

**STATEMENT BY HONOURABLE PRAVIND KUMAR JUGNAUTH, PRIME MINISTER
OF THE REPUBLIC OF MAURITIUS TO THE NATIONAL ASSEMBLY
OF THE REPUBLIC OF MAURITIUS ON THE JUDGMENT
OF THE SPECIAL CHAMBER OF ITLOS**

23 MARCH 2021

Mr Speaker, Sir,

I have another statement to make and this relates to the recent Judgment of the International Tribunal for the Law of the Sea (ITLOS) on the maritime boundary dispute between Mauritius and the Maldives. As the House is aware, on 28 January 2021, a Special Chamber of ITLOS delivered its Judgment on the preliminary objections raised by the Maldives in the case brought by Mauritius under the United Nations Convention on the Law of the Sea for the delimitation of the maritime boundary between the two countries in the region of the Chagos Archipelago.

At the core of the Maldives' preliminary objections was the claim that there was an unresolved sovereignty dispute between Mauritius and the United Kingdom over the Chagos Archipelago. The Maldives argued that the Advisory Opinion of the International Court of Justice of 25 February 2019 did not resolve the sovereignty dispute over the Chagos Archipelago and is, in any case, not binding. The Maldives also argued that the United Kingdom was an indispensable third party and that its absence from the proceedings prevented the Special Chamber from exercising jurisdiction.

By a large majority – with only the *ad hoc* judge appointed by Maldives dissenting – the Special Chamber of ITLOS rejected all the preliminary objections of the Maldives, and held that it has jurisdiction to delimit the maritime boundary between Mauritius and the Maldives in the Chagos Archipelago region. In so doing, the Special Chamber of ITLOS also confirmed that Mauritius has undisputed sovereignty over the Chagos Archipelago. It ruled that the Advisory Opinion of the International Court of Justice

resolved the question of sovereignty over the Chagos Archipelago when the Court determined, without a single dissenting vote on the merits, that the Chagos Archipelago is and has always been an integral part of Mauritius.

The Special Chamber of ITLOS also ruled that the United Kingdom's continued claim to sovereignty over the Chagos Archipelago is contrary to the determinations made by the International Court of Justice to the effect that the detachment of the Chagos Archipelago from Mauritius was unlawful and that the United Kingdom's continued administration of the Chagos Archipelago constitutes an unlawful act of a continuing character entailing the international responsibility of that State. It further held that the United Kingdom has no claim, but only, I quote, "a mere assertion", Unquote, and that such assertion does not prove the existence of a dispute.

The Special Chamber of ITLOS also held that the UN General Assembly was entrusted by the International Court of Justice to take necessary steps towards the completion of the decolonization of Mauritius and that its Resolution 73/295 is equally relevant to assessing the legal status of the Chagos Archipelago. The Special Chamber considered that the resolution's time-limit of 22 November 2019 for the unconditional withdrawal of the United Kingdom's colonial administration from the Chagos Archipelago constituted one of the modalities for ensuring the completion of the decolonization of Mauritius pursuant to the Advisory Opinion of the International Court of Justice. ITLOS ruled that, I quote, –

"The fact that the time-limit set by the General Assembly has passed without the United Kingdom complying with this demand further strengthens the Special Chamber's finding that its claim to sovereignty over the Chagos Archipelago is contrary to the authoritative determinations made in the advisory opinion."
Unquote

With regard to the Maldives' contention that the Advisory Opinion of the International Court of Justice is not binding – an argument which the United Kingdom

has also been advancing – the Special Chamber of ITLOS ruled that, I quote, “an advisory opinion entails an authoritative statement of international law on the questions with which it deals”. Unquote. In that regard, the Special Chamber of ITLOS held that, I quote, –

“judicial determinations made in advisory opinions carry no less weight and authority than those in judgments because they are made with the same rigour and scrutiny by the “principal judicial organ” of the United Nations with competence in matters of international law.” Unquote.

The Special Chamber of ITLOS underscored that, I quote, –

“determinations made by the ICJ in an advisory opinion cannot be disregarded simply because the advisory opinion is not binding. This is true of the ICJ’s determinations in the *Chagos* advisory opinion, *inter alia*, that the process of decolonization of Mauritius was not lawfully completed when that country acceded to independence in 1968, following the separation of the Chagos Archipelago, and that the United Kingdom is under an obligation to bring to an end its administration of the Chagos Archipelago as rapidly as possible. The Special Chamber considers that those determinations do have legal effect.” Unquote

With regard to the claim that the United Kingdom was an indispensable third party, the Special Chamber of ITLOS ruled that, I quote, –

“it is inconceivable that the United Kingdom, whose administration over the Chagos Archipelago constitutes a wrongful act of a continuing character and thus must be brought to an end as rapidly as possible, and yet who has failed to do so, can have any legal interests in permanently disposing of maritime zones around the Chagos Archipelago by delimitation.” Unquote.

The Special Chamber of ITLOS thus concluded that Mauritius is to be, I quote, –

“regarded as the coastal State in respect of the Chagos Archipelago for the purpose of the delimitation of a maritime boundary even before the process of the decolonization of Mauritius is completed”. Unquote.

The Special Chamber of ITLOS also rejected the Maldives’ argument that the 2015 Arbitral Award rendered in the case of *Mauritius v United Kingdom*, and which had determined that the United Kingdom violated its obligations under the UN Convention on the Law of the Sea by purportedly establishing a ‘marine protected area’ around the Chagos Archipelago, had *res judicata* effect in regard to the existence of a sovereignty dispute between Mauritius and the United Kingdom over the Chagos Archipelago. The Special Chamber confirmed that the Arbitral Tribunal never recognized the United Kingdom as the coastal State with respect to the Chagos Archipelago.

Following its judgment that it has jurisdiction to delimit the maritime boundary between Mauritius and the Maldives, the Special Chamber of ITLOS has fixed the time-limits for the submission by the Parties of their written pleadings on the merits. Mauritius will have to submit its Memorial by 25 May 2021 and the Maldives, its Counter-Memorial by 25 November 2021. A judgment on the merits may be expected in late 2022 or early 2023.

Mr Speaker, Sir,

The Judgment of the Special Chamber of ITLOS constitutes another significant milestone in our long-standing struggle for the completion of the decolonization process of Mauritius. It is further confirmation that Mauritius alone is the State lawfully entitled to exercise sovereignty and sovereign rights over the Chagos Archipelago and its maritime zones. It follows from this that the ‘marine protected area’ purportedly established by the United Kingdom around the Chagos Archipelago is illegal under international law and without effect.

Government will continue to take all actions that it deems necessary in order to allow Mauritius to exercise its sovereignty and sovereign rights fully and completely over the Chagos Archipelago and its maritime zones. In this regard, it will continue to challenge the United Kingdom's membership of regional and international organizations where it purports to represent the Chagos Archipelago, as well as the purported membership of the so-called "British Indian Ocean Territory" in international organizations, such as the Universal Postal Union.

Government also remains committed to implementing a programme for resettlement in the Chagos Archipelago, particularly with a view to enabling our citizens of Chagossian origin who were forcibly removed from the Archipelago by the United Kingdom to fulfil their aspiration to return to their birthplace in full dignity and with due respect to their human rights.

Mr Speaker, Sir,

It is deeply regrettable that in replies given to parliamentary questions in the UK Parliament and in statements made following the Judgment of the Special Chamber of ITLOS, the UK Government has shown blatant disregard for the authoritative determinations of the International Court of Justice and the rulings of ITLOS.

The stand of the UK Government is all the more astounding, having regard to the fact that the United Kingdom participated actively in the proceedings that led to the authoritative determinations of the International Court of Justice and all its claims being rejected. It is significant that the arguments made by the Maldives were in substance similar to those made by the United Kingdom at the International Court of Justice, but were all rejected by ITLOS as well.

In this connection, I wish to commend Honourable Lisa Nandy, UK Shadow Foreign Secretary, for her strong condemnation of the UK Government's stand. In a letter which she addressed on 9 February 2021 to the UK Foreign Secretary,

Honourable Nandy deplored the UK Government's disregard for the Judgment of the Special Chamber of ITLOS. She pointed out that this is damaging to the United Kingdom's reputation, undermines its credibility and moral authority, and sets a damaging precedent that others may seize upon to undermine the national interests of the United Kingdom, and those of its allies, in other contexts or maritime disputes.

I urge the UK Government to stop being in denial of the legal reality and to bring itself into compliance with international law by immediately terminating its unlawful administration and occupation of the Chagos Archipelago.

I should like to reiterate that security and defence considerations cannot justify the United Kingdom's illegal occupation of the Chagos Archipelago. Mauritius has on several occasions expressed its commitment to ensuring the continued operation of the defence facility in Diego Garcia in accordance with international law. It stands by this commitment and is ready to enter into a long-term arrangement with the United States in respect of Diego Garcia.

Mr Speaker, Sir,

At its last Summit held on 6 and 7 February 2021, the African Union adopted a Decision on the decolonization of Mauritius, in which it, *inter alia*, welcomed the Judgment of the Special Chamber of ITLOS and reiterated its calls to the United Kingdom to comply with international law by immediately withdrawing its colonial administration from the Chagos Archipelago. The last AU Summit also called upon AU Member States and all partners to respect United Nations General Assembly Resolution 73/295 which expressly urged UN Member States, UN bodies, and regional and international organizations to refrain from any action that will impede or delay the completion of the process of decolonization of Mauritius in accordance with the Advisory Opinion of the International Court of Justice and the General Assembly resolution.

I wish to take this opportunity to reiterate our deep appreciation to the African Union and all States which support Mauritius in its struggle towards complete decolonization.

I would also like to thank our external legal team led by Professor Philippe Sands, GCSK, QC as well as our local team which includes the Secretary to Cabinet and Head of the Civil Service, the Solicitor-General and our Permanent Representative to the UN in New York.

Thank you, Mr Speaker, Sir.