

Introductory Note

The request

1. In a letter dated 14 July 2016 to the Secretary-General (A/71/142), the Permanent Representative of Mauritius to the United Nations transmitted a request from Mauritius for the inclusion in the provisional agenda of the seventy-first session of the General Assembly of an item entitled “Request for an advisory opinion of the International Court of Justice on the legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965”. An explanatory memorandum was annexed to the letter.
2. On 14 September 2016, the General Committee issued its first report on the “Organization of the seventy-first regular session of the General Assembly, adoption of the agenda and allocation of items” (A/71/250), recommending the inclusion in the draft agenda of the item requested by Mauritius under heading F (Promotion of justice and international law), on the understanding that there would be no consideration of this item by the General Assembly before June 2017 and thereafter that it may be considered upon notification by a Member State.
3. At the second plenary meeting of its seventy-first session held on 16 September 2016, the General Assembly approved the recommendation of the General Committee (A/71/PV.2).
4. On 1 June 2016, the President of the General Assembly addressed a letter to all Permanent Representatives and Permanent Observers to the United Nations setting 22 June 2017 as the date for the consideration of agenda item 87 of the seventy-first session entitled “Request for an advisory opinion of the International Court of Justice on the legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965”.
5. Under agenda item 87 of the seventy-first session of the General Assembly, the Republic of the Congo, on behalf of the Member States of the United Nations that are members of the Group of African States, submitted draft resolution A/71/L.73 dated 15 June 2017 on the “Request for an advisory opinion of the International Court of Justice on the legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965” (A/71/L.73 and Add.1).
6. On 22 June 2017, the General Assembly, adopted resolution 71/292 by a vote of 94 votes in favour to 15 against with 65 abstentions. The full text of the resolution containing the request is as follows:

The General Assembly,

Reaffirming that all peoples have an inalienable right to the exercise of their sovereignty and the integrity of their national territory,

Recalling the Declaration on the Granting of Independence to Colonial Countries and Peoples, contained in its resolution 1514 (XV) of 14 December 1960, and in particular paragraph 6 thereof, which states that any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations,

Recalling also its resolution 2066 (XX) of 16 December 1965, in which it invited the Government of the United Kingdom of Great Britain and Northern Ireland to take effective measures with a view to the immediate and full implementation of resolution 1514 (XV) and to take no action which would dismember the Territory of Mauritius and violate its territorial integrity, and its resolutions 2232 (XXI) of 20 December 1966 and 2357 (XXII) of 19 December 1967,

Bearing in mind its resolution 65/118 of 10 December 2010 on the fiftieth anniversary of the Declaration on the Granting of Independence to Colonial Countries and Peoples, reiterating its view that it is incumbent on the United Nations to continue to play an active role in the process of decolonization, and noting that the process of decolonization is not yet complete,

Recalling its resolution 65/119 of 10 December 2010, in which it declared the period 2011–2020 the Third International Decade for the Eradication of Colonialism, and its resolution 71/122 of 6 December 2016, in which it called for the immediate and full implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples,

Noting the resolutions on the Chagos Archipelago adopted by the Organization of African Unity and the African Union since 1980, most recently at the twenty-eighth ordinary session of the Assembly of the Union, held in Addis Ababa on 30 and 31 January 2017, and the resolutions on the Chagos Archipelago adopted by the Movement of Non-Aligned Countries since 1983, most recently at the Seventeenth Conference of Heads of State or Government of Non-Aligned Countries, held on Margarita Island, Bolivarian Republic of Venezuela, from 13 to 18 September 2016, and in particular the deep concern expressed therein at the forcible removal by the United Kingdom of Great Britain and Northern Ireland of all the inhabitants of the Chagos Archipelago,

Noting also its decision of 16 September 2016 to include in the agenda of its seventy-first session the item entitled “Request for an advisory opinion of the International Court of Justice on the legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965”, on the understanding that there would be no consideration of this item before June 2017,

Decides, in accordance with Article 96 of the Charter of the United Nations, to request the International Court of Justice, pursuant to Article 65 of the Statute of the Court, to render an advisory opinion on the following questions:

(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?”.

7. The certified true copies of the resolution, in English and in French, were transmitted to the International Court of Justice (hereinafter, “the Court”) under cover of a letter dated

23 June 2017 by the Secretary-General to the President of the Court. In the same letter, the Secretary-General also informed the President of the Court that, pursuant to Article 65, paragraph 2, of the Statute of the Court, the Secretariat would prepare a dossier containing a collection of all relevant documents, to be transmitted to the Court in due course.

Structure of the Dossier

8. The Dossier is divided into three Parts: Part I contains background material relating to the request by the General Assembly for an advisory opinion; Part II contains material of the United Nations relating to the questions before the Court; and Part III contains material from non-United Nations sources concerning the Chagos Archipelago. A list of all the documents of which the Dossier is composed is annexed to this Note.

9. The structure of the Dossier is as follows:

Part I: Material relating to the request by the General Assembly for an advisory opinion of the Court

Part II: Material of the United Nations relating to the questions before the Court

Section A: Documents of the General Assembly and its subsidiary bodies prior to the admission of Mauritius to the United Nations

Sub-Section 1: General Assembly and the Special Political and Decolonization Committee (Fourth Committee)

Sub-Section 2: Reports of the Secretary-General

Sub-Section 3: Committee on Information from Non-Self-Governing Territories

Sub-Section 4: Special Committee on the Situation with regard to the Implementation of the Declaration on Granting of Independence to Colonial Countries and Peoples (“Special Committee on decolonization” or the “C-24”)

Section B: Documents pertaining to the admission of Mauritius to the United Nations

Section C: Documents of the General Assembly and its subsidiary bodies after the admission of Mauritius to the United Nations

Sub-Section 1: General Assembly and the Disarmament and International Security Committee (First Committee)

Sub-Section 2: Special Committee on decolonization

Sub-Section 3: Human Rights Council

Section D: Documents of the subsidiary bodies of the Economic and Social Council after the admission of Mauritius to the United Nations

Sub-Section 1: Commission on Human Rights

Sub-Section 2: Committee on Economic Social and Cultural Rights

Section E: Documents of human rights treaty bodies serviced by the United Nations Secretariat

Sub-Section 1: International human rights instruments - Common core documents forming part of the reports of the States Parties

Sub-Section 2: Committee on the Elimination of Racial Discrimination

Sub-Section 3: Human Rights Committee

Sub-Section 4: Committee Against Torture

Sub-Section 5: Committee on the Elimination of Discrimination against Women

Section F: Documents stemming from processes under the United Nations Convention on the Law of the Sea, 1982

Sub-Section 1: Arbitration

Sub-Section 2: Commission on the Limits of the Continental Shelf

Sub-Section 3: Maritime zone notifications

Section G: Depositary notifications relating to multilateral treaties deposited with the Secretary-General

Part III: Material from non-United Nations sources concerning the Chagos Archipelago

Framework of the Dossier

10. In accordance with Article 65, paragraph 2, of the Statute of the Court, the Dossier contains the documents and other material of the United Nations as well as international instruments likely to throw light upon the questions on which the advisory opinion of the Court is requested.

11. The documents are numbered consecutively throughout Parts I, II and III and identified by title, and where appropriate, by official United Nations document symbol. While in the early years of the United Nations document symbols were not standardized, attention has been paid, wherever possible, to maintaining uniformity in referencing documents.

12. In view of the size of certain documents included in the Dossier, the following approach was taken in respect of the reproduction of the texts of those documents: First, documents have been provided in full where it was considered necessary for a proper understanding of the material. Similarly, where Mauritius or the United Kingdom of Great Britain and Northern Ireland has responded to a statement, the underlying statement has been included to the extent possible. Second, where appropriate, only relevant portions of the text have been extracted from the documents so as to make the pertinent information readily accessible and to reduce the size of the documents. In extracting statements and other text from meeting records and other documents, care has been taken to preserve the context in which those statements were made or included. Accordingly, in certain instances relevant portions of the text reflecting such context were retained, though not necessarily dealing solely with the questions before the Court.

13. In light of their limited relevance to the questions before the Court, documents of a primarily administrative or procedural nature have not been included in the Dossier. A more detailed description of excluded documents is provided below.

14. Finally, in instances where the same information has been reproduced in two different United Nations documents, only the most comprehensive and relevant material has been included in the Dossier.

Part I: Material relating to the request by the General Assembly for an advisory opinion of the Court

15. This part of the Dossier contains all documents constituting procedural steps in the adoption of General Assembly resolution 71/292, including the request by Mauritius for the inclusion of an item in the provisional agenda of the General Assembly and the voting records and explanations related to the adoption of the resolution.

Part II: Material of the United Nations relating to the questions before the Court

16. In light of the broad scope of the questions posed in General Assembly resolution 71/292, the following approach to the selection of documents was taken.

17. The date on which Mauritius was admitted as a Member State of the United Nations, 24 April 1968, is used to divide the collection of documents in this part.

18. Up to that date, relevant United Nations documents on matters concerning decolonization, even if not specific to the question of Mauritius or the Chagos Archipelago, are included.

19. After that date, United Nations documents containing direct references to the Chagos Archipelago have been included up to the date of the adoption of resolution 71/292. Furthermore, as the United Kingdom of Great Britain and Northern Ireland refers to this geographical area as the British Indian Ocean Territory, United Nations documents with that term have similarly been included.

Section A. Documents of the General Assembly and its subsidiary bodies prior to the admission of Mauritius to the United Nations

20. Section A contains documents of the General Assembly from its inception to 24 April 1968, on decolonization-related matters, as well as documents pertaining to Mauritius when it was a non-self-governing territory. Emphasis has been placed on including documents related to General Assembly resolution 1514 (XV) of 14 December 1960; General Assembly resolution 2066 (XX) of 16 December 1965; General Assembly resolution 2232 (XXI) of 20 December 1966 and General Assembly resolution 2357 (XXII) of 19 December 1967. These include verbatim records of the debates held in the plenary of the General Assembly on the adoption of these resolutions. Where relevant, related summary records and reports of the Fourth

Committee, as well as reports of other ad hoc committees considered by the Fourth Committee, have been included.

21. Furthermore, relevant reports prepared by the Secretary-General, including summaries of the information transmitted by the United Kingdom of Great Britain and Northern Ireland on the territory of Mauritius pursuant to Article 73 e of the Charter of the United Nations have been included.

22. Finally, all the reports of the Committee on Information from Non-Self-Governing Territories, created by the General Assembly in 1947 under the initial name of Special Committee on Information transmitted under Article 73 e of the Charter, have been included up to its dissolution in 1963. Similarly, the reports of the Special Committee on decolonization, which was created by the General Assembly in 1961 and assumed the functions of the Committee on Information in 1963, have been included without the annexes on specific non-self-governing territories, except where the annex relates to Mauritius.

23. Documents of an administrative or procedural nature, such as resolutions concerning the establishment, termination or nomenclature of committees and sub-committees of the General Assembly dealing with decolonization issues have not been included in the Dossier.

Section B: Documents pertaining to the admission of Mauritius to the United Nations

24. Section B contains documents pertaining to the admission of Mauritius to the United Nations, including the application of Mauritius for membership and records of the relevant actions of the Secretary-General, the Security Council and the General Assembly.

Section C: Documents of the General Assembly and its subsidiary bodies after the admission of Mauritius to the United Nations

25. Section C contains documents of the General Assembly following the admission of Mauritius to the United Nations until the date of the adoption of resolution 71/292. It contains documents, such as reports and the verbatim and summary records of the debates held by the General Assembly, and certain Main Committees, and other subsidiary organs which contain substantive and relevant information on the Chagos Archipelago or the British Indian Ocean Territory.

26. This section further includes, *inter alia*, the statements made during the general debates in the General Assembly reflecting the positions of the United Kingdom of Great Britain and Northern Ireland and Mauritius on the status of the Chagos Archipelago or the British Indian Ocean Territory.

27. Relevant portions of the reports of the Special Committee on decolonization, issued after the admission of Mauritius to the United Nations, have also been included since such reports, while considering the non-self-governing territory of Seychelles, include a section on the British Indian Ocean Territory.

Section D: Documents of the subsidiary bodies of the Economic and Social Council after the admission of Mauritius to the United Nations

28. The approach to the selection of documents for Section D is similar to Section C. This section contains documents of the subsidiary bodies of the Economic and Social Council, specifically the Commission on Human Rights and its sub-commissions, and the Committee on Economic, Social and Cultural Rights. Reports and the summary records of these bodies containing substantive discussions on the Chagos Archipelago or the British Indian Ocean Territory have been included.

29. Statements of non-governmental organizations, such as those before the Commission on Human Rights, have only been included when the United Kingdom of Great Britain and Northern Ireland or Mauritius have directly responded to such statements.

Section E: Documents of human rights treaty bodies serviced by the United Nations Secretariat

30. Section E contains documents of the human rights treaty bodies serviced by the United Nations Secretariat pertaining to the Chagos Archipelago, including the reports, records of meetings and deliberations in these bodies. With regard to the records of the meetings of these bodies, the Dossier only includes the records of the questions posed by the members of the Committees when a substantive response has been provided.

Section F: Documents stemming from processes under the United Nations Convention on the Law of the Sea, 1982

31. Section F contains documents stemming from different processes under the United Nations Convention on the Law of the Sea, 1982 (UNCLOS) that include information on the Chagos Archipelago or the British Indian Ocean Territory.

32. In relation to the Arbitral Tribunal constituted under annex VII of UNCLOS in the matter of the Chagos Marine Protected Area, only the documents issued by the Arbitral Tribunal have been included due to the lengthy submissions made by States to the Arbitral Tribunal.

33. Regarding documents pertaining to the continental shelf, information submitted by Mauritius pursuant to a decision of the Meeting of States Parties of UNCLOS on the extended continental shelf in the Chagos Archipelago region, as well as objections by Mauritius and the United Kingdom of Great Britain and Northern Ireland to the submission by Maldives on its proposed extended continental shelf, have been included. Furthermore, notifications received by the Secretary-General pursuant to UNCLOS concerning maritime zones established around the Chagos Archipelago have been included.

Section G: Depositary notifications relating to multilateral treaties deposited with the Secretary-General

34. Section G contains depositary notifications, issued by the Secretary-General in his capacity as depositary of multilateral treaties, including declarations by which the United Kingdom of Great Britain and Northern Ireland extended the territorial application of certain multilateral treaties to the British Indian Ocean Territory and communications by which Mauritius and the United Kingdom of Great Britain and Northern Ireland expressed their views on the status of the Chagos Archipelago or the British Indian Ocean Territory.

Part III: Material from non-United Nations sources concerning the Chagos Archipelago

35. This Part includes documents relating to the Chagos Archipelago, originating from non-United Nations sources, such as from the Conference of Heads of State or Governments of Non-Aligned Countries, regional groupings like the Group of 77 and China and bilateral summits such as the 1988 Indo-Soviet Summit. Such documents are included in the Dossier if they have been subsequently issued as a United Nations document at the request of a Member State. The 1814 Definitive Treaty of Peace and Amity between Austria, Great Britain, Portugal, Prussia, Russia and Sweden, and France has also been included.