

**ORAL ANSWER TO QUESTION****CHAGOS ARCHIPELAGO & TROMELIN ISLAND – MAURITIUS  
SOVEREIGNTY**

**The Leader of the Opposition (Mr P. Bérenger)** (*by Private Notice*) asked the Rt. hon. Prime Minister, Minister of Defence, Home Affairs, Minister for Rodrigues and National Development Unit whether, in regard to the sovereignty of Mauritius over the Chagos Archipelago and over the Tromelin Island, he will state –

- (a) where matters stand before the United Nations Arbitration Tribunal on the Chagos Archipelago Marine Protected Area;
- (b) what initiatives Mauritius is taking on the Chagos Archipelago sovereignty issue at this 2016 turning point, and
- (c) if Mauritius has confirmed to France its decision not to go ahead with the 2010 “*Accord-cadre sur la co-gestion de l’île Tromelin*”, and if so, indicate whether discussions over the sovereignty issues have started.

**The Prime Minister:** Madam Speaker, as the House is aware, it has always been the unequivocal stand of Mauritius that the Chagos Archipelago, including Diego Garcia, and Tromelin form an integral part of its territory.

In line with its commitment to ensure that the territorial integrity and sovereignty of Mauritius are fully respected and safeguarded, Government will spare no efforts so that Mauritius can effectively exercise its sovereignty over the Chagos Archipelago and Tromelin.

Madam Speaker, let me also remind the House that in the Government Programme 2015/2019, we have expressed our concern at the lack of progress to resolve the long standing dispute over the Chagos Archipelago and we have pledged to speed up diplomatic talks with the UK and the US Government and actively seek the support of the international community in this respect.

Madam Speaker, in regard to part (a) of the question, as the House is aware, Mauritius initiated on 20 December 2010 proceedings against the UK under Article 287 of, and Annex VII to, the United Nations Convention on the Law of the Sea (UNCLOS) to challenge the legality of the ‘marine protected area’ which the UK has purported to establish around the Chagos Archipelago. Mauritius considers, *inter alia*, that the UK, not being a “coastal State” under UNCLOS and international law, had no authority to establish a marine protected area around the Chagos Archipelago.

Since Mauritius and the UK did not agree on the means for the settlement of the dispute, it has been submitted to arbitration in accordance with Annex VII to UNCLOS. In this respect, an Arbitral Tribunal consisting of five members, including three Judges of the International Tribunal for the Law of the Sea, has been set up.

The team of Counsel who have assisted Mauritius in this case includes prominent lawyers such as Mr Philippe Sands QC, Professor of Law, University College, London and Mr Paul Reichler of Foley Hoag, a law firm in Washington, DC. Professor James Crawford who was Whewell Professor of International Law at the University of Cambridge was also part of the team prior to his assumption of the post of Judge of the International Court of Justice on 06 February 2015.

In accordance with the timetable which was initially set by the Arbitral Tribunal for the filing of pleadings by Mauritius and the UK on the merits of the case, Mauritius filed its Memorial on 01 August 2012.

The UK subsequently raised on 31 October 2012 preliminary objections to the jurisdiction of the Arbitral Tribunal in respect of the dispute. The UK also requested that the preliminary objections be dealt with as a preliminary matter and that in case that request is not accepted by Mauritius, a separate hearing be held on the procedure to be followed in dealing with its preliminary objections.

After consideration of the written submissions of the parties and their oral submissions at the hearing held on 11 January 2013 in Dubai, the Arbitral Tribunal adopted on 15 January 2013 a Procedural Order, ordering that -

- (a) the UK's request that its preliminary objections to the jurisdiction of the Tribunal be dealt with in a separate jurisdictional phase as a preliminary matter be rejected, and
- (b) the UK's preliminary objections will be considered with the proceedings on the merits.

At the request of the Arbitral Tribunal, Mauritius and the UK engaged in consultations with a view to reaching agreement on a revised schedule for the filing of the remaining pleadings on the merits of the case. Pursuant to the revised timetable, the UK's Counter-Memorial was filed on 15 July 2013, Mauritius' Reply on 18 November 2013 and the UK's Rejoinder on 17 March 2014.

Thereafter, the Arbitral Tribunal held a hearing from 22 April to 09 May 2014 in Istanbul, Turkey on both the merits and the preliminary objections raised by the UK. The Award of the Tribunal is awaited. The Tribunal has in a letter to

the parties dated 17 November 2014, indicated that it would not issue its Award before the end of 2014 and that it would later provide the Parties with an update on anticipated date of issue of the Award.

In reply to part (b) of the question, as I have mentioned earlier, Government is much concerned at the lack of progress made so far to resolve the long-standing sovereignty dispute over the Chagos Archipelago.

In view of the expiry in 2016 of the initial 50-year period of the UK-US agreement in respect of the Chagos Archipelago, Government is currently considering the diplomatic and other strategies to adopt with regard to an eventual agreement, bearing in mind that the US considers that Diego Garcia continues to be of strategic importance.

In keeping with the bi-partisan approach we have always adopted on issues of national importance, the hon. Leader of the Opposition will be consulted at the appropriate time.

In regard to part (c) of the question, pending the settlement of the sovereignty dispute between Mauritius and France over Tromelin, the two countries reached an agreement in 2010 on the co-management of Tromelin, without prejudice to the sovereignty of Mauritius over the island.

I am informed that when the former Prime Minister met the French President on 03 October 2014 in Paris, he said that since there had been considerable delay in the adoption by the French National Assembly of the Bill relating to the ratification by France of the co-management agreement, the whole question of sovereignty should be revisited and that he was no longer in favour of the ratification of the agreement. He proposed that if France were to acknowledge the sovereignty rights of Mauritius over Tromelin, Mauritius would be ready to

conclude a new bilateral agreement with France for the sharing, on a 50/50 basis, of the natural, mineral and other resources of Tromelin, and their joint exploitation on the same basis. The French President indicated that the proposal made by the former Prime Minister would be considered by the French Government. To date, there has been no reaction from the French Government to that proposal.

Government intends to press for the early resolution of the dispute between Mauritius and France over Tromelin, in the spirit of friendship and trust that has always characterised the relationship between the two countries.

Madam Speaker, I would like to reaffirm, most emphatically, the commitment of my Government to ensure that the territorial integrity and sovereignty, and rights as well as security interests, of Mauritius are fully respected and safeguarded.

**Mr Bérenger:** Madam Speaker, on the first part of my question, that is, the UN Arbitral Tribunal sitting in The Hague, I have not heard any indication of when we can expect the Tribunal to come with the judgement, with the findings. Can I know from the Rt. hon. Prime Minister - since he makes reference to Professor Philippe Sands, who leads the team of lawyers on behalf of Mauritius; we know that he visited Mauritius recently - who represented Mauritius in discussions with Professor Sands?

**The Prime Minister:** As I have said already, the Tribunal has not set any specific date when its award is going to be known. In a case they have said that it won't be in 2014. Insofar as the second part of the question is concerned, I have not met Mr Sands and I do not know with whom he has discussed.

**Mr Bérenger:** I was a bit surprised, Madam Speaker, since Government says that it is dissatisfied with the lack of initiatives by the former Government on the

Chagos Archipelago issue when the Cabinet *communiqué* relating to Cabinet decisions of 09 January 2015, stated that “Cabinet looked forward to the award of the Arbitral Tribunal” which seems to be positive in tone in contrast to the general comment made. Can I know on what basis, that kind of comment, that we look forward to the arbitration pronouncement, is based?

**The Prime Minister:** Well, how can we do better than that? We are waiting for the award. We look forward to get the award. That’s all we can do for the time being.

**Mr Bérenger:** Do we have any indication that indeed the Tribunal is going to consider –

- (i) Sovereignty, and
- (ii) whether we have any indication that once it considers, that it can take a stand on sovereignty, that it will go our way?

**The Prime Minister:** I suppose both issues are interlinked. Therefore, that’s my opinion, they will have to consider both.

**Mr Bérenger:** Last question on that part of my question. Can I ask the Rt. hon. Prime Minister whether he has looked into it that it is confirmed that there can be no appeal against the pronouncement of the Arbitral tribunal? That is, if it rules against Mauritius, there is no appeal against that ruling.

**The Prime Minister:** Well, I can’t answer that. I have not looked into it.

**Mr Bérenger:** Fortunately that is the case. Madam Speaker, as the Rt. hon. Prime Minister said, 2015 is the turning point because the agreement between London and Washington in 1966 was for 50 years, and it was in the agreement that

should either party, UK or United States, want to change anything in the agreement or put an end to it, they would have to make a move in 2015 or 2016, and if there is no move, it is renewed automatically for 20 years. Surely the Rt. hon. Prime Minister will agree with me that if that agreement is renewed for a further 20 years, it will make our case even more difficult. Can I ask the Rt. hon. Prime Minister whether this issue of discussions, supposedly, possibly taking place this year or next year and the role of Mauritius, our stand on sovereignty, has been discussed with either London or Washington or both?

**The Prime Minister:** I do not know what the previous Government has done, whether they have had certain discussions. I am not aware of it. But our stand is very clear, we had through diplomatic channel made it known that we won't agree to anything that is going to be done between these two parties alone. We want to be concerned and we want to be party to what takes place because we consider that the whole thing from the very beginning had been illegal. United Kingdom had no right to extract from our territory, before giving it its independence, any part of it. Whatever has been done is illegal and whatever is being done in that context, so far we are concerned, is illegal.

**Mr Bérenger:** From what I am hearing, Madam Speaker, it seems that there has been no contact between the new Prime Minister, Sir Anerood Jugnauth, and the Prime Minister of the UK and the President of the United States since the last elections, in particular, London. Can I know from the Rt. hon. Prime Minister whether we have tried to raise, at the highest level, the issue with London, being given this crucial turning point of 2016? I am asking whether London has refused to discuss the issue pending the Tribunal pronouncing itself on the case in The Haye? Is that the stand taken or have we simply not asked for the matter to be taken at the highest level with London?

**The Prime Minister:** I have had no chance of meeting either the Prime Minister of UK or the President of the United States of America. Insofar as the second part of the question is concerned, well, as I have said we have made it known what is our stand through diplomatic channel. For the time being, we could not do anything more than that.

**Mr Bérenger:** Well, for the time being! But can I know whether the new Government is preparing action at any level, in case London and/or Washington do not wish to discuss the issue again? Are we considering new initiatives at the United Nations including the General Assembly or anywhere else, at the Commonwealth Summit, that is coming this year?

**The Prime Minister:** Definitely, we are working on it. We are considering the stand that we should take and we want the matter of sovereignty to be thrashed out once and for all. But at this juncture, it won't be wise for me to give any details of what we intend to do.

**Mr Bérenger:** Can I know whether the Rt. hon. Prime Minister has had the opportunity since the last general elections of raising or discussing that issue with India, the friendly country that has been very helpful on that issue and, if not, whether it is the intention of Government to seek once more India's support when the Prime Minister of India visits Mauritius in a few days?

**The Prime Minister:** India has always been supporting us. I will certainly raise the matter with it. But I have, throughout my political career, whenever I have been meeting Heads of Government of other countries, been raising this matter and have been asking for their support at the international level.

**Mr Bérenger:** If I can move on to Tromelin, Madam Speaker, it is indeed in 2010, on 07 June that the agreement for *co-gestion* was agreed upon by the two

sides, Mauritius and France, and when the former Prime Minister was in Paris on 03 October 2014, being given that the agreement for *co-gestion* was for five years initially and more than four years after, it had still not been ratified by the French side, we are informed that the former Prime Minister asked President Hollande, in a way, in English, that enough is enough, and that Mauritius no longer wishes to go forward with the *co-gestion* agreement and we wish to discuss the sovereignty issue over Tromelin. Has there been any reaction on that part of my question, that is, discussions on the sovereignty issue, either in Paris or here with the French *Ambassadeur* in Mauritius on the sovereignty issue?

**The Prime Minister:** Well, as I have said, the former Prime Minister made his position clear. We were definitely taken for a ride and he has been waiting for the reaction of the President of France, but there has been so far no reaction and, unfortunately, since we are here now in Government, we have had no time to take up the matter with the President of France.

**Mr Bérenger:** I heard very strong, I would not say undiplomatic, but strong words, from the Rt. hon. Prime Minister that we were being taken for a ride by a friendly country, France.

*(Interruptions)*

I take note! My point is the following: being given that France, like India, is a friendly country, are we prepared in case we see no reaction from the French side, no move to discuss sovereignty, will we consider asking this friendly country which France is, to agree to arbitration before the International Court of Justice or any other Court for that matter but, obviously, the International Court of Justice is there for that kind of issue. If both sides agree, are we prepared to try and convince France to go for arbitration before the International Court of Justice?

**The Prime Minister:** We have not yet discussed at Government level what stand we are going to take. As soon as we are ready we will do the needful and we will approach the President.

**Mr Bérenger:** If I can have a last question before others coming, if they wish, Madam Speaker. For years, Madagascar and other friendly, brotherly countries next door to us, had been claiming sovereignty over all of the so-called *Iles Éparses*, including Tromelin - for years - and then it was in 1978 that I discussed the issue with then President Ratsiraka in Antanarivo and Madagascar agreed to stop claiming sovereignty, that Mauritius only would claim sovereignty over Tromelin and we would support their claim on the other *Iles Éparses*, and since then, the next year, 1979, Madagascar moved a resolution in the United Nations General Assembly, claiming sovereignty yet obtaining the support of the General Assembly for its sovereignty over the *Iles Éparses* and excluded Tromelin as we had agreed, and since then, on every occasion, Madagascar has kept that stand, but there is a new President in Madagascar and, here, now, Sir Aneerood Jugnauth as Prime Minister. Can I know whether we have taken the first opportunity or we will take the first opportunity to, in a friendly way, obtain from our Malagasy brothers and sisters that this stand is reconfirmed?

**The Prime Minister:** We certainly congratulate the Leader of the Opposition for having achieved that with Madagascar and we are very grateful to Madagascar for the stand that it has taken. We will certainly do what the Leader of the Opposition is suggesting, we will take it seriously.

**Mr Ganoo:** Madam Speaker, I heard the Rt. hon. Prime Minister mentioning in his answer when answering to part (b) of the question, that the hon. Leader of the Opposition will be consulted in due time. This is very positive and

we appreciate that. Can I ask the Rt. hon. Prime Minister since this is an issue of national importance which concerns the whole nation and all the political parties in this House, shouldn't it be the case that, to transcend political considerations, wider consultations, more meaningful consultations – *une concertation plus large* – should take place between all political parties in this House and perhaps structure these consultations in the form of an All-Party Parliamentary group or Committee which exists in the UK, for example, and this All-Party Committee, which should be across political parties, be chaired by somebody who has sole interest on that issue and who has experience over that issue, like hon. Minister Bodha or the hon. Leader of the Opposition.

*(Interruptions)*

**Madam Speaker:** Order! Can the hon. Members please allow the Rt. hon. Prime Minister to reply?

**The Prime Minister:** This question of Chagos Archipelago, Tromelin, is of national interest and in the interest of what we want to achieve, we want to have as wide consultation as possible but, at the same time, we have to be careful not to let things leak out that may cause prejudice beforehand to what we intend to do. Therefore, we have to take some care and precaution.

**Mr Bérenger:** One last question, with your permission, Madam Speaker. Being given that time is of the essence, 2016 is a turning point, my information Madam Speaker - and I don't know if the hon. Prime Minister has the same information - is that discussions between Washington and London on this agreement that will be renewed automatically for 20 years if there are no changes suggested by either side, have already started. Can I, therefore, insist that the Rt. hon. Prime Minister should, as soon as possible, take up the issue with both the

Prime Minister of the UK, although elections are *derrière la porte*, and the President of the United States because time is of the essence?

**The Prime Minister:** I have already taken this matter even in the past with the President of the United States of America and the position of the United States has always been that they have nothing to do with Mauritius. They have dealt with UK. There is a list between United Kingdom and United States and, therefore, they always recommended us to go and deal with UK; and even with UK, I have been raising this matter on all occasions whenever I was Prime Minister, I was meeting the Prime Minister. The Prime Minister of UK made it always very clear that the day it is no longer required for the defence of the West, the Chagos Archipelago would be returned to Mauritius and full sovereignty will come back to Mauritius. And we are made to understand always that the threat to the West was the Soviet Union, the cold war, but cold war does not exist today. Today, what we hear now? This information that they are already negotiating, I have it also, I know. But can we stop them? Have we got the means to stop them? And you know, this is a matter with the UK, a question of might, might is right. They feel they are in a very strong position, they don't care to hoot what we say, but that won't prevent us, of course, to approach them to do our best and I hope they will come to reason.

**Madam Speaker:** No more questions? Time is over!

## MOTIONS

### SUSPENSION OF S.O. 10 (2)

**The Prime Minister:** Madam Speaker, I move that all the business on today's Order Paper be exempted from the provisions of paragraph (2) of Standing Order 10.

**The Deputy Prime Minister rose and seconded.**

*Question put and agreed to.*