

**STATEMENT BY HONOURABLE PRAVIND KUMAR JUGNAUTH, PRIME MINISTER
OF THE REPUBLIC OF MAURITIUS, TO THE NATIONAL ASSEMBLY
OF THE REPUBLIC OF MAURITIUS**

21 NOVEMBER 2019

Mr Speaker, Sir,

The House will be aware that, pursuant to a request from the United Nations General Assembly, the International Court of Justice gave on 25 February 2019 its Advisory Opinion on the legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965. The Opinion supported by 13 of 14 Judges of the Court made clear that the Chagos Archipelago is, and has always been, a part of Mauritius. The fourteenth Judge did not express a contrary conclusion.

On 22 May 2019, the General Assembly adopted, by an overwhelming majority of 116 votes to 6, Resolution 73/295, reaffirming, *inter alia*, in accordance with the Advisory Opinion of the International Court of Justice, that the Chagos Archipelago forms an integral part of the territory of Mauritius; that the decolonization process of Mauritius was not lawfully completed upon its accession to independence in view of the unlawful excision of the Chagos Archipelago from the territory of Mauritius; and that the ongoing administration of the Chagos Archipelago by the United Kingdom constitutes a continuing wrongful act entailing the international responsibility of that State. The General Assembly accordingly demanded that the United Kingdom withdraw its colonial administration from the Chagos Archipelago unconditionally within a period of no more than six months from the adoption of its resolution, that is, by 22 November 2019, that is, tomorrow.

Mr Speaker, Sir,

My Government, which greatly values the close relations between Mauritius and the United Kingdom, is deeply disappointed that in recent replies to parliamentary

questions in the House of Commons and in a written statement on 5 November 2019 to the UK Parliament, the UK Government has made clear that it does not intend to withdraw its unlawful administration from the Chagos Archipelago by the deadline set by the General Assembly.

Government strongly deplores that the United Kingdom has chosen to reject the Advisory Opinion of the International Court of Justice and United Nations General Assembly Resolution 73/295 when it has clearly violated international law. In so doing, the United Kingdom has resorted to groundless arguments, calling into question the authority of the highest court of the world and the United Nations system as a whole. This situation clearly leaves the United Kingdom as an illegal colonial occupier.

The United Kingdom has been repeating that it does not share the approach of the International Court of Justice and that the Court failed to give sufficient regard to some material facts. Mr Speaker, Sir, it is a fact that the United Kingdom is fully aware that the Court carefully considered thousands of pages of factual material and legal arguments, and heard oral submissions from more than thirty States, including the United Kingdom, and the African Union over four days. The Court carefully examined these facts before reaching its conclusions. In other words, it is the Court that has not shared the approach of the United Kingdom.

The United Kingdom has also argued that by agreeing to answer the questions put to it by the General Assembly, the International Court of Justice has allowed Mauritius to circumvent the basic principle that the Court should not consider a bilateral dispute without the consent of both States concerned. This position, which was extensively argued by the United Kingdom during the advisory proceedings, was also rejected by the Court. The Court motivated its decision at paragraph 86 of its Advisory Opinion which reads, I quote:

“The Court notes that the questions put to it by the General Assembly relate to the decolonization of Mauritius. The General Assembly has not sought the

Court's opinion to resolve a territorial dispute between two States. Rather, the purpose of the request is for the General Assembly to receive the Court's assistance so that it may be guided in the discharge of its functions relating to the decolonization of Mauritius." Unquote

The Court went on to state at paragraph 90 of its Opinion that it, I quote, *"does not consider that to give the opinion requested would have the effect of circumventing the principle of consent by a State to the judicial settlement of its dispute with another State."* Unquote. Furthermore, in her separate opinion, the Vice-President of the International Court of Justice, Judge Xue, further elaborated the thinking of the Court on that issue.

The United Kingdom has also claimed that the March 2015 UN Convention on the Law of the Sea Arbitral Tribunal Award has confirmed that there was a legally binding agreement between Mauritius and the United Kingdom in 1965 for the excision of the Chagos Archipelago from the territory of Mauritius. This is totally untrue. The Arbitral Tribunal never held that there was such a legally binding agreement. It expressed no opinion whatsoever on whether Mauritius validly "consented" to the dismemberment of its territory. What it did rule was that the undertakings given by the United Kingdom to return the Chagos Archipelago to Mauritius when no longer needed for defence purposes; to preserve the benefit of any minerals or oil discovered in or near the Chagos Archipelago for Mauritius; and to ensure that fishing rights in the territorial sea of the Chagos Archipelago would remain available to Mauritius as far as practicable are binding upon the United Kingdom. As regards what the United Kingdom claims to be the "1965 Agreement", the International Court of Justice which addressed that issue stated the following at paragraph 172 of its Advisory Opinion, I quote:

"In the Court's view, it is not possible to talk of an international agreement, when one of the parties to it, Mauritius, which is said to have ceded the territory to the United Kingdom, was under the authority of the latter. The Court is of the view that heightened scrutiny should be given to the issue of consent in a situation

where a part of a non-self-governing territory is separated to create a new colony. Having reviewed the circumstances in which the Council of Ministers of the colony of Mauritius agreed in principle to the detachment of the Chagos Archipelago on the basis of the Lancaster House agreement, the Court considers that this detachment was not based on the free and genuine expression of the will of the people concerned.” Unquote

The United Kingdom has further invoked security and defence considerations to justify its occupation of the Chagos Archipelago. Once again, this is a baseless argument. Mauritius has stated on various occasions that it fully recognizes the importance of the military base in Diego Garcia and will take no action that will impede its continued operation. Moreover, Mauritius has made clear to the United States that it stands ready to enter into a long-term arrangement in respect of Diego Garcia.

Mr Speaker, Sir,

It has been the stand of the United Kingdom that the Advisory Opinion is not a legally binding judgment. While this is technically correct in the abstract, it is actually misleading in the real life circumstances of this case. The Advisory Opinion is an authoritative statement of the law by the highest legal authority of the United Nations system. The Advisory Opinion has in fact recognized and confirmed existing legal obligations emanating from international law that are incumbent upon the United Kingdom. In his presentation of the annual report of the International Court of Justice to the United Nations General Assembly on 30 October 2019, the President of the Court stated the following with regard to the Advisory Opinion, I quote:

“Advisory proceedings provide legal clarity by enabling the Court to determine the current status of specific principles and rules of international law. Indeed, following the Court’s advisory opinion, the Assembly affirmed, in accordance with that opinion, that the decolonization of Mauritius had not been lawfully completed, and proceeded to set out the modalities and time frame for the

withdrawal by the United Kingdom of its colonial administration, thereby enabling Mauritius to complete the decolonization of its territory.”

The UK Government's defiant criticism of the International Court of Justice and its blatant disregard for the Advisory Opinion of the Court and UN General Assembly Resolution 73/295 undermines its long-standing commitment to a rules-based international system. The UK Government's stand has been condemned by the UK Leader of the Opposition who has made it clear that a Labour Government will respect the Advisory Opinion of the International Court of Justice in full.

The United Kingdom cannot profess to be a champion of the rule of law and human rights whilst maintaining an illegal colonial administration in part of the territory of Mauritius and preventing the return to the Chagos Archipelago of the former inhabitants it forcibly removed five decades ago, thereby being in clear violation of international law. It is not for any country to determine for itself which rules of international law it will abide by and which it will not.

Government calls upon the United Kingdom to comply with its obligations under international law, as clearly set out in the Advisory Opinion of the International Court of Justice and reaffirmed by the UN General Assembly in its Resolution 73/295, and end its unlawful administration of the Chagos Archipelago. Let me remind the House that this resolution was adopted by an overwhelming majority of 116 votes against only 6 votes.

Mr Speaker, Sir,

Government will continue to be relentless in its efforts to complete the decolonization process of Mauritius. It also remains strongly committed to implementing a programme for urgent resettlement in the Chagos Archipelago. The systematic refusal by the United Kingdom to allow the former residents of the Chagos Archipelago to return is a particularly grave matter. It violates their most fundamental human rights.

Government will also pursue its efforts to challenge the United Kingdom's membership as a coastal State purporting to represent the Chagos Archipelago in all UN bodies as well as in international, regional and intergovernmental organizations pursuant to paragraphs 6 and 7 of UN General Assembly Resolution 73/295. In this regard, we also look forward to the Secretary-General's report on the implementation of this resolution which, we understand, is expected in March/April 2020.

Government deeply appreciates the support which Mauritius has received from the African Union and other countries and counts on their continued support for the rapid completion of the decolonization process of Mauritius.

I thank you, Mr Speaker, Sir.