



Statement by the Prime Minister of the Republic of Mauritius

Hon. Pravind Kumar Jugnauth

on

Adoption of Draft Resolution A/73/L84/Rev1

tabled under Item 88 of the Agenda of

the United Nations General Assembly

Wednesday 22 May 2019

10.15am, General Assembly Hall

UN Headquarters, New York

22 May 2019

Madam President,

My delegation would like to associate itself with the statement made by the Permanent Representative of Senegal on behalf of the States Members of the United Nations that are members of the Group of African States.

At the outset, I would like to reiterate our deep appreciation to the General Assembly for adopting in June 2017 by an overwhelming majority Resolution 71/292 to request an Advisory Opinion of the International Court of Justice on the legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965.

Mauritius welcomes the Advisory Opinion which the International Court of Justice gave on 25 February 2019. This landmark Opinion confirms the longstanding position of Mauritius and Africa that the decolonization of Mauritius has not yet been completed and will not be completed until Mauritius is able to exercise sovereignty over the Chagos Archipelago, which the International Court of Justice found – with no dissenting voice - to be an integral part of the territory of Mauritius.

Madam President,

Let me also extend our warm thanks and gratitude to all the Member States that participated in the various stages of the ICJ process. Countries from all regions of the world

as well as the African Union contributed to the process which allowed the Court to hear and consider the views from all perspectives on this matter.

We are also thankful to the Secretary-General of the United Nations for the extensive dossier prepared by the Secretariat for that purpose.

Madam President,

Let me recall the two questions on which the ICJ was requested to give an Advisory Opinion:

(a) *“Was the process of decolonization of Mauritius lawfully completed when Mauritius was granted independence in 1968, following the separation of the Chagos Archipelago from Mauritius and having regard to international law, including obligations reflected in 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?”*,

(b) *“What are the consequences under international law, including obligations reflected in the above-mentioned resolutions, arising from the continued administration by the United Kingdom of Great Britain and Northern Ireland of the Chagos Archipelago, including with respect to the inability of Mauritius to implement*

a programme for the resettlement on the Chagos Archipelago of its nationals, in particular those of Chagossian origin?”

Madam President,

On the first question, the Court has said that it is of the opinion that, having regard to international law, the process of decolonization of Mauritius was not lawfully concluded when it acceded to independence in 1968 following the excision of the Chagos Archipelago.

On the second question, the Court said it was its opinion that the United Kingdom is under an obligation to bring to an end its administration of the Chagos Archipelago as rapidly as possible.

With regard to the consequences for States, the Court expressed its opinion that all Member States are under an obligation to cooperate with the United Nations in order to complete the decolonization of Mauritius.

Madam President,

The Advisory Opinion is clear and unambiguous and leaves no room for any doubt or other interpretation. It is decisive.

In addition to these express conclusions, the Court has made some pertinent findings which are worth noting. Let me mention some of them.

1. At the time of its detachment from Mauritius in 1965, the Chagos Archipelago was clearly an integral part of the territory of Mauritius.

2. The right to self-determination and territorial integrity formed a fundamental part of customary international law at the time when Mauritius was dismembered in 1965. The existence of this right was recognized in General Assembly resolution 1514, adopted overwhelmingly and without a single negative vote, in 1960. Resolution 1514 made clear that detachment of part of a colonial territory without the consent of the people concerned was a violation of international law.

3. At the time of detachment, Mauritius was a colony under the authority of the United Kingdom and the representatives of Mauritius did not have a genuine legislative or executive power. It is therefore not possible to talk of an international agreement when one of the parties to it, namely Mauritius, which is said to have ceded the territory to the UK under such an agreement, was under the authority of the latter.

4. The detachment of the Chagos Archipelago was therefore not based on the free and genuine expression of the will of the people of Mauritius.

5. The United Kingdom is under an obligation to bring an end to its administration of the Chagos Archipelago as rapidly as possible thereby enabling Mauritius to complete the decolonization of its territory.

6. All Member States have a legal interest in protecting the right to self-determination, the respect of which is an obligation *erga omnes*.

7. The General Assembly must pronounce itself on the modalities required to ensure the decolonization of Mauritius and all Member States must cooperate with the United Nations to put those modalities into effect.

8. The issue of resettlement on the Chagos Archipelago of Mauritian nationals, including those of Chagossian origin, is an issue relating to the protection of the human rights of those concerned, which must be addressed by the General Assembly during the completion of the decolonization of Mauritius.

Madam President,

These findings show the gravity and extent of the wrongful act under international law that the colonial power has committed in carrying out the excision of the Chagos Archipelago from Mauritius in 1965 and maintaining the Chagos Archipelago as a colony ever since. The Court has characterized this as an unlawful act of continuing character entailing the international responsibility of the colonial State.

One would have hoped that any country found to be engaged in an ongoing wrongful act by the highest Court of the World would hasten to make amends and commit itself to terminate its unlawful conduct. In fact, during a high-level meeting with the UK, Mauritius offered to work closely with the UK in order to present a joint resolution which would be mutually beneficial, taking into account both the security concerns of the UK and the conclusions of the International Court of Justice's Advisory Opinion. Our offer was

made in the spirit of great friendship between Mauritius and the UK, and the high respect and regard that we in Mauritius have for the UK as a champion of respect for the rule of law.

It is because of this high regard that we have for the UK that despite our status as a Republic within the Commonwealth, we have retained the possibility for our citizens to use the UK Judicial Committee of the Privy Council as our highest Court of Appeal.

In the circumstances, **Madam President**, Mauritius is extremely disappointed with the stance taken by the UK. So is Her Majesty's Leader of the Opposition in the UK, who has made clear his respect and support for the Court's conclusions. We are all the more disappointed to see that all the arguments - both jurisdictional and on the merits - that the Court has flatly rejected are being repeated here, more aggressively than ever before. It feels like we are back in 1965. At the time, the excision was carried out under duress and was presented to the United Nations as a 'fait accompli', as the contemporaneous documents show.

This time, the excision is being justified by challenging the authority of the General Assembly to refer the questions to the ICJ and by undermining the authority of the Court itself. This is indeed a sad situation, and one that should be of concern to every single State Member of the United Nations.

Madam President

As we all know, the Court has ruled by an overwhelming majority that the questions were properly referred to it by the General Assembly, and that there was no ground for it to refrain from answering them.

It has also been suggested that unlike the ICJ which clearly rejected the 1965 agreement by which the UK claimed the then representatives of Mauritius had ceded the Chagos Archipelago to the UK, the Arbitral Tribunal under UNCLOS, which heard the case of Mauritius against the United Kingdom on the unilateral declaration of a Marine Protected Area around the Chagos Archipelago, had validated that agreement. There could be nothing further from the truth. What the Arbitral Tribunal under UNCLOS said was that **the undertakings given unilaterally by the UK to Mauritius in 1965** were legally binding on the UK.

Some Member States may claim that the Advisory Opinion is not legally binding on any State. While it is true that, unlike a judgment of the Court in a contentious case, which in itself is the source of an international obligation for the parties to such proceedings, an advisory opinion is an authoritative statement of the law by the highest legal authority of the United Nations System and the most highly respected judicial institution in the world.

Although the Opinion itself cannot impose a new legal obligation, it **can and in fact has recognized and confirmed** the existing legal obligations that emanate from international law.

Madam President,

In this particular case, the Court has established that the source of the legal obligations is the right of the peoples to self-determination, which the UK has violated by excising the Chagos Archipelago from Mauritius without the consent of the Mauritian people. In the opinion of the Court, the UK now has an obligation under international law to terminate its continuing wrongful administration as rapidly as possible, in order to complete the decolonization of Mauritius.

It is therefore not correct to say that the Opinion has no legal consequences. Every State, including the UK is obligated to comply with international law. There are also consequences for the Member States, as the Court has found, to cooperate with the General Assembly in bringing about the completion of the decolonization of Mauritius. And there are consequences, as well, for the General Assembly, and the United Nations and all its specialized agencies, which cannot ignore or act in a manner contrary to the legal conclusions of the highest judicial body in the UN system.

Madam President

The draft resolution tabled by the African Group reflects the confidence which Africa and many other States have in the principles and values of the United Nations.

One of the main functions of the United Nations is to contribute to the decolonization and the self-determination of all peoples. This is a sacrosanct principle of the UN.

The ICJ has clearly established that the right of self-determination has been violated and the decolonization of Mauritius has not been completed; that the colonial power must end its unlawful administration of the Chagos Archipelago and that all Member States are under an obligation to cooperate with the UN to complete the decolonization of Mauritius.

Not to lend support to this important function of the General Assembly would be nothing less than an endorsement of colonialism, and a rejection of the right of self-determination. That would be a total abdication of our responsibility.

Madam President,

The forcible eviction of the inhabitants of the Chagos Archipelago which accompanied its unlawful excision from Mauritius remains a very dark episode of human history akin to a crime against humanity. These Mauritian nationals who are now mostly in their seventies and eighties have systematically been prevented from returning to their birthplace.

The Advisory Opinion has given to these persons a glimmer of hope and has tasked the General Assembly to address the question of their resettlement and the protection of their human rights during the completion of the decolonization of Mauritius.

The Government of Mauritius has made a commitment to implement a programme of resettlement in a manner consistent with respect for their dignity and human rights, unlike

the UK Government's proposal of monetary support to improve their livelihoods outside their birthplace, which has been rejected by them.

The question now is whether the international community, in line with the commitment taken to leave no one behind, is prepared to take remedial action or to allow yet another continuing wrongful act entailing State responsibility to persist.

Madam President

The UK invokes defence and security considerations to reject the authority of the ICJ. It claims that in addition to keeping the people in UK and the world safe from terrorism and organized crime, the defense facility in the Chagos Archipelago is ready for rapid and impactful response in times of humanitarian crisis in the region. According to the UK, these functions can only be carried out under its sovereignty.

It is important to note that in its submissions to the ICJ, the UK did not consider it relevant or important to submit that security considerations ought to be taken into account. However, now, after the Court has given its Opinion, these considerations are being put forward as the overriding reason for holding on to a territory in a manner inconsistent with international law.

Mauritius, on its part, has made public commitments at the General Assembly and at the ICJ that it is prepared to enter into a long-term arrangement with the US, or with the UK

and the US, which would permit the unhindered operation of the defence facility in accordance with international law.

This is a position that enjoys wide consensus across all major political parties in Mauritius. This arrangement will provide a higher degree of legal certainty regarding the operation of the defence facility to the US and the UK over a longer period.

It is therefore difficult to understand the UK's position, unless it is one whereby Mauritius is not considered to be a trusted partner – a position which is deeply offensive to Mauritius, and to every member of the African continent, and should be rejected by all members of the United Nations.

Madam President

The African Group's revised draft resolution A/73/L.84Rev1 incorporates and endorses the actual language of the ICJ in its operative paragraphs, in calling for the termination of the unlawful colonial administration as rapidly as possible, and for Member States, UN agencies and international organizations to cooperate with the General Assembly in bringing about the full decolonization of Mauritius as well as refraining from acts that would impede the performance of that obligation.

As the Court left it to the General Assembly to determine and adopt specific modalities for the achievement of this objective as rapidly as possible, the draft resolution sets a time limit of six months for the termination of the colonial administration.

This is more than sufficient time to smoothly bring an end to an administration that consists of no more than a handful of personnel, who provide no social services whatsoever, and no services of any kind outside the military base on the island of Diego Garcia. This kind of skeletal administration can be terminated very rapidly.

Madam President

For Member States of the United Nations to dismiss or disregard the authoritative conclusions of the International Court of Justice in respect of the right of peoples to self-determination would be a terrible setback, tantamount to abandoning the General Assembly's longstanding and noble commitment to this paramount principle, especially at this challenging moment in history.

For all of these reasons, we urge Member States to uphold the integrity of the United Nations Institutions and the sanctity of the ICJ by voting for this draft resolution and adopting it by an even greater margin than the resolution adopted two years ago to seek the opinion of the Court. In this way, we will send a clear signal to the world, that colonialism can no longer be tolerated.

Thank you!