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10th June 2015

The Right Hon Sir Anerood JUGNAUTH,
Prime Minister, Minister of Defence, Home Affairs, Minister for Rodrigues and NDU,
New Treasury Bldg,
Intendance Street,
Port Louis

Dear Sir,

RE: Call for a formal State Visit to Diego Garcia and the whole of Chagos

LALIT is writing to your Government for the third time since your election on 10 December 2014. We are now urging you, as a conclusion to this letter, to organize a State visit to the Chagos. But it is important that we recapitulate our previous two letters to your Government, so as to make clearer our stand, given that you have made no public rectification on your now-wavering line of action. We will also be re-iterating our support for the State to seek an Opinion at the International Court of Justice (ICJ). And we will explain how our proposals, although not new, now become more evident and more pressing after the UNCLOS Tribunal judgements in March.

On 22 December 2014, we wrote to Minister of Foreign Affairs, Hon Etienne Sinatambou, to appreciate that, at long last, political parties that are in Government have taken a firm stand in favour of putting a case before the ICJ at The Hague on the issue of the re-unification of Mauritius through the completion of Mauritian de-colonization by means of the re-inclusion of Diego Garcia and the whole of Chagos within the Republic. This huge step means putting into practice what is already in the Constitution. We presume the new Government's intention is to request an "advisory opinion", given that the UK does not accept binding jurisdiction in regard to any present (or even former) Commonwealth member or ex-colony. We support this, the *Lalyans Lepep* pre-election stand.

However, on 6 February 2015, LALIT had to write an open letter to you, as Prime Minister, calling for a public clarification on your newly elected Government's strategy on Chagos, which seems in contradiction with your pre-election clear public commitment that, should Lalyans Lepep come to power, Mauritius will go to the International Court of Justice on the issue of Chagos. We also recalled the Cabinet Decision of 9 January 2015 to stand by the previous Government's case on the illegality of the "Marine Protected Area". And we were thus most concerned at the position taken by your Government as enunciated in the 27 January President's Speech, and called for an immediate clarification. The Speech reads: "280. *Government is much concerned at the lack of progress made to date to resolve the long-standing dispute over the Chagos Archipelago. Every effort will be made to **speed up diplomatic talks with the UK and US** Governments and actively seek the support of the international community in this respect.*" (Our emphasis.)

Now we ask how you, as Mauritian Government, can just ignore the clear findings of UNCLOS March 2015 to the effect that the UK Government has acted in bad faith, by leaving this stand to "*speed up diplomatic talks*" unclarified? Surely your Government must now act, in the light of the new political reality after such an important Judgment?

The Tribunal gave a final award, subject as you know to no appeal, and ruled that the creation by the British of the *Marine Protected Area* violated international law.

In addition, the two judges who wrote a separate judgment, actually denied Britain status as a "Coastal State", meaning that Mauritius, for the purposes of the Marine Park issue, was rightly challenging Britain as not having the right at all to set up the Park for this fundamental reason. Their argumentation differed from the Award itself, which said it had no jurisdiction to statute upon this, and which also, significantly, declared the Marine Park illegal. They remind us that "*[i]t is clearly stated in General Assembly Resolution 1514 that the detachment of a part of*

a colony (which in this case includes the dependency of the Chagos Archipelago) is contrary to international law.” They add, referring to the excision, “The detachment of the Chagos Archipelago was already decided whether Mauritius gave its consent or not.”

In yet another way, the Opinion of the Tanzanian and German judges is important. They pose the eminently reasonable question as to “why it took Mauritius so long” to do anything about the illegal situation it was suffering. They, however, add another vital argument, saying that, “*Even if the view is taken that the consent was valid and/or that Mauritius acquiesced in the detachment (with which we would disagree) one may argue that the “agreement” reached in the Lancaster House Conference has been terminated by the United Kingdom ...*”

You yourself in answer to a PNQ of 20 March, 2015 said, in Parliament, that, “*Madam Speaker, Mauritius had also asked the Tribunal to rule that the United Kingdom was not the ‘coastal State’ for the purposes of UNCLOS, because the excision of the Chagos Archipelago from Mauritius was contrary to international law. Three members of the Tribunal found that they did not have jurisdiction to rule on that question; they expressed no view as to which of the two States has sovereignty over the Chagos Archipelago. However, and very significantly, two members of the Tribunal, namely Judges Wolfrum and Kateka, held that the Tribunal did have jurisdiction to decide this question, and concluded that the United Kingdom does not have sovereignty over the Chagos Archipelago.*”

You added that “*they found that -*

(a) internal United Kingdom documents suggested there was an ulterior motive behind the ‘MPA’ and noted the disturbing similarities and common pattern between the establishment of the so-called “BIOT” in 1965 and the proclamation of the ‘MPA’ in 2010;

(b) the excision of the Chagos Archipelago from Mauritius in 1965 shows a complete disregard for the territorial integrity of Mauritius by the United Kingdom;

(c) UK Prime Minister Harold Wilson’s threat to Premier Sir Seewoosagur Ramgoolam in 1965 that he could return home without independence if he did not consent to the excision of the Chagos Archipelago amounted to duress;

(d) in 1965, Mauritian Ministers were coerced into agreeing to the detachment of the Chagos Archipelago, and that this detachment violated the international law of self-determination, and

(e) the ‘MPA’ is legally invalid.”

You went on to say that “*This is a highly significant moment. It is the first time ever that any international judge has looked at the legal merits of this issue. Indeed, Judges Wolfrum and Kateka have unequivocally affirmed the sovereignty of Mauritius over the Chagos Archipelago. They have also gone on to find that the United Kingdom had acted in bad faith in declaring the ‘MPA’ in 2010.....*”

You also drew attention to the main judgment’s finding that the UK’s good faith was seriously undermined by the discrepancy in its regard for Mauritian interests, as opposed to its regard for the USA’s interest, when taking decisions.

We in LALIT believe that the State of Mauritius cannot again lose time with any “speed up diplomatic talks with the UK and US Governments”. The two judges in the dissenting and concurring opinion rightly exposed how the British and American Governments have acted in bad faith all along. And as you yourself rightly pointed out in your answer to the PNQ, “*Could we expect anything else from them, anything contrary from the stand they have been taking all along, from the time they excised part of our territory? They are the culprits, and we know - last time when I answered a question here I said that their philosophy is, might is right, and this is on what they are relying. But I hope finally justice will prevail and we will get our full sovereignty for the Chagos Archipelago.*”

After the UNCLOS judgement the State of Mauritius has to go on the offensive. You, personally, Mr. Prime Minister, are in a privileged position as both the only witness of the Lancaster House talks in September 1965 and today’s Prime Minister of the Republic of Mauritius, to organize a formal State visit, on, say, the CGS *Barracuda*, to Diego Garcia and other parts of Chagos, which is an integral part of Mauritian territory, defined as such by history and by the Constitution. The State delegation would be very strong if it were to include Madam, the

President of the Republic, yourself as the Prime Minister, the Leader of the Opposition and elected representatives of the Chagos Community.

During such a visit, it would be appropriate to call for the re-unification of the Republic, for the right of return of all Chagossians to a part of the Mauritian Republic now interdicted, and for the closing of the military base, and the conversion of any installations to peaceful work, like tsunami monitoring and general meteorological functions, as was the kind of function initially mooted by the British during their tricked negotiations.

As attachments, we enclose a document, which refers to a Common Declaration in which in 2010 we called for such a visit, and a 232-page book that gives an idea of our commitment to this historically vital struggle. These explain our legitimacy, over time, to come forward with such a suggestion.

Yours sincerely,

Ragini Kistnasamy and Lindsey Collen
For LALIT

Copy of Letter to: Mme. President of the Republic
Minister of Foreign Affairs
Leader of the Opposition

Attachment: (i) Declaration of Grande Riviere, 3 Novam, 2010. LALIT Conference on Diego Garcia & Chagos held at Grande Riviere, Port Louis, Mauritius
(ii) Diego Garcia, In the Times of Globalisation