



**REPUBLIC OF NAMIBIA**

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**OFFICE OF THE DEPUTY PRIME MINISTER AND MINISTER OF  
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Registrar  
International Court of Justice Peace Palace  
Carnegieplein 2  
2517 KJ  
**The Hague**  
Netherlands

**LEGAL CONSEQUENCES OF THE SEPARATION OF THE CHAGOS  
ARCHIPELAGO FROM MAURITIUS IN 1965  
(REQUEST FOR ADVISORY OPINION)**

Excellency,

With reference to the above-mentioned proceedings, I have the honour to submit a written statement of the **Republic of Namibia** in accordance with the timetable set by the Court.

It is recalled that On 22 June 2017, the UN General Assembly adopted Resolution 71/292, requesting the ICJ to give an advisory opinion on two questions:

- (1) 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?

- (2) 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?

### **Jurisdiction and admissibility**

The Court has jurisdiction to answer the questions that have been referred to it, and it should exercise its discretion to do so.

The questions have been duly referred by the UNGA, which is legally authorised to make such a referral. Resolution 71/292 was adopted by the required majority of States present and voting under rule 85 of the General Assembly Rules of Procedure (94 votes to 15). The two questions posed are of a legal character and in line with the ICJ Statute (Art.65 (1) ICJ Statute), they are clear and precise, and the related factual issues are appropriate for determination by the Court.

Moreover:

- a. The questions addressed to the Court fall within the competence of the UNGA, which has been dealing with the decolonisation of Mauritius as part of its decolonisation mandate and pursuant to Resolution 1514 (XV) (1960).
- b. The questions addressed to the Court are located in "a broader frame of reference than the settlement of a particular dispute and embrace other elements"; these elements "are not confined to the past but are also directed to the present and the future", and are "directly of concern to the United Nations." [Western Sahara Advisory Opinion, para. 38; Wall Advisory Opinion, para. 49].
- c. The Resolution raises questions of a broad nature which are of concern to the entire international community, requiring the Court to apply the UNGA's resolutions on decolonisation and other relevant international obligations, to assist the UNGA in fulfilling its decolonisation mandate.
- d. The international community's concern about the issues raised by the UNGA is reflected in a number of resolutions adopted by international organisations, including the Organisation of African Unity/African Union, Non-Aligned Movement and Group of 77 and China.

### Question 1

The process of decolonisation was not lawfully completed when Mauritius was granted independence in 1968.

This is as a result of the unilateral detachment by the administering power of the Chagos Archipelago from Mauritius on 8 November 1965, which was carried out in secret.

In this regard:

- a. The right of self-determination was firmly established at the relevant time - the mid-1960s - including the work of the United Nations in supervising the process of decolonisation.
- b. Self-determination required the free and genuine consent of the population concerned - as expressed through referenda/plebiscites - so as to determine the future of the territory.
- c. Self-determination should not be impeded by the arbitrary partition or division of a territory in the period before independence.
- d. The Chagos Archipelago was excised from the territory of Mauritius by the administering power, without any consultation with the people of Mauritius.
- e. Dismembering Mauritius' territory prior to independence prevented Mauritius from the effective exercise in 1968 of its right of self-determination and violated Mauritius' associated right of territorial integrity.
- f. Accordingly, the decolonisation of Mauritius was not lawfully completed in 1968, and remains incomplete. An internationally wrongful situation continues to this day.

**Question 2**

As regards the consequences, international law requires that the process of decolonization of Mauritius be completed immediately and without delay.

This is necessary to enable Mauritius to exercise sovereignty over the totality of its territory, and to be able to implement a programme for the resettlement in the Chagos Archipelago of its nationals, in particular those of Chagossian origin.

The decolonisation process shall be promptly completed, under the supervision of the UN.

States have an obligation to (a) refrain from assisting the unlawful conduct, through inter alia not recognizing, benefiting, or rendering assistance to the illegal situation; and (b) assist the UN to bring the unlawful conduct to an immediate end.

The **Republic of Namibia** reserves its right to supplement this written statement in written comments on the written statements submitted by other States, in accordance with the timetable set by the Court, and to participate in any hearings as set by the Court in due course.

Please accept, Excellency, the assurances of my highest consideration.



**Netumbo Nandi-Ndaitwah, MP  
DEPUTY PRIME MINISTER AND  
MINISTER OF INTERNATIONAL RELATIONS AND COOPERATION**

