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INTERNATIONAL COURT OF JUSTICE

**LEGAL CONSEQUENCES OF THE SEPARATION OF THE CHAGOS ARCHIPELAGO
FROM MAURITIUS IN 1965**

REQUEST FOR AN ADVISORY OPINION

WRITTEN STATEMENT OF THE REPUBLIC OF MADAGASCAR

28 February 2018

[Translation by the Registry]

Re: Implementation of resolution 71/292 of the United Nations General Assembly dated 22 June 2017 regarding the request for an advisory opinion on the “legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965”.

Ref: Order of the International Court of Justice dated 14 July 2017 (General List No. 169)

I have the honour to inform you that, as a Member State of the African Union and the United Nations, my country, the Republic of Madagascar, received a Note Verbale No. BC/A/1341/12.17, dated 6 December 2017, whereby the Office of the Chairperson of the Commission of the African Union notified us of the developments in the above-mentioned case.

In this connection, allow me to communicate to you below the views of the Government of the Republic of Madagascar, in response to the two questions, (a) and (b), mentioned in the Order referred to above.

“(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?”

With regard to this question, Madagascar endorses the provisions in paragraphs 2 and 3 of resolution Assembly/AU/Res.1 (XXVIII), adopted by the Assembly of the Union at the close of its 28th Ordinary Session held in Addis Ababa on 30 and 31 January 2017. It does so without prejudice to the provisions in paragraphs 1, 4, 5, 6 and 7.

Paragraph 2 reads as follows:

“Having regard to the unlawful excision of the Chagos Archipelago, including Diego Garcia, from the territory of Mauritius by the United Kingdom, the former colonial power, prior to the independence of Mauritius, in violation of international law and UN Resolutions 1514 (XV) of 14 December 1960 and 2066 (XX) of 16 December 1965 which prohibit colonial powers from dismembering colonial territories prior to granting independence, as well as UN Resolutions 2232 (XXI) of 20 December 1966 and 2357 (XXII) of 19 December 1967”.

Continuing on from paragraph 2, paragraph 3 reaffirms that “the Chagos Archipelago, including Diego Garcia, forms an integral part of the territory of the Republic of Mauritius and that the decolonization of the Republic of Mauritius will not be complete until it is able to exercise its full sovereignty over the Chagos Archipelago”.

“(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?”

With regard to this question, Madagascar is of the view that the continued administration of the Chagos Archipelago by the United Kingdom of Great Britain and Northern Ireland is not likely to facilitate the process of diplomatic negotiations into which, pursuant to the relevant provisions of the 1982 United Nations Convention on the Law of the Sea, island States with opposite coasts in the Indian Ocean region are required to enter for the purposes of delimitating their maritime boundaries.

Thus, the Madagascan Government recommends that the Advisory Opinion given by the Court on 21 June 1971 regarding the *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)* should be applied in this matter by analogy.

It should be recalled here that the Court expressed the opinion that the continued presence of South Africa in Namibia was illegal and that South Africa was under obligation to withdraw its administration immediately.
