

**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 OF 28 APRIL 2023**

9 MAY 2023

Mr Speaker, Sir,

My second statement relates to the Judgment which the Special Chamber of the International Tribunal for the Law of the Sea delivered on 28 April 2023, establishing a binding international maritime boundary between Mauritius and Maldives in the region of the Chagos Archipelago.

As the House is aware, following the Advisory Opinion of the International Court of Justice of 25 February 2019 on the legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965, Mauritius had invited Maldives to engage in negotiations for the delimitation of the maritime boundary between the two States. As Maldives did not respond to that invitation, Mauritius initiated on 18 June 2019 arbitral proceedings against Maldives under the United Nations Convention on the Law of the Sea. By a Special Agreement dated 24 September 2019, Mauritius and Maldives agreed to transfer the case to a Special Chamber of the International Tribunal for the Law of the Sea (ITLOS) composed of nine Judges.

On 18 December 2019, Maldives raised preliminary objections to the jurisdiction of the Special Chamber of ITLOS. At the core of Maldives' preliminary objections was the claim that there was an unresolved sovereignty dispute between Mauritius and the United Kingdom over the Chagos Archipelago. 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. Maldives also contended that the United Kingdom was an indispensable third party and that its absence from the proceedings prevented the Special Chamber from exercising jurisdiction.

In its Judgment of 28 January 2021, the Special Chamber of ITLOS rejected all the preliminary objections of Maldives and held that it had jurisdiction to adjudicate on the dispute submitted to it by the Parties. It also fully endorsed the authoritative determinations made by the International Court of Justice in its Advisory Opinion of 25 February 2019 and confirmed that Mauritius has undisputed sovereignty over the Chagos Archipelago. As to the claim that the United Kingdom was an indispensable party, the Special Chamber ruled that claims of sovereignty by the United Kingdom can only be considered as mere assertions and did not give them any right to be a party.

Following two rounds of written submissions and a hearing held from 17 to 24 October 2022, the Special Chamber of ITLOS delivered on 28 April 2023 its Judgment on the merits of the case brought by Mauritius against Maldives.

In its Judgment which is final and binding, the Special Chamber unanimously established a maritime boundary between Mauritius and Maldives, which delimits their exclusive economic zones and their continental shelves within 200 nautical miles in the region of the Chagos Archipelago.

In order to carry out the delimitation exercise, the Special Chamber used the well-known equidistance/relevant circumstances method, as agreed by both Mauritius and Maldives. In applying this delimitation method, the Special Chamber followed the three-stage approach. In the first stage, it proceeded with the construction of the provisional equidistance line. In the second stage, it considered whether there were any relevant circumstances requiring an adjustment of the provisional equidistance line. In the third and final stage, it checked whether there was any significant disproportion between the ratio of the lengths of the relevant coasts of the Parties and the ratio of the areas allocated to them.

For the construction of the provisional equidistance line, the Special Chamber of ITLOS used base points on Peros Banhos and Salomon Islands for Mauritius and on Addu Atoll for Maldives. It did not select any base points on Blenheim Reef for the following reasons:

- (a) according to the jurisprudence, international courts and tribunals have rarely placed base points on a low-tide elevation for the construction of the provisional equidistance line;
- (b) placing base points on Blenheim Reef would have had a substantial impact on the provisional equidistance as they would have controlled almost half of the provisional equidistance line;
- (c) Mauritius would have had approximately 4,690 square kilometres of additional maritime space, which would have amounted to 4.9 per cent of the overlapping area. This would have created a serious disproportion in the third stage and would have needed a correction anyway.

In the second stage of the delimitation process, the Special Chamber considered that given the presence of extensive areas of drying reefs on Blenheim Reef as shown by the geodetic survey carried out by Mauritius in February 2022, Blenheim Reef should be given half effect in order to reach an equitable solution. The Special Chamber held that these drying reefs amount to, I quote, “other natural features”, Unquote, within the meaning of Article 46 (b) of the United Nations Convention on the Law of the Sea, and together with a group of islands and interconnecting waters, form the Chagos Archipelago. Following the adjustment made by the Special Chamber, the area allocated to Mauritius increased by around 2,345 square kilometres, in relation to the provisional equidistance line. The Special Chamber also confirmed that archipelagic baselines can be drawn from Blenheim Reef for the purpose of establishing the exclusive economic zone of Mauritius.

The House will recall that the scientific survey of Blenheim Reef was the first visit ever organized by Government to the Chagos Archipelago since our independence. Thanks to the survey, significant weight has been given by the Special Chamber of ITLOS to Blenheim Reef in the delimitation of the maritime boundary between Mauritius and Maldives.

Under the third stage of the delimitation process, the Special Chamber found that there was no significant disproportion between the ratio of the areas allocated to the Parties which is 1:0.960 in favour of Maldives and the ratio of the lengths of the respective coasts of the Parties which is 1:1.033 in favour of Mauritius.

As a result of the delimitation exercise, Mauritius has been allocated an area of 45,331 square kilometres and Maldives, an area 47,232 square kilometres. In terms of figures, Mauritius was allocated more than 1,600 square kilometres than what Maldives had claimed Mauritius was entitled to and Maldives obtained only 90 square kilometres more than what Mauritius had attributed to it.

On the other hand, the Special Chamber declined to address the question of whether Maldives has an entitlement to a continental shelf beyond 200 nautical miles which may extend within the exclusive economic zone of Mauritius. It pointed out that the maritime boundary which it had established between Mauritius and Maldives leaves no areas to be further delimited within the 200 nautical miles limit of either Party.

Mr Speaker, Sir,

The Special Chamber also unanimously ruled that it had jurisdiction to delimit the extended continental shelf between Mauritius and Maldives beyond 200 nautical miles. It rejected Maldives' contention that at the time Mauritius initiated proceedings against Maldives, there was no dispute as regards the Mauritius claim to entitlement to the continental shelf beyond 200 nautical miles in the Northern Chagos Archipelago Region, and that such claim is therefore outside the Special Chamber's jurisdiction.

The Special Chamber further unanimously rejected the objection raised by Maldives to the admissibility of the Mauritius claim to the continental shelf beyond 200 nautical miles on the grounds that Mauritius had not filed in a timely manner its submission with the Commission on the Limits of the Continental Shelf.

However, the Special Chamber unanimously found that it was not in a position to determine the entitlement of Mauritius to a continental shelf beyond 200 nautical miles in the Northern Chagos Archipelago Region in view of significant scientific uncertainty. Consequently, the Special Chamber decided that it would not proceed to delimit the continental shelf between Mauritius and Maldives beyond 200 nautical miles. Nonetheless, the Special Chamber encouraged Mauritius and Maldives to consider giving their consent for the Commission on the Limits of the Continental Shelf to consider each other's respective submissions which are currently frozen because of objections levelled by each one against the other. Mauritius will take a decision on this matter in due course.

Mr Speaker, Sir,

Let me conclude by saying that contrary to what some people and some segments of the press continue to say, the geodetic survey carried out by Government on Blenheim Reef in February 2022 has borne its fruits in the outcome of the Special Chamber's decision. It also achieved other important objectives which I listed in my statement of 29 March 2022 to the House, namely:

- (a) the survey allowed Mauritius to assert its sovereignty over the Chagos Archipelago and enabled Mauritian representatives to hoist the flag of Mauritius on Peros Banhos, Salomon Islands and Blenheim Reef;
- (b) the survey provided the opportunity to representatives of the Chagossian community to return to their birthplace for the first time without any foreign escort or restrictions; and
- (c) the international press coverage of the visit had a tremendous impact around the world, particularly in the United Kingdom and has contributed to the United Kingdom's decision to seek negotiations with Mauritius over the exercise of sovereignty over the Chagos Archipelago.

Mr Speaker, Sir,

The Judgment of the Special Chamber of ITLOS is historical and of high significant importance as it once again confirms that the Chagos Archipelago, including Diego Garcia, forms an integral part of the territory of Mauritius and that Mauritius is the only State which has sovereignty over the Chagos Archipelago.

The Judgment also paves the way for us to continue working towards implementing a programme for resettlement in the Chagos Archipelago, particularly with a view to enabling our citizens of Chagossian origin to fulfil their aspiration to return to their birthplace in full dignity and with due respect for their human rights.

Let me also emphasize that this second phase of the case was not meant to designate a winner and a loser. Both Maldives and Mauritius agreed at the start of the proceedings to seek an equitable delimitation of their respective maritime boundary on the basis of equidistance and this is exactly what the Special Chamber did.

I would like to thank our external legal team led by Professor Philippe Sands, GCSK, KC and Mr Paul Reichler, GCSK and experts as well as our local team for their excellent work.

Thank you.