularly hopeful that this view might prevail with you because of the courageous and principled emphasis that the new British Government has placed upon international law and ethical considerations in its external relations and foreign policy. This approach has been widely admired in Mauritius, as elsewhere. Together with the compassionate concerns you have personally expressed in Parliament in relation to the Ilois, it has led to expectations that some greater progress might be made with the British Government to heal those grievances.

ANNEX 106

In the coming months I look forward to having the opportunity of resuming our very cordial and friendly discussions on this topic and of making some practical and constructive proposals to increase mutual confidence and goodwill in respect of the only significant source of friendly disagreement between our two countries.

Dr. the Hon. Navinchandra Ramgoolam
Prime Minister

The Rt. Hon. Robin Cook, M.P.,
Secretary of State for Foreign and
Commonwealth Affairs,
Foreign and Commonwealth Office,
House of Commons,
London SW1A 0AA
UNITED KINGDOM

ANNEX 107

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 and Speaking Notes, "Chagos – Inshore Fisheries Licences"

ANNEX 107

NOTE VERBALE NO 15/99

THE BRITISH HIGH COMMISSION PRESENTS ITS COMPLIMENTS TO THE MINISTRY OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE OF THE REPUBLIC OF MAURITIUS AND HAS THE HONOUR TO CONVEY TO DRAW THE MINISTRY'S ATTENTION TO THE SUBJECT OF INSHORE FISHERIES LICENCES APPLICABLE TO THE BRITISH INDIAN OCEN TERRITORY.

THE CHAGOS ARCHIPELAGO CONTAIN SOME OF THE BEST DEVELOPED, MOST PRISTINE AND GREATEST VARIETY OF CORAL REEFS IN THE INDIAN OCEAN. BUT, TOGETHER WITH OTHER REEFS IN THE WESTERN INDIAN OCEAN, THOSE IN THE CHAGOS HAVE BEEN CONSIDERABLY AFFECTED BY BLEACHING DURING 1998.

PRELIMINARY RESEARCH SUGGESTS THAT THE CHAGOS CORALS HAVE SUFFERED, ON AVERAGE, 80% BLEACHING. THE REEFS ARE A CRITICAL ELEMENT IN THE LIFE OF THE FISHERIES; THEY PROVIDE THE HABITAT OR THE FOOD SOURCE, (OR BOTH), FOR MANY SPECIES, BOTH MATURE AND JUVENILE. THE DIRECT IMPACT OF CORAL BLEACHING ON THE FISHERIES IS UNCERTAIN BUT THE GOVERNMENT OF THE BRITISH INDIAN OCEAN TERRITORY CONSIDERS IT PRUDENT, AND IN THE BEST LONG TERM INTEREST OF THE MANAGEMENT OF THE FISHERY, TO ADOPT SOME PRECAUTIONARY MEASURES WHILST THE EFFECTS OF THIS DISASTER ARE MONITORED. IN ORDER TO HELP CONSERVE THE FISHERY THE NUMBER OF LICENCES FOR INSHORE FISHERIES FOR THE 1999 SEASON WILL BE REDUCED FROM SIX TO FOUR.

A COPY OF THE REPORT 'CORAL MORTALITY IN THE CHAGOS ARCHIPELAGO' IS PROVIDED FOR YOUR INFORMATION.

THE BRITISH HIGH COMMISSION AVAILS ITSELF OF THIS OPPORTUNITY TO RENEW TO THE MINISTRY OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE OF THE REPUBLIC OF MAURITIUS THE ASSURANCE OF ITS HIGHEST CONSIDERATION.

BRITISH HIGH COMMISSION
PORT LOUIS
13 APRIL 1999

BRITISH HIGH COMMISSION
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PORT Llouis

Ministry of Foreign Affairs & International Trade
RECEIVED
14 APR 1999

ANNEX 107

SPEAKING NOTES: Chagos – Inshore Fisheries Licences

- Scientific knowledge on the consequences of coral bleaching is poor; both the long term effects on the reef and the impact on the inter-dependent fishery. Nevertheless, the Report warns of a disaster of significant proportions and recommends, inter alia, consideration of the cessation of all reef fishing.

- The BIOT Government's priority is to ensure the long term sustainability of the fishery. It considers a prudent and precautionary approach to fisheries management as the option most likely to secure this objective.

- The BIOT Authorities have considered the Report's recommendation. The decision to reduce the number of licences available this season from six to four is made in the knowledge that the inshore fishing season started on 1 April and that two licence requests have already been received. It is also recognised that not all six licences are taken up every year by Mauritian vessels. (In 1998 only 2 licences were used.)

- The BIOT Authorities intend to conduct further research/monitoring work over the coming year and will keep the situation under review.

British High Commission
Port Louis
13 April 1999

ANNEX 108

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

REPUBLIC OF MAURITIUS

MINISTRY OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE

No. 29/99(1197/25) **11 May 1999**

The Ministry of Foreign Affairs and International Trade of the Republic of Mauritius presents its compliments to the British High Commission and has the honour to refer to the White Paper (CM 4264) entitled "***Partnership for Progress and Prosperity - Britain and the Overseas Territories***" presented to the United Kingdom House of Commons by the Secretary of State for Foreign and Commonwealth Affairs in March, 1999.

2. The Ministry wishes to inform the British High Commission that, in a letter (MHCL. 887/1/01) dated 2 December 1998, the High Commissioner of Mauritius in London had conveyed to the Chairman of the United Kingdom House of Commons Foreign Affairs Committee on Dependent Territories Review that the Chagos Archipelago should be excluded from the list of British Dependent Territories and from the provisions of any proposed legislation regarding the change in the appellation of the "British Dependent Territories" to British Overseas Territories. A copy of the letter is enclosed for ease of reference.

3. The Ministry would like to reiterate that the Chagos Archipelago unquestionably is an integral part of the State of Mauritius and as such it has no doubt about its unequivocal sovereignty over the Chagos Archipelago.

4. The Ministry, therefore, objects to any inclusion or reference, direct or indirect, in the White Paper of the so-called "British Indian Ocean Territory" among the United Kingdom Overseas Territories and the description of the inhabitants of the Chagos Archipelago as *"contract workers"*.

5. The Ministry also rejects the remark made in Appendix One of the White Paper to the effect that the Britain does not recognise the assertion of the claim of sovereignty by the Government of Mauritius over the Chagos Archipelago.

Government Centre, Port Louis – Tel : 230..... Fax : (230) 208 8087, (230) 212 6764

6. The Ministry considers the contents of the White Paper relating to the sovereignty over Chagos Archipelago as being contrary to the assurances given by the British Government to the effect that it remains open to discussions with the Government of Mauritius regarding the Chagos Archipelago.

7. The Ministry, therefore, requests the British authorities to take necessary measures urgently with a view to excluding the Chagos Archipelago from the list of United Kingdom Overseas Territories included in the White Paper as well as in any proposed legislation pertaining to the re-naming, classification or nomenclature of the British Dependent Territories.

8. The Government of Mauritius values highly its relations with the United Kingdom and would like to emphasize its attachment to the understanding that the issue of the Chagos Archipelago, which constitutes a friendly dispute, should not affect the excellent bilateral relations that exist between Mauritius and the United Kingdom.

9. The Ministry would like to take this opportunity to reiterate the request made, through the Mauritius High Commission in London, for a meeting at the highest political level to address as soon as possible the issue of the Chagos Archipelago.

10. The Ministry of Foreign Affairs and International Trade of the Republic of Mauritius avails itself of this opportunity to renew to the British High Commission the assurances of its highest consideration.

Ministry of Foreign Affairs and International Trade

The British High Commission
7th Floor, Les Cascades Building
Edith Cavell St,
Port Louis

ANNEX 109

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

No.37/99(1100/20)

1 July,1999

The Ministry of Foreign Affairs and International Trade of the Republic of Mauritius presents its compliments to the British High Commission and has the honour to refer to the High Commission's Note (No.15/99) of 13 April,1999 informing the Ministry of the decision of the British authorities, based on ecological considerations, to reduce the number of licences for Inshore fisheries for the 1999 season from six to four.

The Ministry wishes once again to reaffirm the position of the Government that sovereignty over the Chagos Archipelago rests with the Republic of Mauritius.

The Ministry of Foreign Affairs and International Trade of the Republic of Mauritius avails itself of this opportunity to renew to the British High Commission the assurances of its highest consideration.

PRIME MINISTER'S OFFICE
RECEIVED
06 JUL 1999
MAURITIUS

Ministry of Foreign Affairs and International Trade

The British High Commission
Les Cascades Building
Edith Cavell Street
Port Louis

c.c.
1. Secretary for Home Affairs, Prime Minister's Office (Mrs. K. Beegun)
2. Solicitor-General (Mr. A. Caunhye)
3. Permanent Secretary, Ministry of Fisheries and Cooperatives

ANNEX 110

Letter dated 16 August 1999 from the Mauritius High Commissioner, London to Mr. G. Hoon MP, UK Foreign and Commonwealth Office

ANNEX 110

MAURITIUS HIGH COMMISSION

0171-581 0294/5

32/33 ELVASTON PLACE
LONDON SW7 5NW

Your Ref

Our Ref MHCL 883/1/01

Telex No: 917772

Fax No: 0171-823 8437

16 August 1999

Mr G. Hoon, MP
Minister of State
Foreign and Commonwealth Office
King Charles Street
LONDON SW1A 2AH

Dear Mr Hoon

I wish to refer to the statement made by you at the conference "*A Breath of Fresh Air*" at the London Zoo on 29 June 1999, which was subsequently published in the July edition of "*Survey of Current Affairs*".

In your speech you raised the question "*Should the Chagos Archipelago be made a World Heritage Site?*".

The Government of Mauritius strongly deplores the reference to the Chagos Archipelago.

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.

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.

Yours faithfully

Sir Satcam Boolell, QC
High Commissioner

ANNEX 111

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

CONFIDENTIAL

No. 52/2000 (1197)

5 July, 2000

The Ministry of Foreign Affairs and International Trade of the Republic of Mauritius presents its compliments to the British High Commission and has the honour to refer to the recent visit of the three Mauritian citizens to the Chagos Archipelago.

Despite the fact that the Chagos Archipelago including Diego Garcia has always been and is an integral part of the territory of Mauritius, the former inhabitants of the Chagos Archipelago have been forcibly removed and prevented from returning to that part of the territory of Mauritius.

Those who have been forcibly removed by the UK Government and have been continuously and illegally denied access to the Chagos Archipelago have, to all intents and purposes, always been, and are citizens of Mauritius and as such have always been residing in Mauritius.

Ever since the unlawful detachment of the Chagos Archipelago from Mauritius, Mauritius has constantly and repeatedly made representations to the UK Government for its return to Mauritius.

In the circumstances, the Government of Mauritius notes with concern and strongly objects to the arrangement of the visit by the UK Government of the three Mauritian citizens to the Chagos Archipelago.

In view of the excellent and historical relations between Mauritius and the United Kingdom, Mauritius has always favoured and still favours that the return of the Chagos to Mauritius be arranged in an amicable manner between the two states.

The Ministry of Foreign Affairs and International Trade of the Republic of Mauritius avails itself of this opportunity to renew to the British High Commission the assurances of its highest consideration.

Ministry of Foreign Affairs and International

The British High Commission
Edith Cavell Street
Port Louis.

DESPATCH

5 JUL 2000

copy to: Secretary for Home Affairs, PMO
Solicitor General's Office, SLO

ANNEX 112

Decision on Chagos Archipelago, AHG/Dec.159(XXXVI), adopted by OAU Summit, 10-12 July 2000, Lomé, Togo

ANNEX 112

GANIZATION OF AFRICAN UNITY ORGANISATION DE L'UNITE AFRICAINE
P.O Box 3243, Addis Ababa - ETHIOPIA Telephone 251 1 517700 Fax 251 1 517844

Reference : **CD/DOC/14/18.00**

The General Secretariat of the Organization of African Unity presents its compliments to the Ministries of Foreign Affairs/External Relations of all the Member States and has the honour to draw their attention to and inadvertent typing error in Paragraph 3 of the English and Portuguese versions of Decision AHG/Dec.159(XXXVI) on Chagos Archipelago, adopted by the 36th Ordinary Session of the OAU Assembly of Heads of State and Government, held from 10 to 12 July 2000 in Lome, Togo.

Paragraph 3 of this Decision must read in English and Portuguese as stated in the respective copies attached hereto as follows:

> "URGES the UK Government to immediately enter into direct and constructive dialogue with Mauritius so as to enable the early return of the Chagos Archipelago to the sovereignty of Mauritius."

The French and Arabic texts, being correct, remain unchanged.

The General Secretariat apologizes this typing error and avails itself of this opportunity to renew to the Ministries of Foreign Affairs/External Relations of all the Member States the assurance of its highest consideration.

Addis Ababa, 3 October 2000

ORGANIZATION OF AFRICAN UNITY SECRETARIAT

MAURITIUS RECEIVED 10 OCT 2000

TO: Ministries of Foreign Affairs/External Relations of all Member States

cc: Embassies of all OAU Member States Addis Ababa

ANNEX 112

AHG/Dec.159 (XXXVI)

DECISION ON CHAGOS ARCHIPELAGO

Assembly:

1. **EXPRESSES CONCERN** that the Chagos Archipelago was unilaterally and illegally excised by the colonial power from Mauritius prior to its independence in violation of UN Resolution 1514;

2. **NOTES WITH DISMAY** that the bilateral talks between Mauritius and UK on this matter has not yet yielded any significant progress;

3. **URGES** the UK Government to immediately enter into direct and constructive dialogue with Mauritius so as to enable the early return of the Chagos Archipelago to the sovereignty of Mauritius

ANNEX 113

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

97/2000(1197/T4) **6 November 2000**

The Ministry of Foreign Affairs and Regional Cooperation of the Republic of Mauritius presents its compliments to the British High Commission and has the honour to refer to the statement of Mr Robin Cook, Foreign Secretary, on 3 November 2000 on the return of the former inhabitants of the Chagos to the islands of the Archipelago.

The Ministry wishes to state that despite the fact that the Chagos Archipelago including Diego Garcia has always been and is an integral part of the territory of Mauritius, the former inhabitants of the Chagos Archipelago have been forcibly removed and prevented from returning to that part of the territory.

Ever since the unlawful detachment of the Chagos Archipelago from Mauritius, Mauritius has constantly and repeatedly made representations to the UK Government for its return to the State of Mauritius.

The Government of Mauritius has been informed of a recent judgement of the High Court in the Bancoult case which declares unlawful the removal of Mauritian citizens from the Chagos Archipelago and the deprivation of their right to return there. The Government of Mauritius does not recognise the 'treaty obligations' mentioned by the Foreign Secretary and reiterates that the Chagos Archipelago including Diego Garcia has always been, and is still, to all intents and purposes, an integral part of the territory of Mauritius

The Government of the Republic of Mauritius also notes that the return of Mauritian citizens to the Chagos Archipelago will create a new situation which amply justifies the early holding of all appropriate negotiations for the early restoration of the Chagos Archipelago including Diego Garcia to Mauritius.

In this connection, the Ministry also recalls the U.K. statement to the United Nations General Assembly on 22nd September 2000 stating the readiness of the United Kingdom to enter into negotiations on the issue of sovereignty and the undertaking of Mr. Robin Cook to enter into prior consultation as conveyed in

his letter dated 10 November 1997. The Ministry invites the High Commission to enter into consultations on the modalities, venue and date of the substantive discussions for an early return of the Chagos Archipelago to Mauritius.

The Ministry of Foreign Affairs and Regional Cooperation of the Republic of Mauritius avails itself of this opportunity to renew to the British High Commission the assurances of its highest consideration.

The British High Commission
Les Cascades Building
Edith Cavell Street
Port Louis

ANNEX 114

Statement by Hon. A.K. Gayan, Minister of Foreign Affairs and Regional Cooperation, to the National Assembly of Mauritius, 14 November 2000

ANNEX 114

STATEMENT BY HON. A.K. GAYAN, MINISTER OF FOREIGN AFFAIRS AND REGIONAL COOPERATION

14.11.2000

CHAGOS ARCHIPELAGO – MAURITIUS STAND

Mr Speaker, Sir, I wish to enlighten the House on a matter which has been widely covered in both the local and international media and to restate what the stand of Mauritius is on the Chagos Archipelago.

As the House is aware the Chagos Archipelago was in 1965 detached by the then colonial power prior to our Independence from what was to become the State of Mauritius. Mauritius has never relinquished its sovereignty over the Chagos Archipelago and has never acquiesced in the creation of the BIOT which we do not recognise or accept. Whenever this matter has been raised her Majesty's Government in the UK has maintained that sovereignty over the Chagos Archipelago will revert to Mauritius when the military facility on Diego Garcia is no longer needed for the defence of the West. That was their stand in 1965 and that is still their stand today. We consider that even this stand of the UK has to be reviewed in the light of the changing security environment in the world.

The House may wish to know that in 1965 the world was in the thick of the Cold War; there were two super powers each vying with each other in the arms race, the Bay of Pigs has happened four years earlier. President J. Kennedy has been shot two years before, the UK was in NATO but not yet in the European Union, or the European Economic Community as it then was. The Berlin wall still divided East from West.

The Soviet Union was then in existence. The Soviet Union is no more. NATO was facing the Warsaw pact. Warsaw Pact is part of history and most of its former members want to joint NATO.

The USA and the Soviet Union had not yet sent any man to the moon and there was fierce rivalry between them as to who would be the first. Today there is space cooperation between the US and Russia.

I could go on but I will not as the House is conscious of the many developments and events which have shaped to modern history. The point I

wish to make is that the world as it was in 1965 is not the one we know today. This calls for an urgent re-assessment of the situation regarding the Chagos Archipelago.

The House is aware that the stand of Mauritius on the Chagos Archipelago is as follows:

(1) The circumstances of the dismemberment by the UK Government of Mauritian territory prior to independence was in violation of international law and is of no effect.
(2) The BIOT is a creation which Mauritius does not recognise.
(3) Mauritius has never relinquished its sovereignty over the Chagos Archipelago.
(4) Mauritius has consistently raised in international fora the return of the Chagos Archipelago to the sovereignty of Mauritius.
(5) The issue of sovereignty is non-negotiable.
(6) Mauritius has expressed deep concern at the manner of the removal of those persons who were living on the Chagos Archipelago.
(7) The Chagos Archipelago was always prior to independence under the administrative control of Mauritius.
(8) Mauritius has asked the UK Government to start negotiations forthwith on the modalities of the retrocession of sovereignty.
(9) Mauritius considers that the position of the UK to the effect that sovereignty will revert to Mauritius once the military facility and base the USA has on Diego Garcia is no longer needed for the defence of the West is untenable in view the fundamental change in circumstances between 1965 and the present time.
(10) Mauritius prefers a negotiated settlement but does not rule out a recourse to other means.
(11) Mauritius will support all efforts at obtaining full compensation for all those persons who were subjected to gross violations of human rights since the time of their removal from their habitual residence to the present time.
(12) In the light of the changing security environment in our region Mauritius is not opposed to the USA maintaining the military base on Diego Garcia on terms which are mutually acceptable but Mauritius reserves the right to discuss with the USA the modalities for the utilisation of Diego Garcia.

Thank you, Mr Speaker.

ANNEX 115

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

Ministry of Foreign Affairs and Regional Co-operation
Republic of Mauritius

The Minister

21st December 2000

H.E. Mr. R. Cook
Secretary of State
Foreign & Commonwealth Office
London SW1A 2AG
ENGLAND

Your Excellency

May I thank you for your letter dated 6th December 2000 which was delivered by hand to me in Port Louis on 20th December 2000. I have taken note of its contents.

I wish to express my appreciation for the full, forceful and frank discussions I had with your officials in Gaborone as well as with your colleague, Minister Peter Hain. I am sure they have briefed you fully.

While going through your letter I have noticed some significant departures from the position that Her Majesty's Government has taken in the past.

For the sake of the record I am mindful of the fact that your Government had taken the position that the Chagos Archipelago would be ceded to Mauritius when it was no longer needed for the defence of the West.

It appears that you are now modifying this stand by including new elements.

Mauritius does not subscribe to your "willingness to cede the islands of the Chagos Archipelago subject to the requirement of International Law"

We note also that there is no strategic or defence impediment for the return of those persons of Mauritian origin who were living on the Chagos Archipelago to what you term the "outer islands".

Government Centre, Port Louis — Tel : (230) 201 1416 Fax : (230) 208 8087

As you are aware, Mauritius has officially announced 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.

Mauritius considers that the time has come to engage in constructive negotiations with a view to working out the modalities for an early return of sovereignty on the Chagos Archipelago to Mauritius.

Mauritius and the United Kingdom enjoy excellent bilateral relations and we are sure that we will be able to find a way round this dispute in a friendly and constructive atmosphere.

Yours sincerely

A. K. Gayan
Minister of Foreign Affairs
& Regional Cooperation

ANNEX 116

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

135091

6 July 2001

Foreign &
Commonwealth
Office

London SW1A 2AH

From The Secretary of State

Your Excellency,

Thank you for your kind letter of 11 June 2001 congratulating me on my appointment as Foreign Secretary. It is both a huge honour, and responsibility, to have been appointed to this post. I too look forward working with you to build on the close and warm relationship between the United Kingdom and Mauritius.

You mentioned the British Indian Ocean Territory. 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.

Yours sincerely,

Jack Straw

JACK STRAW

HE Mr Anil Kumarsingh Gayan

ANNEX 117

OAU Council of Ministers, Decision on the Chagos Archipelago, including Diego Garcia, CM/Dec.26 (LXXIV), 5-8 July 2001, Lusaka, Zambia

COUNCIL OF MINISTERS
Seventy-fourth Ordinary Session/
Ninth Ordinary Session of the AEC
5 – 8 July, 2001
Lusaka, ZAMBIA

CM/ Dec.1-46 (LXXIV)

DECISIONS ADOPTED BY THE SEVENTY-FOURTH ORDINARY SESSION OF THE COUNCIL OF MINISTERS

ANNEX 117

CM/ Dec.26 (LXXIV)

DECISION ON THE CHAGOS ARCHIPELAGO INCLUDING DIEGO GARCIA

Council:

1. REITERATES its unflinching support to the Government of Mauritius in its endeavours and efforts to restore its sovereignty over the Chagos Archipelago, which forms an integral part of the territory of Mauritius and CALLS UPON the United Kingdom to put an end to its continued unlawful occupation of the Chagos Archipelago and to return it to Mauritius thereby completing the process of decolonization;

2. FURTHER EXHORTS the United Kingdom authorities not to take any steps or measures likely to adversely impact on the sovereignty of Mauritius;

3. ENJOINS the international community to support the legitimate claim of Mauritius and extend all assistance possible to it to secure the return of the Chagos Archipelago to its jurisdiction thereby enabling it to exercise its rightful sovereign responsibilities on the totality of its territory.

ANNEX 118

Letter dated 14 May 2002 from the Prime Minister of Mauritius to the President of the United States

ANNEX 118

Prime Minister
Republic of Mauritius

14 May 2002

Mr President,

My country was shocked by the events of September 11th and spontaneously demonstrated its commitment to join with you in the global war against terrorism. Mauritius has since then been following and supporting your actions aimed at the total eradication of terrorism.

Our commitment has not wavered and will not waver as we are convinced that the efforts you personally and your Administration are conducting to eliminate terrorism in all its forms need to be supported worldwide.

In that context, Mauritius has considered the request of your Government concerning maritime interception operations in the war against terrorism. We are prepared to agree to such operations being conducted by your naval forces in our territorial waters and the airspace above. We have noted with appreciation your Government's intention to make every effort to inform us of the decision to board suspected vessels and to share with us the results of such boardings and inspections unless your doing so would jeopardize the success of the mission or future operations or the safety of US/Coalition personnel.

In a separate correspondence with your Administration we shall identify appropriate points of contact within Mauritius to facilitate further dialogue and exchange of information. We welcome your Government's offer to assist us in conducting our own inspections of suspected vessels in our ports and territorial waters.

While Mauritius and the US see eye-to-eye on most issues there is, Mr President, one matter which is of great concern and interest to us. I am referring to the Chagos Archipelago of which Diego Garcia forms part.

.../

In 1965, prior to Mauritius obtaining its independence from the United Kingdom, the latter excised the Chagos Archipelago from the territories forming part of what should have been the State of Mauritius to create a brand new colony, the so-called British Indian Ocean Territory (BIOT).

We have always claimed that this excision was in violation of International Law and United Nations Resolutions and we have never relinquished our sovereignty over the totality of the Chagos Archipelago.

We would wish here to refer to recent developments that have led us to make a fresh proposal to the U.K. in relation to our sovereignty claim.

On 03 November 2000, the High Court in London struck down the Immigration Ordinance of 1971 which had been made by the Commissioner of the so-called BIOT and which prevented some 2,000 Chagossians displaced from the Chagos since 1965 from returning there.

With effect from the same date, the United Kingdom enacted another Ordinance granting to the former inhabitants of the Chagos Archipelago and their descendants the right to return to the outer islands while observing the U.K.'s treaty obligations in the case of Diego Garcia.

Additionally, since August 2001, the crews of Mauritian fishing vessels are being allowed to go ashore onto the outer islands.

In the light of the above, in November 2001, a meeting was held in London between the Hon. Jack Straw, British Foreign Secretary and the Hon. Paul Bérenger, Deputy Prime Minister and Minister of Finance of Mauritius in the course of which Mauritius argued that the above developments had created a new situation and opened a window of opportunity in regard to our sovereignty claim.

Mauritius thus proposed the transferring of sovereignty over the outer islands of the Chagos back to Mauritius, whilst leaving the status of Diego Garcia unchanged and the US base unchallenged.

.../

We have now been informed that the U.K. authorities have explained to you the advantages of our proposal and suggested that any US security concerns might be allayed by a prior agreement with the Mauritian Government, but that the US is concerned that this change could open a portion of the islands to possible activities whose long-term effect might compromise your ability to maintain the military utility of Diego Garcia.

We are fully conscious of the importance of Diego Garcia as an uninhabited and isolated strategic military installation for the United States and we do not propose any change with regard to your continued use of Diego Garcia. Our proposal would in no way undermine the US access to, and control over Diego Garcia which is 100 miles distant from the nearest outer islands namely, Egmont Islands.

We would wish to meet with you as friends and partners to discuss our proposal further and, in particular, to address your security concerns in regard to activities on the outer islands that could impact on the military utility of Diego Garcia.

Having appreciated your strong resolve to find solutions to problems which seemed unsurmountable, we trust, Mr President, that you will inspire us to reach an early agreement on the basis of our proposal mentioned above.

With warm regards.

Sir Anerood Jugnauth, K.C.M.G., P.C., Q.C.
Prime Minister

H.E. Mr George W. Bush
President of the Unites States of America
The White House
Washington D.C., 20506
UNITED STATES OF AMERICA

ANNEX 119

Letter dated 8 July 2003 from the Director of Overseas Territories Department, UK Foreign and Commonwealth Office, to the Mauritius High Commissioner, London

Foreign &
Commonwealth
Office

King Charles Street
London
SW1A 2AH

Tel: 020 7008 2890
Fax: 020 7008 1589
E-mail: charles.hamilton@fco.gov.uk

08 July 2003

HE Mr Mohunlall Goburdhun
High Commissioner
Mauritius High Commission
32/33 Elvaston Place
London
SW7 5NW

Dear High Commissioner

BRITISH MAURITIAN FISHERIES COMMISSION

One of the regular agenda items at meetings of the British Mauritian Fisheries Commission (BMFC) has been discussion of plans for closed area management (Marine Protected Areas) in the Chagos Archipelago. 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 and in accordance with that undertaking I wish to inform you of a recent decision to close the area enclosed by the following points:

05010" S, 072050" E
05010" S, 072000" E
05020" S, 072050" E
05020" S, 072000" E

As you are aware there have been no formal scientific exchanges about the inshore fishery of the Chagos Archipelago since the last meeting of the BMFC and its Scientific Sub-Committee in 1999. I understand the concerns of your Government about the re-instatement of the BMFC but, as a first step, may I suggest that we re-instate the Scientific Sub-Committee and perhaps look at the re-instatement of the Commission itself at a later date. Regular meetings of the Sub-Committee would allow for the resumption of scientific exchanges, something which would be warmly welcomed by our scientists and which would be to our mutual benefit.

ANNEX 119

I did raise the possibility of the re-instatement of the BMFC and/or the Scientific Sub-Committee when I met with Mr Rhafic Janhangeer in the FCO last year and I also raised it with Mr Gayan when I called on him in Port Louis last October.

I am sending our High Commissioner in Port Louis a copy of this letter and look forward to hearing from you in due course.

Yours sincerely

Charles Hamilton

Charles Hamilton
Overseas Territories Department

cc: British High Commissioner, Port Louis, Mauritius

ANNEX 120

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

Foreign &
Commonwealth
Office

King Charles Street
London
SW1A 2AH

Tel: 020 7008 2890
Fax: 020 7008 1589
E-mail: charles.hamilton@fco.gov.uk

13 August 2003

HE Mr Mohunlall Goburdhun
High Commissioner
Mauritus High Commission
32/33 Elvaston Place
London
SW7 5NW

Dear High Commissioner

British Indian Ocean Territory (BIOT): Great Chagos Bank: Environmental Protection

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

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

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

I am sending a copy of this letter to the British High Commissioner in Mauritius.

Yours sincerely

Charles Hamilton
Overseas Territories Department

cc: High Commissioner, Port Louis

ANNEX 121

"British Indian Ocean Territory" Proclamation No. 1 of 2003

ANNEX 121

3. United Kingdom of Great Britain and Northern Ireland:

(a) PROCLAMATION No. 1 of 17 September 2003 establishing the Environment (Protection and Preservation) Zone for the British Indian Ocean Territory

IN THE NAME of Her Majesty ELIZABETH the Second, by the Grace of God, of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories, Queen, Head of Commonwealth, Defender of the Faith.

[signed]

.....
ALAN EDDEN HUCKLE
Commissioner,

By Alan Edden Huckle, Commissioner for the British Indian Ocean Territory.

I, Alan Edden Huckle, Commissioner for the British Indian Ocean Territory, acting in pursuance of instructions given by Her Majesty through a Secretary of State, do hereby proclaim and declare 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. In this Proclamation "the Territory" means the British Indian Ocean Territory". The British Indian Ocean Territory comprises the islands of the Chagos Archipelago, as set out in the Schedule to this Proclamation.

Given the Foreign and Commonwealth Office, London, this 17 day of September 2003.

GOD SAVE THE QUEEN

ANNEX 121

SCHEDULE

The islands of the Chagos Archipelago, which constitute the British Indian Ocean Territory, are the following:

Diego Garcia	Three Brothers Islands
Egmont or Six Islands	Nelson or Legour Island
Peros Banhos	Eagle Islands
Salomon Islands	Danger Island

(b) British Indian Ocean Territory Environment (Protection and Preservation) Zone

		Latitude			Longitude			Line Type	Datum
3	27	56.82	S	75	3	10.1	E	Geodesic	WGS 84
3	15	22	S	74	0	0	E	Geodesic	WGS 84
3	5	21	S	73	10	0	E	Geodesic	WGS 84
2	58	3	S	72	33	34	E	Geodesic	WGS 84
2	47	31	S	71	53	40	E	Geodesic	WGS 84
2	36	44	S	71	17	14	E	Geodesic	WGS 84
2	17	15.01	S	70	12	4.45	E	Geodesic	WGS 84
2	17	41.37	S	70	11	15.19	E	200M arc	WGS 84
2	18	9.94	S	70	10	22.44	E	200M arc	WGS 84
2	18	38.77	S	70	9	29.83	E	200M arc	WGS 84
2	19	7.86	S	70	8	37.37	E	200M arc	WGS 84
2	19	37.21	S	70	7	45.05	E	200M arc	WGS 84
2	20	6.83	S	70	6	52.88	E	200M arc	WGS 84
2	20	36.71	S	70	6	0.86	E	200M arc	WGS 84
2	21	6.85	S	70	5	8.97	E	200M arc	WGS 84
2	21	37.25	S	70	4	17.25	E	200M arc	WGS 84
2	22	7.91	S	70	3	25.67	E	200M arc	WGS 84
2	22	38.82	S	70	2	34.25	E	200M arc	WGS 84
2	23	10	S	70	1	42.97	E	200M arc	WGS 84
2	23	41.42	S	70	0	51.85	E	200M arc	WGS 84
2	24	13.1	S	70	0	0.89	E	200M arc	WGS 84
2	24	45.05	S	69	59	10.09	E	200M arc	WGS 84
2	25	17.24	S	69	58	19.45	E	200M arc	WGS 84
2	25	49.69	S	69	57	28.96	E	200M arc	WGS 84
2	26	22.38	S	69	56	38.64	E	200M arc	WGS 84
2	26	55.33	S	69	55	48.47	E	200M arc	WGS 84
2	27	28.54	S	69	54	58.47	E	200M arc	WGS 84
2	28	1.99	S	69	54	8.64	E	200M arc	WGS 84
2	28	35.69	S	69	53	18.97	E	200M arc	WGS 84

ANNEX 122

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

REPUBLIC OF MAURITIUS

MINISTRY OF FOREIGN AFFAIRS AND REGIONAL CO-OPERATION

7 November, 2003

Dear Foreign Secretary,

The Chagos Archipelago

I am writing to you in the context of the Foreign and Commonwealth Office letter of 13 August, 2003 conveying the intention of your Government to issue a Proclamation establishing an Environmental (Protection and Preservation) Zone around the Chagos Archipelago, and to deposit a copy of the Proclamation, together with copies of the relevant charts and coordinates with the UN under Article 75 of UNCLOS later this year.

2. In responding to our assertions of sovereignty over the Chagos Archipelago, successive Governments of the UK have consistently assured us that the British Government recognizes Mauritius as the only state which has a right to assert a claim of sovereignty over the islands, which the UK would transfer back when no longer required for the defence purposes of the United Kingdom and the United States.

3. You may recall that when in 1991 the UK authorities established a Fisheries (Conservation and Management) Zone around the Chagos Archipelago, Mauritius had protested.

4. On 1 July 1992, the British High Commissioner wrote to our Prime Minister to provide clarification about British policy towards Mauritius claims to sovereignty over the Chagos Archipelago and affirmed that the UK had no plans to establish an exclusive economic zone around the Chagos Archipelago islands. In the same letter, the UK recognized the special position of Mauritius and its legitimate interest in the future of the Chagos Archipelago, and expressed its readiness to pursue any further concerns that Mauritius may have over the future of the Chagos Archipelago through normal bilateral discussions.

5. Our Joint Cooperation Agreement of 27 January 1994 on the conservation of fisheries around the Chagos Archipelago had its foundation on the assurances of the UK Government as contained in the letter referred to in paragraph 4 above. You will also recall that when our two countries signed the Agreement establishing a British – Mauritian Fisheries Commission on 27 January 1994, it was agreed that nothing in that statement or anything resulting from it was to be interpreted as a change in our position regarding our sovereignty or territorial and maritime jurisdiction over the Chagos Archipelago and its surrounding waters.

6. Nearer to us, you will recall that in the context of the judgement of the London High Court delivered on 3 November, 2000 and its aftermath, our Prime Minister (then Deputy Prime Minister) met you in November 2001 in London and proposed on behalf of Mauritius that the sovereignty of Mauritius over the outer islands of the Chagos Archipelago be recognized now, whilst we would continue to agree to disagree on the sovereignty status of Diego Garcia and the US base on the island would remain unchallenged.

7. In a letter dated 18 March 2002, addressed to the then Deputy Prime Minister of Mauritius, you were kind enough to inform him that you had explained the advantages of our proposal at paragraph 6 above to the US and had suggested that US security concerns might be allayed by a prior agreement with the Mauritian Government.

8. On 14 May 2002, the Prime Minister of Mauritius wrote to President Bush explaining our position, and conveying our wish to meet as friends and partners to find a way forward.

9. In response, in a letter dated 18 October 2002 addressed to the Prime Minister, Ms Condoleeza Rice has informed us that the US are aware of our Government's discussions with the UK Government regarding the status of the outer islands of the Chagos Archipelago and are studying our concerns, confident that a mutually agreeable solution would be found.

10. You will agree that we have always sought to pursue this matter through normal and friendly bilateral discussions. We have 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.

11. In view of the above, I earnestly request the UK Government not to proceed with the issue of a Proclamation establishing an Environmental (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. As you are aware, Article

75 falls under Part V of UNCLOS which deals solely with EEZs. 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 referred to at paragraph 4 above.

12. At the same time, you are aware that we have always given great importance to the preservation and protection of the flora and fauna in the waters of the Chagos Archipelago. It was for this very reason that during the Fifth meeting of the BMFC held on 1 December 1999, Mauritius had proposed a joint monitoring programme related to the marine environment in the Chagos Archipelago.

13. We therefore welcome your suggestion that the Scientific Sub-Committee under the British – Mauritian Fisheries Commission be reactivated and suggest that it should address itself in priority to the environmental protection and preservation of the waters around the Chagos Archipelago.

14. We are confident that you will agree that we need to build on our excellent bilateral relations.

15. We do understand that the Diego Garcia base is vital to the defence interests of your country and of the US in view of the situation in that part of the world. We are however confident that, as the situation in the area improves, this will allow for close consultations with your Government and the Government of the United States over our proposal and a way forward.

Yours sincerely,

A. K. Gayan
Minister

The Rt. Hon. J. Straw, MP
Secretary of State for Foreign and
Commonwealth Affairs
King Charles Street
London SW1A 2AH
UNITED KINGDON

ANNEX 123

Joint Statement Issued on the Occasion of the Visit of the Prime Minister of Mauritius to India, 19-24 November 2003

ANNEX 123

STATE VISIT OF THE PRIME MINISTER OF THE REPUBLIC OF MAURITIUS,

Mr. PAUL R. BERENGER TO INDIA

NOVEMBER 19 - 24, 2003

Joint Statement

1. His Excellency Mr. Paul Raymond Berenger, G.C.S.K, Prime Minister of the Republic of Mauritius, accompanied by Mrs Berenger, paid a state visit to India from 19-24 November 2003 at the invitation of the Prime Minister of India.

2. During the visit, the Prime Minister of Mauritius called on the President of the Republic of India, Dr. A.P.J Abdul Kalam. He visited Rajghat to pay homage to the memory of Mahatma Gandhi. The Mauritian dignitary called on the Prime Minister of India, Shri Atal Bihari Vajpayee, and held detailed discussions on bilateral, regional and international issues. The Prime Minister of India also hosted a banquet in honour of Mr Paul R. Berenger and Mrs Berenger.

3. The Prime Minister of Mauritius held meetings with the Deputy Prime Minister, Shri L.K. Advani, Minister of External Affairs, Shri Yashwant Sinha, Minister of Defence, Shri George Fernandes, Minister of Human Resource Development, Dr Murli Manohar Joshi and Leader of Opposition, Mrs Sonia Gandhi.

4. They reaffirmed their commitment to democracy and secularism and emphasized on the importance of harmonious co-existence in multi-racial, multi-ethnic, multi-religious and multi-lingual societies, and stressed on the concept of unity in diversity.

5. Both leaders hailed the traditional bonds of friendship and kinship between Mauritius and India founded on historical and shared cultural heritage and expressed satisfaction at the vibrant and excellent relations existing between the two countries. They reaffirmed their intention to continue to further strengthen bilateral relations. In this context, they decided that both countries should conclude, at the earliest, a Comprehensive Economic Cooperation and Partnership Agreement (CECPA). Both

sides agreed to setting up of a Joint Working Group to prepare the modalities of the CECPA. The objectives of this Agreement would be, *inter alia*, to (i) strengthen and enhance economic, industrial, trade and investment co-operation between the two countries; (ii) progressively liberalise and promote trade in goods and services with a view to the eventual setting up of a Free Trade Area; (iii) facilitate the setting up of joint ventures; and (iv) promote partnerships to ensure greater development of the region.

6. Both sides were satisfied with the level of bilateral cooperation in the field of defence and security. India reiterated its commitment to provide assistance to Mauritius in the surveillance of its Exclusive Economic Zone (EEZ). Mauritius welcomed Indian assistance and acknowledged that the Indian Navy had already commenced provision of assistance in this regard. Mauritius recognized the assistance being extended by India in the field of defence including repair works being carried out to its OPV ?Vigilant' and training of defence personnel. They also recognized the potential that exist for purchase of defence equipment by Mauritius from India. In this context, an agreement was signed during the visit for the purchase of a Dornier aircraft by Mauritius from India.

7. India confirmed its readiness to conduct hydrographic surveys of the harbours, ports and outer islands of Mauritius and update its existing navigational charts and to offer assistance in the field of prospecting and exploration of oil and gas resources in the EEZ and continental shelf of Mauritius. It was noted that cooperation in this regards had already begun between the ONGC and National Institute of Oceanography, Goa with the corresponding Mauritian Organizations. Both sides agreed to conclude an MOU at an early date on exploration of oil and gas in the Mauritian EEZ

8. Both sides agreed to strengthen cooperation against drug trafficking and other criminal matters. In this regard an Extradition Treaty was signed in the presence of the two Prime Ministers. It was also agreed to conclude an agreement on Mutual Legal Assistance in Criminal Matters and an agreement on cooperation on matters relating to Drug Trafficking at an early date.

9. The Prime Minister of Mauritius conveyed his appreciation of India's generous assistance for the construction of a Multi-purpose conference Centre at Domaine Les Pailles to host the International Meeting on the Comprehensive Review of the Barbados Programme of Action for the Sustainable Development of Small Islands Developing States scheduled from 29 August to 3 September 2004.

10. The Prime Minister of Mauritius reiterated his appreciation for India's support and assistance in Information and Communications Technology and particularly in the setting up of the Cybercity at Ebène in Mauritius. He highlighted the potential for further Indo-Mauritian cooperation in this field, specially with regard to capacity building and to opportunities existing in Africa and in the region.

11. The two sides expressed satisfaction that the Agreement for the setting up of the World Hindi Secretariat and the MOU on cooperation in the field of Non-Conventional Energy Sources were signed during the visit. The two sides also reviewed the progress achieved so far with regard to the Rajiv Gandhi Science Centre and the inclusion of Aapravasi Ghat on the list of UNESCO's World Heritage Sites. In the field of film and image development, India agreed to extend technical assistance in the form of training and equipment and to consider possibilities for joint venture partnerships in the film sector.

12. They also agreed that the next meeting of the Indo-Mauritius Joint Commission would be held in early 2004 at the level of Foreign Ministers of the two countries.

13. Both sides recognized the important role of the United Nations and expressed their determination to continue their efforts in strengthening the UN System as the central organ for ensuring international peace and security. They reiterated their support to the reform of the United Nations Organisation and stressed, in particular, the need for an enlarged Security Council which would be more democratic and more representative of to-day's world. The Prime Minister of Mauritius reiterated his total support to India's candidature to a permanent seat in an expanded Security Council and expressed his satisfaction for India's support of the sovereignty of Mauritius over the Chagos Archipelago.

14. On Iraq, both sides had a convergence of view and felt that it was imperative that the people of Iraq should be empowered to determine their own future to rebuild their nation. Both sides also agreed that the UN had a crucial role to play in the process of political and economic reconstruction of that country. The immediate priorities in Iraq are ensuring security and stability, restoration of basic facilities and infrastructure, and a road map for the political process towards a representative government.

15. India and Mauritius called for the establishment of a just, comprehensive and durable peace in the Middle East. They reiterated their principled support for the

Palestinian cause and for the legitimate rights and aspirations in the framework of the UN Security Council Resolutions No. 242, 338, 1397 and 497 as well as the "land for peace" principle. Both sides stated that the cycle of violence and counter-violence must end.

16. Mauritius welcomed India's commitment to Africa's development through NEPAD and sub-regional fora such as SADC and COMESA. Both sides highlighted the importance of the IOR-ARC and acknowledged the vital role of the Non-Aligned Movement and of the Commonwealth in addressing global issues. They agreed to continue their coordination in the context of these multilateral organizations.

17. Mauritius and India affirmed that terrorism cannot be justified in any form and that it is only through international efforts and cooperation that the war against terrorism could be won. In this context they reiterated their commitment to UNSC Resolution 1373. Mauritius shared the concern of India regarding cross-border terrorism in Jammu and Kashmir and reiterated that the Kashmir issue should be resolved through bilateral dialogue.

18. With regard to the global trading system, both sides underscored the need to guarantee equity and fairness for developing countries in post-Cancun. In this regard, India agreed to support the work programme on small economies for their further integration in the Multilateral Trading System, Special and Differential Treatment to developing countries including Small Islands Developing States, and the importance of preferential trade regimes for small vulnerable countries like Mauritius.

19. The Prime Minister of Mauritius expressed his deep gratitude to the Government of the Republic of India for the warm hospitality provided to him and his delegation and the excellent arrangements made during his visit to India. He extended an invitation to H.E Shri Atal Bihari Vajpayee, Prime Minister of the Republic of India to visit Mauritius in early 2004 for the inauguration of the Ebene Cyber city. The invitation was accepted with pleasure. The dates of the visit would be finalized through diplomatic channels.

ANNEX 124

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

Foreign &
Commonwealth
Office

London SW1A 2AH

From the Parliamentary Under Secretary of State

Hon A K Gayan MLA
Minister of Foreign Affairs and Regional Co-operation
Port Louis
Mauritius

12th December 2003

Dear Anil.

BRITISH INDIAN OCEAN TERRITORY (BIOT): GREAT CHAGOS BANK: ENVIRONMENTAL PROTECTION

You wrote to the Foreign Secretary on 7 November expressing concern at the British Government's decision to proclaim an area of waters contiguous to the BIOT territorial sea, including the Great Chagos Bank, as an Environmental (Protection and Preservation) Zone (EPPZ). Your letter referred to various undertakings and assurances that the Mauritius Government has received from the British Government about sovereignty over the Chagos Archipelago. I am writing as the Minister responsible for Overseas Territories.

The proposed Zone is not a full exclusive economic zone for all purposes. On 13 August my officials wrote to your High Commissioner in London making it clear that the purpose of the proposed Zone is simply to help protect and preserve the environment of the Great Chagos Bank. I am sure that you will share this objective and understand our purpose in taking this action. The Great Chagos Bank is an exceptional example of a submerged coral atoll which provides a valuable contribution to the marine ecology of the Indian Ocean. As you letter itself note, the BIOT Commissioner issued a similar Proclamation in 1991 when a Fisheries (Conservation and Management) Zone (FCMZ) was established. As was then explained, the purpose of the FCMZ was to contribute to the safeguarding of tuna and other fish stocks in the Indian Ocean.

In the case of the FCMZ, as you know, we have enacted legislation to regulate fishing activities within that Zone whilst protecting traditional Mauritian fishing rights there. We do not, however, 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. If so, we would keep you closely informed. We plan 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. As we have also made clear, the EPPZ is defined so as to have the same geographical extent as the FCMZ. It does not involve the UK asserting control over any new area.

As we have assured you previously, we have no intention to undertake or to allow any economic exploitation or geological exploration in the area which these zones cover. We want to preserve the natural environment and beauty of the Chagos Islands.

The British Government has always 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 United Kingdom relinquishes its own sovereignty. Successive British Governments have given undertakings to the Government of Mauritius that the Territory will be ceded when no longer required for defence purposes subject to the requirements of international law. This remains the case. The British Government has also stated that, when the time comes for the Territory to be ceded, it will liaise closely with the Government of Mauritius.

I welcome your agreement to re-activate the Scientific Sub-Committee of the British-Mauritius Fisheries Commission. This should allow our officials to discuss issues of mutual fisheries; concern. We need to consult on these measures without having such consultations unnecessarily complicated by sovereignty issues. My officials will be in touch with yours in due course with proposals for dates as well as a venue and possible agenda.

I am sending this by hand of our High Commissioner.

Yours sincerely

B.H Rammell

Bill Rammell

ANNEX 125

Hansard, House of Lords, 31 March 2004, col. WS62, Statement of Baroness Symons of Vernham Dean

Lords Hansard

31 Mar 2004 : Column WS62

Great Chagos Bank: Environmental Protection

Baroness Symons of Vernham Dean: The Great Chagos Bank, which lies within the waters adjacent to the outer islands of the British Indian Ocean Territory (BIOT), is an exceptional example of a submerged coral atoll, providing a valuable contribution to the marine ecology of the Indian Ocean. On 17 September 2003, in order to help to conserve the natural resources of the bank, the Commissioner for BIOT proclaimed an area including the Great Chagos Bank to be an environmental (preservation and protection) zone. A copy of the proclamation, together with the relevant chart and co-ordinates, has been deposited with the UN under Article 75 of UNCLOS, and will be published in the Law of the Sea Bulletin No. 54.

ANNEX 126

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

PERMANENT MISSION OF THE REPUBLIC OF MAURITIUS TO THE UNITED NATIONS

MISSION PERMANENTE DE LA REPUBLIQUE DE MAURICE AUPRES DES NATIONS UNIES

Ref. 4780/04 (NY/UN/562) 14 April 2004

The Permanent Mission of the Republic of Mauritius to the United Nations presents its compliments to the Secretary-General of the United Nations and has the honour to bring to his attention, in his capacity as depositary of the 1982 United Nations Convention on the Law of the Sea ("the Convention"), the following statement of the position of the Government of the Republic of Mauritius with respect to the deposit by the United Kingdom of Great Britain and Northern Ireland to the United Nations Secretariat of a list of geographical coordinates of points pursuant to article 75, paragraphs 2, of the Convention, as reported in Circular Note M.Z.N. 46.2004-LOS (Maritime Zone Notification) dated 12 March 2004.

The Government of the Republic of Mauritius wishes to protest strongly against this declaration inasmuch as it considers that, by depositing the list of geographical coordinates of points defining the outer limits of the so-called Environment (Protection and Preservation) Zone with the Secretary-General of the United Nations pursuant to article 75, paragraph 2, of the Convention, 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.

The Government of the Republic of Mauritius wishes to reiterate in very emphatic terms that it does not recognize the so-called "British Indian Ocean Territory" which was established by the unlawful excision in 1965 of the Chagos Archipelago from the territory of Mauritius, in breach of the United Nations General Charter, as applied and interpreted in accordance with resolution 1514 (XV) of 14 December 1960, resolution 2066 (XX) of 16 December 1965, and resolution 2357 (XXII) of 19 December 1967.

The Government of the Republic of Mauritius has, over the years, consistently asserted, and hereby reasserts, its complete and full sovereignty over the Chagos Archipelago, including its maritime zones, which forms part of the national territory of Mauritius.

211 East 43rd Street • New York, N.Y. 10017 • Tel: (212) 949-0190 • Fax: (212) 697-3829

ANNEX 126

The Government of the Republic of Mauritius therefore unequivocally protests against the deposit of the charts and coordinates of the so-called Environment (Protection and Preservation) Zone by the United Kingdom pursuant to Article 75, paragraph 2 of the Convention and against the exercise by the United Kingdom of Great Britain and Northern Ireland of any sovereignty, rights or jurisdiction within the territory of Mauritius.

The Government of the Republic of Mauritius would appreciate if the above declaration could be duly recorded, circulated and published in the Law of the Sea Bulletin No.54, the Law of the Sea Information Circular and any other relevant publication issued by the United Nations.

The Permanent Mission of the Republic of Mauritius to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

AS

MISSION NEW YORK

Secretary-General
of the United Nations
New York

Copy to: (i) Mr Iqbal S. Riza
Chef de Cabinet
Under-Secretary-General
Executive Office of the Secretary-General

(ii) The Legal Counsel
Office of Legal Affairs
United Nations

(iii) Division for Ocean Affairs and the Law of the Sea
United Nations
(Attn. Mr Vladimir Jares)

ANNEX 127

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

MAURITIUS HIGH COMMISSION

32/33 ELVASTON PLACE
LONDON SW7 5NW
Tel . No. : 020 7581 0294/5
Fax No. : 020 7823 8437
020 7584 9859
email : LONDONMHC@btinternet.com

Our Ref : **MHCL 886/1/03**

Your Ref :

The Mauritius High Commission presents its compliments to the Foreign and Commonwealth Office and with respect to the recent deposit by the United Kingdom of Great Britain and Northern Ireland with the United Nations Secretariat of a list of geographical coordinates of points pursuant to article 75, paragraph 2, of the 1982 United Nations Convention on the Law of the Sea, as reported in Circular Note M.Z.N. 46. 2004. LOS (Maritime Zone Notification) dated 12 March 2004, has the honour to state as follows:

The Government of the Republic of Mauritius has issued a protest statement with the United Nations against the deposit by the UK Government on the establishment of an Environmental (Protection and Preservation) Zone around the Chagos Archipelago. Mauritius is of the view that the legal consequence of the proclamation and deposit of chart and coordinates of an Environment (Protection and Preservation) Zone made under Article 75, paragraph 2 of UNCLOS by the UK Government, 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.

The Government of the Republic of Mauritius also notes with concern that the UK Government in its letter addressed to the Minister of Foreign Affairs of the Republic of Mauritius on 12 December 2003, in response to the latter's letter dated 7 November 2003, does not mention that the so-called BIOT has since 17 September 2003 proclaimed an area surrounding the Chagos Archipelago, to be an Environment (Protection and Preservation) Zone and merely contended that the purpose of the proposed zone was simply to help protect and preserve the environment of the Great Chagos Bank.

ANNEX 127

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 then 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"***.

The Government of the Republic of Mauritius reiterates yet again in unequivocal terms that it does not recognise the so-called "British Indian Ocean Territory" which was established by the unlawful excision in 1965 of the Chagos Archipelago from the territory of Mauritius, in breach of the United Nations General Charter, as applied and interpreted in accordance with resolution 1514 (XV) of 14 December 1960, resolution 2066 (XX) of 16 December 1965, and resolution 2357 (XXII) of 19 December 1967.

The proclamation of the Environment (Protection and Preservation) Zone by the UK in no way alters the sovereignty of Mauritius over the Chagos Archipelago. The Government of the Republic of Mauritius has, over the years, consistently asserted, and hereby reasserts, its complete and full sovereignty over the Chagos Archipelago, including its maritime zones, which forms part of the national territory of Mauritius. The Government of the Republic of Mauritius reserves 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.

The Mauritius High Commission avails itself of this opportunity to renew to the Foreign and Commonwealth Office the assurances of its highest consideration.

London, 20 April 2004

MAURITIUS HIGH COMMISSION
LONDON

Foreign and Commonwealth Office
King Charles Street
London SW1A 2AH

ANNEX 128

Note Verbale dated 13 May 2004 from UK Foreign and Commonwealth Office to Mauritius High Commission, London, No. OTD 016/05/04

ANNEX 128

No. OTD 016/05/04

The Foreign and Commonwealth Office presents its compliments to the Mauritius High Commission and has the honour to acknowledge receipt of the High Commission's Note Verbale MHCL 886/1/03 of 20 April about the British Government's decision to proclaim an area of waters contiguous to the territorial sea of the British Indian Ocean Territory, including the Great Chagos Bank, as an Environmental (Protection and Preservation) Zone.

The Parliamentary Under Secretary of State, in his letter of 12 December 2003 to the Minister of Foreign Affairs of the Republic of Mauritius, 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 Foreign and Commonwealth Office repeats 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.

The Foreign and Commonwealth Office reaffirms the British Government's position on the issue of sovereignty over the British Indian Ocean Territory, which is British and has been since 1814. The British Government does not recognise the sovereignty claim of the Mauritian Government. However, the British Government recognises Mauritius as the only state which will have a right to assert a claim of sovereignty when the United Kingdom relinquishes its own sovereignty. Successive British Governments have given undertakings to the Government of Mauritius that the Territory will be ceded when no longer required for defence purposes, subject to the requirements of international law.

The Foreign and Commonwealth Office avails itself of this opportunity to renew to the Mauritius High Commission the assurances of its highest consideration.

London, 13 May 2004

FOREIGN AND COMMONWEALTH OFFICE LONDON

MAURITIUS HIGH COMMISSION
London

ANNEX 129

Letter dated 22 July 2004 from the Prime Minister of Mauritius to the Prime Minister of the United Kingdom

ANNEX 129

Prime Minister
Republic of Mauritius

22 July 2004

Prime Minister,

I acknowledge receipt of your letter of 9 July by which you informed me that you were sorry your diary commitments have not allowed you so far to meet with me in London.

We have been following the debates in the House of Commons on the Diego Garcia base and the Chagos issue generally. We wish to remind you that whilst the existence of the base was challenged by many countries of the region during the Cold War, such is no longer the case now and we, in Mauritius, have made it clear on numerous occasions that we do not object to Diego Garcia's use as a military base in the larger interest of the security of the international community. I would wish to reiterate this to you.

I now take the liberty of raising a matter of crucial importance for Mauritius and the sixteen other ACP countries which are signatories to the ACP-EU Sugar Protocol.

We have noted with deep concern the Communication of the European Commission to the EU Council of Ministers of Agriculture & Fisheries on the proposed reform of the EU Sugar Regime. We have been given to understand that, whilst acknowledging the need for reform, a number of delegations on the Council have commented on the schedule of the reform envisaged, the level and the stages proposed for reducing the intervention price for sugar, considering them to be too drastic. The proposals, if implemented tel quel would have a devastating effect on our vulnerable economies because they call for substantial price reductions implemented over a very short period. The severity of the proposals baffles us and we appeal for your support and intervention so that we can preserve a viable sugar industry in our countries.

Export earnings from sugar have underpinned our socio-economic development and have, through their stabilizing effect, enabled the upholding of the fundamental principles of democracy which your country and ours cherish.

…../

Reform in our countries is a difficult process, yet we have over the years embarked on an ambitious reform programme to reduce costs of production and enhance competitiveness. We still have a long way to go. The suddenness of the change coupled with the unpredictability of the 2008 review proposed would be terribly damaging to our industry.

We therefore consider that the price reduction should be moderate and the time-frame for its application longer. Moreover, we believe that ACP countries should benefit from compensation through a dedicated budget line with sufficient funds enabling us to benefit from treatment similar to the one meted out to the outermost regions of the EU.

Our situation is very similar to that prevailing in these outermost regions of the EU, namely the Departments d'Outre Mer (DOM). And, it is no surprise that the Commission has all along recognized that the maintenance of a viable sugar sector in these regions is essential for socio-economic and environmental reasons. We understand that in view of the constraints of agriculture in the Departments d'Outre Mer, special treatment is envisaged which includes production-linked support.

We have ever since 1975 been a close ally of the EU and have been engaged in an exemplary North-South cooperation that has stood the test of time. We have always, through dialogue and understanding, been able to iron out our differences and moved ahead. Once again, we stand ready to embrace a meaningful dialogue with the Commission, the EU Member States and the European Parliament so as to safeguard this longstanding partnership. We are convinced that we can rely on your support and solidarity to ensure that our development programmes and our fight against poverty are not undermined.

Please accept, Prime Minister, the assurances of my highest consideration.

Paul Raymond Bérenger, GCSK, GONM
Prime Minister

HE Mr Tony Blair, MP
Prime Minister of the United Kingdom
Office of the Prime Minister
10, Downing Street
London
United Kingdom

ANNEX 130

Letter dated 22 October 2004 from Minister of Foreign Affairs, International Trade and Regional Cooperation, Mauritius to the UK Secretary of State for Foreign and Commonwealth Affairs

ANNEX 130

Minister of Foreign Affairs, International Trade and Regional Co-operation
Republic of Mauritius

22 October 2004

Rt Hon Jack Straw MP
Secretary of State for Foreign and
Commonwealth Affairs
Foreign & Commonwealth Office
LONDON

Jack

Dear Foreign Secretary,

I meant to write to you immediately upon my return following our meeting in London on 4th October but my heavy schedule did not allow that.

I hasten to say that it was indeed a pleasure to meet with you and discuss issues of mutual interest. I have reported to Prime Minister Bérenger that our talks were held in a very cordial and frank manner.

As a follow-up to these discussions I await confirmation from you as to the projected meeting between our two Prime Ministers in the very near future.

I also look forward to hearing from you on the outcome of your discussions with the US with respect to the outer islands. I should like to reiterate that, from our perspective, we see no real or perceptible threat to security, having made it clear repeatedly that we have no problem whatsoever with the military and naval base on Diego Garcia.

As regards your proposal that we could envisage entering into a Treaty regarding the Chagos Archipelago, I should be pleased to receive your proposals so that we could have them studied here.

Finally, let me again say that this is a matter of utmost importance to us and we look forward to registering progress on this *dossier*.

J. Cuttaree

Government Centre, Port Louis — Tel : (230) 201 1416 Fax : (230) 208 8087

ANNEX 131

Mauritius Maritime Zones Act 2005

ANNEX 131

MARITIME ZONES ACT 2005

Act 2 of 2005 – 1 April 2005

P 10/05; cp GN 126/05

ARRANGEMENT OF SECTIONS

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3. UNCLOS to have force of law in Mauritius

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5. Closing lines for internal waters

PART IV - TERRITORIAL SEA, INTERNAL WATERS, ARCHIPELAGIC WATERS AND HISTORIC WATERS
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7. Territorial sea
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PART I – PRELIMINARY

1. Short title

This Act may be cited as the Maritime Zones Act 2005.

2. Interpretation

(1) In this Act, unless otherwise expressly provided-

"archipelagic baselines" means straight archipelagic baselines referred to in section 4(2)(a);

"archipelagic waters" means any waters, other than internal waters, enclosed by archipelagic baselines;

"baselines" means baselines prescribed in accordance with section 4;

"closing lines" means the lines prescribed in accordance with section 5(1);

"contiguous zone" means the area of sea specified in section 12;

"continental shelf' means the continental shelf of Mauritius, as defined in section 18(1);

"EEZ" means the exclusive economic zone of Mauritius, as defined in section 14;

"historic waters" means the historic waters of Mauritius prescribed under section 11;

"innocent passage" has the same meaning as in Article 19 of UNCLOS;

"internal waters" means -

(a) in respect of archipelagic waters, all waters landward of the closing lines; and

(b) in any other case, all waters landward of any baselines;

"low-water line" means the lowest astronomical tide level on the coast of Mauritius that can be predicted to occur under average meteorological conditions and under any combination of astronomical conditions;

"maritime cultural zone" means the area of sea referred to in section 25;

"maritime zones" means the –

(a) archipelagic waters;

(b) contiguous zone;

(c) continental shelf;

(d) EEZ;

(e) historic waters;

(f) internal waters;

(g) maritime cultural zone; and

(h) territorial sea;

"nautical mile" means a distance of 1.85200 kilometres;

"outer limit", in relation to a maritime zone, means a geodesic line of the geodetic datum joining the geographical co-ordinates of points on the datum in a clockwise direction;

"territorial sea" means the territorial sea of Mauritius, as defined in section 7;

"UNCLOS" means the United Nations Convention on the Law of the Sea of 10 December 1982.

(2) Unless otherwise expressly provided, words and expressions defined in UNCLOS and used in this Act shall have the same meaning as in UNCLOS.

PART II - UNCLOS TO HAVE FORCE OF LAW IN MAURITIUS

3. UNCLOS to have force of law in Mauritius

Notwithstanding any other enactment, UNCLOS shall have force of law in Mauritius.

PART III - BASELINES

4. Baselines

(1) The Prime Minister may, by regulations, prescribe the baselines from which the maritime zones of Mauritius shall be determined.

[cp GN 126/05]

(2) The baselines may be -

(a) straight archipelagic baselines determined in the manner referred to in Article 47 of UNCLOS;

(b) normal baselines, being the low-water line as specified in Article 5 of UNCLOS;

(c) the seaward low-water line of reefs as specified in Article 6 of UNCLOS; or

(d) straight baselines determined in the manner referred to in Article 7 of UNCLOS; or

(e) a combination of the methods for determining baselines specified in paragraphs (a), (b), (c) and (d).

5. Closing lines for internal waters

(1) The Prime Minister may, by regulations, prescribe closing lines to delimit internal waters.

(2) The closing lines may be determined by using all or any of the methods specified in Articles 9, 10 and 11 of UNCLOS.

PART IV - TERRITORIAL SEA, INTERNAL WATERS, ARCHIPELAGIC WATERS AND HISTORIC WATERS

6. Legal status of territorial sea and internal, historic and archipelagic waters

(1) The sovereignty of Mauritius -

(a) extends and has always extended to –

(i) the territorial sea;

(ii) its internal waters;

(iii) its archipelagic waters;

(iv) its historic waters;

(b) also extends to the air space over the archipelagic waters, the historic waters, the internal waters and the territorial sea as well as to their beds and subsoil, and the resources contained in them.

(2) Unless otherwise expressly provided, any law in force in Mauritius shall extend to its maritime zones.

7. Territorial sea

The territorial sea of Mauritius is and has always been the sea between the baselines and a line of which every point is at a distance of 12 nautical miles from the nearest point of the baselines.

8. Limits on exercise of sovereignty in internal waters

Any right of innocent passage existing in internal waters delimited by closing lines prescribed under section 5 shall continue to exist to the extent that it existed immediately before the closing lines were prescribed.

9. Limits on exercise of sovereignty in archipelagic waters

The exercise by Mauritius of its sovereignty in archipelagic waters shall be subject to -

(a) any rights set out in any agreement between Mauritius and any other State;

(b) rights in respect of submarine cables existing at the time the archipelagic baselines are prescribed; and

(c) the right of innocent passage.

10. Limits on exercise of right of innocent passage

(1) The Prime Minister may make regulations -

(a) to designate the sea lanes and air routes to be used by foreign ships and aircraft in passage through or over any archipelagic waters, internal waters and territorial sea; and

(b) to prescribe traffic separation schemes to be observed by ships in passage through narrow channels in the sea lanes.

(2) Subject to subsection (3), the Prime Minister may make regulations to regulate the passage of ships carrying hazardous waste, nuclear materials or radioactive materials through all or any part of the archipelagic waters, internal waters and territorial sea.

(3) No ship carrying radioactive materials shall pass through any part of the archipelagic waters, internal waters or territorial sea unless prior notification of the intended passage of the ship through those waters or sea has been given, and prior authorisation and consent for the passage, specifying the route to be taken by the ship, has been given, in accordance with regulations made under this section.

(4) The Prime Minister may, by notice in the Gazette, suspend temporarily the innocent passage of foreign ships in a specified area of any archipelagic waters, internal waters or territorial sea where he is satisfied that the suspension is essential for the protection of the security of Mauritius.

(5) Regulations made under this section shall provide for such action as may be taken, including stopping and boarding of ships, to ensure compliance with the regulations.

(6) In this section, "radioactive materials" means waste that, as a result of being radioactive, is subject to an international control system, or international instrument, applying specifically to radioactive materials.

11. Historic waters

The Prime Minister may, by regulations, prescribe the limits of the historic waters of Mauritius.

PART V - CONTIGUOUS ZONE

12. Contiguous zone

The contiguous zone of Mauritius is and has always been the area of sea between the territorial sea and a line of which every point is at a distance of 24 nautical miles from the nearest point of the baselines.

13. Controls in the contiguous zone

The Prime Minister may make regulations for the exercise of controls necessary in the contiguous zone to prevent and punish infringement of the customs, fiscal, immigration or sanitary laws within Mauritius, its archipelagic waters, internal waters and territorial sea.

PART VI - EXCLUSIVE ECONOMIC ZONE

14. Exclusive economic zone

(1) The exclusive economic zone of Mauritius is the area beyond and adjacent to the territorial sea of Mauritius that extends to the EEZ outer limit line.

(2) The Prime Minister may, by regulations, prescribe the EEZ outer limit line.

(3) For the purposes of this Part, "EEZ outer limit line" means a line of which every point is at a distance of 200 nautical miles from the nearest point of the baselines.

15. Rights, jurisdiction and duties of Mauritius in the EEZ

(1) In accordance with international law and in particular Article 56 of UNCLOS, Mauritius has in the EEZ -

(a) sovereign rights -

(i) to explore and exploit, conserve and manage the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil; and

(ii) with regard to other activities for the economic exploitation and exploration of the EEZ, such as the production of energy from the water, currents and winds;

(b) jurisdiction as provided for by international law with regard to -

(i) the establishment and use of artificial islands, installations and structures;

(ii) marine scientific research;

(iii) the protection and preservation of the marine environment; and

(c) such other rights and duties as may be provided for by international law.

(2) The rights specified in this section with respect to the seabed and subsoil shall be exercised in accordance with international law and, in particular, Part VI of UNCLOS.

16. Exercise of jurisdiction by Mauritius in the EEZ

(1) To enable Mauritius to exercise the sovereign rights and jurisdiction which it has in the EEZ, there is extended to that zone, to the extent recognised by international law, the law in force in Mauritius.

(2) In particular, the law of Mauritius shall apply to artificial islands, installations and structures in the EEZ as if they were in the territorial sea.

17. Authority to explore and exploit the EEZ

The Prime Minister may make regulations to –

(a) provide for the authorisation of persons to explore for natural resources in the EEZ, or to recover or attempt to recover any such resources, in accordance with such terms and conditions as may be determined by the Prime Minister;

(b) regulate the laying of pipelines or cables in the EEZ;

(c) provide for the authorisation and regulation of any drilling in the EEZ; and

(d) regulate the construction, operation and use of –

(i) artificial islands;

(ii) installations and structures for the purposes provided for in Article 56 of UNCLOS; and

(iii) installations and structures which may interfere with the exercise of the rights of Mauritius in its EEZ.

PART VII - CONTINENTAL SHELF

18. Continental shelf

(1) The continental shelf of Mauritius comprises the seabed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory -

(a) subject to paragraph 2 of Article 76 of UNCLOS, to the outer edge of the continental margin; or

(b) where the outer edge of the continental margin does not extend up to that distance, a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

(2) Where, by virtue of paragraph 2 of Article 76 of UNCLOS, the outer limits of the continental shelf require to be determined in accordance with paragraphs 4 to 6 of UNCLOS, the Prime Minister may make regulations to provide for the outer limit to be determined by any method specified in paragraph 4 of Article 76 of UNCLOS.

19. Rights of Mauritius over the continental shelf

(1) In accordance with international law and in particular Article 77 of UNCLOS, Mauritius shall exercise sovereign rights over the continental self to explore it and exploit its natural resources.

(2) The rights referred to in subsection (1) shall be exclusive in that, if Mauritius does not explore the continental shelf or exploit its natural resources, no one may undertake these activities without the express consent of Mauritius.

(3) In accordance with Article 80 of UNCLOS, Mauritius has in the continental shelf the exclusive right to construct and to authorize and regulate the construction, operation and use of –

(a) artificial islands;

(b) installations and structures for the purposes provided for in Article 56 of UNCLOS and other economic purposes; and

(c) installations and structures which may interfere with the exercise of the rights of Mauritius in the continental shelf.

(4) Mauritius has exclusive jurisdiction over such artificial islands, installations and structures, including jurisdiction with regard to customs, fiscal, health, safety and immigration laws and regulations.

20. Exercise of jurisdiction by Mauritius on the continental shelf

(1) To enable Mauritius to exercise the sovereign rights and jurisdiction it has in the continental shelf, there is extended to the continental shelf, to the extent recognised by international law, the law in force in Mauritius.

(2) In particular, the law of Mauritius shall apply to artificial islands, installations and structures on the continental shelf as if they were in the territorial sea.

21. Authority to explore and exploit the continental shelf

(1) The Prime Minister may make regulations to-

(a) provide for the authorisation of persons to explore for natural resources on the continental shelf, or to recover or attempt to recover any such resources, in accordance with such terms and conditions as may be determined by the Prime Minister;

(b) regulate the laying of pipelines or cables in the continental shelf;

(c) provide for the authorisation and regulation of any drilling in the continental shelf; and

(d) regulate the construction, operation and use of –

(i) artificial islands;

(ii) installations and structures for the purposes provided for in Article 77 of UNCLOS; and

(iii) installations and structures which may interfere with the exercise of the rights of Mauritius in the continental shelf.

(2) For the purposes of this Part –

"natural resources" means -

(a) the mineral and other non-living resources of the seabed and subsoil; and

(b) the living organisms belonging to sedentary species;

"sedentary species" means organisms which, at their harvestable stage -

(i) are immobile on or under the seabed; or

(ii) are unable to move except in constant physical contact with the seabed or the subsoil.

PART VIII - MARINE SCIENTIFIC RESEARCH

22. Marine scientific research in the maritime zones

(1) As provided by international law and in particular Article 245 of UNCLOS, Mauritius, in the exercise of its sovereignty, has the exclusive right to regulate, authorise and conduct marine scientific research in its territorial sea.

(2) As provided by international law and in particular Article 246 of UNCLOS, Mauritius, in the exercise of its jurisdiction, has the right to regulate, authorise and conduct marine scientific research in its EEZ and on its continental shelf.

23. Regulation of marine scientific research in the maritime zones

(1) Marine scientific research shall not be conducted in any maritime zone except with the express consent of the Prime Minister and in accordance with such regulations as may be made by the Prime Minister.

(2) Regulations made under subsection (1) shall-

(a) establish procedures to ensure that consent for marine scientific research is not delayed or denied unreasonably;

(b) ensure that any person who is given consent for marine scientific research under this section makes the results of his work available to the Government of Mauritius; and

(c) ensure that, in appropriate cases, intellectual property rights that Mauritius has in the use of any living or non-living resource, are recognised and vested in Mauritius.

PART IX - UNDERWATER CULTURAL HERITAGE

24. Underwater cultural heritage in internal waters, archipelagic waters and territorial sea

(1) Mauritius, in the exercise of its sovereignty, has the exclusive right to regulate and authorise activities directed at underwater cultural heritage in its archipelagic waters, internal waters and territorial sea.

(2) The Prime Minister may, notwithstanding any other enactment, make regulations for the purpose of regulating activities specified in subsection (1).

25. Maritime cultural zone

(1) The maritime cultural zone of Mauritius is an area of sea coincident with the contiguous zone.

(2) The Prime Minister may make regulations to regulate and authorise activities directed at underwater cultural heritage within the maritime cultural zone.

26. Underwater cultural heritage in the EEZ and continental shelf

The Prime Minister may, notwithstanding any other enactment, make regulations to prohibit or authorise any activity directed at underwater cultural heritage in the EEZ or the continental shelf to prevent interference with the sovereign rights and jurisdiction of Mauritius.

PART X - MISCELLANEOUS

27. Regulations

(1) The Prime Minister may make such regulations as he thinks fit for the purposes of this Act.

(2) Regulations made under this Act may provide for baselines and lines delineating maritime zones to be prescribed -

(a) as lists of geographical coordinates of points, specifying the geodetic datum;

(b) by reference to charts of a scale or scales adequate for ascertaining the position of the baselines and other limits; or

(c) where it is appropriate or necessary to do so, by using both the methods specified in paragraphs (a) and (b).

(3) Without prejudice to the generality of subsection (1), regulations made by the Prime Minister under this section may, in particular -

(a) provide that any enactment that extends to a maritime zone shall extend to that zone with such amendment as may be prescribed by the regulations;

(b) prescribe fees, forms and procedures;

(c) provide for the payment of royalties and other charges, and the manner in which they shall be calculated;

(d) provide for the confiscation of property in respect of an offence committed in a maritime zone;

(e) provide for the appointment of officers necessary for the administration of the regulations and prescribe their powers and duties.

28. Offences

(1) Any person who contravenes this Act or any regulations made under this Act shall commit an offence and shall be liable -

(a) in the case of an individual, to a fine not exceeding 30,000,000 rupees or to imprisonment for a term not exceeding 5 years;

(b) in the case of a body corporate, to a fine not exceeding 150,000,000 rupees.

(2) Where an offence committed by a body corporate under this Act is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of -

(a) a director, manager, secretary or other similar officer of the body corporate; or

(b) person who was purporting to act in any such capacity,

that person specified in paragraph (a) or (b) as well as the body corporate, shall commit an offence and be punished accordingly.

(3) Where the affairs of a body corporate are managed by its members, subsection (2) shall apply in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

29. Repeal

The following enactments are repealed –

(a) the Maritime Zones Act;

(b) the Continental Shelf Act; and

(c) the Territorial Sea Act.

30. Consequential amendments

(1) The Environment Protection Act 2002 is amended -

(a) in section 49, by deleting the definition of "maritime zone" and replacing it by the following definition-

"maritime zone" has the same meaning as in the Maritime Zones Act 2005;

(b) in section 51 (2), by adding immediately after paragraph (f), the following new paragraph -

(g) the control and prevention of pollution from or through the atmosphere, applicable to the air space under its sovereignty and to vessels flying its flag or vessels or aircraft of its registry .

(2) The Fisheries and Marine Resources Act is amended -

(a) in section 2 -

(i) by deleting the definition of “Mauritius waters" and by inserting the following new definition in its appropriate alphabetical place –

"maritime zone" has the same meaning as in the Maritime Zones Act 2005;

(ii) by deleting the definition of “territorial waters" and by inserting the following new definition in its appropriate alphabetical place -

"territorial sea" has the same meaning as in the Maritime Zones Act 2005;

(b) in section 7(1), by deleting paragraph (a) and replacing it by the following paragraph -

(a) a maritime zone including, where appropriate, the seabed underlying the maritime zone;

(c) by deleting the words "Mauritius waters" and "territorial waters" wherever they appear and replacing them by the words "any maritime zone" and "territorial sea" respectively.

(3) The Interpretation and General Clauses Act is amended in section 2 -

(a) by adding immediately after paragraph (b) the following new paragraph -

(c) "archipelagic waters", "continental shelf”, "EEZ", "historic waters", "internal waters", "maritime zone" and "territorial sea" have the same meaning as in the Maritime Zones Act 2005;

(b) by deleting the definition of "continental shelf”,

(c) by inserting the following definition in its appropriate alphabetical place -

"Mauritius waters" means the territorial sea, internal waters, archipelagic waters, historic waters, the EEZ of Mauritius, and the water superjacent to its continental shelf;

(4) The Merchant Shipping Act is amended in section 2, by inserting immediately after the definition of "Superintendent", the following definition -

"territorial waters of Mauritius" includes archipelagic waters;

(5) The National Coast Guard Act is amended in section 2, by deleting the definition of "Maritime Zones" and replacing it by the following new definition -

"maritime zone" has the same meaning as in the Maritime Zones Act 2005;

(6) The Petroleum Act is amended in section 2, by deleting the definition of "territorial sea".

31. Transitional and savings provisions

(1) Pending the determination of baselines in accordance with this Act, the baselines, territorial sea, EEZ and continental shelf shall, for the purposes of this Act, be deemed to be those that existed under the enactments repealed under section 29 immediately before their repeal.

(2) Any area of sea designated by the Prime Minister as historic waters under the Maritime Zones Act repealed by section 29 shall, on the coming into operation of this Act, be deemed to have been designated to be, and always to have been, historic waters of Mauritius in accordance with this Act.

(3) Any agreement made for the purposes of the enactments repealed under section 29 and in force immediately before the coming into operation of this Act -

(a) shall remain in force to the extent that it is not inconsistent with this Act; and

(b) shall be deemed to have been made under this Act.

(4) The Prime Minister may make regulations making such further transitional, saving, consequential, incidental or supplementary provisions as may be necessary or expedient to bring this Act into effect.

32. Commencement

This Act shall come into operation on a day to be fixed by Proclamation.

ANNEX 132

Letter dated 1 December 2005 from the Prime Minister of Mauritius
to the Prime Minister of the United Kingdom

ANNEX 132

Prime Minister
Republic of Mauritius

1 December, 2005

Dear Prime Minister,

At our bilateral meeting in the margins of Malta CHOGM on 26 November 2005, I had the opportunity to talk to you regarding the EU proposal under consideration to cut the price of sugar, including ACP sugar, by as much as 36 percent over a four year period and the disastrous impact such a reduction would have on Mauritius.

I did further mention that the amount of Euros 40 million being proposed for the ACP countries affected by the drastic cut was totally unrealistic and largely inadequate. In this regard, I felt relieved to note your positive response and I do hope that under your Presidency of the EU, you would use your personal influence to have this figure revised substantially upward.

For over three centuries, our sugar industry has been the lifeline of the economy of Mauritius. The Commonwealth Sugar Agreement, first and its successor, the Sugar Protocol, have been instrumental in promoting socio-economic development in Mauritius by ensuring stable and predictable export earnings year after year from our sugar. Without such guaranteed revenue, not only our sugar industry but also the economy of our country will face an uncertain future. We wish to underline the fact that proceeds from the export of sugar enables Mauritius, a Net Food Importing Developing Country (NFIDC), to meet a very high proportion of our food import bill. We consider the Sugar Protocol both as a model trade and development instrument has a high political and international dimension.

Sugar cane, which is our core agricultural activity, is cultivated on 40% of the island's area, representing 90% of its arable land. Some 60,000 persons in the rural areas are concerned directly or indirectly with the sugar industry. Indeed, some 28,000 small planters and their families depend on the industry for their livelihood. They have no alternative source of income, nor other alternative crop, suitable to agro-climatic conditions, can be grown.

.../2

Our sugar industry employs 60,000 persons, an important section of whom would inevitably become redundant as a result of the proposed drastic cut. Our environmentally-friendly and bagasse-based energy projects and the production of ethanol would also be jeopardised.

In terms of export earnings, it is estimated that Mauritius will face over the period 2006-2010 a cumulative loss of 175 million Euros and thereafter a loss of 103 million Euros annually arising from the 36% price cut. But the actual loss will be much higher because of the social, economic and environmental multiplier effect of earnings from sugar. This is a direct consequence of the multifunctional role of sugar, spanning the economic, social, energy and environmental domains.

Mauritius does not have as yet the economic resilience to withstand such a dramatic loss of revenue nor can it tap alternative sources of investments for new sectors.

Mauritius is already implementing an accelerated reform plan, based on a well defined roadmap, to enable the sugar industry to restructure, modernise and be competitive. We are adopting a holistic approach by diversifying within the sugar sector by increasing the co-generation of environmentally-friendly electricity and production of ethanol through sugar by-products, thereby reducing our dependence on oil imports, particularly in view of escalating oil prices.

All these projects require funding which cannot be generated or mobilised from within. According to our estimates, Mauritius will require Euros 680 million within the next 4 to 5 years if we are to successfully undergo the transition. We have to rely on the generous support of the EU for mobilising such financial requirements.

Our situation is further compounded by severe crisis in other vital sectors of the economy. Indeed, our textiles and clothing sector is also under threat. It has been a key sector in our industrialization process within our limited diversification possibilities. However, the dismantlement of the Multi Fibre Agreement at the beginning of this year has led to a number of factory closures and loss of employment. If this negative trend is maintained, it will further exacerbate our vulnerable situation.

.../3

As I stated at the CHOGM, Mauritius relies on the support of the Commonwealth in ensuring that the sensitivities of small and vulnerable economies are duly taken into account in the context of negotiations on industrial products at the forthcoming WTO Ministerial Conference in Hong Kong.

As you would recall at our meeting we also discussed the issue of Chagos Archipelago. While there is need for us both to pursue the discussion further, I am glad that you consented to our proposal for an official of the Government of Mauritius to be on board of the vessel that will take the Chagossians on a visit to Diego Garcia. I look 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.

Please accept, Dear Prime Minister, the assurances of my highest consideration.

Dr N. Ramgoolam

Dr the Hon Navinchandra RAMGOOLAM
Prime Minister

The Rt Hon. Anthony Charles Lynton Blair, MP, PC
Prime Minister
10 Downing Street
London SW1A 2AA
United Kingdom

ANNEX 133

Letter dated 4 January 2006 from the Prime Minister of the United Kingdom to the Prime Minister of Mauritius

ANNEX 133

10 DOWNING STREET
LONDON SW1A 2AA

4 January 2006

THE PRIME MINISTER

Dear Prime Minister,

Thank you for your letter of 1 December regarding the reform of the EU sugar regime, and the potential impact of that reform on Mauritius.

As I said when we met at the Commonwealth Heads of Government Meeting in Malta in November, I fully recognise the negative effect that reform of the EU sugar regime could have on the ACP Sugar Protocol countries. Although the overall effect of the reform for developing countries will be positive, if appropriate measures are not put in place, there will be losses for countries such as your own. The UK Government therefore attaches great importance to securing adequate and timely transitional assistance to help ACP Sugar Protocol countries adjust to reform.

In your letter, you refer to the levels of funding being provided for the EC's transitional assistance programme. The €40m proposed by the Commission for assistance in 2006 has been agreed by Member States and the European Parliament. The UK Government did try through various routes to increase the level of funding, but unfortunately this was not possible: there was not majority support in the Council of Ministers or in the European Parliament for an increase.

However, funding for transitional assistance for the 2007 to 2013 period is yet to be negotiated. We envisage that the levels of funding for this period will be significantly higher than for 2006. The funds for 2007 to 2013 will be determined following the conclusion of negotiations on the next EU Financial Perspectives. In

those later discussions, the UK will be pressing strongly for adequate funding for transitional assistance for ACPs and we have to date been arguing for a figure of at least €250m a year. I would encourage you to lobby other Member States, the Commission and the European Parliament as these negotiations proceed.

Key to securing the necessary funding is making the case for why such funding is necessary, and explaining the uses to which such assistance will be put. You note in your letter that Mauritius is already implementing an accelerated reform plan, and has estimated the levels of funding necessary. This is most helpful. I would encourage you and all the ACP Sugar Protocol countries to develop your country plans as robustly and as rapidly as possible in consultation with the Commission, to provide this evidence of need and to help the rapid disbursement of funds.

While sovereignty over the Chagos Archipelago remains an important point of difference between our Governments, you are right that we should discuss issues related to the islands in a constructive spirit. I was particularly struck by your statement in the National Assembly on 9 December in which you underlined the important of the military base on Diego Garcia in helping to maintain peace and combat international terrorism.

The question of fishing rights in the Archipelago and its implications needs to be talked through. I am pleased that good progress is being made in arranging the planned humanitarian visit by the Chagossians to the islands.

Yours sincerely,

Tony Blair

Dr Navinchandra Ramgoolam

ANNEX 134

Note Verbale dated 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

PERMANENT MISSION OF THE REPUBLIC OF MAURITIUS TO THE UNITED NATIONS

MISSION PERMANENTE DE LA REPUBLIQUE DE MAURICE AUPRES DES NATIONS UNIES

Note No: 4678/06

26 July 2006

The Permanent Mission of the Republic of Mauritius to the United Nations presents its compliments to the Secretary-General of the United Nations and in accordance with article 16 of the United Nations Convention on the Law of the Sea, has the honour to deposit with the Secretary-General the list of geographical coordinates of points establishing the baselines consisting of the list of the base points of the maritime zones of Mauritius.

A copy of the regulations made under sections 4, 5 and 27 of the Maritime Zones Act 2005 is also attached.

The Permanent Mission of the Republic of Mauritius to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

Secretary-General
of the United Nations
New York

Hand delivered 26/7

211 East 43rd Street • New York, N.Y. 10017 • Tel: (212) 949-0190 • Fax: (212) 697-3829

ANNEX 135

Letter dated 13 December 2007 from the Prime Minister of Mauritius to the Prime Minister of the United Kingdom

ANNEX 135

Prime Minister
Republic of Mauritius

13 December 2007

Dear Prime Minister,

It was a pleasure meeting you in Kampala.

Our discussions left me with a distinct impression that we could now move forward on two issues that have unfortunately vexed the otherwise excellent relations between our two countries.

You will recall that on the issue of the Chagos Archipelago, I stressed our wish to see meaningful discussions engaged on the question of sovereignty well in advance of the expiration in 2016 of the lease agreement between the United Kingdom and the United States of America on the use of the atoll of Diego Garcia.

I propose that, as a first step to such discussions, we reach an agreement through diplomatic channel on the content and modalities of the substantive negotiations.

During our meeting I also raised with you the question of our fishing rights in the waters of Chagos Archipelago excluding of course the immediate vicinity of Diego Garcia for obvious security reasons. Mauritius had historically exercised such rights over the waters of the Chagos Archipelago.

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As I told you, after the discussions I had with Mr Robin Cook, former British Secretary for Foreign and Commonwealth Affairs, the British Government decided to allow members of the Chagossian community to visit their native islands albeit for a short duration and after nearly forty years. This was a very positive development.

I look forward to pursuing our discussions at a future meeting and hope that in the meantime our respective governments can engage in the exchanges I have proposed.

With warm regards.

Dr the Hon Navinchandra Ramgoolam
Prime Minister

The Rt. Honourable Gordon Brown, MP
Prime Minister
10 Downing Street
London
SW1A 2AA
United Kingdom

ANNEX 136

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

PERMANENT MISSION OF THE REPUBLIC OF MAURITIUS TO THE UNITED NATIONS

MISSION PERMANENTE DE LA REPUBLIQUE DE MAURICE AUPRES DES NATIONS UNIES

No. 10260 /08 (NY/UN/395) **20 June 2008**

The Permanent Mission of the Republic of Mauritius to the United Nations presents its compliments to the Secretary-General of the United Nations and with reference to the latter's Note No. 46-01447 dated 30 August 2006, has the honour to provide the requested clarification as follows:

(a) The deposit to the United Nations of the list of geographical coordinates of points representing the baselines, closing lines and archipelagic baselines from which the Maritime Zones of Mauritius shall be measured as contained in the Regulations made by the Prime Minister of Mauritius under Section 4, 5 and 27 of the Act, is being made under Article 16 and Article 47 of the 1982 United Nations Convention on the Law of the Sea;

(b) The geographical coordinates as well as the charts showing the baselines defined by the geographical coordinates of points are annexed as required under Article 16(2) and Article 47(9) of the Convention.

The Permanent Mission of Mauritius would highly appreciate if the United Nations could make the necessary arrangements to publish the deposit made by the Government of Mauritius.

The Permanent Mission of the Republic of Mauritius to the United Nations in New York avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

MAURITIUS MISSION TO THE UNITED NATIONS NEW YORK

Secretary-General of the United Nations
New York

211 East 43rd Street, New York, N.Y. 10017 – Tel: (212) 949-0190 - Fax: (212)697-3829

ANNEX 137

Joint Communiqué, Bilateral talks between Mauritius and the UK
on the Chagos Archipelago, 14 January 2009

Communique

Delegations of the British and Mauritian Governments met in London on Wednesday 14 January 2009. The British delegation was led by Mr Colin Roberts, Director of the Overseas Territories Directorate at the Foreign and Commonwealth Office and also Commissioner for the British Indian Ocean Territory. The Mauritian delegation was led by Mr S C Seeballuck, Secretary to the Cabinet and Head of the Civil Service. The purpose of the meeting was to establish a dialogue between the UK and Mauritius on the British Indian Ocean Territory/Chagos Archipelago.

The delegations discussed the latest legal and policy developments relating to the British Indian Ocean Territory/Chagos Archipelago. The Mauritian delegation set out the view of Mauritius on sovereignty. The British delegation set out the view of the UK on sovereignty and set out how the United Kingdom had to bear in mind its treaty obligations with the United States of America. 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 two 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.

Both Governments agreed that:

nothing in the conduct or content of the present meeting shall be interpreted as:

(a) A change in the position of the United Kingdom with regard to sovereignty over the British Indian Ocean Territory/Chagos Archipelago;

(b) A change in the position of Mauritius with regard to sovereignty over the British Indian Ocean Territory/Chagos Archipelago;

(c) Recognition of or support for the position of the United Kingdom or Mauritius with regard to sovereignty over the British Indian Ocean Territory/Chagos Archipelago.

(d) 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 British Indian Ocean Territory/Chagos Archipelago.

ANNEX 138

"Giant marine park plan for Chagos", The Independent, Sadie Gray,
9 February 2009

ANNEX 138

9 February 2009

Giant Marine Park Plan for Chagos
Islanders may return to be environmental wardens

Sadie Gray

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.

Unpopulated for 40 years since the British government forcibly evicted inhabitants so the Americans could build a strategic military base on Diego Garcia, the Chagos Islands offer a stunning diversity of aquatic life.

The absence of human habitation has been a key factor in the preservation of the pristine coral atolls, the unpolluted waters, rare bird colonies and burgeoning turtle populations that give the archipelago its international importance.

The plan will be launched in London by the Chagos Environment Network, which includes the Chagos Conservation Trust, the RSPB, the Zoological Society and the Pew Environmental Group, a powerful US charity which successfully lobbied the Bush administration for marine reserves in America.

The Chagos Islands, which belong to the British Indian Ocean Territory, were emptied of about 2,000 residents between 1967 and 1971 to meet US demands that the islands be uninhabited. Most islanders were exiled to Mauritius and the Seychelles, where many ended up in poverty. Proposals for the new reserve tentatively broach the possible return of some of the Chagossian refugees to their homeland as environmental wardens.

"It is going to be compatible with defence and do something for the Chagossians," said William Marsden, the chairman of the Chagos Conservation Trust, adding that the islands were "by far Britain's richest area of marine biodiversity" and that at 250,000 square miles, the reserve would be in the "big league" globally.

Professor Callum Roberts, a marine biologist at the University of York, said the plan would mean far better environmental monitoring, especially where incursions from Sri Lankan fishing boats had depleted fish stocks. "The attitude of the British towards the Chagos Islands has been one of benign neglect," he said.

A formidable hurdle lies in the shape of US security fears and the refugees' continuing legal battles with the British Government over the court rulings that have prevented them going home.

Refugee groups say that of the 5,000 people eligible to return, half wished to do so permanently. Resettlement plans have called for the construction of a small airport and limited development to allow environmentally sustainable tourism, raising fears that designation as a reserve would be a further blow to the islanders' hopes. In 2000, the Chagossians won the right to return to 65 of the islands - although not Diego Garcia, the largest - only to see the ruling nullified in 2004 by the Government, using the Royal Prerogative.

The islanders succeeded in overturning that action in the High Court and the Court of Appeal, but in June last year the Government went to the House of Lords, arguing that allowing the islanders to return would damage defence and security.

The Government appeal was allowed by the law lords in October, and now experts say the case may be taken to the European Court of Human Rights. The Diego Garcia base has been used for bombing raids on Iraq and Afghanistan, and as a staging post in CIA "extraordinary rendition" flights.

A Foreign Office spokesman told Economist.com that the Government "welcomes and encourages recognition of the global environmental importance of the British Indian Ocean Territory", adding that it would "work with the international environmental and scientific community to develop further the preservation of the unique environment".

Haven of safety: Species at risk

Red-footed booby (Sula sula)

This seabird is the smallest of all the boobies, with distinctive red legs and pink and blue bill and throat. The spectacular diver has elaborate greeting rituals between mates.

Green turtle (Chelonia mydas)

Endangered; feeds mostly on seagrass; has found the waters around the Chagos Islands a haven. Elsewhere, it has suffered from habitat loss, pollution and fishing nets.

Variable flying fox (Pteropus hypomelanus maris)

A species of "megabat", it feeds on fruit and roosts in large colonies in forests, usually on small islands or near the coast. Under threat elsewhere because of deforestation and hunting.

Cuvier's beaked whale (Ziphius cavirostris indicus)

Also known as the goose-beaked whale, this mammal was thought in the Middle Ages to have a fish's body and an owl's head. Can live up to 40 years and grow to seven metres long. Occasionally seen off western and northern Scotland.

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ANNEX 139

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

REPUBLIC OF MAURITIUS

MINISTRY OF FOREIGN AFFAIRS, REGIONAL INTEGRATION AND INTERNATIONAL TRADE

Note No: 2009(1197/28)

05 March 2009

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius presents its compliments to the Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland and has the honour to refer to the article in *The Independent* of 9 February 2009 on the initiative of the Chagos Environment Network for the launching of a giant marine park plan for the Chagos Archipelago in early March 2009 at the Royal Society in London, United Kingdom.

The Ministry of Foreign Affairs, Regional Integration and International Trade wishes to restate to the Foreign and Commonwealth Office 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.

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius avails itself of this opportunity to renew to the Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland the assurances of its highest consideration.

MINISTRY OF FOREIGN AFFAIRS, REG. INTEGRATION & INT. TRADE * MAURITIUS

Foreign and Commonwealth Office
King Charles Street
London SW1A 2AH
United Kingdom

ANNEX 140

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

Note No. OTD 04/03/09

The Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland presents its compliments to the Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius and thanks the Ministry for its Note No. 2009(1197/28) about the initiative of the Chagos Environment Network for the launch of proposals for a marine park in the Chagos Archipelago (British Indian Ocean Territory).

The Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland would like to re-affirm that the United Kingdom 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 United Kingdom has reiterated on many occasions, we have undertaken to cede the Territory to Mauritius when it is no longer required for defence purposes.

The Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland would like to point out 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. However, the Government of the United Kingdom of Great Britain and Northern Ireland 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 Government of the United Kingdom of Great Britain and Northern Ireland has 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.

ANNEX 140

The Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland avails itself of this opportunity to renew to the Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius the assurance of its highest consideration.

FOREIGN AND COMMONWEALTH OFFICE

LONDON

13 MARCH 2009

FOREIGN AND COMMONWEALTH OFFICE LONDON

ANNEX 141

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

Note No: 26/09

The Permanent Mission of the United Kingdom of Great Britain and Northern Ireland presents its compliments to the Secretary-General of the United Nations, and has the honour to refer to the deposit by the Government of the Republic of Mauritius of charts and lists of geographical co-ordinates, pursuant to Article16, paragraph 2, and Article 47, paragraph 9 of the 1982 United Nations Convention on the Law of the Sea ("the Convention"), as reported in Circular Note M.Z.N. 63. 2008. LOS of 27 June 2008.

The United Kingdom wishes to protest strongly against the above deposit in so far as the Government of the Republic of Mauritius are purporting to exercise rights over the territory of the United Kingdom by including in their claim the British Indian Ocean Territory in a list of geographical coordinates of points representing the basepoints and defining the baselines from which the maritime zones of Mauritius shall be measured, together with the chart entitled "Chagos Archipelago: Archipelagic Baselines".

The United Kingdom wishes to state

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 co-ordinates establishing the outer limits of this zone was deposited pursuant to article 75, paragraph 2 of the Convention and subsequently published in the Law of the Sea Bulletin No. 54.

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Consequently, no other State is entitled to claim maritime zones deriving from the British Indian Ocean Territory.

The Government of the United Kingdom requests the Secretary-General to record and circulate this declaration and publish the same in the Law of the Sea Bulletin No.69, the Law of the Sea Information Circular and any other relevant publication issued by the United Nations.

The Permanent Mission of the United Kingdom to the United Nations takes this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

United Kingdom Mission

to the United Nations

19 March 2009

ANNEX 142

Note Verbale dated 10 April 2009 from the Ministry of Foreign Affairs, Regional Integration and International Trade, Mauritius to the UK Foreign and Commonwealth Office, No. 1197/28

ANNEX 142

REPUBLIC OF MAURITIUS

MINISTRY OF FOREIGN AFFAIRS, REGIONAL INTEGRATION AND INTERNATIONAL TRADE

Note No: 1197/28

10 April 2009

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius presents its compliments to the Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland and has the honour to refer to the latter's Note No. OTD 04/03/09 of 13 March 2009 in reply to the note verbale no. 2009(1197/28) dated 5 March 2009 of the Ministry of Foreign Affairs, Regional Integration and International Trade.

The Ministry of Foreign Affairs, Regional Integration and International Trade wishes to reiterate that it has no doubt of its sovereignty over the Chagos Archipelago and does not recognize 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.

The Government of the Republic of Mauritius, whilst also supportive of domestic and international initiatives for environmental protection, 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 Ministry of Foreign Affairs, Regional Integration and International Trade wishes to reiterate to the Government of the United Kingdom that the Government of 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.

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius avails itself of this opportunity to renew to the Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland the assurances of its highest consideration.

Foreign and Commonwealth Office
King Charles Street
London SW1A 2AH
United Kingdom

MINISTRY OF FOREIGN AFFAIRS, REG. INTEGRATION & INT. TRADE * MAURITIUS

ANNEX 143

National Assembly of Mauritius, 14 April 2009,
Reply to PQ No. B/185

ANNEX 143

National Assembly sitting of 14 April 2009

DIEGO GARCIA & CHAGOS ARCHIPELAGO - MAURITIUS SOVEREIGNTY

(No. B/185) Mr N. Bodha (First Member for Vacoas & Floreal) asked the Prime Minister, Minister of Defence and Home Affairs whether, in regard to the issue of the sovereignty of Diégo Garcia and the return on the islands of the Archipelago, he will state if Government proposes to involve the new United States administration in the current efforts to find a suitable solution thereto, following the election of Mr Barack Obama as President of the United States.

Reply: Only two weeks after the new American President, Mr Barack Obama, took office, I proceeded to Washington from 03 to 06 February 2009 to attend the 57th National Breakfast Prayer Meeting and other related events. I had the opportunity to meet members of the new administration and to renew contacts with some influential members of the US Congress. I was among the select group of foreign personalities who were invited to the meeting with high officials of the new US Administration together with senior members of the House of Representatives and the Senate. I exchanged views with Ms Valerie Jarett, an influential member of the US President's team, Senior Adviser of the President for inter-governmental relations and public liaison.

In the course of my meeting with the State Department, I raised the important issue of Mauritian Sovereignty on the Chagos Archipelago. I explained our position concerning the very long standing claim of Mauritius. I pointed out that should we not get satisfaction at the earliest on this issue, we would have no alternative but to explore other avenues. Since the Agreement to lease Diego Garcia to the US will expire in early 2016, I invited the US to use its goodwill as a common friend and 'interested' party to help resolve this issue. I mentioned that Mauritius has, in principle, no objection to the US having a military base in Diego Garcia. The US officials took note of our stand and expressed their appreciation of our decision to bring this matter up.

I also had a meeting with prominent members of the US Congress. In the course of this meeting I informed the US authorities of our stand on the Chagos Archipelago and in particular the island of Diego Garcia, to try to come to a settlement in an amicable way of the long-standing and legitimate claim of Mauritius on the sovereignty over the Archipelago.

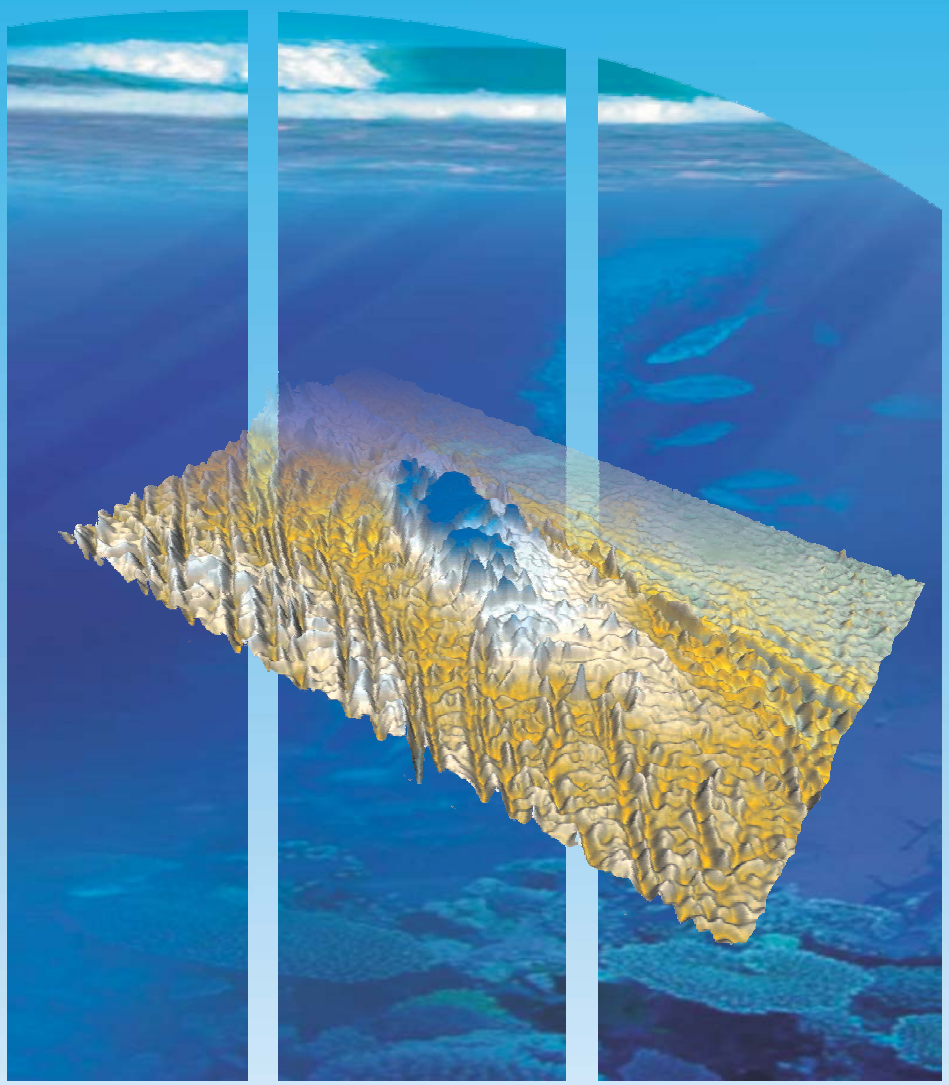
ANNEX 144

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

Republic of Mauritius

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

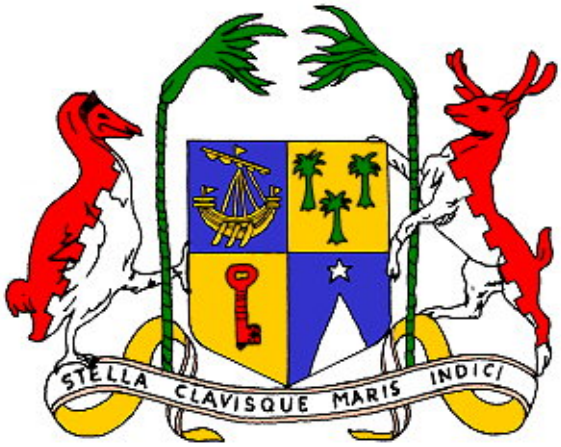


PRELIMINARY INFORMATION

MCS-PI-DOC
MAY 2009

ANNEX 144

1982 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

MAY 2009

MCS-PI-DOC

ANNEX 144

PREFACE

This Preliminary Information document was prepared by the following Ministries and Statutory Corporations of the Government of the Republic of Mauritius:

Prime Minister's Office
Ministry of Foreign Affairs, Regional Integration & International Trade
Attorney-General's Office
Ministry of Housing and Lands
Mauritius Oceanography Institute

The following persons have acted and/or will act as advisers to the Government of the Republic of Mauritius in the preparation of the Submission by the Republic of Mauritius concerning the extended continental shelf in the Chagos Archipelago Region:

Mr Joshua Brien, Legal Adviser, London
Mr Ian Brownlie CBE QC, Barrister, Blackstone Chambers, London
Mr Harald Brekke, Member of the Commission on the Limits of the Continental Shelf
Prof. Karl Hinz, former Member of the Commission on the Limits of the Continental Shelf
Dr Andre Chan Chim Yuk, former Member of the Commission on the Limits of the Continental Shelf

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6.	Unresolved Land and Maritime Disputes	**11**
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ANNEX 144

MAPS

Figure 1 Map indicative of outer limits of the extended continental shelf of the Republic of Mauritius in the Chagos Archipelago Region **MCS-PI-MAP-1**

1. INTRODUCTION

1-1 This Preliminary Information document has been prepared by the Republic of Mauritius pursuant to the *Decision regarding the workload of the Commission on the Limits of the Continental Shelf and the ability of States, particularly developing States, to fulfill the requirements of article 4 of annex II to the United Nations Convention on the Law of the Sea, as well as the decision contained in SPLOS/72, paragraph (a)*, adopted by the Eighteenth Meeting of the States Parties to the Convention (SPLOS/183). This document provides an indication of the outer limits of the continental shelf of the Republic of Mauritius, that lie beyond 200 nautical miles (M) from the baselines from which the breadth of the territorial sea is measured (hereinafter referred to as 'the territorial sea baselines') in respect of the Chagos Archipelago Region.

1-2 The Republic of Mauritius consists of a group of islands in the Indian Ocean. The main Island of Mauritius is located at longitude 57^0 30' east, and latitude 20^0 00' south, approximately 900km east of Madagascar and is part of the Mascarene Islands. The total land area of the Republic of Mauritius is approximately 1,950km². 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 402km north of the main Island of Mauritius, Rodrigues Island located 560km north-east, the Agalega Islands located 933km north, Tromelin located north-west of the main Island of Mauritius, and the Chagos Archipelago located at 06^0 26' south 72^0 00' east, approximately 2200km north-east of the main Island.

1-3 The Republic of Mauritius is Party to the Convention, which it signed on the day it was opened for signature on 10 December 1982, and subsequently ratified on 4 November 1994. The *Maritime Zones Act 2005,* which repealed the *Maritime Zones Act 1977,* provides that the provisions of the Convention have the force of law in the Republic of Mauritius, and establishes maritime zones in accordance with the provisions of the Convention, including provisions defining the outer limits of the continental shelf.

1-4 Under Article 4 of Annex II to the Convention, as supplemented by the decisions contained in SPLOS/72 and SPLOS/183 respectively regarding the 10-year period established by Article 4 of Annex II to the Convention, a coastal State for which the Convention entered into force before 13 May 1999 is required to submit particulars of the outer limits of the continental shelf to the United Nations Commission on the Limits of the Continental Shelf ('the Commission') by 13 May 2009.

2. STATUS OF PREPARATION AND INTENDED DATE OF SUBMISSION

2-1 The Republic of Mauritius notes that it has made two partial submissions in respect of the outer limits of its extended continental shelf as set out below:

- a joint submission with the Republic of Seychelles concerning the region of the Mascarene Plateau, lodged on 1 December 2008 (**SMS-ES-DOC**); and,

- a submission concerning the region of Rodrigues Island, lodged on 6 May 2009 (**MRS-ES-DOC**).

2-2 The Republic of Mauritius also intends to make a submission for an extended continental shelf in respect of the Chagos Archipelago Region. The preparation of a submission concerning this region is currently being undertaken and has reached an advanced stage. The Republic of Mauritius expects to complete the Submission by 2012. Pending the lodgement of the submission, this Preliminary Information document is submitted consistent with operative paragraph 1(a) of the decision contained in SPLOS/183 in order to satisfy the requirement of Article 4 of Annex II to the Convention.

2-3 The Republic of Mauritius notes that, in accordance with operative paragraphs 1(b) and 1(c) of the decision contained in SPLOS/183, pending the receipt of the submission concerning the Chagos Archipelago Region, the Preliminary Information submitted by the Republic of Mauritius shall not be considered by the Commission and further, that the Preliminary Information is without prejudice to the submission and its future consideration by the Commission.

2-4 The part of the continental shelf lying beyond 200 M from the territorial sea baselines of the territory of the Republic of Mauritius measured from the Chagos Archipelago is referred to in this Preliminary Information document as the 'extended continental shelf'.

3. INDICATION OF THE OUTER LIMITS OF THE EXTENDED CONTINENTAL SHELF IN THE CHAGOS ARCHIPELAGO REGION

3-1 As provided for under paragraph 1 of Article 76 of the Convention, the Republic of Mauritius has a continental shelf comprising the seabed and subsoil of the submarine areas that extends beyond its territorial sea throughout the natural prolongation of its land territory to the outer

edge of the continental margin, up to the limits provided for in paragraphs 4 to 6 of Article 76 of the Convention or, to a distance of 200 M from the territorial sea baselines where the outer edge of the continental margin does not extend up to that distance.

3-2 Article 121 of the Convention further provides that, in the case of islands, the limits of the continental shelf are to be determined in the same manner as other land territory.

3-3 Paragraphs 4 to 6 of Article 76 of the Convention set out the manner in which a coastal State may establish the outer edge of its continental margin and its extended continental shelf, wherever that margin extends beyond 200 M measured from the territorial sea baselines.

3-4 Data considered by the Republic of Mauritius establish that the outer edge of the continental margin in the relevant land territory in the Chagos Archipelago Region (Egmont and Diego Garcia Islands) extends beyond 200 M measured from archipelagic baselines established in accordance with Article 47 of the Convention.

3-5 Pursuant to operative paragraph 1(a) of the decision contained in SPLOS/183, **Sections 4** and **7** of this Preliminary Information document provide an indication of the outer limits of the extended continental shelf in the Chagos Archipelago Region as determined by the Republic of Mauritius.

4. MAP INDICATIVE OF OUTER LIMITS OF THE EXTENDED CONTINENTAL SHELF IN THE CHAGOS ARCHIPELAGO REGION

4-1 A map at an appropriate scale which provides an overview of the indicative outer limit of the extended continental shelf in the Chagos Archipelago Region is included in this Preliminary Information document as **Figure 1** (**MCS-PI-MAP-1**).

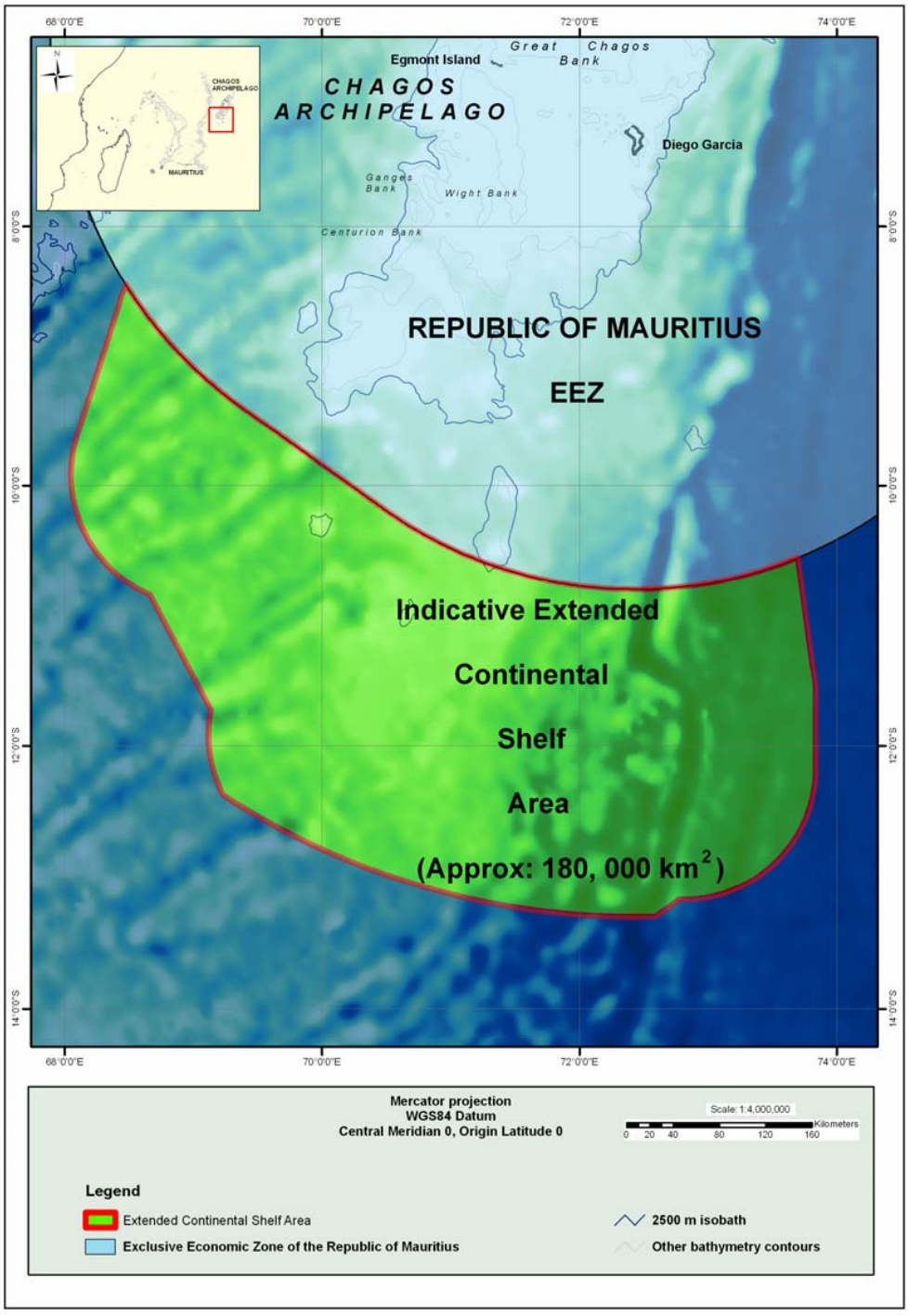

Figure 1 **Map Indicative of the outer limits of the extended continental Shelf of the Republic of Mauritius in the Chagos Archipelago Region.**
MCS-PI-MAP-1

5. PROVISIONS OF ARTICLE 76 INVOKED

The Republic of Mauritius has applied paragraphs 4 (a)(ii), 4 (b), 5, 6 and 7 of Article 76 of the Convention in support of the determination of the indicative outer limits of the extended continental shelf in the Chagos Archipelago Region.

6. UNRESOLVED LAND AND MARITIME DISPUTES

The Republic of Mauritius states that the Chagos Archipelago is and has always formed part of its territory. The Republic of Mauritius wishes to inform the Commission, however, that a dispute exists between the Republic of Mauritius and the United Kingdom over the Chagos Archipelago. Discussions are ongoing between the two governments on this matter. The last bilateral talks were held in London, United Kingdom, in January 2009.

7. OVERVIEW OF INFORMATION INDICATIVE OF OUTER LIMITS OF THE EXTENDED CONTINENTAL SHELF IN THE CHAGOS ARCHIPELAGO REGION

7-1 The Chagos Archipelago is an archipelago composed of atolls and islands that lies approximately 2200km northeast of the main island of Mauritius. The largest individual islands are Diego García (27.20km²), Eagle (Great Chagos Bank, 2.45km²), île Pierre (Peros Banhos, 1.50km²), Eastern Egmont (Egmont Islands, 1.50km²), île du Coin (Peros Banhos, 1.28km²) and île Boddam (Salomon Islands, 1.08km²).

7-2 The Chagos Archipelago is the surface expression of the southern portion of a prominent linear bathymetric feature in the western Indian

Ocean known as the Laccadive-Chagos Ridge. The latter extends as a continuous physiographic ridge from the Laccadive Islands, through the Maldives, to the Chagos Ridge.

7-3 The Chagos Ridge is associated with submarine volcanic accumulations that resulted from the northward passage of the Indian Plate over the Reunion Hotspot.

7-4 The Republic of Mauritius is of the view that the elevations and banks that are surmounted by the Chagos Archipelago represent the submerged prolongation of the relevant land territory of the Republic of Mauritius in this region.

8. PUBLICATION OF INDICATIVE OUTER LIMITS OF THE EXTENDED CONTINENTAL SHELF IN THE CHAGOS ARCHIPELAGO REGION

The Republic of Mauritius has the honour to request the Secretary-General to inform the Commission and notify member States of the receipt of this preliminary information, and make such information publicly available in accordance with operative paragraph 1(d) of the decision contained in SPLOS/183.

ANNEX 145

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

Note No. OTD 06/05/09

The Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland presents its compliments to the Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius and thanks the Ministry for its Note No. 1197/28 of 10 April 2009.

The Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland would like to re-affirm that the United Kingdom 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 United Kingdom has reiterated on many occasions, we have undertaken to cede the Territory to Mauritius when it is no longer required for defence purposes.

The Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland avails itself of this opportunity to renew to the High Commissioner of the Republic of Mauritius the assurance of its highest consideration.

FOREIGN AND COMMONWEALTH OFFICE
LONDON
6 May 2009

FOREIGN AND COMMONWEALTH OFFICE LONDON

ANNEX 146

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

Le Matinal, (Port Louis / Mauritius, 2 December 2010)

Wikileaks: UK Foreign Office does not regret evicting Chagos islanders

More than 2,000 islanders were evicted during the Cold War to make way for a huge US military base. The islanders have fought a long battle to be allowed to return. British Foreign Office and American officials discuss plans to establish a marine park on Diego Garcia and the surrounding islands, which they say would effectively end the islanders resettlement claim.

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C O N F I D E N T I A L LONDON 001156
NOFORN [no foreigners]
SIPDIS
EO 12958 DECL: 05/13/2029
TAGS MARR, MOPS, SENV, UK, IO, MP, EFIS, EWWT, PGOV, PREL
SUBJECT: **HMG FLOATS PROPOSAL FOR MARINE RESERVE COVERING THE CHAGOS ARCHIPELAGO (BRITISH INDIAN OCEAN TERRITORY)**
REF: 08 LONDON 2667 (NOTAL)

Classified By: *Political Counselor Richard Mills* for reasons 1.4 b and d

¶1. (C/NF) *Summary*. Her Majesty's Government (HMG) would like to establish a "marine park" or "reserve" providing comprehensive environmental protection to the reefs and waters of the British Indian Ocean Territory (BIOT), a senior Foreign and Commonwealth Office (FCO) official informed Polcouns [Political Counselor] on May 12. The official insisted that the establishment of a marine park -- the world's largest -- would in no way impinge on USG use of the BIOT, including Diego Garcia, for military purposes. He agreed that

the UK and U.S. should carefully negotiate the details of the marine reserve to assure that U.S. interests were safeguarded and the strategic value of BIOT was upheld. He said that the 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. *End Summary*.

Protecting the BIOT's Waters

¶2. (C/NF) Senior HMG officials support the establishment of a "marine park" or "reserve" in the British Indian Ocean Territory (BIOT), which includes Diego Garcia, Colin Roberts, the Foreign and Commonwealth Office's (FCO) Director, Overseas Territories, told the Political Counselor May 12. Noting that the uninhabited islands of the Chagos Archipelago are already protected under British law from development or other environmental harm but that current British law does not provide protected status for either reefs or waters, Roberts affirmed that the bruited proposal would only concern the "exclusive zone" around the islands. The resulting protected area would constitute "the largest marine reserve in the world."

¶3. (C/NF) Roberts iterated strong UK "political support" for a marine park; "Ministers like the idea," he said. He stressed that HMG's "timeline" for establishing the park was before the next general elections, which under British law must occur no later than May 2010. He suggested that the exact terms of the proposals could be defined and presented at the U.S.-UK annual political-military consultations held in late summer/early fall 2009 (exact date TBD). If the USG would like to discuss the issue prior to those talks, HMG would be open for discussion through other channels -- in any case, the FCO would keep Embassy London informed of development of the idea and next steps. The UK would like to "move forward discussion with key international stakeholders" by the end of 2009. He said that HMG had noted the success of U.S. marine sanctuaries in Hawaii and the Marianas Trench. (*Note*: Roberts was referring to the Papahanaumokuakea Marine National Monument and Marianas Trench Marine National Monument. *End Note*.) He asserted that the Pew Charitable Trust, which has proposed a BIOT marine reserve, is funding a public relations campaign in support of the idea. He noted that the trust had backed the Hawaiian reserve and is well-regarded within British governmental circles and the larger British environmental community.

Three Sine Qua Nons: U.S. Assent...

¶4. (C/NF) According to Roberts, three pre-conditions must be met before HMG could establish a park. First, "we need to make sure the U.S. government is comfortable with the idea. We would need to present this proposal very clearly to the American administration...All we do should enhance base security or leave it unchanged." Polcouns expressed appreciation for this a priori commitment, but stressed that the 1966 U.S.-UK Exchange of Notes concerning the BIOT would, in any event, require U.S. assent to any significant change of the BIOT's status that could impact the BIOT's strategic use. Roberts stressed that the proposal "would have no impact on how Diego Garcia is administered as a base." In response to a request for clarification on this point from Polcouns, Roberts asserted that the proposal would have absolutely no impact on the right of U.S. or British military vessels to use the BIOT for passage, anchorage, prepositioning, or other uses. Polcouns rejoined that designating the BIOT as a marine park could, years down the road, create public questioning about the suitability of the BIOT for military purposes. Roberts responded 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 uses.

¶5. (C/NF) Ashley Smith, the Ministry of Defense's (MOD) International Policy and Planning Assistant Head, Asia Pacific, who also participated in the meeting, affirmed that the MOD "shares the same concerns as the U.S. regarding security" and would ensure that security concerns were fully and properly addressed in any proposal for a marine park. Roberts agreed, stating that "the primary purpose of the BIOT is security" but that HMG could also address environmental concerns in its administration of the BIOT. Smith added that the establishment of a marine reserve had the potential to be a "win-win situation in terms of establishing situational awareness" of the BIOT. He stressed that HMG sought "no constraints on military operations" as a result of the establishment of a marine park.

...Mauritian Assent...

¶6. (C/NF) Roberts outlined two other prerequisites for establishment of a marine park. HMG 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." He asserted 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. Roberts noted that in January 2009 HMG held the first-ever "formal talks" with Mauritius regarding the BIOT. The talks included the Mauritian Prime Minister. Roberts said that he "cast a fly in the talks over how we could improve stewardship of the territory," but the Mauritian participants "were not focused on environmental issues and expressed interest only in fishery control." He said that one Mauritian participant in the talks complained that the Indian Ocean is "the only ocean in the world where the fish die of old age." In HMG's view, the marine park concept aims to "go beyond economic value and consider bio-diversity and intangible values."

...Chagossian Assent

¶7. (C/NF) Roberts acknowledged that "we need to find a way to get through the various Chagossian lobbies." He admitted that HMG is "under pressure" from the Chagossians and their advocates to permit resettlement of the "outer islands" of the BIOT. He noted, without providing details, that "there are proposals (for a marine park) that could provide the Chagossians warden jobs" within the BIOT. However, Roberts stated that, according to the HGM,s current thinking on a reserve, there would be "no human footprints" or "Man Fridays" on the BIOT's uninhabited islands. He asserted that establishing a marine park would, in effect, put paid to resettlement claims of the archipelago's former residents. Responding to Polcouns' observation that the advocates of Chagossian resettlement continue to vigorously press their case, Roberts opined that the UK's "environmental lobby is far more powerful than the Chagossians' advocates." (*Note*: One group of Chagossian litigants is appealing to the European Court of Human Rights (ECHR) the decision of Britain's highest court to deny "resettlement rights" to the islands' former inhabitants. See below at paragraph 13 and reftel. *End Note*.)

Je Ne Regrette Rien

¶8. (C/NF) Roberts observed that BIOT has "served its role very well," advancing shared U.S.-UK strategic security objectives for the past several decades. The BIOT "has had a great role in assuring the security of the UK and U.S. -- much more than anyone foresaw" in the 1960s, Roberts emphasized.

"We do not regret the removal of the population," since removal was necessary for the BIOT to fulfill its strategic purpose, he said. Removal of the population is the reason that the BIOT's uninhabited islands and the surrounding waters are in "pristine" condition. Roberts added that Diego Garcia's excellent condition reflects the responsible stewardship of the U.S. and UK forces using it.

Administering a Reserve

¶9. (C/NF) Roberts acknowledged that numerous technical questions needed to be resolved regarding the establishment and administration of a marine park, although he described the governmental "act" of declaring a marine park as a relatively straightforward and rapid process. He noted that the establishment of a marine reserve would require permitting scientists to visit BIOT, but that creating a park would help restrict access for non-scientific purposes. For example, he continued, the rules governing the park could strictly limit access to BIOT by yachts, which Roberts referred to as "sea gypsies."

BIOT: More Than Just Diego Garcia

¶10. (C/NF) Following the meeting with Roberts, Joanne Yeadon, Head of the FCO's Overseas Territories Directorate's BIOT and Pitcairn Section, who also attended the meeting with Polcouns, told Poloff [Political Officer] that the marine park proposal would "not impact the base on Diego Garcia in any way" and would have no impact on the parameters of the U.S.-UK 1966 exchange of notes since the marine park would "have no impact on defense purposes." Yeadon averred that the provision of the UN Convention on the Law of the Sea guaranteed free passage of vessels, including military vessels, and that the presence of a marine park would not diminish that right.

¶11. (C/NF) Yeadon stressed that the exchange of notes governed more than just the atoll of Diego Garcia but expressly provided that all of the BIOT was "set aside for defense purposes." (*Note*: This is correct. *End Note*.) She urged 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 defense purposes. Making 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. She described that assertion as essentially irrelevant if the entire BIOT needed to be uninhabited for defense purposes.

¶12. (C/NF) Yeadon dismissed the APPG as a "persistent" but relatively non-influential group within parliament or with the wider public. She said the FCO had received only a handful of public inquiries regarding the status of the BIOT. Yeadon described one of the Chagossians' most outspoken advocates, former HMG High Commissioner to Mauritius David Snoxell, as "entirely lacking in influence" within the FCO. She also asserted that the Conservatives, if in power after the next general election, would not support a Chagossian right of return. She averred that many members of the Liberal Democrats (Britain's third largest party after Labour and the Conservatives) supported a "right of return."

¶13. (C/NF) Yeadon told Poloff May 12, and in several prior meetings, that the FCO will vigorously contest the Chagossians' "right of return" lawsuit

before the European Court of Human Rights (ECHR). HMG will argue that the ECHR lacks jurisdiction over the BIOT in the present case. Roberts stressed May 12 (as has Yeadon on previous occasions) that the outer islands are "essentially uninhabitable" and could only be rendered livable by modern, Western standards with a massive infusion of cash.

Comment

¶14. (C/NF) Regardless of the outcome of the ECHR case, however, the Chagossians and their advocates, including the "All Party Parliamentary Group on Chagos Islands (APPG)," will continue to press their case in the court of public opinion. Their strategy is to publicize what they characterize as the plight of the so-called Chagossian diaspora, thereby galvanizing public opinion and, in their best case scenario, causing the government to change course and allow a "right of return." They would point to the government's recent retreat on the issue of Gurkha veterans' right to settle in the UK as a model. Despite FCO assurances that the marine park concept -- still in an early, conceptual phase -- would not impinge on BIOT's value as a strategic resource, we are concerned that, long-term, both the British public and policy makers would come to see the existence of a marine reserve as inherently inconsistent with the military use of Diego Garcia -- and the entire BIOT. In any event, the U.S. and UK would need to carefully negotiate the parameters of such a marine park -- a point on which Roberts unequivocally agreed. In Embassy London's view, these negotiations should occur among U.S. and UK experts separate from the 2009 annual Political-Military consultations, given the specific and technical legal and environmental issues that would be subject to discussion.

¶15. (C/NF) *Comment Continued*. We do not doubt the current government's resolve to prevent the resettlement of the islands' former inhabitants, although as FCO Parliamentary Under-Secretary Gillian Merron noted in an April parliamentary debate, "FCO will continue to organize and fund visits to the territory by the Chagossians." We are not as sanguine as the FCO's Yeadon, however, that the Conservatives would oppose a right of return. Indeed, MP Keith Simpson, the Conservatives' Shadow Minister, Foreign Affairs, stated in the same April parliamentary debate in which Merron spoke that HMG "should take into account what I suspect is the all-party view that the rights of the Chagossian people should be recognized, and that there should at the very least be a timetable for the return of those people at least to the outer islands, if not the inner islands." 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.

ANNEX 147

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

PERMANENT MISSION OF THE REPUBLIC OF MAURITIUS TO THE UNITED NATIONS

MISSION PERMANENTE DE LA REPUBLIQUE DE MAURICE AUPRES DES NATIONS UNIES

Note No. 107853/09 **9 June 2009**

The Permanent Representative of the Republic of Mauritius to the United Nations presents his compliments to the Secretary-General of the United Nations, and has the honour to bring to his attention, in his capacity as depositary of the 1982 United Nations Convention on the Law of the Sea, the following statement of the Government of the Republic of Mauritius with respect to the Note No. 26/09 dated 19 March 2009 from the Permanent Mission of the United Kingdom of Great Britain and Northern Ireland.

The Government of the Republic of Mauritius wishes to reiterate in very emphatic terms that it does not recognize the so-called "British Indian Ocean Territory", which was established by the unlawful excision in 1965 of the Chagos Archipelago from the territory of Mauritius, in breach of the United Nations Charter and United Nations General Assembly resolution 1514 (xv) of 14 December 1960, resolution 2066 (xx) of 16 December 1965 and resolution 2357 (xxii) of 19 December 1967.

The Government of the Republic of Mauritius has, over the years, consistently asserted, and hereby reasserts, its complete and full sovereignty over the Chagos Archipelago, including maritime zones generated from the Chagos Archipelago, which forms part of the national territory of Mauritius.

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.

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ANNEX 147

The Government of the Republic of Mauritius would appreciate if the above declaration could be duly recorded, circulated and published in the Law of the Sea Bulletin No. 70, the Law of the Sea Information Circular and any other relevant publication issued by the United Nations.

The Permanent Representative of the Republic of Mauritius to the United Nations avails himself of this opportunity to renew to the Secretary-General of the United Nations the assurances of his highest consideration.

Secretary-General of the United Nations
UN Headquarters
New York

ANNEX 148

Joint Communiqué, Second round of bilateral talks between Mauritius and the UK on the Chagos Archipelago, 21 July 2009, Port Louis, Mauritius

ANNEX 148

JOINT COMMUNIQUE

Delegations of the Mauritian and British Governments met in Port Louis on Tuesday 21 July 2009 for the second round of talks on Chagos Archipelago/British Indian Ocean Territory. The Mauritian delegation was led by Mr S. C. Seeballuck, Secretary to Cabinet and Head of the Civil Service. The British delegation was led by Mr Colin Roberts, Director of Overseas Territories Department, Foreign and Commonwealth Office. The purpose of the meeting was to resume dialogue between Mauritius and the United Kingdom on the Chagos Archipelago/British Indian Ocean Territory.

Both delegations reiterated their respective positions on sovereignty and resettlement as expressed at the first round of talks held in London on 14 January 2009.

The British side provided an update on developments regarding the proceedings before the European Court of Human Rights.

Both delegations were of the view that it would be desirable to have a coordinated submission for an extended continental shelf in the Chagos Archipelago/British Indian Ocean Territory 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. It was agreed that a joint technical team would be set up with officials from both sides to look into possibilities and modalities of such a coordinated approach, with a view to informing the next round of talks.

The British delegation proposed that consideration be given to preserving the marine biodiversity in the waters surrounding the Chagos Archipelago/British Indian Ocean Territory by establishing a marine protected area in the region. The Mauritian side welcomed, in principle, the proposal for 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. The UK delegation made it clear that any proposal for the establishment of the marine protected area would be without prejudice to the outcome of the proceedings at the European Court of Human Rights.

The Mauritian side 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/British Indian Ocean Territory. 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.

Both sides agreed to meet in London on a date to be mutually agreed upon during the first fortnight of October 2009.

Both Governments agreed that nothing in the conduct or content of the present meeting shall be interpreted as :

(a) a change in the position of Mauritius with regard to sovereignty over the Chagos Archipelago/British Indian Ocean Territory;

(b) a change in the position of the United Kingdom with regard to sovereignty over the Chagos Archipelago/British Indian Ocean Territory;

(c) recognition of or support for the position of Mauritius or the United Kingdom with regard to sovereignty over the Chagos Archipelago/British Indian Ocean Territory;

(d) no act or activity carried out by Mauritius, United Kingdom or third parties as a consequence and in the 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 Mauritius or the United Kingdom regarding sovereignty of the Chagos Archipelago/British Indian Ocean Territory.

Port Louis
Mauritius
21 July 2009

Annex I

Composition of Mauritian Delegation:

(i) Mr S. C. Seeballuck, Secretary to Cabinet and Head of the Civil Service; (Head of Delegation)

(ii) Mr A. P. Neewoor, Secretary for Foreign Affairs

(iii) Mr D. Dabee, Solicitor General

(iv) Mr M. Kundasamy, Mauritius High Commissioner in UK;

(v) Amb. J. Koonjul, Ministry of Foreign Affairs, Regional Integration and International Trade

In attendance:

- Mrs A. Narain, Assistant Parliamentary Counsel, Attorney-General's Office
- Mr M. Munbodh, Principal Fisheries Officer, Ministry of Agro Industry, Food Production and Security (Fisheries Division)
- Mr B. Gokool, First Secretary, Ministry of Foreign Affairs, Regional Integration and International Trade
- Mr A. Pursunon, Principal Assistant Secretary, Prime Minister's Office

Composition of the United Kingdom Delegation:

(i) Mr Colin Roberts, Director of Overseas Territories Department, Foreign and Commonwealth Office (FCO); (Head of Delegation)

(ii) H.E. Mr John Murton, British High Commissioner in Mauritius;

(iii) Mrs Joanne Yeadon, Head of Section for BIOT; and

(iv) Mrs Katherine Shepherd, FCO Legal Advisor

ANNEX 149

Declaration of Nueva Esparta, 2nd Africa-South America Summit,
26-27 September 2009, Isla de Margarita, Venezuela (extract)

ANNEX 149

Declaration of Nueva Esparta, 2nd Africa-South America Summit, 26-27 September 2009, Isla de Margarita, Venezuela [extract]

ASAVenezuela 2009

[…]

37. WE HIGHLIGHT the importance of fostering an Agenda, within the framework of WIPO, with a view to promote the transfer and dissemination of technology and access to knowledge and education to the benefit of developing countries and countries of less relative development, and the most vulnerable social groups.

38. WE CALL UPON the international community not to approve unilateral illegal and coercive measures as a means of exerting political, military or economic pressure against any country, in particular against developing countries, according to the Charter of the United Nations.

39. WE URGE the United Kingdom of Great Britain and Northern Ireland and the Argentine Republic to resume negotiations in order to find, as a matter of urgency, a fair, peaceful and lasting solution to the dispute concerning sovereignty over the Falklands/Malvinas Islands and South Georgia and South Sandwich Islands and surrounding maritime spaces, in accordance with the resolutions of the United Nations and other pertinent regional and international organizations.

40. WE URGE the United Kingdom of Great Britain and Northern Ireland, France and the Republic of Mauritius to pursue negotiations in order to find, as a matter of urgency, a fair, peaceful and definitive solution to the issues regarding the sovereignty over Chagos Archipelago, including Diego Garcia and Tromelin and the surrounding maritime spaces, in accordance with the resolutions of the United Nations and the other pertinent regional and international organizations.

[…]

ANNEX 150

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

No. 46/2009 (1197/28/4)

5 November 2009

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius presents its compliments to the High Commission of the United Kingdom of Great Britain and Northern Ireland and further to the latter's Note No. 48/2009 dated 22 October 2009, has the honour to inform that the dates proposed for the meeting of UK and Mauritian Technical Experts on the Limits of the Continental Shelf and the next round of talks between Mauritius and the UK on the Chagos Archipelago are not convenient to the Mauritian authorities in view of the presentation of the national budget on 18 November 2009.

The Ministry would like to suggest that these meetings take place in London in mid-January 2010.

The Government of the Republic of Mauritius wishes to reaffirm its non-recognition of the so-called British Indian Ocean Territory and reiterates its sovereignty over the Chagos Archipelago, including Diego Garcia.

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius avails itself of this opportunity to renew to the High Commission of the United Kingdom of Great Britain and Northern Ireland the assurances of its highest consideration.

High Commission of the United Kingdom
of Great Britain and Northern Ireland
7th Floor, Les Cascades Building
Edith Cavell Street
P.O. Box 1063
Port Louis

Copy to: 1. Secretary to Cabinet and Head of the Civil Service (Attn: Mrs. Rambeas)
2. Solicitor-General (Attn: Ms. Narain)

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ANNEX 151

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

REPUBLIC OF MAURITIUS

MINISTRY OF FOREIGN AFFAIRS, REGIONAL INTEGRATION AND INTERNATIONAL TRADE

No. 1197/28/10 **10 November 2009**

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius presents its compliments to the Foreign and Commonwealth Office (FCO) of the United Kingdom of Great Britain and Northern Ireland and has the honour to refer to the FCO Consultation Document on whether to establish a marine protected area in the so-called British Indian Ocean Territory, received today by the Mauritian authorities.

The Ministry of Foreign Affairs, Regional Integration and International Trade wishes to inform the FCO 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 last July, contrary to what is stated at 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.

The Ministry of Foreign Affairs, Regional Integration and International Trade therefore requests that the FCO accordingly amend its Consultation Document to accurately reflect the position of the Government of the Republic of Mauritius.

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius avails itself of this opportunity to renew to the Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland the assurances of its highest consideration.

Foreign and Commonwealth Office
of the United Kingdom of Great Britain
and Northern Ireland
London

MINISTRY OF FOREIGN AFFAIRS, REG. INTEGRATION & INT. TRADE
MAURITIUS

Newton Tower, Sir William Newton Street, Port Louis
Tel : (230) 405 2500 Fax : (230) 208 8087, (230) 212 6764 Email : mfa@mail.gov.mu

ANNEX 152

UK Foreign and Commonwealth Office, Consultation on Whether to Establish a Marine Protected Area in the "British Indian Ocean Territory", November 2009

Foreign & Commonwealth Office

FCO CONSULTATION DOCUMENT

CONSULTATION ON WHETHER TO ESTABLISH A MARINE PROTECTED AREA IN THE BRITISH INDIAN OCEAN TERRITORY

A consultation produced by the Foreign and Commonwealth Office.

This information is also available on the FCO website: www.fco.gov.uk, British High Commission Port Louis website: www.ukinmauritius.fco.gov.uk and British High Commission Victoria website: www.ukinseychelles.fco.gov.uk

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Foreword

In March 2009, the Chagos Environment Network* presented their vision of "The Chagos Archipelago: its Nature and the Future" which advocates the creation of one of the world's greatest natural conservation areas. This is a remarkable opportunity for the UK to create one of the world's largest marine protected areas and double the global coverage of the world's oceans benefiting from full protection.

We want to use this consultation to help us assess whether a marine protected area is the right option for the future environmental protection of the British Indian Ocean Territory. This document explains the issue on which we would like your views, and the ways in which you can send them to us. I strongly encourage you to participate in this consultation.

David Miliband
Foreign Secretary

(*includes: Chagos Conservation Trust, The Linnean Society of London, Pew Environment Group, The Royal Society, The Royal Society for the Protection of Birds (RSPB), The Zoological Society of London (ZSL) and the Marine Conservation Society (MCS), Royal Botanic Gardens Kew, Professor Charles Sheppard and many visiting scientists.)

Body Responsible for consultation: Overseas Territories Directorate, FCO

Who should read this document? Anyone with an interest in the British Indian Ocean Territory or the Overseas Territories in general. Anyone with an interest in protection of the environment.

Making your views heard: we are keen to gather all views on environmental protection in the British Indian Ocean Territory and any supporting evidence. You should not feel constrained by the specific question(s) or feel obliged to offer responses to all of them. Concentrate on those in which you have most interest. It would be helpful if you could describe your views, suggestions and experiences when responding, rather than giving "yes" or "no" answers.

How to respond

1. This section outlines the ways in which you can make your views heard.

2. The consultation period will begin on 10 November 2009. It will run until 12 February 2010. There will be meetings in Port Louis, Mauritius and Victoria, Seychelles between 21 January and 9 February (exact dates to be advised later). There will also be a meeting in the UK. These meetings will be organised by an independent facilitator who will record all the views expressed.

3. Alternatively, you are welcome to respond by post or e-mail. Please ensure that your response reaches us by 12 February. If you live overseas and intend to respond by post, please ensure that your response reaches us no later than 12 February. You may respond to this consultation in the following ways:

(i) Write to:

BIOT marine protected area consultation
Overseas Territories Directorate
Foreign and Commonwealth Office
King Charles Street
London
SW1A 2AH

(ii) E-mail your response to: biotmpaconsultation@fco.gov.uk

4. Copies of this consultation document can be found at www.fco.gov.uk, the British High Commission Port Louis website: www.ukinmauritius.fco.gov.uk and the British High CommissionVictoria website: www.ukinseychelles.fco.gov.uk. This consultation document and the impact assessment will also be available in Creole on the Port Louis website.

5. If you have any general queries about this consultation, please contact: biotmpaconsultation@fco.gov.uk.

6. We have made every effort to bring this consultation to the attention of those with an interest in the British Indian Ocean Territory. The document has been disseminated to a wider audience through website, representative groups, directly to representatives of interested parties/governments/organisations with a known interest. However, if you

think there are other ways that we can increase awareness of the consultation, please do let us know.

Consultation Questions

It would be helpful if you could structure your response to address the question(s) below, but you should not be restricted to these questions. Please send us any information that you feel is relevant to your response.

1. *Do you believe we should create a marine protected area in the British Indian Ocean Territory?*

If yes, from consultations with scientific/environmental and fishery experts, there appear to us to be 3 broad options for a possible 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); or

(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.

2. *Which do you consider the best way ahead? Can you identify other options?*
3. *Do you have any views on the benefits listed at page 11? What importance do you attach to them?*
4. *Finally, beyond marine protection, should other measures be taken to protect the environment in BIOT?*

When you are responding, please state whether you are an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please state the name of the organisation, your role within it and how the views of members were assembled.

What will happen next?

We will not be able to consider any responses received after 12 February. We will then assess the evidence and opinions received, and we will publish a summary report soon after that. We expect to announce a decision on whether to establish a Marine Protected Area in early April 2010.

Confidentiality

The information you send us may be passed to colleagues within the Foreign and Commonwealth Office or the facilitator appointed by FCO to analyse responses to this consultation, and published in a summary of responses received in response to this consultation. We will assume that you are content for us to do this, and that if you are replying by e-mail, your consent overrides any confidentiality disclaimer that is generated by

your organisation's IT system, unless you specifically include a reference to the contrary in the main text of your submission to us.

If you want your name and address to be kept confidential, please mark this clearly at the top of your response. *(Confidential responses will be included in any statistical summary of numbers of comments received and views expressed.)*

SCOPE

Any declaration of a Marine Protected Area in the British Indian Ocean Territory would be made by the BIOT Commissioner and not by the UK Government. Although the BIOT Commissioner is not bound by UK Government guidelines on public consultation, the Foreign Secretary has decided that there is sufficient international and public interest related to this proposal to merit such a consultation.

This consultation is in response to the proposal of the Chagos Environment Network: "The Chagos Archipelago: its Nature and Future" (www.chagos-trust.org) which recommends the establishment of a conservation area in the British Indian Ocean Territory. The purpose of this consultation is to seek views from stakeholders and interested parties on this proposal.

Any decision to establish a marine protected area would be taken in the context of the Government's current policy on the Territory, following the decision of the House of Lords in R (Bancoult) v Secretary of State for Foreign and Commonwealth Affairs [2008] UKHL 61 that the British Indian Ocean Territory (Constitution) Order 2004 and the British Indian Ocean Territory (Immigration) Order 2004 are lawful; i.e., there is no right of abode in the Territory and all visitors need a permit before entering the Territory. Access to a part of the Territory is also restricted under our Treaty obligations with the US. It is the Government's provisional view, therefore, that we would not establish a permanent research facility in any part of the Territory. Any decision to establish a marine protected area would not affect the UK Government's commitment to cede the Territory to Mauritius when it is no longer needed for defence purposes.

This consultation and any decision that may follow for the establishment of a marine protected area are, of course, without prejudice to the outcome of the current, pending proceedings before the European Court of Human Rights (ECtHR). This means that should circumstances change, all the options for a marine protected area may need to be reconsidered.

An Impact Assessment has been written for this proposal and can be found at Annex A.

SUMMARY OF QUESTIONS

1. *Do you believe we should create a marine protected area in the British Indian Ocean Territory?*

If yes, from consultations with scientific/environmental and fishery experts, there appear to be 3 broad options for a possible framework:

(iv) 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); or

(v) 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.

(vi) Declare a no-take marine reserve for the vulnerable reef systems only.

2. *Which do you consider the best way ahead? Can you identify other options?*

3. *Do you have any views on the benefits listed at page 11? What importance do you attach to them?*

4. *Finally, beyond marine protection, should other measures be taken to protect the environment in BIOT?*

BACKGROUND

"*One of the most precious, unpolluted, tropical ocean environments left on Earth*" – Chagos Conservation Trust.

The British Indian Ocean Territory (BIOT - also known as the Chagos Archipelago) is situated in the middle of the Indian Ocean and is made up of about 55 tiny islands in over half a million square kilometres of ocean. The Great Chagos Bank is the world's largest atoll. The islands, reef systems and waters of BIOT in terms of preservation and biodiversity are among the richest on the planet and it contains about half of all the reefs of this ocean which remain in good condition. There are about 10 Important Bird Areas (IBAs). It has the Indian Ocean's most dense populations of several seabird species. It also has remnants of Indian Ocean island hardwoods. It also contains exceptional numbers of coconut crabs and undisturbed and recovering populations of Hawksbill and Green Turtles.

This massive area has already been declared an Environmental (Preservation and Protection) Zone with legislation in place to protect these natural resources which include strict controls over fishing, pollution (air, land and water), damage to the environment, and the killing, harming or collecting of animals. Some of the most important land and sea areas have already been set aside for additional protection. Most of the lagoon areas and a large part of the land area of Diego Garcia are protected as Restricted Areas, four Special Conservation Areas and a Nature Reserve. Strict Nature Reserves cover the land and surrounding reefs and waters of the islands of the Great Chagos Bank and a large part of Peros Banhos Atoll.

The Territory is also subject to further levels of internationally binding legal protection. This includes the designation of part of Diego Garcia as a Wetland of International Importance under the Ramsar Convention; the Whaling Convention (including an Indian Ocean Whale Sanctuary); the Law of the Sea Convention (with provisions to protect fish stocks); the Indian Ocean Tuna Commission; CITES (regulating trade in wildlife, including corals); and the Bonn Convention (with provisions to protect marine turtles and cetaceans).

So with all this protection already in place, what would be the added value of creating a marine protected area? Taking into account the findings of the workshop "Marine conservation in the British Indian Ocean Territory (BIOT): science issues and opportunities" held 5-6 August 2009 at the National Oceanography Centre Southampton and supported by the NERC Strategic Ocean Funding Initiative (SOFI) www.oceans2025.org the FCO's view is that:

- There is sufficient scientific information to make a convincing case for designating most of the Territory as a marine protected area (MPA), to include not only protection for fish-stocks but also to strengthen conservation of the reefs and land areas.

- The justification for MPA designation is based primarily on the size, location, biodiversity, near-pristine nature and health of the coral reefs, likely to make a significant contribution to the wider biological productivity of the Indian Ocean. It would have a wide diversity of unstudied deepwater habitats.

- There is high value to scientific/environmental experts in having a minimally perturbed scientific reference site, both for Earth system science studies and for regional conservation management.

- MPA designation would be consistent with existing BIOT conservation policies, providing a very cost-effective demonstration of the UK Government's commitment to environmental stewardship and halting biodiversity loss.

- There is growing scientific support for establishing large scale marine reserves to protect fish stocks (which has already led the United States of America to create two Marine National Monuments) and there is growing scientific evidence of the global significance of BIOT as a pelagic/archipelagic eco system.

- MPA designation for BIOT would safeguard around half the high quality coral reefs in the Indian Ocean whilst substantially increasing the total global coverage of MPAs. If all the BIOT area were a no-take MPA, it would be the world's largest site with that status, more than doubling global coverage with full protection.

- In addition, the fisheries in the BIOT are currently a loss-making business for the British Indian Ocean Territory Administration. The average yearly income from the purse-sein/long line fishery is usually between £700,000 to £1 million. Only one company presently fishes on the reefs (inshore fishery) and this brings in only a very small income to BIOT Administration. The income from fishing is ploughed back into the running costs of the BIOT Patrol Vessel, the Pacific Marlin. But the income does not meet the entire costs of running the vessel. Consequently the Administration's costs have to be subsidised from the FCO's Overseas Territories Project Fund.

We have the opportunity here to preserve BIOT's unique environment. While the main focus of this consultation is whether to create a marine protected area in the first instance, we would also like your views on a possible framework for the fisheries. We have identified 3 options:

1. Declare a full no-take marine reserve for the whole of the territorial waters and EPPZ/FCMZ; or

2. 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.

3. Declare a no-take marine reserve for the highest value waters (i.e., the reef systems) only.

You may have other ideas and we would be interested to hear them.

We are aware that some marine parks are established and some end up being "paper parks" that is the area is declared as a marine protected area but nothing more happens. If the decision is taken to go ahead with the marine protected area in BIOT, we would need to develop an administrative framework from within the British Indian Ocean Territory Administration to oversee the Management of the MPA.

ANNEX A

IMPACT/COSTS & BENEFITS

Costs

The cost of actually declaring a marine protected area in BIOT is nil.

However, if a decision is taken to move to a no-take fishery, then additional cost to the public purse of around £1 million per annum will be incurred. This is because of the need to maintain the BIOT patrol vessel which currently performs surveillance duties in the FCMZ. The annual cost of running the vessel is about £1.7 million (including fuel costs). This is at present offset by a fishing licence income varying between £700,000 and £1 million per year. Costs not offset by income are met by a subsidy from the Overseas Territories Programme Fund.

Global studies of the economic benefits of coral reefs estimate their value to be about $100,000 - $600,000 per square km per year. This should be compared with current protection costs in BIOT of $5 per sq km per year.

Benefits

The benefits of a marine protected area were considered by the Chagos Environment Network in their brochure: www.chagos-trust.org and by the National Oceanography Centre workshop: www.oceans2025.org and include:

Conservation benefits: in recent years scientists and environmentalists have stressed the value of a large-scale ecosystem approach to conservation. For geographical, economic and political reasons there are few places where this is possible. BIOT is a place where it is possible. While recognising that it is a contentious subject, the fact is that the absence of a settled human population, the strict environmental regime and the minimal footprint of the military base have enabled a high level of environmental preservation to have occurred.

Climate Change benefits: BIOT has a special and growing significance in climate change science as a "control" against which to measure changes in the marine environment elsewhere. This could be guaranteed by extra protection under a marine protected area. Its location would also fill the large gap in global coverage for automated measurements of various important atmospheric and ocean parameters.

Scientific benefits: BIOT offers great scope for research in all fields of oceanography, biodiversity and many aspects of climate change. These are core research issues for UK science.

Development benefits: although at early stages of research at present, scientists advise us that BIOT is likely to be key, both in research and geographical terms, to many issues of:

- Providing an unpolluted reference site, and one which is almost entirely unaffected by man's direct impacts;
- As a source site, or reserve, for many species heavily exploited in most other areas of the Indian Ocean, especially those down current (which is the Western Ocean and African coast);

- For examination of the effects of climate change which, in most other places, is confounded by man's direct impacts and pollution;
- Provision of an "environmental insurance policy" whose size would ensure integrity in the way that smaller reserves cannot;
- Address a shortcoming in the global network of properly protected marine reserves (most being too small, damaged or far apart to function effectively);
- Provide a scientific benchmark and natural laboratory which will contribute to our understanding of the processes that collectively create climate change and to our ability to manage the threats it poses; and
- To increase our ability to manage degradation in other locations of the Indian Ocean.

Enshrining these characteristics of BIOT in a legal framework will ensure the area can continue to provide its vital functions and services.

Impact

As well as the international fishing community, there are some groups who will be directly or indirectly affected by the establishment of a marine protected area and any resulting restrictions or a ban on fishing.

US

The US has a military base on Diego Garcia. The use of that facility is governed by a series of Exchange 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. This would be a total of 470 km sq out of the total proposed MPA area of 544,000 sq km. The existing environmental protection on Diego Garcia which includes a large Ramsar site and several Strict Nature Reserves and other conservation regulations such as those that affect turtles will not be affected by this exclusion.

Mauritius

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 (see communiqué of the meeting held in Port Louis at Annex C). 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.

Chagossian community

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 (for full judgment see www.publications.parliament.uk), 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.

ANNEX B

CODE OF PRACTICE ON CONSULTATION

The Seven Consultation Criteria

1. When to consult: formal consultation should take place at a stage when there is scope to influence the policy outcome.

2. Duration of consultation exercises: consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

3. Clarity of scope and impact: consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

4. Accessibility of consultation exercises: consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

5. The burden of consultation: keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

6. Responsiveness of consultation exercises: consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

7. Capacity to consult: officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

8. The full text of the Government Code of Practice on Consultation can be found at: www.berr.gov.uk/whatwedo/bre/consultation-guidance/page44420.html.

9. If you consider that this consultation does not comply with the criteria or have comments about the consultation process, please contact:

   Consultation Coordinator
   Overseas Territories Department
   Foreign & Commonwealth Office
   King Charles Street
   London
   SW1A 2AH

Or

   E-mail address : biotmpacoordinator@fco.gov.uk

ANNEX C

JOINT COMMUNIQUÉ

Delegations of the Mauritian and British Governments met in Port Louis on Tuesday 21 July 2009 for the second round of talks on Chagos Archipelago/British Indian Ocean Territory. The Mauritian delegation was led by Mr S C Seeballuck, Secretary to Cabinet and Head of the Civil Service. The British delegation was led by Mr Colin Roberts, Director of Overseas Territories Department, Foreign and Commonwealth Office. The purpose of the meeting was to resume dialogue between Mauritius and the United Kingdom on the Chagos Archipelago/British Indian Ocean Territory.

Both delegations reiterated their respective positions on sovereignty and resettlement as expressed at the first round of talks held in London on 14 January 2009.

The British side provided an update on developments regarding the proceedings before the European Court of Human Rights.

Both delegations were of the view that it would be desirable to have a coordinated submission for an extended continental shelf in the Chagos Archipelago/British Indian Ocean Territory 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. It was agreed that a joint technical team would be set up with officials from both sides to look into possibilities and modalities of such a coordinated approach, with a view to informing the next round of talks.

The British delegation proposed that consideration be given to preserving the marine biodiversity in the waters surrounding the Chagos Archipelago/British Indian Ocean Territory by establishing a marine protected area in the region. The Mauritian side welcomed, in principle, the proposal for 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. The UK delegation made it clear that any proposal for the establishment of the marine protected area would be without prejudice to the outcome of the proceedings at the European Court of Human Rights.

The Mauritian side 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/British Indian Ocean Territory. 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.

Both sides agreed to meet in London on a date to be mutually agreed upon during the first fortnight of October 2009.

Both Governments agreed that nothing in the conduct or content of the present meeting shall be interpreted as:

(a) a change in the position of Mauritius with regard to sovereignty over the Chagos Archipelago/British Indian Ocean Territory;

(b) a change in the position of the United Kingdom with regard to sovereignty over the Chagos Archipelago/British Indian Ocean Territory;
(c) recognition of or support for the position of Mauritius or the United Kingdom with regard to sovereignty over the Chagos Archipelago/British Indian Ocean Territory;
(d) no act or activity carried out by Mauritius, United Kingdom or third parties as a consequence and in the 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 Mauritius or the United Kingdom regarding sovereignty of the Chagos Archipelago/British Indian Ocean Territory.

Port Louis
Mauritius

21 July 2009

ANNEX D

UK POLICY ON MARINE PROTECTED AREAS

The UK Administrations intend to establish an ecologically-coherent network of marine protected areas (MPAs) within the whole of UK waters in order to fulfil its international obligations, and to contribute to its policy intentions for the sustainable management of the marine environment.

The MPA network will play a key part in delivering our vision of clean, safe, healthy, productive and biologically diverse oceans and seas.

The MPA network will primarily consist of Marine Conservation Zones (MCZs) designated under the Marine and Coastal Access Bill and European marine sites designated under the EC Wild Birds and Habitats Directives (Natura 2000 sites). European marine sites include two types of designated areas: Special Areas of Conservation (SAC) and Special Protection Areas (SPA). SACs are designated under the EC Habitats Directive and SPAs are classified under the EC Wild Birds Directive (Council Directive 79/409/EEC on the conservation of wild birds).

Natural England (NE), Joint Nature Conservation Committee (JNCC) and Department for Environment Food and Rural Affairs (Defra) are working in partnership to implement the selection and designation of MCZs across the Defra marine area (English territorial waters and offshore waters adjacent to England, Wales and Northern Ireland).

NE and JNCC have established four regional MCZ projects that will bring stakeholders (including regional, national and relevant international) into the MCZ decision-making process from an early stage.

Finding Sanctuary has been a flagship project set up to identify Marine Conservation Zones in the South West. Based on the Finding Sanctuary model, we have asked Natural England and the JNCC to establish similar stakeholder-led MCZ projects for 3 other project areas around our coast which are now underway.

The UK remains committed to an MPA network that delivers our conservation needs while also minimising socio-economic impacts and maximising the benefits. Sites will have different levels of protection depending on conservation objectives and the sensitivity of features being protected. In some cases this will mean that there will be sites which will require high levels of protection.

OSPAR is the mechanism by which fifteen Governments of the western coasts and catchments of Europe, together with the European Community, cooperate to protect the marine environment of the North-East Atlantic.

In 2003 the OSPAR Commission agreed a work programme on Marine Protected Areas with the purpose of ensuring that by 2010 there is an ecologically coherent network of well managed marine protected areas for the maritime areas of the OSPAR network. This required each Contracting Party to:

a) Consider whether any areas within its jurisdiction justify selection as marine protected areas under the criteria set out in the identification and selection guidelines and, if so,
b) Report to the OSPAR Commission the areas that it has selected as components of the OSPAR Network of Marine Protected Areas.

A Marine Protected Area (MPA) as defined by OSPAR is "an area within the [OSPAR] maritime area for which protective, conservation, restorative or precautionary measures, consistent with international law have been instituted for the purpose of protecting and conserving species, habitats, ecosystems or ecological processes of the marine environment" (OSPAR 2003 Annex 9 A-4.44a).

The UK is committed to the OSPAR work programme on Marine Protected Areas with the purpose of ensuring that by 2010 there is an ecologically coherent network of well managed marine protected areas for the maritime areas of the OSPAR network.

ANNEX 153

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

REPUBLIC OF MAURITIUS

MINISTRY OF FOREIGN AFFAIRS, REGIONAL INTEGRATION AND INTERNATIONAL TRADE

No. 48/2009 (1197/28/10) **10 November 2009**

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius presents its compliments to the High Commission of the United Kingdom of Great Britain and Northern Ireland and has the honour to refer to the Foreign and Commonwealth Office (FCO) Consultation Document on whether to establish a marine protected area in the so-called British Indian Ocean Territory, received today by the Mauritian authorities.

The Ministry of Foreign Affairs, Regional Integration and International Trade wishes to inform the High Commission 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 last July, contrary to what is stated at 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.

The Ministry of Foreign Affairs, Regional Integration and International Trade therefore requests that the Foreign and Commonwealth Office accordingly amend its Consultation Document to accurately reflect the position of the Government of the Republic of Mauritius.

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius avails itself of this opportunity to renew to the High Commission of the United Kingdom of Great Britain and Northern Ireland the assurances of its highest consideration.

MINISTRY OF FOREIGN AFFAIRS, REG. INTEGRATION & INT TRADE
MAURITIUS

High Commission of the United Kingdom
of Great Britain and Northern Ireland
Port Louis

Newton Tower, Sir William Newton Street, Port Louis
Tel. : (230) 405 2500 Fax : (230) 208 8087, (230) 212 6764 Email : mfa@mail.gov.mu

ANNEX 154

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

Note No. 54/09

The High Commission of the United Kingdom of Great Britain & Northern Ireland presents its compliments to the Ministry of Foreign Affairs, Regional Integration and International Trade and and has the honour to thank the Ministry for its Note Verbale 48/2009 (1197/28/10) of 10th November regarding the wording of the UK's Consultation Document on the establishment of a Marine Protected Area (MPA) in the British Indian Ocean Territory (BIOT)/Chagos Archipelago. The British High Commission has forwarded the contents of your note to the British Foreign and Commonwealth Office's Overseas Territories Department responsible for co-ordinating the consultation.

The British High Commission would like to underline that the purpose of the consultation is to gain views on a proposal made by an environmental NGO: the Chagos Conservation Trust. No policy decision has been made on the issue in hand. Our approach aims to be consultative and inclusive: the Chagos Conservation Trust's MPA proposal was discussed with the Government of Mauritius in bilateral talks on BIOT/Chagos Islands prior to the launch of the public consultation. We anticipate further discussion in the next round of bilateral talks, which we had hoped to hold this month, but which now look likely to be held in early 2010.

In light of this constructive and ongoing dialogue, the British High Commission would like to reassure the Ministry of Foreign Affairs, Regional Integration and International Trade that no offence was intended by the wording on page 12 of the draft consultation document that was shared with you on 10 November. We were, therefore, happy to amend the wording of the final document (released later that day on the following site: (**http://www.ukinmauritius.fco.gov.uk**) to reflect the views expressed in your Note Verbale.

The High Commission of the United Kingdom of Great Britain & Northern Ireland
Avails itself this opportunity to renew to the Ministry of Foreign affairs, Regional Trade and Co-operation, the assurances of its highest consideration.

BRITISH HIGH COMMISSION PORT LOUIS

British High Commission
Port Louis

11 November 2009

OPEN REGISTRY
RECEIVED

ANNEX 155

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

REPUBLIC OF MAURITIUS

MINISTRY OF FOREIGN AFFAIRS, REGIONAL INTEGRATION AND INTERNATIONAL TRADE

No. 1197/28/10 **23 November 2009**

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius presents its compliments to the Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland and has the honour to refer to the public consultation launched by the British Government on 10 November 2009 on a proposal put forward by the Chagos Environment Network for the establishment of a marine protected area (MPA) in the Chagos Archipelago and to its related Note Verbale (No. 1197/28/10) dated 10 November 2009.

The Ministry of Foreign Affairs, Regional Integration and International Trade, whilst welcoming the amendment at page 12 of the Consultation Document, regrets to note 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. That stand, as per the Joint Communiqué, reads as follows:-

> "*The Mauritian side welcomed, in principle, the proposal for 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*".

Furthermore, the Ministry of Foreign Affairs, Regional Integration and International Trade would like to state 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.

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 progress in the talks, on the sovereignty issue.

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ANNEX 155

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.

The Government of Mauritius wishes to reiterate the sovereignty of Mauritius over the Chagos Archipelago, including Diego Garcia, and its non-recognition of the so-called British Indian Ocean Territory.

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius avails itself of this opportunity to renew to the Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland the assurances of its highest consideration.

Foreign and Commonwealth Office
of the United Kingdom of Great Britain
and Northern Ireland
London

MINISTRY OF FOREIGN AFFAIRS, REG. INTEGRATION & INT. TRADE
MAURITIUS

ANNEX 156

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

15 December 2009

Foreign & Commonwealth Office

London SW1A 2AH

From the Secretary of State

His Excellency Arvin Boolell
Ministry of Foreign Affairs
PORT LOUIS

Dear Minister Boolell,

I very much welcomed the opportunity to meet you at CHOGM. We had a useful discussion on the proposal for a Marine Protected Area in the British Indian Ocean Territory. I believe we both agree that without prejudice to wider political issues, discussed below, there is an opportunity to protect an area of outstanding natural beauty which contains islands, reef systems and waters which in terms of preservation and biodiversity are among the richest on the planet. As we agreed at the time, both the UK and Mauritius now need to reflect on next steps and work to bridge any differences in approach.

At our meeting, you mentioned your concerns that the UK should have consulted Mauritius further before launching the consultation exercise. I regret any difficulty this has caused you or your Prime Minister in Port Louis. I hope you will recognise that we have been open about the plans and that the offer of further talks has been on the table since July.

I would like to reassure you again that the public consultation does not in any way prejudice or cut across our bilateral intergovernmental dialogue with Mauritius on the proposed Marine Protected Area. The purpose of the public consultation is to seek the views of the wider interested community, including scientists, NGOs, those with commercial interests and other stakeholders such as the Chagossians. The consultations and our plans for an MPA do not in any way impact on our commitment to cede the territory when it is no longer needed for defence purposes.

Our ongoing bilateral talks are an excellent forum for your Government to express its views on the MPA. We welcome the prospect of further discussion in the context of these talks, the next round of which now look likely to happen in January.

As well as the MPA there are, of course, many other issues for bilateral discussion. My officials remain ready to continue the talks and I hope that Mauritius will take up the opportunity to pursue this bilateral dialogue.

Whatever misunderstandings there may have been to date, I remain convinced that furthering marine protection in the Indian Ocean is a goal that we can both share. I was delighted to learn that your budget last month contained new funds for the establishment of domestic marine protected areas as part of your own 'Maurice: Ile Durable' programme. I look forward to working with you towards this common goal of marine protection in the Indian Ocean.

Yours sincerely,

DAVID MILIBAND

ANNEX 157

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

REPUBLIC OF MAURITIUS

Minister of Foreign Affairs, Regional Integration and International Trade

Ref: 1197/28/10

30 December 2009

Excellency,

I would like to refer to your letter dated 15 December 2009 on the proposed establishment of a Marine Protected Area around the Chagos Archipelago.

During our recent meeting in the margins of the Commonwealth Heads of Government Meeting, I had expressed the concerns of the Government of Mauritius about the Marine Protected Area project. I had stated that it was inappropriate for the British authorities to embark on consultations on the matter outside the bilateral Mauritius-United Kingdom mechanism for talks on issues relating to the Chagos Archipelago.

On the substance of the proposal, 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. As you are aware, the Mauritian position, as also endorsed at various multilateral fora, is that the Chagos Archipelago was illegally excised by the British Government from the territory of Mauritius prior to the grant of independence to Mauritius. The Government of Mauritius has repeatedly informed the British Government that it does not recognize the so-called British Indian Ocean Territory and deplores the fact that Mauritius is still not in a position to exercise effective control over the Chagos Archipelago as a result of the illegal excision of its territory.

Moreover, 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 Archipelago are matters of high priority to the Government of Mauritius. The exclusion of such important issues in 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.

In these circumstances, as I have mentioned, 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.

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ANNEX 157

You will no doubt be aware that, in the margins of the last CHOGM, our respective Prime Ministers agreed that the Marine Protected Area project be put on hold and that this issue be addressed during the next round of Mauritius-United Kingdom bilateral talks.

Please accept, Excellency, the assurances of my highest consideration.

Dr the Hon. Arvin Boolell
Minister

The Rt. Hon. David Miliband
Secretary of State
for Foreign and Commonwealth Affairs
Foreign and Commonwealth Office
London
United Kingdom

ANNEX 158

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

REPUBLIC OF MAURITIUS

MINISTRY OF FOREIGN AFFAIRS, REGIONAL INTEGRATION AND INTERNATIONAL TRADE

No. 1197/28/4

30 December 2009

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius presents its compliments to the Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland and has the honour to refer to the public consultation launched by the British Government on 10 November 2009 on a proposal put forward by the Chagos Environment Network for the establishment of a Marine Protected Area in the Chagos Archipelago and to its related Note Verbale (No. 1197/28/10) dated 23 November 2009.

The Ministry of Foreign Affairs, Regional Integration and International Trade wishes to inform the Foreign and Commonwealth Office that the Government of Mauritius considers 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.

The Government of Mauritius trusts that it will receive, within a reasonable period, adequate clarification and reassurances on the part of the Government of the United Kingdom on the issues raised in the above-mentioned Note Verbale.

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius avails itself of this opportunity to renew to the Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland the assurances of its highest consideration.

Foreign and Commonwealth Office
of the United Kingdom of Great Britain
and Northern Ireland
London

MINISTRY OF FOREIGN AFFAIRS, REG. INTEGRATION & INT. TRADE
MAURITIUS

Newton Tower, Sir William Newton Street, Port Louis
Tel. : (230) 405 2500 Fax : (230) 208 8087, (230) 212 6764 Email : mfa@mail.gov.mu

ANNEX 159

Letter dated 30 December 2009 from the Mauritius High Commissioner, London to *The Sunday Times*, published on 10 January 2010

ANNEX 159

MAURITIUS HIGH COMMISSION

32/33 ELVASTON PLACE
LONDON SW7 5NW
Tel. No. : 020 7581 0294/5
Fax No. : 020 7823 8437
020 7584 9859
Email : londonmhc@btinternet.com

Our Ref : **MHCL/886/1/03**

Your Ref :

30 December, 2009

Dear Editor in Chief,

I wish to refer to an article entitled "***Brown can build his green legacy on coral reefs"*** which appeared in the issue of the Sunday Times of 27 December 2009 and wish to deplore the fact that the article purports to suggest to your readers that there are only two obstacles in the way of the establishment of the Marine Protected Area (MPA) around the Chagos Archipelago, namely:-

(a) ***"the claim of the Chagossians – coconut farmers descended from Mauritian French (sic) stock who were shamefully evicted by the Military in the 1970's;***

(b) ***".... What to do about a tuna fishery that pays the treasury about £1 million a year."***

The article utterly fails to refer to the illegal excision of the Chagos Archipelago from the territory of Mauritius prior to Mauritius being granted independence by the UK Government, an act which has been condemned by the international community at various multilateral fora on the ground that it was in breach of international law.

The right of Mauritius to enjoy its sovereignty over the Chagos Archipelago and the failure of the promoters of the MPA project to meaningfully address this issue in the MPA project document are, in the opinion of the Government of Mauritius, deplorable omissions in your article. There can be no legitimacy to the

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MPA project without that issue being addressed to the satisfaction of the Government of Mauritius.

The Government of Mauritius requests that you bring the above facts to the attention of your readers in your esteemed paper.

Yours faithfully,

Abhimanu Kundasamy
High Commissioner

Mr John Witherow
Editor in Chief
The Sunday Times
1 Pennington Street,
London E98 1ST

Fax No. 0207 782 5420

ANNEX 160

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

Uncorrected Evidence 423

OT 423: Written Evidence from HE Mr Abhimanu Kundasamy, High Commissioner of Mauritius

on the uk proposal for the establishment of a marine protected area around the chagos archipelago

1. As Under both Mauritian law and international law, the Chagos Archipelago, including Diego Garcia, is under the sovereignty of Mauritius. The creation of any marine protected area (MPA) around the Chagos Archipelago would therefore require the agreement of the Government of Mauritius.

2. Since there is an on-going bilateral Mauritius-UK mechanism for talks and consultations on issues relating to the Chagos Archipelago, it is inappropriate and insulting for the British Government to pursue consultations globally on the proposal for the establishment of an MPA around the Chagos Archipelago *outside this 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 of the Republic of Mauritius to the UK Foreign and Commonwealth Office. We have not received any answer yet whilst the FCO continues to defy our deep concerns on this process.

3. 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.

4. The establishment of an MPA around the Chagos Archipelago must be compatible with the sovereignty of Mauritius over the Chagos Archipelago. Any endorsement of the proposed unilateral initiative of the FCO's, particularly in some scientific quarters, would be tantamount to condoning the violation of international law and the enduring human tragedy.

5. 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.

6. 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.

7. 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.

8. The establishment of any MPA around the Chagos Archipelago should also address the benefits that Mauritius should derive from any mineral or oil that may be discovered in or near Chagos Archipelago (as per the undertaking given in 1965).

9. Why is the FCD in a hurry to establish a marine protected area around the Chagos Archipelago?

Is it because of the case which the Chagossians have brought before the European Court of Human Rights?

Is it because the Lease Agreement concluded by the UK and US Governments on 30 December 1966 for the use of the Chagos Archipelago for defence purposes will expire in 2014?

Why is it that the excision of the Chagos Archipelago from Mauritius in breach of two United Nations General Assembly resolutions is not being considered as a gross violation of international law by the British Government?

10. Lastly, the Government of the Republic of Mauritius unequivocally reaffirms its firm commitment to achieving the highest international standards for environment, including the marine environment and its ecosystems. The Government of the Republic of Mauritius is currently implementing a very comprehensive, all-encompassing and long-term multi-sectoral programme entitled "Maurice lie Durable", adopted in 2008 and underpinning the overall national development strategy. And last week at the World Economic Forum Annual Meeting 2010, the Environmental Performance Index (EPI) was released in Davos. The 2010 EPI is developed for 163 countries and is based on twenty five indicators grouped in ten policy categories: Environmental burden of disease, Air pollution (effects on humans), Water (effects on humans), Air Pollution (effects on ecosystem), Water (effects on ecosystem), Biodiversity &Habitat, Forestry, Fisheries, Agriculture and Climate Change. Mauritius was classed 6th in the world ahead of UK which was classed 14th.

4 February 2010

The text of Resolution 2066 is very significant and it stands out as an affirmation of the Territory of Mauritius as a single unit of self-determination:

'The General Assembly,

Having considered the question of Mauritius and other islands composing the Territory of Mauritius.

Having examined the chapters of the reports of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Inde-

pendence to Colonial Countries and Peoples,

Regretting that the administering Power has not fully implemented Resolution 1514 (XV) with regard to that Territory,

Noting 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 the Declaration, and in particular of paragraph 6 thereof,

1. *Approves* the chapters of the reports of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples relating to the Territory of Mauritius and endorses the conclusions and recommendations of the Special Committee contained therein:

2. *Reaffirms* the inalienable right of the people of the Territory of Mauritius to freedom and independence in accordance with General Assembly Resolution 1514 (XV);

3. *Invites* the Government of the United Kingdom of Great Britain and Northern Ireland to take effective measures with a view to the immediate and full implementation of the Resolution 1514 (XV):

4. *Invites* the administering Power to take no action which would dismember the Territory of Mauritius and violates its territorial integrity:

5. *Further invites* the administering Power to report to the Special Committee and to the General Assembly on the implementation of the present resolution;

6. *Requests* the Special Committee to keep the questions of the Territory of Mauritius under review and to report thereon to the General Assembly at its twenty-first session.

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1960:

14th December:

The United Nations General Assembly adopted Declaration 1514 (XV) on the Granting of Independence of Colonial Countries and Peoples.

The UN Declaration Paragraph 5 clearly stated that the transfer of powers to the peoples of those territories which have not yet attained independence should be effected "without any conditions or reservations".

Paragraph 6 of the same Resolution very explicitly lays down that "any attempt aimed at 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 United Nations."

The Declaration 1514 is not only a resolution about the granting of independence to colonial countries and peoples but it is an affirmation of fundamental rights and a pillar in the UN Charter.

1964:

August - A joint US/UK military survey of the islands took place. The UK/US first choice was the island of Aldabra, north of Madagascar.

Unfortunately, Aldabra was the breeding ground for rare giant tortoises, whose mating habits would have probably been upset by the military activity and whose cause

would have been championed noisily by publicity-aware ecologists.

The alternative was the Chagos Islands, part of Mauritius, then a British territory campaigning for independence and inhabited by Chagossians .

October:

A Special Committee on Decolonisation was created by General Assembly Resolution 1654 to implement Declaration 1514 (above) and to make recommendations on its application. In October 1964, the attention of the Special Committee was drawn to a report that the United Kingdom and the United States of America were "examining the recommendations of an Anglo-American naval Mission which had selected the island of Diego Garcia in the Chagos Archipelago which was dependency of Mauritius" for the establishment of a joint military base.

1965:

16th December:

On the advice of the Special Committee on Decolonisation, the General Assembly adopted *United Nations Resolution 2066 (XV)*. "Noting with *deep concern* that any step taken by the administrative power to detach certain islands from the territory of Mauritius for the purpose of establishing a military base would be in contravention of the Declaration and in particular paragraph 6 thereof

... invites the administrating power *to take no action which would dismember the territory of Mauritius and violate the territorial integrity. (Attached key text)*

The UN Genaral Assembly has since repeated its disapproval of UK'S action by adopting Res-

olution 2232 and 2357."

Chagossians visiting relatives and friends in Mauritius were not allowed to return to the Chagos. They were informed that "The Islands are closed". This, and other tactics, continued until 1973.

1966:

December- Britain secretly leased Diego Garcia to the US for 50 years, with the option of an extension. *This was done behind the veil of the Cold War, to the detriment of the sovereignty and territorial integrity of Mauritius and in gross violation of International Law.*

What we saw was the forcible evictions of Chagossians from then onwards.

1968:

March: The Colony of Mauritius which had comprised, inter alia, the Chagos Archipelago was granted independence but without Chagos.

However the Constitution of Mauritius reads as follows: (Sec. 111): "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".

The colonial authorities cut off food imports to the Chagos islands. After 1968 food ships did not sail to the islands.

Britain began an illegal removal of 1,500 natives from the Chagos islands, including Diego Garcia, following agreement to lease the islands to the US.

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1975:

11th September: The act of forcible evictions of Chagossians was described in an editorial in the Washington Post as "*This act of mass kidnapping*"

1983:

Report of the Select Committee on the Excision of the Chagos Archipelago was published. *The 7th Conference of the Non-Aligned Movement, when it met in New Delhi, India* voted a resolution for the dismantling of the base and for the retrocession of Diego Garcia and Chagos to Mauritius.

1995:

The UN Economic, Social and Cultural (UNESCO) Rights Committee drew attention to the fact that self determination has not been implemented in the case of Mauritius because of illegal occupation of Chagos in its Concluding Observations, when Mauritius country report was being reviewed.

1999:

Victory in Bancoult case as Chagossians was granted permission to fight for the right to return.

2000:

ANNEX 160

African Union Position: Decision by the Heads of States of the African Union on Chagos Archipelago

The Assembly inter alia:

1. *Expressed Concern* that the Chagos Archipelago was unilaterally and illegally excised by the colonial power from Mauritius prior to its independence in violation of UN Resolution 1514;

2. *Noted with Dismay* that the bilateral talk between Mauritius and UK on this matter has not yielded any significant progress;

3. Urged the UK Government to immediately enter into direct and constructive dialogue with Mauritius so as to enable the early return of the sovereignty of Mauritius.

2009:

June-The European Court of Human Rights' investigation into the case of the Chagossians right of return is under way.

September: II Africa-South America Heads of State Summit (Venezuela, 26 and 27 September of 2009)

Declaration of Nueva Esparta- Resolution No. 40 urged "*the United Kingdom of Great Britain and Northern Ireland and the Republic of Mauritius to pursue negotiations in order to find, as a matter of urgency, a fair, peaceful and definitive solution to the issues regarding the sovereignty over Chagos Archipelago, including Diego Garcia, and the surrounding mar-*

itime spaces, in accordance with the resolutions of the United Nations and the other pertinent regional and international organizations".

The legal position of UK:

"*The British Government has always acknowledged that Mauritius has a legitimate interest in the future of these islands and recognizes the Government of the Republic of Mauritius as the only State which has a right to assert a claim to sovereignty.... The British Government has therefore given an undertaking to the Government of the Republic of Mauritius that, when the islands are no longer needed for the defence purposes of the United Kingdom and the United States, they will be ceded to Mauritius*."

Mindset of FCO's officials during the 1960s

British politicians, diplomats and civil servants began a campaign - in their own words-"to maintain the pretence there were no permanent inhabitants" on the islands.

The Colonial Office stated that the "prime objective of BIOT exercise was that the islands...hived off into the new territory should be under the greatest possible degree of UK control".

The Permanent Under Secretary at the Foreign Office noted in a secret file: "We would not wish it to become general knowledge that some of the inhabitants have lived on Diego Garcia for at least two generations".

A Foreign Office legal advisor noted that it is important "to maintain the fiction that the inhabitants of the Chagos are not a permanent or semi-permanent population".

He also noted that "we are able to make up the rules as we go along and treat the inhabitants as not 'belonging' to it in any sense".

One British official noted that British strategy towards the Chagossians should be to "grant as few rights with as little formality as possible". In particular, Britain wanted to avoid fulfilling its obligations to the islanders under the UN charter.

The Foreign Office stated that the islanders were to be "evacuated as and when defence interests required this", against which there should be "no insurmountable obstacle". This was vital, because proper residents would have to be recognised as people "whose democratic rights have to be safeguarded".

The inhabitants therefore became non-people. To the outside world, there must be no inhabitants, merely people living there temporarily- migrant workers and other transients.

A telegram sent to the UK mission at the United Nations in November 1965 summed up the problem:

"We recognise that we are in a difficult position as regards references to people at present on the detached islands.

"We know that a few were born in Diego Garcia and perhaps some of the other islands, and so were their parents before them.

"We cannot therefore assert that there are no permanent inhabitants, however much this would have been to our advantage. In these circumstances, we think it would be best to avoid all references to permanent inhabitants."

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Sir Paul Gore-Booth, senior official at the Foreign Office, wrote to a diplomat in 1966: "We must surely be very tough about this. The object of the exercise is to get some rocks which will remain ours ... There will be no indigenous population except seagulls ...". Indeed the FCO promised Americans that deportations could be "timed to attract the least attention", leaving "no indigenous population except seagulls."

The diplomat, Dennis Greenhill, replied: "Unfortunately along with the birds go some few Tarzans or Man Fridays whose origins are obscure and who are hopefully being wished on to Mauritius."

As far back as 1965, Colonial Secretary Anthony Greenwood had warned that it was "important to present the United Nations with a fait accompli".

Mauritius High Commission

London, January 2010

ANNEX 161

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

Note No. 07/2010

The High Commission of the United Kingdom of Great Britain & Northern Ireland presents its compliments to the Ministry of Foreign Affairs, Regional Integration and International Trade and should like to inform the 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.

The High Commission of the United Kingdom of Great Britain & Northern Ireland avails itself of this opportunity to renew to the Ministry of Foreign Affairs, Regional Integration and International Trade, the assurances of its highest consideration.

British High Commission
Port Louis
15 February 2010

BRITISH HIGH COMMISSION 1 PORT LOUIS

Received at
MFA'S SECRETARIAT
Date 15/02/2010

ANNEX 162

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

REPUBLIC OF MAURITIUS

PRIME MINISTER'S OFFICE

Office of the Secretary to Cabinet
and
Head of the Civil Service

4778/3/10

19 February 2010

Excellency,

I have the honour to refer to your High Commission's two Notes Verbales (Nos. 7/2010 and 6/2010) dated 15 February 2010 concerning the extension of the deadline for the public consultation on the proposal for the establishment of a marine protected area (MPA) around the Chagos Archipelago and the request to propose dates for the third round of bilateral talks between Mauritius and the United Kingdom respectively.

2. I also refer to previous correspondence between the Mauritius and United Kingdom Authorities on the matter and to the discussions held between our two Prime Ministers in the margins of the Commonwealth Heads of Government meeting in Trinidad and Tobago in November 2009.

3. I wish to reiterate 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. 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. I further wish to inform you 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 that area.

5. I also with to state that the Government of Mauritius is keen to resume the bilateral talks on the premises outlined above.

6. Please accept Excellency the assurances of my highest consideration.

Yours faithfully,

(S. C. Seeballuck)
Secretary to Cabinet &
Head of the Civil Service

H.E. Dr John Murton
High Commissioner of the United Kingdom of Great Britain
and Northern Ireland
7th Floor, Les Cascades Building
Edith Cavell Street
P.O. Box 1063
Port Louis

ANNEX 163

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

From the High Commissioner

British High Commission
Les Cascades Building
Edith Cavell Street
P.O. Box 1063
Port Louis
Mauritius

Telephone: (230) 202 9400
Facsimile: (230) 202 9408
E-mail: bhc@intnet.mu

19 March 2010

Mr Sureshchandre Seeballuck
Secretary to the Cabinet & Head of Civil Service
Office of the Prime Minister
Intendance Street
Port Louis

Dear Mr Seeballuck,

Thank you for your letter of 19 February in response to our Note Verbale 06/2010 and 07/2010 regarding the extension of the deadline for the public consultation on the proposal for setting up a Marine Protected Area (MPA) in the British Indian Ocean Territory (BIOT) and the resumption of Bilateral Talks.

The United Kingdom should like to reiterate that no decision on the creation of an MPA has yet been taken. However, as stated previously in discussions between Ministers and Officials and set out clearly in the MPA consultation document, the establishment of any marine protected area will have no impact on the United Kingdom's commitment to cede the Territory to Mauritius when it is no longer needed for defence purposes. Additionally, 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.

The United Kingdom is aware of Mauritius' position on the sovereignty of the Territory; however it does not recognise this claim. The United Kingdom has no doubt about its sovereignty over BIOT which was ceded to Britain in 1814 from France and has been a British dependency ever since. Nevertheless, the United Kingdom has undertaken to cede the Territory to Mauritius when it is no longer needed for defence purposes.

RECEIVED
19 MAR 2010

ANNEX 163

British High Commission
Mauritius

The United Kingdom's position on resettlement is clear. Following the judgement of the Law Lords on 22 October 2008 which upheld the validity of the 2004 BIOT Orders in Council, no-one has the right of abode in the Territory and all visitors need a permit. The British Government does not intend to resettle the Chagossians in the Territory. This consultation and any decision that may follow for the establishment of an MPA are, of course, without prejudice to the outcome of the current pending proceedings (Chagos Islanders v UK) before the European Court of Human Rights. This means that should circumstances change, all the options for an MPA may need to be reconsidered.

Like Mauritius, the UK is keen to continue these bilateral talks as there are many other things we can discuss with regards to BIOT.

Yours sincerely

John Murton

John Murton
High Commissioner

ANNEX 164

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

Note No. 14/2010

The High Commission of the United Kingdom of Great Britain & Northern Ireland presents its compliments to the Ministry of Foreign Affairs, Regional Integration and International Trade and has the honour to refer to the Secretary to Cabinet & Head of the Civil Service Seeballuck's letter to the British High Commissioner of 19 February regarding our Note Verbales 06/2010 and 07/2010 regarding the extension of the deadline for the public consultation on the proposal for setting up a Marine Protected Area (MPA) in the British Indian Ocean Territory (BIOT) and the resumption of Bilateral Talks.

The United Kingdom should like to reiterate that no decision on the creation of an MPA has been taken yet. However, as stated previously in discussions between Ministers and Officials and set out clearly in the MPA consultation document, the establishment of a marine protected area will have no impact on the United Kingdom's commitment to cede the Territory to Mauritius when it is no longer needed for defence purposes. Additionally, 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.

The United Kingdom is aware of Mauritius' position on the sovereignty of the Territory; however it does not recognise this claim. The United Kingdom has no doubt about its sovereignty over BIOT which was ceded to Britain in 1814 from France and has been a British dependency ever since. Nevertheless, the United Kingdom has undertaken to cede the Territory to Mauritius when it is no longer needed for defence purposes.

The United Kingdom's position on resettlement is clear. Following the judgement of the Law Lords on 22 October 2008 which upheld the validity of the 2004 BIOT Orders in Council, no-one has the right of abode in the Territory and all visitors need a permit. The British Government does not intend to resettle the Chagossians in the Territory. This consultation and any decision that may follow for the establishment of an MPA are, of course, without prejudice to the outcome of the current pending proceedings (Chagos Islanders v UK) before the European Court of Human Rights. This means that should circumstances change, all the options for an MPA may need to be reconsidered.

Like Mauritius, the UK is keen to continue these bilateral talks as there are many other things we can discuss with regards to BIOT.

The High Commission of the United Kingdom of Great Britain & Northern Ireland avails itself of this opportunity to renew to the Ministry of Foreign Affairs, Regional Integration and International Trade, the assurances of its highest consideration.

BRITISH HIGH COMMISSION 1 PORT LOUIS

British High Commission
Port Louis
26 January 2010

ANNEX 165

UK Foreign and Commonwealth Office Press Release, 1 April 2010, "New Protection for marine life"

ANNEX 165

New protection for marine life

01 April 2010

Foreign Secretary David Miliband instructs the Commissioner of the British Indian Ocean Territory to declare a Marine Protected Area.

Foreign Secretary David Miliband today announced the creation of a Marine Protected Area (MPA) in the British Indian Ocean Territory. This will include a “no-take” marine reserve where commercial fishing will be banned.

The British Indian Ocean Territory (BIOT) consists of 55 tiny islands which sit in a quarter of a million square miles of the world’s cleanest seas.

Announcing the creation of this MPA, David Miliband said:

I am today instructing the Commissioner of the British Indian Ocean Territory to declare a Marine Protected Area. The MPA will cover some quarter of a million square miles and its establishment will double the global coverage of the world's oceans under protection. Its creation is a major step forward for protecting the oceans, not just around BIOT itself, but also throughout the world. This measure is a further demonstration of how the UK takes its international environmental responsibilities seriously.

The territory offers great scope for research in all fields of oceanography, biodiversity and many aspects of climate change, which are core research issues for UK science.

I have taken the decision to create this marine reserve following a full consultation, and careful consideration of the many issues and interests involved. The response to the consultation was impressive both in terms of quality and quantity. We intend to continue to work closely with all interested stakeholders, both in the UK and internationally, in implementing the MPA.

I would like to emphasise that the creation of the MPA will not change the UK's commitment to cede the Territory to Mauritius when it is no longer needed for defence purposes and it is, of course, without prejudice to the outcome of the current, pending proceedings before the European Court of Human Rights.

Further information

The Chagos Islands have belonged to Britain since 1814 (The Treaty of Paris) and are constituted as the British Indian Ocean Territory (BIOT). Only Diego Garcia, where there is a military base, is inhabited (by military personnel and employees).

The idea of making the British Indian Ocean Territory an MPA has the support of an impressive range of UK and international environmental organisations coming together under the auspices of the "Chagos Environment Network" to help enhance the environmental protection in BIOT. Also, well over 90% of those who responded to the consultation made clear that they supported greater marine protection

Pollutant levels in Chagos waters and marine life are exceptionally low, mostly below detection levels at 1 part per trillion using the most sensitive instrumentation available, making it an appropriate global reference baseline.

Scientists also advise us that BIOT is likely to be key, both in research and geographical terms, to the repopulation of coral systems along the East Coast of Africa and hence to the recovery in marine food supply in sub-Saharan Africa. BIOT waters will continue to be patrolled by the territory's patrol vessel, which will enforce the MPA conditions.

Download the full report [PDF]

ANNEX 166

"British Indian Ocean Territory" Proclamation No. 1 of 2010

No. 1 of 2010

PROCLAMATION

PROCLAMATION NO.1 OF 2010

IN THE NAME of Her Majesty ELIZABETH the Second, by the Grace of God, of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories, Queen, Head of Commonwealth, Defender of the Faith.

COLIN ROBERTS

Commissioner

By Colin Roberts, Commissioner for the British Indian Ocean Territory.

I, Colin Roberts, Commissioner for the British Indian Ocean Territory, acting in pursuance of instructions given by Her Majesty through a Secretary of State, do hereby proclaim and declare that:

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.
3. In this Proclamation "the Territory" means the British Indian Ocean Territory. The British Indian Ocean Territory comprises the islands of the Chagos Archipelago, as set out in the Schedule to this Proclamation.

Given at the Foreign and Commonwealth Office, London, this 1st day of April 2010.

GOD SAVE THE QUEEN

ANNEX 166

SCHEDULE

The Islands of the Chagos Archipelago, which constitute the British Indian Ocean Territory, are the following:

Diego Garcia	Three Brother Islands
Egmont or Six Islands	Nelson or Legour Island
Peros Banhos	Eagle Island
Salomon Islands	Danger Island

ANNEX 167

Note Verbale dated 2 April 2010 from 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

REPUBLIC OF MAURITIUS

MINISTRY OF FOREIGN AFFAIRS, REGIONAL INTEGRATION AND INTERNATIONAL TRADE

No. 11/2010(1197/28/10) **2 April 2010**

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius presents its compliments to the High Commission of the United Kingdom of Great Britain and Northern Ireland and has the honour to state as follows:

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, as announced by UK Secretary of State for Foreign and Commonwealth Affairs David Miliband yesterday.

The Government of the Republic of Mauritius wishes to recall that on several occasions following the announcement by the British authorities for an international consultation on their proposal for the creation of an MPA in the waters of the Chagos Archipelago, 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. In this regard, the Ministry refers to its Notes Verbales No. 1197/28/10 dated 23 November 2009 and No. 1197/28/4 dated 30 December 2009 in particular. The position of the Government of Mauritius was also conveyed directly by the Prime Minister of Mauritius to British Prime Minister Gordon Brown during the Commonwealth Heads of Government Meeting (CHOGM) in Port of Spain last November and earlier to British Foreign Secretary David Miliband over the phone. The Minister of Foreign Affairs, Regional Integration and International Trade of Mauritius, Dr. the Hon. Arvin Boolell, also communicated the position of Mauritius to Foreign Secretary Miliband during CHOGM in Port of Spain and to the British High Commissioner at several meetings.

It was explained in very clear terms during the above-mentioned meetings that Mauritius does not recognize 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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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 recognize 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 more so, 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.

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius avails itself of this opportunity to renew to the High Commission of the United Kingdom of Great Britain and Northern Ireland the assurances of its highest consideration.

High Commission of the United Kingdom
of Great Britain and Northern Ireland
7th Floor, Les Cascades Building
Edith Cavell Street
P.O Box 1063
Port Louis.

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 168

DECISION ON THE SOVEREIGNTY OF THE REPUBLIC OF MAURITIUS OVER THE CHAGOS ARCHIPELAGO

The Assembly,

1. **RE-AFFIRMS** 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 **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.

MAKE PEACE HAPPEN
2010

ANNEX 169

Hansard, House of Commons Written Answers, 21 October 2010

ANNEX 169

House of Commons Hansard

Written Answers to Questions

21 Oct 2010 : Column 818W

[…]

FOREIGN AND COMMONWEALTH OFFICE
British Indian Ocean Territory: Fisheries

Zac Goldsmith: To ask the Secretary of State for Foreign and Commonwealth Affairs what progress his Department has made on the establishment of a marine protected area in the British Indian Ocean Territory. [18332]

Mr Bellingham: The Government believe that the Marine Protected Area (MPA) proclaimed in the British Indian Ocean Territory (BIOT) on 1 April 2010 by the BIOT Commissioner is the right way forward for furthering the environmental protection of the territory and encouraging others to do the same in important and vulnerable areas under their control.

The BIOT Administration are no longer issuing new fishing licences but are honouring those already issued. These licences expire at the end of October.

The BIOT Administration are continuing to work on the implementation of the MPA. This includes preparing implementing legislation in BIOT law, enforcement **21 Oct 2010 : Column 819W** 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.

ANNEX 170

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

Assembly/AU/Res.1(XVI)

RESOLUTION

The Assembly of the Union, at its 16th Ordinary Session held in Addis Ababa, Ethiopia from 30 to 31 January 2011,

Recalling that the Chagos Archipelago, including Diego Garcia, was unlawfully excised by the United Kingdom, the former colonial power, from the territory of Mauritius prior to independence of Mauritius, in violation of UN Resolution 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;

Reaffirming that the Chagos Archipelago, including Diego Garcia, forms an integral part of the territory of the Republic of Mauritius;

Recalling in this regard, inter-alia:

(i) Resolution AHG/Res.99 (XVII) of July 1980 of the Assembly of Heads of State and Government of the Organisation of African Unity (OAU);

(ii) Decision AHG/Dec.159 (XXXVI) of July 2000 of the Assembly of Heads of State and Government of the Organisation of African Unity (OAU);

(iii) Decision Assembly/AU/Dec.331(XV) of July 2010 of the Assembly of the African Union.

Noting with grave concern that notwithstanding the OAU/AU Resolution/Decisions and the strong opposition expressed by the Republic of Mauritius, the United Kingdom has proceeded to establish a 'marine protected area' around the Chagos Archipelago on 01 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;

Noting further that the Government of the Republic of Mauritius has, on 20 December 2010, initiated proceedings against the United Kingdom in relation to the dispute concerning the legality of the purported 'marine protected area' as set forth in the Notification of that date, to an Arbitral Tribunal to be constituted under Article 287 and Annex VII of the United Nations Convention on the Law of the sea;

Considering that the Government of the Republic of Mauritius is committed to taking other measures to protect its rights under international law relating to its legitimate aspiration to be able to exercise sovereignty over the Chagos Archipelago, including action at the United Nations General Assembly:

1. **DECIDES** to support fully the action of the Government of the Republic of Mauritius at the United Nations General Assembly with a view to enabling Mauritius to exercise its sovereignty over the Archipelago.

ANNEX 171

Hansard, House of Commons Written Answers, 16 May 2011

House of Commons Hansard

Written Answers to Questions

16 May 2011 : Column 18W

[…]

British Indian Ocean Territory: Environment Protection

Andrew Rosindell: To ask the Secretary of State for Foreign and Commonwealth Affairs what steps his Department is taking to ensure that the Marine Protected Area around the Chagos archipelago is enforced. [55804]

Mr Bellingham: 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.

ANNEX 172

Letter dated 20 October 2011 from the Minister of Foreign Affairs, Regional Integration and International Trade, Mauritius to the UK Secretary of State for Foreign and Commonwealth Affairs

REPUBLIC OF MAURITIUS

Minister of Foreign Affairs, Regional Integration and International Trade

20 October 2011

Excellency,

Re: Application of the International Convention on the Elimination of all Forms of Racial Discrimination to the Chagos Archipelago

The Government of the Republic of Mauritius has taken note of the periodic report submitted in March 2010 by the United Kingdom under the International Convention on the Elimination of all Forms of Racial Discrimination ('CERD'). In particular, the Government has noted the statement set forth at Annex XI of the periodic report, in which the United Kingdom states:

> *"2. In providing a response to the Committee the United Kingdom would make clear that the Convention does not apply to the British Indian Ocean Territory. The United Kingdom does not consider Article 2 paragraph 2 of the Convention relevant to the territory of the British Indian Ocean Territory, or that any separate report was required; so far as concerns the Ilois, the Territory has no permanent inhabitants and members of the armed forces, officials and contractors in the Territory spend only brief periods there.*
>
> *3. Those individuals who are sometimes referred to as "Ilois" (or more frequently now as "Chagossians") are in many cases now British citizens, whatever racial groups of which they may be members, by virtue of the British Overseas Territories Act 2002. Such individuals now enjoy the right of abode in the United Kingdom and associated rights of residence in Member States of the European Union. A number have exercised their rights in this respect and are currently living in the United Kingdom, whilst others live in other States such as Mauritius and Seychelles."*

As you will be aware, the Government of Mauritius does not recognize the so-called "British Indian Ocean Territory" ("BIOT") which the United Kingdom purported to create by illegally excising the Chagos Archipelago from Mauritius prior to its independence. This excision was carried out in violation of the United Nations Declaration on the Granting of Independence to Colonial Countries and Peoples (General Assembly Resolution 1514 (XV) of 14 December 1960) prohibiting the dismemberment of any colonial territory prior to independence, and General Assembly Resolutions 2066 (XX) of 16 December 1965, 2232 (XXI) of 20 December 1966 and 2357 (XXII) of 19 December 1967. Accordingly, the Republic of Mauritius has sovereignty over the Chagos Archipelago, including Diego Garcia. The Chagos Archipelago forms an integral part of the territory of Mauritius under both Mauritian law and international law. The United Kingdom's current *de facto* control over the Chagos Archipelago is preventing Mauritius from exercising its rights over the Chagos Archipelago.

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Against this background, the statement by the United Kingdom in its periodic report, as set out above, raises a number of concerns for the Government of Mauritius, which is a party to the CERD. The Government of Mauritius considers that:

i. as Mauritius is a party to the CERD, and the Chagos Archipelago is subject to the sovereignty of Mauritius, the CERD applies to the Chagos Archipelago;

ii. as the United Kingdom is a party to CERD, and as the United Kingdom exercises de facto (but unlawful) control over the territory of the Chagos Archipelago, the United Kingdom has an obligation to ensure that the CERD is applicable to that territory and to give effect to applicable CERD obligations;

iii. the United Kingdom has acted, and continues to act, in violation of Articles 2 and 5 of the CERD, *inter alia,* by preventing the exercise of the right of return of the former inhabitants of the Chagos Archipelago, as well as the right of entry of other Mauritian nationals.

It is apparent that there exists a dispute between Mauritius and the United Kingdom as to the interpretation and application of the CERD, including but not limited to the application of Articles 2 and 5 to the Chagos Archipelago.

Having regard to the passage of time over which this dispute has persisted, and the hardship caused to the former inhabitants of the Chagos Archipelago by the continuing violations of the CERD by the United Kingdom, the Government of Mauritius hereby invites the Government of the United Kingdom to engage in negotiation within the meaning of Article 22 of the CERD, with a view to an early resolution of the dispute.

Mauritius proposes that the negotiations commence on a mutually convenient date, subsequently to be agreed, in the month of November, in either Port Louis or London, and that the agenda include the matters identified in items numbered (i), (ii) and (iii) above.

Please accept, Excellency, the assurances of my highest consideration.

Dr the Hon. Arvin Boolell, GOSK
Minister

The Rt. Hon. William Hague MP
First Secretary of State,
Secretary of State for Foreign and Commonwealth Affairs
London
United Kingdom

ANNEX 173

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

REPUBLIC OF MAURITIUS

Minister of Foreign Affairs, Regional Integration and International Trade

21 March 2012

Excellency,

I wish to refer to Note No. 69/2011 of 22 November 2011 from the British High Commission in Port Louis concerning the International Convention on the Elimination of all Forms of Racial Discrimination ('CERD') and the Chagos Archipelago, in reply to my letter of 20 October 2011.

I reiterate the position of the Government of the Republic of Mauritius, as stated in my letter of 20 October 2011, that there is a dispute between Mauritius and the United Kingdom concerning the interpretation and application of CERD and renew our invitation to the Government of the United Kingdom to engage in negotiation within the meaning of Article 22 of CERD, with a view to an early resolution of the dispute.

Application of CERD to the Chagos Archipelago

In its Note of 22 November 2011, the British High Commission stated that CERD applies as a matter of law to the so-called "British Indian Ocean Territory" ("BIOT").

The Government of Mauritius does not recognize the so-called "BIOT" which the United Kingdom purported to create by illegally excising the Chagos Archipelago from the territory of Mauritius prior to its independence. This excision was carried out in violation of international law and the United Nations Declaration on the Granting of Independence to Colonial Countries and Peoples (General Assembly Resolution 1514 (XV) of 14 December 1960) prohibiting the dismemberment of any colonial territory prior to independence, and General Assembly Resolutions 2066 (XX) of 16 December 1965, 2232(XXI) of 20 December 1966 and 2357 (XXII) of 19 December 1967. Accordingly, the Republic of Mauritius has sovereignty over the Chagos Archipelago, including Diego Garcia. The Chagos Archipelago forms an integral part of the territory of Mauritius under both Mauritian law and international law.

The United Kingdom exercises *de facto* control over the Chagos Archipelago, thus preventing the exercise by Mauritius of its rights over the Chagos Archipelago as well as the exercise of the right of return of the former inhabitants of the Archipelago and the right of entry of other Mauritian citizens.

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The Republic of Mauritius and the United Kingdom are both parties to CERD. The United Kingdom signed CERD on 11 October 1966 and ratified it on 7 March 1969. The Republic of Mauritius acceded to CERD on 30 May 1972. Neither State has made any declaration or reservation in respect of CERD.

As Mauritius is a party to CERD and the Chagos Archipelago is subject to the sovereignty of Mauritius, CERD applies to the Chagos Archipelago.

As the United Kingdom is a party to CERD and exercises de facto (but unlawful) control over the Chagos Archipelago, it has an obligation to give effect to applicable CERD obligations with regard to the Chagos Archipelago.

Relevant Provisions of CERD

Article 1, paragraph 1 of CERD gives the following definition of "racial discrimination":

> "[A]ny distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life."

Article 2, paragraph 1 of CERD provides that:

> "States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end:
>
> (a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;
>
> [...]
>
> (c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;
>
> (d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization."

Article 2(2) provides that:

> "States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. [...]"

Article 5 provides that:

> "In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:
>
> [...]
>
> (d) Other civil rights, in particular:
>
> (i) The right to freedom of movement and residence within the border of the State;
>
> (ii) The right to leave any country, including one's own, and to return to one's country;
>
> [...]"

The Government of Mauritius considers that, by its conduct in respect of the Chagos Archipelago, the United Kingdom has violated its obligations under CERD.

Factual Circumstances of the Dispute

The Chagos Archipelago

The Chagos Archipelago comprises a number of islands located in the Indian Ocean, including Diego Garcia, Peros Banhos and the Salomon Islands. Until 1965, the Chagos Archipelago was administered by the United Kingdom as part of the Territory of Mauritius, over which it exercised colonial authority. The settled population of the islands at that time numbered approximately 2,000 people, who are referred to as Chagossians ("former residents of the Chagos Archipelago"). They are recognised by the Constitution of Mauritius as citizens of Mauritius (see below) and formed a settled and well-established community on the Archipelago.

The Removal of the Population of the Archipelago

In 1964, the United Kingdom secretly agreed to provide Diego Garcia to the United States for the purpose of establishing a military base there. It was apparent at that time that Mauritius was likely to gain its independence in the near future, and would have sovereignty over the Chagos Archipelago. The United States did not wish sovereignty over Diego Garcia and the rest of the Chagos Archipelago to pass to an independent Mauritius. Accordingly, the United Kingdom made the "British Indian Ocean Territory Order 1965" ("the Order"), under the United Kingdom's Colonial Boundaries Act 1895. The Order purported to establish a so-called "British Indian Ocean Territory" consisting of the Chagos Archipelago which the UK illegally excised from Mauritius, and the separate islands of Aldabra, Farquhar and Desroches taken from the colonial territory of Seychelles. In 1976, when Seychelles gained independence, the latter three islands were returned to it. The Order created the office of the Commissioner of the so-called "BIOT" and conferred upon him power to "make laws for the peace, order and good government of the Territory."

At the end of 1966 there took place a secret exchange of notes between the Governments of the United Kingdom and the United States, by which the United Kingdom agreed to make the so-called "BIOT" available to the United States for defence purposes for an "indefinitely long period" with an initial term of fifty years, renewable for a further period of twenty years. The United Kingdom subsequently agreed to the establishment of a US military base on Diego Garcia.

In 1968, Mauritius achieved independence from the United Kingdom. Section 111(1) of the Constitution of Mauritius states that ""Mauritius" includes –
(a)...the Chagos Archipelago, including Diego Garcia..."

Section 20 of the Constitution further provides *inter alia* as follows:

> "(1) Every person who, having been born in Mauritius, was on 11 March 1968 a citizen of the United Kingdom and Colonies became a citizen of Mauritius on 12 March 1968....
> (4) For the purposes of this section, a person shall be regarded as having been born in Mauritius if he was born in the territories which were comprised in the former Colony of Mauritius immediately before 8 November 1965 but were not so comprised immediately before 12 March 1968 unless either of his parents was born in the territories which were comprised in the Colony of Seychelles immediately before 8 November 1965."

In 1970, the United States gave notice that Diego Garcia would be required in July 1971. After receiving this notice, the Commissioner of the so-called "BIOT", using his powers of legislation under the "BIOT" Order, made the Immigration Ordinance 1971. It provided in section 4(1) that "[n]o 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...[issued by an immigration officer]."

Between 1968 and 1973 the United Kingdom forcibly removed all Mauritians residing at the time in the Chagos Archipelago.

Subsequent Events

Since gaining its independence in 1968, Mauritius has consistently 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 the Archipelago, including their right of return to their homes. It has asserted these rights in general statements, including at the United Nations,[1] and in bilateral communications with the United Kingdom.[2] The United Kingdom has persistently refused to recognise the sovereignty of Mauritius over the Chagos Archipelago and to allow the Chagossians to return to their homes on the Chagos Archipelago. Despite the discussions and negotiations between Mauritius and the United Kingdom on the right of return, including the two rounds of bilateral talks held in January and July 2009, the Chagossians remain unable to return to their homes.

At the same time, the United Kingdom has authorised others to reside in the Chagos Archipelago, including a significant number of personnel at the US base on Diego Garcia.

Most recently, by decision dated 1 April 2010, the United Kingdom purported to establish a "Marine Protected Area" ("MPA") covering the entire 200-mile zone which it has purported to declare around the Chagos Archipelago. The United Kingdom purported to bring the "MPA" into force on 1 November 2010. Among the effects of the "MPA" is the prevention of all fishing in the waters of the Chagos Archipelago, including artisanal fishery and fishery by the Chagossians and other Mauritians when they return to the Chagos Archipelago. It is understood by the United Kingdom that the "MPA" will have the effect of preventing the right of return (see reported comments of Mr. Colin Roberts, the Commissioner of the so-called "BIOT", that "establishing a marine park would, in effect, put paid to resettlement claims of the archipelago's former residents"[3]).

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[1] For example, in statements to the General Assembly on 23 September 1998, 30 September 1999, 22 September 2000, 19 September 2005, and 28 September 2010.

[2] For example, letters from the Government of Mauritius to the Government of the United Kingdom on 9 January 1998, 5 July 2000, 6 November 2000, 30 December 2009, 19 February 2010, and 2 April 2010.

[3] See *The Guardian*, 3 December 2010. The legality of the "MPA" by reference to the 1982 United Nations Convention on the Law of the Sea is the subject of separate proceedings brought by Mauritius against the United Kingdom; those proceedings do not address the issue of discrimination or rights and obligations arising under the International Convention on the Elimination of all Forms of Racial Discrimination.

Dispute concerning the interpretation and application of CERD

The Government of Mauritius claims, in its own right and as *parens patriae* of its citizens, and without prejudice to the sovereignty of Mauritius over the Chagos Archipelago, that the United Kingdom is responsible for serious violations of its fundamental obligations under CERD, including, but not limited to Articles 2 and 5. The acts which constitute those violations include, but are not limited to:

(1) The forcible removal of all the Mauritian citizens who were former residents of the Chagos Archipelago;

(2) The ongoing denial of the fundamental rights of the Mauritian citizens who were former residents of the Chagos Archipelago, including their fundamental rights of residence and of return;

(3) The failure to take practical steps to facilitate the return of the Mauritian citizens who were former residents of the Chagos Archipelago to their homes, and the adoption of measures that are aimed at impeding their effective return to the Chagos Archipelago.

The Republic of Mauritius, on its own behalf and as *parens patriae* for its citizens, and without prejudice to its sovereignty over the Chagos Archipelago, respectfully requests the United Kingdom to recognise that it has violated its obligations under CERD by:

(1) Engaging in acts and practices of "racial discrimination against persons, groups of persons or institutions" and failing "to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation", contrary to Article 2(1)(a) of CERD;

(2) Failing to "take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists", contrary to Article 2(1)(c) of CERD;

(3) Failing to "prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization", contrary to Article 2(1)(d) of CERD;

(4) Failing to take "special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms", contrary to Article 2(2) of CERD;

(5) Undermining the enjoyment of the enumerated fundamental rights in Article 5 of CERD by the Mauritian citizens who were former residents of the Chagos Archipelago, including the right of return;

(6) Failing to provide "effective protection and remedies" against acts of racial discrimination, contrary to Article 6 of CERD.

The Republic of Mauritius, on its own behalf and as *parens patriae* for its citizens, and without prejudice to its sovereignty over the Chagos Archipelago, respectfully requests the United Kingdom to take all steps necessary to give effect to applicable CERD obligations with regard to the Chagos Archipelago, including:

(1) Taking all necessary measures to ensure the right of return of the Mauritian citizens who were former residents of the Chagos Archipelago, and their descendants, to their homes, including:

(a) repeal of the legal provisions barring them from return to the Archipelago; and

(b) the provision of appropriate practical and economic measures of support to enable them to rebuild their homes and communities and to ensure the reconstruction of a viable community on the Archipelago.

(2) Paying full compensation to Mauritius for all injuries resulting from the internationally wrongful acts of the United Kingdom, including the costs of resettlement in the Chagos Archipelago.

(3) Taking all necessary measures to ensure the right of entry of other Mauritian citizens to the Chagos Archipelago.

Negotiation within the meaning of Article 22 of CERD

The Republic of Mauritius notes the view set forth in the British High Commission's Note No. 69/2011 of 22 November 2011 that "there is no dispute between Mauritius and the United Kingdom concerning the interpretation or application of the CERD within the meaning of Article 22 thereof." For the reasons set out above, that view is plainly not sustainable. In this regard, we draw to your attention the concluding observations of the CERD Committee, adopted on 1 September 2011, which state *inter alia* at paragraph 12:

> "The Committee is deeply concerned at the State party's position that the Convention does not apply to the British Indian Ocean Territory (BIOT). The Committee further regrets that the BIOT (Immigration) Order 2004 not only bans Chagossians (Ilois) from entering Diego Garcia but also bans them from entering the outlying islands located

over 100 miles away, on the grounds of national security (arts. 2 and 5(d)(i)). [...]
The Committee recommends that all discriminatory restrictions on Chagossians (Ilois) from entering Diego Garcia or other Islands on the BIOT be withdrawn."

The views of the CERD Committee confirm the view of Mauritius that there exists a dispute between Mauritius and the United Kingdom as to the interpretation and application of CERD, including but not limited to the application of Articles 2 and 5 to the Chagos Archipelago. Having regard to the passage of time over which this dispute has persisted, and the hardship caused to the former inhabitants of the Chagos Archipelago by the continuing violations of CERD by the United Kingdom, the Government of Mauritius renews its invitation to the Government of the United Kingdom to engage in negotiation within the meaning of Article 22 of CERD, with a view to an early resolution of the dispute.

I reiterate the proposal of the Government of Mauritius that negotiations commence on a mutually convenient date to be agreed, and that this should be no later than the end of April 2012 in either Port Louis or London.

Please accept, Excellency, the assurances of my highest consideration.

Dr the Hon. Arvin Boolell, GOSK
Minister

The Rt. Hon. William Hague MP
First Secretary of State,
Secretary of State for Foreign and Commonwealth Affairs
London
United Kingdom

ANNEX 174

Ministerial Declaration of the Group of 77 and China on the occasion of UNCTAD XIII, 21 April 2012, Doha, Qatar

United Nations TD/468

United Nations Conference on Trade and Development

Distr.: General
23 April 2012

Original: English

Thirteenth session
Doha, Qatar
21–26 April 2012

Ministerial Declaration of the Group of 77 and China on the occasion of UNCTAD XIII

The road to Doha: A world of constancy; a world of change

1. We, the Ministers of the member States of the Group of 77 and China, met in Doha, Qatar, on the occasion of the thirteenth United Nations Conference on Trade and Development (UNCTAD). We express our appreciation and gratitude to the State of Qatar and its people for the excellent organization and hosting the Ministerial Meeting and the warm hospitality that has been bestowed on us in the city of Doha since our arrival.

2. We also express our appreciation to the Secretary-General of the United Nations Conference on Trade and Development for the secretariat's continued support extended to the Group, which has enhanced our effectiveness, especially the Geneva Chapter. There is an organic and symbiotic link between UNCTAD and the Group of 77 and China, and we look forward to the continuing strengthening of this bond. We reaffirm our commitment to strengthen our ability as a Group to collectively promote our interests.

3. We also reaffirm the central role of UNCTAD as the focal point within the United Nations for the integrated treatment of trade and development and interrelated issues in the areas of finance, technology, investment and sustainable development. UNCTAD is pre-eminently placed to respond to the current and emerging *global* challenges facing developing countries. We call for the strengthening of UNCTAD's three pillars; research and analysis, consensus-building, and technical cooperation, as well as the intergovernmental machinery. We underscore the need of further enhancing the role of the United Nations in international economic and financial governance, and its centrality on the global development agenda.

4. Since our last meeting in Accra, Ghana, on the occasion of the twelfth United Nations Conference on Trade and Development, events have highlighted challenges and opportunities facing the international community. The global economic, financial and trading system, including the multilateral trading system, remains unbalanced. The global economic and financial crisis has revealed new vulnerabilities. High volatility of food and energy prices is a persistent challenge, global inequality remains, and many are still in the abyss of poverty. The threat from climate change seems to grow more pressing, even more so when combined with the effects of other man-made environmental degradation.

Please recycle

5. To reaffirm the Accra Accord, greater focus is required in development policy on building productive capacities while avoiding the use of economics as a tool to achieve political ends. Policy space for developing countries remains constrained. There continues to be a need to move away from the one-size-fits-all approach to development, which remains persistent.

6. On the other hand, opportunities have emerged in the international community for the elaboration and articulation of more effective approaches to development cooperation. Information and communications technology has made the world smaller and has made it easier to share experiences and best practices.

7. These challenges and opportunities have highlighted the need for continued and strengthened solidarity among developing countries, and the need to further enhance and strengthen the Group. We recognize that we face common external and systemic threats to our efforts to improve the economic and social welfare of all our citizens. This recognition enables us as developing countries to demonstrate our solidarity as the embodiment of South–South cooperation to act more effectively. We reiterate that South–South cooperation does not replace, but rather complements North–South cooperation, and along with triangular cooperation, may contribute to inclusive and sustainable growth and development. This includes addressing the persistent challenges whose solution has continued to be elusive, while affording developing countries, in particular least developed countries (LDCs), greater opportunity to overcome the new challenges to development.

8. The Group therefore needs to focus on how to mitigate crises or avert the fallout, and more importantly, how to achieve the development levels needed to create a truly balanced world and propel itself into a new level of development by addressing systemic and entrenched inequalities, including in the areas of information and communications technology, as well as the Internet. The expeditious and effective transfer of appropriate technology and the promotion of innovation in developing countries remain important, in particular in addressing the existing digital divide.

9. As part of the response, the Group needs to be a proactive force in the global effort to solve global issues. It needs to build on its solidarity and maximize its competitive advantage. Our collective capacity to address the main constraints to a better future for our people – such as poverty, hunger, food insecurity, unemployment, inequality, energy insecurity and lack of access to renewable energy and relevant technologies, the adverse effects of climate change, imbalances in global trade, the spread of communicable diseases, inadequate technology transfer and reforms of the international trade and financial architecture, should be enhanced. The United Nations' contribution to the global effort should be consistent with the profile, needs and development goals of the peoples of the South. Fresh and clear ideas are needed to address the needs and challenges of developing countries, in particular LDCs, as they graduate from every step of the development process. We also underline that the enhanced and effective role of the State is crucial to lead and promote development.

10. On this basis, the key message of UNCTAD XIII is of particular resonance in today's world: that in order to build sustainable and inclusive development the international community should enhance its support to development. In this direction, we must ensure that the approach to development is one that takes into account the needs, priorities and objectives of individual developing countries and its peoples.

From Doha to the future: Towards more effective approaches to development

11. We recognize that in order for the Group to play its rightful role in the international community, it must be better equipped, in terms of ideas and in terms of capacity. The objective is a simple one: to accelerate development to make the world a better place for humanity – through the articulation and pursuit of ideas and initiatives to make the global economic and financial system, and models for development, more effective and more rooted in the experiences and priorities of developing countries.

12. We must work collectively as a Group to redefine the development agenda. Through the force of our ideas, and through the effectiveness of our action, we must remain resolute as we continue to pursue the Millennium Development Goals and bring about development goals after 2015 that will enable us to realize a more prosperous and better future for humanity. In this regard, we reiterate the need to meet, in an expeditious manner, the internationally agreed targets for official development assistance of 0.7 per cent of gross national product (GNP) of donor countries to developing countries and of an additional 0.15 per cent to 0.2 per cent of GNP to the LDCs by 2015 as well as further enhance the resources for the LDCs.

13. We must articulate a more comprehensive and contemporary view of the global economic and development situation. In so doing, we must update our platform. We must continue to show that ours is a Group of ideas, of pragmatism and of effective action. As we refine and redefine development in the post-2015 world, *w*e should engage with our partners and stakeholders that will support us in our development needs. It is vital that the international community work towards achieving the graduation of half of the LDCs by 2020, as envisioned in the Istanbul Programme of Action. In short, we should reposition ourselves to adapt to the global changes as well as to continue improving the standard of living in developing countries. To achieve this, we need the support and assistance of our key partners, such as UNCTAD and the South Centre, as well as through new partnerships with other multilateral and regional institutions, and other stakeholders that share our causes.

14. This work also requires that the global economic and financial system post-2015 will be an architecture that is truly fair, democratic and supportive of sustainable development. In this regard, the impact of the current global economic and financial crises needs to be addressed, while reform of global economic and financial governance structures with the participation of all is crucial. It is therefore imperative that the global monetary and financial system fully supports sustainable development, and that the multilateral trading system truly ensures that trade, among other factors, serves as an engine for development.

15. We express serious concern at the lack of progress in the Doha Round of World Trade Organization (WTO) negotiations. All WTO members should uphold and reiterate their commitment for WTO to promote an open, equitable, rules-based and predictable multilateral trading system, with development as a core element of WTO's work. The Group of 77 and China reiterates the call for the necessary flexibility and political will required to break the current impasse in the negotiations and conclude in a balanced, ambitious, comprehensive and development-oriented outcome of the Doha Development Agenda, with the necessary special and differential treatment for developing countries, in particular LDCs. We emphasize the importance of facilitating accession to WTO. The accession process should be accelerated without political impediments and in an expeditious and transparent manner for developing countries. This would contribute to the rapid and full integration of these countries into the multilateral trading system.

16. While preserving our policy space, the Group shall endeavour to fight against all threats to economic growth and development, including all forms of protectionist measures and unilateral economic pressures, especially by the leading industrial economies.

17. We express concern about the adoption of unilateral actions that are not consistent with International Laws, Rules and Principles of the World Trade Organization. These measures harm the exports and impede the full achievement and further enhancement of the economic and social development of all countries, particularly the developing countries. Therefore, we firmly reject the imposition of laws and regulations with extraterritorial impact and all other forms of coercive economic, financial and trade measures, including unilateral sanctions against developing countries. We urge the international community to take urgent and effective measure to eliminate the use of such measures.

18. Likewise, attention should be given to analysing and monitoring how subsidies of developed countries have historically affected and continue to undermine the development of productive capacities in the agricultural sector of developing countries.

19. We reaffirm the need for the Government of the Argentine Republic and the United Kingdom of Great Britain and Northern Ireland to resume negotiations in accordance with the principles and the objectives of the United Nations Charter and the relevant resolutions of the General Assembly, in order to find, as soon as possible, a peaceful solution to the sovereignty dispute relating to "the Question of the Malvinas Islands", which seriously damages the economic capacities of the Argentine Republic and the need for both parties to refrain from taking decisions that would imply introducing unilateral modifications in the situation while the Islands are going through the process recommended by the General Assembly.

20. We reaffirm the need to find a peaceful solution to the sovereignty issues facing developing countries, including among others the disputes over Chagos Archipelago, including Diego Garcia, which was unlawfully excised from the territory of Mauritius in violation of international law and United Nations General Assembly resolution 1514 (XV) of 14 December 1960 and 2066 (XX) of 16 December 1965. Failure to resolve these decolonization and sovereignty issues would seriously damage and undermine the development and economic capacities and prospects of developing countries.

21. The Palestinian people continue to endure hardships on daily basis as a result of the occupation. We are alarmed by the harsh economic conditions and the Israeli-imposed illegal measures, which include closure, blockade and destruction of property, appropriation of Palestinian natural resources and land, and restrictions on movement. All of these measures aim to prevent the Palestinians from pursuing economic development, sustaining their basic needs, and violate the basics of human rights in the occupied territory of Palestine.

Building from Doha: strengthened capacities for a stronger Group

22. Along the way to 2015, we have an important double golden jubilee. In 2014, we will celebrate the fiftieth anniversary of the Group of 77 and China. We will also celebrate the fiftieth anniversary of UNCTAD. In its almost 50 years of existence, the Group has accomplished much. As the world has changed, the Group of 77 and China in Geneva needs to continue to evolve to strengthen the Group and enhance its impact. Likewise, UNCTAD has accomplished much. Yet so much more remains to be done.

23. The double golden jubilee should recall, recognize and build on past accomplishments, and should be celebrated in a forward-looking spirit. The Group should bring together in Geneva – the birthplace of the Group of 77 and China, and UNCTAD – an

unprecedented assembly of leaders and intellectuals to recommit the international community to the ideals of development and a better future for all.

24. We recognize that our endeavour is ambitious, and that it will not be easy. In order to embark on such an ambitious task, it is necessary to build on the most important resource of the Group – its people, its solidarity and capacity to act united. We therefore resolve that the Group should embark on a major program of capacity-building measures to strengthen the Group as a whole and reinforce the Group's role as a united and influential force in multilateral for a and global economy.

25. We therefore strongly encourage all Chapters of the Group to undertake specific capacity-building initiatives in partnership with the relevant institutions and organizations, be they multilateral or regional organizations and think tanks, to strengthen their capacity to generate new ideas, build consensus around them and operationalize them through the multilateral process. This should include enhanced training of negotiators of the Group in strategic planning, negotiations and consensus-building.

26. We also encourage closer coordination by all Chapters to strengthen their work, and that of the Group of 77 and China, by making use of new means of communication, to enhance the sharing of information, experience and expertise, as well as consolidating negotiating positions.

27. We also look forward to the Group working more closely with UNCTAD, South Centre, and other development-oriented think tanks and regional organizations to build further the intellectual capacity of the Group. In this regard, we encourage the New York and Geneva Chapters to initiate immediately the organization of an annual senior-level forum of officials and intellectuals, on the sidelines of the annual substantive session of the Economic and Social Council, for the exchange of innovative ideas on development issues, which could then directly contribute to the broader work of the Group of 77 and China.

28. We also look forward to the Group engaging with the various entities of the United Nations system, including the regional commissions, as well as other international organizations, regional organizations and development banks, and other think tanks in the South, to enrich and deepen the work of the Group. Such interaction can include, but not be limited to, capacity-building activities, substantive dialogue and other activities consistent with advancing the interests and the priorities of the Group.

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Hansard, House of Lords Debates, 11 June 2012, c149W

ANNEX 175

House of Lords - Written Answers

Monday 11 June 2012

British Indian Ocean Territory

Questions

Asked by ***Baroness Whitaker***

> To ask Her Majesty's Government, further to the Written Answer by Lord Howell of Guildford on 27 March (*WA 240*) indicating that there were "no plans to change the British Indian Ocean Territory marine protected area" and that the area was "fully
>
> *[11 Jun 2012 : Column WA150]*
>
> compatible with United Nations Convention on the Law of the Sea obligations", what are the grounds on which there was announced on the Foreign and Commonwealth Office Overseas Territories website as last amended on 12 April an increase of the size of the British Indian Ocean Territory (BIOT) Marine Protected Area from 544,000 square kilometres to 640,000 square kilometres; and whether amended outer limit lines of the BIOT Fisheries (Conservation and Management) Zone 1991 and the BIOT Environment (Protection and Preservation) Zone 2003 had accordingly been communicated to the Secretary-General of the United Nations, as required by Article 75 of the United Nations Convention on the Law of the Sea.[HL445]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): Due to a clerical error, the size of the British Indian Ocean Territory (BIOT) Marine Protected Area was incorrectly stated on the Foreign and Commonwealth Office's website. This was corrected in April 2012 when the mistake was realised. The outer limits of the BIOT Fisheries (Conservation and Management) Zone 1991 and the BIOT Environment (protection and Preservation) Zone 2003 have not changed.

Asked by **Baroness Whitaker**

> To ask Her Majesty's Government, further to the Written Answer by Lord Howell of Guildford on 27 March (*WA 240*) indicating that there were "no plans to change the British Indian Ocean Territory marine protected area" and that the area was "fully compatible with United Nations Convention on the Law of the Sea obligations", whether

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the delimitation of the British Indian Ocean Territory marine protected area has been agreed with the Republic of the Maldives; and, if not, whether procedures for dispute settlement have been initiated in the absence of agreement, as required by Article 74 of the United Nations Convention on the Law of the Sea.[HL446]

Lord Howell of Guildford: There is no agreement delimiting the boundary between the Maldives and the British Indian Ocean Territory. There has been an initial discussion between the Government and the Republic of the Maldives. The UK regards the median line as the boundary between the Maldives and the British Indian Ocean Territory.

Asked by **Baroness Whitaker**

To ask Her Majesty's Government, further to the Written Answer by Lord Howell of Guildford on 27 March (*WA 240*), indicating that there were "no plans to change the British Indian Ocean Territory marine protected area" and that the area was "fully compatible with United Nations Convention on the Law of the Sea obligations", how they intend to take enforcement measures against foreign vessels in the British Indian Ocean Territory marine protected area under Article 73 of the United Nations Convention on the Law of the Sea, taking account of Article 56(2) of the Convention.[HL447]

[11 Jun 2012 : Column WA151]

Lord Howell of Guildford: The Government have consistently made clear that the establishment of the Marine Protected Area around the British Indian Ocean Territory (BIOT) is fully compatible with the United Nations Convention on the Law of the Sea. The BIOT Patrol vessel, the Pacific Marlin is used to enforce the laws of the British Indian Ocean Territory and its use is also compatible with the convention.

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National Assembly of Mauritius, 12 June 2012,
Reply to Private Notice Question

ANNEX 176

PRIME MINISTER REPLIES TO PRIVATE NOTICE QUESTION AND PARLIAMENTARY QUESTIONS OF 12th JUNE 2012

12.06. 2012

Private Notice Question

To ask Dr the Honourable Prime Minister, Minister of Defence, Home Affairs and External Communications, Minister for Rodrigues -

Whether, in regard to the sovereignty of Mauritius over the Chagos Archipelago, he will state –

(a) if he discussed same with Mr David Cameron, Prime Minister of the United Kingdom, during his last visit thereto and, if so, indicate the outcome thereof;

(b) if he proposes to meet Mr Barack Obama, President of the United States of America, in relation thereto and, if so, when;

(c) if Government proposes to take new initiatives to make out our case in relation thereto and, if so, give details thereof; and

(d) the stand taken by Government, if any, at the April/May 2012 Meeting of the Indian Ocean Tuna Commission held in Australia, following the intervention of the officials of the so-called "British Indian Ocean Territory"?

REPLY

Mr Speaker, Sir,

Following my meeting with the British Prime Minister, Mr David Cameron on Friday 08 June 2012, I announced through the media that I shall make a statement at the National Assembly today on the outcome of the meeting. I thank the Hon. Leader of the Opposition for his Private Notice Question which gives me an opportunity to inform the House and the population at large on the discussions I had with the British Prime Minister.

I should like to stress that the main purpose of my mission to the UK last week was to have a bilateral meeting with Mr David Cameron, the British Prime Minister. While in the UK, I

also participated in the celebrations marking Her Majesty's Diamond Jubilee at Her Majesty's invitation

The meeting with the British Prime Minister was held at 10, Downing Street. On the British side the Hon. Henry Bellingham, Parliamentary Under Secretary of State of the Foreign and Commonwealth Office Mr John Dennis, Head of Africa Desk at the Foreign and Commonwealth Office and Private Secretaries of Prime Minister Cameron and Hon. Henry Bellingham were also present. In attendance on the Mauritius side were the Secretary to the Cabinet, the Solicitor-General, our High Commissioner in London and our Permanent Representative to the United Nations in New York.

Both sides highlighted the long-standing ties between our two countries and looked forward to the successful hosting of CHOGM in Mauritius in 2015. I observed, however, that the dispute on the Chagos issue remained a blot in this otherwise excellent relationship.

I reminded the British Prime Minister of the repeated undertakings by the UK that the Chagos Archipelago would be returned to Mauritius when no longer needed for defence purposes. I indicated that there is an excellent window of opportunity to redress the injustice caused by the excision of the Chagos Archipelago from the territory of Mauritius with the expiry of the UK-US arrangements on the use of the archipelago in 2016. And, in this connection, I stressed on the need for formal talks between Mauritius, UK and the US to be initiated with a view to reaching an agreement on the effective exercise of sovereignty by Mauritius while safeguarding the continued use of Diego Garcia for US defence purposes.

The British Prime Minister observed that there were some concerns about the multiplicity of litigations pertaining to the Chagos Archipelago that are currently ongoing. He added that the presence of a military base in Diego Garcia further added to the complexity of the issue.

In the course of the discussions an understanding was reached for both parties to start a process of positive dialogue on the future use of the Chagos Archipelago. I informed the British Prime Minister that I will make a formal announcement about this process. I will follow up on this matter for a prompt start of such talks and will propose that these be held at Ministerial level.

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In regard to part (b) of the Question I informed the British Prime Minister that I intend, during a proposed visit to Washington, to put across our proposal that all three States sit together and come to an agreement on the sovereignty issue without causing any prejudice to the continued use of Diego Garcia as a military base to meet prevailing security needs. The British Prime Minister took note of this initiative vis-à-vis the US.

Mr Speaker, Sir,

Regarding part (c) of the Question, we all know the circumstances in which the Chagos Archipelago was excised from the territory of Mauritius prior to our accession to independence when the UK was the colonial master dictating the laws and policies of Mauritius. The excision was in violation of international law and various United Nations General Assembly Resolutions.

Mr Speaker, Sir,

The House will surely appreciate that in view of the sensitive and complex nature of discussions on this subject, it will not be in our interest to delve into details of the strategy we have chartered out for attaining our ultimate objective.

It will be recalled that, when in June 2004, media gave headline publicising a leaked information that Mauritius intended to leave the Commonwealth in order to take the UK to the International Court of Justice, the British Government promptly came up with a declaration at the UN stating that it did not recognize the jurisdiction of the International Court of Justice in relation to any dispute with the Government of any other country which is or has been a member of the Commonwealth.

Mr Speaker, Sir,

In the light of what I have just said the Leader of the Opposition and the House will appreciate that we should be very careful in engaging in a public debate about each and every of our initiatives. However, the House can rest assured that we will continuously explore all legal and diplomatic initiatives with the assistance of our local and external lawyers or advisers.

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I must, however, inform the House that at the diplomatic level, a number of initiatives have been successfully undertaken by Mauritius, as evidenced by Declarations, Decisions and Resolutions supporting the sovereignty of Mauritius over the Chagos Archipelago adopted by the African Union Summits in July 2010 and January 2011, the Non-Aligned Movement Summit in July 2009, and the Non-Aligned Movement Ministerial Conferences in May 2011 and May 2012. In particular, for the first time, the Group of 77 and China in April 2012 adopted a Ministerial Declaration on the occasion of UNCTAD XIII which, inter alia, reaffirms the need to find a peaceful solution to the dispute over the Chagos Archipelago, including Diego Garcia, which was unlawfully excised from the territory of Mauritius.

Mr Speaker, Sir,

Regarding part (d) of the Question, I am informed that Mauritian Officials attending the Indian Ocean Tuna Commission held in April 2012 in Australia had made the following statement, I quote,

"*The Government of the Republic of Mauritius does not recognise the so-called "British Indian Ocean Territory" ("BIOT") which the United Kingdom purported to create by illegally excising the Chagos Archipelago from the territory of Mauritius prior to its independence. This excision was carried out in violation of United Nations General Assembly Resolutions 1514 (XV) of 14 December 1960, 2066 (XX) of 16 December 1965, 2232 (XXI) of 20 December 1966 and 2357 (XXII) of 19 December 1967.*

The Government of the Republic of Mauritius reiterates that 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 also recognise the existence of the 'marine protected area' which the United Kingdom had purported to establish around the Chagos Archipelago. On 20 December 2010, Mauritius initiated proceedings against the United Kingdom under Article 287 and Annex VII to the United Nations Convention on the Law of the Sea to challenge the legality of the 'marine protected area'."

Unquote

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In fact I should inform the House that my office has issued a circular to all supervising officers of Ministries/Departments in January 2012, requesting to ensure that officials attending international conferences, meetings or seminar adopt a consistent stand on the Mauritius position on the Chagos and Tromelin issue whenever so related questions arise.

The sovereignty of Mauritius over the Chagos Archipelago is an issue which, in my view, should transcend party politics. We should all act with a unity of purpose to achieve our objective for our country to effectively exercise sovereignty over the Chagos Archipelago. I would, therefore, appeal to all members of this august Assembly to support the initiative of Government regarding what the late Mr Robin Cook, former British Foreign Secretary described as, I quote

"*one of the most sordid and morally indefensible episodes in our post colonial history*"

Unquote.

Mr Speaker, Sir,

Let me assure the House that I will keep all members informed of any development on the Chagos Archipelago issue.

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National Assembly of Mauritius, 10 July 2012,
Reply to PQ No. B/457

ANNEX 177

10.07.2012

PARLIAMENTARY QUESTION

B/457

The Honourable Second Member for La Caverne and Phoenix **(Mr Soodhun)**

To ask Dr the Honourable Prime Minister, Minister of Defence, Home Affairs and External Communications, Minister for Rodrigues:-

Whether, in regard to the Chagos Archipelago, he will state if, following his meeting with the British Prime Minister on Friday 8 June 2012, he has been informed that there was no commitment to talks with Mauritius on the sovereignty thereon?

REPLY

Mr Speaker, Sir,

As I have already indicated to the House in reply to the PNQ of 12 June 2012, I discussed the issue of the Chagos Archipelago during my meeting with the British Prime Minister, the Rt Hon. David Cameron, on Friday 08 June 2012.

During the discussions, I reminded the British Prime Minister of the repeated undertakings of the United Kingdom that the Chagos Archipelago would be returned to Mauritius when no longer required for defence purposes. In view of the expiry in 2016 of the UK-US arrangements on the use of the Chagos Archipelago, I stressed the need for formal talks to be initiated between Mauritius, the United Kingdom and the United States with a view to reaching an agreement on the effective exercise of sovereignty by Mauritius over the Chagos Archipelago while safeguarding the continued use of Diego Garcia for US defence purposes.

As a result of the discussions, an understanding was reached for both parties to start a process of positive dialogue so that we could move forward on the issue of the Chagos Archipelago. The British Prime Minister stated that he has taken note of my intention to propose to the US authorities that the three States sit together and reach an agreement on the sovereignty issue without prejudice to the continued use of Diego Garcia as a military base to meet prevailing security needs.

Mr. Speaker, Sir,

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Since my meeting with the British Prime Minister on 08 June last, there have been exchanges between the two parties to see how we could move forward following my meeting with Right Honourable David Cameron at 10 Downing Street.

I do not intend to give further details about such exchanges at this stage as this would not be in the national interest. It is important that we allow diplomacy to follow its course.

However, I wish to point out that I stand by the statement I made in the House on 12 June 2012.