

ORAL ANSWER TO QUESTION

CHAGOS ARCHIPELAGO AND TROMELIN ISLAND – MAURITIUS SOVEREIGNTY

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

- (a) if he has had discussions thereon at the recent Commonwealth and Copenhagen Summits with British Prime Minister, Mr Gordon Brown and French President, Mr Nicolas Sarkozy;
- (b) the progress, if any, that has been achieved at the United Kingdom-Mauritius Senior Officials meetings;
- (c) if he has raised the Chagos issue with United States President, Mr Barack Obama, the Secretary of State, Mrs Hillary Clinton and the Secretary of Defence, Michael Gates; and
- (c) where matters stand concerning the *co-gestion* of Tromelin island.

The Prime Minister: Mr Speaker, Sir, ever since I assumed office, I have spared no effort to assert our legitimate sovereignty over the Chagos Archipelago and Tromelin in the international fora.

As the House is aware, Heads of State and Government attending the two-day Copenhagen Summit focused on clinching an Accord to address the adverse effects of climate change. There was, therefore, no scope for any bilateral meetings with either the British Prime Minister or the French President. However, I did have a brief meeting with the US President, Mr Barack Obama, and evoked with him the issue of the Chagos Archipelago and I have requested

for a meeting to discuss the future use of Diego Garcia as a military base and the whole question of resettlement on the other islands of the Archipelago. I also reiterated the same request to the Secretary of State, Mrs Hillary Clinton.

Mr Speaker Sir, the Commonwealth Heads of Government Meeting held in Trinidad and Tobago in November last, I had a meeting with the British Prime Minister and raised with him the following issues -

- (a) the sovereignty of Mauritius over the Chagos Archipelago, and
- (b) the UK proposal for a Marine Protected Area around the Archipelago.

I stressed that, over and above ongoing bilateral talks, it was imperative that the issue of sovereignty continues to be addressed, including, especially, in the context of any proposed Marine Protected Area, the issue of resettlement of the Islands and Mauritian fishing rights. It was my clear understanding, Mr Speaker, Sir, that at the end of the meeting with the British Prime Minister that the British Government would do nothing to undermine the resettlement and the sovereignty of Mauritius over the Chagos Archipelago and that the Marine Protected Area project would be put on hold and would only be discussed during the bilateral talks between Mauritius and the UK. I should also point out that in a subsequent meeting which he had with the British Foreign Minister, Mr David Miliband, our Minister of Foreign Affairs, hon. Boolell, reiterated the same position vigorously.

With regard to talks with President Sarkozy, I wish to state that no discussions were held with him at the Commonwealth Heads of Government Meeting as the purpose of his presence there was to sensitise delegations present regarding the climate change issues that were to be raised at the Copenhagen Summit and he left shortly afterwards.

With regard to part (b) of the question, two rounds of talks at Senior Officials' level were held in January 2009 in London and 21 July 2009 in Mauritius. Late Sir Ian Brownlie, Q.C. participated in the London talks. During the first round of talks both UK and Mauritius expressed their views on sovereignty. There were also mutual discussion of fishing rights, environmental concerns, the continental shelf, future visits to the Territory by the Chagossians and respective policies towards resettlement. The two delegations agreed the need to maintain a dialogue on a range of issues relating to the Territory and to meet again at a date to be agreed.

The second round of talks focused on the issues of sovereignty, resettlement, EEZ Delimitation and Extended Continental Shelf, Fishing rights as well as the UK proposal for a Marine Protected Area.

I am laying on the table of the National Assembly a copy of the Joint Communiqué released at each of these meetings.

The third round of talks that had been tentatively scheduled to be held in January 2010 has been postponed at our request as, contrary to our understanding, the consultations on the issue of the Marine Protected Area have been initiated and are being pursued by the UK Government outside the bilateral platform which the rounds of talks between Senior Officials of the two Governments provide.

Mr Speaker, Sir, while we are hopeful that meaningful and purposeful bilateral talks would soon resume, we are not losing sight of the other options that may be open to us.

As regards part (c) of the question, I wish to inform the House that, in the margins of the 64th Session of the UN General Assembly in New York last September, I drew the attention of US President, Barack Obama, to the issue of sovereignty over the Chagos Archipelago. I also raised the issue with US Secretary of State, Hillary Clinton.

I have not yet had the opportunity to meet US Secretary of Defence, Robert Michael Gates.

In my statement to the 64th Session of the UN General Assembly, as I have consistently done on former occasions before the Assembly, I reaffirmed the sovereignty of Mauritius over the Chagos Archipelago, including Diego Garcia. I recalled what President Obama had said in his opening statement at that Session and I strongly supported the view that there was a need to demonstrate that international law is not an empty promise.

Mr Speaker, Sir, regarding Tromelin, the House will recall that the co-management of the Island was first mooted at the IOC Summit in 1999 which was chaired by former French

President, Jacques Chirac, and which I attended. This issue gathered a new momentum only after my meeting with President Chirac in 2006. Subsequently, following a second official visit to France in June 2008 and the working session I had with President Sarkozy, high-level officials from the Governments of Mauritius and France have, since December 2008, been engaged in discussions on co-management of Tromelin, following a suggestion which I made to President Sarkozy in Paris in June 2008.

Two rounds of discussions have since taken place. During the first round which took place in December 2008 in Mauritius, the Mauritian side had proposed that, without prejudice to the respective positions of the two Governments on the issue of sovereignty, a high level “*Comité de Cogestion*” for the management of Tromelin Island and its surrounding waters be established and that a “*Comité de Cogestion*” be formally set up by way of a Memorandum of Understanding between Mauritius and France. The French side studied the proposal and then subscribed to this proposal. The Mauritian delegation at that meeting was chaired by the Secretary to Cabinet and Head of the Civil Service and assisted by late Sir Ian Brownlie, Q.C., who was present in Mauritius.

The second round of discussions was held on 27 and 28 October 2009 in Reunion Island. A draft Agreement, which had initially been prepared by and was subsequently cleared with the late Sir Ian Brownlie, Q.C., was discussed at the meeting and finalised for consideration by the two Governments.

I am tabling a copy of the Joint Communiqué issued at the end of the meeting.

The draft Agreement provides for the establishment of a regime of economic, scientific and environmental co-management relating to Tromelin Island as well as its territorial sea and exclusive economic zone (defined in the draft Agreement as its “surrounding maritime areas” or “*espaces maritimes environnants*”). The co-management regime will initially cover –

- (i) protection of the marine environment, conservation and promotion of terrestrial and marine biodiversity;
- (ii) fisheries;

- (iii) monitoring of natural phenomena in the region, and
- (iv) archaeological research.

The draft Agreement provides for the establishment of a Co-Management Committee composed of an equal number of members from Mauritius and France, that will meet at least once a year, alternately in Mauritius and in France. The responsibilities of the Committee will, *inter alia*, be to work out the modalities for the implementation of the co-management regime.

The draft Agreement further stipulates that Mauritius and France will jointly come up with a blueprint to define measures for the management of the ecosystem of the surrounding maritime areas of Tromelin, in line with Part XII of the United Nations Convention on the Law of the Sea. Cooperation between Mauritius and France in the field of monitoring, control and surveillance of illegal fishing will be strengthened, and the parties will cause scientific assessments of the fish stocks in the surrounding maritime areas of Tromelin to be undertaken for that purpose.

Article 2 of the draft Agreement aims at ensuring that the conclusion of an Agreement on co-management of Tromelin will not be prejudicial to the sovereignty of Mauritius over Tromelin. It is to be noted that during the second meeting, the Mauritius delegation reiterated the sovereignty of Mauritius over Tromelin and impressed on the need for the sovereignty issue to be resolved in the near future. I wish to inform the House that the proposed Agreement is meant for an initial period of five years and can be terminated by giving six months notice within that period. It is renewable for one further term of five years.

The French side proposed draft implementing agreements on the following areas for consideration by the relevant Mauritian authorities –

- (a) sustainable management of fisheries;
- (b) protection of the environment, and
- (c) archaeological research.

It was agreed that another meeting would be held in Mauritius, to examine and finalise the draft implementing agreements proposed by the French side.

The third round of discussions is scheduled to be held in Mauritius at the beginning of February of this year. We are in the process of finalising our views and counter-proposals on the draft implementing agreements proposed at the last round. These will be forwarded to the French side prior to the next round. I wish to inform the House that I have, very recently, had exchanges of correspondences with President Sarkozy on many bilateral issues, including Tromelin and I am pleased to announce to the House that I intend to visit Tromelin this year.

Mr Speaker, Sir, let me seize this opportunity to pay tribute to late Sir Ian Brownlie, Q.C., who, as the House will be aware, died following a car accident in Egypt earlier this year. Sir Ian Brownlie, Q.C., has been acting as Legal Consultant to the Government of Mauritius since my first term and has always tendered sound, objective legal advice to the Government as and when required. Over the years, I had developed a close personal relationship with him. In fact, my last meeting with him took place shortly before the CHOGM Summit. I understand the hon. Leader of the Opposition, in his capacity as Prime Minister, also had the opportunity of consulting Sir Ian Brownlie, Q.C., and I have no doubt that he will join me in this public tribute which Sir Ian Brownlie, Q.C., so richly deserves.

Mr Bérenger: If you will allow me to express our sorrow as well at the departure of Sir Brownlie who was a fantastic legal expert, who was appointed by the now Prime Minister when he was Prime Minister, confirmed by me as Prime Minister and reconfirmed by the Prime Minister, he has done a lot to Mauritius. I think we should express our solidarity and sympathy to his family.

(Interruptions)

His daughter has also died, his wife is still in hospital.

Mr Speaker, Sir, can I start with the marine protected area issue? I heard the hon. Prime Minister say that he understood from Prime Minister Gordon Brown that it would be put on hold - frozen - and that our Minister of Foreign Affairs had taken the issue with the UK Foreign

Secretary, Mr Miliband. Can I know whether Mr Miliband confirmed that the project would be put on hold or refrained from doing so?

The Prime Minister: Mr Speaker, Sir, the Foreign Secretary, Mr Miliband, also replaced the Prime Minister, Gordon Brown, when he had to leave the Summit after some time and he apologised to me. He said to me that it was not an idea of offending anyone in Mauritius, all he was interested in was the protection of the marine park and that's what he said to me. After the hon. Minister of Foreign Affairs had talked to him - in fact, he was a bit resentful the way he was addressed in the sense that our Foreign Minister was very forceful to him that we will not accept what is happening - he knew perfectly well what was going on and I presume, Mr Speaker, Sir, that the hon. Gordon Brown must have spoken to him afterwards, after our meeting and, later on, when I met him he apologised for having done this, but he said: 'you know my idea was just for the protection of the marine park and nothing else'.

Mr Bérenger: Can I ask the hon. Prime Minister what is our stand exactly? We asked for a freeze, that it would be put on hold, until when, until what happens? Can I know from the hon. Prime Minister, since this so-called consultative process is ending, what do we do if London goes ahead with the project?

The Prime Minister: First of all, let me say, Mr Speaker, Sir, that I told the Rt. hon. Prime Minister - and I believe the hon. Minister of Foreign Affairs also told his counterpart - that, first of all, the consultation document itself did not accurately reflect the position of Mauritius. As everybody knows, who would be against environmental protection? As Sir Ian Brownlie said to me, Mr Speaker, Sir, who would be against motherhood? Everybody is for environmental protection.

But we did stress in that consultation document - if we look at the whole document itself - that we need to examine the implications through the mechanism already set up for the bilateral talks because they were meant to discuss all issues concerning the Chagos and this is the forum where it should be discussed, not through a different forum, certainly not through the BIOT because we do not recognise BIOT, Mr Speaker, Sir. I said to the hon. Prime Minister that it is like putting the cart before the ox because the marine protection area starts with the presumption that there is no prospect for development since there are no people there and that is exactly what

should not have been done. We know how shamefully the people from the Chagos have been removed from their homes illegally and, therefore, I said we need a framework based on law and human rights and that we must re-establish the *status quo* which we would have had if the decolonisation process had been carried out properly. In fact, I did not have to go further, but I was saying that all this was done in contradiction to two resolutions of the UN. One in 1960 and one 1965; the one in 1960 prohibits these colonial powers from dismembering colonial territories prior to independence and the one in 1965 specifically mentioned the territory of Mauritius was for the use of a base. And that is what I said to him. In fact, it is a completely incredible reversal of values that start with a marine park and forget the people who were there in the first place and we do not talk about resettlement, about development and all this. This is what basically we said. I don't know what is going to happen next because London knows our views on the matter.

Mr Bérenger: The hon. Prime Minister has just said that we did not recognise the British Ocean Indian Territory (BIOT). Has he had the opportunity – I raised that with him last Thursday - to check whether it is not the case that at those UK/Mauritius Senior Officials Meetings, the UK delegation is headed by the Commissioner for the BIOT? This is my information. Is this the case? If it is the case, it is totally wrong.

The Prime Minister: In fact, the BIOT Commissioner was there and we did object. We sent a letter to say that we do not recognise BIOT and we then took legal advice from Sir Brownlie as to what we should do. He was of the view that if he is part of the delegation, there is not much we can do. And then London said afterwards that he is part of the delegation as an official of the Foreign and Commonwealth Office in charge of overseas territories and not as BIOT. The Leader of the Opposition will see in the documents that I will lay on the Table of the Assembly that in the first annex they mentioned him as the BIOT Commissioner and, in the second one, they removed BIOT.

Mr Bérenger: Since the hon. Prime Minister has mentioned documents that will be laid, can I request that copies of the two *notes verbales* which have been exchanged, which we have sent to London as well as the Minutes of Proceedings of those UK/Mauritius Senior Officials Meetings be placed in the Library?

The Prime Minister: It can either be placed in the Library or I can let the hon. Leader of the Opposition have it. My only worry is that if people know what are our strategies and our views, then it gets leaked out and with the consequences. But I will certainly let the hon. Leader of the Opposition know it.

Mr Bérenger: Has the hon. Prime Minister looked into reports that London is also envisaging to ask the Chagos Archipelago to be placed on the UNESCO World Heritage Sites list?

The Prime Minister: I am not aware that they are asking it, but I did say to them that they cannot treat the Chagosians as a separate entity, they are part of Mauritius. Chagos is part of the Mauritian territory and that, therefore, we will not accept a limitation of the sovereignty title of Mauritius.

Mr Bérenger: Can I move on to the sovereignty issue itself, Mr Speaker, Sir? In 2002, as the Prime Minister is aware, we managed to get London to agree to giving us back all the islands except Diego Garcia on whose we would agree to disagree. We would keep on claiming sovereignty, whether they would return all the islands, so-called outer islands. The British tried to convince Washington, the then Prime Minister, Sir Anerood Jugnauth, after Jack Straw had agreed to our proposal, wrote to President Bush, we got a very positive response from Mrs Condoleezza Rice. I took up the issue as Prime Minister with President Bush. I heard the hon. Prime Minister say that we are keeping other options open. Does not the hon. Prime Minister believe that we should, without losing more time, get that initiative going again, work with London, with President Obama and his top officials on this proposal that they should return back all the islands, so-called outer islands, and we would agree to disagree on Diego Garcia?

The Prime Minister: Our view, Mr Speaker, Sir, is that we should ask for the integral return of the whole territory of Mauritius, that is, the other islands including Diego Garcia. Both the previous Government and the actual Government - even before in my first term, I did say that we understand the issue of the base with what is happening in Afghanistan, in Irak and now in Yemen. We understand what is happening in the base, but the important thing for us is that they return our territories to us and then we will discuss about whether they will have a base. We

understand the position about the base and we also understand the position on war on terrorism and that there is a need for a base.

Mr Bérenger: On this very delicate issue of our sovereignty over the Chagos Archipelago, can I ask the hon. Prime Minister whether he is aware that the National Economic and Social Council of Mauritius prepared a document recently which was submitted to the African Peer Review Mechanism. They have prepared a Peer Review Mechanism on Mauritius and our own National Economic and Social Council, according to my information, produced a so-called self-assessment report to the African Peer Review Mechanism and in that the Chagos Archipelago is excluded from the territory of Mauritius and placed under UK sovereignty. Now this National Economic and Social Council is funded by the Government. The Prime Minister's Office and the Foreign Affairs are represented on its Board. Is the Prime Minister aware of that? If yes, what has been done and, if not, what is going to be done?

The Prime Minister: In fact, very often, that is the problem, Mr Speaker, Sir, when other people get involved in things they do not understand. Let me put it bluntly as it should be put! There are so many experts in this country that I wonder sometimes. The Minister of Foreign Affairs has drawn their attention to that. They are funded by Government, but they do not represent the voice of Government. It is through the Foreign Affairs and myself. We have drawn their attention to that.

Mr Bérenger: Mr Speaker, Sir, since 2002, it is clear that we must convince Washington to return those islands. Of course, to return the whole of the Chagos Archipelago *mais, en attendant*, as a step forward, to return all the so-called outer islands. UK had already said yes under Tony Blair. Now, under Mr Gordon Brown, I am sure the attitude is even more positive. Will not the Prime Minister agree with me, therefore, that we should concentrate on Washington? President Obama, his Foreign Secretary, his Secretary for Foreign Affairs and his Defence Secretary, we should convince them now that the hawks of President Bush's days are gone.

The Prime Minister: In fact, that is why I had a brief meeting with President Obama and a bit of a longer meeting with the Secretary of State, Hillary Clinton, whom I know

personally. This is exactly what we have proposed, that we need to have a meeting and to settle the issue. The response has been that they will look at it and tell us.

Mr Bérenger: The hon. Prime Minister mentioned the base issue earlier on. I understand that we do not have a quarrel with the existence of a base. We claim sovereignty, but we do not have a quarrel with the existence of a base at Diego Garcia. But I also heard the hon. Prime Minister say that he has a sort of a meeting with President Obama to discuss what happens at the military use of the base. And here the press has reported that the Foreign Minister on hearing that submarines carrying nuclear missiles would be stationed at Diego Garcia was going to summon the US *Chargé d’Affaires* and the UK High Commissioner. Can I know what is the exact stand that we have on the base and whether the *Chargé d’Affaires* and the High Commissioner have been summoned?

The Prime Minister: Mr Speaker, Sir, I believe the Foreign Minister did speak to both the British High Commissioner and the US *Chargé d’Affaires*. *Une note verbale* was addressed by the Ministry of Foreign Affairs to both the US Embassy and the British High Commission on 06 January, if I am not mistaken, of this year. I understand the point that hon. Leader of the Opposition is making, but we did take legal advice before issuing the *note verbale*. We are a signatory of what is called the Pelindaba Treaty which is an African nuclear weapon free zone treaty and we have to comply with this treaty, Mr Speaker, Sir.

Mr Bérenger: I would never have thought I would hear a thing like that. Let me move on to Tromelin. The hon. Prime Minister mentioned repeatedly a draft Agreement on *co-gestion* of Tromelin Island. Is it still a draft and what next? When will it stop being a draft?

The Prime Minister: No. We have had discussions and we have drafts being looked at by both sides and now we are in the process of finalising the final draft, so to speak, and this is what we are looking at. If we have other views on it we will send it to Paris and they will respond.

Mr Bérenger: I take it that in the final draft that is being prepared there will be a rider, a strong rider making it clear that Mauritius maintains its sovereignty over the Tromelin Island, although agreeing to *régime de co-gestion*.

The Prime Minister: In all our discussions, that is the first thing that we say, Mr Speaker, Sir.

Mr Bérenger: I am right in saying also that the *co-gestion* applies not only to the small island of Tromelin, but to the Exclusive Economic Zone that it generates.

The Prime Minister: I think I mentioned, Mr Speaker, Sir, that they defined the EEZ as the areas around the Islands.

Mr Bérenger: On 31 March of last year the hon. Prime Minister informed the House that Paris had agreed to Mauritius issuing fishing licenses in the Exclusive Economic Zone of Tromelin. Has this been confirmed and is it being exercised?

The Prime Minister: I am not aware whether it is actually being exercised now, Mr Speaker, Sir, but that is part of the agreement that will be signed.

Mr Bérenger: The hon. Prime Minister, when talking of Chagos, said that we are keeping other options open. In the case of Tromelin also there are other options like the proposal by Sir Harold Walter - good number of years back - that we should submit this issue to an international arbitration. Are we keeping that option open also?

The Prime Minister: I would rather not say what options we are keeping open. The hon. Leader of the Opposition knows himself that last time when we mentioned the options what the British Government did after that. I think it is better that we don't mention the options and we work towards it.

Mr Speaker: Time is over!