

393-18-OI

Mr Registrar

On behalf of the Republic of Guatemala, it is an honour to address you within the context of the procedures of the request for an advisory opinion on the Legal consequences of the separation of the Chagos Archipelago in 1965 of Mauritius, and refer to the question of H.E. Judge Cançado Trinidad, namely:

"As recalled in paragraph (a) of the U.N. General Assembly's request for an Advisory Opinion of the International Court of justice (General Assembly resolution 71/292 of 22.06.2017), the General Assembly refers to obligations enshrined into successive pertinent resolutions of its own, as from 1960, namely: General Assembly resolutions 1514(XV) of 14.12.1960, 2066 (XX) of 16.12.1965, 2232 (XXI) of 20.12.1966, and 2357 (XXII) of 19.12.1967.

In the course of the present oral advisory proceedings, references were often made to such resolutions by several delegations of participants.

In your understanding, what are the legal consequences ensuing from the formation of customary international law, with the significant presence of opinio juris communis, for ensuring compliance with the obligations stated in those General Assembly resolutions?"

In that regard, the Republic of Guatemala would like firstly to thank the Court and Judge Cançado Trinidad for the question and submits the following reply:

- A. The Republic of Guatemala would like to point out that it is its understanding, the formation of customary international law comprises not only opinion juris but also generalised practice.*
- B. At the same time, as confirmed by the Court and the International Law Commission, the United Nations Resolutions do not create norms of International Customary Law, albeit they may give evidence of the said.*
- C. Whilst certain norms may crystallize into customary international law "instantly", some others go through longer processes (not necessarily inveterata consuetudo) during which, obligations may or may not be derived from the said norm. That matter ought to be assessed on a case by case basis and rather carefully, particularly when practice is yet to be generalised*

H.E.

Mr Philippe Couvreur

Registrar

International Court of Justice

Peace Palace

The Hague, The Netherlands

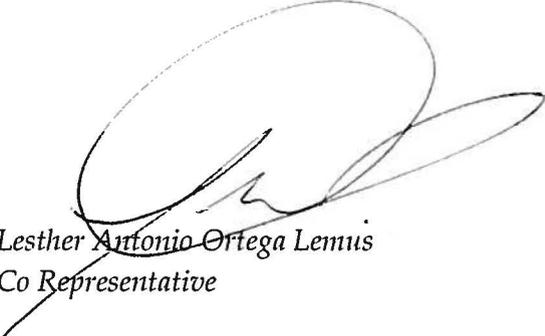
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- D. *In the case of the referred United Nations Resolutions, they all derive from U.N. General Assembly Resolution 1514(XV) and the said, constituted back then a statement of what was happening in practice through the self-determination-driven process of decolonization the world witnessed from 1950's and onwards. As such, Resolution 1514 cannot be construed as progressive development of international law, but a codification resolution if anything.*
- E. *With regards to Paragraph 6 of Resolution 1514(XV) the Republic of Guatemala has clarified its position abundantly both in its written observations as in its intervention during the oral proceedings of the Request for an Advisory Opinion, as it did during the Western Sahara Opinion too.*
- F. *The General Assembly Resolutions 2066 (XX), 2232(XXI) and 2357 (XXII) utilise language sufficiently clear in their operative paragraphs 2 and 4, as to the obligations they refer to, the contraventions they denounce, and the level of compliance the General Assembly requested from the Administering Powers.*
- G. *The Republic of Guatemala reserves its position on any question concerning the substance of the principles set out in these resolutions, as well as its right to further expound on the above on the basis of the replies filed by other participants.*

The Republic of Guatemala remains at the Court's disposal for any further matters related to the Request for an Advisory Opinion at hand.

I take this opportunity to renew to you Mr Registrar, the assurances of the Republic of Guatemala's and my own assurances of our highest esteem and consideration.

The Hague, Monday 10th of September, 2018


Lester Antonio Ortega Lemus
Co Representative