

Resolution on the British Indian Ocean Territory

Thank you very much indeed, Madam President.

In a moment, I'd like to set out why the United Kingdom opposes this resolution tabled by Senegal on behalf of the Africa Group.

First, I would like to place on record – and I'm very sorry he is not yet at his seat to hear it – I'd like to place on record the United Kingdom's warm and deep respect, regard and friendship for Mauritius. It was very good to see the Prime Minister here today even though I might wish it was a more cooperative venture that had enticed him to New York.

The United Kingdom is a key trade and investment partner of Mauritius and we are committed to building a partnership that will see Mauritius thrive economically with a focus on financial services, innovation and education. My Prime Minister and Prime Minister Jugnauth discussed this when they met in London on 18 March.

I repeat this gladly today: for the United Kingdom, Mauritius is a friend and ally in an important part of the world. Maintenance of the security and stability of the Indian Ocean region is vital to the maintenance of international and regional peace and security. To the east lie the Malacca Straits, transited by cargo vessels over 84,000 times in 2017. To the west lies the Gulf of Aden, through which one eighth of world trade passes annually.

In this important part of the world, the joint United Kingdom and United States defence facility on the British Indian Ocean Territory plays a vital role in our efforts to keep our allies and friends, including Mauritius, in the region, and beyond, safe and secure.

Madam President, the world is a dangerous and an uncertain place. This facility does keep people and countries safe and secure. It is vital to efforts to combat conflict, terrorism, drugs, crime, and piracy.

It supports partners in the Combined Maritime Forces, a multi-national naval partnership comprised of 33 UN Member States, from Latin America to Asia Pacific, whose areas of operation cover 3.2 million square miles and include some of the most strategically important shipping lanes in the world including the Gulf of Aden, Bab al-Mandeb, the Suez Canal, and the Straits of Hormuz.

It is the site of one of the world's four GPS stations, used widely for military and civilian navigation.

It hosts seismic monitoring capabilities that support the Comprehensive Nuclear Test Ban Treaty.

And the facility stands ready to assist in times of humanitarian crisis. In recent years it has contributed heavily to international humanitarian responses to the 2004 Indian Ocean earthquake and tsunami; the 2011 earthquake and tsunami affecting Japan; and the 2013 typhoon affecting the Philippines. The facility also supported search and rescue missions in support of Malaysian Airlines Flight 370.

Madam President, the United Kingdom is not in doubt about our sovereignty over the British Indian Ocean Territory. It has been under continuous British sovereignty since 1814. Contrary to what has been said today, it has never been part of the Republic of Mauritius.

In 1965, the Mauritian Council of Ministers freely entered into an agreement to detach the British Indian Ocean Territory in return for a range of benefits including fishing rights and natural and marine resources. The agreement also included a commitment by the United Kingdom to cede the Territory – I use the word “cede” here deliberately, not “give back” – to cede the territory when it is no longer needed for defence purposes. And I’ve just outlined those defence purposes.

Madam President, the United Kingdom stands by our commitments made in the 1965 agreement. We disagree with the earlier characterisation of the agreement. The Mauritian government reaffirmed the 1965 agreement on many occasions since its independence in 1968, including through its own laws and constitution.

It is worth noting here that this 1965 agreement, including the commitment to cede when no longer needed for defence purposes, was held to be legally binding by the 2015 UNCTAD Tribunal Arbitration Award.

I want to turn, if I may Madam President, to the issue of the Chagos Islands themselves. And I want to use this opportunity to state again, as the current UK Government and its predecessors have done before, the United Kingdom’s sincere regret about the manner in which Chagossians were removed from the British Indian Ocean Territory in the late 1960s and early 1970s.

The resolution before us calls for the resettlement of Mauritian nationals, including those of Chagossian origin, on the Territory. Let me reassure you that the United Kingdom has looked very closely at the question of Chagossian resettlement. We commissioned an independent feasibility study and undertook a public consultation with Chagossians and other stakeholders. It was only after having considered carefully all of the available information that the United Kingdom decided not to support resettlement on the grounds of feasibility, defence, security interests and cost. While we have ruled out resettlement, we are determined to improve the livelihoods of Chagossians in the communities where they now live. So we are currently working with Chagossian communities not just in Mauritius, but also in the Seychelles and the United Kingdom itself to implement a \$50 million support package. As part of the package, we run heritage visits which allow Chagossians to spend time on the Territory.

Madam President, I need to take a moment to reject unconditionally the

allegations that the United Kingdom was engaged in crimes against humanity. This is a very serious allegation Madam President; it's not to be used lightly. It is a gross mischaracterisation of the United Kingdom's position and once again, I rejected without qualification and I hope it won't be repeated.

Madam President, if I may I would like to turn now to the question of the Resolution and the issue before us.

The United Kingdom will vote no on this Resolution. We invite others to join us.

This is not because of a lack of respect for the issue of decolonisation, nor of the UN's role in that process. As I have been saying to regional groups, we are very conscious of our own history. As this Assembly knows, the United Kingdom's own history of working in partnership with many countries as they developed their governance and judicial structures post-independence is well-documented. We are proud now to have many partners across the world based on equality and respect.

Madam President, we would have been happy in principle to work on a joint resolution but the gap between our positions was too great to allow this to happen.

So let me set out the reasons why we oppose the Resolution. Colleagues will be familiar with the detail of our position from the briefings and from my letter of 14 May. The resolution has been revised since that time, but we remain of the view that the majority of problems with it remain. And I would like to emphasise some specific points:

Madam President, we do not challenge the authority of the General Assembly, let alone the authority of the International Court of Justice. Once again I reject this characterisation of the UK position and I look to Member States not to repeat it. It simply isn't true. But Madam President there is a difficulty with the resolution and with the way we have got to where we are.

Firstly and crucially, the issue between Mauritius and the UK surrounding the Chagos Archipelago is a bilateral sovereignty dispute. The title of the resolution and of the advisory opinion revolves around "decolonisation" but the issue is fundamentally one of disputed sovereignty between two countries. And we heard that as the resolution was introduced today.

Therefore, in giving its advisory opinion the ICJ has allowed the principle, as enshrined in the ICJ's own Statute, that it should not hear bilateral disputes without the consent of both States. It has allowed that principle to be circumvented. This has wider and profound implications for all Member States with bilateral disputes and if the resolution is passed, it will create a difficult precedent in the General Assembly. It would imply that any bilateral dispute between two States could be referred for an advisory opinion to the ICJ and then pronounced on by the General Assembly, whether or not the States involved have consented. I invite colleagues to reflect carefully on that point. If today you are a country which has a bilateral

dispute with another Member State, you risk throwing open the door for that dispute to be subject to an advisory opinion of the ICJ and a vote of the General Assembly.

Secondly, the resolution before us still goes beyond the advisory opinion. The resolution sets a six month deadline for the UK. The resolution calls on States, international organisations and institutions, including the United Nations and its Agencies, to take action that could have wide-ranging potential implications for the effective operation of the joint defence facility on the British Indian Ocean Territory.

I set out earlier, Madam President exactly what contribution that facility makes to international peace and security and regional peace and security in the Indian Ocean. These elements are not what the advisory opinion specified and they regrettably represent a clear attempt to extend the scope of the advisory opinion.

Thirdly Madam President, advisory opinions may indeed, from time to time, can carry weight in international law but that does not change the fact that they are not legally binding. They are advice provided to the General Assembly by the ICJ at the General Assembly's request. The UN Charter specifically distinguishes between advisory and contentious proceedings, drawing a clear line between the binding decisions and the advisory opinions of the ICJ. This specific advisory opinion before us does not, we believe, give sufficient regard to a number of legal and material factual issues, which I have detailed in my letter of 14 May.

Allow me to summarize these. It does not take into account the 2015 legally binding UNCLOS Tribunal Arbitration Award that held that the 1965 agreement between the United Kingdom and Mauritius was legally binding. This is the agreement in which Mauritius agreed to the detachment of the British Indian Ocean Territory in return for the access and benefits around resources that I outlined earlier. We remain committed to implement of that agreement. And there is additionally a binding treaty obligation between the United Kingdom and the United States to maintain UK sovereignty of British Indian Ocean Territory until at least 2036. The United States Government, most recently Secretary Pompeo and most recently the letter from Ambassador Jonathan Cohen, have made clear that the status of British Indian Ocean Territory as a UK territory is "essential" to the value of the joint facility and our shared interests – an arrangement that cannot be replicated. Further, when advisory opinions have a number of issues within them, as the by it ICJ opinion does, we risk creating an unhelpful precedent institutionally if we treat them as if they were legally binding. This isn't an issue of colonialization, Madam President. This is about using advisory opinions for the purpose for which they were intended.

In conclusion, Madam President, we believe that this binding UNCLOS Tribunal Arbitration Award is important and we believe the bilateral sovereignty dispute should remain a bilateral matter as a matter of principle both in respect of the case of British Indian Ocean Territory and for wider reasons of concern to Member States. And we believe that the Resolution before us seeks to set an unwelcome precedent in several areas that should be of

concern to Member States.

For this reason, Madam President, we will vote no and ask others to join us. For those Member States who do not wish to vote against, we draw your attention to the difficult precedents created by this resolution, which justify abstention.

Thank you, Madam President.

Explanation of vote by Ambassador Karen Pierce, UK Permanent Representative to the UN, at the General Assembly on Resolution A/RES/L.84/Rev.1

Wednesday, 22 May

Thank you, Madam President.

The United Kingdom regrets that the General Assembly has today voted to adopt this resolution.

The United Kingdom fully recognises the importance of the issue of decolonisation and the UN's role in that. The United Kingdom, as I said earlier in my statement, sincerely regrets the manner in which Chagossians were removed from British Indian Ocean territory in the 1960s and the 1970s and we are determined to improve their lives where they have resettled.

Madam President, a grave accusation was made against the United Kingdom this morning. It is without foundation and I repeat that we reject it in full.

Madam President, the United Kingdom has no doubt about our sovereignty over British Indian Ocean Territory. The issue put today before the General Assembly remains at heart a bilateral sovereignty dispute between Mauritius and the UK and we continue to believe that it remains an important principle that bilateral sovereignty disputes should be resolved by the parties themselves. This vote was setting a precedent that should be of concern not only to the United Kingdom but to all Member States in this chamber today that have sovereignty disputes of their own.

I would like to acknowledge, Madam President that the result of today's vote shows that a significant number of Member States share these concerns as witnessed by the high number of abstentions and absences. And I am particularly grateful to those States who voted with the United Kingdom against today's resolution.

I'd like finally Madam President to turn to a point that was made in the debate. I should state that the UK's well-known position on the Falkland Islands remains unchanged. We welcome the principle and the right of the Falkland Islanders to self-determination as enshrined in the UN charter and this means there can be no dialogue on sovereignty unless and until the Falkland Islanders so wish.

Thank you Madam President.