

PERMANENT COURT OF ARBITRATION

ARBITRATION UNDER ANNEX VII OF THE 1982 UNITED NATIONS
CONVENTION ON THE LAW OF THE SEA

In the Matter of Arbitration Between:

THE REPUBLIC OF MAURITIUS,

and

THE UNITED KINGDOM OF GREAT
BRITAIN AND NORTHERN IRELAND

PCA Reference MU-UK

Volume 8

HEARING ON JURISDICTION AND THE MERITS

Monday, May 5, 2014

Pera Palace Hotel
Mesrutiyet Cad. No:52 Tepebasi, Beyoglu
Conference Room Galata II & III
34430, Istanbul-Turkey

The hearing in the above-entitled matter convened at 9:30 a.m. before:

PROFESSOR IVAN SHEARER, Presiding Arbitrator

SIR CHRISTOPHER GREENWOOD, CMG, QC, Arbitrator

JUDGE ALBERT J. HOFFMANN, Arbitrator

JUDGE JAMES KATEKA, Arbitrator

JUDGE RÜDIGER WOLFRUM, Arbitrator

Permanent Court of Arbitration:

MR. BROOKS W. DALY
Registrar
MR. GARTH L. SCHOFIELD
PCA Legal Counsel
MS. FIONA POON
PCA Legal Counsel

Court Reporter:

MR. DAVID A. KASDAN, RDR-CRR
Certified Realtime Reporter (CRR)
Registered Diplomat Reporter (RDR)
Worldwide Reporting, LLP
529 14th Street, S.E.
Washington, D.C. 20003
+001 202 544 1903
info@wwreporting.com

APPEARANCES:

On behalf of the Republic of Mauritius:

MR. DHEERENDRA KUMAR DABEE, GOSK, SC
Solicitor-General, Attorney General's Office
Agent of the Republic of Mauritius

MS. ARUNA DEVI NARAIN
Parliamentary Counsel, Attorney-General's Office
Deputy Agent of the Republic of Mauritius

Counsel:

PROFESSOR JAMES CRAWFORD, AC, SC
University of Cambridge

MR. PAUL S. REICHLER
Foley Hoag LLP

PROFESSOR PHILIPPE SANDS, QC
Matrix Chambers, London

MR. ANDREW LOEWENSTEIN
Foley Hoag LLP

MS. ALISON MACDONALD
Matrix Chambers, London

Advisers:

MR. SURESH CHUNDRE SEEBALLUCK, GOSK
Secretary to Cabinet and Head of the Civil Service, Republic of Mauritius

H.E. DR. JAYA NYAMRAJSINGH MEETARBHAN, GOSK
Ambassador and Permanent Representative of the
Republic of Mauritius to the United Nations, New York

MS. SHIU CHING YOUNG KIM FAT
Ministry of Foreign Affairs, Regional Integration and International Trade,
Republic of Mauritius

DR. DOUGLAS GUILFOYLE
University College London

MS. ELIZABETH WILMSHURST
Doughty Street Chambers (academic panel), London

MR. YURI PARKHOMENKO

Legal Researchers:

MR. REMI REICHHOLD
Legal Assistant, Matrix Chambers, London

MR. FERNANDO L. BORDIN

Assistants:

MR. RODRIGO TRANAMIL
MS. NANCY LOPEZ
Foley Hoag, LLP

On behalf of the United Kingdom:

MR. CHRISTOPHER WHOMERSLEY,
Deputy Legal Adviser, Foreign and Commonwealth Office
Agent for the United Kingdom

MS. MARGARET PURDASY
Assistant Legal Adviser, Foreign and Commonwealth Office
Deputy Agent for the United Kingdom

Counsel:

THE RIGHT HONOURABLE DOMINIC GRIEVE, QC MP
Her Majesty's Attorney General

SIR MICHAEL WOOD
20 Essex Street Chambers, London

PROFESSOR ALAN BOYLE
University of Edinburgh and Essex Court Chambers

MR. SAMUEL WORDSWORTH, QC
Essex Court Chambers, London

MS. PENELOPE NEVILL
20 Essex Street Chambers, London

MS. AMY SANDER
Essex Court Chambers, London

Legal Researcher:

MR. ERAN STHOEGER

Advisers:

MS. JO BOWYER

Foreign and Commonwealth Office, London

MS. MINA PATEL

Foreign and Commonwealth Office, London

MS. NEELAM RATTAN

Foreign and Commonwealth Office, London

MS. REBECCA RAYNSFORD

Attorney General's Office, London

MR. DOUGLAS WILSON

Attorney General's Office, London

CONTENTS

	PAGE
PRELIMINARY MATTERS.....	917
MAURITIUS ARGUMENT ROUND 2:	
STATEMENT ON BEHALF OF THE REPUBLIC OF MAURITIUS:	
By Professor Sands.....	920
By Ms. Macdonald.....	928
By Professor Crawford.....	953
United Kingdom Response to Questions.....	986
By Professor Sands.....	994
By Mr. Reichler.....	1031

1 PROCEEDINGS

2 PRESIDENT SHEARER: Good morning, ladies and gentlemen. We have
3 reached now the second round of arguments, with Mauritius to begin.

4 I understand that Mauritius has a proposal for a somewhat altered schedule for
5 today's hearings. Could we perhaps know about those?

6 Thank you.

7 Yes, Mr. Sands.

8 PROFESSOR SANDS: Thank you very much, Mr. President, and Members of
9 the Tribunal. Good morning, and I hope you had a good weekend.

10 Yes, perhaps the confusion is ours. We thought we had asked on Friday
11 afternoon after the close of the day to invert the timetable as we had done on one occasion last
12 week. Not much stands on it. It just goes more easily with the flow of the speeches. And so
13 what we would ask for is that we start this morning now at 9:30, and we run in the morning for
14 three hours rather than three-and-a-half hours, with one break, until 12:30; that there is then a
15 normal break for lunch until 2:00, when we understand the United Kingdom will come on to
16 address the documents that were submitted over the weekend; and that we would then resume at
17 2:30 until 6:00 p.m., with two breaks in the afternoon. I think that was more or less the process
18 that was followed in the first week in relation to one of the days.

19 So, it's simply to avoid breakups of speeches. That's the only reason that that is
20 requested.

21 PRESIDENT SHEARER: So, when would we take the mid-morning break?
22 At what time?

23 PROFESSOR SANDS: Whenever is convenient to the Tribunal. We are pretty
24 relaxed about that. We could do it – I'm going to introduce now for about 20 minutes. Then
25 Ms. Macdonald is speaking. She will be about 60 minutes. So it might be convenient after

1 Ms. Macdonald has finished, which would be 80 minutes from 9:30, which would be about
2 10:50.

3 PRESIDENT SHEARER: Yes.

4 PROFESSOR SANDS: If that's convenient, but we're in your hands, Mr.
5 President.

6 PRESIDENT SHEARER: Well, it's convenient to the Tribunal.
7 But I'm just wondering whether the United Kingdom has any observations on that proposal. No
8 objection?

9 MR. WHOMERSLEY: No objection.

10 PRESIDENT SHEARER: Very well. And, of course it remains the case that
11 we reconvene at 2 o'clock. We give the United Kingdom the opportunity to tender and explain
12 its documents, the new documents that have been proposed in answer to Judge Greenwood's
13 questions. Yes, so we will adhere to that timetable.

14 Very well, it's so agreed.

15 And so you will continue now, Mr. Sands, will you?

16 PROFESSOR SANDS: Thank you, Mr. President. I will continue, and I
17 express our gratitude, both to the United Kingdom understanding and to the Tribunal for its
18 willingness –

19 PRESIDENT SHEARER: I'm sorry, yes, there was one other matter I meant to
20 raise before, and it's in relation to some questions that were asked of the United Kingdom, which
21 we are wondering when we're going to get a reply.

22 Perhaps Judge Greenwood could just outline those questions.

23 Thank you.

24 ARBITRATOR GREENWOOD: Thank you, President.

1 There are two questions I didn't think I had had an answer to in the previous
2 round.

3 The first was the date of the two reports on the consultation, when were those
4 reports actually not published to the public at large, but given to the Foreign Commonwealth
5 Office, obviously sometime after the 5th of March, when the consultation closed, before the
6 decision-making process beginning on the 29th.

7 The second question was – I think it's at Page 586 or thereabouts in the transcript.
8 I asked about the statement in Mr. Roberts' Third Witness Statement. There was private
9 funding for the “MPA” conditional upon it being a no-catch, no-take area. And I asked what
10 that funding was and what were the terms on which it had been given. I would be very grateful
11 if I could have answers to those in time for Mauritius to respond. So, if it's possible for the UK
12 to answer them in its statement this afternoon, that might be desirable.

13 PRESIDENT SHEARER: Thank you, Judge Greenwood.

14 Yes, would it be possible to either them or give an indication of when they can
15 be answered during the UK's opportunity to deal with the documents in the time slot that we
16 have made available between 2:00 and 2:30 p.m. today?

17 Very well. I think there is nothing more.

18 I'm sorry, yes? Was the UK side going to say something?

19 MR. WHOMERSLEY: I was only going to say, Mr. President, that we will
20 endeavor to try and answer those two questions at 2:00, which, I think, is what you then
21 subsequently asked us to do.

22 Thank you.

23 PRESIDENT SHEARER: Thank you, Mr. Whomersley.

24 Well, I think that's all we need to do by way of procedural questions.

25 Yes, I will call you back now, Mr. Sands.

1 Thank you.

2 **ARBITRATION UNDER ANNEX VII TO 1982 UNCLOS**

3 *Republic of Mauritius*

4 *v.*

5 *United Kingdom*

6 **SPEECH 1: INTRODUCTION**

7 **Professor Philippe Sands QC**

8 **Monday 5 May 2014**

9 Thank you, Mr. President, Members of the Tribunal,

10 1. So I will introduce Mauritius' second round. I will do so briefly. You should have a
11 fresh set of folders which will be added too. I see you have those in front of you. Over the
12 next three sessions today and tomorrow, we will address the three elements of the case that is
13 being put by Mauritius, the three elements in the sense set out in response to the question put by
14 Judge Wolfrum.¹ The United Kingdom, as you will have noted, continued to seek to cast
15 aspersions on the way we have set out our arguments, but to our mind they do appear to be rather
16 clear.

17 2. We say, first and foremost, that Mauritius is “the coastal State”, and that accordingly the
18 United Kingdom was not entitled to declare the “Marine Protected Area” that it purported to
19 establish on the 1st of April 2010. As an alternative, which might be called our "second limb",
20 and it exists independently of the first. Mauritius has the attributes of, and is, “a coastal
21 State” in relation to fishing rights; in relation to rights over oil and mineral resources,
22 including in the outer continental shelf; and reversionary rights, and the purported creation of
23 the “MPA” is fundamentally incompatible with those rights pertaining to "a coastal State".
24 And third, again, as an independent claim, Mauritius has rights under UNCLOS that have

¹ Transcript, p. 463, line 6 – p. 467, line 11 (Sands).

1 been violated by the United Kingdom in establishing the “MPA”, as it has and in the manner
2 that it did. And we say that on any of these three approaches, the purported establishment of
3 the “Marine Protected Area” is unlawful by reference to the Convention.

4 3. I do not need to return, I think, to the reasons why we have run these arguments as we have.
5 It's obvious, and we say all the more so now that we have heard from the United Kingdom:
6 its counsel were unable to respond to a number of rather simple questions, to one, for
7 example, from Judge Greenwood asking whether the United Kingdom was free to cede the
8 Chagos Archipelago to a third State.² Three years into this case, under the apparent force of
9 internal contradictions, the United Kingdom now appears to be unable to tell this Tribunal
10 whether Mauritius has any rights at all.

11 4. Such contradictions were, we noted, a constant feature of the UK’s approach last week,
12 contradictions between its own counsel, contradictions between the two rounds of its written
13 pleadings, and contradictions between the written pleadings and what it said last week during
14 the oral hearing, and we’ll come back to these in the course of today and tomorrow. The
15 contradictions, we noted, were also accompanied by a rather striking absence of clarity. To
16 take but one example, we heard what Sir Michael Wood had to say about the now notorious
17 paragraph 8.39 of the United Kingdom's Rejoinder, where the United Kingdom stated that
18 Mauritius had no entitlement to file preliminary information to the United Nations
19 Commission on the Limits of the Continental Shelf (“CLCS”). Addressing the obvious

² Transcript, pp. 855-856. Judge Greenwood asked: “Am I to understand, therefore, that the United Kingdom's position is that none of the undertakings given at Lancaster House – I use the word undertakings without wishing to pre-judge their legal status – that none of those undertakings is legally binding upon the United Kingdom today, so, for example, the United Kingdom would be free to cede the Chagos Archipelago to a third State.” (p. 855, line 24 - p. 856, line 3). Mr. Wordsworth response, in full, was: “Thank you. But the way I put it is, in order for us to be in a fair position in responding to that question, we would like to be seeing what Mauritius' position in terms of which specific statements it is relying on. It’s put forward the case that there has been a significant change in those statements. It’s highlighted to you. It changed from return to cede. I think it’s highlighted to you inclusion of language in relation to in accordance with international law. Now, the understandings or undertakings in relation to cession and oil and minerals were not a big part of Mauritius’ case before this hearing. The focus on the pleadings in the pleadings has been on the understanding on fishing rights or the alleged undertaking. Now, we wait for Mauritius to put its case in relation to the these other alleged undertakings, and then I’ll be in a position to respond.” (p. 856, lines 5-14).

1 conclusion from that argument of the United Kingdom, the submission was therefore “a
2 nullity”, as he put it, and the clock had “not been stopped and cannot now be stopped”,³ Sir
3 Michael said somewhat cryptically: “That is not the position.”⁴ So no entitlement to file but
4 not a nullity and the clock has stopped. So we're looking forward to hearing an explanation
5 from the United Kingdom as to how a filing that Mauritius had no entitlement to make might
6 nevertheless have produced legal consequences, and stopped the clock; none came in the
7 United Kingdom's first round. We assume that this is because the United Kingdom
8 recognised that it was walking a tightrope: accept that it has legal consequences, the filing,
9 and that the clock has stopped and you confirm that Mauritius is a “coastal State” within the
10 meaning of Article 76, because only a coastal State can make such a filing, deny that it has
11 legal consequences and that the clock has stopped and you confirm that Mauritius has lost its
12 outer continental shelf rights forever. So Sir Michael chose the same path as Mr. Wordsworth
13 did, Mr. Wordsworth in the case of a question put by Judge Greenwood, putting him in the
14 position of an impossible dilemma: He was damned if he answered one way, and he was
15 damned if he answered the other. The upshot is probably best summarised in a single word:
16 disarray.

17 5. That complex disarray is caused by the interplay of issues of jurisdiction and merits in this
18 case. And you saw for yourselves how the United Kingdom allocated its time, sending the
19 clearest possible signals (1) a belief that its jurisdictional arguments are now the last refuge,
20 and (2) its recognition that the arguments on the merits – and I would say here all of the
21 merits – have mostly melted away.

22 6. There was too a real sense that counsel for the United Kingdom were perhaps not entirely
23 familiar with the facts, or the legal arguments. You saw, for example, in relation to the facts,
24 a rather confused response to the relatively simple question, we thought, as to whether there

³ Transcript, p. 735, lines 6-7 (Sir Michael Wood).

⁴ Transcript, p. 735, line 7 (Sir Michael Wood).

1 had ever been a response to Foreign Minister Boolell's letter of the 30th of December 2009⁵
2 – the answer is there was not – and the dawning recognition of what that meant for the
3 argument on Article 283 – it collapses. You saw that in relation to the law also, when Mr.
4 Wordsworth told you that “self-determination” and General Assembly Resolution 1514, and I
5 quote his words – the transcript will show you the citation, “have nothing at all to do with the
6 Convention” – those are his precise words.⁶ Well, he obviously did not have the text of the
7 Convention at the forefront of his mind. He obviously wasn't thinking about Article 140 or
8 Article 162(o)(i) or Article 305 or Resolution III, all of which place “self-determination” and
9 General Assembly Resolution 1514 into the fabric of the Convention.

10 7. You will have picked up something else: at no point last week did the United Kingdom
11 really try to defend the “MPA”. Judge Wolfrum asked a series of detailed questions.⁷ One
12 would have expected a well-functioning State that was seriously committed to an “MPA”
13 that it had created to offer chapter and verse in the form of the documents justifying the
14 approach that it had taken. You got nothing – well, not quite nothing. There were assertions
15 and a single piece of paper cobbled together dated the 1st of May 2014.⁸ That is United
16 Kingdom's defence.

17 8. So you will have picked up also the reliance on the old adage the best form of defence is
18 attack. Mauritius has got it all wrong, Professor Boyle told you. And I quote, “Mauritius was
19 putting a gun to the Foreign Secretary's head”; that's what Professor Boyle told you, in
20 apparent sincerity.⁹ We got elements of that same aspect too in relation to the UK's version of
21 what happened in 1965. On their account, they behaved with impeccable decorum and
22 decency. Those who were unreasonable ones were the Mauritians. Counsel for United

⁵ See Transcript, p. 578 (lines 19-20); p. 579 (lines 3-11); p. 590 (lines 16-24); p. 591 (lines 1-10); p. 788 (lines 24-25); 789 (lines 1-3); p 886 line 1 – p. 888, line 2.

⁶ Transcript, p. 665, line 23 (Mr. Wordsworth).

⁷ See Questions by Judge Rüdiger Wolfrum (23 April 2014) and Transcript, p. 594, lines 4-17 (Arbitrator Wolfrum).

⁸ UK Folder, Tab 74.

⁹ Transcript, p. 884, lines 4-5 (Boyle).

1 Kingdom never actually said that it was the Mauritians that put a gun to Harold Wilson's head,
2 but they might as well have done so for it was implied on numerous occasions, what with the
3 Mauritius's constantly unreasonable demands once they had been "frightened with hope".

4 9. In that regard, I have been instructed – and for very good reason, I would add – to respond to
5 one remark made by Sir Michael Wood on Thursday afternoon. It's is reported in the
6 transcript at Day 6 at page 719, line 8 to line 10. Sir Michael said, and I quote: "What the
7 evidence does show, in contrast, is that detachment was agreeable to the Mauritian Ministers
8 because their interests lay in securing a new source of income for their economy." Mauritius
9 takes very great exception to those words. They are not only unsubstantiated, but they
10 constitute a slur on the character of an entire generation of Mauritian leaders, a generation
11 that struggled for the independence of its country and who were the founding fathers of the
12 modern nation. The evidence that is on the record – and the contemporaneous accounts of the
13 events of the mid-60s – clearly show that these leaders had opposed the dismemberment of
14 Mauritian territory, that they only reluctantly gave their purported consent – under the
15 conditions noted by Judge Kateka¹⁰ – only because they did not want the colonial power to
16 have recourse to a potentially divisive course of action that could derail the move towards
17 independence. As set out in Mauritius' Memorial at paragraph 3.20, Mauritian Ministers
18 expressed strong opposition to detachment when this was first raised in July 1965. That
19 opposition was communicated to the UK Government by their own Governor on the 23rd of
20 July 1965, and then again on the 30th July 1965 and then again on the 13th of August 1965.¹¹
21 Once excision became inevitable, and the colonial power had made it clear that it would go
22 ahead with the excision with or without agreement or purported agreement, the Mauritian
23 leaders had no choice but to take the best possible terms they could get for their people and
24 also to safeguard the long-term interests of the country. The issue of compensation was first

¹⁰ Transcript, p. 864, line 21 - p. 865, line 8 (Arbitrator Kateka).

¹¹MM, paras. 3.20-3.21.

1 raised by the United Kingdom, not by Mauritian leaders.¹² Now the United Kingdom not
2 only denies that the undertakings it gave were given as an inducement for obtaining
3 “agreement” – and I put that in inverted commas – to detachment, but it now asserts they
4 were agreeable to detachment because their only interest was to secure income for the
5 country. This is a most unhappy misrepresentation of the events that took place 50 years ago.
6 We regret it greatly. It casts aspersions on the motivations of individuals who are not able
7 to defend their integrity. We invite the United Kingdom to kindly withdraw these allegations.

8 Mr. President, Members of the Tribunal,

9 10. I now turn to the organization of Mauritius' second round. Ms. Macdonald will respond next
10 to what the United Kingdom had to say about the circumstances in which the “Marine
11 Protected Area”, so-called, was cobbled together, as well as its supposed “scientific”
12 justification. She will also address the arguments of the United Kingdom on Article 283,
13 arguments offered at surprising length, and with a strong embrace of formalism, presumably
14 because that is all that is left to the United Kingdom in relation to the jurisdictional
15 arguments on the obvious violations of Articles 2(3), 56 and 194, amongst others. Professor
16 Crawford will then address the merits arguments on our first limb, namely that the United
17 Kingdom is not “the coastal State” within the meaning of the Convention, but it violated the
18 right of self-determination and that true consent was not given to the detachment of the
19 Chagos Archipelago. Professor Crawford will also address what remains of the somewhat
20 hopeful argument put by the United Kingdom that the Chagos Archipelago was not actually a
21 part of Mauritius in 1965. Following Professor Crawford, and continuing probably for a little
22 after Lunch, I will address the Tribunal’s jurisdiction to rule that the United Kingdom is not
23 “the coastal State” within the meaning of the Convention and that Mauritius is the coastal
24 State within the meaning of the Convention.

¹²MR, para. 2.33.

1 11. Following on, Mr. Reichler will then address the second limb of Mauritius’ argument: that
2 the United Kingdom has acknowledged the rights and legitimate interests of Mauritius in
3 relation to the Chagos Archipelago, such that Mauritius has the attributes of a coastal State
4 and is entitled in law to be treated as such, with the result: the United Kingdom is not entitled
5 in law under the Convention to impose the purported “MPA”, or establish maritime zones,
6 over the objections of Mauritius. Mr. Reichler will address the undertakings made in 1965, in
7 relation to fishing and oil and minerals, and the later commitments made in relation to the
8 Article 76 preliminary filing. He will also address the jurisdiction of the Tribunal to hear this
9 part of our claim, a matter on which the United Kingdom spent no more than three minutes.

10 12. Tomorrow morning, following Mr. Reichler, Professor Crawford will respond to the
11 argument by the United Kingdom that the term “coastal State” refers to the State in actual
12 control, and that there can only ever be one coastal State with respect to a given coast. He
13 will be followed by Mr. Loewenstein, who will address the third limb of Mauritius’ case,
14 namely the violations of various provisions of the Convention, including Articles 2(3), 56
15 and 194, irrespective of whether or not Mauritius is “the coastal State” or has the attributes of
16 a “coastal State”. He will also address the jurisdiction of the Tribunal to address these matters.
17 Professor Crawford will then return and will respond to the United Kingdom’s arguments
18 that Article 300 has not been violated.

19 13. The oral presentation of Mauritius will be then be concluded by our Agent, Mr. Dheeren
20 Dabee. He will also read out our submissions and our request for relief, which will follow
21 that sought in our written pleadings, with one addition: in light of the uncertain position of
22 the United Kingdom on the status and effect of the filing by Mauritius of preliminary
23 information to the CLCS, and our desire to submit full information later this year – after the
24 Tribunal has given its Award – we will seek additional relief in relation to Article 76 of the
25 Convention.

1 14. Mr. President, there is one final matter to address and you touched upon it in the introductory
2 part. We have noted that despite your request that unanswered questions from the United
3 Kingdom side be dealt with by the end of Friday, some of the Tribunal's questions were met
4 with silence from the other side and they were left unanswered.¹³ Judge Greenwood has
5 identified two that we had noted also, and we have some others. One other one that
6 immediately comes to mind is Judge Hoffman's question, which is at page 569 of the
7 transcript, lines 5 through 9, and Judge Hoffman, and I quote, "whether there was any
8 response from a scientific point of view on this idea of excluding from the MPA Diego
9 Garcia..."¹⁴ As far as we were able to ascertain, the United Kingdom did not respond to that
10 question, and it will be a matter for the Tribunal decide whether the United Kingdom should
11 address that later today, that if it does not address it later today, our expectation would be that
12 they should not anymore be able to return to that or we would not have an opportunity to
13 respond to what they have said. We have other questions and it may be that in the break we
14 will now gather those up. On other occasions, you will have noted in relation to questions,
15 the buck was passed. Questions were passed along to other members of the United Kingdom
16 legal team, a bit like a hot potato. But however you deal with this question of questions, we
17 hope that you will ensure that we have the opportunity to address the Tribunal in the event
18 that the United Kingdom at some point does choose to respond to these matters.

19 15. Mr. President, that concludes a very brief introduction, and I would now invite you to call Ms.
20 Macdonald to the bar.

21 PRESIDENT SHEARER: Thank you, Mr. Sands

22 And I call Ms. Macdonald to the podium.

23 Thank you.

¹³ Transcript, p. 837 (President Shearer), lines 15-17: "If there are any unanswered questions from the UK side, we'd be grateful if they could be dealt with before the end of today."

¹⁴ Transcript, p. 569 (Arbitrator Hoffman), lines 5-9.

1 **Mauritius v United Kingdom**

2 **Second Round**

3 **The Creation of the “MPA”, and Article 283**

4 **Alison Macdonald**

5 **Introduction**

6 1. Mr. President, Members of the Tribunal, as Professor Sands explained, my part of Mauritius’
7 submissions in reply will deal firstly with the creation of the “MPA”, and secondly with the
8 requirements of Article 283 of the Convention.

9 **The Creation of the “MPA”**

10 Nature of the “MPA”

11 2. On the “MPA”, my submissions are in two parts. Firstly, I will look again at the question of
12 what the “MPA” actually is, and what happens or does not happen there. And, secondly, I
13 will return to the key aspects of the chronology and to the manner in which the decision was
14 taken.

15 3. On the first issue, the nature of the “MPA”, we now have the UK’s answers to the written
16 questions posed by Judge Wolfrum. We note that the UK has not disclosed any
17 documentation in support of those answers, despite our request that it do so. As Professor
18 Sands mentioned, in a late attempt to bolster its position on the scientific justification for the
19 “MPA”, you will recall that on Friday, the UK provided you with a written submission which
20 it had put together during the course of these proceedings, it seemed, dated the 1st of May,
21 headed “Biological effects of the marine reserve in BIOT (Chagos)”.¹⁵ I don’t ask you to go to
22 that now. It’s in the UK folder at Tab 74. You will probably have noticed, if you have had a
23 chance to study this document, that it claims on the first page that, I quote, “A clear scientific
24 case for [the MPA] has been made in the peer reviewed scientific literature”. If you follow

¹⁵ UK Folder Tab 74

1 that up to the end of the document, if you follow the footnotes, you will see that this refers to
2 a piece by Professor Sheppard, himself, the scientific adviser engaged by the administration
3 of the so-called “BIOT”, as do a large proportion of the other footnotes. The UK, we would
4 suggest, seemed less than clear about the underpinnings of its scientific case, with Mr. Boyle
5 offering, you will remember, late on Friday, to try to find additional scientific material to
6 support the UK position.¹⁶

7 4. On the question of the enforcement of the “MPA”, Ms. Nevill said that: “Although Mauritius
8 seeks to make mileage out of the fact that there is only one BIOT patrol vessel, it provides no
9 evidence that enforcement of the MPA is in fact deficient.”¹⁷ Well, on that point, Mauritius
10 simply notes the fact that the “MPA” covers an area of 640,000 square kilometres, and asks
11 the UK to produce evidence of any assessment which it has carried out to establish the patrol
12 needs of such a vast area. As with so much about the “MPA”, we simply do not know what
13 assessments, if any, have been undertaken in this regard. And, in relation to funding for
14 enforcement, much of which we are told is private, as you pointed out, Mr. President, we still
15 do not know what conditions attach to the private portion of funding, since the UK has not
16 answered Judge Greenwood’s question on that point.¹⁸ So we await the answer.

17 5. As for the absence of regulations, Judge Wolfrum asked for the reason for this in his eighth
18 written question. The terse answer given¹⁹ was that, I quote, “No additional legislation was
19 found to be necessary to enforce the prohibition on commercial fishing. The existing BIOT
20 legislation is sufficient for this purpose.” And we know that already – the UK has been able
21 to decide, within the existing framework of the EPPZ, simply not to issue any new licences.
22 We understand that. But we understood Judge Wolfrum to be asking why no additional
23 legislation has been enacted, although it is said to be forthcoming. And the UK gave no

¹⁶ Transcript, p. 906/19-22.

¹⁷ Transcript, p. 589/12-14.

¹⁸ Transcript, p. 592/21-23.

¹⁹ UK Folder Tab 1.

1 answer to this, saying simply that “recent legislation in BIOT has streamlined the fisheries
2 enforcement powers [this is a reference to the recent Ordinance at Tab 2 of the UK folder,
3 which provides for fixed penalties for carrying out commercial fishing without a licence in
4 the Marine Protected Area...] and work is continuing on a consolidation of the relevant
5 BIOT legislation.” So the answer boils down to “we’re working on it”. No indication of why
6 that task has not been completed in the last four years, or when it might be.

7 The process by which the “MPA” decision was taken

8 6. After those observations on the nature of the “MPA” and its enforcement, I turn to the second
9 part of my submissions on this issue – the process by which the “MPA” decision was taken.
10 My submissions on this point are, of course, also relevant to the Article 283 question, which
11 is why we have decided, in the interests of economy, to address both issues together in this
12 second round.

13 7. The United Kingdom through Ms. Nevill made much of the fact that the group of ‘interested
14 stakeholders’ who were consulted at an early stage were all, in her words, “UK bodies whose
15 support would be essential if the idea was to make any progress.”²⁰ We consider that this
16 underlines Mauritius’ point about its exclusion from the early stages of the process. Was
17 Mauritius’ support not considered to be essential if the idea was to make any progress?
18 Apparently the UK thought that the project could not survive its formative stages without the
19 support of, among others, the British Geological Survey, but it could survive without the
20 support of Mauritius.

21 8. Now, in fact, the UK did make some attempts to find out what Mauritius might think about
22 the idea, but surreptitiously, and we see this from the email at page 278 of Mauritius’ folder
23 for the first round²¹ – I don’t ask you to pull it out now – this is the email sent by Mr. Allen
24 to Ms. Yeadon about the agenda for the January 2009 talks. Mr. Allen describes the agenda

²⁰ Transcript, p. 551/20-21.

²¹ Mauritius Folder Tab 6.1

1 item ‘fishing rights / protection of the environment’ as, in his words, “Means of discussing
2 current / possible Mauritian rights in BIOT waters and introducing discussion of Pew ideas,
3 if not name.” So it seems from that that the UK was trying in January to get an idea of
4 Mauritius’ likely reaction to the project, while not telling them what it was up to. It can
5 hardly count as consultation, we say, if the State concerned does not know what it is being
6 consulted about.

7 9. Ms. Nevill emphasised that NGOs, and not the Government, were the source of the February
8 2009 article in the Independent, through which Mauritius learned for the first time of the
9 MPA proposal.²² But does this make the situation any better, we ask? What the UK is saying
10 here is that, if it had been left up to it, Mauritius would have found out nothing for another
11 three months, when the Foreign Secretary took his ‘formal decision’ to pursue the project.

12 10. The Foreign Secretary’s decision to, in Ms. Nevill’s words, “move forward” with the
13 proposal followed, you will recall, Mr. Roberts’ briefing paper of the 5th of May 2009²³, in
14 which he observed that the MPA could “create a context for a raft of measures designed to
15 weaken the movement” which supported Chagossian resettlement.

16 11. Professor Crawford will come back to Mr. Roberts’ remarks later in the context of Article
17 300. For now I will simply note that, when you come to look again at the remarks recorded in
18 the Wikileaks cable²⁴, but denied by Mr. Roberts, you will see that he is saying essentially
19 the same thing as in the 5th of May document. In each case the import of his remarks is that
20 the MPA will help the UK in its continued efforts to prevent the Chagossians from achieving
21 resettlement in the Archipelago.

22 12. You heard the UK say, through Ms. Nevill, that it was not required to consult Mauritius until
23 a formal Ministerial decision had been taken to pursue the proposal on the 6th of May 2009.

²² Transcript, p. 553/3-7.

²³ Mauritius Folder Tab 6.2, p. 284.

²⁴ Mauritius Folder Tab 2.13

1 She told you that “Officials simply would not have engaged in formal discussions on the
2 proposal with third States until the policy to move forward with it had been adopted by
3 Ministers.”²⁵

4 13. But by that time, as we see from the email of the 7th of May 2009 – I pause to say that all the
5 references to the transcripts and materials that I refer to in my speech will be in the
6 transcripts for you – we see that the Foreign Secretary was “fired up” and his Private
7 Secretary is telling Mr. Roberts to “keep the timelines taut, keep him involved, and [...]”
8 ensure that the creation / announcement of the reserve is scheduled within a reasonable
9 timescale.”²⁶

10 14. The UK took issue with my interpretation of that email as showing a certain determination to
11 ensure that the MPA proposal came to pass. We simply invite you to read the documents
12 again during your deliberations, and we suggest that what the correspondence, viewed as a
13 whole, and very much including this email, shows is that if the “MPA” was not a *fait*
14 *accompli* at that point, it was well on its way to becoming one. This shows the very real
15 danger, we suggest, of leaving Mauritius out of the discussion until the process had gained a
16 critical momentum.

17 15. We now come to the July 2009 talks. You have the record of those talks,²⁷ you have been
18 taken through them by the parties, and I do not propose to go through them again. Professor
19 Boyle made the surprising submission on Friday afternoon that if, which he denied, the UK
20 had any legal obligation to consult Mauritius at all about the MPA proposal, then the July
21 2009 talks were, in themselves, sufficient to fulfill this obligation. He said:

22 “In our view, the July meeting was timely. It ensured that Mauritius was fully informed about the
23 MPA proposal, including the proposed ban on commercial fishing, and it was at an early enough

²⁵ Transcript, p. 554/3-5.

²⁶ Mauritius Folder Tab 6.3.

²⁷ UKCM Annex 101; MR Annex 144

1 stage to allow Mauritius to ask for further information – as it did – and to make meaningful
2 representations. And what was the outcome of that July bilateral meeting? It was a Joint
3 Communiqué in which the Government of Mauritius welcomed in principle the MPA proposal.
4 [UK Tab 56 / M Tab 6.5]”²⁸

5 16. Now going to the Communiqué itself, Professor Boyle stated that “If you read that, you will
6 see there were no complaints about inadequate consultation. There were no complaints that
7 Mauritius could not get its views across or had been ignored.”²⁹ And he went on to say that
8 “the subsequent contacts between the two governments are not relevant to the question
9 whether there was consultation”, and that “in our view the necessary consultations took place
10 in July, and what occurred after that is not material to Mauritius’ case.”³⁰

11 17. Now, Mr. Loewenstein will look at the legal merits of these assertions later on when he
12 replies on that aspect of the case. But Professor Boyle’s analysis does also merit examination
13 as part of the “MPA” chronology. The UK appears to be saying, in all seriousness, that it was
14 required to do nothing more by way of involvement of Mauritius in the process after July
15 2009; in other words, that it stepped out of those talks having heard all it needed to hear from
16 Mauritius. Well, we would suggest that you only have to look at the Joint Communiqué of
17 that meeting, to which you have been taken many times, to see why we were surprised by
18 Professor Boyle’s argument. Quite clearly that document records the start of a process, not
19 the end of it. Mauritius’ position, as recorded there in black and white, was that it
20 “welcomed, in principle, the proposal for environmental protection and agreed that a team of
21 officials and marine scientists from both sides meet to examine the implications of the
22 concept with a view to informing the next round of talks.”³¹

²⁸ Transcript, p. 880/6-13.

²⁹ Transcript, p. 880/13-15.

³⁰ Transcript, p. 881/14-16.

³¹ Mauritius Folder Tab 6.5.

1 18. This might be an appropriate moment to examine the words used by the UK in the record of
2 the July meeting, that ‘no decision had yet been taken’.³² Ms. Nevill said that the inclusion
3 of these words “runs completely counter to Mauritius’ argument that the decision to go ahead
4 with the MPA was made earlier by the Foreign Secretary on the 7th of May.”³³

5 19. You already have my submissions on the 7th of May email about the Foreign Secretary being
6 “fired up”. The point I want to make at this stage is that the fact that the UK repeatedly told
7 Mauritius that no decision on the “MPA” had been taken does not of course prove that this
8 was the case. As I indicated before, the evidence shows that, if no final decision had been
9 taken, the project certainly had a very great deal of momentum by that point. The reason I
10 focus on the words “no decision has yet been taken” particularly is that, as you have seen and
11 I’ll touch on briefly later, the UK kept repeating those exact words to Mauritius right up until
12 six days before the “MPA” decision was taken. And we would suggest that the credibility of
13 those words diminished over time.

14 20. We now come to the period between July 2009 and the announcement –

15 ARBITRATOR GREENWOOD: Ms. Macdonald, I'm sorry to interrupt you.

16 MS. MACDONALD: Yes.

17 ARBITRATOR GREENWOOD: But isn't what you're saying difficult to
18 reconcile with the fact that the exchanges of emails between Mr. Allen, Mr. Roberts, Ms.
19 Yeadon, and the Foreign Secretary's private office during that critical period of 29 to 31 March
20 show that the officials didn't think that the decision had been taken and indeed it looks to me as
21 though they were a bit surprised by where the Foreign Secretary came out.

22 MS. MACDONALD: Yes. Well, I'm certainly not saying that – of course, the
23 formal decision to defer the MPA was taken by the Foreign Secretary in that final 48-hour
24 period, and clearly, and one thing that we made clear in the first round, was that that was very

³² UKCM Annex 101

³³ Transcript, p. 560/9-10.

1 much – and in our written pleadings – was that what appears from the correspondence is that was
2 very much over the objections or at least if not objections, serious concerns of the officials
3 concerned. And when I'm talking about the decision being taken, I'm referring particularly to
4 the 7th of May email as well, what we were referring to is Foreign Secretary-level momentum
5 and a certain determination that that is the course that should be gone down, although of course it
6 was not ratified until the final date. And of course, as you point out, over the serious concerns
7 of the officials. So we're certainly not saying that a final decision was taken, but we are saying,
8 and I'm drawing attention particularly to the words used in July, back in July 2009, that no
9 decision had been yet taken; that's absolutely fine. But when you get to the 26th, the same
10 words had been used in the letter of the 26th of March 2010, we say that the credibility of that –
11 of course, the Final Decision had not been signed off at that point, but we say that telling
12 Mauritius that no decision had yet been taken and that the process was not supposed to in any
13 way cut cross the bilateral talks, et cetera, as we see in the 26th of March letter, by that point
14 they were stretching it when the decision was about to be taken six days later.

15 ARBITRATOR GREENWOOD: Well, that decision was about to be taken six
16 days later or at some point in the very near future, I quite understand.

17 MS. MACDONALD: Yes.

18 ARBITRATOR GREENWOOD: But one doesn't have to be aficionado of "Yes
19 Minister" to realize that Ministers in the British Government system quite often get fired up and
20 excited about ideas but are sometimes talked out of those ideas by their officials, and quite often
21 talked out of those ideas by their officials. And the picture that seems to me to emerge from
22 those emails is that the British Government collectively really hadn't made up its mind until the
23 late afternoon on the 31st of March. That's actually quite surprising, the chronology to me, but
24 they hadn't made a decision until that critical point. It wasn't simply that there was a formal
25 decision still to come. There was no substantive decision, either.

1 MS. MACDONALD: Well, of course, the Tribunal's reading of emails would be
2 definitive, and I'm not sure that there is anything necessarily between us on that. But certainly I
3 wasn't seeking to suggest that, and I think I said specifically a few minutes ago, that there was no
4 set fait accompli as of 7th of May 2009, July 2009. But what I said was that we see from the
5 Private Secretary's email of the 7th of May that certainly the Foreign Secretary was "fired up".
6 The officials who were involved were advised to keep the timelines taut, ensure the
7 announcement within a reasonable time, so there was a lot of enthusiasm and a very significant
8 degree of momentum that the proposal had at that point. But, of course, you're correct that final
9 decision was not taken, and politicians can be quixotic and, as we know nothing is set in stone
10 until it's set in stone. So we fully accept the decision wasn't taken.

11 The question is when was Mauritius brought in, and was it brought in early
12 enough to shape the thinking, or had the proposal really got quite strong legs by the time they
13 were told anything about it. And thereafter, were they kept – were they really genuinely and
14 properly consulted and kept informed.

15 ARBITRATOR GREENWOOD: Just to make clear for the record that
16 "quixotic" is your term, not mine.

17 MS. MACDONALD: Absolutely. I was attempting to paraphrase your
18 question.

19 So, looking a bit at the period that has just been canvassed in answer to Judge
20 Greenwood's questions, and briefly, Judge Greenwood, that might be – I've touched on this a
21 little, but he posed a question last week to the UK but really to both Parties about the relationship
22 between the public consultation and the bilateral talks.³⁴

23 21. There seems to be a fair degree of consensus between the Parties that the reason why the
24 third round of talks did not take place was because Mauritius took the view that it was not

³⁴ Transcript, p. 592/5-14.

1 appropriate for that round to take place without the public consultation having been halted.
2 And Ms. Nevill said, “If there was any lack of consultation with Mauritius, this was because
3 it refused to proceed unless the UK halted the public consultation, which was a wholly
4 unreasonable expectation in all of the circumstances. The public consultation did not cut
5 across consultations with Mauritius.”³⁵ And Professor Boyle put it more graphically, saying
6 that “you might say that Mauritius was putting a gun to the Foreign Secretary’s head.”³⁶

7 22. So the dispute between the Parties on this point is not primarily, it seems to us, about the
8 factual position. The United Kingdom thought that it was acceptable to be talking to
9 Mauritius about the proposal while consulting with the rest of the world at the same time.
10 And Mauritius, for the reasons expressed in the many communications which you have seen,
11 did not. Whether its position on this issue amounted to putting a gun to the Foreign
12 Secretary’s head will for you to decide.

13 23. According to Ms. Nevill,³⁷ the exchanges show that Mauritius was “offered involvement” in
14 the public consultation. She did not make clear what she meant by this. And indeed there is
15 some tension between this submission and Ms. Nevill’s subsequent point that Mauritius “was
16 kept fully apprised of the fact that the public consultation would go ahead before the talks
17 and could not be delayed.”³⁸ And the first dates offered by the UK for the next round of talks
18 were the 4th and 5th of November 2009. The public consultation opened on the 10th of
19 November. How, exactly, were the talks supposed to feed into the consultation in the
20 intervening five days? As you have seen, the first that Mauritius saw of the Consultation
21 Document was with the rest of the world on the 10th of November 2009.

³⁵ Transcript, p. 590/8-11.

³⁶ Transcript, p. 884/4-5.

³⁷ Transcript, p. 564/7.

³⁸ Transcript, p. 564/10-11.

1 24. On that date, the UK Foreign Secretary called the Mauritian Prime Minister to brief him.³⁹

2 You have the UK submission on this, namely that “quite simply, the Prime Minister did not
3 ask for the public consultation to be withdrawn.

4 25. We were not quite sure that we understood that point. When Prime Minister Ramgoolam said
5 that he “did not want the MPA consultation to take place outside of the bilateral talks
6 between the UK and Mauritius on Chagos”, on our reading, he was quite clearly saying that
7 the bilateral talks and the consultation process were mutually incompatible.

8 26. Separately to that, as you have seen, Mauritius wrote to the UK on the same day to point out
9 that the Consultation Document inaccurately presented Mauritius’ position on the MPA.

10 27. I don’t propose to take you through the next few rounds of correspondence in any detail,
11 because you have seen them a number of times by now.

12 28. Ms. Nevill took you to the Mauritius’ Note Verbale of the 23rd of November 2009⁴⁰ in
13 which it stated that “since there is an on-going bilateral Mauritius-UK mechanism for talks
14 and consultations on issues relating to the Chagos Archipelago and a third round of talks is
15 envisaged early next year, the Government of the Republic of Mauritius believes that it is
16 inappropriate for the consultation on the proposed Marine Protected Area, as far as Mauritius
17 is concerned, to take place outside this bilateral framework.” Repeating the words used by
18 the UK in the Rejoinder⁴¹, Ms. Nevill said that “These were somewhat belated objections,
19 given that the public consultation had by then been underway for nearly two weeks.”⁴² As I
20 said in the first round, however, the “two week’ point is not entirely understood. Although
21 Mauritius, through its Prime Minister, made clear its opposition to the consultation on the
22 very day that it was published, clearly it still spent some time trying to persuade the UK that
23 the bilateral talks were the appropriate way of consulting on the issue, but in vain.

³⁹ UKCM Annex 106

⁴⁰ MM Annex 155

⁴¹ UKR 3.13

⁴² Transcript, p. 575/10-11.

1 29. Then, of course, there was the meeting of the 27th of November between the two Prime
2 Ministers. The United Kingdom Agent described this as a “private” meeting.⁴³ This implies,
3 perhaps, some form of casual encounter. But this is not an accurate description – as Prime
4 Minister Ramgoolam makes clear in his statement,⁴⁴ the meeting was a formal one,
5 pre-arranged by both Governments, and attended in the background by Dr. Boolell, the
6 Minister of Foreign Affairs, and Mr. Kundasamy, the Mauritian High Commissioner in
7 London.

8 30. Now, at the end of round one, what has the UK said about this meeting? Ms. Nevill told you
9 that “The UK has never suggested that UK officials were not aware that a misunderstanding
10 had arisen. It is clear that it had, and it is not uncommon in any conversation between two
11 individuals. The UK does not seek to suggest that Prime Minister Ramgoolam’s stated
12 understanding and recollection as to what was said was not genuine, nor to make light of it,
13 but it does not accept that that was what was said by Prime Minister Brown. The Attorney
14 General last week assured the Tribunal that he was satisfied that no commitment to put the
15 MPA ‘on hold’ had been given by the Prime Minister.”⁴⁵

16 31. So, the UK uses words like “does not accept”. But as I asked previously, what evidence are
17 those assertions based on? It is simply not enough, we say, for a party to assert that it “does
18 not accept” evidence which is unhelpful to it.

19 32. The UK presents the letter of the 15th of December 2009⁴⁶ as an attempt to clear up what it
20 describes, rather condescendingly perhaps, as the “confusion”. But you will note that the
21 letter does not refer to the meeting between the two Prime Ministers.

22 33. You will recall that Ms. Nevill went on to claim that none of Mauritius’ subsequent
23 communications referred to Mr. Brown’s undertaking of the 27th November.⁴⁷ But of

⁴³ Transcript, p. 502/8.

⁴⁴ Mauritius Folder Tab 2.8, para. 8

⁴⁵ Transcript, p. 576/14-21.

⁴⁶ MM Annex 156

1 course, as we have now seen, the Mauritian Foreign Minister raised it in clear terms in the
2 letter of the 30th of December 2009.⁴⁸ And successive counsel for the UK were pressed to
3 tell the Tribunal whether the UK ever answered that letter. Ms. Nevill and Mr. Wordsworth
4 were reluctant to commit to an answer, so the task finally fell, late on Friday, to Professor
5 Boyle. The straightforward answer, we say, is “no”. But relying on what he described as a
6 British culture of understatement,⁴⁹ Professor Boyle tried ingeniously to present the UK’s
7 Note Verbale of the 15th of February⁵⁰ and its letter of the 19th of March⁵¹ as answers to the
8 point, but we suggest that this attempt failed.

9 34. Mauritius observes that, regardless of whether or not the UK hoped that the matter would be
10 discussed in some further round of talks, it is very surprising that it did not see fit to place
11 something on the written record in response to this very serious claim.

12 35. Then on Saturday, the United Kingdom produced a series of emails which touch on the
13 conversation between the two Prime Ministers. Mauritius was greatly troubled that new
14 evidence should be introduced at this very late stage, particularly when it must have been
15 available to the United Kingdom throughout these proceedings. But Mauritius did not object
16 to the admission of this evidence, as we did not wish the Tribunal to be denied the benefit of
17 further information on the point, however belatedly supplied. Since this could and should
18 have been addressed during the first round, however, we are grateful to the Tribunal for
19 giving us the opportunity to hear first what the United Kingdom says about these before we
20 respond ourselves. Because that procedure has been adopted, I will not address the emails in
21 any detail at this stage, although we do have points to make about them. I simply note that
22 they underline the fact that Prime Minister Ramgoolam was extremely clear with UK

⁴⁷ Transcript, p. 578/8-12.

⁴⁸ MM/157

⁴⁹ Transcript, p. 887/24-25.

⁵⁰ MM Annex 161

⁵¹ MM Annex 163

1 officials at the time about the content of Mr. Brown's undertaking at the meeting of the 27th
2 of November, just as he has described it in his Witness Statement. And Mauritius regrets that
3 the UK has sought to address this serious matter through the belated submission of
4 fragmentary emails and not by way of signed witness evidence.

5 36. Moving towards the final "MPA" decision, we have seen that the consultation closed on the
6 5th of March. And we have also seen that, as late as the letter of the 26th of March, the UK
7 was claiming that "no decision on the creation of an MPA has been taken yet", and that "the
8 United Kingdom is keen to continue dialogue about environmental protection within the
9 bilateral framework or separately. The public consultation does not preclude, overtake or
10 bypass these talks."⁵²

11 37. But the letters are partly discussed in answer to Judge Greenwood's questions. This letter
12 really fails to give any idea of how imminent a decision on this subject was, and you've seen
13 from Prime Minister Ramgoolam's statement how surprised was when he received Mr.
14 Miliband's telephone call on the 1st of April. If, as the UK now seems to argue, it was
15 serious about obtaining Mauritius' views on the "MPA" at a third round of talks, then, judged
16 on the 26th of March, when exactly were those talks supposed to take place? In the five days
17 between that and the 1st of April?

18 38. Now, the United Kingdom told you that the consultation response was the biggest one ever
19 for a UK government consultation, involving some 250,000 people. We understand that that
20 doesn't mean 250,000 individual responses, because some responses came by way of
21 petitions or, for example, submissions that were signed by a number of individuals, but is
22 was still a very substantial number of individual responses. And one would think, therefore,
23 and there is this outstanding question from the Tribunal, about the report, the assessment
24 report, that was done on those consultation responses. One would think it would have taken

⁵² MM Annex 164

1 some time to assess their answers and to think the matter through. We await the answer to the
2 question of when the analysis of the consultation responses was completed. But as you have
3 seen, in fact, the UK moved with extraordinary speed, announcing the “MPA” only 26 days
4 after the response closed. And this prompted Judge Greenwood to ask Ms. Nevill, “What was
5 the hurry?”⁵³

6 39. Mr. President, that was a question which was also asked in the UK Parliament. The 1st of
7 April 2010 fell during the Easter Parliamentary recess. On the very first day sitting day after
8 Easter, the 6th of April, members of both Houses insisted on having the matter debated as a
9 matter of urgency. We referred to this debate at paragraph 4.81 of the Memorial, and we have
10 included its text at Tab 2.1 of your new folder for today. The debates make interesting
11 reading, and we invite you to look through them fully in due course, but for now I'll draw
12 your attention to some key passages.

13 40. I should just explain this is cut and pasted from the Hansard web site on Parliament's own
14 web page but that doesn't produce a very legible readout, so we've reformatted it so that you
15 can actually see the text more clearly. So we see that Jeremy Corbyn, who is a Labour
16 Member of Parliament and the chair of the All-Party Parliamentary Group on Chagos, has
17 tabled the urgent question to ask the Foreign Secretary if he will make a statement on the
18 declaration of a Marine Protected Area around the Chagos islands, and what consultation
19 took place before the announcement was made. There is an initial statement by the
20 Minister, but the passage I would then take you to is just below the second hole punch. Mr.
21 Corbyn says, “The Minister must be aware that on 10 March I was given an undertaking in a
22 Westminster Hall debate that consultation with interested parties, Members of Parliament and
23 the Chagossian community would take place before an announcement was made. No such
24 consultation has taken place, and there has been no communication with me as chair of the

⁵³ Transcript, p. 593/2.

1 All-Party Group on the Chagos islands or with the Chagossian communities living in
2 Mauritius, the Seychelles or this country.”

3 41. If we go over the page, and I apologize for just skipping along but just in the interest of time,
4 I will take you to what we consider as some of the most helpful passages – if we go over the
5 page, Mr. Bryant, we see has an answer, and there is a passage which we take you to. It's
6 the third paragraph down, beginning “I apologise to my hon. Friend and to the House...”.
7 He says, “I apologise to my hon. Friend and to the House because it became clear to us that,
8 notwithstanding the commitment made to him in the debate” – that's the debate of the 10th of
9 March – “no further information could have come in that would have made any difference to
10 the decision on the protection of the marine environment in the British Indian Ocean
11 Territory.”

12 42. And Mr. Corbyn pressed Mr. Bryant on whether the Foreign Affairs Committee had been
13 consulted about the decision, to which Mr. Bryant answered, if we skip over to page 4, and
14 again I apologize, this is all interesting reading but in the interest of time, I'm just taking it
15 quite quickly. If we go across to page 4, following the red number in the bottom, this again
16 is Mr. Bryant, 8 lines down, after the word "interruption", and it seems from the transcript
17 that this was a fairly heated debate at some points: “The hon. Gentleman asks from a
18 sedentary position whether the Foreign Affairs Committee was consulted. The whole House
19 was consulted, the country was consulted, and we extended the consultation process by
20 weeks so that others could take part.”

21 43. This appears to be a statement that, in the view of the Foreign Office, everybody in the world
22 had been consulted in the sense that they were free to file their own response to the
23 Consultation Document. It appears from this perhaps slightly evasive answer that the Foreign
24 Affairs Committee was not specifically consulted on the decision and, indeed, we don't see a
25 trace in the emails of the 30th of March to the 1st of April of any indication that that

1 committee, or any other Parliamentary committee, had been consulted before the decision
2 was taken.

3 44. Now, at the same time as this was happening, the matter was being debated in the House of
4 Lords. And if we go forward a few pages to page 9, we've included the transcript of the
5 debate in the House of Lords. Lord Wallace, a Liberal Democrat peer, tables the question:
6 "To ask Her Majesty's Government why the Foreign Secretary announced the
7 establishment of a marine protected area in the British Indian Ocean Territory during the
8 Easter Parliamentary Recess."

9 45. The representative of the Government in that debate was Baroness Kinnock of Holyhead,
10 who was the Minister of State at the Foreign and Commonwealth Office. And she responded
11 to the question posed by the Lord Wallace of Saltire which you see about halfway down.
12 She elaborates on the question which he has tabled, and he says, "I thank the Minister for her
13 reminder that this was a 1 April announcement. Does she recall that in the 10 March debate
14 in the other place the Foreign Office Minister who replied promised to keep Parliament
15 informed before a final decision was taken? Does she also recall that the head of the
16 consultation exercise is on record as saying that it would take three months after the closure
17 of the consultation to complete a report? Is she also aware that a European Court of Human
18 Rights assessment is still pending on this and that the Government have not yet given any
19 indication as to how they will manage to enforce this MPA? What then is the hurry, with
20 these many uncompleted consultations and questions, for the Government to rush this out on
21 Maundy Thursday?"

22 46. Well, before I go to Baroness Kinnock's answer, we have before that, if you go over the page
23 to page 10, we have another peer, Lord Howell of Guildford saying: "One body feeling that
24 they were not well consulted or worked with over the marine park project are the
25 Government of Mauritius, in whose territory part of the marine park lies. Is the noble

1 Baroness aware of the considerable anger and dismay that has been expressed by Mauritian
2 government authorities about how they were not consulted and not involved in the whole
3 process that the Minister described, and will she comment on that?"

4 47. And the answer given by Baroness Kinnock is in the paragraph immediately following:

5 "My Lords, I am aware that that has caused considerable discussion in the lead-up to an
6 election in Mauritius. They consider the impact on Mauritius to be extremely serious, but" – and
7 then here we see the point that's been made by the UK on a number of occasions – "the
8 establishment of an MPA would have no effect on our commitment to cede the territory to
9 Mauritius when it is no longer needed for defence purposes." – the stock words that we've seen
10 so many times before. – "I know that that is a sensitive issue, and, indeed, an election issue, but
11 our commitment to Mauritius remains unaffected." Just for completeness at the next tab –

12 ARBITRATOR GREENWOOD: Ms. Macdonald, I'm sorry to interrupt you
13 again.

14 MS. MACDONALD: Yes.

15 ARBITRATOR GREENWOOD: This is always one of the difficult things with
16 British parliamentary figures because they go to the House of Lords and they change their
17 names.

18 MS. MACDONALD: Yes.

19 ARBITRATOR GREENWOOD: But can I just be clear about two of the people
20 who feature in this. The first is in the Lords' debate, Lord Howell of Guildford. Am I right in
21 thinking that's the Lord Howell who became a Minister at the Foreign Office in the coalition a
22 few weeks later?

23 MS. MACDONALD: Yes. I believe that to be the case.

24 ARBITRATOR GREENWOOD: Thank you.

1 And then in the House of Commons debate, there's a question asked by Meg Munn, who was a
2 Labour MP.

3 MS. MACDONALD: She was.

4 ARBITRATOR GREENWOOD: The name is familiar. There is something in
5 one the emails earlier on about I suggest you send this, these details to Meg Munn.

6 And from that I had assumed she was a PPS or something like that, but the
7 question is asked as though she's just a back-bencher.

8 MS. MACDONALD: Yes, she does feature in the emails, and I haven't
9 cross-checked that reference.

10 ARBITRATOR GREENWOOD: Well, I don't suggest you try to do it on your
11 feet.

12 MS. MACDONALD: Yes.

13 ARBITRATOR GREENWOOD: I'm trying to avoid –

14 MS. MACDONALD: I did spend some time over the weekend Googling these
15 various individuals in this debate, just to understand who they were, but we will check up and
16 find on the point of Ms. Munn –

17 ARBITRATOR GREENWOOD: Thank you. The United Kingdom would be
18 able to clarify the matter as well. It's just a matter of curiosity and to make sure I've properly
19 understood who is who in this.

20 MS. MACDONALD: It did strike me when I was just – I mean, obviously
21 sometimes – I apologize, it's in the UK's dramatis personae. I don't have a copy of that in front
22 of me. Oh, sorry, it's in Mauritius' dramatis personae. So, hopefully that has been answered.

23 What we do see – I mean obviously sometimes Hansard particularly in the
24 Commons is easier because it indicates party affiliations. But what we see when we investigate
25 affiliations of those speaking in the House of Lords as well is that there was real cross-party

1 criticism being raised of the measure. It doesn't appear to divide at all along party political
2 lines, but politicians of all three main political parties were joining in expressing their serious
3 concern about what had taken place.

4 48. So we have included the 10 March debate just at Tab 2, and that's longer debate, and we
5 certainly do not ask you to look at it all now. We just put it in there for completeness because
6 there's reference obviously that you're seen on the 6th of April.

7 Is there an empty tab in Judge Hoffman's folder?

8 (Pause.)

9 So are you missing the previous documents as well?

10 I apologize for that, and we'll ensure that you are provided – I'm sorry that I hadn't picked
11 up when I had been speaking that you didn't have those in front of you. I apologize.

12 We put this in for completeness simply because you see on the 6th of April politicians
13 referring back to this debate on the 10th of March and the commitment which they considered to
14 have been broken. And where we see the commitment being recorded is on page 29, if we
15 follow the red letters. As I say, it's a lengthy debate. But we see a Mr. Lewis, that's Ivan
16 Lewis, a Foreign Office Minister, saying, and this is the second-to-last paragraph, which starts
17 with "I'm not being coy": "I am not being coy when I say that the consultation genuinely closed
18 last Friday," – that was the 5th – "and we are not in a position at this stage to announce its
19 outcome or how we intend to proceed. However, I would like to place on record that it is
20 important that hon. Members are briefed – I suspect that this may be the responsibility of
21 someone else, who will, I hope, come from the Labour party – when the Government decide
22 what to do next about the marine protected area. I am cognisant of the fact that hon. Members
23 feel that there was not sufficient consultation with parliamentarians on the Chagossians in the
24 past before apparently unilateral decisions were made. I therefore put on record a commitment to

1 make sure, wherever possible, that interested hon. Members are briefed before we make final
2 decisions on the marine protected area.”

3 49. Of course, as it turned out the Government broke that promise, and Parliament was never
4 briefed before the decision was taken, which is what led to the anger and dismay expressed in
5 the debates of the 6th of April. And the promise given by the Government on the 10th of
6 March was broken because, as Mr. Bryant explained and as you've seen, on the 6th of April,
7 in his view, after 10th of March “it became clear to us that, notwithstanding the commitment
8 made to him – that is to the hon. Member – in the debate, no further information could have
9 come in that would have made any difference to the decision on the protection of the marine
10 environment in the British Indian Ocean Territory.”

11 50. “No further information could have come in that would have made any difference” – perhaps
12 those words mark a convenient point to turn to Article 283.

13 **Article 283**

14 51. The UK devoted a whole speech to the legal requirements of that Article, and although Mr.
15 Wood accused Mauritius of a “cavalier” attitude to its requirements,⁵⁴ on careful analysis we
16 would submit that the United Kingdom has said nothing to persuade you that the hurdle
17 should be any higher than Mauritius has described it. Mr. Wood explained that Article 283
18 was part of the “package deal” and was included in order to secure acceptance by reluctant
19 States of the Convention’s compulsory dispute resolution procedures. So far so good – there
20 is no dispute about any of that. But Mr. Wood engaged very little with the actual caselaw on
21 Article 283, describing it as “not entirely satisfactory”⁵⁵ and saying that the direct Article
22 283 cases “turn on their own particular facts and do not assist [Mauritius’] case.”⁵⁶ Now
23 every case turns on its own facts, in one sense, but this tends to be the phrase that advocates

⁵⁴ Transcript, p. 748/8.

⁵⁵ Transcript, p. 737/9.

⁵⁶ Transcript, p. 738/8-9.

1 use to describe cases which are not helpful to their argument. Instead, Mr. Wood relied
2 heavily on the Anderson article at Tab 55 of the UK folder. I don't ask you to turn that up just
3 now, but I would, in due course, draw your attention to the very final paragraph of that
4 article, which Mr. Wood didn't take you to, and that paragraph says: "Both the International
5 Tribunal for the Law of the Sea and arbitral tribunals have shown a reluctance to find that
6 article 283 has not been complied with. [...] The requirement imposed by article 283 is not to
7 enter into a lengthy discussion or to make genuine attempts to reach a compromise over the
8 means of settlement. The obligation is simply to exchange views or to consult, and to do so
9 expeditiously. So long as the applicant can produce some evidence of relevant exchanges,
10 article 283 is unlikely to act as a bar to proceedings. However, it forms part of the
11 Convention and should be applied..."

12 52. So the parties agree that Article 283 forms a threshold jurisdictional requirement, and
13 Mauritius must satisfy it. Mauritius has not sought to ignore it or to circumvent it. But the
14 UK showed you no authority, judicial or otherwise, to indicate that the hurdle is a high one,
15 and even the article relied on so heavily by Mr. Wood indicates the hurdle's very modest
16 height. It can be stepped over lightly, we would suggest – it does not need to be jumped. In
17 my submission, there is nothing in this article or indeed in the caselaw to detract from the
18 propositions which I put to you in the first round and which I do not repeat here.

19 53. Possibly the only area of implicit legal disagreement between the Parties relates to the need
20 to refer to a specific treaty or its provisions. The UK's factual submissions on Article 283,
21 advanced by Mr. Wordsworth, were replete with criticism of Mauritius for not referring to
22 UNCLOS and its specific provisions. In arguing in this way, the UK appears to ignore the
23 clear words of the International Court in *Georgia v Russia* that "it is not necessary that a
24 State must expressly refer to a specific treaty in its exchanges with the other State to be able

1 later to invoke that instrument before the Court.”⁵⁷ It follows from this, of course, that a
2 State need not refer to specific treaty articles either. Rather, as the Court went on to say, “the
3 exchanges must refer to the subject-matter of the treaty with sufficient clarity to enable the
4 State against which a claim is made to identify that there is, or may be, a dispute with regard
5 to that subject-matter.”⁵⁸

6 54. Now, I can deal with these legal issues briefly because this is not, in our submission, a
7 complex or a difficult point of law. The real question is the application of the principles that
8 Mauritius has identified to the facts. On that you were addressed by Mr. Wordsworth. He
9 sketched out a highly formalistic legal framework⁵⁹ which, on the facts of this case, would
10 mean that nothing said or done by Mauritius before the 1st of April 2010 can in any way
11 contribute to fulfilling the requirements of Article 283. On this analysis, you can simply
12 disregard the record before that date. We say that this approach is unrealistic and finds no
13 support in the caselaw. And indeed, Mr. Wordsworth cited no authority for his analysis.

14 55. So, although the UK’s position is therefore that everything before the 1st of April 2010 is
15 entirely irrelevant to Article 283, Mr. Wordsworth went on to carry out a good deal of textual
16 analysis of the record before that date. His position seems to be that Mauritius’
17 communications in that period are simultaneously irrelevant and deficient.

18 56. Before addressing those criticisms, briefly, a word about the UK’s selection of documents.
19 They placed in Tab 56 of their folder, the documents to which I specifically referred in my
20 Article 283 oral submissions, ostensibly to help you in assessing the strength of Mauritius’
21 case on the point. This would be a sensible approach if the written pleadings did not exist,
22 and if we had not made extensive speeches on the facts before I addressed you on Article
23 283. But as I emphasized to you in my submissions on Article 283, that they were not

⁵⁷ *Georgia v Russia*, para. 30. UKCM, Authority 37.

⁵⁸ *Georgia v Russia*, para. 30. UKCM, Authority 37.

⁵⁹ Transcript, p. 745/3 - 753/18.

1 intended to supplement or replace either the written pleadings or the factual speeches and nor
2 could they have done, given the time available and our desire not to bore you with repetition.

3 57. The proper approach, in Mauritius' view, is to approach the record as a whole. The UK's
4 approach does very little justice to this complex, long-running dispute. Mauritius' repeated
5 references to its specific rights in the Archipelago, including its fishing rights, are dismissed
6 by the UK as simply part of its overarching claim to sovereignty over the Chagos
7 Archipelago. But even then on what it calls "the sovereignty claim" – in truth a claim
8 concerning whether the UK is or is not "the coastal State" – the UK will not accept that the
9 requirements of Article 283 have been met, even in the face of documents where Mauritius
10 specifically said that the UK was not the coastal State for the purposes of declaring maritime
11 zones.⁶⁰ And the UK still offers no explanation for the *volte face* on this point between its
12 pleadings at bifurcation stage and its Counter-Memorial.

13 58. Mr. President, I do not propose to go back through the record at this stage. But what it shows,
14 I would submit, is that by the time Mauritius initiated these proceedings, the "MPA" had
15 been unilaterally imposed on it, in violation of a commitment given at Prime Ministerial
16 level. Mauritius had made it clear for a long period of time that, in its view, the UK lacked
17 any sovereign rights over the Chagos Archipelago, including the right to declare maritime
18 zones. It had made it clear that such a measure would violate rights which Mauritius had
19 asserted for many years, of which the UK was fully aware, and which in many cases were
20 self-evidently incompatible with a no-take MPA.

21 59. The UK takes issue with Mauritius' assessment that, by the time it brought this claim, further
22 exchanges were futile. But that is the judgment that Mauritius made, and I would suggest that
23 it was entirely reasonable in the circumstances. The "MPA" had been rushed through. The

⁶⁰ Letter dated 1 December 2005 from the Prime Minister of Mauritius to the Prime Minister of the United Kingdom, MM, Annex 132; Letter dated 4 January 2006 from the Prime Minister of the United Kingdom to the Prime Minister of Mauritius, MM, Annex 133.

1 new Government was keeping it in place. And it had become clear, we say, that if this
2 important, long-running dispute was to be resolved, it would have to be resolved in this
3 forum, before you, and not in meeting rooms in Port Louis or London.

4 60. Mr. President, Members of the Tribunal, in my submission there is nothing to suggest that the
5 framers of the Convention, or those who have subsequently shaped and developed its
6 caselaw, would intend Article 283 to pose any barrier to an examination of the merits of this
7 case.

8 60. Mr. President, that concludes my submissions, happily within time.

9 61. Can I ask whether members of the Tribunal have any questions?

10 PRESIDENT SHEARER: No, I think not, Ms. Macdonald.

11 MS. MACDONALD: In that case I thank you, Mr. President. We can take the
12 break now –

13 PRESIDENT SHEARER: Take the break now.

14 MS. MACDONALD: And after that I would ask you to call Professor
15 Crawford.

16 PRESIDENT SHEARER: Thank you very much.

17 Well, I think it will be a 20-minute break, rather than 15, and we'll resume at five
18 past 11.

19 Thank you.

20 (Brief recess.)

21 PRESIDENT SHEARER: Mr. Crawford, before you begin, the Tribunal notes
22 that there's been a change in your status, too, since our last meeting in Dubai, and it congratulates
23 you on the Award of the Companion of the Order of Australia.

24 PROFESSOR CRAWFORD: Thank you.

25 Thank you, Sir, no longer Australia's highest civic honor. That's an in-joke.

1 Mr. President, Members of the Tribunal, just to respond to Judge Greenwood's
2 question before the break, Ms. Munn was the Parliamentary Under Secretary of State, UK
3 Foreign and Commonwealth Office, in our dramatis personae.

4 ARBITRATOR GREENWOOD: Thank you. I gather she left office in
5 October 2008, which explains why she's asking a question as a back-bencher in the debate.
6 That's what was puzzling me.

7 **Crawford statement**

8 *Mauritius v United Kingdom*

9 **Reply of Mauritius**

10 **Speech 3: The United Kingdom is not the coastal State: Merits**

11 **Professor James Crawford AC SC**

12 **I. Introduction**

13 Mr. President, Members of the Tribunal:

14 1. I will deal with three questions in this reply: first, the status of the Chagos Archipelago as
15 part of Mauritius before 1965; secondly, the applicability of the law of self-determination at that
16 time, and thirdly, the validity of Mauritius' purported consent to excision. Professor Sands, who
17 follows me, will deal with your jurisdiction to decide these questions.

18 **II. The status of the Chagos Archipelago as part of Mauritius before 1965**

19 Mr. President, Members of the Tribunal:

20 2. The Chagos Archipelago formed part of the territory of Mauritius. You've only to read
21 the documentary record to see that all parties proceeded on the basis that the Archipelago was
22 being separated from the colony. To take only one example, the minutes of the meeting of the
23 Defence and Overseas Policy Committee held on the 23rd of September 1965, at 4:00 p.m.,
24 produced by the United Kingdom last Friday, refer to the 'detachment of the islands' and to their
25 being handed 'back' to Mauritius. You cannot detach something not previously attached whether

1 it's a retina or an archipelago. You cannot hand something back if it did not originate there –
2 whether an island to a colony or a letter proposing marriage to a rejected suitor. No one at the
3 time pretended that the excision was okay because it was not an excision.

4 3. The UK repeated last week its argument that the Archipelago was attached to Mauritius
5 merely 'for reasons of administrative convenience, not because it was seen as part of a territorial
6 unit.'⁶¹ I pause, at Ms. Macdonald's request, to correct Sir Michael's allegation that she
7 mistakenly asserted that this argument was concocted for the purpose of the case.⁶² That's not
8 what she said: she drew attention to the fact that the argument was, 'taken directly from the
9 bygone world of 1960's British colonialism, and it is no more justified now than it was then.'⁶³

10 4. The burden of Sir Michael's remarks was that because the UK termed the Archipelago a
11 dependency before 1965, you should not consider it a part of Mauritius for the purposes of the law
12 of self-determination. In response I would make two points. First, the internal law and practice
13 of the UK was not consistent: the UK regarded Mauritius as including the Archipelago for many
14 purposes. Secondly, whatever the position under what Sir Michael himself describes as the 'finer
15 points of British colonial constitutional law,'⁶⁴ the reality was that the Archipelago was treated as
16 a part of Mauritius by the UK so far as the outside world was concerned.

17 5. As to my first point, the status of the Archipelago under British colonial law and practice
18 does not support the UK position. Even Sir Michael acknowledges that 'for certain purposes ...
19 the Chagos Archipelago seems to have been treated as part of the territory of Mauritius.'⁶⁵

20 6. In fact, successive constitutions of the colony of Mauritius defined it as including its
21 dependencies. For example, the Constitution of 1964 – the last before the excision – has a
22 definition of Mauritius which reads: "Mauritius" means the island of Mauritius and the

⁶¹ Transcript, Day 5, p. 511, lines 10-11.

⁶² Transcript, Day 5, p. 511, line 1.

⁶³ Transcript, Day 2, p. 84, lines 22-23.

⁶⁴ Transcript, Day 5, p. 511, line 6.

⁶⁵ Transcript, Day 6, p. 640, lines 23-25.

1 Dependencies of Mauritius.⁶⁶ Persons born in the Archipelago were citizens of Mauritius. This
2 contrasts with the usual relationship between the UK and its direct dependencies, where a separate
3 citizenship is provided for the dependency. Further, the law of the Archipelago was essentially
4 the law of Mauritius: the Governor of Mauritius extended laws of Mauritius to the Archipelago,
5 and there was no separate law-making body. After it was excised it had to be made into a separate
6 colony.

7 7. In fact, the UK seems to have been liberal with the term ‘dependency’ – even Rodrigues,
8 itself a dependency, was given its own dependencies⁶⁷ - dependencies are dependencies, perhaps
9 they should have been excised back to Mauritius- even though these were tiny uninhabited islands.
10 Whether an island was determined a part of the main island or a dependency seems to have been
11 fairly arbitrary. The convenience of administering the Archipelago together with Mauritius must
12 have been real, since it was done for 150 years. But whether or not bureaucratic inertia
13 contributed to that position, the close connection between Mauritius and the Archipelago for such
14 a length of time would undoubtedly have resulted in the Archipelago becoming independent as
15 part of Mauritius, but for the excision.

16 8. My second point is that in truth these subtleties of UK colonial constitutional law, even if
17 they were real, which they’re not, were not determinative. The UK treated the Archipelago as part
18 of Mauritius in its dealings with the outside world. Sir Michael Wood conceded the distinction
19 between what was done internally and what was done externally.⁶⁸ For example, when the UK
20 extended the application of treaties to its overseas territories, a reference to Mauritius in the
21 relevant list of territories would be taken as extending the treaty to the Archipelago and not simply
22 the main island.⁶⁹ This is illustrated by the extension of the European Convention on Human

⁶⁶Section 90(1).

⁶⁷ The Interpretation and General Clauses Ordinance 1957: section 3(1), “Rodrigues” means the Island of Rodrigues with the Dependencies thereof’.

⁶⁸Transcript, Day 5, p. 517, lines 8-9.

⁶⁹Transcript, Day 6, p. 642, lines 9-11.

1 Rights to Mauritius. As the UK accepted in its pleading in the recent case in Strasbourg, the
2 notification extending the Convention to Mauritius included the Archipelago though there was no
3 express mention of it.⁷⁰

4 9. Crucially, when the excision proposal was under consideration the UK continued to treat
5 the Archipelago as a part of Mauritius. Indeed, otherwise, its actions were incomprehensible.
6 While affirming the legal right to detach the Archipelago unilaterally and without the consent of
7 the Council of Ministers, the UK went to great lengths to try and secure this consent. It gave
8 Mauritius £3 million in compensation – compensation for loss of territory, not for resettlement of
9 the residents, and certainly not for the purposes of ‘securing a new source of income for their
10 economy’, as Sir Michael so unfortunately asserted; it gave undertakings with regard to fishing,
11 mineral and oil rights. Most curious of all – if the UK did not regard the Archipelago as
12 belonging to Mauritius – it promised that the Archipelago would ‘revert’ to Mauritius when it
13 was no longer needed for defence purposes. It was in Mauritius that the majority of the
14 inhabitants were resettled, and the UK made legal provision for them to become Mauritian
15 citizens on independence. The reality was that the Archipelago was treated as part of the
16 territory of Mauritius, and it is as an integral part of Mauritius that it must be regarded for the
17 purpose of the law on self-determination. I turn to that law.

18 **III. Status and effect of the law of self-determination at the time**

19 10. In his presentation last week, Sir Michael repeated the UK’s contention that the right to
20 self-determination in respect of colonial territories was not part of customary international law at
21 the time of the excision or even at the time of Mauritius’ independence. His view of custom, I
22 must say, is static to the point of catalepsy. Sir Michael is now trying to persuade you that it was
23 only in 1970, with the adoption of the *Friendly Relations Declaration*, that the right was
24 established in international law.⁷¹ He might have been tempted to push that arbitrary line even

⁷⁰ Transcript, Day 6, from p. 641, line 25, to p. 642, lines 1-4.

⁷¹ Transcript, Day 6, p. 710, lines 4-6.

1 further into the future if the International Court's clear affirmation of the legal character of
2 self-determination in the *Namibia* advisory opinion a year later (with its reference to previous
3 practice) did not debar him from doing so.

4 11. So Sir Michael adopted 24 October 1970 as the date on which self-determination emerged,
5 like Athena, fully formed and fully-armed into the world. The implication is that it only became a
6 legal right applicable in the colonial context once decolonization was more or less over and the
7 international community had little need for it – like an exhausted marathon runner arriving at the
8 stadium to find only the cleaners cleaning it up. The creation of dozens of newly independent
9 States through decolonization in the 1960s apparently had nothing to do with the law of
10 self-determination. Indeed, he might add, the colonial powers – which he cutely reclassifies as
11 'specially affected States'⁷² – only recognised the right to independence of peoples under their
12 domination applies *ex post facto*. According to Sir Michael, independence was granted *ex gratia*
13 – there speaks the colonial voice – because the right that everyone recognises today did not form
14 part of the actual process of granting of independence to the great majority of non-self-governing
15 territories. It was as if the non-self-governing territories gate-crashed a diplomatic reception, to
16 which, it was afterwards conceded, they *should* have been invited!

17 12. Mr. President, I have addressed the Tribunal on this question in the first round, and I do not
18 need to repeat myself. I will simply focus on a particular point that was central to the UK's case
19 as put last week: the attempt to undermine Resolution 1514. I'll make three responses.

20 13. First, Sir Michael refers to the jurisprudence of the Court, especially the *Wall* opinion, to
21 suggest that it was the *Friendly Relations Declaration*, not the *Colonial Declaration*, that fully
22 articulated the right to colonial self-determination in international law.⁷³ Now, the *Wall* opinion
23 concerned a situation of foreign occupation, the occupation of Palestine territories by Israel. It
24 should come as no surprise that in a case concerning foreign occupation the Court and the

⁷² Transcript, Day 6, p. 707, line 22.

⁷³ Transcript, Day 6, p. 709, lines 1-18.

1 participants in the proceedings would find it more helpful to refer to the *Friendly Relations*
2 *Declaration*, which is more general than the *Colonial Declaration* and had a quite different
3 agenda.

4 14. In contrast, in the *Western Sahara* advisory opinion – a central case on decolonization – it
5 was the *Colonial Declaration* that the Court applied as the main benchmark for its analysis. The
6 Court begins by noting that ‘[t]he principle of self-determination as a right of peoples, and its
7 application for the purpose of bringing all colonial situations to a speedy end, was enunciated in
8 [the *Colonial Declaration*]’.⁷⁴ The *Colonial Declaration*, the Court added at paragraph 57,
9 ‘provides the basis for the process of decolonization which has resulted since 1960 in the creation
10 of many States which are today Members of the United Nations’.⁷⁵ Sir Michael may try to
11 persuade you that ‘the basis’ does not mean the ‘legal basis’: the judges in 1975 would have been
12 perplexed by that suggestion. Later in the opinion, the Court also refers to the *Friendly Relations*
13 *Declaration*, but this is only to reiterate the rules enunciated in the *Colonial Declaration* for
14 colonial territories and to establish the continuity between the two instruments.⁷⁶

15 15. Secondly, Sir Michael has pointed to ‘substantive differences’ between the *Colonial*
16 *Declaration* and the *Friendly Relations Declaration*. These are said to demonstrate that, ‘[it]
17 cannot be said that the customary law of self-determination became established in the course of the
18 decade of the 1960s’.⁷⁷ He first claims that while the *Colonial Declaration* is absolute in its
19 prescription of independence, the *Friendly Relations Declaration* is flexible, envisaging different
20 modalities for implementation of the right. But this is to ignore General Assembly Resolution
21 1541(XV), the twin sister of the *Colonial Declaration*, adopted on 15 December 1960.
22 Resolution 1541 lays down in Principles VI to IX the modalities of the exercise of
23 self-determination to which the *Friendly Relations Declaration* later referred – independence, free

⁷⁴*Western Sahara*, Advisory Opinion, ICJ Reports 1975, para. 55.

⁷⁵*Ibid*, para. 57.

⁷⁶*Ibid*, para 58.

⁷⁷Transcript, Day 6, p. 710, lines 10-11.

1 association, integration with an independent State. In 1970, the *Friendly Relations Declaration*
2 added to this list the choice to adopt ‘any other political status freely determined by a people’.⁷⁸
3 But there’s full continuity between the two instruments, a point the Court in *Western Sahara* made
4 when it noted that the ‘any other political status’ proviso merely ‘reiterates the basic need to take
5 account of the wishes of the people concerned’.⁷⁹

6 16. A further ‘substantive difference’ that Sir Michael identified in the *Friendly Relations*
7 *Declaration* is ‘remedial self-determination’.⁸⁰ He was of course referring to the saving clause
8 according to which self-determination is without prejudice to the territorial integrity of ‘sovereign
9 and independent States conducting themselves in compliance with the principle of equal rights and
10 self-determination of peoples’. The *Colonial Declaration* does not contain a similar reference, as
11 Sir Michael pointed out.

12 17. But this only serves to demonstrate that the *Friendly Relations Declaration* was part of a
13 very different agenda when compared to the *Colonial Declaration*. By the late 1960s, it was
14 beyond question that self-determination applied in the colonial context so as to confer a right on
15 peoples to decide on their political status including a right to independence. Hence the
16 unequivocal reaffirmation in the *Friendly Relations Declaration* of the rules already proclaimed in
17 the *Colonial Declaration*. By the late 1960s, the law of self-determination was facing a new
18 question, whether the right to self-determination applied outside the colonial context. That saving
19 clause hinting at remedial self-determination in the *Friendly Relations Declaration* does not cast
20 any doubt on the rules laid down for non-self-governing territories in the *Colonial Declaration*.

21 18. Third, Sir Michael failed to remind you that the 1982 Convention itself makes no less than
22 three references to the *Colonial Declaration*. The first of these is in Article 140, entitled ‘Benefit
23 of Mankind’, which prescribes:

⁷⁸ UNGA Res 2625(XXV).

⁷⁹ *Western Sahara*, Advisory Opinion, ICJ Reports 1975, para 58.

⁸⁰ Transcript, Day 6, p. 710, lines 22-23.

1 ‘[a]ctivities in the Area shall ... be carried out for the benefit of mankind as a whole, irrespective
2 of the geographical location of States... and taking into particular consideration the interests and
3 needs of developing States and of peoples who have not attained full independence or other
4 self-governing status recognized by the United Nations in accordance with General Assembly
5 Resolution 1514 (XV) and other relevant General Assembly resolutions.’

6 The other two references are in Article 305, which refers to ‘all self-governing associated States
7 which have chosen that status in an act of self-determination supervised and approved by the
8 United Nations in accordance with General Assembly Resolution 1514, and ‘all territories which
9 enjoy full internal self-government, but have not attained full independence in accordance with
10 General Assembly Resolution 1514’.

11 19. Then there is Resolution III appended to the Final Act of the Conference, which states in
12 paragraph 1(a) that: ‘In the case of a territory whose people have not attained full independence
13 or other self-governing status recognized by the United Nations, or a territory under colonial
14 domination, *provisions concerning rights and interests under the Convention shall be*
15 *implemented for the benefit of the people of the territory* with a view to promoting their well-being
16 and development.’ [emphasis added]

17 Churchill and Lowe characterise this as a ‘[s]pecial provision ... concerning the beneficial
18 ownership of the resources of maritime zones of non-independent territories’.⁸¹

19 20. Now, it’s not necessary to go into the controversial history of Resolution III, which – in its
20 prior incarnation as Article 136 of the ISNT – was in Rosenne’s words ‘a highly divisive issue’.⁸²

21 Mauritius does not need to rely substantively on that proposal or on Resolution III; we rely on
22 specific and binding commitments. We don’t need general auditory phrases. But the totality of
23 these provisions demonstrate that the drafters of the 1982 Convention did not share to any degree

⁸¹ R.R. Churchill & A.V. Lowe, *The Law of the Sea* (3rd. ed.), 1999, p. 157.

⁸² Center for Oceans Law and Policy, University of Virginia Law School, *United Nations Convention On The Law Of The Sea 1982: A Commentary*, Vol. V, p. 482.

1 Sir Michael's scepticism about the status and significance of the *Colonial Declaration*. They
2 recognised that, as regards issues of decolonization and the self-determination of colonial peoples,
3 the *Colonial Declaration* was and is the controlling text.

4 21. Before moving on, a quick word on territorial integrity, *uti possidetis* and persistent
5 objection. In my presentation in the first round I established that the territorial integrity of
6 colonial territories is a guarantee attached to the right of colonial self-determination. This is, of
7 course, reflected in the *Colonial Declaration*, paragraph 6, and it was applied contemporaneously
8 by the General Assembly in Resolution 2066(XX). Territorial integrity is a logical consequence
9 of the right to self-determination – if the law were to authorise colonial powers to dispose of
10 colonial territory in the lead-up to independence as they please, the right to self-determination
11 would be frustrated or denied to that extent. Sir Michael has not confronted this argument. He
12 replied by challenging the resolutions which we invoked.⁸³ He referred you to a table included in
13 the Rejoinder, displaying the voting records in those resolutions.⁸⁴

14 22. Here two points must be made. The first, the table shows that the United Kingdom voted
15 against only three of the relevant resolutions. These three concerned disputes in which the UK
16 was involved or had a direct interest. Resolution 2238 on the situation in Oman, condemned the
17 UK not only for breaching the principle of self-determination, but also for concessions given to
18 foreign monopolies and the maintenance of military bases. Resolution 2353 (XXII) (1967)
19 concerned the dispute between the UK and Spain over Gibraltar. Resolution 1899 involved the
20 condemnation of South Africa for not implementing the Charter in relation to South West Africa.
21 The inconsistency the UK sees in these voting records in no way implicates the integrity of
22 territorial colonies, or suggests that, as a matter of principle, it was being called into question.

23 23. My second point is that the *Friendly Relations Declaration*, which Sir Michael is happy to
24 recognise as restating customary international law, provides: 'The territory of a colony or

⁸³ Transcript, Day 6, pp. 711-713, paras. 37-38.

⁸⁴ UKR, pg. 101.

1 other Non-Self-Governing Territory has, under the Charter, a status separate and distinct from the
2 territory of the State administering it; and such separate and distinct status under the Charter shall
3 exist until the people of the colony or Non-Self-Governing Territory have exercised their right to
4 self-determination in accordance with the Charter, and particularly its purposes and principles.’⁸⁵

5 24. The UK has given various examples of territories which were carved up by colonial
6 administrators.⁸⁶ But our concern is not with administrative rearrangements during the long
7 course of colonial rule; it’s with the division of colonial territories for such purposes as the
8 removal of the entirety of their population for the creation of military bases in the run-up to
9 independence. As to these, the territorial integrity rule was applied, there was international
10 scrutiny, and the UK was well aware of the constraints. They rushed to get the excision
11 through in the days before the General Assembly could consider ‘The Question of Mauritius,’
12 and they were criticised precisely on the apprehended grounds in Resolution 2066.

13 25. With respect to *uti possidetis*, Sir Michael continues to insist that it ‘fully supports the
14 United Kingdom’s position,’⁸⁷ referring again to *Burkina Faso/Mali*. But *uti possidetis*, the
15 Chamber then said, ‘is logically connected with the phenomenon of the obtaining of independence,
16 whenever it occurs, wherever it occurs’: its ‘obvious purpose is to prevent the independence and
17 stability of new States being endangered by fratricidal struggles provoked by the challenging of
18 frontiers following the withdrawal of the administering power’.⁸⁸ *Uti possidetis* may well be
19 invoked by a newly-independent State against a self-determination claim made by another
20 newly-independent State. But it cannot be invoked by a colonial power against a
21 self-determination claim made by a former colony. The implication of the United Kingdom’s
22 argument is that by granting independence a colonial power ceases to be responsible for any

⁸⁵ UNGA Res 2625 (XXV).

⁸⁶ Transcript, Day 6, pp. 643-645.

⁸⁷ Transcript, Day 6, p. 698, lines 19-20.

⁸⁸ *Burkina Faso/Mali*, ICJ Reports 1986, para. 23.

1 breaches of the law of self-determination that it may have committed before then. That is not the
2 function of the *uti possidetis* doctrine.

3 26. As to persistent objection, Sir Michael has suggested that the UK ‘did not then – that is in
4 1965 or 1968 – accept the right of self-determination as a rule of international law’.⁸⁹ But a State
5 cannot avoid the application of a customary rule by simply saying that it doesn’t ‘accept’ it. The
6 burden of persistent objection – if it exists in international law, and that is controversial – is
7 onerous. Sir Michael describes the points I made in the first round as ‘pretty unconvincing’,⁹⁰ but
8 offered no response to them. The record speaks for itself, but I would just cite from a 1966
9 memorandum of an unnamed British official writing about the excision, and this is quoted in two
10 of the *Bancoult* cases in the UK: ‘We’, that is the British Government, ‘could not accept the
11 principles governing our otherwise universal behaviour in our dependent territories; we could not
12 accept that the interests of the inhabitants were paramount and that we should develop
13 self-government there.’ He’s talking about Mauritius. ‘We therefore consider that the best way in
14 which we can satisfy these objectives [I interpolate that by objectives he meant the objectives of
15 getting the Archipelago, removing its population and using it as a military base], when our action
16 comes under scrutiny in the United Nations, would be to assert from the start, if the need arose, that
17 this territory did not fall within the scope of Chapter XI of the United Nations Charter.’⁹¹
18 That’s the language of evasion; it’s not the language of persistent objection.

19 **IV. The UK breached the law of self-determination by excising the Chagos Archipelago**

20 Mr. President, Members of the Tribunal:

21 27. I turn now to the argument on the character of the ‘consent’ given to the excision –

22 ARBITRATOR GREENWOOD: Professor Crawford, before you do that, may I
23 just ask a question. I understand that Mauritius’ principal position is that, as of 1965, the principle

⁸⁹ Transcript, Day 6, p. 707, lines 22-23.

⁹⁰ *Ibid*, line 23.

⁹¹ Cited in *R v. Secretary of State for Foreign and Commonwealth Affairs ex parte Bancoult* [2006] EWHC 1038 (Admin) para. 27, available at: <http://www.bailii.org/ew/cases/EWHC/Admin/2006/1038.html>.

1 stated in Paragraph 6 of Resolution 1514 already formed a part of customary international law and
2 that the United Kingdom had not established itself as a persistent objector to that; that's right, is it
3 not?

4 PROFESSOR CRAWFORD: That's right.

5 ARBITRATOR GREENWOOD: But let us suppose for the sake of this
6 discussion that the critical date of which – perhaps "critical date" is not the right expression – the
7 date at which 1514 Paragraph 6 comes to reflect customary international law is after 1965, but
8 before independence in 1968. Did I understand you to be saying in the first round that even then it
9 would apply to render the excision a breach of international law?

10 PROFESSOR CRAWFORD: Yes, I said that, sir, and I meant it. For example,
11 the United Kingdom might have had second thoughts and returned the Archipelago to Mauritius or
12 done other equivalent things. It did that with the three Seychelles islands which were taken away
13 and then returned before independence. In that situation, there will be no breach of the principle
14 because there was a *locus poenitentiae* in effect between 1965 and 1968. The crucial date is the
15 date of independence because that's the date the excision has definitive effect.

16 ARBITRATOR GREENWOOD: Well, help me a little bit as to how that happens.
17 I take your point about if the United Kingdom had had second thoughts, but, of course, the United
18 Kingdom didn't have second thoughts. On the hypothesis I put to you, the excision of the
19 Archipelago in 1965 would not have been a violation of international law. Therefore, at the time
20 of independence, Mauritius would not have included the archipelago, so, how does – how is the
21 excision retrospectively undone, as it were? Would you undo it so far back as the excision of the
22 Seychelles from Mauritius in 1903? Obviously not. I'm just puzzled as to how that alternative
23 line of argument works.

24 PROFESSOR CRAWFORD: Sir, customary international law doesn't develop by
25 legislation. It develops by the instantiation of its principles in practice over time. The territorial

1 integrity rule was articulated as a rule of law as part of the law of self-determination in 1960, and it
2 was applied consistently by the General Assembly in the sense that there was international scrutiny
3 of every case to which it was applicable subsequent to that. The fact that on the first or second
4 occasion when a situation arises and when a question of the application of a rule comes to be
5 examined there might be doubts about it doesn't stop customary international law from working.
6 Or in that case customary international law would be always there after the event, like the
7 exhausted marathon runner. Customary international law is part of the practice of States which
8 evolves through being done, the appetite comes through eating, if I could quote an Italian maxim,
9 which is perhaps inapplicable. The situation is that the United Kingdom in 1965 apprehended
10 very clearly, as you saw from the passage I just read, that the principle would be applied, and it was
11 applied. There wasn't a date between 1965 and 1968 in which the law had changed. The law had
12 been developing, in fact, ever since the enactment of the conclusion of the Charter being
13 articulated through the fifties and coming to effective fruition in 1960.

14 So, my first response is to deny the hypothesis on which the question is put. My
15 second response is to say it follows from the character of customary international law that you can't
16 point to a precise day on which a particular rule is to be applied. The rule is part of the system,
17 and it's applied through the way States respond to given situations, in the same way that you can't
18 say that the Truman Proclamation was customary international law the day after, but you can't say
19 it wasn't. The question is when the issue did arise.

20 ARBITRATOR GREENWOOD: Well, I understand that, Professor Crawford,
21 and I grant you that you don't accept the hypothesis, but let's just stick with the hypothesis for a
22 moment. It's also a well-established principle of international law that the legality of an action
23 has to be judged by the law as it stood at the date that the action took place. So, surely the
24 question has to be, was the excision a violation of international law at the time the excision took
25 place, which is November 1965.

1 PROFESSOR CRAWFORD: Sir, the proposition that the law has to be applied at
2 the date at which an event takes place assumes that you know for certain on the day that an event
3 takes place what the law is. But with customary international law, because it evolves on a
4 continuing basis, you can't know for certain what it is on the same day. You didn't know about the
5 legality of the Truman Proclamation. If the Truman Proclamation was unlawful, then how could
6 it produce legal effects? It was the first time the issue had been raised. What mattered in
7 processing the legality of the Truman Proclamation was the reaction of States to that Declaration,
8 and the reaction was generally favorable or not unfavorable, so we now say the Truman
9 Proclamation was the beginning of a process. We don't have to say that for the territorial integrity
10 rule because the territorial integrity rule had already been articulated in 1960, and when the issue
11 arose in 1965 and then arose in some other cases in the 1960, the rule was applied.

12 So, in that situation, we can say in retrospect that the rule already existed in 1960,
13 but you can say that because you know what States did at the time. Customary international law
14 was applied as a process of doing things, and the things were done here, and they were
15 apprehended. It was apprehended by the United Kingdom that it would be done. There is no
16 question of reliance by the United Kingdom on the legality of conduct in 1965. There was no
17 reliance at all. There was evasion.

18 ARBITRATOR GREENWOOD: Thank you. I'm grateful to you for clarifying
19 what Mauritius' argument was. I wasn't clearly clear about it at the end of the first round.

20 PRESIDENT SHEARER: I'm sorry, Professor Crawford. Judge Wolfrum has a
21 question, too.

22 ARBITRATOR WOLFRUM: Professor Crawford, I have a follow-up question, if
23 you don't mind. You have so far spoken, if I understood you correctly, with the excision of the
24 Chagos Islands and on the basis of territorial integrity referring to Resolution 1514, but you have
25 not touched upon the taking away of the population from the island at that moment. How do you

1 see that? Shouldn't we separate between the territorial aspect and the aspect concerning the
2 population?

3 Thank you.

4 PROFESSOR CRAWFORD: Sir, it was known at the time that the excision was
5 being carried out for purposes of establishing a military base and for eliminating the population,
6 and you see that in the passage I just took you to. It was an aspect of the illegality.

7 One might take another case where there was, say, a bona fide territorial dispute
8 between two neighbouring colonies as you could have, and the metropolitan State corrected that
9 situation prior to independence. It would be reacting bona fide in the interest of preventing a
10 further future conflict. The situation was quite different, and the expulsion of the population,
11 which was envisaged in 1965, was an aspect of the illegality. It wasn't a separate illegality. We
12 have never pleaded it as a separate illegality because in that case it wouldn't, especially if it
13 occurred at a later time, necessarily affect the sovereignty issue, and Mauritius' claim is to
14 sovereignty over the Archipelago. Of course, there are associated questions of resettlement, and
15 that was part of the agenda, and of the events, but the principal complaint was of the excision of the
16 Archipelago and associated conduct.

17 ARBITRATOR WOLFRUM: Perhaps I didn't make myself fully understood.
18 We are sitting here just by chance in an area where, after the First World War, actually in 1920,
19 there was a huge repopulation/resettlement program took place – I don't want to go into that.
20 Hasn't already since then a public international *opinio iuris* formed that such resettlements should
21 not take place?

22 PROFESSOR CRAWFORD: There was a great deal of controversy about the
23 exchange of Greek and Turkish populations. Of course, that was done pursuant to a Treaty at a
24 time when that *opinio iuris* had not formed. The application of the rule in the post-1945 period is,
25 of course, another question. We don't need to take a position for the purposes of this case on the

1 independent illegality of the expulsion of the population because that's not the question that's
2 stated in this case. The question that's at stake in this case is the "MPA".

3 For the purposes of the Article 300 argument, it could be more relevant because the
4 Article 300 argument implies that when you do something, you do it at least with some
5 relationship to the stated purpose, and as I will say tomorrow, there exists some evidence that one
6 of the stated purposes behind the "MPA" was to prevent the resettlement of the Archipelago under
7 British rule, which would be an unlawful act because it affects Mauritius, independent of the
8 sovereignty dispute. So, we would say that it's relevant, and I will make that point tomorrow in
9 relation to Article 300.

10 But the Archipelago could be resettled, and the Attorney General said it might be
11 resettled even under British rule, and Mauritius' primary case is that the excision was in itself
12 unlawful, for reasons associated with self-determination in respect of the entire population of
13 Mauritius, though the resettlement was an aspect of the conduct which made things worse, if I
14 could put it in those terms.

15 ARBITRATOR WOLFRUM: Thank you.

16 PROFESSOR CRAWFORD: So, I return – perhaps I should say 'revert' – to Sir
17 Michael's argument on the character of the 'consent' given to the excision. The strategy was to
18 fixate on the single word 'duress' and to steer your attention away from the legal framework which
19 applied to the events of 1965. He did not want you to think about the 'deal' that was reached in
20 1965 or the alleged 'consent' that was given from the perspective of the law of self-determination,
21 because that makes it impossible to justify the 'deal' and the 'consent.' So he invited you to apply
22 the strict standard of duress applicable in the law of treaties, notably under Articles 52 and 53 of
23 the Vienna Convention.⁹²

⁹² Transcript, Day 6, pp. 714-715.

1 28. Replying to Judge Wolfrum’s question, Sir Michael told you that Prime Minister Wilson’s
2 veiled threat of withholding independence on 23 September 1965 ‘doesn’t begin to approach the
3 kind of act ... that vitiates consent. Negotiations, after all, can be tough, things are said, threats are
4 made.’⁹³ He said that if pressure during the negotiation of a treaty could be subsequently raised to
5 vitiate consent, ‘that would be an extremely serious state of affairs’ for the stability of treaties.⁹⁴

6 29. Here the Tribunal should be – if I may say so with respect – extremely cautious. The
7 Vienna Convention does indeed place great weight upon the stability of treaties. The grounds of
8 invalidity it sets out are *numerus clausus* according to Article 42(1). The foundations of the treaty
9 system are the principle of sovereign equality and the corollary *pacta sunt servanda*. States are
10 very different from each other in reality, and we all know that powerful States such as the UK are
11 in a position to put great pressure on newly independent States, especially small ones such as
12 Mauritius, and even on not so newly independent states. They can even tell tribunals under Part
13 XV what is acceptable to them and what is not. But as a matter of law, because States share the
14 attribute of sovereign equality, it’s only in the most extreme circumstances that the law will
15 repudiate agreements between States.

16 30. But the events of 1965 did not concern two independent States. The negotiations did not
17 take place in the realm of sovereign equality. When we look at the events of 1965, we are looking
18 at the relations between a colony and its metropolitan State, a point made by you, Judge Kateka, on
19 Friday. As to these relations, it is not the legal regime of the Vienna Convention that applied.
20 International law has developed a protective regime in relation to colonial peoples. Under this
21 protective regime, metropolitan States are not at liberty to ‘frighten’ their colonies with hope of
22 independence, nor are they at liberty to impose terms that compromise an ability to decide on the
23 political future of the colony. Under the law of self-determination, the position of the colonial
24 power is one of responsibility as well as authority. The UK emphasises its authority to the point

⁹³ Transcript, Day 6, p. 715, lines 19-21.

⁹⁴ Transcript, Day 6, from p. 715, line 25 to p. 716, line 1.

1 of denying entirely its responsibility, to the point indeed – you heard Mr. Wordsworth on Friday –
2 of incoherence.

3 31. We must have clarity as to the applicable legal framework. The basis of our claim is not
4 that consent was vitiated by duress as identified in Articles 52 and 53. Though we stand by the
5 proposition that the term ‘duress’ provides an apt description of what happened, we have never
6 suggested that the ‘agreement’ of 1965 was a treaty. You cannot make a treaty with yourself,
7 which is why all of my promises to lose weight are completely ineffective. The Council of
8 Ministers, which signed off on the excision (subject to conditions), was a body presided over by a
9 British official, one which contained nominees as well as elected representatives. Our legal claim
10 is that the ‘consent’ purportedly given by the Mauritian Ministers did not meet the requirements of
11 the law of self-determination, and is therefore vitiated. Under the law of self-determination with
12 its accompanying guarantee of territorial integrity, the people of Mauritius had the right to decide
13 whether or not to relinquish the Archipelago by expressing its free and genuine will. Under the
14 law of self-determination, the United Kingdom had the obligation to enable the people to make this
15 decision freely and to respect it.

16 32. Now, our case rests on two factual premises. The first is that consent was given not in
17 accordance with self-determination because the representatives were denied a choice whether or
18 not to retain the Archipelago. Second, consent was not in accordance with self-determination
19 because it was procured by threatening to withhold independence. These premises are
20 interrelated, but they constitute independent grounds for our case. If either of them is true – and
21 we submit they both are – you should conclude that the consent of the representatives was vitiated.
22 Let me address each of them in turn.

23 33. A question of fact, which is not disputed by the parties – the UK has conceded it over and
24 over again – is that the representatives of Mauritius were not given a choice whether to retain the
25 Archipelago. Whether or not they agreed, the Archipelago would be detached unilaterally by

1 Order in Council. That was what Prime Minister Wilson told Premier Ramgoolam on 23
2 September 1965. That was what Colonial Secretary Greenwood reiterated that same afternoon at
3 the meeting at Lancaster House. That's what the UK affirms in its Rejoinder. That's what Sir
4 Michael told you last Thursday when he said in response to Judge Wolfrum's question, 'As a
5 matter of pure law' –pure law means British law, the embodiment of everything that's excellent, I
6 suppose –, 'As a matter of pure law, it was always possible for the United Kingdom under its
7 legislation to divide territories, to adjust boundaries, to do whatever it liked.'⁹⁵ That's pure law.

8 34. But reliance on pure law allowing the UK to do 'whatever it liked,' is incompatible with
9 the international law of self-determination. From the perspective of international law, it's not
10 pure law. It's incompatible law.

11 35. The question before you is whether the consent given by the representatives of a colonial
12 territory to the metropolitan State in a negotiation the outcome of which was predetermined
13 satisfies the requirements of the genuine consent of the people under the law of self-determination.
14 Was it open to the UK to deny a choice to the representatives of Mauritius regarding the excision?
15 I posed these questions in the clearest terms during the first round. Sir Michael spoke about the
16 law of treaties very largely.

17 36. If Mauritius had been offered the opportunity to retain the Archipelago, then it would be
18 open for the UK to persuade you that the 'consent' was given in accordance with the law of
19 self-determination. As things stand, the negotiations were doomed from the very beginning.

20 37. Sir Michael has instead repackaged the records and retold the story of the struggle for
21 independence as a story of struggle for money. '[T]he meeting was all about money, all about
22 compensation, and very understandably so.'⁹⁶ Those were his words. He said: '[i]f sovereignty
23 over the Chagos Archipelago was of concern to them' – the Mauritian representatives – 'they

⁹⁵Transcript, Day 5, p. 537, lines 22-24.

⁹⁶Transcript, Day 5, p. 529, line 11.

1 signally failed to mention it during the meeting'.⁹⁷ This ignores the passages through which I
2 took you during the first round. I'll refer you to Tab 3.2 of your folder, which is behind the gray
3 tab, but you've seen it before.⁹⁸ At page 34 of your folder, the red page number 34, last
4 paragraph, Premier Ramgoolam says, 'we are not interested in the excision of the islands and
5 would stand out for a 99-year lease.' That's at page 34. On the next page, he says the alternative
6 was to give Mauritius independence and let it negotiate the arrangements with the US
7 directly(page 35). At page 37, he 'repeated that the matter should be considered on the basis of
8 Chagos being made available on a 99-year lease.' That's the position the representatives of
9 Mauritius took from the very beginning as regards the Archipelago.

10 38. The account of the 20 September meeting given by Sir Michael is misleading. Mauritius
11 came to the table suggesting a lease. It was not unsympathetic to the plans to establish a base on
12 Diego Garcia. It is not unsympathetic even today. But it expected – quite properly – to receive
13 continuing compensation for the use of its territory. That was what the 'money talks' to which Sir
14 Michael refers were about – they were 'development talks.' You can see going through the
15 record the concerns by the Mauritian Ministers about the future of the colony.

16 39. Sir Michael referred you to page [8] of the record, which is at page 40 of your folder, and
17 told you that 'the Colonial Secretary concluded' the meeting by summarising the points that are at
18 the bottom of the page, the first one alluding to Mauritius' willingness to detach the Archipelago.
19 Two clarifications must be made. First, the Colonial Secretary's view on the 'attitude' of the
20 Ministers is not justified by what they had said. Sir Seewoosagur had firmly opposed excision
21 twice at that same meeting. Nothing the Ministers said indicates that they were open to excision.
22 And secondly, that was not the conclusion of the meeting – there were three further pages of
23 minutes in which the Mauritians try to improve the conditions for their agreement, and they were
24 still talking about a lease. The only time that the possibility of excision is mentioned by the

⁹⁷ Ibid, lines 13-15.

⁹⁸ MM, Annex 16.

1 Mauritians is at pages [10-11] of the record, pages 42 and 43 of the folder. Sir Seewoosagur
2 suggested a figure for yearly payments to be made by the US, and then he added, at page 43, that he
3 was ‘talking in this connection in terms of a lease but if the islands were detached then different
4 figures could easily be calculated’. In other words, if the talks were about excision rather than a
5 lease, the compensation would have to be at a completely different dimension. The Mauritian
6 leaders were simply doing their best in difficult circumstances to secure the economic survival of
7 the new State. They did not freely consent to something as to which they were, explicitly, given
8 no choice.

9 40. Well, you know how the negotiations ended. They received £3 million in return for the
10 excision of the Archipelago, plus the undertakings given in 1965 – undertakings which, according
11 to Mr. Wordsworth, the UK did not intend and didn’t give and which are not binding on them!
12 The 3 million they have claimed is less than half of the annual £7 million that the representatives of
13 Mauritius had asked for a lease of the Archipelago, and less than half of what the Seychelles
14 received for the excision of the three islands that were later reverted to them. It was not much
15 more than the £1 million the UK had initially offered, a sum which vexed Sir Seewoosagur so
16 much that he would prefer to give the islands *ex gratia* rather than take it. Does this outcome
17 reflect the UK’s portrayal of the Mauritian ministers as greedy politicians looking for money?
18 There was *one* price that the representatives of Mauritius were ready to pay, when all the cards
19 were put on the table. That was independence.

20 41. The negotiations that took place have to be viewed in their proper context. The
21 Mauritians had been informed that excision would be carried out with or without consent. The only
22 option that remained was to try to secure the greatest number of benefits that the UK was willing to
23 agree to. Failing to give formal consent would not have prevented excision and would have
24 resulted in the Ministers returning to Mauritius with empty hands, without the islands, without the
25 undertakings. This was the deal of 1965.

1 42. Sir Michael said, 'there was hard bargaining on both sides, leading to agreement.'⁹⁹ There
2 was hard bargaining leading to certain conditions being accepted in relation to the outcome the UK
3 had predetermined and which Mauritius had no possibility to oppose. Was any of this compatible
4 with the obligation on colonial powers to respect the genuine will of the self-determination unit
5 with regard to the dismemberment of colonial territory? The answer is emphatically 'no.'

6 43. I turn to deal with the threats to withhold independence.

7 44. Sir Michael said last week that it appeared 'unambiguous' from the records 'that there were
8 no conditions of independence'.¹⁰⁰ That's a remarkable claim. In my first presentation, I
9 showed you that until the end of the Constitutional Conference the position of the Ministers was
10 contrary to excision: 'unambiguous' might well apply here! Mauritius was – and remains –
11 sympathetic to the security interests of the UK and the US in the Indian Ocean, but it rejected the
12 notion of detachment and it favoured instead a lease. This position did not change until the
13 meeting at 10 Downing Street on the morning of 23 September. We reviewed the covering note
14 prepared by the Private Secretary pointing out to Prime Minister Wilson that the object of the
15 meeting was to frighten Premier Ramgoolam with hope of independence, and to make the point
16 that the Archipelago could be excised unilaterally by Order-in-Council. We saw how Prime
17 Minister Wilson not so subtly pointed to 'the number of possibilities' that the Premier faced,
18 including the possibility of leaving the Conference with independence or without it. He did not
19 fail to point out that the solution which would make everyone happiest would be for the Premier to
20 leave London with the independence of his fractured homeland secured. And then Colonial
21 Secretary Greenwood said: 'take it or leave it – before 4 p.m.'!

22 45. Sir Michael says that the record tells a different story. Never mind the note by the Private
23 Secretary – it does not reflect State policy. Never mind the transcript of the meeting at which
24 Prime Minister Wilson clearly connects the questions of independence and excision. Sir Michael

⁹⁹ Transcript, Day 5, p. 536, lines 16-17.

¹⁰⁰ Transcript, Day 5, p. 523, lines 9-10.

1 concedes that there was, it is true, a connection between independence and excision, but he says it
2 was ‘one of timing,’ not one of ‘substance’.¹⁰¹ We respectfully disagree.

3 46. Sir Michael ignored a key document which I bring again to your attention, an omission
4 which is eloquent. You should – with respect – consider this document carefully. It’s the ‘top
5 secret’ minute of the meeting of the Defence and Oversea Policy Committee – held on 25 May
6 1967, which is at Tab 3.3 of your folder.¹⁰² The meeting concerned the upcoming disclosure of
7 the US’ contribution to the compensation paid to Mauritius and the Seychelles for
8 dismemberment. At page 48 of the folder, first paragraph, second sentence, Herbert Bowden,
9 then the Commonwealth Secretary, says the following: ‘At the time when the agreement for
10 the detachment of BIOT was signed in 1965, Mauritian Ministers were unaware of our
11 negotiations with the United States Government for a contribution by them towards the cost of
12 compensation for detachment. They were further told there was no question of a further
13 contribution to them by the United States Government since this was a matter between ourselves
14 [that is, the United Kingdom] and Mauritius [that’s at page 48], that the £3 million was the
15 maximum we could afford, and [I stress], that unless they accepted our proposals we should not
16 proceed with the arrangements for the grant to them of independence.’

17 47. This is a candid account of a high-ranking British official of what happened in 1965. This
18 meeting concerned specifically the excision of the Archipelago. There is no room to argue that
19 ‘our proposals’ signifies guarantees for minorities or electoral reforms. Mr. Bowden was
20 Anthony Greenwood’s successor.

21 48. Of course, he didn’t participate in the Constitutional Conference. But attending the
22 meeting in 1967 was someone deeply familiar with the events of 1965, the Prime Minister himself.

¹⁰¹ Transcript, Day 5, p. 527, line 4.

¹⁰² Extract from Minutes of 20th Meeting of Defence and Oversea Policy Committee held on 25 May 1967 (MR, Annex 59).

1 He did not point out to the Commonwealth Secretary: ‘you’ve got it wrong, I didn’t frighten Sir
2 Seewoosagur with hope of independence’.

3 49. Sir Michael makes much of Sir Seewoosagur’s subsequent statements in parliamentary
4 debates. I’ve explained to you in the first round what the context in which those statements were
5 made was, and I won’t repeat myself. To the present members of the Tribunal, since it falls
6 within your jurisdiction, I leave it in your hands to weigh the evidence from the documents
7 referring to the ‘package deal;’ the minutes of the parallel meetings at the Constitutional
8 Conference; the covering note; and the unambiguous minutes of the 1967 Cabinet meeting against
9 the speeches that Sir Seewoosagur made years later, in public in the highly politicised context of
10 the legislative debates in Mauritius.

11 50. I’ve also explained the reasons why Mauritius did not formally protest against the excision
12 in the first years of independence, and again I won’t repeat them. I leave you to consider the
13 lessons of the *Nauru* case in this regard: the International Court expressly took into account the
14 character of relations between a former administering authority and a small island State and, we
15 suggest, you should do likewise.

16 51. Finally, counsel referred to the General Elections held in Mauritius in 1967, which, they
17 said, ratified the excision.¹⁰³ But the excision was already a *fait accompli* so far as the electorate
18 was concerned. They had many other issues to face, including the choice between independence
19 and free association. The Mauritian opposition, which favoured free association, was equally
20 opposed to excision.¹⁰⁴ In the circumstances, if the Council of Ministers was not free to reject
21 excision neither was the electorate.

22 **V. Conclusion**

23 Mr. President, Members of the Tribunal:

¹⁰³ Transcript, Day 6, p. 719, lines 11-17.

¹⁰⁴ Cf. e.g. Extract from Minutes of 20th Meeting of Defence and Oversea Policy Committee held on 25 May 1967 (MR, Annex 59), p. 2.

1 52. You have the arguments on consent. You have experience in inter-colonial and
2 international relations. You can assess for yourselves whether consent was truly given. But what
3 is particularly remarkable is that the United Kingdom now treats the whole exercise as a charade.
4 For we are told there cannot have been an agreement between Her Majesty's Government and the
5 colonized, even in the negotiations for independence. The members of the Tribunal will be
6 familiar with the 'clean slate' theory espoused by many African States at the end of decolonization
7 and reflected to a degree in the 1978 Vienna Convention on Succession with respect of Treaties.
8 This is perhaps the first time that the colonial power has argued for a clean slate! The UK now
9 says it came free from Mauritius' independence. Independence was to make the colony free, but it
10 made Britain free, free from any commitments it made, with a slate wiped clean of prior
11 understandings. And the UK says that it is still free of them because, on the *Nuclear Tests*
12 principle, there was no new undertaking after 1968. There didn't need to be. There was
13 reaffirmation of a prior undertaking.

14 53. The true position, as we have said – and we said it in the first round, so that Mr.
15 Wordsworth's incomprehension of the point is all the more surprising – is that these
16 understandings or commitments were most certainly articulated by the United Kingdom as the
17 *quid pro quo* for the 'consent' given. You may still judge that the 'consent' was not given in
18 accordance with the applicable standards for the treatment of a colonizer towards an independence
19 movement. Even so, the conditions remain, and they are, as I have said, and as Mr. Reichler
20 demonstrated in our first round, conditions that were repeatedly referred to with reference back to
21 the events of 1965 in the subsequent inter-State relations of Mauritius and the United Kingdom.
22 For the United Kingdom now to seek to deny them is nothing short of astonishing. Mr. President
23 and Members of the Tribunal, that concludes this presentation.

24 ARBITRATOR WOLFRUM: Thank you, Mr. President.

1 Professor Crawford, let's leave aside for a moment that this consent was given, as you say, due to
2 some pressure put upon the Mauritian Ministers. Let's just talk about the consent. How would
3 you qualify the consent legally? That's the first part of my question.

4 Has it still, even today, an ongoing effect in international law?

5 Thank you.

6 PROFESSOR CRAWFORD: Sir, the consent was vitiated by the circumstances
7 in which it was given. I use the word 'vitiating' carefully because, in the law relating to consent,
8 you have degrees of consent, and that's for the Tribunal to assess. What is absolutely clear is that
9 the consent was given, if it was given at all, on conditions – conditions which the United Kingdom
10 now seeks to trivialize or deny or to remain silent about.

11 In a situation in which an excision has occurred, which is vitiated by conduct
12 analogous to by, let's say, coercion– I won't use the word duress– or by circumstances amounting
13 to a failure to allow people to make a real choice, it's possible for subsequent conduct of a person
14 when it becomes *sui juris*, so to speak, for that defect to be repaired or to be waived. We say that
15 nothing that happens subsequently, silence for a period of time and so on, amounts to waiver. As
16 we said, nothing that Nauru did...Sorry, I've got the wrong 'we': as counsel argued in the Nauru
17 case, nothing that happened after independence amounted to a waiver of a claim to rehabilitation
18 of the lands. I have given you the standard to be applicable in determining whether there has been
19 waiver, and it is for you to apply. We say there has been no waiver. There was no waiver by
20 silence, and rights of this character which are very important rights are not to be deemed to have
21 been waived by silence.

22 I'm not sure I can take matters further. We do not deny that the Council of
23 Ministers gave a sort of consent, and I didn't deny that in the first round. What we said is the
24 circumstances under which that consent was given and the very character of the Council of
25 Ministers was that the consent was vitiated by the applicable law. It is for you to work out the

1 consequences of that in light of the subsequent relations between the States at a time when there
2 was *sui juris*...

3 ARBITRATOR WOLFRUM: Mr. Crawford, this doesn't answer my second part
4 of the question.

5 PROFESSOR CRAWFORD: Sorry, sir, I was focusing on the first.

6 ARBITRATOR WOLFRUM: Whether such a consent has an ongoing effect.

7 PROFESSOR CRAWFORD: Well, if the consent had no effect *ab initio*, it's that
8 the only – I mean, it was part of what happened. It's part of the *res gestae*.

9 ARBITRATOR WOLFRUM: I was working under the assumption it had an
10 effect at the beginning, that it was a theoretical case. Would it then have an ongoing effect.

11 PROFESSOR CRAWFORD: You might have a situation in which an entity under
12 disability gave consent in circumstances where the consent was vitiated, but there is something
13 written down. It remains defective until cured, and it can be cured in a variety of ways, so we
14 would say that whatever deficiency existed in 1968, we say still exists because it hasn't been
15 waived. But we say further to that, assuming *ex hypothesi* that you don't have jurisdiction to
16 determine whether the consent was given because it's associated with a jurisdictional lacuna or gap
17 in your competence, what is perfectly clear is that the conditions that were attached to the events as
18 occurred and which were reaffirmed by the United Kingdom, reaffirmed on the multiple occasions
19 are still binding, and we say you have jurisdiction to determine that in any event.

20 The case is difficult because of the interplay between questions of jurisdiction and
21 questions of substantive law. And I will return to that tomorrow in various ways.

22 PRESIDENT SHEARER: Thank you very much, Professor Crawford. No
23 further questions.

24 Oh, sorry, you have a question, Judge Greenwood.

1 ARBITRATOR GREENWOOD: Professor Crawford, it seems to me that this is a
2 somewhat unusual case in that you are saying that – both parties are saying there was an agreement
3 of some kind in 1965. I heard you say that you don't – in both rounds, you don't deny that some
4 agreement was reached. That Mauritius' position appears to be that it is not bound by what it
5 agreed to, but the United Kingdom is bound by its undertakings.

6 The United Kingdom is saying Mauritius is bound by what its Ministers agreed to
7 and the United Kingdom is not bound by what its Ministers had said. You will appreciate, as I'm
8 sure the United Kingdom does, that for the Tribunal, the path to either of those conclusions is
9 going to be a rather difficult one. I just want to try and sort out precisely what the case is as a
10 matter of law on each side without entering into the question of whether the rhetoric behind it is
11 overblown.

12 It seems to me that in 1965, there could not have been an internationally binding –
13 sorry, an agreement binding in international law concluded between a colony and a metropolitan
14 power because Commonwealth and colonial law at that stage did not provide that agreements of
15 that kind were treaties or equivalent treaties. And since both the Parties concerned were
16 negotiating within the framework of the United Kingdom Commonwealth and colonial law, one
17 has to start from that standpoint. But if I'm wrong in that, I'd be grateful if you'd explain the basis
18 on which I'm wrong. If I'm right, then it must presumably follow that the character of the
19 Agreement as binding in international law must derive from something that happened after
20 independence in 1968.

21 Now, that, I suppose, could have been a reaffirmation after independence of what
22 was said by the two Parties prior to independence, or it could have been a unilateral undertaking
23 along what can loosely be described as the Eastern Greenland/Nuclear Tests line of authorities,
24 and I'd just like you please to sketch out whether I'm wrong in my premise which is only a

1 provisional one, and if I'm right in my premise, which of the two courses you are relying on for the
2 post-1968 period.

3 PROFESSOR CRAWFORD: With respect, sir, you're wrong on your premise.
4 For the United Kingdom to say that consent could have been given which is legally effective in
5 international law in relation to the excision of territory – because, as Judge Wolfrum pointed out
6 earlier, we're talking about the sovereignty of the territory, we're not talking about the
7 inconceivable possibility of a suit for breach of contract after 1968 –assuming that that's right, it
8 was possible for the representatives of a non-self-governing territory to agree to a course of
9 conduct in the context of the negotiation of independence provided they did so freely, and that
10 agreement could have legal effects after independence. It's not a clean slate to the extent that
11 nothing done before independence can have effect.

12 The United Kingdom, on independence, not after independence – on independence
13 – retained the Archipelago. It therefore affirmed the conditions on which it had come to receive
14 the Archipelago, even if the consent given was vitiated.

15 Let's assume I'm your grandfather, sir, and I live in a nice house, and you rather like
16 my house, and I'm a bit frail and you come to me and you say 'I want to take over your house, but
17 you can have the upstairs granny flat'. And I say 'this is very unfair', and I don't want to be
18 thrown out in the streets, and you deny me access to my great grandchildren, so I sign the piece of
19 paper and go and live in the granny flat. The position is, under any civilized system of law, that
20 that agreement is vitiated by the circumstances in which it is made, undue influence, improper
21 pressure or whatever you call it.

22 There is an agreement, but it's defective.

23 The United Kingdom's position is that they can throw me out of the granny flat and
24 keep the house.

1 ARBITRATOR GREENWOOD: So, what you're saying is, irrespective of
2 whether the Agreement is valid, to the extent the United Kingdom retains the benefit, it must also
3 carry the burden.

4 PROFESSOR CRAWFORD: That's exactly right, sir.

5 ARBITRATOR GREENWOOD: Now, just explain – I understand that. Just
6 explain to me, please, how you latch that on to public international law. Was that the case – was
7 that an internationally – was that an agreement binding under international law between November
8 1965 and March 1968, or does it only acquire that character after the I think it's the 12th of March
9 1968?

10 PROFESSOR CRAWFORD: It was not a treaty, nor was it intended as a binding
11 arrangement under British law for the reason stated by Mr. Wordsworth. It was an arrangement
12 made in the context of negotiations for independence which take some time between persons who
13 knew what they were doing in virtue of independence. It's a bit like a pre-incorporation contract,
14 not nothing. The role of domestic analogies in this area is obviously an issue, but the example I've
15 given you shows that there is something to the humanity of the situation, even if we're dealing with
16 States.

17 At the very second of independence, when the excision was affirmed by the
18 continued presence of the United Kingdom in the Archipelago, the United Kingdom disabled itself
19 from denying the conditions attached to its presence. It would have been open, I suppose, for the
20 representatives of the people in the period from 1965 to 1968 to try and reverse the excision. I
21 don't know what efforts were made in that regard, but they certainly weren't bound to accept an
22 agreement obtained in the circumstances in which it was obtained. After independence, they
23 were *sui juris* and free to accept, but there's a presumption that they didn't do so, and there's some
24 tolerance for silence in that period. So I would say this is a situation in which the colonial authority
25 exercising its power assumed a responsibility which it affirms not after independence, but on

1 independence, the very second of independence, because otherwise it would have to hand the
2 territory back. We don't suggest that there's an obligation of reversion after reversion has
3 occurred, but we do say that, in the circumstances, the United Kingdom is bound by the obligations
4 it assumed while it holds on to the territory in the same way that my hypothetical grandchild is
5 obliged to allow me to occupy the granny flat while he occupies the house.

6 ARBITRATOR GREENWOOD: Of course, as I am a grandfather, I listen with
7 great interest, and I will take it into account as planning advice for my own future.

8 PROFESSOR CRAWFORD: There is a law about these arrangements in many
9 countries, which are quite common.

10 ARBITRATOR GREENWOOD: Let me see if I've understood the point all right
11 because I think this is very important for this arbitration. Mauritius is not saying that there was a
12 treaty or something akin to a treaty in 1965, nor is it basing its case on events that took place after
13 independence, though they may be relevant in showing the nature of what had happened before.
14 Essentially what you're saying is that where in the process of moving to independence the colonial
15 power gives "undertakings" in exchange for "consent" to a territorial change, then on
16 independence that, on those undertakings, assumed the character of a commitment binding under
17 international law between the colonial State and the newly independent State.

18 PROFESSOR CRAWFORD: Sir, that's what we're saying, and we're saying that
19 for various reasons, including the possibility of a reversal of the situation between the time the
20 original consent is given and independence, as happened in the case of the Seychelles, but the very
21 act of conferring independence in those circumstances affirms the obligations. There is a law of
22 obligations beyond the law of treaties, just as there is in domestic law.

23 ARBITRATOR GREENWOOD: That's very helpful, Professor Crawford.
24 Thank you.

1 ARBITRATOR WOLFRUM: Thank you, Mr. Crawford. Indeed, I join Sir
2 Christopher's remark. That was extremely helpful as a discourse.

3 Let me just add a small point: What you're referring to after independence, is that
4 a situation you would qualify under estoppel?

5 PROFESSOR CRAWFORD: Estoppel is, of course, an English law concept, and
6 it's been received into international law more or less as it stands in English law. It has quite strict
7 requirements: representation, reliance, detriment.

8 What we say happened after independence was reaffirmation, recognition,
9 acknowledgment of an obligation already existing. It already existed at independence. There
10 was no second after independence when it didn't exist. And, therefore, Mr. Wilberforce's analysis
11 of the *de novo* in a *Nuclear Tests* situation is inappropriate.

12 I think that's probably all I need to say.

13 ARBITRATOR GREENWOOD: Mr. Wordsworth –

14 PROFESSOR CRAWFORD: We're talking about freedom, but probably not that
15 sort of freedom. I apologize to Mr. Wordsworth.

16 PRESIDENT SHEARER: I'm sorry to extend this discussion on this, but as Judge
17 Greenwood has said, this is a really vital question. I just wonder whether another possible
18 interpretation is that when a self-determination unit approaches independence, there is a sort of a
19 period of quasi-sovereignty that occurs. I think I mentioned before the practice in the Application
20 of treaties as a self-determination, as internal self-government develops and one approaches
21 independence, the colonial territory had a say in what Treaty should be applied to it and so on.
22 Could that be any part of your argument, or is that irrelevant?

23 PROFESSOR CRAWFORD: Well, sir, we don't have to argue that there was a
24 State *instatunascendi* in 1965. That would be going too far. But in some situations there is; in
25 some situations there was national liberation, for example. But we do say that a government which

1 represented the people – the people who, after all, is the right holder in relation to
2 self-determination – could give valid consent in the pre-independence situation, if it was not
3 coerced. If there had been a free choice, they could have given valid consent, and that consent
4 would have been binding on the people after independence. International law is, after all,
5 fundamentally a system of representation, and it's not limited to the representation of States.

6 PRESIDENT SHEARER: Very good, Professor Crawford. Thank you. That's
7 very helpful.

8 And now I gather that we will hear from Professor Sands; is that correct?

9 Yes, thank you. Thank you very much.

10 PROFESSOR SANDS: Sir, it is correct, by my watch, we've got only seven or
11 eight minutes left. I'm in your hands. I can make a start on set of submissions that are essentially
12 inviting you to continue the conversation over the next period because you have jurisdiction, we
13 say, to have this conversation on this vitally important issue, but I'm not sure whether it's sensible
14 for me to start now, run for a few minutes or break now and keep it coherent. I'm in your hands,
15 whatever is convenient for the Tribunal.

16 PRESIDENT SHEARER: Thank you, Mr. Sands. I think probably, as you
17 implied, it doesn't make much sense to make a short start and then have to break. So, I think it
18 would be a good idea if we did adjourn at this point, and we return at 2:00 p.m. for the special
19 procedures that we outlined at the beginning. Thank you very much.

20 PROFESSOR SANDS: Thank you very much, Mr. President.

21 PRESIDENT SHEARER: We'll adjourn until 2:00.

22 (Whereupon, at 12:22 p.m., the hearing was adjourned until 2:00 p.m., the same
23 day.)

1 AFTERNOON SESSION

2 PRESIDENT SHEARER: Yes, well, the Tribunal meets at this point to consider
3 the additional documents that have been tendered and admitted into evidence, these are documents
4 tendered by the United Kingdom, and this is an opportunity for the United Kingdom's side to make
5 submission in relation to these documents – there are five of them – and Mauritius will be given an
6 opportunity to respond at their option either tomorrow or on Thursday. Yes, that's right.

7 Yes, Mr. Whomersley.

8 MR. WHOMERSLEY: Thank you. Thank you, Mr. President. Thank you,
9 Members of the Tribunal.

10 I'm first just going to answer the, I think, three or four questions that were
11 outstanding from the UK's presentation earlier last week, and then I will just go to the documents,
12 if I may. I hope you've actually got the documents in the Judges' Folder.

13 The first question, I think, was a question that Judge Hoffmann asked about the
14 scientific basis for the exclusion of Diego Garcia from the MPA. I'm not aware – we're not aware
15 – of any report directed specifically at that issue. But in general terms, Diego Garcia and the
16 lagoon are also covered by legislation in BIOT which governs prevention of pollution and
17 environmental protection, so that's general legislation that applies to Diego Garcia and the lagoon
18 as well.

19 The National Oceanography Centre's report notes that, and I quote, "seawater
20 quality is exceptionally high, even in the Diego Garcia lagoon, with pollutant levels mostly below
21 detection limits", and I will try and make a reference in the Transcript to where that document is.¹⁰⁵

22 The Facilitator's Consultation Report, Section 3 – so that's the lady who looked at
23 all the responses to the consultation and gave a report – says "most of the lagoon areas and a large

¹⁰⁵ UKCM Annex 102.

1 part of the land area of Diego Garcia, are already protected as restricted areas, four special
2 conservation areas and a nature reserve."

3 Perhaps I should just make clear that commercial fishing has never been permitted
4 in the lagoon, and limited recreational fishing only is allowed there.

5 Finally, in Paragraph 16 of Joanne Yeadon's submission of 1 September 2010,
6 which is Mauritius' Reply Annex 164, she records that the Environmental Adviser to BIOT
7 assesses this, namely the exclusion of Diego Garcia and its 3-mile territorial waters, to be "of no
8 environmental significance." So, I hope that answers the question that Judge Hoffmann asked.

9 Now, there was also a question from Judge Greenwood about Colin Roberts'
10 Witness Statement, where he referred to the question of private funding, and this possibly being, I
11 think, in jeopardy if a no-take MPA was not established. The position is as follows: That the
12 Contract with the Bertarelli Foundation – this is the public-private partnership that we've heard so
13 much about – was concluded after the announcement of the MPA. At that point, there was a case
14 still pending in the European Court of Human Rights, and the Contract had a provision in it which
15 permitted Bertarelli to withdraw its funding if the ECHR found against the UK. So, that is a
16 condition on which the continuation of the funding depended.

17 Perhaps I should just go on to say that the funding that Bertarelli has provided was
18 and is used to pay for the enforcement vessel, the Pacific Marlin. That funding was necessary
19 because the fishing income of around £900,000 per year from Taiwanese and other tuna fleets was
20 lost under a no-take MPA. So, in other words, the Bertarelli funding made the no-take MPA
21 possible. It wasn't – it didn't make it necessary, but it made it possible.

22 Let me make it clear that there is no question that Bertarelli was able to dictate the
23 policy, but his foundation was in a position to facilitate the choice that was made.

24 Perhaps I should just say that, in Financial Year 2011-2012, the direct costs of
25 maintaining the MPA were just over £1.2 million. That includes the funding for the patrol vessel,

1 fuel, and a Fisheries Protection Officer. The BIOT Administration received around £700,000 in
2 the same period from the Bertarelli Foundation. So, that was a contribution but not the full cost of
3 the MPA.

4 The next question which I think Judge Greenwood asked was about the report on
5 the consultation, the facilitator's report on the consultation of what date it was provided. I'm
6 afraid we can't, regrettably, give you an exact date for that. We haven't been able to find that.
7 Clearly, the document was received in the Foreign Office well before the 30th of March 2010
8 because Joanne Yeadon's submission of that date refers to it, and I'm sure she must have had it and
9 assimilated it before that, otherwise she wouldn't have been able to write the submission, but I
10 can't, I'm afraid, give you a more accurate date than that.

11 Mr. President, Members of the Tribunal, if I could turn now to the application
12 which the United Kingdom wished to make, and I'm grateful to the Tribunal for allowing me to do
13 this, and we're grateful to our colleagues from Mauritius for their understanding. Let me recall
14 the background. Judge Greenwood asked a question about the follow-up to the letter of the 30th
15 of December from Mr. Boolell, the Foreign Minister of Mauritius, to Mr. David Miliband, who
16 was then his United Kingdom opposite number. The five documents which have been the subject
17 of this application are designed to enable the United Kingdom to give a full answer to Judge
18 Greenwood's question.

19 Can I first take you to the document at Tab 75, and that is two e-mails from a
20 gentleman called Mr. Ewan Ormiston, who is Deputy High Commissioner in Port Louis, to
21 Andrew Allen, who is in the Overseas Territories Directorate in the FCO. Now, again
22 unfortunately, dating is not, obviously, the Foreign Office's strong suit, but there is no date on the
23 e-mail from Andrew Allen but I think when you look at it it's clear from the internal evidence that
24 it must have been sent relatively shortly after 8 December.

1 You will see in the second paragraph of Andrew Allen's email that he says that he's
2 received an oral response from Number 10, in other words, the Prime Minister's Office, and the
3 oral response is "the PM did not say that the consultation/MPA proposal was over or that the issue
4 had finished." In the copy you've got it has highlighting, actually we only have a hard copy of this
5 document and the highlighting is in the hard copy, so that's why it's come out there, but I think
6 that's nonetheless the key phrase there.

7 Then if you turn to the next document, which is Tab 76, and that is a short email
8 from a gentleman called Tom Fletcher about halfway down, and again it's difficult to reconstruct
9 exactly what happened, but clearly there was some delay in providing this, but you will see that the
10 Prime Minister's Private Secretary records that, "the PM said that we would look at ways to ensure
11 that Mauritians were more fully consulted on the development including by sending a delegation
12 to discuss, if useful."

13 So, those are the two documents which we have relating to, as it were, the view
14 from Mr. Brown as to what occurred at the meeting with Mr. Ramgoolam in Trinidad.

15 Now, the next document is at Tab 77, and perhaps it's worth just saying that, before
16 we look at that, that, of course, going back to the documents which you've already seen, you will
17 recollect that the Foreign Secretary, the British Foreign Secretary, wrote to his Mauritian opposite
18 number Mr. Boolell on the 15th of December, and Mr. Boolell replied on the 30th of December –
19 and this is, I think, the letter to which Judge Greenwood was referring. That letter – and I think it's
20 quite important to bear this in mind – referred to the Prime Ministerial discussion, but also says
21 that Mr. Boolell asked "this issue be addressed during the next round of Mauritius-United
22 Kingdom bilateral talks," so I think it's a clear recognition there that the matter should be further
23 discussed.

24 And at Tab 77, what you have is a record of an informal meeting between John
25 Murton, whose name will come up a little bit – quite frequently in the next five minutes, and Mr.

1 Boolell. And if you read that, you will see that this was obviously an informal discussion between
2 the two. You will notice that Mr. Boolell is recorded as making good friends with Digby, and I'm
3 told that Digby is the High Commissioner's dog. I think when you read this record, you will see
4 that it was clearly a very friendly discussion, and if I could characterize this, I think you will see
5 that it's a genuine attempt by senior representatives of two States to resolve what they jointly
6 perceived to be a rather awkward situation. Obviously, I invite you to read this in full, but
7 perhaps I could just take you to the second paragraph, it says: "We were surprised by the
8 Mauritians' negative reactions and had felt that the Miliband letter should have gone a long way to
9 resolving any outstanding issues. Instead, it seems to have ignited the subject."

10 So, I think, perhaps wrongly, but I think clearly the intention on the UK side was
11 that the letter of the 15th of December should try and move matters forward rather than create
12 further problems.

13 Then perhaps I will leave you to read the rest of that, but I think this meeting is
14 rather summed upon well if you look over the page, if you go over the page, the end of the
15 paragraph at the top where John Murton records "we both scratched our heads," and I think that
16 sums up rather well the tenor of this whole meeting.

17 Now, attached to that e-mail were two other documents, and they are following that
18 e-mail in the tab that you've got, and the first one is headed "Engagement with Mauritius on the
19 Issue of Marine Protection in BIOT," and that is quite a lengthy document, that is an internal UK
20 document which seems to have been handed over to Mr. Boolell, but was an internal UK
21 document. I would more, I think, draw your attention to the next attachment, and that is a draft
22 letter, right at the end, last two pages in this tab. And the last two pages, and although it looks like
23 a letter, it is, in fact, a draft of a letter, and you will see that it begins: "I refer to your letter of 30
24 December to David Miliband." It was drafted as a reply to the letter from Mr. Boolell of the 30th
25 of December.

1 Now, it was not sent – I will come to the reasons for that, but that is the draft – and
2 as you will see from the record of the discussion that, in the interim, between enjoying the wine
3 and patting the dog, this draft was handed over to Mr. Boolell.

4 So, can I then move on to Tab 78.

5 Now, in the way of emails, this is rather unhelpfully set out. The first four or five
6 paragraphs on the first page actually record something that happened after the record of what had
7 happened earlier. So I was going to take you first, so we keep in order, to the Record of the
8 Meeting which starts at the bottom of the first page, but the main meat of that is over the page.

9 Now, this records a meeting which was – took place on the 20th of January between
10 John Murton, the High Commissioner there, and Mr. Ramgoolam and his Chief of Staff; and, as
11 you'll see, it says: "We discussed BIOT issues at length."

12 Now, obviously, this is a rather key meeting, but has not been, I think, referred to
13 before. I would again ask you to look through this very carefully. I think you will see when you
14 read it that it is an important meeting. What I would draw your attention to specifically are two
15 points. If you go to at the third paragraph there on Page 2 of the emails, so it's after dear Joanne,
16 dear Colin, and then the third paragraph begins: "I went through our version of events." And
17 you will see there that John Murton says: "I went through our version of events and explained the
18 readout we had received from the meeting." And I think you will see from that that John Murton
19 is making it quite clear that Gordon Brown, the then Prime Minister, did not accept the account of
20 the meeting given by Mr. Ramgoolam.

21 And I would just add that – to say that John Murton also refers to David Miliband's
22 letter, and this is the one of the 15th of December, and he says: "David Miliband's letter was
23 written in good faith as a constructive gesture." So, I think it's, again, the reason for the letter is
24 made clear.

1 Can I just also refer you to the last three sentences of that paragraph, where John
2 Murton specifically suggests that there should be further discussions on the basis of there being
3 without prejudice to sovereignty, and I think when you go back you will see that that was also a
4 suggestion that John Murton had made in the previous meeting with Mr. Boolell, which I've taken
5 you to.

6 And the third sentence says – the third sentence as following: "Mauritian
7 non-participation at recent seminars wasn't helpful. They could have taken part under some form
8 of disclaimer on sovereignty, more willingness to engage from them could have dispelled a lot of
9 misunderstandings. He took these points." That's obviously referring to Mr. Ramgoolam.

10 So that's Document 78. I have to just, very briefly because I'm slightly running out
11 of time, take you back, just so that you're aware, if you go back to the beginning of that e-mailing
12 at the beginning, there is a reference to a telephone conversation between Mr. Boolell and Mr.
13 Murton. This was about the proposed visit of the lady who was the facilitator who was proposing
14 to visit Mauritius in order to get the views of the Chagossian community on the declaration of an
15 MPA, and as you'll see Mr. Boolell is concerned about the possibility of this visit. I'm not sure
16 how relevant it is but obviously it's part of the e-mail chain, but just to say that in the end the
17 facilitator's visit was cancelled and didn't take place.

18 So, finally, in these documents, you've got the document number – Tab 78, and
19 that's a record of a meeting between John Murton and Mr. Boolell, this time there was present the
20 Deputy High Commissioner in the British High Commission and someone from the MFA – 79.
21 Did I say 78? Sorry. Yes. 79.

22 And you will see – perhaps I just take you first to the bottom of the first page of that
23 document, where the record says: "In discussing the way forward from here, Boolell suggested
24 that we meet with Cabinet Secretary Seeballuck to request bilateral talks, we might do so using a
25 'short' letter. Our earlier draft had been too long and open to misinterpretation."

1 So, that, I think, is the reason why the draft letter which I took you to earlier on was not in the end
2 sent. In other words, Mr. Boolell specifically asked that it not be.

3 Over the page you will see, and I don't necessarily think I need to take you to it, but
4 there is quite a long discussion there about how to take matters forward and what issues might be
5 discussed.

6 Now, after that meeting, the High Commission followed up with a Note Verbale of
7 the 15th of February. Mr. Seeballuck replied to that Note Verbale on the 19th of February,
8 indicating that Mauritius was only prepared to resume discussions on its own terms. And I think
9 you will find that at Annex 162 to Mauritius' Memorial, and I would invite you to look again at that
10 document. For example, one of the preconditions imposed by Mauritius was a withdrawal of the
11 public consultation. Well, frankly, that was just not realistic, given that the public consultation
12 had been running for around three months at that point. I think it was also a disappointing reply,
13 given the discussions which John Murton had had with Mr. Ramgoolam and Mr. Boolell.

14 After that, there was a further letter from the High Commission and a further Note
15 Verbale from the High Commission in March, but neither of those were responded to.

16 Can I just suggest a few conclusions to this pack of documents. I think the first is, it is clear and
17 obvious that there was a misunderstanding between Mr. Brown and Mr. Ramgoolam and that no
18 commitment of any kind was given by Mr. Brown. This was clear to Mauritius at an early stage,
19 and in particular the position was made, I think, very clear at the meeting between the High
20 Commissioner and Mr. Ramgoolam on the 20th of January 2010.

21 A reply to Mr. Boolell's letter of the 30th of December was prepared, but it was not
22 sent because Mr. Boolell recommended that it not be sent.

23 Finally, the UK tried on several occasions to resume discussions with Mauritius
24 and specifically suggested this be done under a sovereignty umbrella, but regrettably that did not
25 happen.

1 Mr. President, I hope the Tribunal found that helpful, and obviously if I can assist the Tribunal
2 further, I will endeavor to do so.

3 PRESIDENT SHEARER: Thank you very much.

4 There appear to be no questions. Thank you very much, Mr. Whomersley.

5 MR. WHOMERSLEY: Thank you very much.

6 PRESIDENT SHEARER: Thank you very much for your answers to the
7 questions as well as to the explanations of these documents.

8 May I, just before I call on Professor Sands, point out that I don't think it's only in
9 relation to these documents, but there are some other documents, too, and that each side should,
10 before we finish, or sometime anyway in the near future, make sure that there is a consolidated list
11 of exhibits, Tab Numbers and so on, so that we can find our way around the documents when we're
12 deliberating.

13 MR. WHOMERSLEY: I'm sure that would be helpful.

14 PRESIDENT SHEARER: Very good. Thank you.

15 MR. WHOMERSLEY: Thank you.

16 PRESIDENT SHEARER: And I call upon Mr. Sands to continue his argument
17 from this morning.

18 **ARBITRATION UNDER ANNEX VII TO 1982 UNCLOS**

19 *Republic of Mauritius*

20 *v.*

21 *United Kingdom*

22 **SPEECH 4: JURISDICTION OVER THE 'COASTAL STATE' ISSUE**

23 **Professor Philippe Sands QC**

24 **Monday 5 May 2014**

25 Mr. President, thank you. Members of the Tribunal, thank you.

1 1. We have taken careful note of the United Kingdom's statement and we will revert to the
2 Tribunal as soon as we can as to whether we wish to respond tomorrow or on Thursday, with
3 your permission. I will now turn to the subject that follows on very logically from the
4 submissions of Professor Crawford and from the questions of the Tribunal and another way of
5 casting my submissions is to invite the Tribunal to continue on the line of thinking that is
6 reflected in those questions, we say, this Tribunal has jurisdiction to have that conversation
7 amongst yourselves in perhaps a more private way. So my task is to respond to the United
8 Kingdom which says that you are not entitled to have that conversation amongst yourselves, that
9 you are not entitled to ask yourselves the question, you do not have competence to ask yourself
10 the question as to whether the United Kingdom is or is not the "coastal State" such as to be
11 entitled to establish the purported "MPA" around the Chagos Archipelago. You heard what
12 Professor Crawford had to say on the merits and in our submission there is no impediment to this
13 Tribunal exercising jurisdiction and giving Mauritius the relief that it seeks, and we said that it is
14 indeed high time, after five decades, that this situation be regularized in accordance with the
15 requirements of the Convention. We say that to decline to exercise jurisdiction would undermine
16 the Convention, an instrument which is, as you have heard, infused by a desire on the part of the
17 negotiators to give effect in some way to the requirements of resolution 1514 and the right of
18 self-determination. Part XV was not put there to frustrate the object and purposes of the
19 Convention by perpetuating a situation that is inconsistent with resolution 1514, yet that is
20 exactly what the United Kingdom seeks.

21 2. In presenting its case, it came as no surprise perhaps that the United Kingdom resorted to
22 the strategic and legal arguments as it did. The approach is well-worn and it's expected. It began
23 with the use of fear to soften up the Tribunal (although I have to say we were surprised at quite
24 how far they were willing to go). To accept jurisdiction over this part of the claim, the "coastal
25 State" part of the claim, Sir Michael told you would be "at odds with the text of the

1 Convention.”¹⁰⁶ But neither he nor Mr. Wordsworth could provide you with any actual text to
2 support that proposition. Then they said it would be at odds with the “intention of the negotiating
3 States”,¹⁰⁷ although here too counsel for the United Kingdom was not able to point to a single
4 line or word in the negotiating history that supported the claim. We have come to see it as the
5 UK way, to argue by assertion, and we’ve just heard it again from Mr. Whomersley, without
6 actually providing you with any evidence.

7 3. On the approach of the United Kingdom, it is not only the law of the sea that Mauritius
8 has brought to the cusp of implosion, but indeed the entire international legal order and the
9 settlement of disputes more generally: you were told that the Mauritius’ arguments were, and I
10 give the exact citations in the transcript version, “subversive”,¹⁰⁸ abusive,¹⁰⁹ “perverse”,¹¹⁰
11 “utopian”,¹¹¹ “unseemly”,¹¹² “desperate”¹¹³ and really dredging the bottom of the barrel,
12 “disagreeable”,¹¹⁴ and it was asserted that if you acceded to the arguments that we’re making
13 you will unleash forces of such strength that there will be caused a “grave set-back to the
14 compulsory settlement of disputes under international law”.¹¹⁵ Not be said that they are prone
15 to understatement but all of this, it is said, because we invite you to interpret and apply the words
16 “coastal State”. Curiously, as the Dictionary of Pejoratives was being hurled at us last week,
17 counsel for the United Kingdom nevertheless managed to accuse us of being “simplistic” and
18 “emotional”.¹¹⁶

19 4. Having sought to soften up the Tribunal in this way, counsel then reached for the final
20 weapon in its armory, an argument of such devastating force that one must assume it was

¹⁰⁶ Transcript, p. 646, line 24 (Wood).

¹⁰⁷ Transcript, p. 646, line 24 - p. 647, line 1 (Wood).

¹⁰⁸ Transcript, p. 648, line 12 (Wood).

¹⁰⁹ Transcript, p. 648, line 10 (Wood).

¹¹⁰ Transcript, p. 696, line 22 (Wood).

¹¹¹ Transcript, p. 648, line 23 (Wood).

¹¹² Transcript, p. 649, line 12 (Wood).

¹¹³ Transcript, p. 649, line 12 (Wood).

¹¹⁴ Transcript, p. 649, line 20 (Wood).

¹¹⁵ Transcript, p. 647, lines 8-9 (Wood).

¹¹⁶ Transcript, p. 648, line 14 (Wood).

1 intended to simply cause the entire Tribunal and its membership to keel over or collapse: to take
2 jurisdiction over the “coastal state” issue, you were told, would be “unacceptable to the United
3 Kingdom”.¹¹⁷ Now, that sounded rather more like a threat to us than legal argument. It is not a
4 legal argument at all, and it’s a striking approach for a State that rightly prides itself on a
5 commitment to the rule of law and the presentation of proper legal argument. We are not going
6 to take the bait, we are not going to respond with a barrage of pejoratives, we are not going to
7 threaten you with anything, we will not tell you what is and is not acceptable to us. We will
8 simply stick to legal arguments and we will stick to the text of the Convention, something the
9 United Kingdom would prefer not to do.

10 5. So, I am going to respond to the points made by the UK by following the approach we set
11 out in our first round. And you will recall that our submission identified three issues that we say
12 you are bound to address:

- 13 • First, does the dispute over whether the UK is “the coastal State” concern the interpretation
14 or application of the Convention? We say it does, and plainly so, and the argument by the
15 UK that the words “coastal State” is nothing more than a factual description to be resolved in
16 ten seconds, is wholly implausible.
- 17 • Second, if so, as we say, is the interpretation and application of the words “coastal State”
18 excluded from the jurisdiction of this Tribunal by virtue of one of the exception clauses in the
19 Convention because it requires the Tribunal to determine matters of sovereignty over land?
20 No is the short answer to that.
- 21 • And third, notwithstanding our submission these two questions are sufficient to determine the
22 question of jurisdiction and the end of the matter, is the UK correct that there is implicit in
23 the Convention an unwritten exclusion of disputes touching on questions of sovereignty over
24 territory that would preclude somehow the Tribunal from interpreting the words “the coastal

¹¹⁷ Transcript, p. 735, lines 23-24 (Wood).

1 State” and descending into the forbidden area and then applying its interpretation to the facts
2 of this case?

3 6. It remains our position, having heard everything the United Kingdom said, that this is the
4 correct approach and these are the right questions to be asking. I can summarise our position by
5 reaffirming quite simply Mauritius’ contention of the first part of its claim, the subject addressed
6 by Professor Crawford this morning, concerns the interpretation and application of the
7 Convention. There is no basis for the Tribunal to import into the Convention the exception
8 sought by the United Kingdom to exclude this claim from your jurisdiction, on the ground – as
9 the UK puts it – that you simply are not competent to interpret the meaning of the words “coastal
10 State”, or the issues of self-determination that were discussed rather animatedly this morning, or
11 whether the consent purportedly obtained by the UK in 1965 was genuine. All of these matters,
12 we say, you are competent to address.

13 7. So, let’s turn to the first question, whether this first part of Mauritius’ claim is a dispute
14 about the interpretation and application of the Convention within the meaning of Article 288.
15 And I am going to respond here also to the United Kingdom’s rather curious approach to the
16 applicable law. I will deal with that first and then turn to the exclusion arguments and say
17 something also about Mr. Wordsworth’s remarks about the consequences of our claim. *Fiat*
18 *justitia ruat caelum*, some may say. To take jurisdiction, we say, will cause neither the heavens
19 to fall nor the international dispute settlement system to collapse.

20 (1) *Who is “the coastal State”?* That, we say, is a question regarding the interpretation and
21 application of the Convention.

22 8. And this part of the claim is a dispute about interpretation and application. In addressing
23 this point, it is appropriate to start with the difference between the parties about the
24 characterisation of Mauritius’ claim and the dispute that is before you. The United Kingdom says

1 this is a “sovereignty dispute”, not a dispute about the meaning of the words “coastal State”.¹¹⁸
2 And we stand accused of engaging in what they call an “artificial re-characterisation of the
3 long-standing sovereignty dispute as a ‘who is the coastal State’ dispute”.¹¹⁹

4 9. With respect, the artifice, if there is one, is only in the mind and words of the United
5 Kingdom. It cannot be denied obviously that there has been a longstanding dispute about
6 sovereignty over the Chagos Archipelago. It is also true, however, that on 1 April 2010 the
7 United Kingdom purported to act as “the coastal State” in relation to the Chagos Archipelago,
8 when it purported to create an “Marine Protected Area” over more than half a million square
9 kilometres of sea. That raised law of the sea issues, and to argue otherwise seems to us, in light
10 of everything we have heard this week, to be hardly credible: the “MPA” is seen as a law of the
11 sea issue for scientists, for the French and Mauritian negotiators of the Tromelin agreement, for
12 Members of Parliament in London (as Ms. Macdonald’s documents this morning made clear),
13 and for British civil servants. It does also for the many international lawyers who have written
14 blogs and articles about this issue. Mr. Wordsworth and Sir Michael would appear rather
15 isolated, in our submission, in arguing otherwise.

16 10. The central question before this Tribunal is not whether the United Kingdom has
17 sovereignty, it is whether the United Kingdom for the purposes of the Convention is “the coastal
18 State” and was, as such, entitled to act as it does. That question necessarily requires the Tribunal
19 to interpret the words “coastal State”, and then to apply them to the facts of the case. There is
20 nothing artificial about this dispute, you have seen all of the documents: it is obviously a genuine
21 dispute – the British High Commissioner in part recognized it. The new documents you’ve just
22 been taken to made that absolutely clear. And it is very obviously one that relates to maritime
23 areas, and one that obviously raises questions under the Law of the Sea Convention. The
24 meaning of “coastal State” and the issues of sovereignty are interwoven in this case: the artifice

¹¹⁸ Transcript, p. 663, lines 3-4 (Wordsworth).

¹¹⁹ Transcript, p. 660, lines 19-20 (Wordsworth).

1 is to suggest, as the United Kingdom does, that these issues are somehow disconnected. The
2 artifice is to take refuge in arguments about matters such as whether or not this dispute is a
3 “mixed” dispute, a concept that finds no expression in the Convention. And we say the real
4 question you should be asking yourselves as a tribunal is this: is there a genuine connection
5 between the legality of an “MPA” that extends over half a million square kilometres of ocean, on
6 the one hand, and the Law of the Sea Convention on the other hand? One only need ask the
7 question to see that there is only possible answer to that question.

8 11. The UK has, in our respectful submission, inverted logic. It asserts that “It is self-evident
9 ... that a dispute concerning sovereignty over land territory is not a dispute concerning the
10 interpretation or application of the Law of the Sea Convention”.¹²⁰ The approach assumes that
11 the Convention has an implicit exception for sovereignty disputes, and it’s a claim I am going to
12 come back to, and it denies that this part of the claim by Mauritius relates to the interpretation or
13 application of the Convention. Why might a dispute that involves land sovereignty not be a law
14 of the sea dispute as well, we ask? Professor Boyle rather easily found an example of one in his
15 2007 article in relation to marine scientific research and Part XIII of the Convention. Mauritius
16 has long told the United Kingdom of its view that it is not entitled to declare a “Marine Protected
17 Area”. The claim filed under UNCLOS raised the meaning of the words “coastal State” up front,
18 and these are the words found in the Convention. Paragraph 11(2) of our Application of
19 December 2010 asked the Tribunal to adjudge and declare that “the United Kingdom is not a
20 ‘coastal state’ within the meaning of the 1982 Convention and is not competent to establish the
21 ‘MPA’”.¹²¹

22 12. That formulation is repeated in the first paragraph of the Relief sought in our
23 Memorial,¹²² it is repeated in the Relief sought in the Reply,¹²³ and it will be repeated tomorrow

¹²⁰ Transcript, p. 654, lines 16-17 (Wood).

¹²¹ Mauritius Notification Under Article 287 and Annex VII, Article 1 of UNCLOS, 20 December 2010, p. 7.

¹²² MM, p. 155.

¹²³ MR, p. 237.

1 by Mr. Dabee. This is not a question of shoehorning, as the United Kingdom counsel hopefully
2 put it,¹²⁴ it is not an artificial claim. Having chosen to act as it did in relation to half a million
3 square kilometres of sea, the UK can hardly complain when Mauritius challenges that act as
4 incompatible with the Law of the Sea Convention. The central, vital part of Mauritius' claim
5 concerns the interpretation of the term 'coastal State' and its application to the facts of this case.

6 13. We say this is a legal question and it involves both the meaning of the word 'State' and
7 the meaning of the words 'coastal State'. The UK adopts a very different approach: it argues that
8 the words "coastal State" are to be determined as a matter of fact and do not require the
9 interpretation or application of the Convention. That is the central point of difference between
10 the parties, and at the very heart of this case, and it is a difference, it is a dispute, over which the
11 Tribunal has jurisdiction: it is, as the United Kingdom says, to be interpreted as a factual matter
12 or is it to be interpreted as a matter of fact and law, as we say. And we say this Tribunal
13 obviously can decide which approach is correct and whether the words "coastal State" are, as the
14 United Kingdom says, nothing more than a matter of factual description, or whether they have a
15 legal meaning under the Convention. So I want to take this point carefully, as it is very central to
16 the case.

17 14. We listened very attentively to the United Kingdom, we always do, when they spoke last
18 Thursday. And I want to unpack their words. Mr. Wordsworth began with the sovereignty
19 dispute, and he submitted that, to make the "critical determination" as to whether Mauritius has
20 retained sovereignty and is "the coastal State" in respect of the Chagos Archipelago, "you are not
21 asked to apply UNCLOS".¹²⁵ With respect, he is entirely wrong to say that the analysis does not
22 require the application of the Convention, and he has fallen into error in claiming that no issue of
23 interpretation arises under the Convention.

¹²⁴ Transcript, p. 646, line 13 (Wood).

¹²⁵ Transcript, p. 665, line 13 (Wordsworth).

1 15. The starting point is not the *a priori* question of whether Mauritius does or does not have
2 sovereignty, as he puts it. The correct starting point is whether or not this part of Mauritius'
3 claim concerns the interpretation or application of the Convention. It does. It obviously concerns
4 the interpretation, application of the words "coastal state". Let us take Mr. Wordsworth on his
5 own approach and ask this question: can this tribunal resolve this dispute without interpreting the
6 words "coastal state"? We say it cannot. Having interpreted those words and ascertained their
7 meaning within the Convention, your conclusions are then to be applied before the facts before
8 you. That is the subject that was addressed by Professor Crawford. The point I make is not a
9 complicated one: you have to start with the interpretation of the words of the Convention.
10 Counsel for the United Kingdom, I'm sorry to say, had engaged in muddled thinking, it is not
11 accidental muddled thinking but it is muddled thinking. The consequence of which emerged in
12 the obvious inability to answer the most straightforward of questions put by Judge Greenwood,
13 then by Judge Kateka and then by Judge Wolfrum. So let's look at what he said carefully and
14 properly, and you will find his words at pages 657 and 658 of the transcript, and we have put
15 them in your Judge's Folder at Tab 4.1. And it's halfway down the page, I will just pause for a
16 moment so that you can get that in front of you. I want to take this very slowly and carefully.
17 It's Tab 4.1. This is the heart of the United Kingdom's argument. And you can see at Line 9
18 down on the left, after he submitted you're not asked to apply UNCLOS, he says this: "There
19 was an emphasis last week on interpretation of the term 'coastal State,' but that should detain
20 you no more than about 10 seconds."

21 I'm just going to pause here to make sure that Judge Kateka has the right document in front of
22 him. It is important, please bear with me. Judge Kateka, we are at Tab 4.1. It's the green
23 insert. And halfway down is the statement of Mr. Wordsworth last Thursday I think it was. I
24 will just pause and take you through it again, Judge Kateka: "There was an emphasis last week
25 on interpretation of the term 'coastal State,' but that should detain you no more than about 10

1 seconds, as it means the State with the coast adjacent to the maritime zone with which the given
2 provision of UNCLOS is concerned. The parties appear to be in agreement that this is indeed the
3 correct interpretation of the term ‘coastal State,’ and only part company where it comes to
4 Mauritius’ case that it is the coastal State, or that there can somehow be two coastal States, the
5 ‘Mauritius is a coastal State’ argument.”¹²⁶

6 Now, that is central to the United Kingdom’s argument and it is important that we go through it
7 carefully. Let me be very clear: we do not agree that this is what the words “coastal State”
8 mean in every circumstance, nor do we agree that this matter is something that can be resolved in
9 10 seconds. I rather suspect that Mr. Wordsworth is going to come to regret the suggestion of a
10 10 second job. The United Kingdom says baldly that the “Convention takes land territory as a
11 fact”.¹²⁷ Sir Michael Wood knows that’s wrong: the location of the land boundary terminus was
12 not “a fact” in the *Guyana v Suriname* dispute, in the end it was a legal consequence of the
13 existence of an agreement as to the “boundary in the territorial sea” and “the terminus of the
14 maritime boundary”.¹²⁸ The location of the land boundary terminus in the dispute between
15 Bangladesh and India – and I’m obviously going to be very careful what I say in the presence of
16 Judge Wolfrum – an issue of and with consequences for land territory – is not an issue of “fact”,
17 as UK counsel puts it, but it is the result and the consequence of the application of the law to a
18 situation of fact.

19 16. So, let us unpack Mr. Wordsworth’s definition of ‘coastal State’, as he puts it “the State
20 with the coast adjacent to the maritime zone”.¹²⁹ His definition you will immediately see raises a
21 very large number of questions. What is a “State”? Is Abkhazia a “State” within the meaning of
22 the Convention? Is Taiwan a “State” within the meaning of the Convention? On his definition,
23 it’s sufficient that the “State”, assuming it to be that, is in *de facto* control? Is that the argument

¹²⁶ Transcript, p. 665, lines 13-19 (Wordsworth) (emphasis in the original).

¹²⁷ Transcript, p. 654, lines 20-21 (Wood).

¹²⁸ *Guyana v Suriname*, Award, footnote 361 and accompanying text at para. 308.

¹²⁹ Transcript, p. 665, lines 15-16 (Wordsworth).

1 of the United Kingdom? Or is it the State that is recognised under international law as having
2 sovereignty over the land territory? Let's take the analysis a bit further. Are Abkhazia and
3 Taiwan to be treated as "coastal States" under the Convention? Let's take another current
4 example as a hypothetical: the Russian Federation has taken control of Crimea, is it now
5 a "coastal State" for the purposes of the Convention, or does the Ukraine retain that role? Taiwan
6 has certain claims in relation to the South China Sea. Within the meaning of the Convention, is
7 it to be treated as a "coastal state" under the Convention? These are not issues of fact. You can't
8 resolve them in 10 seconds.

9 17. To be clear, and I want to be very clear here, at this stage the point that I'm making
10 concerns not whether you have jurisdiction to resolve these matters, but simply to illustrate that
11 these matters are not capable of being addressed as matters of fact. It is self-evident. A "State"
12 is not a table, Professor Crawford reminded us. A "coastal State" is not a lobster. The words in
13 question are the words of a treaty and they fall to be interpreted and applied in accordance with
14 the applicable law. One need only look at various provisions of the Convention to see the
15 difficulties, the immense difficulties that will arise if you were to adopt the approach taken by
16 the United Kingdom, and apply the error into which it has fallen.

17 18. Let us take a few examples. There is the requirement of Article 91 of the Convention,
18 "[t]here must exist a genuine link between the State and the ship". On the approach of the United
19 Kingdom, it would seem that the requirement of such a link in determining whether a state is a
20 flag state, is one of those 10 second issues of fact that you decide, no legal assessment is
21 necessary. On the UK approach, the question of whether Taiwan is entitled to benefit from the
22 rights set forth under Article 90 ("Every State, whether coastal or land-locked, has the right to
23 sail ships flying its flag on the high seas"). On the UK approach that's not a matter for
24 interpretation under the Convention, that's a question of fact. What about Article 5 of Annex II
25 on the CLCS, which provides that "Nationals of the coastal State" making a CLCS submission

1 “shall not be a member of the [CLCS] sub-commission dealing with that submission”. So, can
2 the UK member be a member of the CLCS sub-commission that will deal with the Mauritius
3 submission? On the UK approach the answer is not to be found in legal analysis, you treat it as
4 a simple fact.

5 19. And of course, the same considerations apply in relation to the words “coastal State”
6 more generally. There is inevitably a legal element, we say, in determining whether a State is or
7 is not a “coastal State” for the purposes of the application of the Convention, and for many other
8 Conventions to which I’m going to come back to. That legal element may raise issues of
9 sovereignty over land, a point to which I will return, or it may not. For an example of where it
10 does not, there comes to mind the dispute only recently resolved between Iceland, on the one
11 hand, and Norway and the European Union on the other, as to whether Iceland was or was not a
12 “coastal state” for the purposes of the regulation of mackerel fishing in relation to the North East
13 Atlantic Fisheries Council (NEAFC). From 1999 Iceland sought to be accepted as a Coastal State
14 under international law for the purposes of that Convention, but Norway and the EU said no
15 you’re not, and finally in 2010 Iceland managed to persuade them.¹³⁰ But the crucial point is –
16 was Iceland a “coastal State” – was not a factual matter that can be resolved in 10 seconds or in
17 that case, in 10 years.

18 20. One might take as another example a dispute under Article 111 of UNCLOS, which
19 allows hot pursuit of a foreign ship to be undertaken when “the competent authorities of the
20 coastal State have a good reason to believe that the ship has violated the laws and regulations of
21 that State”. So let’s test the proposition. Is the Russian Federation allowed to engage in hot
22 pursuit of a Ukrainian vessel off the Crimean coast today? I will return to the question of
23 jurisdiction in due course, I’m just here exploring the meaning of the words and their character in
24 law and in fact. But is the United Kingdom really saying that the answer to that question is just a

¹³⁰ See Iceland Ministry of Industries and innovation, Mackerel Fishing dispute Questions & Answers, available at: <http://eng.atvinnuvegaraduneyti.is/subjects/mackerel-fishing-dispute/news/nr/6903>.

1 question of facts that can be resolved in 10 seconds? Obviously not, it is not a compelling
2 argument.

3 21. So the words ‘State’ and ‘coastal State’ require interpretation in accordance with
4 international law if their meaning is to be established in a particular case. Or as the United
5 Kingdom says, these are not legal questions at all. And therefore, this is the false logic, they say
6 – and I will return to this – it is simply *not open* to this tribunal or any UNCLOS Part XV court
7 or tribunal to interpret the word “State” or ‘coastal State’. That would have dramatic
8 consequences if this Tribunal were to accept that approach.

9 22. I do believe, however, that it is difficult even for our friends on the UK side to deny that
10 an UNCLOS court or tribunal may have to interpret and apply the term ‘State’ in some
11 circumstances – and to use international law in so doing. To take a simple example, the ITLOS
12 may one day have to determine as part of its *competence de la competence* whether a particular
13 State party can seize the Tribunal in accordance with Article 20 of Annex VI. The Convention
14 offers no definition of the word “State”. It is not always that the depositary alone will be able to
15 provide the answer as to whether an entity is or is not a “State”. ITLOS may have to decide
16 that question. What is ITLOS going to do? Oh, it’s a question of fact, 10 second job, onto the
17 next case please. Obviously not. The term ‘States Parties’ may include associated States and
18 certain self-governing dependent territories, as listed in Article 305. In the days of associated
19 states it is entirely conceivable that one of them might have signed and ratified the Convention
20 and brought a dispute before ITLOS. If the respondent State challenged that category of State,
21 the Tribunal would have had to reach a decision on whether the entity purporting to be a State
22 Party did or did not qualify as such. Such a decision by the Tribunal would be based on factual
23 and legal grounds. What is a State – of any kind – has to involve legal considerations and has, on
24 occasion, going to have to be determined by UNCLOS Part XV courts or tribunals.

1 23. Whilst I am on the point, Mr. President, Members of the Tribunal, you will note that in
2 relation to the entities mentioned in paragraphs (c) and (e) in Article 305 of the Convention, the
3 Tribunal would have to decide the effect of General Assembly resolution 1514 in proceeding. So,
4 the concept of self-determination is not as alien to the Convention as my friends opposite have
5 suggested: Mr. Wordsworth told you that “you are asked to apply and determine controversial
6 issues on a broad range of sources of general international law, that have nothing at all to do with
7 the Convention, [and he singled out] [...] self-determination, [...] General Assembly resolution
8 1514(XV) [...] and [t]he competence of the General Assembly to pronounce on rights to
9 self-determination”.¹³¹ “Nothing at all to do with the Convention”, he says. Well, this morning
10 in my introductory remarks I took you to various provisions of the Convention that explicitly
11 refer to those terms.

12 24. So, let me go beyond the, I hope, uncontroversial and simple case of establishing who is a
13 State Party, and take another example where a court or tribunal under Part XV will have to
14 determine who the relevant State is for the purpose of proceedings before it – and to determine it
15 on the basis of international law. Is the United Kingdom really saying, to take a random case,
16 that in interpreting and applying the obligations in Part III of the Convention on States bordering
17 a strait, that an UNCLOS court or tribunal is to determine if one of the ‘States’ concerned has (or
18 has not) been recognised as a “straits State” would ignore the situation under international law or
19 proceed to treat it purely as a question of fact. Putting it another way, is an UNCLOS court or
20 tribunal precluded, as the United Kingdom says, from making a determination because it cannot
21 use international law to decide the question?

22 25. I could go on – since it has been mentioned during this hearing that there are at least 64
23 uses of the term ‘coastal State’ in the Convention, and more examples of the occurrence,
24 obviously, of the word ‘State’. But it seems the United Kingdom is encouraging UNCLOS

¹³¹ Transcript, p. 665, lines 21-23 and p. 666, lines 1-5 (Wordsworth).

1 tribunals to be very reticent indeed if it is claiming that the words “State” and “coastal State” and
2 “flag State” and “straits State” and “archipelagic State” – and all of the rights that follow in the
3 drawing of straight baselines and other matters – are pure matters of fact over which jurisdiction
4 cannot be exercised. They are plainly mixed questions of fact and law, and as we have said,
5 Part XV tribunals, and I will come back to this in a moment, have competence to decide them.
6 To decide otherwise would hardly be consonant with the call in the Convention’s Preamble that
7 its purpose is to “settle ... all issues relating to the law of the sea” (I note both the use of the
8 word “all” and the words “relating to”, which suggests a broadening of the scope, not a limiting
9 of it). Nor would it be consonant, we say, with the principle of “effectiveness” invoked by Judge
10 Wolfrum in his 2006 speech, and a principle to which Mr. Wordsworth professed the United
11 Kingdom’s attachment.¹³² How effective would dispute settlement be if you can’t interpret all of
12 those words?

13 26. In our submission it is plain that the words “coastal State” are to be interpreted by
14 reference to their meaning as words in a treaty, they are legal terms. As you have heard from
15 Professor Crawford, it is our submission that a State that purports to control a territory in
16 violation of the right of self-determination and otherwise than in accordance with the
17 requirements of General Assembly resolution 1514 cannot be treated as “the coastal state” within
18 the meaning of various provisions of the Convention including Articles 2(3), 56 and 76 of the
19 Convention. The coastal State is not merely “the State with the coast adjacent to the maritime
20 zone”, as the United Kingdom puts it.¹³³

21 27. So, Mr. President, we believe that it is clear that there is a dispute between the parties as
22 to the meaning of the words “coastal state”. That dispute alone concerns the “interpretation or
23 application” of the 1982 Convention, and it is one over which you have jurisdiction. In
24 interpreting those words, and in applying them, the Tribunal is entitled to and must, in

¹³² Transcript, p. 670, line 4 (Wordsworth).

¹³³ Transcript, p. 665, lines 15-16 (Wordsworth).

1 accordance with Article 293, apply the Convention and “other rules of international law not
2 incompatible with [it]”.

3 *Applicable law*

4 28. I turn to the issue of applicable law, since I have just mentioned it. The United Kingdom
5 accuses Mauritius of seeking to extend the jurisdictional provisions of the Convention by the use
6 of Article 293. On the contrary, it is the United Kingdom that seeks to *limit and constrain* Part
7 XV and the jurisdiction of this Tribunal by reference to its particular approach to the
8 interpretation of that Article. Let me reiterate the two limbs of the test under Article 293: first, is
9 there a dispute under the Convention? We say, yes. And second, are there other sufficiently
10 closely linked issues that are necessary to resolve the case? In this dispute, the term ‘coastal State’
11 cannot be interpreted except by reference to general rules of international law, including the rules
12 on self-determination of peoples. As I have pointed out, the rules of self-determination were very
13 much in the minds of the drafters.¹³⁴

14 29. The United Kingdom seems terribly exercised by the idea that in interpreting the words
15 of a treaty one might seek the assistance of rules of international law arising outside of the treaty
16 in question. They say that Mauritius is “not seeking the application of any provision of the
17 Convention”,¹³⁵ but that is plainly not right, as I suspect they well know, in their heart of hearts:
18 we are seeking the interpretation and application of the words “coastal State”. In interpreting
19 those words, and then applying them to the facts of the case, in the dispute, we say recourse can
20 be had to “other rules of international law that are not incompatible with the Convention”, as
21 Article 293 requires. Indeed in interpreting the provisions of a treaty in respect of which they
22 have jurisdiction, international courts and tribunals frequently reach out to other rules of
23 international law:

- 24 • ITLOS did it in the *Saiga No. 2* case, with regards to rules governing the use of force, despite

¹³⁴ Final Act of UNCLOS, para. 42.

¹³⁵ Transcript, p. 674, lines 11-12 (Wordsworth).

1 the fact that there is no reference to Article 2(4) of the United Nations Charter in
2 UNCLOS,¹³⁶ and it was followed by an Annex VII arbitral Tribunal,¹³⁷ as you well know,
3 Mr. President (and as Judge Greenwood well knows). Indeed you heard argument, Mr.
4 President, in that case from Professor Greenwood as he then was speaking not in a personal
5 capacity of course, but as Counsel for Suriname (so it is Suriname you are hearing in that
6 case). And Suriname told the Tribunal, through Professor Greenwood, as he then was, in
7 response to a question from Judge Nelson, “Article 293 does not enlarge the jurisdiction of
8 the Tribunal. It merely points you to the sources of law you may apply in the exercise of the
9 jurisdiction created by Article 288. So, there is no jurisdiction, Counsel for Suriname told
10 you, to decide a dispute about the application of Article 2(4) of the U.N. Charter, for example.
11 Nor is there in my submission, jurisdiction to determine the location of a land boundary or a
12 land boundary terminus”.¹³⁸ That was Counsel for Suriname, argument well put but not
13 accepted, at least in relation to the use of force provision by the Tribunal. And of course, as
14 we know, the second submission did not in the end have to be decided by the Tribunal;

- 15 • ITLOS did it in the *Libertad* case, in taking jurisdiction of a case at the provisional measures
16 phase, when it noted a case between Argentina and Ghana, that “a warship is an expression
17 of the sovereignty of the State whose flag it flies” and that “in accordance with general
18 international law, a warship enjoys immunity, including in internal waters”;¹³⁹ (Counsel for
19 the United Kingdom was very generous in referring to the argument put by Counsel for
20 Ghana in that case, but of course he failed to mention that however well put the argument by
21 Counsel for Ghana was, it did not in the end find favour with the judges of ITLOS);¹⁴⁰ but
22 the point is, UNCLOS doesn’t have a rule on immunity of warships in internal waters, one

¹³⁶ *The M/V “Saiga” (No. 2) Case, (Saint Vincent and the Grenadines v. Guinea)*, Judgment of 1 July 1999.

¹³⁷ *Guyana v Suriname*, Judgment of 17 September 2007.

¹³⁸ *Guyana v Suriname*, Transcript, Day 5, Wednesday 13 December 2006, pp. 716-717.

¹³⁹ *The “ARA Libertad” Case (Argentina v. Ghana)*, Provisional Measures, Order of 15 December 2012, paras. 94-95.

¹⁴⁰ Transcript, p. 651, lines 12-13 (Wood).

1 was found and it was applied.

2 • the ICJ did the same thing in the *Oil Platforms* case, in interpreting and applying the Treaty
3 of Friendship between Iran and the United States as allowing it to have recourse to the rules
4 of international law governing the use of force;¹⁴¹

5 • ICSID tribunals regularly do it in interpreting the rules of the ICSID Convention or bilateral
6 investment treaties on, to take a random example, the rules of international law governing the
7 issue of nationality, they are not set out in the ICSID Convention or in bilateral investment
8 treaties. I came to this point late last night and by the time I got here this morning found the
9 example. I was sitting next to Professor Greenwood and I asked him for a quick example and
10 the example that he gave me was the Soufraki case, which of course Judge Greenwood will
11 remember. Well, if you go to the Soufraki case, you will see that in that case the issue of
12 nationality –

13 ARBITRATOR GREENWOOD: Mr. Sands, I think I should just make clear,
14 you weren't sitting next to Professor Greenwood, as he then was or still is. You were sitting
15 next to Professor Crawford, I suspect.

16 PROFESSOR SANDS: Well, I was sitting next to Professor Crawford.

17 ARBITRATOR GREENWOOD: While I am deeply flattered to be compared
18 with Professor Crawford, I have not had conversations with counsel on either side that might
19 assist them with their submissions in this case.

20 PROFESSOR SANDS: And I hope the record can show that I fell into error
21 there. I was sitting next to that person on that part of the room, not next to that person on that
22 part of the room this morning, in everyone's presence and I said to that person over there, I need
23 a quick case where nationality rules applied by reference to international law, and Professor
24 Crawford, without batting an eyelid, said *Soufraki*. I looked up *Soufraki* and there it is. And I

¹⁴¹ *Oil Platforms (Islamic Republic of Iran v. United States of America), Judgment, I.C.J. Reports 2003*, p. 161, at p. 183, para. 44 *et seq.*

1 will refer you to Pages 26 and 29 in the reference to Oppenheim in interpreting issues of
2 nationality, in interpreting the Convention and dealing with this issue of nationality. You reach
3 out to general international law, and you apply it in determining whether an individual is
4 genuinely or not a national of a particular State.

5 • the WTO Appellate Body did it in the *Shrimp Turtles* case, when it ruled that migratory
6 turtles were an “exhaustible natural resource” within the meaning of Article XX(g) of GATT
7 1994, and it’s interesting to see how they came to that conclusion. They reached out to
8 UNCLOS. UNCLOS is not referred to anywhere in the GATT rules, but they looked to
9 Article 56(1) and interpreted and applied the words “exhaustible natural resource” by
10 reference to practice in the Convention with which we are concerned.¹⁴²

11 30. I could go on and on and on with the examples. The UK says in response to that of course
12 that the sovereignty issue is not incidental, but at the heart of the dispute. Well, it’s no more at
13 the heart of the dispute than the question of whether tuna, dolphins and turtles are to be treated as
14 “exhaustible natural resources.” Because if they are not, that case is over. It was absolutely
15 central in that case too. And the United Kingdom says that these issues cannot be addressed,
16 the sovereignty issue, because it does not concern the law of the sea. Well, I am very grateful to
17 Mr. Wordsworth for reminding me of the practice under the ICAO, I’m going to come back to it
18 in due course and I spent a bit of time over this over the past few days. But can I refer you to
19 the next tab which is an extract from the judgment of the International Court of Justice in 1972
20 on the *Appeal relating to the Jurisdiction of the ICAO Council*. I appreciate it’s really just for the
21 saving of paper that we’ve just put in single pages, publicly available, you’re of course be able to
22 read the entire judgment if you wish to do so. The case concerned the jurisdiction of the ICAO
23 Council to entertain a claim brought by Pakistan against India, a competence that the Court

¹⁴² United States - Import Prohibition of Certain Shrimp and Shrimp Products, AB-1998-4, Report of 12 October 1998, WT/DS58/AB/R, p. 49.

1 upheld. In so doing, the Court made a number of observations in relation to the jurisdiction of the
2 ICAO Council that are pertinent to these proceedings. India arguing that the ICAO Council
3 didn't have jurisdiction to deal with this matter. You will recall the ICAO Council has
4 jurisdiction in relation to the interpretation and application of the 1944 Chicago Convention to
5 which Mr. Wordsworth referred us the other day.¹⁴³ Now, if you turn to Paragraph 27 you will
6 see in the first line:

7 “The question is whether the [ICAO] Council is competent to go into and give a final
8 decision on the merits of the dispute in respect of which, at the instance of Pakistan, and subject
9 to the present appeal, it has assumed jurisdiction. The answer to this question [whether it has
10 jurisdiction] clearly depends on whether Pakistan's case, considered in the light of India's
11 objections to it, discloses the existence of a dispute of such a character as to amount to a
12 “disagreement ... relating to the interpretation or the application” of the Chicago Convention or
13 of the related Transit Agreement. If so, then prima facie the Council is competent. Nor could the
14 Council be deprived of jurisdiction merely because considerations that are claimed to lie outside
15 the Treaties may be involved if, irrespective of this, issues concerning the interpretation or
16 application of these instruments are nevertheless in question. The fact that a defence on the
17 merits is cast in a particular form, cannot affect the competence of the tribunal or other organ
18 concerned – otherwise parties would be in a position themselves to control that competence,
19 which would be inadmissible.”¹⁴⁴

20 PRESIDENT SHEARER: I wonder how much longer you've got.

21 PROFESSOR SANDS: I would love a break. I accept one.

22 PRESIDENT SHEARER: Would this be a point for that?

23 PROFESSOR SANDS: It's highly convenient, Mr. President.

24 PRESIDENT SHEARER: Very well. We will break for 15 minutes.

¹⁴³ Transcript, p. 678, lines 15-24 and p. 679, lines 1-2 (Wordsworth).

¹⁴⁴ *Appeal Relating to the Jurisdiction of the ICAO Council, Judgment, I.C.J. Reports 1972*, p. 46, at p. 61, para. 27 (emphasis added).

1 (Brief recess.)

2 PRESIDENT SHEARER: Yes, Mr. Sands.

3 PROFESSOR SANDS: Mr. President, Members of the Tribunal.

4 *(2) The Tribunal is not explicitly precluded from interpreting or applying the words “coastal*
5 *state”*

6 32. I turn to my second point: is the Tribunal precluded from interpreting or applying the words
7 “the coastal State” by virtue of one of the exception clauses in the Convention, because it
8 requires the Tribunal to determine matters of sovereignty over land?

9 33. Last week I made the point that the interpretation of these words is not excluded by any
10 of the express limitations and exceptions to jurisdiction set out in Articles 297 and 298. Article
11 288(1) does not say that a court or tribunal referred to in Article 287 shall have jurisdiction over
12 any dispute concerning the interpretation or application of this Convention which is submitted to
13 it in accordance with this Part, but not disputes concerning the interpretation or application of the
14 words “coastal State”. Article 297 is exclusively concerned with disputes that relate to the
15 exercise by a coastal State of certain freedoms, rights and uses. It has nothing to say about the
16 entitlement of a State to be able to claim that it is the “coastal State”. Article 298, which
17 concerns optional exceptions, could have been drafted to provide that “When signing, ratifying
18 or acceding to this Convention or at any time thereafter, a State may ... declare in writing that it
19 does not accept any one or more of the procedures provided for in section 2 with respect to
20 disputes concerning the interpretation or application of the words “coastal State””, but it doesn't
21 do that.

22 34. In fact, the UK has not sought to argue that there is an express exception, and for obvious
23 reasons it cannot do so. Subject to the third point of my presentation – the UK somehow
24 managing to persuade this Tribunal that there is an inherent but unwritten and unstated limitation,
25 the obvious conclusion is that, on its face, there is no such limit on the ability of the Tribunal to

1 interpret words found on at least 64 occasions in the Convention.

2 35. And with this conclusion, that really ought to be the end of the matter. But the UK has
3 raised an argument that requires us to address a third point, because, notwithstanding these points,
4 the dispute between the Parties does raise an issue on interpretation and application of the
5 Convention that is not excluded by Article 297 or Article 298. There is something somewhere
6 else that precludes this Tribunal from exercising jurisdiction. We might call it the implicit
7 exclusion. So let's turn to that argument.

8 *(3) There is no unwritten, implicit exclusion of jurisdiction*

9 36. In making this argument the United Kingdom strikingly has few arguments of its own.
10 What it seeks to, rather, is to knock down our arguments. The major part of its effort, having
11 made the assertion, is to respond to Mauritius' legal argument, for example, about the *a*
12 *contrario* interpretation of Article 298(1)(a)(i); and, in doing this, it seeks to invoke the *travaux*
13 *preparatoires* and the views of some commentators.

14 37. Now, I can deal briefly with Mr. Wordsworth's preliminary few remarks regarding the *a*
15 *contrario* interpretation because they just don't add anything to the UK's written pleadings. It's
16 a restatement. Mauritius' reasoned underpinnings for its interpretation are to be found in its
17 Reply¹⁴⁵ and I set them out in the first round of our interventions.¹⁴⁶ I'm not going to repeat
18 them.

19 38. I don't therefore need to say much about the *a contrario* argument. The argument put
20 forward by Mauritius is one which supports the position that an exclusion of land sovereignty
21 disputes in interpreting the words "coastal State" cannot be written into the Convention by the
22 UK. The UK position however – that there is no *a contrario* effect of the proviso in Article
23 298(1)(a)(i) – has the effect of leaving that proviso with no effect at all. If there was no necessity
24 for it, because all sovereignty disputes were already automatically excluded, why was it put in?

¹⁴⁵ MR, paras. 7.24-7.27.

¹⁴⁶ Transcript, pp. 446-460 (Sands).

1 On the principle of *effet utile* – effective interpretation – of treaties, some meaning must be
2 attached to the proviso. The meaning that we have argued for, and the one that is supported by
3 the *travaux* and by the authorities referred to in our written and oral pleadings, is the natural and
4 obvious one: the proviso was included because without it conciliation proceedings for the range
5 of cases mentioned in that Article would have covered disputes over land sovereignty – and there
6 was sufficient support in the negotiations to allow an opt-out for that matter. The proviso simply
7 shows that there was no assumption, as the UK wishes to argue, that Part XV otherwise excludes
8 disputes of the kind we have here: in fact the assumption is the other way. It has offered no
9 evidence in the *travaux* to support its argument, literally nothing at all. The wording of Article
10 298(1)(a)(i) thus suggests that to the extent sovereignty disputes are not necessarily excluded,
11 they *may* be resolved under Part XV to the extent that they form a necessary part, or have a
12 “genuine link” to a dispute concerning the interpretation and application of any provision of the
13 Convention. We reiterate that this plainly does not mean that every dispute touching on
14 sovereignty automatically falls within the Convention.

15 39. Mr. Wordsworth has said that if Mauritius is right in its *a contrario* interpretation, then
16 there would also be an opt-out in the Convention for disputes on who is the “coastal state”, but
17 there is not, and this demonstrates that Mauritius is wrong in its interpretation.¹⁴⁷ And Mr.
18 Wordsworth says that Mauritius has no answer on this point. But we have. And it's in the
19 paragraphs of the Reply that I referred to the speech, paragraphs 7-24-7.27. What we have shown
20 there from the *travaux* is that there was a failure at the conference to create a separate automatic
21 exclusion from jurisdiction for sovereignty disputes despite the question being raised in the
22 negotiations. No broader opt-out was included because there was no consensus to be reached that
23 it was desirable, beyond the very narrow one contained in Article 298(1)(a). And that is the real
24 difficulty that the UK faces. The *travaux* do not support its case.

¹⁴⁷ Transcript, p. 682, lines 21-24 (Wordsworth).

1 40. The UK has thus misapprehended or failed to engage with our primary argument on
2 Article 298, which is simply a textual argument. Mr. Wordsworth has gone to great pains to deal
3 with our subsidiary argument based on the *travaux*, which we only put in to establish that there is
4 no definite support in the *travaux* for the unwritten exclusion of sovereignty disputes for which
5 the UK contends. Mr. Wordsworth suggested that he would take you to the *travaux* in some
6 detail. In fact, as I'm sure you will have noticed, he never did in the end. In lieu of the *travaux* –
7 and while claiming there was no particular magic to the *travaux* – he asked you to read a great
8 many pages of Andronico Adede's book in your spare time, a book the endnotes to which
9 strongly imply that Mr. Adede was often relying on various personal recollections rather than
10 texts or documents. I hope to set you rather less homework and will return to how we see the
11 value of Mr. Adede's volume in a moment.

12 41. It is worth remembering why the *travaux* have been discussed in relation to this question.
13 We say you do have jurisdiction – by ordinary operation of the Convention: plain meaning and
14 the fact that the words “coastal State” are an issue. The UK says you do not because the idea that
15 State parties would not exclude such disputes is, as the United Kingdom puts it, *inconceivable*
16 (as though they had taken the words from William Goldman's classic film *The Princess Bride* on
17 the correct use of the term “You keep using that word – I do not think it means what you think it
18 means”).¹⁴⁸

19 42. But given the lack of any express provision in the Convention excluding sovereignty
20 disputes, the UK has a very high burden to displace, and the onus, we say, is on the UK, not on
21 us. It argues that there was a clear consensus on such an implicit exclusion in the negotiations,
22 apparently recognising that in the absence of such a consensus it is bound to fail. We took you to
23 the *travaux* only to show that the idea of sovereignty was within the contemplation of the
24 negotiators; they thought about it, they talked about it. Despite this, no consensus was reached on

¹⁴⁸ *The Princess Bride* (1987) directed by Rob Reiner, script by William Goldman, Shooting Draft, Scene
23. http://sfy.ru/?script=princess_bride

1 an explicit exclusion. If they truly did not wish a Tribunal such as this to deal with the words that
2 are before you, such an express exclusion, we say, could have been drafted and would have been
3 included. Mr. Wordsworth says that to the extent there was any debate on questions of
4 sovereignty, it only arose in the context of discussing the work of Negotiating Group 7, and this
5 occurred in a silo. Negotiating Group 7 was primarily concerned with the issue of maritime
6 delimitation, he says, and statements in the *travaux* must be read down in the light of that
7 context.¹⁴⁹We say that claim is manifestly unpersuasive, and we invite you to take the time to
8 read the material – all of it – that is set out at Annex 80 to our Reply. And there you will find the
9 actual records of the 112th plenary meeting and the 57th and 58th meeting of the Second
10 Committee of UNCLOS III.

11 43. We are sure you have already read all of that material, so I only have the need to offer a
12 few observations on the *travaux* that are there available.

- 13 • First, these are general debates; they're not the records of a narrowly focused working group.
14 The record is replete with the parties noting the close linkages between the issue of maritime
15 delimitation and other issues, and typically the references are to the work of negotiating
16 group 4 (landlocked and geographically disadvantaged states), negotiating group 5 (dispute
17 settlement regarding the exercise of sovereign rights in the EEZ) and negotiating group 6 (the
18 outer limits of the continental shelf and revenue sharing). Indeed, the delegation of Canada,
19 and you'll find that at paragraph 18 of the material, noted that “the settlement of disputes on
20 maritime boundary issues could not be treated in isolation but had to be considered as part of
21 a comprehensive package.”¹⁵⁰, and that view was supported by others, including Columbia¹⁵¹
22 and Finland.¹⁵²

¹⁴⁹ Transcript, pp. 685 and 689-691 (Wordsworth).

¹⁵⁰ MR Annex 80, 112th plenary, para 18; and 58th second committee meeting, para 1.

¹⁵¹ *Ibid.*, 112th plenary, para 31; and 57th second committee meeting, para 73.

¹⁵² *Ibid.*, 57th second committee meeting, para 45.

- 1 • On these broader issues – my second point – States spoke for and against the idea that
2 sovereignty disputes could or should fall within the Convention. Israel, for example, saw “no
3 inherent difference between disputes relating to maritime boundaries and disputes relating to
4 maritime frontiers”¹⁵³ and therefore was against compulsory dispute settlement at all.
5 Venezuela, was similarly concerned that the dispute settlement system could “give
6 international jurisdiction a blank cheque for settling questions affecting the sovereignty and
7 vital interests” of Venezuela and therefore in the context of delimitation opposed binding
8 procedures. The USSR, was concerned that delimitation disputes were a category of
9 “disputes involving the sovereignty of States” not susceptible to legal resolution.¹⁵⁴
- 10 • On the other hand Chile, as I noted in our written submissions, objected to a dispute
11 settlement system which did not include “settlement of disputes concerning territories and
12 islands”¹⁵⁵ and Columbia agreed with Chile's position,¹⁵⁶ and so did Pakistan even more
13 plainly. And all the references are in the footnotes to the transcript that I'm giving you here.
14 Pakistan said, and I quote, “there should be no differentiation between land-related disputes
15 and sea-related disputes.”¹⁵⁷
- 16 • So, what did the *travaux* stand for? There was a lively debate. But the plain reading shows a
17 record of a majority supporting compulsory dispute settlement system with *no automatic*
18 *exclusions*, including none for any disputes related to the interpretation of the words “coastal
19 State” and land sovereignty issues. No automatic exclusions at all. The point that this was

¹⁵³ *Ibid.*, 112th plenary, para. 26.

¹⁵⁴ *Ibid.*, 112th plenary, para 39.

¹⁵⁵ *Ibid.*, 112th plenary, para 28; and 57th second committee meeting, para 49.

¹⁵⁶ *Ibid.*, 112th plenary, para 31.

¹⁵⁷ *Ibid.*, 112th plenary, para 43.

1 the majority view was expressed explicitly by Spain,¹⁵⁸ Chile,¹⁵⁹ Venezuela,¹⁶⁰ Greece,¹⁶¹
2 and Malta.¹⁶² That is what the *travaux* shows.

3 44. So let's for a moment presume the UK is right: let us presume that the only question on
4 the table was incidental jurisdiction over island and land territory disputes in the context of
5 maritime delimitations. The UK repeatedly claims that the issue of sovereignty was so sensitive
6 that the islands opt out in 298(1)(a)(i) could only reflect a broader implicit exclusion. That's the
7 nub of their argument. With respect, it makes no sense at all. Numerous States – indeed a
8 majority according to Spain, Chile, Venezuela, Greece and Malta – advocated in the work of
9 Negotiating Group 7 a compulsory dispute settlement system with no exclusion for maritime
10 boundary disputes even when touching on questions of sovereignty over islands. These States –
11 apparently a majority – were all willing to have the interpretation and application of all such
12 questions fall within compulsory dispute settlement. If the issue of sovereignty was as sensitive
13 as the UK suggests, why was a majority prepared – even on the UK's preferred narrow view of
14 what was being discussed – to rule such mixed disputes in? The debates do not reflect any
15 consensus that the concept of “coastal State” is an *a priori* fact beyond legal interpretation. A
16 majority would clearly have allowed such questions to be asked, at least in the context of
17 maritime boundary disputes.

18 45. The *travaux* plainly point to one conclusion. The issue of sovereignty over land was
19 addressed, and a majority wanted a compulsory dispute settlement system capable of touching on
20 such questions. A minority did not. All the minority got was the opt-out in Article 298(1)(a)(i),
21 and that became part of the package deal. There is no basis to presume, therefore, that from
22 Article 298(1)(a)(i) one can deduce a wider principle and apply it across the Convention. The
23 Convention says what it says. And in light of this, claiming there was a universal consensus

¹⁵⁸ *Ibid.*, 112th plenary, para 21; 57th meeting, para 59.

¹⁵⁹ *Ibid.*, 57th meeting, para 49.

¹⁶⁰ *Ibid.*, 58th meeting, para 8.

¹⁶¹ *Ibid.*, 58th meeting, para 11.

¹⁶² *Ibid.*, 58th meeting, para 12.

1 that sovereignty disputes could never be agitated under Part XV – and that the issue was never
2 considered – is without any historical foundation. It is plain wrong on the facts. The *travaux*
3 simply confirm our submissions that the dispute settlement system – on the face of the
4 Convention – begins with a presumption, a general presumption, that all disputes are in unless
5 they are expressly out.

6 46. I will turn now to Adede’s book. The UK put a great chunk of it into your folders, though
7 apparently as no more than a convenient aid to understanding the negotiations, as Mr.
8 Wordsworth claims there was no magic to his books, a sort of caveat.¹⁶³ We agree with that. Mr.
9 Adede was indeed present during the negotiations and his book represents an interesting
10 combination of legal history and diplomatic memoire. I once had occasion to hear him talk about
11 this because we taught a course together at New York University many years ago. The difficulty,
12 of course, with his book, perhaps also with his memory, is the paucity of the referencing on so
13 many of the key points. As you will see, if you go to the book, there are often no citations to
14 the record, no footnotes at all, no direct quotations offered, and the relatively sparse endnotes
15 often include cross-references that are either missing, incomplete or, in some cases, still have the
16 proofreader’s markets inserted in the published volume. Certainly, we agree with some of Mr.
17 Adede’s views. He holds that from the outset there were those delegations which wanted an
18 UNCLOS dispute settlement system with no exceptions whatever.¹⁶⁴ We agree. He contends
19 that there was a deep difference of views as to whether sovereignty claims could fall within or
20 without the dispute settlement system in the maritime delimitation conversations.¹⁶⁵ We agree
21 with that. The United Kingdom makes much of Adede’s recounting of the remark of the
22 President of the Conference that, in his view, the Convention was not intended to cover questions
23 of sovereignty over territory and that question would be left to general international law.¹⁶⁶ I

¹⁶³ Transcript, p. 685, lines 3-4 (Wordsworth).

¹⁶⁴ UK Folder, Tab 48 (Adede), pp. 57-8.

¹⁶⁵ *Ibid.*, p. 175.

¹⁶⁶ *Ibid.*, p. 132.

1 hesitate to use the word “mainstay”, or I may be accused of plagiarism, but it has to be said that
2 if I have to choose as my mainstay Mr. A or Professor B, I will choose Professor B. In any event,
3 on this I simply observe that Mr. Adede provides no sources for what is essentially an anecdote.
4 However, even if the UK could find a direct statement by the President to the same effect in the
5 *travaux* – which it has not done – it would make no difference. It remains, at best, what Mr.
6 Adede said it was: the personal view of the President of the Conference in negotiations, and such
7 a personal view does not determine, and cannot determine, the authentic meaning of the
8 Convention or its plain words.

9 47. Mr. Wordsworth also asks that we take a narrow, siloed or salami-sliced view of the
10 academic commentary on what the UK has called “mixed disputes”. He claims that all academic
11 writings on point adopt one of three views. These are the questions touching upon sovereignty
12 might be adjudicated under Part XV in the context of maritime boundary disputes because:

- 13 • maritime boundaries cannot be determined in isolation from land territory; or two
- 14 • given the existence of the Article 298(1)(a)(i) opt-out for maritime delimitation which also
15 excludes certain questions of sovereignty, then *a contrario* such delimitation disputes are
16 otherwise included; and three
- 17 • rejection of jurisdiction in such cases would deprive Articles 15, 74 and 83 of their full
18 effect.

19 48. All the commentators, he says, can be classed under these three views. Well, even if we
20 were to accept his narrow categorisation, Mr. Wordsworth would still be wrong. One
21 commentary at least, and of course there are more, has plainly said and in terms that there is no
22 bar to this Tribunal determining a “who is the coastal State dispute”, and that is Professor Boyle.
23 His 2007 book chapter resolves any ambiguity that the United Kingdom sought to rely upon in
24 his 1997 article.¹⁶⁷ Where two States both claim the same island, the question of which is the

¹⁶⁷ Mauritius Folder (first round), Tab 13.5.

1 coastal State capable of taking enforcement action in the island’s maritime zones is, Professor
2 Boyle writes, a question “not easily avoid[ed]” by a court or tribunal; although an appropriate
3 Article 298 declaration might render the dispute “no longer” subject to adjudication.¹⁶⁸

4 49. While few put the point with such admirable clarity, the fact that other authors principally
5 discuss the questions in the context of boundary delimitations is neither here nor there. As I have
6 previously submitted, the UK is wrong to argue the inference from these writings is that
7 sovereignty questions could only arise under Part XV where they are “mixed” with a delimitation
8 dispute. This is simply the most obvious case in which they could arise but not the only one. For
9 example, Judge Rao writes, and I quote: “It is not uncommon to see the adjudicative forums
10 referred to in article 287 deciding matters of general international law that are not strictly part of
11 the law of the sea. A court or tribunal referred to in article 288 being thus empowered to apply
12 general international law suffers from no inherent limitation even in resolving disputes involving
13 the land element”¹⁶⁹

14 50. That appears as a statement of general principle and we say it is a correct understanding
15 of the law. It does not matter that Judge Rao reached this conclusion having taken maritime
16 boundary disputes as his point of departure. Similarly, when Judge Treves wrote the result of a
17 proper *a contrario* understanding of Article 298(1)(a)(i) is not that disputes touching on
18 sovereignty are automatically included under the Convention, but simply that they are not
19 automatically excluded, a proposition with which we entirely agree.¹⁷⁰ We would also agree
20 with similar statements made by Judge Wolfrum in 2006.¹⁷¹ Jurisdiction does not arise because
21 of the *a contrario* reading. The *a contrario* reading simply confirms the obvious role of Article
22 293: “closely linked or ancillary” questions of law related to a dispute arising under the
23 Convention are themselves also questions “concern[ing] the interpretation or application of the

¹⁶⁸ *Ibid.*, p. 529.

¹⁶⁹ MR, Annex 114, p. 891.

¹⁷⁰ UK Authority 104, p. 77.

¹⁷¹ See MR, para. 7.7.

1 Convention". We put it no higher than that. As Mr. Wordsworth was at pains to point out, the
2 words "coastal State" appears some 64 times in the Convention. The only thing that strikes us as
3 "inconceivable" is how it could possibly be said that the interpretation and application of the
4 words "coastal State" is not a question arising under the Convention, but that is what the UK
5 argues.

6 51. Before I pass entirely from the point, Mr. Wordsworth did make one last effort to put the
7 frighteners on this Tribunal. He argued that if we are right, any time a coastal State exercises the
8 powers of a coastal State, it may be challenged by State B as to whether it is the "coastal State"
9 as regards State B. Well, yes, it might indeed if that question was sufficiently closely linked to
10 the dispute under the Convention. That's the plain import of Professor Boyle's argument and the
11 plain reading of the Convention. But, whether such a case fell within the jurisdiction would be a
12 question of appreciation and characterisation on the particular facts of each case. And, in this
13 case, we have very unique and special facts as I think by now we all recognise: facts arising from
14 a situation of de-colonisation which fall to be determined under a Convention crafted with
15 questions of self-determination and de-colonisation woven into its very fabric.

16 52. Mr. President, I need not detain you any longer on this point. The *a contrario* reasoning –
17 which we say is the only proper interpretation of this provision of the Convention – renders
18 untenable the UK argument that there is an implicit exception in the Convention for a dispute on
19 the interpretation or application of the Convention that touches on land sovereignty .

20 53. What the UK is asking you to do is to write in an exception to the Convention to prevent
21 yourselves from determining any dispute of this kind or this particular dispute. An example of
22 what they are trying to keep from you is not difficult to imagine, because Professor Boyle has
23 suggested one example to his readers in relation to the right of the coastal State to authorize
24 marine scientific research in its territorial sea in accordance with Part XIII, although you will
25 have noted how counsel for the United Kingdom skirt so very briefly over that article.

1 Incidentally, Mr. Wordsworth told you that we seemed to be backing away from Professor
2 Boyle’s 1997 article as we didn’t include it in the Judges Folder¹⁷². Actually, we did, and you
3 will find it in Folder 1, our first brown folder at Tab 2.15. In his 2007 paper, Professor Boyle
4 invited his readers to imagine a territorial dispute over an island, and he concluded very plainly
5 that you would have – or a tribunal under Part XV would have jurisdiction. Such a case is plainly
6 not fanciful.

7 54. So the *travaux* don’t assist the UK. The commentators don’t assist the UK. What’s
8 decisive is what the Convention says. What is not decisive, and what is not relevant, is what the
9 UK considers to be “inconceivable”, or whether something is or is not acceptable to the United
10 Kingdom: this is a court of law, not a political forum.

11 55. Counsel for the UK made the point that if our arguments were right, then “the same
12 argument could presumably be run in respect of any treaty where a State exercises rights by
13 virtue of its territorial sovereignty”.¹⁷³ No doubt the same arguments could be made, although its
14 prospects of success in any particular case would depend on the particular treaty and its
15 provisions, and the facts in issue. Mr. Wordsworth claims that if you take jurisdiction in this case
16 and decide who is the coastal State for the purposes of this case, you will endanger not only the
17 dispute settlement provisions of the 1982 Convention but many other treaties. And he took you
18 to the 1944 Chicago Convention – and I am extremely grateful to him that he did.

19 56. He directed you to Article 1 of the 1944 Chicago ICAO Convention, but he didn’t take
20 you the text. Article 1 is entitled “Sovereignty”, and what it states is, and I quote, “The
21 contracting states recognise that every State has complete and exclusive sovereignty over the
22 airspace above its territory”. And Article 2, which follows, is entitled “Territory”, and it provides
23 for the purposes of the Chicago Convention, quote, “the territory of a State shall be deemed to be
24 the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection

¹⁷² Transcript, p. 680, line 6 (Wordsworth).

¹⁷³ Transcript, p. 678, lines 13-14 (Wordsworth).

1 or mandate of such State”. Having regard to those provisions, Mr. Wordsworth told you that on
2 our argument in this case “a Chicago Convention State could complain that any such exercise of
3 rights over airspace was ill-founded and subject to challenge because the given State was not in
4 fact sovereign over the underlying territory”.¹⁷⁴ And indeed it could, and indeed it often does.
5 There are many such cases, as Mr. Wordsworth well knows.

6 57. For example, he was counsel for the United Kingdom Secretary of State for Transport in
7 a case before the English Court of Appeal, *Kibris Turk Hava Yollari & another v Secretary of*
8 *State for Transport* – and I’ve given you the citation in the footnotes – with the Republic of
9 Cyprus intervening as an interested party.¹⁷⁵ The case concerned a judicial review application
10 challenge to a decision by the UK Secretary of State for Transport, the British Government, not
11 to grant permits for flights between the United Kingdom and Ercan Airport, in northern Cyprus,
12 in the Turkish Republic of Northern Cyprus. And the reason the British Government did not
13 grant the licences was because to do so would violate the rights of the Republic of Cyprus under
14 the 1944 Convention, to which the United Kingdom was a party. So the essential argument was
15 we need to respect the sovereignty of the Republic of Cyprus over the whole of the territory of
16 Cyprus, and we are required to do that by the terms of the Chicago Convention. In other words, it
17 might expose the United Kingdom to the risk of proceedings by the Republic of Cyprus under
18 the dispute settlement mechanism in the 1944 Convention. The High Court and the Court of
19 Appeal both ruled in favour of the Secretary of State. They ruled that the Republic of Cyprus had
20 exclusive sovereignty over the airspace above the entirety of the island of Cyprus and the
21 adjacent waters,¹⁷⁶ so that no scheduled international air service could operate from the UK to
22 Ercan except with the permission or authorization of the Republic of Cyprus, and such
23 permission which was not forthcoming. The Court of Appeal ruled, and I quote, “the grant of the

¹⁷⁴ Transcript, p. 678, lines 22-24 (Wordsworth).

¹⁷⁵ *Kibris Turk Hava Yollari & another v Secretary of State for Transport*, [2010] EWCA Civ 1093, Judgment of 12 October 2010, Lord Justice Wards and Richards, and Keene J, available at: http://www.embargoed.org/pdf/Flights_Appeal_Judgment_Oct_2010.pdf.

¹⁷⁶ *Ibid.*, para. 26.

1 permits sought would be in breach of the United Kingdom’s obligation to respect the RoC’s
2 rights under the convention, if and in so far as the RoC remains entitled to exercise such rights in
3 respect of northern Cyprus”.¹⁷⁷ That conclusion is premised on a legal analysis. The United
4 Kingdom Government didn't stand before the Court of Appeal and say it's just a question of fact;
5 you can resolve in ten seconds. It's an issue of legal entitlement, as the Court of Appeal put it,
6 of the Republic of Cyprus to exercise air rights in northern Cyprus under the Convention. Putting
7 it another way, the Court of Appeal formed a view as to whose territory it was, who exercised
8 sovereignty, under international law. Interestingly, and you'll read the judgment I'm sure, it was
9 also presented with arguments on the distinction that lies at the heart of this case, the distinction
10 that is drawn between sovereign rights and the entitlement to exercise those rights. It was an
11 issue in the case, not in the end dispositive, and the Court noted the arguments “aptly described
12 by Professor Lowe QC, for the RoC, as one of “ethereal subtlety””.¹⁷⁸ But it was there
13 nevertheless.

14 58. The British Government – in the form of the Secretary of State for Transport – did not
15 proceed on the basis that the issue of sovereignty or territory was a simple matter of “fact” under
16 the 1944 Convention, as it invites you to do in this case. It's a matter of law. That was a case
17 before a national court.

18 ARBITRATOR GREENWOOD: Mr. Sands – forgive me – isn't it a matter of
19 United Kingdom law? Isn't there a British act of Parliament that defines what Cyprus is?

20 PROFESSOR SANDS: There is indeed such an act of Parliament, but they also
21 had regard, as you will see when you read the judgment, to the situation under international law
22 and the situation by reference to the Convention. They looked at that in the judgment.

23 What we do recognise is there may be a difference between a national court and
24 an international court. It's essentially, I think, the same point because the English court, at the

¹⁷⁷ *Ibid.*, para. 28.

¹⁷⁸ *Ibid.*, para. 31.

1 end of the day, is applying English law, and the issue arises as how international law is
2 incorporated or part of English law. So we do recognise the difference between a national court
3 and an international court.

4 But it is plain that that is a case which could have gone to the “Chicago
5 Convention dispute settlement” system, used to rule on a territorial dispute between Republic of
6 Cyprus, on the one hand, and Turkey, perhaps, on the other hand, or, perhaps, the Turkish
7 Republic of Northern Cyprus. Let us assume the Secretary of State had granted the operating
8 permits. The UK would have been exposed to the possibility of a claim by Cyprus that it had
9 acted in violation of the 1944 Convention, by failing to respect the sovereignty of Cyprus. There
10 is an article that addresses precisely this point. I’ve referred it to you in the footnotes, by
11 Professor Talmon, whom the United Kingdom seems to like. The article is entitled *Air Traffic*
12 *with Non-Recognised States: the Case of Northern Cyprus*.¹⁷⁹ In fact, the article was originally
13 written in German. Professor Wolfrum can read it. I’ve given the citation in the *Archiv des*
14 *Völkerrechts* in 2005, but there is a publicly available English text. What does Professor Talmon
15 say? I quote: “The Government of the Republic of Cyprus has several ways to ensure compliance
16 with the Chicago Convention and Article 10 in particular: If disagreements arise between the
17 Government of the Republic of Cyprus and another contracting state on whether that state’s
18 aircraft are allowed to land at airports in northern Cyprus, it may, if the matter cannot be
19 resolved through negotiation, seek a decision from the ICAO Council in the formal dispute
20 settlement procedure.” We just pause there. An example of that is the India-Pakistan example
21 that I took you to earlier. “An appeal may be lodged against that decision in an arbitral tribunal
22 or the International Court of Justice (ICJ), whose decision is final and binding.”¹⁸⁰ And

¹⁷⁹ An English translation of an article published in (2005) 43 *Archiv des Völkerrechts* 1-42.

¹⁸⁰ Available at: http://users.ox.ac.uk/~samm2029/FCO_Paper%20by%20Dr%20Stefan%20Talmon.pdf, at p. 8.

1 obviously I appreciate here, one has to be, I suppose, a little careful in the sense that we have a
2 sitting ICJ judge and we do not wish to take you into a place you may not wish to go. Professor
3 Talmon does not conclude that these bodies would somehow be precluded from deciding that
4 Cyprus has sovereignty over the whole of the island, and we say he is right.

5 59. There is at least one case we know of in which a territorial dispute has been raised under
6 the Chicago Convention, not under Article 84 but under the more informal dispute settlement
7 mechanism under Article 54(n) of that Convention, which allows the ICAO to consider a dispute
8 referred to it and it then produces a report. During the Nigerian civil war, flights were made from
9 the then-Portuguese colony of São Tomé to Port Harcourt Airport in the Nigerian province of
10 Biafra, to supply, it was said, the insurgents with military equipment. The Republic of Biafra, as
11 you know, had declared independence from Nigeria on the 30th of May 1967. It was recognised
12 by four States in 1968 and had *de facto* control over the province until the 12th of January 1970.
13 On the 21st of December 1967, Nigeria lodged a protest against Portugal with the ICAO Council
14 on the flights from São Tomé to Port Harcourt Airport. The complaint was that these flights
15 violated its sovereignty and Articles 1 and 2 of the Chicago Convention, amongst other
16 provisions. The flights to Biafra soon stopped after the Council started dealing with the matter.
17 So there was no final report necessary. No one has ever suggested that the ICAO Council was
18 not competent to take that matter forward or to decide upon Nigeria's sovereignty.

19 *(5) Conclusions*

20 60. Mr. President, Members of the Tribunal, that brings me to my conclusions and I can be
21 brief. The great merit of litigation over various rounds of written pleadings and then oral
22 arguments is that the real issues narrow down, and the legal analysis that is needed to resolve
23 those issues becomes a great deal clearer. For our part, it has become evident that the United
24 Kingdom's approach to the issue of jurisdiction on this first limb is essentially premised on a
25 presentational technique. In London, I think it is called "spin": it presents the dispute as being

1 one about sovereignty. It is not. What I hope I have shown is that if one approaches the matter in
2 a way that is correct – namely that this is a dispute about the interpretation and application of the
3 words “coastal State”, much of the ballast that underpins the UK argument falls away. The first
4 limb of Mauritius’ case turns on the interpretation and application of those words. If a Part XV
5 tribunal does not have jurisdiction to interpret the words “coastal State”, there is a great deal over
6 which it will not have jurisdiction. It is hard to see how dispute settlement could be said to be
7 effective. To so decide would, in effect, be to cut off the legs of Part XV dispute settlement. We
8 say that that those words “coastal State” are susceptible of legal interpretation, that there is no
9 explicit bar to the exercise of jurisdiction, and the UK has rather obviously failed to prove an
10 implicit or inherent exclusion. And so we conclude, and invite you to so conclude, that you have
11 jurisdiction to decide this issue. The conversation that was being held in the form of questions
12 and answers this morning is one that can continue, and you are entitled to reach a conclusion to
13 that deliberation and rule that the United Kingdom is, as we submit, not “the coastal State” of
14 the Chagos Archipelago. The skies will not fall if you so rule, although this “Marine Protected
15 Area” will. The Tribunal will do no more than state that Mauritius is the “coastal State” in
16 relation to the Chagos Archipelago and that the Chagos Archipelago forms an integral part of the
17 Republic of Mauritius. The American base will not be affected, as we have shown. The British
18 will leave. The former residents of the Chagos Archipelago who wish to return finally will be
19 free to do so and their exile will come to an end. Contrary to the United Kingdom's
20 submissions, we say those are the consequences that flow from applying the law, from exercising
21 jurisdiction and interpreting and applying the words that sit in the Convention.

22 Mr. President, that concludes my submissions for this afternoon. If I can help
23 further with any questions, I'd invite you to call Mr. Reichler to the bar.

24 PRESIDENT SHEARER: I think that will be all, Mr. Sands, and I invite Mr.
25 Reichler to come to the podium.

1 Mr. Reichler, it says at the beginning Part V. You will be addressing us for 120
2 minutes. Is that correct?

3 MR. REICHLER: I'm afraid so, if you can stand it, Mr. President.

4 PRESIDENT SHEARER: Yes, certainly. It's a question of whether we take
5 another break before you finish. I would request that you pause in a moment about half an hour
6 from now.

7 MR. REICHLER: Will do, thank you very much.

8 **THE LEGALLY BINDING CHARACTER OF THE UNITED KINGDOM'S**
9 **UNDERTAKINGS AND MAURITIUS' STATUS AS A COASTAL STATE**

10 **PAUL S. REICHLER**

11 **5 MAY 2014**

12 Mr. President, Members of the Tribunal, good afternoon!

- 13 1. As in the first round, I will address Mauritius' claims under the second limb of our argument,
14 which is that regardless of whether you determine that Mauritius is the coastal State in
15 respect of the Chagos Archipelago, it is our submission that Mauritius is at least a coastal
16 State with regard to that territory, because it has been vested by the United Kingdom with the
17 attributes of a coastal State through the legally binding undertakings given by the UK in 1965
18 and renewed repeatedly thereafter, and confirmed by its consistent practice over a period of
19 more than 45 years.
- 20 2. In this round, I will respond to the arguments made by the UK's advocates last week on the
21 character and the content of the undertakings given by the United Kingdom to Mauritius; on
22 the subsequent practice, between 1965 and 2010, on what that practice demonstrates in
23 regard to the intention of the United Kingdom to be bound by its undertakings; and on the
24 specific attributes of a coastal State that have been attributed to Mauritius by virtue of the
25 UK's undertakings.

- 1 3. I will not burden you again by taking you through anywhere near as many of the
2 contemporaneous documents as I reviewed with you last week. I am sure you are, by now,
3 very familiar with them. Because the United Kingdom chose not to engage with the vast
4 majority of them, my reading and explanation of them has been left unchallenged. In fact, of
5 the 34 contemporaneous *British* documents I reviewed last week as evidence of how the
6 United Kingdom understood the legally binding character, and the contents of its
7 undertakings, counsel for the UK avoided 21 entirely. Nor were they able to offer a plausible
8 alternative explanation for any of the others.
- 9 4. Five of the documents which counsel for the UK *did* engage are from 1965, and it is there
10 that I will begin, as we address, first, the character of the UK's undertakings to Mauritius. I
11 would ask that you kindly go to Tab 5.1 of your Folders. For your convenience, I have placed
12 all five of these 1965 documents, plus one document from that year that was introduced by
13 the UK last week, behind the same Tab. I will refer to them by page numbers, our page
14 numbers in the lower right corner, to assist you in referring back and forth among them.
- 15 5. In light of the questions posed by Members of the Tribunal last week, some of which were
16 directed to both sides, I will focus on how the specific undertakings with which we are
17 concerned in these proceedings – on fishing rights, oil and mineral rights and reversion of
18 sovereignty to Mauritius – came to be given to Mauritius by the UK in September of 1965. I
19 believe this review will be helpful to the Tribunal in its effort to determine both the character
20 and the content of those undertakings.
- 21 6. But before proceeding any further, I want to recall that Professor Crawford has demonstrated
22 to you that the consent purportedly given to the excision of the Chagos Archipelago was not
23 sufficient to meet the law of self-determination and was therefore invalid; that is, the
24 agreement on excision was invalid. But as he said, the UK cannot have it both ways: if they
25 are relying on the validity of the excision and the “agreement” of which they consider it a

1 part and to retain possession of the territory on this basis, they cannot at the same time claim
2 that the undertakings they made in relation to that excision are not binding upon them. Since
3 the UK consistently, for 45 years, referred to the set of arrangements made at that time as an
4 “agreement,” I will, for the purposes of this presentation, refer to it as such, bearing in mind,
5 as Professor Crawford explained, that Mauritius does not regard it as legally valid.

6 7. So, with that statement, let us turn now to the official record of the Lancaster House meeting
7 of 23 September 1965, at Tab 5.1.¹⁸¹ I refer you in particular to our page 55, paragraph 2. At
8 the end of that paragraph the Colonial Secretary is reported as saying that, “if Mauritius
9 agreed to the detachment of the Chagos Archipelago,” he would recommend to his
10 colleagues, [that is, to the Cabinet] that the United Kingdom would provide the following
11 benefits to Mauritius. They are then listed in items (i) through (iv), which carry over to page
12 56. You will see that none of the three undertakings with which we are concerned here is
13 included in this list. Immediately after the list, the Colonial Secretary is recorded as saying:
14 “This was the furthest the British Government could go.”

15 8. But, as we now know, that was not far enough for the Mauritian Ministers; and in fact, the
16 British Government did go further. Question: How did the undertaking on reversion of
17 sovereignty to Mauritius come to be included in the agreement that was eventually reached?
18 Let us turn to paragraph 3 of this document on page 56. “SIR S. RAMGOOLAM replied that
19 the Mauritius Government were anxious to help play their part in guaranteeing the defence of
20 the free world. He asked whether the Archipelago could not be leased. (THE SECRETARY
21 OF STATE said that this was not acceptable). MR. BISSOONDOYAL enquired whether the
22 Islands would revert to Mauritius if the need for defence facilities there disappeared. THE
23 SECRETARY OF STATE said that he was prepared to recommend this to his colleagues.” In
24 fact, he did. We can see this from a document produced last Friday by the UK, in response to

¹⁸¹ Record of a Meeting held in Lancaster House at 2.30 p.m. on Thursday 23rd September [1965], Mauritius Defence Matters, CO 1036/1253, MM-Annex 19; UK Folder Tab 8.

1 a question posed by Judge Greenwood. This is also at Tab 5.1 beginning on page 61.¹⁸² It is
2 a Minute of the Cabinet meeting held on 23 September 1965, at 4:00 p.m., right after the
3 Colonial Secretary's meeting with the Mauritian Ministers ended. You can see on the next
4 page, page 62, that item 2 of the agenda was: "Mauritius and Defence Facilities in the Indian
5 Ocean." On the sixth page of this document, which is our page 66, the Colonial Secretary
6 informed his fellow Ministers of the conditions offered to Mauritius in return for its consent
7 to the detachment of the Chagos Archipelago. In the middle of the carryover paragraph, it is
8 recorded that these conditions included: "if the need for the islands by the United Kingdom
9 and the United States disappeared we would be prepared to hand them back to Mauritius." At
10 the end of the discussion you will see this: "The Committee – Took note with approval of the
11 statements by the Colonial Secretary and the Prime Minister."

12 9. If I may refer you back to the record of the Lancaster House meeting, at page 58, you will see
13 at paragraph 22, the Colonial Secretary is reported to have asked the Mauritian Ministers
14 whether he could inform his colleagues that they "were prepared to agree to the detachment
15 of the Chagos Archipelago on the understanding that he would recommend to his colleagues
16 the following: and then there follows a list of eight numbered items. Item (vii) on page 59
17 reads: "that if the need for the facilities on the islands disappeared the islands should be
18 returned to Mauritius."

19 10. Question: how did the other two undertakings find their way into this agreement? I explained
20 this on 23 April, and my friends on the other side added some very helpful documentation
21 last week, about which I will comment today. These undertakings were given at the
22 insistence of the Mauritian Premier, Mr. Ramgoolam. Please turn to page 69, still behind Tab
23 5.1.¹⁸³ You have been taken through this document before, and are familiar with its

¹⁸² Minutes of a Meeting held at 10 Downing Street, S.W.1, on Thursday, 23rd September, 1965, at 4 p.m.
Mauritius Arbitration Folder page 61.

¹⁸³ Manuscript letter of 1 October 1965, UKCM Annex 9, UK Arbitration Folder Tab 29.

1 language, to which I will return momentarily in answer to one of Judge Greenwood's
2 questions to both sides. What I want to underscore now is that this, and particularly the list of
3 conditions on the final page, page 71, is the source of the undertakings given by the United
4 Kingdom on fishing rights (that is item viii in the Premier's list) and on mineral and oil rights
5 (item x) on this list. About this the Parties are in agreement.

6 11. Please turn next to page 72.¹⁸⁴ I am grateful to my friends on the other side, Mr.
7 Wordsworth and Ms. Sander, in particular, for calling your attention to this document. It was
8 described by Ms. Sander as: "Internal note dated 12 November 1965," and Annex 13 to the
9 Rejoinder. Now, there are some reasons to be cautious about this document. It is obviously a
10 draft, given all the handwritten cross-outs and insertions, and we don't know who authored it,
11 or for what purpose. That said, the UK appears to place great reliance on it, so I am sure they
12 would not object to me calling your attention to page 77, starting at the bottom of the fourth
13 line. This is a passage that was not read out by Ms. Sander last week. "The principal meeting
14 to discuss the detachment of the Chagos Islands was held at Lancaster House on 23
15 September. The Mauritian delegation consisted of Ramgoolam, Bissoondoyal, Paturau, and
16 Mohamed. A list of conditions for the detachment of the Chagos Islands was drawn up.
17 Ramgoolam took this back to his hotel to mull it over with Mohamed and added the
18 following *conditions* in a manuscript letter of 1 October." There follows a list of the four
19 conditions specified by Mr. Ramgoolam in his handwritten letter to Mr. Trafford Smith of 1
20 October. Then the document states: "The *final* list of *conditions* took account of
21 Ramgoolam's additions, and the British Government's proposals were finally put forward in
22 Colonial Office dispatch number 423 of 6 October 1965 to the Governor of Mauritius to
23 which was attached the agreed record of the meeting of 23 September 1965."

¹⁸⁴ Internal note dated 12 November 1965, UKR Annex 13, UK Arbitration Folder Tab 31.

1 12. Now, if we accept the reliability of this contemporaneous British document, the following
2 conclusions can be drawn. First, as the British Government then understood it, Mauritius'
3 "consent" to the detachment of the Chagos Archipelago was based on certain "conditions."
4 Second, these "conditions" included those that were specified in the Prime Minister's note of
5 1 October, relating in particular to fishing rights and oil and mineral rights. Third, the UK
6 accepted to these "conditions."

7 13. This, of course, is also reflected in the official record of the Lancaster House meeting, back
8 at pages 58 and 59 behind this tab. And here I would refer you again to paragraph 22. And I
9 simply wish to point out that item (vi) (a and b) are the same conditions as those set forth as
10 items (vii and viii) of Mr. Ramgoolam's note, in exactly the same language. Item (vi)(c) is
11 similar, but not identical to, item (ix) in the Premier's note. If you compare the texts, you will
12 see that the UK accepted the condition that Mauritius be able to use the air strip at Diego
13 Garcia for emergency landing and refueling, but not, as proposed by the Premier, "for
14 development of the other islands." This shows that the UK was paying careful attention, and
15 not blindly accepting the Premier's conditions; when they accepted them, they did so
16 knowingly and deliberately. You will also see that item (viii) of paragraph 22 of the
17 Lancaster House record closely tracks item (x) of the Prime Minister's note, but makes one
18 significant change: what reverts to Mauritius is not, as the Premier proposed, "any mineral or
19 oil discoveries on or near islands," but, as per the final and agreed Lancaster House record:
20 "the *benefit* of any minerals or oil discovered in or near the Chagos Archipelago." And this
21 change in language appears to have caused some disagreement between the parties, at least
22 temporarily, a few years later in regard to the content of this particular undertaking. I will
23 come to that in due course.

24 14. Now, if I understood Judge Greenwood's question correctly, he asked both sides whether the
25 Mauritian Premier, by his note of 1 October, was intending to correct the written record of

1 the Lancaster House meeting by adding into it conditions that had already been accepted but
2 were inadvertently left out by the drafters of that record; or whether, after the Premier,
3 quoting from the UK's document, "took this back to his hotel to mull it over with
4 Mohamed," he added new conditions not previously agreed by the UK.¹⁸⁵ Mr.
5 Wordsworth's first response, on behalf of the UK, was to express uncertainty, but after the
6 break he came back and, with conviction, he said that these were new items added by Mr.
7 Ramgoolam as conditions for Mauritius' purported "consent" to the detachment of the
8 Archipelago.¹⁸⁶

9 15. We agree with the UK on this, but not exactly for the reasons given. We agree with them
10 because we do not consider it likely that the UK drafters either deliberately or inadvertently
11 left out of the original version of the Lancaster House record any items that had been
12 accepted by the UK and the Mauritian Ministers on 23 September. Therefore, we can only
13 draw the conclusion that these items had not been accepted as of 23 September, but were
14 added on 1 October by the Mauritian Premier, after he considered – or mulled over – the
15 terms that had been presented to him. These were additional conditions of which he required
16 acceptance by the UK before Mauritius' "consent" to detachment, such as it was, could be
17 given. The Premier's additional conditions were, in fact, accepted by the UK, as recorded in
18 paragraph 22 of the final, agreed record. The significance of this is that it underscores that the
19 final Lancaster House agreed record was the product of considerable bargaining, that the
20 Mauritian Ministers insisted on certain specific conditions as a quid pro quo for the consent
21 to detachment that was extracted from them, and that these conditions were carefully
22 reviewed, in some cases modified, and ultimately accepted by the UK, and incorporated in
23 the final official record.

¹⁸⁵ Judge Greenwood, Day 7, pages 830 and 833.

¹⁸⁶ Wordsworth, Day 7, page 840, lines 3-18.

1 16. Mauritius’ supposed “consent” to detachment, as I had said such as it was, was not
2 gratuitously given. Nor were the United Kingdom’s undertakings gratuitously made to
3 Mauritius. There was an exchange of commitments: the one set for the other. It was, as the
4 UK’s Legal Advisers were later to describe it: a “package deal” (Mr. Aust in 1971)¹⁸⁷; an
5 “agreement” (Mr. Watts in 1981)¹⁸⁸; or, in the words of Mr. Steel in 2004, “It was during
6 those discussions that Mauritian Ministers gave their consent to the detachment of the
7 Chagos Archipelago from Mauritius for the purpose of their incorporation into the proposed
8 BIOT. The record shows—I am still quoting from Mr. Steel—“that, in return for that
9 consent, the British Government agreed to accept a number of obligations...”¹⁸⁹ Now, I
10 should point out here that to save time, I’m not making specific citations in this oral
11 presentation to the record, but you will find citations to every document and every reference
12 to these pleadings in the footnotes to my remarks. Now, I believe I still have a few more
13 minutes before we come to the half hour point, if that’s acceptable to you, Mr. President.

14 17. The Tribunal will have noted that my good friend Mr. Wordsworth chose not to engage with
15 the legal opinions on the binding nature of the 1965 undertakings that were given by Mr.
16 Watts or Mr. Steel. I trust he was not holding back, in order to save his response for the
17 second round, and deprive us of an opportunity to respond to his views on these considered
18 legal opinions. That would be unfair, and I know my good friend to be a fair man. But he did
19 engage with the legal opinion rendered by Mr. Aust. Fortunately, he did not challenge it on
20 the basis of Mr. Aust’s age. The UK apparently have thought better of that line of attack.
21 Instead, he challenged it on the basis of the age of the opinion. What difference does it make,
22 he asked, what Mr. Aust thought in 1971? That’s immaterial, he told us. And it would be just

¹⁸⁷ Minute dated 26 February 1971 from A.I. Aust to Mr. D. Scott, “BIOT Resettlement: Negotiations with the Mauritius Government”, MR Annex 73, Mauritius Arbitration Folder Tab 5.7.

¹⁸⁸ Minute dated 13 October 1981 from A.D. Watts to [name redacted], “Extension of the Territorial Sea: BIOT”, MR Annex 83, Mauritius Arbitration Folder Tab 5.12.

¹⁸⁹ Note dated 2 July 2004 by Henry Steel, “Fishing by Mauritian Vessels in BIOT Waters”, MR Annex 109, Mauritius Arbitration Folder Tab 5.19.

1 as immaterial if Mr. Aust had reached the opposite conclusion, that the UK was not bound by
2 what it agreed to in 1965.

3 18. This calls for the following responses. First, Mr. Aust's legal opinion is material to the
4 question of whether the United Kingdom intended to be bound, and understood itself to be
5 bound, by the undertakings—and that's his word – it gave to Mauritius in 1965. As our
6 friends on the other side have themselves argued, the binding character of these commitments
7 is determined in part by whether the UK intended itself to be bound by them. Of course it
8 did! This is demonstrated most clearly by the contemporaneous documents from 1965,
9 some of which – those from September – I have just finished discussing. I'll come to the ones
10 from October and November 1965 shortly. Mr. Aust's legal opinion confirms what is already
11 obvious from the 1965 documents themselves: that the UK undertook legally binding
12 commitments in exchange for what it regarded as Mauritius' consent to the detachment of the
13 Archipelago.

14 19. Second, it bears emphasis that Mr. Aust's legal opinion does not stand alone. It is neither
15 outdated nor isolated. It was followed by Mr. Watts' legal opinion to the same effect in 1981,
16 and Mr. Steel's in 2004. That is three opinions by the UK's Legal Advisors, spanning three
17 decades, confirming that the undertakings given by the UK in 1965 as part of what it
18 regarded as an agreement with Mauritius, were, and remained, legally binding. Where are the
19 opinions of the UK's legal advisers concluding that the commitments undertaken in 1965
20 were not, or are not, legally binding? Where are they? The answer is: nowhere. They don't
21 exist. The UK has submitted two elaborate written pleadings. It has spent three full days
22 orally pleading its case, and they have failed to produce a single opinion, from any legal
23 adviser, to the effect that any of the conditions agreed to by the UK in 1965 were not, or are
24 not, legally binding.

1 20. To complete the review of the evidence from 1965, and then perhaps to take a break, to
2 complete this evidence which help us establish the *character* of the UK’s undertakings (I
3 will come to their specific contents after the break), please follow me very briefly to two
4 more documents at Tab 5. You have already seen these, and I will only use them to recall for
5 you that, at page 82,¹⁹⁰ on 6 October 1965, the Colonial Office sent the official record of the
6 Lancaster House meeting to the British Governor of Mauritius. At the end of paragraph 1,
7 that record is termed: “an accurate record of what was *decided*.” Paragraph 2 then reads: “ I
8 should be grateful for your early confirmation that the Mauritius Government is willing to
9 *agree* that Britain should now take the necessary legal steps to detach the Chagos
10 Archipelago from Mauritius *on the conditions enumerated* in (i) – (viii) in paragraph 22 of
11 the enclosed record.”

12 21. The early confirmation requested by the Colonial Office was supplied by the Governor of
13 Mauritius in a telegram dated 5 November 1965, at page 83¹⁹¹: “Council of Ministers
14 confirmed agreement to the detachment of Chagos Archipelago on conditions enumerated, on
15 conditions enumerated on the understanding that,” etc. Mr. President, we respectfully submit
16 that there is no other plausible way to read and understand the contemporaneous written
17 record but this: In the view of the United Kingdom, an “agreement” was reached between the
18 UK and Mauritius. In that view, Mauritius gave its consent to the detachment of the Chagos
19 Archipelago, in exchange for certain enumerated conditions. These conditions were set forth
20 in paragraph 22, items 1 through 8, of the agreed official record of the Lancaster House
21 meetings. The UK understood at the time that the undertakings it gave to Mauritius were in
22 exchange for what it considered the Mauritian consent that it had sought. There is no
23 plausible way for the United Kingdom to argue otherwise. As we have seen, every UK legal

¹⁹⁰ Colonial Office Despatch to Governor of Mauritius No. 423 of 6 October 1965, MM Annex 21.

¹⁹¹ Telegram No. 247 from Mauritius to the Secretary of State for the Colonies of 5 November 1965, MM Annex 25.

1 adviser who opined on this question agreed that these undertakings were legally binding
2 obligations.

3 Perhaps, Mr. President, this is an appropriate time to take a coffee break.

4 PRESIDENT SHEARER: Thank you, Mr. Reichler.

5 We will return at five to 5:00.

6 Thank you.

7 (Brief recess.)

8 22. The last document we examined was the communication from 5 November 1965, which is at
9 Tab 5.1, page 83, and I will refer to that now again. The UK's advocates focus your attention
10 on paragraph 3 of this document. This is at Tab 5.1, page 83, and it is the communication
11 from the Governor of Mauritius back to the Colonial Office reporting on what he called the
12 agreement of the Council of Ministers to the conditions enumerated in the Lancaster House
13 agreed official record. The UK's advocates direct you to paragraph 3, and particular to this
14 sentence: "They were also dissatisfied with mere assurances about (v) and (vi)." The first
15 question we have is: who are "They"? On this, there is a contradiction between Ms. Sander
16 and Mr. Wordsworth. Ms. Sander agreed with my remarks¹⁹² of 24 April, that "They" refers
17 not to the Council of Ministers, but only to three Ministers representing the opposition
18 PMSD party (which, by the way, opposed independence for Mauritius).¹⁹³ Mr. Wordsworth,
19 however, told you that the entire Council of Ministers were dissatisfied with "mere
20 assurances."¹⁹⁴ And I will read from the record what he said on this. "The basic point is that
21 the Council of Ministers was dissatisfied." I'm compelled to say that Ms. Sander has read
22 this document more carefully than Mr. Wordsworth. The reference in paragraph 3 is to the
23 same opposition Ministers whose views are described in paragraph 2.

¹⁹² Sander, Day 5, page 602, lines 3-4.

¹⁹³ Sander, Day 5, page 601, lines 19-21.

¹⁹⁴ Wordsworth, Day 7, page 845, lines 21-22 ("The basic point is that the Council of Ministers was dissatisfied.")

1 23. Now, what about “mere assurances”? What is meant by the word “assurances”? This is the
2 question that Judge Wolfrum asked Ms. Sander. She declined to answer, on the ground that
3 Mr. Wordsworth would do so on Friday.¹⁹⁵ When pressed for her own view, she wouldn’t
4 give it. Friday came and went, as did Mr. Wordsworth, but he never answered the question
5 either. So, it falls to us to answer it as we did in our Reply at paragraphs 6.49 and 6.50.

6 ARBITRATOR WOLFRUM: Mr. Reichler, to put it straight, Mr. Wordsworth
7 answered he would wait for your answer, and then he would come back to that. This is my
8 recollection, I believe, if this is a correct interpretation.

9 MR. REICHLER: I’m sure you’re correct, Judge Wolfrum, and I will proceed on
10 that basis.

11 24. According to the Oxford English Dictionary, which advertises itself as the definitive record
12 of the English language, an “assurance” is: “A promise or engagement making a thing
13 certain; a formal engagement, pledge or guarantee.”¹⁹⁶ Apparently, the ICJ agrees. In the
14 *Nuclear Test* cases, France’s “assurance” that “1974 will see the end of atmospheric nuclear
15 testing in the South Pacific,” was found by the Court to be “a commitment in this respect
16 ...entered into by France.”¹⁹⁷

17 25. So, as I said last week, there is an oxymoronic quality to the phrase “mere assurances.” But
18 counsel for the UK read it differently. For them, this is evidence that the UK’s 1965
19 undertakings are necessarily non-binding. Both Ms. Sander and Mr. Wordsworth told you
20 that by describing certain of these undertakings as “mere assurances,” Mauritius – *Mauritius*
21 – was reflecting its view that they are not binding.¹⁹⁸ Ms. Sander was especially emphatic

¹⁹⁵ Sander, Day 5, page 602, lines 11-13.

¹⁹⁶ Oxford English Dictionary (Oxford University Press, 2014), accessed online.

¹⁹⁷ *Nuclear Tests (New Zealand v France)*, Judgment, ICJ Reports 1974, p. 457, para. 54

¹⁹⁸ Sander, Day 5, page 602, lines 6-7; Wordsworth, Day 7, page 845, lines 15-22.

1 about this.¹⁹⁹ Mr. Wordsworth agreed, but he was prudent enough not to go out as far on the
2 limb as Ms. Sander.

3 26. Now, that limb is easily sawn off. First, as Ms. Sander herself acknowledged, the
4 dissatisfaction with “mere assurances” was not that of *Mauritius*, but only that of some
5 opposition Ministers.²⁰⁰ Second, as we have seen, assurances are not mere. They can be just
6 as binding as any other formal engagement, pledge or guarantee. And third, there is no
7 evidence – none whatsoever – that these opposition Ministers were dissatisfied because they
8 considered the UK’s undertakings non-binding; nor is it reasonable to jump to the
9 conclusion, as Ms. Sander too eagerly does, that the only explanation for their dissatisfaction
10 is their interpretation of the UK’s undertakings as non-binding.

11 27. The truth is, we don’t know why the opposition Ministers were, at least as reported by the
12 Colonial Governor, dissatisfied with what they may have considered “mere assurances,” and
13 the evidence simply does not allow us to draw any conclusions about the reasons for their
14 alleged dissatisfaction of those three Ministers. If counsel, including ourselves, want to be
15 helpful to the Tribunal, I do think we need to avoid making unwarranted extrapolations from
16 these historical documents, or straining to connect dots that are far removed from one another
17 and may not have any line connecting them at all.

18 28. But while we’re on the subject of “assurances,” I would ask your indulgence in allowing me
19 to speak about the meaning of the words “undertakings” and “understandings.” Returning to
20 the Oxford English dictionary, an “undertaking” is: “A pledge or promise; a guaranty or
21 surety.” An “understanding” is described as: “A mutual arrangement or agreement of an
22 informal but more or less explicit nature.”²⁰¹

¹⁹⁹ Sander, Day 5, page 602, lines 6-7.

²⁰⁰ Sander, Day 5, page 601, lines 19-21.

²⁰¹ Oxford English Dictionary (Oxford University Press, 2014), accessed online.

1 29. So, does it matter whether the conditions agreed to by the UK in 1965, in consideration for
2 what it considered Mauritian consent to the detachment of the Archipelago, are
3 “undertakings” or “understandings”? Counsel for the UK can’t seem to decide. On the one
4 hand they say that it makes no difference whether what the UK gave in 1965 were
5 undertakings or understandings, that the only material question is whether they evidence an
6 intention on the part of the United Kingdom to be bound. On the other hand, they refer
7 uniformly, even robotically, to the conditions agreed by the UK in 1965 as “understandings,”
8 and accuse our side of a similarly strict attachment to the word “undertakings.”

9 30. We agree with the United Kingdom that the critical question is whether there was an
10 intention to be bound by its “undertakings” or, if you will, “understandings.” But as lawyers
11 we do know that words matter. To be sure, both undertakings and understandings are binding
12 when there is an intention to be bound. But undertakings may be, as the Oxford dictionary
13 shows, more formal in character than understandings. We refer to the conditions agreed by
14 the UK in 1965 as undertakings because that is what the UK and its legal advisers called
15 them in the vast majority of the documents in which it described them over the next 45 years,
16 as I said, including especially, in the documents setting forth the UK’s interpretation of its
17 legal position. However, at the same time, the UK’s intention to be bound is equally reflected
18 in Mr. Watts’ and Mr. Steel’s use of the term “agreement” to describe what was done in
19 1965, and Mr. Steel’s reference to the “obligations” that the UK “agreed to accept” “in return
20 for” the Mauritian Ministers’ consent to the detachment of the Chagos Archipelago.

21 31. Mr. Wordsworth admitted that the subsequent practice, over the 45-year period between 1965
22 and 2010, could be interpreted as reflecting that the United Kingdom considered itself legally
23 bound by the conditions to which it agreed in 1965.²⁰² We submit this conclusion is
24 inevitable, from a review of the contemporaneous documentation covering that period,

²⁰² Wordsworth, Day 7, page 835, lines 20-24.

1 including the 34 British-authored documents, some internal and some sent to the Government
2 of Mauritius, that I examined with you during our first round.

3 32. But there is more than Mr. Wordsworth's acknowledgment of the susceptibility of this
4 practice to that interpretation. There is his failure to give a direct response to the question
5 posed by Judge Greenwood. In order to be precise, I will quote from the transcript quoting
6 Judge Greenwood. Unfortunately, I do not have the distinct mellifluous voice of Judge
7 Greenwood, but I will do my best: "Am I to understand, therefore, that the United Kingdom's
8 position is that none of the undertakings given at Lancaster House – I use the word
9 undertakings without wishing to pre-judge their legal status – that none of those
10 undertakings is legally binding upon the United Kingdom today, so, for example, the United
11 Kingdom would be free to cede the Chagos Archipelago to a third State. It's not legally as
12 opposed to politically obliged not to do that."²⁰³ In response, Mr. Wordsworth didn't
13 respond. What the transcript records him as saying is that he couldn't answer the question
14 because he did not know what statements Mauritius was relying on.²⁰⁴

15 33. This begets two questions on our part. First, where has he been the past two weeks, or, for
16 that matter, the past three years, since we filed our Memorial? Our written pleadings make
17 explicit precisely what undertakings, and what subsequent statements reaffirming those
18 undertakings, Mauritius "relies on" for the conclusion that the UK is legally bound to ensure
19 that sovereignty vests in Mauritius when there is no longer a need for defence facilities in the
20 Archipelago. On 24 April I cited, and read aloud four²⁰⁵ statements by senior British
21 officials to that effect.

22 34. The second question is: Why does the UK need to know what British statements Mauritius
23 relies on to answer the question of whether it considers itself bound not to cede the

²⁰³ Judge Greenwood, Day 7, page 855, lines 23-25 and page 856, lines 1-4.

²⁰⁴ Wordsworth, Day 7, page 856, lines 6-14.

²⁰⁵ Reichler, Day 2, pages 156-159, 171.

1 Archipelago to a third State? The question was, if we understand it correctly, whether the UK
2 considers itself bound not to do that. They shouldn't need Mauritius' help to answer the
3 question.

4 35. But, of course, they *can* answer the question if they want to, and we know that because they
5 already *have* answered it in their written pleadings. In their Counter Memorial they admitted
6 at paragraph 8.20 that the undertaking on reversion of sovereignty to Mauritius is legally
7 binding.²⁰⁶ They also admitted there that the undertaking on ensuring that Mauritius receives
8 the benefits of any oil or mineral exploitation is legally binding. They argue only that the
9 undertaking on fishing rights is not binding. But that is not a tenable position. All of these
10 undertakings appear as conditions in the same instrument. All were given at the same time,
11 and as part of the same *quid pro quo*. The undertaking on fishing rights originated in the
12 same source – the Premier's handwritten note – as the undertaking on oil and mineral
13 exploitation. If one of these undertakings is legally binding, as the UK appears to admit in its
14 written pleadings, then so must be the others.

15 36. And that is, in our opinion, what caused counsel for the UK to filibuster, to make excuses,
16 instead of answering Judge Greenwood's question, either before or after the break. The
17 answer to that question, we submit, is that, of course, the United Kingdom is bound not to
18 cede the Archipelago to a third State. But counsel knew that, to answer the question in that
19 manner, would leave him no choice but to admit that all the 1965 undertakings are of the
20 same character. If one is legally binding, so are the others.

21 37. Mr. President, Members of the Tribunal, Mauritius submits that, based on the evidence that is
22 before you, the only reasonable conclusion to be drawn is that the obligations that the United
23 Kingdom undertook in 1965, in return for what it regarded as Mauritius' consent to the
24 detachment of the Chagos Archipelago, are legally binding.

²⁰⁶ UKCM, para. 8.20.

1 38. I turn next to the contents of these legally binding obligations.

2 ARBITRATOR WOLFRUM: Mr. Reichler, may I interrupt you just briefly.
3 You understood Mr. Wordsworth correctly. He said they were not binding on the level of
4 international law. Could you perhaps comment on that?

5 MR. REICHLER: Well, I would simply, Judge Wolfrum, if you will allow me, I
6 would simply adopt what Professor Crawford said this morning, and in his remarks during our
7 first round. As to how and when – that is, at the moment of independence – that these
8 commitments which were made in the pre-independence period, became at that very moment,
9 legally binding. And it doesn't take much humility on my part to say that I stand by what
10 Professor Crawford said. We adopt that, that is Mauritius' position, and I cannot improve on it.

11 38. So, the contents of these legally binding obligations, there is, we submit, no real
12 disagreement over the content of the undertaking that sovereignty will revert to Mauritius.
13 This, despite the UK's sudden professed uncertainty over whether statements by senior
14 British officials directly to senior Mauritian officials renewing and reaffirming this
15 undertaking that Mauritius relies on in these proceedings.

16 39. Nor is there any dispute about the content of the undertaking on the benefits of oil and
17 mineral exploration or exploitation. But here it is necessary to pause for a minute or two. At
18 one time, until 1973, there were two different interpretations of this undertaking on the
19 benefits of oil and mineral exploitation. You will recall that Premier Ramgoolam's
20 handwritten proposal was that, "any mineral or oil discoveries ... revert to Mauritius," and
21 that this was changed in the final record to, "the benefit of any minerals or oils discovered ...
22 should revert to Mauritius." This apparently led to a short-lived dispute, which is reflected in
23 three letters from the Prime Minister to the British High Commissioner, dated November
24 1969, September 1972, and March 1973, which I reviewed with you on 24 April, and the

1 citations will be in the footnotes to my presentation.²⁰⁷ In these letters the Prime Minister
2 expressly invoked the “undertaking” by the UK “given in 1965,” and he referred to
3 Mauritius’ “prospecting rights” or “right of prospection” pursuant to that undertaking. Last
4 week, the UK made reference to the last of these three letters, dated 24 March 1973. In that
5 regard, they called your attention to another document, an internal British one, taking issue
6 with the Prime Minister’s claim to “prospecting rights.”²⁰⁸

7 40. And I would ask you, please turn to Tab 5.2 and specifically page 84 in our numbering
8 system.²⁰⁹ This is the internal British document to which both Mr. Wordsworth and Ms.
9 Sander made reference. It was written to the British High Commissioner in Port Louis by
10 Andrew Stuart of the FCO’s Hong Kong and Indian Ocean Department on 27 April 1973,
11 just a few days more than a month after the Prime Minister’s letter. It merits an accurate
12 reading, rather than a partisan interpretation, so I would propose to read the relevant part.
13 Paragraph 2: “The Prime Minister’s recollection of the meeting at Lancaster House does not
14 agree with the official record. Our undertakings in regard to navigation and meteorological
15 facilities, fishing rights, and the use of the airstrip were much less definite than his version
16 indicates. The true form of these undertakings was set out in the agreed record of the
17 Lancaster House meeting of 23 September, a copy of which I enclose. The Prime Minister
18 may be modifying these undertakings in the hope of establishing his new version on the
19 record for subsequent use, or he may simply be relying on his memory and the written note
20 he sent to Trafford Smith of the Colonial Office on 1 October 1965. In either event, we
21 clearly cannot allow the new version, with its unfounded assertion of *prospecting rights*, to

²⁰⁷ Note Verbale dated 19 November 1969 from the Prime Minister’s Office (External Affairs Division), Mauritius to the British High Commission, Port Louis, No. 51/69 (17781/16/8), MM Annex 54, Mauritius Arbitration Folder Tab 8.1; Letter dated 4 September 1972 from Prime Minister of Mauritius to British High Commissioner, Port Louis, MM Annex 67, Mauritius Arbitration Folder Tab 8.2; Letter dated 24 March 1973 from Prime Minister of Mauritius to the British High Commissioner, Port Louis, MM Annex 69, Mauritius Arbitration Folder Tab 8.3.

²⁰⁸ Sander, Day 5, page 605, lines 6-10 and page 606, lines 1-2.

²⁰⁹ Internal Memorandum from Foreign and Commonwealth Office to British High Commission of 27 April 1973, UKCM Annex 23, UK Arbitration Folder 34.

1 supersede the agreed official record. The question of tactics is how to re-establish the
2 authentic version of our undertakings.” I invite you just for now to skip down to paragraph 3,
3 third sentence, at the end of the fourth line: “A way round this might be for you to
4 acknowledge his letter and discharge, ending up with something on the following lines, and
5 then this is a quote within a quote: ‘Referring to the third paragraph of your letter,’—that is
6 the Prime Minister’s letter of 24 March 1973—“we can assure you that there is no change in
7 the undertakings given on behalf of Her Majesty’s Government which are set out in the
8 record, as then agreed, of the meeting at Lancaster House on 23 September 1965.’ End of the
9 internal quote, but continuing with quoting the letter, this document. “A reaffirmation in this
10 form would be acceptable to the Legal Advisers. The use of ‘assure’ instead of ‘confirm’
11 would enable us to maintain that we had not concurred with the assertions contained in
12 Ramgoolam’s letter, and would therefore re-establish the original agreement for the record.”

13 41. Now, two observations can be made. First, there was a disagreement between the Prime
14 Minister’s understanding of the undertaking on oil and mineral benefits and that of the UK.
15 The Prime Minister understood that, pursuant to that undertaking, Mauritius had the right
16 immediately to licence prospecting for oil and minerals. The UK position was that Mauritius
17 did not have that right, but it retained the discretion whether or not and when to allow
18 prospecting, as long as the benefits from any such activities reverted to Mauritius. Now, that
19 much is agreed by counsel. And Mr. Wordsworth added, correctly I would say, that the
20 British position on the content of the oil and minerals undertaking appears to have been
21 subsequently accepted by Mauritius.²¹⁰

22 42. The second observation is that the document evidences a reaffirmation by the UK of the
23 undertakings given at Lancaster House in 1965, “as then agreed.” The recommendation,
24 which is said to be supported by the Legal Advisers, is to “re-establish the original agreement

²¹⁰ Wordsworth, Day 7, page 851, lines 22-25 and page 852, line 1.

1 for the record.” This, of course, or at least in our view, is further evidence of an intention to
2 be bound by the undertakings [the plural form is used] that were given in 1965. I would
3 further call your attention to the follow-up by the Government—I’m sorry, at this point it was
4 the High Commissioner dated 3 May 1973, which was within two weeks of this document we
5 have been reviewing, and this is at Tab 5.8 which went along with my presentation on 23
6 April. It’s very short, so I will just read it to you. And it says, and you can see that the
7 language tracks the recommendations in the document that we’ve been reading. “I have
8 been asked by my government formally to acknowledge your letter.” I should state that in the
9 previous paragraph it refers to the Prime Minister’s letter of 24 March 1973, which is the
10 same letter referred to in this document. “I have been asked by my government formally to
11 acknowledge your letter and to add with reference to your paragraph 3 an assurance that
12 there is no change in the undertakings given on behalf of the British Government and set out
13 in the record as then agreed of the meeting at Lancaster House on 23 September 1965.” So,
14 we say this document and the follow-up by the High Commissioner support our position.

15 43. But the UK’s counsel invoke this document for another purpose. Instead, they claim, based
16 on this document, that the UK “rejected” Mauritius’ understanding of its fishing rights under
17 the 1965 undertaking, and that this, somehow, demonstrates that there was no common
18 understanding of the content of that undertaking.²¹¹

19 44. We say that their interpretation is based on a huge leap away from what the document
20 actually says. In the letter from the Prime Minister that provoked the UK’s preoccupation, the
21 Prime Minister wrote that the 1965 undertaking provides for, “Mauritius reserving to itself:
22 (a) fishing rights, among other rights.” This language does differ from that of the 1965
23 undertaking in its prefatory phrase, “Mauritius reserves to itself.” But it is not clear that the
24 Prime Minister was intending to assert anything different about the content or extent of its

²¹¹ Sander, Day 5, page 605, lines 14-15; Wordsworth, Day 7, page 850, lines 24-25 and page 851, lines 1-3.

1 “fishing rights,” let alone anything that was different from what was set forth in the Lancaster
2 House official record which constitutes the undertaking that Mauritius invokes here as it
3 asserts its fishing rights. In any event, there are no further references, in any of the
4 subsequent documents over the next 37 years, at least that we could find, to differences of
5 view on the interpretation of the UK’s undertaking on fishing rights.

6 45. Now, this brings us neatly to the matter of what the content of the undertaking in regard to
7 Mauritius’ “fishing rights” is. The Parties agree on one thing. The full content of this
8 undertaking was not elaborated with any specificity in the Lancaster House official record,
9 except insofar as it provides that the UK endeavoured to ensure these rights “as far as
10 practicable.” There is also an agreement on another point. As reflected in the
11 contemporaneous documentation, via a consistent and uninterrupted subsequent practice over
12 45 years, Mauritius’ “fishing rights” pursuant to the 1965 undertaking came to be understood
13 by both parties as the right to fish in all the “BIOT” waters, out to 200 miles. This right was
14 exercised, after 1984, subject to licences issued freely by the “BIOT” administration to
15 Mauritian-flagged vessels without charge. We were told by the Attorney General in his
16 opening statement that no Mauritian-flagged vessel was ever denied a licence to fish in
17 “BIOT” waters²¹². And, of course, none ever had to pay for its license. As Ms. Yeadon, the
18 “BIOT” Administrator, wrote in April 2009: “the Mauritians have got historic fishing
19 rights,”²¹³ and in July 2009: “Mauritian fishing rights were never defined in the Lancaster
20 House side meetings but what it boils down to is free access to BIOT waters,”²¹⁴ and even as
21 late as July 2010, Ms. Yeadon again: “Mauritius...has historical fishing rights in BIOT.
22 ...HMG gave an undertaking to ensure that certain facilities, including fishing rights, would
23 remain available to the Mauritian government as far as was practicable. This was written into

²¹² Attorney General Grieve, Day 1, page 55, lines 21-22.

²¹³ MR Annex 130, in Round 1 Mauritius Arbitration Folder Tab 5.22.

²¹⁴ MR Annex 138, in Round 1 Mauritius Arbitration Folder Tab 5.24.

1 the agreed record of the meeting. Since the establishment of the Territory’s Fishing and
2 Conservations Management Zone in 1991, [that is when the fishing zone was extended from
3 12 miles to 200 miles], these fishing rights have meant free licences to Mauritian-flagged
4 vessels.”²¹⁵ Again, the cites to all of these statements will appear in the footnotes to my
5 presentation. Mauritius shares the UK’s understanding of its “fishing rights” pursuant to the
6 1965 undertaking. This is, it shares the understanding that the UK had of the fishing rights
7 undertaking up until it adopted the “MPA”. This is, of course, without prejudice to its claim
8 of broader, including sovereign, rights in regard to fishing based on its claim of sovereignty
9 over the territory of the Chagos Archipelago. In regard to Mauritius’ fishing rights pursuant
10 to the undertaking, even counsel for the UK acknowledged last Friday that the UK’s
11 subsequent practice could be interpreted to reflect an understanding that the 1965
12 undertaking on “fishing rights” was “a binding legal obligation,” and that the rights
13 extended to “increasingly larger zones.”²¹⁶

14 46. This subsequent practice, over 45 years, makes it clear that the “fishing rights” that were
15 promised in 1965 were not limited to the fishing that was carried on in 1965, that is, to
16 artisanal fishing by Chagossians living on the islands of the Archipelago. On this, the UK’s
17 advocates contradict one another. Ms. Sander says “Yes,” Mauritius got no more than the
18 right to fish as fishing was practiced in 1965.²¹⁷ Mr. Wordsworth, however, conceded that
19 this cannot have been the case based on the subsequent practice²¹⁸. Ms. Sander relies on a
20 question and answer in the Mauritius Legislative Assembly in 1965, but her reliance is
21 misplaced.²¹⁹ The questioner did not ask what were the “fishing rights” that Mauritius
22 secured under the 1965 agreement. The question was more limited: “Whether...all fishing

²¹⁵ MR Annex 137 in Round 1 Mauritius Folder Tab 5.26.

²¹⁶ Wordsworth, Day 7, page 835, lines 20-24.

²¹⁷ Sander, Day 5, page 598, lines 6-7.

²¹⁸ Wordsworth, Day 7, page 835, lines 20-24.

²¹⁹ Sander, Day 5, page 597, lines 17-21.

1 facilities around Diego will be safeguarded.”²²⁰ The answer, by Mr. Forget, was in response
2 to that particular question: “I am not clear what the Honorable Member means by the word
3 “safeguarded.” So far as I am aware, the only fishing that now takes place in the territorial
4 waters of Diego Garcia is casual fishing by those employed there and as the Honorable
5 Member is aware, they will be resettled elsewhere.”²²¹ We submit that this cannot be taken
6 to mean that Mauritius believed that the “fishing rights” the Premier conspicuously added as
7 condition to be incorporated in the Lancaster House official record were intended by him to
8 be exercised only and fleetingly by the Chagossians, whose resettlement was provided for in
9 the same record. In any event, as was pointed out during counsel’s presentation last Friday,
10 this is not how either Party understood Mauritius’ “fishing rights” in actual practice for the
11 next 45 years.²²²

12 47. According to the evidence I reviewed with you on 23 April, starting at least as far back as
13 April 1966, the documents show that the UK understood Mauritius’ fishing rights much more
14 broadly. At that time, the breadth of the territorial sea was just three miles. The UK used its
15 good offices with the United States, successfully, to ensure Mauritius’ right to fish not only
16 within 3 miles of all the islands of the Archipelago, save those that would house defence
17 facilities, but also in what were then considered the high seas separating the islands. This
18 right was exercised from the very beginning. When a 9 mile fishery zone contiguous to the
19 territorial sea was adopted, the UK used its good offices with the US to ensure Mauritius’
20 fishing rights throughout the entire 12 miles. As a result, between 1968 and 1984,
21 Mauritian-flagged vessels fished freely – and without even the need of obtaining licences –
22 throughout the 3 mile territorial sea and the 9 mile contiguous zone. This was the case, even
23 after adoption of a 1971 ordinance prohibiting foreign-flagged vessels, other than those of

²²⁰ Debate in Mauritius’ Legislative Assembly of 21 December 1965, UKCM Annex 15, p. 14.

²²¹ Debate in Mauritius’ Legislative Assembly of 21 December 1965, UKCM Annex 15, p. 15.

²²² Wordsworth, Day 7, page 775, lines 11-18.

1 Mauritius or Seychelles, from fishing anywhere within 12 miles of the Archipelago. At this
2 point, I would like to correct a factual error that I made in my speech on 23 April. At that
3 time, I said that licences were freely issued to Mauritian-flagged vessels after 1971.²²³ That
4 was wrong. Licences came in with the 1984 ordinance, not the ordinance of 1971. Prior to
5 1984, it was not necessary for any vessel to obtain a license to fish in the 12 mile zone.

6 48. As we now know, from the contemporaneous documents that we reviewed on 23 April, when
7 a 200 mile FCMZ was established in 1991, Mauritius was recognized by the UK to have
8 fishing rights out to the 200 mile limit, pursuant expressly to the fishing rights undertaking of
9 1965. As was explained in the report on these events by the FCO's African Research Group
10 Analysts: "re-examination of HMG's 1965 undertaking on fishing rights ruled out any
11 alternative."²²⁴ This is one of the few contemporaneous British documents that counsel for
12 the UK chose to engage with. Ms. Sander pointed to the cover page of that analysis, which
13 refers to it as a "working draft," and which the author candidly states that he or she "is not
14 confident of my grasp at all of [the aspects]" covered in this analysis, and asks "Mr. Christie
15 of Legal Advisers," among others, "to let me know if they spot any errors or
16 misconceptions." It is impressive for me as an American to see such humility in a British
17 civil servant, which we rarely find in Washington. But what the UK's counsel failed to
18 suggest, let alone demonstrate, is that any of the particular portions of the document relied on
19 by Mauritius were in any way deemed to be erroneous. There is nothing in the record, for
20 example, that anyone – let alone Mr. Christie of Legal Advisers – found any errors or
21 objected to anything in this analysis. To the contrary, we know from Ms. Yeadon's
22 correspondence with Mr. Roberts on 14 July 2009²²⁵ that she forwarded this document to

²²³ Reichler, Day 2, page 173, lines 18-24, and page 174, line 1.

²²⁴ UK Foreign and Commonwealth Office, African Research Group, Research Analysts Paper, 'BIOT/Mauritius: Fishing Rights', 11 October 1996: MR, Annex 101, para. 15.

²²⁵ Email exchange between Colin Roberts, Director, Overseas Territories Directorate, and Joanne Yeadon, Head of "BIOT" & Pitcairn Section, UK Foreign and Commonwealth Office, 13-14 July 2009, MR Annex 138, Mauritius Arbitration Folder Tabs 5.23-24.

1 him in her response to his request of 3 July 2009 for “an authoritative statement of what we
2 think are Mauritius’ rights today to fish in BIOT waters.”²²⁶ The other document that she
3 sent to Mr. Roberts on 14 July 2009 was the MRAG report of 9 July, prepared at her request,
4 stating: “Mauritius has historical agreements to fish inside the BIOT FCMZ,” and citing,
5 inter alia, “the agreements made between UK and Mauritius in 1965.”²²⁷

6 49. We say, one, there is no lack of clarity about Mauritius’ fishing rights pursuant to the 1965
7 undertaking: the right to fish anywhere in the 200 mile FCMZ, subject to licences that were
8 never denied to any Mauritian-flagged vessel and were given free of charge. This is the
9 inevitable conclusion reached from a review of all the contemporaneous documentation and
10 the actual practice. And we say, two, that the clarity requirement (although it is met in this
11 case) does not affect the binding character of this undertaking. In the UK’s view – at least at
12 all times prior to the commencement of these proceedings – that undertaking was not a
13 unilateral declaration, but was a condition of an agreement reached in 1965, an agreement
14 that was repeated, renewed, and reaffirmed after Mauritius became an independent State. The
15 obligation would be binding on the UK even if it were unclear, which it is not. In such case,
16 of course, it would be for the Tribunal to determine its meaning, and therefore precisely to
17 what commitments in regard to fishing rights the UK is bound.

18 50. Counsel for the UK suggests that the UK did all of this – ensure fishing rights for Mauritius
19 beyond those it exercised in 1965, extend them from 3 miles to 12 miles, forbid the vessels of
20 any other State from fishing in that zone and ensure exclusive access by Mauritius, and then
21 extend Mauritius’ fishing rights to 200 miles, not based on a legally binding obligation, but
22 out of the goodness of its heart. Now, as an American, I love the UK. They have been our

²²⁶ Email exchange between Colin Roberts, Director, Overseas Territories Directorate, and Joanne Yeadon, Head of “BIOT” & Pitcairn Section, UK Foreign and Commonwealth Office, 13-14 July 2009, MR Annex 138, Mauritius Arbitration Folder Tabs 5.23 at page 236.

²²⁷ Email dated 9 July 2009 from Development Director of MRAG to Joanne Yeadon, Head of “BIOT” & Pitcairn Section, UK Foreign and Commonwealth Office, & “MRAG Comments on the proposal to designate the BIOT FCMZ as a marine reserve”, MR Annex 137, Mauritius Arbitration Folder 5.25 at page 247.

1 best friends for over 200 years, ever since they burned down the White House in 1812. But
2 States have interests, not consciences. And it was not goodness of heart, or even, we submit,
3 goodness of faith, that led the UK to pry out of Mauritius its “consent” to the excision of the
4 Chagos Archipelago, in violation of its territorial integrity and the right of its people to
5 self-determination; nor was it goodhearted for the UK to, at a stroke, abolish Mauritius’
6 guaranteed fishing rights of 45 years by adopting, without proper consultation and for
7 illegitimate reasons, which I will soon come to perhaps tomorrow morning, an MPA that
8 included a complete ban on all fishing, except, of course, for the area around Diego Garcia
9 that is the most vulnerable part of the ecosystem. States act on the basis of their interests, not
10 their consciences, guilty or otherwise. The UK is no exception. It respected Mauritius’
11 fishing rights for 45 years because it was legally obligated to do so. Period.

12 51. Another implausible argument made by counsel for the UK is that Mauritius’ fishing rights
13 were what they call “preferential only.” By this they mean that Mauritius got rights only if
14 other States got them, too. By this casuistry, if no other State could fish in “BIOT” waters,
15 Mauritius could be excluded, too. This, of course, is the opposite of how the UK understood
16 Mauritius’ fishing rights between 1965 and 2010. As I mentioned earlier, only Mauritius –
17 and no other State (except Seychelles for a brief period) – was considered to have rights to
18 fish within 12 miles of the Chagos Archipelago during the 20-year period between 1971 and
19 1991. Thereafter, until 2010, licences were made available to other States in the area between
20 12 miles and 200 miles, but only Mauritius was deemed to have inshore fishing rights, that is,
21 within 12 miles. And in the wider zone, only Mauritian-flagged vessels were issued licences
22 free of charge. Mauritius’ fishing rights during this entire period were not considered
23 dependent, at any time, on the licencing of vessels of third States to fish in Chagos waters.

24 52. The UK’s argument on so-called “preferential” rights is based on two documents from 1965,
25 reporting on events before the final Lancaster House meeting. It should be noted here that

1 both are internal British documents. There is no direct evidence that any Mauritius official
2 ever described the fishing rights that Mauritius sought, or obtained at Lancaster House, as
3 “preferential.” You have seen these documents, so I will only address them briefly. The first
4 is the July 1965 telegram from the Governor of Mauritius to the Colonial Secretary reporting
5 that “Mauritian Ministers” objected to detachment of the Archipelago, and proposed instead
6 a 99-year lease, which they would then grant on certain conditions, including what the
7 Governor described as “ensuring preference for Mauritius if fishing or agricultural rights
8 were ever granted.”²²⁸ We don’t know whether the unnamed Mauritius Ministers expressly
9 requested “preference ... if fishing ... rights were ever granted,” or if this is the way the
10 Governor interpreted or chose to characterize their proposal. That is the danger of trying to
11 squeeze too much juice out of this lemon. What the Governor said, that unnamed Mauritius
12 Ministers said, is plainly hearsay, and precisely the kind that should cause the Tribunal, and
13 counsel, to be cautious in their interpretations from this of Mauritius’ intentions.

14 53. The second document is the one introduced by Ms. Sander. It is the internal British document
15 of 12 November 1965, which, as we saw earlier, is a draft with many handwritten changes.
16 This is at Tab 5.1, and we looked at it earlier.²²⁹ As I said, the author is unidentified. There
17 is no way of knowing if he or she was even present at the meeting of 13 September 1965 that
18 is described, or relied on someone else’s version of events. If you turn to page 76, which is
19 the page that Ms. Sander quoted from, you will see that it appears to be the case, from the
20 indented quote and the reference number (255), that the text that Ms. Sander read to you last
21 week was from some other source, which, of course, is also unidentified. Thus, the words,
22 “they would like preferences in any fishing rights in Diego Garcia waters,” are at least double
23 or triple hearsay. But you will note here the absence of the phrase: “if fishing rights were

²²⁸ MM Annex 13, Mauritius Telegram No. 175 to the Colonial Office, 30 July 1965, FO 371/184526, Mauritius Arbitration Folder 5.28.

²²⁹ Internal note dated 12 November 1965, UKR Annex 13, UK Arbitration Folder Tab 31.

1 ever granted,” upon which the UK’s argument is based, so it does them no good in any event.
2 But prior to the part that Ms. Sander read for you last week is this language, where it says
3 that what follows are the, “terms the Mauritian Government envisioned for a lease
4 agreement,” not for detachment of the Archipelago. Were these the terms that somebody in
5 Mauritius may have envisioned for a detachment? We simply have no way of knowing nor,
6 really, is there a reason why we should care.

7 54. But Ms. Sander thinks she knows. She tells you, with absolute certainty, that this is what the
8 Premier of Mauritius proposed in his handwritten note of 1 October²³⁰. But that document
9 does not support her construction of it. It describes the condition finally proposed by the
10 Premier, and then accepted by the UK, simply as “fishing rights,” not “preferential fishing
11 rights if rights are ever granted.” This does not appear to deter Ms. Sander. She places all her
12 chips on the Premier’s handwritten notation on the prior page that: “The matters to be added
13 formed part of the original requirements submitted to HMG.”²³¹ These “original
14 requirements” are not identified, nor is there identified in this document a submission by
15 Mauritius to HMG that is referred to. But Ms. Sander assures us that the original
16 requirements included “preferential fishing rights if rights were ever granted.” How does she
17 know this? There are other possibilities apparently not considered by the UK’s counsel. One,
18 the Premier might have been referring to a set of terms, perhaps in writing, that Mauritius
19 itself “submitted to HMG,” setting forth its “requirements.” Two, the Premier might have
20 been attempting to increase the chances that the UK would accept the conditions he wished
21 to add by characterizing them as nothing new, but similar to what had already been proposed.
22 The truth is, we don’t know; nor can we know. What we do know is that he did not ask for
23 “preferential” fishing rights in his handwritten note, much less “preferences in the event that
24 rights are ever offered.” And we know, as well, that he could not have been referring to either

²³⁰ Sander, Day 5, page 601, lines 3-5.

²³¹ Sander, Day 5, page 599, lines 4-10.

1 of the two documents cited by the UK in which the word “preference” or “preferential” is
2 used. In the first place, he could not have been aware of them. Both were internal UK
3 documents, and the second was prepared more than a month after his handwritten note. And
4 neither of these documents was “submitted to HMG” by Mauritius. So the Premier seems to
5 have been referring to a different submission. In any event, it is no more than idle and
6 partisan speculation, to presume, as the UK’s counsel do, that what the Premier intended by
7 his reference to “the original requirements submitted to HMG” were “preferential” fishing
8 rights.

9 55. Now, that is all there is on so-called “preferential” rights. Over the next 45 years, neither the
10 words nor the concept appear in the contemporaneous documentation. And, as I have said,
11 the subsequent practice over the next 45 years completely contradicts the suggestion that
12 Mauritius’ fishing rights were ever regarded as limited to “preference if such rights were ever
13 offered.” They are the opposite of that.

14 Perhaps, Mr. President, this is a time to assess how far we should go today. I
15 can reach a convenient stopping point in around 10 minutes, but if the you and the Tribunal wish
16 me to, I can proceed to the end, but it will take me probably another hour.

17 PRESIDENT SHEARER: Mr. Reichler, it's really a matter for you and your
18 colleagues on your side as to how much time you would like tomorrow morning. Certainly it
19 would be convenient for the Tribunal to adjourn at 6:00, but I don't know how that will affect the
20 timing of your arguments tomorrow if you take, what, another hour from then.

21 MR. REICHLER: Mr. President, if I may ask a question which would help us
22 make our decision, there were – I was not present – I was working on my speech at the time, but
23 I understand, of course, I read the Transcript from this morning, that there was a rather
24 substantial time spent in questioning of my esteemed colleague Professor Crawford, and the
25 Mauritius delegation has asked me if, in light of that questioning, we might benefit from an

1 additional 30 minutes added on to our time, which we would propose, given the lateness of the
2 hour today to tack on to our presentation tomorrow.

3 PRESIDENT SHEARER: I think that would be acceptable to the Tribunal, so if
4 you go until six or thereabouts, then your side will have an extra half an hour tomorrow.

5 MR. REICHLER: Thank you very much, Mr. President and Members of the
6 Tribunal, that certainly makes us feel very comfortable in finishing at 6:00 or within five minutes
7 of 6:00 on either side.

8 56. Counsel for the UK have suggested that the practice of Mauritius itself demonstrates
9 somehow that it did not regard itself as having fishing rights under the 1965 undertaking. But
10 we know that this cannot be the case. During our first round, the three letters from the Prime
11 Minister of Mauritius that I showed you and to which I have referred earlier in the
12 presentation, from 1969, 1972 and 1973, expressly invoked Mauritius' fishing rights under
13 the 1965 Lancaster House undertakings.²³² At no time thereafter did Mauritius ever abandon
14 this position.

15 57. Counsel for the UK claim to have found examples of Mauritius' purported abandonment of
16 its fishing rights under the 1965 undertaking, or its alleged recognition that it has no such
17 rights. The most prominent of their examples, cited both by Ms. Sander and Mr. Wordsworth
18 during his speech on Article 283, was that, throughout the bilateral talks in 2009, Mauritius
19 took its stance on fishing rights based solely on its sovereignty claims, and never invoked the
20 1965 undertaking on fishing rights.²³³ Well, we will let you be the judges as, if course, your
21 role. Here are the words of Mr. Boolell, Mauritius' Parliamentary Counsel, at the bilateral
22 talks held on 14 January 2009, precisely when Mauritius is alleged never to have invoked its

²³² Note Verbale dated 19 November 1969 from the Prime Minister's Office (External Affairs Division), Mauritius to the British High Commission, Port Louis, No. 51/69 (17781/16/8), MM Annex 54, Mauritius Arbitration Folder Tab 8.1; Letter dated 4 September 1972 from Prime Minister of Mauritius to British High Commissioner, Port Louis, MM Annex 67, Mauritius Arbitration Folder Tab 8.2; Letter dated 24 March 1973 from Prime Minister of Mauritius to the British High Commissioner, Port Louis, MM Annex 69, Mauritius Arbitration Folder Tab 8.3.

²³³ Wordsworth, Day 7, page 780, lines 16-24.

1 fishing rights under the 1965 undertaking: “Chairman, a series of inducements was given in
2 1965. The Territory is to be ceded when no longer needed. This is clearly a commitment
3 which the UK consistently honour. The second is fishing rights – This cannot be severed.
4 Both have the same status. This should also be honoured. I invite you to reconsider the
5 request.”

6 58. Mauritius is also alleged to have accepted the nonexistence of its fishing rights when it failed
7 to protest the “BIOT” Administration’s closure of certain Chagos waters to fishing vessels.
8 Please let me take you to the document relied on by the UK. The document relied on by the
9 UK is at Tab 5.3.²³⁴ It’s their document, but we are including it today for your convenience
10 at Tab 5.3.

11 59. As you can see, it talks about closure of a certain area. In its written pleadings, the UK states
12 that this area was closed for marine protection because it is a grouper spawning area²³⁵. For
13 that proposition, it cites only to this document, but the document itself provides no reason for
14 the closure. It merely provides coordinates, or what appear to be coordinates, for the closed
15 area.

16 60. The format is not consistent with the way geographical coordinates are normally given, but
17 we had the area framed by them plotted on a chart as you now know. Because of their strange
18 format, we derived two different possibilities from them. The results are now displayed on
19 the screen, as version 1 and 2. Version 2 is so tiny, it amounts to a little red dot just above
20 version 1, and here is a blowup. This is the massive area closed to Mauritian fishing in
21 Chagos waters that is purported to constitute an admission by Mauritius because there’s no
22 documentary evidence as to whether it protests an admission by Mauritius that it has no

²³⁴ Letter from Foreign and Commonwealth Office to Mauritius High Commissioner of 8 July 2003, MM Annex 119, UK Arbitration Folder 36.

²³⁵ UKCM 3.18 and UKR A.94

1 rights under the 1965 fishing rights undertaking.²³⁶ I think we need do no more by way of
2 response than display this chart.

3 61. The UK's last line of defense against the overwhelming weight of the contemporaneous
4 documentary evidence of its understanding of the character and content of the undertakings it
5 made to Mauritius in 1965, is to suggest that all of its internal communications should be
6 ignored.²³⁷ Even if this were justified, which it is not, it would not affect many of the
7 documents I reviewed with you on 23 and 24 April, because they were external
8 communications between senior British officials and senior Mauritian officials. But there is
9 no reason to ignore the internal communications here. Mauritius does not rely on them for the
10 purpose of claiming any legal entitlements derived from the documents themselves. It relies
11 on them as evidence of British intention and understanding: an intention to be bound by the
12 1965 undertakings, and an understanding – consistently expressed over more than 45 years –
13 of what those undertakings entailed. We are not here referring to a few isolated memos
14 written by low-level servants of third States, not involved in the proceedings, expressing their
15 personal views, such as those the arbitral tribunal addressed in the *Eritrea/Yemen* case.²³⁸

16 62. What we have here, unlike in *Eritrea/Yemen*, is a huge volume of contemporaneous
17 documentation authored by or for UK Legal Advisers, Cabinet Secretaries, Colonial
18 Governors, High Commissioners, "BIOT" Administrators, and FCO Department Heads that
19 reflect the UK's official views on the character and contents of its undertakings. These
20 documents are not merely admissible. We respectfully submit that they are determinative.
21 And what they determine is this. All three undertakings that concern us in these proceedings
22 are legally binding. And their content was mutually understood and accepted by both Parties,
23 including the undertaking on fishing rights, continuously and uninterruptedly until 1 April

²³⁶ Sander, Day 5, page 612, lines 6-12.

²³⁷ Wordsworth, Day 7, page 859, lines 8-22.

²³⁸ *Eritrea/Yemen*, Award of the Arbitral Tribunal in the First Stage of the Proceedings (Territorial Sovereignty and Scope of the Dispute), 9 October 1998, 114 ILR 1, p. 31, at paras. 93-94 (UKR Authority 7).

1 2010. On that date, while continuing to reaffirm the validity and obligatory nature of its
2 undertakings on reversion of sovereignty and oil and mineral rights, the UK declared an
3 MPA that blatantly violated its undertaking to ensure Mauritius' fishing rights in those
4 waters.

5 According to my watch, Mr. President, it's 6:00, and I have come to an especially
6 convenient point to stop for the evening.

7 PRESIDENT SHEARER: Very well. Thank you, Mr. Reichler, and thank you
8 for your cooperation.

9 We will adjourn until 9:30 tomorrow morning.

10 Thank you.

11 (Whereupon, at 6:00 p.m., the hearing was adjourned until 9:30 a.m. the following
12 day.)

CERTIFICATE OF REPORTER

I, David A. Kasdan, RDR-CRR, Court Reporter, do hereby certify that the foregoing proceedings were stenographically recorded by me and thereafter reduced to typewritten form by computer-assisted transcription under my direction and supervision; and that the foregoing transcript is a true and accurate record of the proceedings.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to this action in this proceeding, nor financially or otherwise interested in the outcome of this litigation.

A handwritten signature in cursive script, appearing to read "David A. Kasdan", is written over a horizontal line.

DAVID A. KASDAN

Index

A

- AB, *1012*
ab, *979*
abandon, *1060*
abandonment, *1060*
ability, *969, 1014*
Abkhazia, *1003-1004*
able, *925, 927, 929, 946, 949, 987-988, 1006, 1012, 1014, 1032, 1036*
abolish, *1056*
above, *1025-1026, 1061*
absence, *921, 929, 1017, 1057*
absolute, *958, 1058*
Absolutely, *936*
absolutely, *935, 978, 999, 1012*
AC, *953*
ac, *1028*
academic, *1022*
acceding, *1014*
accept, *922, 936, 939, 951, 963, 965, 982, 991, 995, 1006, 1013-1014, 1022, 1036, 1038, 1044, 1058*
acceptable, *937, 969, 997, 1025, 1033, 1038, 1049, 1060*
acceptance, *948, 1037*
accepted, *956, 974-975, 1005, 1036-1037, 1049, 1058, 1061-1062*
accepting, *1036*
access, *981, 1051, 1055*
accessed, *1042-1043*
accidental, *1002*
accompanied, *921*
accompanying, *970, 1003*
accompli, *932, 936, 976*
accordance, *921, 960, 962, 970-971, 977, 995, 1004, 1006, 1008-1009, 1014, 1024*
According, *937, 957, 1042, 1053, 1063*
according, *959, 969, 973, 1020*
accordingly, *920*
account, *923, 959, 972, 975-976, 983, 991, 1035*
accounts, *924*
accurate, *939, 988, 1040, 1048, 1064*
accuse, *1044*
accused, *948, 999, 1022*
accuses, *1009*
achieving, *931*
acknowledge, *1049-1050*
acknowledged, *926, 1043, 1052*
acknowledges, *954*
acknowledgment, *984, 1045*
acquire, *982*
across, *933, 937, 943, 1020*
Act, *960, 1009*
act, *949, 960, 968-969, 983, 999, 1001, 1027, 1056*
acted, *1028*
action, *924, 963, 965, 1023, 1064*
actions, *956*
activities, *1049*
actual, *926, 948, 957, 1018, 1053, 1055*
Actually, *1025*
actually, *919, 924-925, 928, 935, 942, 967, 986, 989, 991, 1050*
adage, *923*
add, *924, 957, 984, 991, 1015, 1050, 1058*
added, *920, 958-960, 973, 1013, 1034-1035, 1037, 1049, 1053, 1058, 1060*
adding, *1037*
addition, *926*
additional, *926, 929, 986, 1037, 1060*
additions, *1035*
address, *917, 920, 925-927, 930, 940-941, 970, 997-998, 1015, 1031-1032, 1057*
addressed, *940, 950, 957, 989, 998, 1002, 1004, 1012, 1020, 1062*
addresses, *1028*
Addressing, *921*
addressing, *950,*

998, 1031
 Adede, 1017,
 1021-1022
 adhere, 918
 adjacent, 1003,
 1008, 1025-1026
 adjourn, 985, 1059,
 1063
 adjourned, 985,
 1063
 adjudge, 1000
 adjudicated, 1022
 adjudication, 1023
 adjudicative, 1023
 adjust, 971
 Admin, 963
 administering, 955,
 962, 976
 Administration,
 988, 1061
 administration,
 929, 1051
 administrative,
 954, 962
 Administrator, 1051
 Administrators,
 1062
 administrators, 962
 admirable, 1023
 admissible, 1062
 admission, 940,
 1061
 admit, 1046
 admitted, 986,
 1044, 1046
 adopt, 959, 1004,
 1022, 1047
 adopted, 932, 940,
 957-958,
 1052-1053
 adopting, 1056
 adoption, 956, 1053
 adopts, 1001
 advanced, 949
 advertises, 1042
 advice, 983
 advised, 936
 Adviser, 987
 adviser, 929, 1039,
 1041
 Advisers, 1038,
 1049, 1054, 1062
 advisers, 1039,
 1044
 Advisors, 1039
 Advisory, 958-959
 advisory, 957-958
 advocated, 1020
 advocates, 948,
 1031, 1041, 1052
 Affairs, 939, 943,
 963, 1048, 1060
 affairs, 969
 affect, 967, 1013,
 1055, 1059, 1062
 affected, 957, 1030
 affects, 968
 affiliations, 946
 affirmation, 957
 affirmed, 981-982
 affirming, 956
 affirms, 971,
 982-983
 afford, 975
 aficionado, 935
 afraid, 988, 1031
 Africa, 961
 African, 977, 1054
 afternoon, 917,
 919, 924, 932,
 935, 971,
 1030-1031
 afterwards, 957
 age, 1038
 agenda, 930,
 958-959, 967,
 1034
 Agent, 926, 939
 agitated, 1021
 ago, 925, 936, 1021
 agree, 949, 973,
 981, 1003, 1021,
 1023, 1034,
 1037, 1040,
 1044, 1048, 1051
 agreeable, 924-925
 agreed, 918, 933,
 970, 980, 1033,
 1035-1041,
 1043-1044,
 1048-1050, 1052
 Agreement, 980,
 982, 1013
 agreement,
 924-925, 970,
 972, 974-975,
 977, 980-982,
 999, 1003,
 1032-1035,
 1038-1041,
 1043-1044, 1049,
 1051-1052, 1055,
 1058
 agreements, 969,
 980, 1055
 agrees, 1042
 agricultural, 1057
 ahead, 924, 934,
 937
 aid, 1021
 Air, 1028
 air, 1026-1027,
 1036
 aircraft, 1028
 Airport, 1026, 1029
 airports, 1028
 airspace, 1025-1026
 airstrip, 1048
 akin, 983
 alia, 1055
 alien, 1007
 Alison, 928
 allegation, 954
 allegations, 925
 alleged, 921, 968,
 1043, 1060-1061
 Allen, 930, 934,
 988-989
 allocated, 922
 allow, 933, 978,
 983, 1016, 1043,
 1047-1049
 allowed, 987, 1005,
 1020, 1028
 allowing, 971, 988,
 1011, 1043
 allows, 1005, 1029
 alluding, 972
 alone, 1006, 1008,
 1039, 1051, 1054
 aloud, 1045
 already, 929, 934,
 959, 964,
 966-967, 976,
 984, 987, 989,
 1015, 1018,
 1037, 1039-1040,
 1046, 1058
 altered, 917
 alternative, 920,
 964, 972, 1032,
 1054
 Although, 929, 938
 although, 929, 935,
 940, 948, 950,
 990, 995,
 1023-1025, 1030,
 1055
 ambiguity, 1022
 America, 1011
 American, 1030,
 1054-1055
 among, 930, 1032,
 1050, 1054
 amongst, 925, 995,
 1029
 amount, 1013
 amounted, 937, 978
 amounting, 978

amounts, 978, 1061
 analogies, 982
 analogous, 978
 analysis, 933, 942,
 948, 950, 958,
 984, 1001,
 1004-1005, 1027,
 1029, 1054
 Analysts, 1054
 ancillary, 1023
 and, 923, 1018
 Anderson, 949
 Andrew, 988-989,
 1048
 Andronico, 1017
 anecdote, 1022
 anger, 945, 948
 animatedly, 998
 ANNEX, 920, 994
 Annex, 932, 934,
 938-941, 951,
 972, 975-976,
 986-987, 993,
 1000, 1004,
 1006, 1018,
 1023, 1033-1035,
 1038, 1040,
 1048, 1051-1055,
 1057, 1060-1061
 announce, 947
 announced, 944
 announcement,
 932, 934, 936,
 942, 944, 987
 announcing, 942
 annual, 973
 Another, 1056
 another, 931, 944,
 962, 967, 984,
 995, 1004-1005,
 1007, 1026-1028,
 1031, 1043,
 1048, 1050-1052,
 1059
 answer, 918-919,
 923, 929-930,
 936, 940-945,
 974, 979, 986,
 988, 997, 1000,
 1002, 1005-1006,
 1013, 1016,
 1035, 1039,
 1042, 1045-1046,
 1052-1053
 answered, 919,
 922, 929, 940,
 943, 946, 1042,
 1046
 answering, 1046
 Answers, 1005
 answers, 919, 928,
 940, 942, 987,
 994, 1030
 Anthony, 975
 anxious, 1033
 anyway, 994
 apologise, 943
 apologize, 943,
 946-947, 984
 apparent, 921, 923
 Apparently, 930,
 1042
 apparently, 947,
 957, 1017,
 1020-1021, 1038,
 1047, 1058
 Appeal, 1012-1013,
 1026-1027
 appeal, 1013, 1028
 appear, 920, 947,
 994, 999, 1003,
 1046, 1052,
 1058-1059, 1061
 appeared, 974
 appears, 921, 933,
 935, 943, 949,
 980, 1023-1024,
 1035-1036, 1046,
 1049, 1057
 Appellate, 1012
 appended, 960
 appetite, 965
 applicability, 953
 Applicable, 1009
 applicable, 957,
 965, 968, 970,
 977-978, 998,
 1004, 1009
 applicant, 949
 Application, 984,
 1000
 application, 950,
 955, 958, 963,
 965, 967, 988,
 997-998,
 1000-1003, 1005,
 1008-1009,
 1013-1016, 1020,
 1023-1024, 1026,
 1030
 applied, 949,
 958-959,
 961-962,
 965-966,
 968-969, 984,
 1002, 1004,
 1011-1012
 applies, 957, 986
 apply, 964, 968,
 974, 978, 999,
 1001-1002,
 1004-1007, 1009,
 1012, 1020, 1023
 applying, 998,
 1007-1009, 1011,
 1014, 1028, 1030
 appreciate, 980,
 1012, 1029
 appreciation, 1024
 apprehended, 962,
 965-966
 apprised, 937
 approach, 921,
 923, 950-951,
 969, 995,
 997-998,
 1000-1002,
 1004-1006, 1009,
 1029
 approaches, 921,
 984, 1030
 appropriate, 934,
 937-938, 998,
 1023, 1041
 approval, 1034
 approved, 960
 April, 920, 923,
 941-944,
 947-948, 950,
 999, 1034, 1041,
 1045, 1047-1048,
 1050-1051,
 1053-1054, 1062
 apt, 970
 aptly, 1027
 Arbitral, 1062
 arbitral, 949, 1028,
 1062
 arbitrary, 955-956
 ARBITRATION,
 920, 994
 Arbitration,
 1034-1035, 1038,
 1048, 1051,
 1054-1055, 1057,
 1060-1061
 arbitration, 983
 ARBITRATOR, 918,
 934-936,
 945-946, 953,
 963-968, 977,
 979-980,
 982-984, 1011,
 1027, 1042, 1047
 Arbitrator,
 923-924, 927
 archipelagic, 1008
 Archipelago, 921,
 925-926, 931,
 938, 951,
 953-956,
 963-964,

967-968,
 970-975,
 981-982, 995,
 999, 1001,
 1030-1034,
 1036-1040,
 1044-1046,
 1052-1054,
 1056-1058
 archipelago, 954,
 964
 Archiv, 1028
 Area, 920-921, 925,
 930, 938, 942,
 960, 999-1000,
 1030
 area, 919, 929,
 944, 947-949,
 967, 982, 987,
 998, 1056, 1061
 areas, 986-987,
 999, 1025
 argue, 941, 975,
 984, 999, 1014,
 1016, 1023,
 1040, 1046
 argued, 977-978,
 1016, 1024, 1039
 argues, 1001,
 1017, 1024
 arguing, 949, 999,
 1013
 argument,
 922-923,
 925-926,
 933-934, 949,
 954, 961-964,
 966, 968, 984,
 994, 997,
 1002-1003, 1006,
 1015-1017, 1020,
 1024-1026,
 1030-1031, 1056,
 1058
 arguments, 917,
 920-922,
 925-926, 977,
 995, 997-998,
 1000, 1015,
 1025, 1027,
 1029, 1031, 1059
 arise, 965, 1004,
 1023, 1028
 arisen, 939
 arises, 965, 1001,
 1028
 arising, 1009,
 1023-1024
 armed, 957
 arose, 963, 966,
 1018
 around, 942,
 987-988,
 993-995, 1053,
 1056, 1059
 arranged, 939
 arrangement, 982,
 1043
 arrangements,
 972, 975, 983,
 1033
 arriving, 957
 Article, 922-923,
 925-926, 928,
 930-931,
 948-952,
 959-960,
 968-969, 998,
 1000, 1004-1007,
 1009, 1012,
 1014-1017, 1020,
 1022-1023, 1025,
 1028-1029, 1060
 article, 931, 949,
 1000, 1022-1025,
 1028
 Articles, 925-926,
 968, 970, 1008,
 1014, 1022, 1029
 articles, 950, 999
 articulated, 957,
 965-966, 977
 artifice, 999-1000
 artificial, 999, 1001
 artisanal, 1052
 ascertain, 927
 ascertained, 1002
 aside, 978
 asks, 929, 943,
 1022, 1054
 aspect, 923, 933,
 967-968
 aspects, 928, 1054
 aspersions, 920,
 925
 Assembly, 923,
 958, 960-962,
 965, 1007-1008,
 1052-1053
 assert, 939, 963,
 1050
 asserted, 951, 954,
 956
 assertion, 1015,
 1048
 assertions, 923,
 933, 939, 1049
 asserts, 925, 1000,
 1051
 assess, 942,
 977-978, 1059
 assesses, 987
 assessing, 950
 assessment, 929,
 941, 944, 951,
 1004
 assessments, 929
 assimilated, 988
 assist, 948, 994,
 1011, 1025, 1032
 assistance, 1009
 assisted, 1064
 associated, 960,
 967-968, 979,
 1006
 association, 959,
 976
 assume, 922, 981,
 1028
 assumed, 946,
 982-983, 1013
 assumes, 966, 1000
 assuming, 979,
 981, 1003
 assumption, 979,
 1016
 assurance, 1042,
 1050
 assurances,
 1041-1043
 assure, 1049
 assured, 939
 assures, 1058
 astonishing, 977
 Athena, 957
 Atlantic, 1005
 atmospheric, 1042
 attach, 929
 attached, 953-954,
 961, 979, 982,
 990, 1016, 1035
 attachment, 990,
 1008, 1044
 attack, 923, 1038
 attained, 960
 attempt, 928,
 939-940, 957, 990
 attempting, 936,
 1058
 attempts, 930, 949
 attended, 939
 attending, 975
 attention, 935,
 942, 949, 954,
 968, 975,
 990-991,
 1035-1036, 1041,
 1048, 1050
 attentively, 1001
 attitude, 948, 972
 Attorney, 939, 968,

1051
attribute, 969
attributed, 1031
attributes, 920,
926, 1031
atvinnuvegaraduneyti,
1005
auditory, 960
August, 924
Aust, 1038-1039
Australia, 952
authentic, 1022,
1049
author, 1054, 1057
authored, 1035,
1045, 1062
authorise, 961
authoritative, 1055
authorities, 945,
980, 1005, 1016
Authority, 950,
1023, 1062
authority, 949-950,
969, 976, 982
authorization, 1026
authorize, 1024
authors, 1023
automatic, 1016
automatically,
1015-1016, 1023
Available, 1028
available, 919, 940,
951, 963, 972,
1005, 1012,
1018, 1026,
1028, 1051, 1056
avoid, 917, 946,
963, 1023, 1043
avoided, 1032
await, 929, 942
Award, 926, 952,
1003, 1062
aware, 939, 942,
944-945, 951,

962, 986, 992,
1053, 1059
away, 922, 964,
966, 968, 1025,
1030, 1050
awkward, 990
B
back, 919, 921,
931, 935,
946-947, 951,
953-955, 964,
977, 983, 989,
992, 1000, 1005,
1008, 1012,
1032, 1034-1038,
1041-1042, 1053
background, 939,
988
backing, 1025
bailii, 963
bait, 997
baldly, 1003
ballast, 1030
ban, 932, 1056
Bancoult, 963
Bangladesh, 1003
bar, 927, 949,
1022, 1030
bargaining, 974,
1037
Baroness, 944-945
barrage, 997
barrier, 952
base, 963, 967,
972, 1030
based, 939, 1006,
1017, 1036,
1046, 1050,
1052, 1055-1056,
1058, 1060

baselines, 1008
bases, 961-962
basic, 959, 1041
basing, 983
basis, 953, 958,
966, 970, 972,
980, 986, 992,
998, 1007, 1020,
1027, 1033,
1038, 1042, 1056
batting, 1011
bear, 989, 1002
bearing, 1033
bears, 1039
became, 924, 943,
945, 948,
957-958, 1020,
1047, 1055
become, 952, 956,
1029
becomes, 978, 1029
becoming, 932, 955
began, 995, 1001
begets, 1045
begin, 917, 952,
969, 1032
beginning, 919,
943, 966,
971-972, 979,
985, 992, 1031,
1034, 1053
begins, 958,
990-991, 1021
behalf, 1037,
1049-1050
behaved, 923
behaviour, 963
behind, 968, 972,
980, 1032, 1034,
1036
belated, 938, 941
belatedly, 940
belief, 922
believe, 945,

1005-1006, 1008,
1032, 1038, 1042
believed, 1053
believes, 938
belonging, 956
below, 942, 986
bencher, 946, 953
benchmark, 958
beneficial, 960
Benefit, 959
benefit, 940, 960,
982, 1004, 1036,
1047, 1059
benefits, 973,
1033, 1046-1047,
1049
Bertarelli, 987-988
best, 922-924, 963,
973, 1022, 1045,
1056
better, 931, 1038
between, 919, 921,
933-934,
936-941, 949,
951, 955,
958-959, 961,
964-965, 967,
969, 975-977,
979-980,
982-983,
989-993, 998,
1000-1001,
1003-1005, 1008,
1011, 1015,
1018, 1026-1028,
1031, 1036,
1040-1041, 1044,
1049, 1053-1056,
1062
beyond, 959, 983,
1007, 1016,
1020, 1055
Biafra, 1029
bifurcation, 951
big, 921
biggest, 941

- bilateral, 933,
 935-936, 938,
 941, 989, 992,
 1011, 1060
 BINDING, 1031
 binding, 921, 960,
 973, 979-980,
 982-983, 985,
 1028, 1031-1033,
 1038-1039,
 1041-1047, 1052,
 1055, 1062
 Biological, 928
 BIOT, 928-931,
 975, 986-988,
 990-991, 1038,
 1051, 1054-1056,
 1061-1062
 BISSOONDOYAL,
 1033
 Bissoondoyal, 1035
 bit, 927, 934, 936,
 964, 981-982,
 989, 1004, 1012
 black, 933
 blatantly, 1063
 blindly, 1036
 blogs, 999
 blowup, 1061
 bodies, 930, 1029
 Body, 1012
 body, 944, 955, 970
 boils, 930, 1051
 bolster, 928
 bona, 967
 book, 1017,
 1021-1022
 books, 1021
 Boolell, 923, 939,
 988-993, 1060
 bordering, 1007
 bore, 951
 born, 955
 Both, 949, 1042,
 1059, 1061
 both, 918, 930,
 933, 936, 939,
 942, 970, 974,
 980, 990, 1001,
 1008, 1022,
 1026, 1032,
 1035-1036, 1044,
 1048, 1051,
 1057, 1060, 1062
 bottom, 943, 972,
 991-992, 1035
 bound, 980,
 982-983, 997,
 1017, 1031,
 1039, 1044-1046,
 1050, 1055, 1062
 boundaries, 971,
 1022
 boundary, 1003,
 1018, 1020,
 1022-1023
 Bowden, 975
 Boyle, 923, 929,
 932-933, 937,
 940, 1000,
 1022-1025
 breach, 964, 981,
 1027
 breached, 963
 breaches, 963
 breaching, 961
 breadth, 1053
 break, 917, 927,
 952-953, 985,
 1013, 1031,
 1037, 1040-1041,
 1046
 breaks, 917
 breakups, 917
 Bride, 1017
 bride, 1017
 Brief, 952, 1014,
 1041
 brief, 927, 938,
 1029, 1056
 briefed, 947-948
 briefing, 931
 briefly, 920, 934,
 936, 950, 992,
 1015, 1024,
 1040, 1047, 1057
 bring, 975
 bringing, 958
 brings, 1029, 1051
 Britain, 977, 1040
 British, 930, 935,
 940, 943-945,
 948, 954, 963,
 968, 970-971,
 975, 982, 989,
 992, 999,
 1026-1027, 1030,
 1032-1033,
 1035-1036, 1038,
 1040, 1045,
 1047-1050, 1054,
 1057, 1060, 1062
 broad, 1007
 broadening, 1008
 broader, 1016,
 1020, 1052
 broadly, 1053
 broke, 948
 broken, 947-948
 brought, 936, 951,
 1006, 1012
 Brown, 939, 941,
 989, 991, 993
 brown, 1025
 Bryant, 943, 948
 buck, 927
 burden, 954, 963,
 982, 1017, 1032
 bureaucratic, 955
 Burkina, 962
 burned, 1056
 by, 1028
 bygone, 954
 bypass, 941
- ## C
- Cabinet, 976, 992,
 1033-1034, 1062
 cable, 931
 caelum, 998
 calculated, 973
 call, 919, 927, 941,
 952, 981, 994,
 999, 1008, 1015,
 1030, 1050, 1056
 called, 920, 925,
 929, 938, 961,
 988-989, 1022,
 1029, 1041,
 1044, 1048,
 1056, 1059
 calling, 1035
 calls, 951, 1039
 came, 922, 932,
 934, 941, 972,
 977, 995,
 1011-1012, 1032,
 1037, 1042,
 1051, 1054
 Canada, 1018
 cancelled, 992
 candid, 975
 candidly, 1054
 cannot, 922,
 953-954, 958,
 962-963, 970,
 977, 999, 1002,
 1007-1009,
 1012-1015, 1022,
 1028, 1032-1033,
 1047-1048,
 1052-1053,
 1060-1061
 canvassed, 936
 capable, 1004,
 1020, 1023
 cards, 973

care, 1058
 careful, 948, 995, 1003, 1029, 1036
 carefully, 975, 978, 991, 1001-1003, 1037, 1041
 carried, 929, 960, 967, 973, 1052
 carry, 950, 982, 1033
 carrying, 930
 carryover, 1034
 carved, 962
 Case, 1028
 case, 918, 920-922, 926, 928-929, 931, 933-934, 945, 948, 950, 952, 954, 956-958, 960, 965, 967-968, 970, 976, 978-980, 982-983, 987, 995, 998-999, 1001, 1003, 1005-1007, 1009, 1011-1013, 1016, 1023-1030, 1039, 1052-1053, 1055, 1057, 1060, 1062
 caselaw, 948-950, 952
 cases, 948-949, 951, 963, 966, 1016, 1021-1022, 1026, 1037, 1042
 cast, 920, 959, 1013
 casting, 995
 casts, 925
 casual, 939, 1053
 casuistry, 1056
 catalepsy, 956
 catch, 919
 categorisation, 999, 1001, 1030-1036, 1038, 1040, 1044-1046, 1052, 1056, 1061
 category, 1006
 cause, 997-998, 1057
 caused, 922, 945, 1036, 1046
 cautious, 969, 1035, 1057
 cavalier, 948
 caveat, 1021
 ceases, 962
 cede, 921, 945, 1045-1046
 ceded, 1061
 Center, 960
 central, 957-958, 999, 1001, 1003, 1012
 Centre, 986
 Certain, 1012
 certain, 932, 935, 954, 966, 974, 1004, 1006, 1014, 1022, 1036-1037, 1040, 1042, 1051, 1057, 1061
 Certainly, 1021, 1059
 certainly, 934-936, 947, 956, 977, 982, 1031, 1060
 certainty, 1058
 CERTIFICATE, 1064
 certify, 1064
 cession, 921
 cetera, 935
 Cf, 976
 Chagos, 921, 925-926, 928, 938, 942-943, 951, 953-954, 963, 966, 971-972, 995, 999, 1001, 1030-1036, 1038, 1040, 1044-1046, 1052, 1056, 1061
 Chagossian, 931, 942-943, 992
 Chagossians, 931, 947, 1052-1053
 chain, 992
 chair, 942
 Chairman, 1061
 challenge, 1026, 1038
 challenged, 1006, 1024, 1038
 challenges, 1001
 challenging, 961-962
 Chamber, 962
 chance, 928, 967
 chances, 1058
 change, 921, 945, 952, 974, 983, 1036, 1049-1050
 changed, 921, 965, 1047
 changes, 1057
 Chapter, 963
 chapter, 923, 1022
 CHARACTER, 1031
 character, 924, 957, 963, 965, 968, 976, 978, 980, 982-983, 1005, 1013, 1031-1032, 1039-1040, 1044, 1046, 1055, 1062
 characterisation, 998-999, 1024
 characterise, 960
 characterize, 990, 1057
 characterizing, 1058
 charade, 977
 charge, 1051, 1055-1056
 chart, 1061-1062
 Charter, 961-963, 965
 check, 946
 checked, 946
 Chicago, 1013, 1025-1026, 1028-1029
 Chief, 991
 Chile, 1020
 China, 1004
 chips, 1058
 choice, 924, 959, 970-971, 973, 976, 978, 985, 987, 1046
 choose, 927, 1022
 chose, 922, 1032, 1038, 1054, 1057
 chosen, 960, 1001
 Christie, 1054
 Christopher, 984
 chronology, 928, 933, 935
 chunk, 1021
 Churchill, 960
 circumstance, 1003
 circumstances, 925, 937, 951, 969, 973, 976, 978-979, 981-983, 1006
 circumvent, 949
 citation, 923, 1026, 1028
 citations, 1021, 1038, 1048
 cite, 963
 Cited, 963
 cited, 950, 1045, 1059-1060
 cites, 1052, 1061

citing, 1055
 citizens, 955-956
 citizenship, 955
 Civ, 1026
 civic, 952
 civil, 999, 1029, 1054
 civilized, 981
 claim, 920, 926, 939-940, 950-951, 962, 967, 970, 974, 978, 995, 998, 1000-1002, 1012, 1014, 1018, 1022, 1028, 1033, 1048, 1050, 1052, 1060
 claimed, 973, 1013
 claiming, 941, 1001, 1008, 1017, 1020, 1062
 claims, 928, 958, 1004, 1020-1022, 1025, 1031, 1060
 clarifications, 972
 clarify, 946
 clarifying, 966
 clarity, 921, 950, 970, 1023, 1055
 classed, 1022
 classic, 1017
 clause, 959
 Clauses, 955
 clauses, 997, 1014
 clausus, 969
 CLCS, 921, 926, 1004-1005
 clean, 977, 981
 cleaners, 957
 cleaning, 957
 clear, 920, 924, 928-929, 934, 936-940, 943, 945, 948-949, 951-952, 957, 966, 978-979, 987-989, 991, 993, 999, 1003-1004, 1008, 1011, 1017, 1050, 1052-1053
 clearer, 1029
 clearest, 922, 971
 Clearly, 988
 clearly, 924, 933-934, 938, 942, 965-966, 974, 989-990, 1013, 1020, 1039, 1048, 1061
 clock, 918, 922
 close, 917, 955, 1018
 closed, 919, 941-942, 947, 1061
 closely, 1009, 1023-1024, 1036
 closure, 944, 1061
 CO, 1033
 coalition, 945
 coast, 926, 1003, 1005, 1008
 COASTAL, 994, 1031
 Coastal, 1005
 coastal, 920, 922, 925-926, 951, 953, 995, 997-1009, 1014-1017, 1020, 1022-1025, 1030-1031
 cobbled, 923, 925
 coerced, 985
 coercion, 978
 coffee, 1041
 cognisant, 947
 coherent, 985
 Colin, 987, 991, 1054-1055
 collapse, 997-998
 collapses, 923
 colleague, 1059
 colleagues, 988, 1033-1034, 1059
 collectively, 935
 Colonial, 957-959, 961, 971-972, 974, 1033-1035, 1040-1041, 1043, 1048, 1057, 1062
 colonial, 924, 954-962, 969, 971, 974, 977, 980, 982-984
 colonialism, 954
 Colonies, 1040
 colonies, 961, 967, 969
 colonisation, 1024
 colonized, 977
 colonizer, 977
 colony, 953-955, 961-962, 969, 972, 977, 980, 1029
 Columbia, 1018
 combination, 1021
 come, 917, 921, 931-932, 934-935, 943, 947-948, 957, 981, 989, 991, 1000, 1003, 1005, 1008, 1012, 1030, 1033, 1036, 1038-1040, 1042, 1056, 1063
 comes, 927, 963-965, 1003, 1005
 comfortable, 1060
 coming, 965
 commas, 925
 commencement, 1055
 comment, 945, 1034, 1047
 Commentary, 960
 commentary, 1022
 commentators, 1015, 1022, 1025
 Comments, 1055
 commercial, 929-930, 932, 987
 Commission, 921, 992-993, 1048, 1060
 commission, 1005
 Commissioner, 939, 988, 990-993, 999, 1047-1048, 1050, 1060-1061
 Commissioners, 1062
 commit, 940
 commitment, 939, 943, 945, 947-948, 951, 983, 993, 997, 1042, 1061
 commitments, 926, 960, 977, 1038-1039, 1047, 1055
 committed, 923, 963
 Committee, 943, 953, 975-976, 1018, 1034
 committee, 944, 1018
 common, 983, 1050
 Commons, 946
 Commonwealth, 919, 944, 953,

963, 975-976,
 980, 1048,
 1054-1055, 1061
 communicated, 924
 communication,
 942, 1041
 communications,
 937, 939, 950,
 1062
 Communiqué, 933
 communities, 943
 community, 942,
 957, 992
 Companion, 952
 company, 1003
 compare, 1036
 compared, 959,
 1011
 compatible, 974
 compelled, 1041
 compelling, 1006
 compensation,
 924, 956,
 971-973, 975
 competence, 979,
 995, 1006-1008,
 1012-1013
 competent, 998,
 1000, 1005,
 1013, 1029
 complain, 1001,
 1026
 complaint, 967,
 1029
 complaints, 933
 complete, 944,
 1025, 1040, 1056
 completed, 930,
 942
 completely, 934,
 970, 973, 1059
 completeness,
 945, 947
 complex, 922,
 950-951
 compliance, 959,
 1028
 complicated, 1002
 complied, 949
 comprehensive,
 1018
 compromise, 949,
 969
 compulsory, 948,
 1020
 computer, 1064
 conceded, 955,
 957, 970, 1052
 concedes, 975
 conceivable, 1006
 concept, 933, 984,
 1000, 1007,
 1020, 1059
 concern, 947, 962,
 969, 971, 997,
 1012, 1023, 1062
 concerned, 931,
 935, 938, 954,
 957, 959, 961,
 975-976, 980,
 992, 1003, 1007,
 1012-1014, 1018,
 1026, 1032-1033
 concerning, 951,
 957, 960, 967,
 1000, 1013-1014,
 1016
 concerns, 935,
 972, 998,
 1001-1002, 1004,
 1008, 1014
 concessions, 961
 conciliation, 1016
 conclude, 970,
 1029-1030
 concluded, 926,
 972, 980, 987,
 1025
 concludes, 927,
 952, 977, 1030
 concluding, 1039
 Conclusion, 976
 1039
 conclusion, 922,
 965, 972, 1012,
 1014-1015, 1020,
 1023, 1027,
 1030, 1037,
 1039, 1043-1046,
 1055
 Conclusions, 1029
 conclusions, 980,
 993, 1002, 1029,
 1036, 1043
 concocted, 954
 concurred, 1049
 condemnation, 961
 condemned, 961
 condescendingly,
 939
 condition, 987,
 1036, 1053,
 1055, 1058
 conditional, 919
 conditions, 924,
 929, 970, 972,
 974, 977-979,
 981-982,
 1034-1037,
 1039-1041, 1044,
 1046, 1057-1058
 conduct, 966-968,
 978, 981
 conducting, 959
 confer, 959
 Conference, 960,
 974-976,
 1021-1022
 conference, 1016
 conferring, 983
 confident, 1054
 confirm, 922, 1021,
 1049
 confirmation, 1040
 confirmed, 1031,
 1040
 confirming, 1039
 confirms, 1023,
 1039
 conflict, 967
 confronted, 961
 confused, 922
 confusion, 917, 939
 congratulates, 952
 connect, 1043
 connected, 962
 connecting, 1043
 connection, 955,
 973, 975, 1000
 connects, 974
 consciences, 1056
 consensus, 936,
 1016-1017, 1020
 consent, 924-925,
 953, 956, 963,
 968-971, 973,
 977-979, 981,
 983, 985, 998,
 1032, 1034,
 1036-1040, 1044,
 1046, 1056
 consequence, 961,
 1002-1003
 consequences,
 922, 979, 998,
 1003, 1006, 1030
 conservation, 987
 Conservations,
 1052
 consider, 930, 943,
 945, 954,
 962-963,
 975-976, 986,
 1029, 1032, 1037
 considerable, 945,
 1037
 consideration, 956,
 960, 1044
 considerations,
 1005-1006, 1013
 considered, 930,
 947, 972, 1013,
 1018, 1021,
 1037-1038, 1040,

1043-1044, 1053,
 1056, 1058
 considers, 1025,
 1045-1046
 consisted, 1035
 consistent, 954,
 1031, 1051, 1061
 consistently, 965,
 1033, 1061-1062
 consolidated, 994
 consolidation, 930
 consonant, 1008
 conspicuously,
 1053
 constant, 921
 constantly, 924
 constitute, 924,
 970, 1061
 constitutes, 1051
 Constitution, 954
 Constitutional,
 974-976
 constitutional,
 954-955
 constitutions, 954
 constrain, 1009
 constraints, 962
 construction, 1058
 constructive, 991
 consult, 931-932,
 949
 Consultation,
 937-938, 943, 986
 consultation, 919,
 931, 933,
 936-938,
 941-944, 947,
 986, 988-989,
 993, 1056
 consultations, 933,
 937-938, 944
 consulted,
 930-931, 936,
 943-945, 989
 consulting, 937-938
 939-940, 985,
 992, 995, 1030
 conversations,
 1011, 1021
 conviction, 1037
 cooperation, 1063
 coordinates, 1061
 copy, 946, 989,
 1048
 Corbyn, 942-943
 corner, 1032
 corollary, 969
 correct, 936, 954,
 985, 997-998,
 1001-1003, 1017,
 1023, 1030-1031,
 1036, 1042, 1054
 corrected, 967
 correctly, 966,
 1036, 1046-1047,
 1049
 correspondence,
 932, 935, 938,
 1054
 cost, 975, 988
 costs, 987
 couldn't, 1045
 Council, 956,
 970-971, 974,
 976, 978, 1005,
 1012-1013,
 1028-1029,
 1040-1041
 Counsel, 923,
 1002, 1025,
 1044, 1055, 1060
 counsel, 921-922,
 940, 976, 978,
 1001, 1003,
 1011, 1024,
 1026, 1032,
 1042-1043, 1046,
 1049-1050,
 1052-1054,
 1056-1059, 1064
 count, 931
 contacts, 933
 contain, 959
 contained, 970,
 1016, 1049
 contemplation,
 1017
 contemporaneous,
 924, 1032, 1036,
 1039-1040, 1044,
 1051, 1054-1055,
 1059, 1062
 contemporaneously,
 961
 contends, 1017,
 1021
 content, 941,
 1031-1032, 1036,
 1047, 1049-1051,
 1062
 contention, 956,
 998
 contents, 1032,
 1040, 1047, 1062
 context, 931, 957,
 959, 973, 976,
 981-982, 1018,
 1020, 1022-1023
 contiguous, 1053
 Continental, 921
 continental, 920,
 922, 1018
 continuation, 987
 continue, 918, 941,
 985, 994-995,
 1030
 continued, 920,
 931, 956, 982
 continues, 962
 continuing, 925,
 930, 966, 972,
 1049, 1063
 continuity, 958-959
 continuously, 1062
 Contract, 987
 contract, 981-982
 contracting, 1025,
 1028
 contradict, 1052
 contradiction, 1041
 contradictions, 921
 contradicts, 1059
 contrario,
 1015-1016,
 1022-1024
 Contrary, 1030
 contrary, 974,
 1009, 1054
 contrast, 924, 958
 contrasts, 955
 contribute, 950
 contributed, 955
 contribution, 975,
 988
 control, 926,
 1003-1004, 1008,
 1013, 1029
 controlling, 961
 controversial, 960,
 963, 1007
 controversy, 967
 convenience,
 954-955, 1032,
 1061
 convenient,
 917-918, 948,
 985, 1013, 1021,
 1059, 1063
 Convention, 921,
 923, 925-926,
 928, 948-949,
 952, 955-956,
 959-960,
 968-969, 977,
 995, 997-1009,
 1011-1017,
 1020-1030
 convention, 1027
 Conventions, 1005
 conversation,
 939-940, 985,
 992, 995, 1030
 conversations,
 1011, 1021
 conviction, 1037
 cooperation, 1063
 coordinates, 1061
 copy, 946, 989,
 1048
 Corbyn, 942-943
 corner, 1032
 corollary, 969
 correct, 936, 954,
 985, 997-998,
 1001-1003, 1017,
 1023, 1030-1031,
 1036, 1042, 1054
 corrected, 967
 correctly, 966,
 1036, 1046-1047,
 1049
 correspondence,
 932, 935, 938,
 1054
 cost, 975, 988
 costs, 987
 couldn't, 1045
 Council, 956,
 970-971, 974,
 976, 978, 1005,
 1012-1013,
 1028-1029,
 1040-1041
 Counsel, 923,
 1002, 1025,
 1044, 1055, 1060
 counsel, 921-922,
 940, 976, 978,
 1001, 1003,
 1011, 1024,
 1026, 1032,
 1042-1043, 1046,
 1049-1050,
 1052-1054,
 1056-1059, 1064
 count, 931

- Counter, 951, 1046
 counter, 934
 countries, 983
 country, 924-925, 943
 course, 918, 921, 924, 928, 930, 934-936, 939-940, 942, 948-950, 958-959, 961-962, 964, 967, 975, 981, 983-984, 989, 1005, 1011-1012, 1021-1022, 1036, 1039, 1046, 1050-1052, 1055-1057, 1059-1060
 courses, 981
 Court, 944, 949-950, 957-959, 976, 987, 1012-1013, 1026-1028, 1042, 1064
 court, 1006-1007, 1014, 1023, 1025, 1027-1028
 courts, 1006, 1009
 cover, 1021, 1054
 covered, 986, 1016, 1054
 covering, 974, 976, 1044
 covers, 929
 coy, 947
 crafted, 1024
 crashed, 957
 CRAWFORD, 952, 964, 966-968, 978-979, 981-984
 Crawford, 925-926, 931, 952-953, 963, 965-966, 978-980, 983-985, 995, 998, 1002, 1004, 1008, 1011, 1032-1033, 1047, 1059
 create, 931, 990, 999, 1016
 created, 923
 Creation, 928
 creation, 920, 928, 932, 941, 957-958, 962
 credibility, 934-935
 credible, 999
 Crimea, 1004
 Crimean, 1005
 critical, 932, 934-935, 964, 1001, 1044
 criticised, 962
 criticism, 947, 949
 criticisms, 950
 cross, 935, 946, 1021, 1035
 CRR, 1064
 crucial, 964, 1005
 Crucially, 956
 cryptically, 922
 ctivities, 960
 culture, 940
 cured, 979
 curiosity, 946
 curious, 956, 998
 current, 931, 1004
 custom, 956
 Customary, 965-966
 customary, 956, 958, 961, 963-966
 cut, 935, 937, 942, 1030
 cutely, 957
 Cyprus, 1026-1029
- ## D
- Dabee, 926, 1001
 damned, 922
 danger, 932, 1057
 date, 919, 935, 938, 950, 957, 964-966, 988, 1063
 dated, 923, 928, 951, 1035, 1038, 1040, 1047-1048, 1050, 1055, 1057, 1060
 dates, 937
 dating, 988
 DAVID, 1064
 David, 988, 990-991, 1064
 dawning, 923
 Day, 924, 954-959, 961-963, 968-969, 971, 974-976, 1037, 1041-1045, 1048-1054, 1058, 1060, 1062
 day, 917, 938, 942, 965-966, 985, 1006, 1013, 1028, 1063
 days, 917, 934-935, 937, 941-942, 962, 1006, 1012, 1039, 1048
 de, 984, 1003, 1006, 1024, 1029
 deal, 919, 927-928, 934, 948, 950, 953, 967-968, 973-974, 976, 998, 1005, 1013, 1015, 1017-1018, 1020, 1029-1030, 1038
 dealing, 982, 1005, 1012, 1029
 dealings, 955
 dealt, 927
 dear, 991
 debar, 957
 Debate, 1053
 debate, 942-948, 953, 1018
 debated, 942, 944
 debates, 942, 948, 976, 1018, 1020
 decade, 958
 decades, 995, 1039
 December, 923, 939-940, 951, 958, 988-991, 993, 1000, 1029, 1053
 decency, 923
 decide, 927, 929, 937, 947, 953, 959, 969-970, 1001, 1004, 1006-1008, 1025, 1029-1030, 1044
 decided, 930, 1040
 deciding, 1023, 1029
 Decision, 935
 decision, 919, 928, 930-931, 934-936, 941, 943-944, 948, 970, 1006, 1013, 1026, 1028, 1059
 decisions, 947-948
 decisive, 1025
 Declaration, 956-959, 961, 966
 declaration, 942, 992, 1023, 1055
 declare, 920, 951, 1000, 1014

declared, 1029, 1063
 declaring, 951
 decline, 995
 declined, 1042
 decolonization, 957-958, 961, 977
 decorum, 923
 deduce, 1020
 deemed, 978, 1025, 1054, 1056
 deep, 1021
 deeply, 975, 1011
 defect, 978
 defective, 979, 981
 Defence, 975-976, 1033-1034
 defence, 923, 945, 956, 1013, 1033, 1045, 1053
 defend, 923, 925
 defense, 1062
 defer, 934
 deficiency, 979
 deficient, 929, 950
 defined, 954, 1051
 defines, 1027
 definite, 1017, 1048
 definition, 954, 1003, 1006
 definitive, 936, 964, 1042
 degree, 936, 960, 977
 degrees, 978
 delay, 989
 delayed, 937
 delegation, 989, 1018, 1035, 1059
 delegations, 1021
 deliberately, 1036-1037
 deliberating, 994
 deliberation, 1030
 deliberations, 932
 delimitation, 1018, 1021-1023
 delimitations, 1020, 1023
 demands, 924
 Democrat, 944
 demonstrate, 958-960, 1054
 demonstrated, 977, 1032, 1039
 demonstrates, 1016, 1031, 1050, 1060
 denied, 931-932, 940, 961, 970, 999, 1051, 1055
 denies, 925, 1000
 deny, 922, 965, 971, 977-978, 980-981, 1006
 denying, 970, 982
 Department, 1048, 1062
 departure, 1023
 depend, 1025
 depended, 987
 Dependencies, 955
 dependencies, 954-955
 dependency, 954-955
 dependent, 963, 1006, 1056
 depends, 1013
 depository, 1006
 deprive, 1022, 1038
 deprived, 1013
 Deputy, 988, 992
 derail, 924
 derive, 980
 derived, 1061-1062
 des, 1028
 descending, 998
 describe, 949, 1038, 1044
 described, 939-941, 945, 948, 980, 1027, 1035, 1041, 1043-1044, 1057
 describes, 930, 939, 954, 963, 1058
 describing, 948, 1042
 description, 939, 970, 997, 1001
 designate, 1055
 designed, 931, 988
 desirable, 919, 1016
 desire, 926, 951, 995
 Despatch, 1040
 Despite, 1017
 despite, 927-928, 1009, 1016, 1047
 detach, 953, 956, 972, 1040
 detached, 970, 973
 detachment, 924-925, 953, 974-975, 1033-1040, 1044, 1046, 1057-1058
 detail, 938, 940, 1017
 detailed, 923
 details, 946
 detain, 1002, 1024
 detection, 986
 deter, 1058
 determination, 923, 925, 932, 935, 953-954, 956-963, 965, 968-971, 974, 984-985, 995, 998, 1001, 1007-1009, 1024, 1032, 1056
 determinative, 955, 1062
 determine, 979, 997, 1006-1007, 1014, 1022, 1031-1032, 1055, 1062
 determined, 955, 959, 1001, 1006, 1022, 1024, 1039
 determining, 978, 1004-1005, 1012, 1022, 1024
 detract, 949
 detriment, 984
 develop, 963-964
 developed, 952, 969
 developing, 960, 965
 Development, 1055
 development, 960, 972, 989, 1036
 develops, 964, 984
 devoted, 948
 Dheeren, 926
 dialogue, 941
 dictate, 987
 Dictionary, 1042-1043
 dictionary, 1043-1044
 Diego, 927, 972, 986-987, 1036, 1053, 1056-1057
 differ, 1050
 difference, 943, 948, 959, 998, 1001, 1021-1022, 1027-1028, 1038, 1044
 differences, 958, 1051

different, 958-959, 967, 969, 973-974, 1001, 1047, 1050-1051, 1059, 1061
 differently, 1042
 difficult, 934, 945, 950, 973, 979-980, 989, 1006, 1024
 difficulties, 1004
 difficulty, 1016, 1021
 Digby, 990
 dilemma, 922
 dimension, 973
 diminished, 934
 diplomatic, 957, 1021
 direct, 948, 955, 961, 987, 1021-1022, 1041, 1045, 1057
 directed, 986, 1017, 1025, 1032
 direction, 1064
 directly, 954, 972, 1047
 Director, 1054-1055
 Directorate, 988, 1054-1055
 disability, 979
 disabled, 982
 disadvantaged, 1018
 disagree, 975
 disagreement, 949, 1013, 1036, 1047, 1049
 disagreements, 1028
 disappeared, 1033-1034
 disappointing, 993
 disarray, 922
 discharge, 1049
 disclaimer, 992
 disclosed, 928
 discloses, 1013
 disclosure, 975
 disconnected, 1000
 discourse, 984
 discovered, 1036, 1047
 discoveries, 1036, 1047
 discretion, 1049
 discuss, 989, 1023, 1035
 discussed, 940-941, 989, 991, 993, 998, 1017, 1020
 discussing, 931, 992, 1018, 1039
 discussion, 931-932, 945, 949, 964, 984, 989-991, 993, 1034
 discussions, 932, 992-993, 1038
 dismay, 945, 948
 dismemberment, 924, 974-975
 dismissed, 951
 dispatch, 1035
 dispelled, 992
 displace, 1017
 display, 1062
 displayed, 1061
 displaying, 961
 dispose, 961
 dispositive, 1027
 Dispute, 1062
 dispute, 937, 948, 950-952, 961, 967-968, 997-1003, 1005-1006, 1008-1009, 1012-1016, 1018, 1020-1026, 1028-1030, 1047
 disputed, 970
 disputes, 961, 997, 1000, 1014-1018, 1020-1023
 disregard, 950
 dissatisfaction, 1043
 dissatisfied, 1041, 1043
 distinct, 962, 1045
 distinction, 955, 1027
 divide, 947, 971
 Division, 1048, 1060
 division, 962
 divisive, 924, 960
 doctrine, 963
 Document, 937-938, 943, 992
 document, 928-929, 931, 933, 975, 986, 988-990, 992-993, 1002, 1032-1038, 1041, 1048-1050, 1054-1055, 1057-1058, 1061
 documentary, 953, 1061-1062
 documentation, 928, 1034, 1044, 1051, 1055, 1059, 1062
 documents, 917-919, 923, 932, 947, 950-951, 976, 986, 988-990, 992-994, 999, 1017, 1032, 1039-1040, 1043-1045, 1051, 1053-1054, 1056-1057, 1059, 1062
 dog, 990-991
 doing, 957, 966, 973, 982, 1006, 1013, 1015
 dolphins, 1012
 domestic, 982-983
 domination, 957, 960
 done, 917, 924, 941, 950-951, 955, 964-967, 981, 993, 1022, 1044
 doomed, 971
 dot, 1061
 dots, 1043
 double, 1057
 doubt, 959, 1025
 doubts, 965
 down, 930, 935, 943-944, 958-959, 979, 989, 1002, 1015, 1018, 1029, 1049, 1051, 1056
 Downing, 974, 1034
 dozens, 957
 Dr, 1028
 Draft, 1017
 draft, 990-993, 1035, 1054, 1057
 drafted, 990, 1014, 1018
 drafters, 960, 1009, 1037
 dramatic, 1006
 dramatis, 946, 953
 draw, 942, 949, 990-991, 1037, 1043
 drawing, 935, 1008

drawn, *1027, 1035-1036, 1046*
drew, *954*
DS, *1012*
Dubai, *952*
due, *942, 949, 978, 1005, 1012, 1036*
duress, *968, 970, 978*
During, *1029, 1060*
during, *919, 921, 928, 932, 934, 940, 942, 944, 962, 969, 971-972, 989, 1007, 1021, 1038, 1045, 1047, 1053, 1056, 1060*

E

each, *931, 969-970, 980, 994, 1024*
eagerly, *1043*
earlier, *934, 946, 981, 986, 991-993, 1028, 1056-1057, 1060*
early, *930, 932, 936, 938, 993, 1040*
easier, *946*
easily, *917, 973, 1000, 1023, 1043*
East, *1005*
Easter, *942, 944*
Eastern, *980*
eating, *965*
ECHR, *987*

economic, *973*
economy, *924, 930, 956*
ecosystem, *1056*
ed, *960, 1023*
EEZ, *1018*
effect, *926, 945, 956, 964, 978-979, 981, 995, 1007, 1015, 1022, 1030, 1039, 1045*
effective, *965, 981, 1008, 1016, 1030*
effectiveness, *1008*
effects, *928, 966, 981*
effet, *1016*
effort, *1015, 1024, 1032*
efforts, *931, 982*
eight, *985, 1034*
eighth, *929*
either, *919, 935, 950-951, 970, 980, 986, 1011, 1021, 1037, 1042, 1046, 1048, 1053, 1058, 1060*
elaborate, *1039*
elaborated, *1051*
elaborates, *944*
elected, *970*
election, *945*
Elections, *976*
electoral, *975*
electorate, *976*
element, *1005, 1023*
elements, *920, 923*
eliminating, *967*
eloquent, *975*
elsewhere, *1053*

Email, *1054-1055*
email, *930, 932, 934-936, 989*
emails, *934-936, 940-941, 943, 946, 991*
embargoed, *1026*
embodiment, *971*
embrace, *925*
emerge, *935*
emerged, *957, 1002*
emergency, *1036*
emphasis, *960, 1002-1003, 1013, 1039*
emphasised, *931*
emphasises, *969*
emphasized, *950*
emphatic, *1042*
emphatically, *974*
employed, *1053, 1064*
empowered, *1023*
empty, *947, 973*
enable, *950, 970, 988, 1049*
enacted, *929*
enactment, *965*
enclose, *1048*
enclosed, *1040*
encounter, *939*
encouraging, *1007*
End, *1049*
end, *927, 929, 933, 939, 958, 966, 974, 977, 990, 992-993, 997, 1003, 1015, 1017, 1027-1028, 1030, 1033-1034, 1040, 1042, 1049, 1059*
endanger, *1025*
endangered, *962*

endeavor, *919, 994*
endeavoured, *1051*
ended, *973, 1034*
ending, *1049*
endnotes, *1017, 1021*
enforce, *929, 944*
enforcement, *929-930, 987, 1023*
eng, *1005*
engage, *992, 1005, 1017, 1032, 1038, 1054*
engaged, *929, 932, 948, 1002*
Engagement, *990*
engagement, *1042-1043*
engaging, *999*
English, *984, 1026-1028, 1042-1043*
enjoy, *960*
enjoying, *991*
enough, *932, 936, 939, 1033, 1043*
enquired, *1033*
ensure, *927, 932, 936, 947, 989, 1028, 1045, 1051, 1053, 1055, 1063*
ensured, *932*
ensuring, *1046, 1057*
entailed, *1062*
enter, *949*
entered, *1042*
entering, *980*
entertain, *1012*
enthusiasm, *936*
entire, *924, 968, 997, 1012, 1041,*

1053, 1056
entirely, *922, 938, 948, 950-951, 970, 1001, 1006, 1023-1024, 1032*
entirety, *962, 1026*
entities, *1007*
entitled, *920, 926, 959, 995, 999-1000, 1004, 1008, 1025, 1027-1028, 1030*
entitlement, *921-922, 1014, 1027*
entitlements, *1062*
entity, *979, 1006*
enumerated, *1040-1041*
enunciated, *958*
environment, *931, 943, 948*
Environmental, *987*
environmental, *933, 941, 986-987*
envisaged, *938, 967*
envisaging, *958*
envisioned, *1058*
EPPZ, *929*
equal, *959*
equality, *969*
equally, *976, 1044*
equipment, *1029*
equivalent, *964, 980*
Ercan, *1026*
Eritrea, *1062*
erroneous, *1054*
error, *1001, 1004, 1011, 1054*
errors, *1054*
especially, *957, 967, 969, 1042, 1044, 1063*
espoused, *977*
essential, *930, 1026*
Essentially, *983*
essentially, *931, 955, 985, 1022, 1027, 1029*
establish, *920, 926, 929, 958, 972, 995, 1000, 1017, 1040, 1049*
established, *956, 958, 961, 964-965, 987, 1006, 1054*
establishing, *921, 967, 1007, 1048*
establishment, *921, 944-945, 1052*
esteemed, *1059*
Estoppel, *984*
estoppel, *984*
et, *935, 1011*
etc, *1040*
ethereal, *1027*
EU, *1005*
European, *944, 955, 987, 1005*
evasion, *963, 966*
evasive, *943*
Even, *954, 977, 1062*
even, *949, 951, 955-956, 964, 968-969, 972, 977-978, 981-982, 986, 1006, 1020, 1022-1023, 1044, 1051-1053, 1055-1057*
evening, *1063*
event, *927, 965-966, 979, 1022, 1048, 1051, 1053,*
1058-1059
events, *924-925, 967-969, 975, 977, 979, 983, 991, 1054, 1056-1057*
eventually, *1033*
everybody, *943*
everyone, *957, 974, 1011*
everything, *950, 971, 998-999*
evidence, *924, 929, 934, 939-941, 949, 968, 976, 986, 988, 1016, 1032, 1040, 1042-1044, 1046, 1050, 1053, 1057, 1061-1062*
evidences, *1049*
evident, *1000, 1004, 1029*
evidently, *951*
evolves, *965-966*
ew, *963*
Ewan, *988*
EWCA, *1026*
EWHC, *963*
ex, *957, 963, 973, 979*
exact, *934, 988*
exactly, *937, 941, 982, 989, 995, 1036-1037*
examination, *933, 952, 1054*
examine, *933-934*
examined, *965, 1041, 1045*
example, *921-922, 941, 953-955, 964, 982, 984, 993, 1000, 1004-1007, 1011, 1015, 1023-1024,*
1026, 1028, 1045, 1054
examples, *962, 1004, 1007, 1012, 1060*
excellent, *971*
except, *1009, 1026, 1051, 1056*
exception, *924, 997-998, 1000, 1014, 1024, 1056*
exceptionally, *986*
exceptions, *1014, 1021*
exchange, *949, 967, 983, 1038-1040, 1054-1055*
exchanges, *934, 937, 949-951*
excised, *955, 974*
excising, *963*
excision, *924, 953-956, 962-968, 970-976, 978, 981-982, 1032-1033, 1056*
excited, *935*
exclude, *998, 1017*
excluded, *997, 1014-1016, 1023, 1056*
excludes, *1016, 1022*
excluding, *927, 1017*
exclusion, *930, 986-987, 997-998, 1015-1018, 1020, 1030*
exclusive, *1025-1026, 1055*
exclusively, *1014*
excuses, *1046*

exercise, 944, 958,
 977, 995, 1014,
 1018, 1026-1027,
 1030
 exercised, 962,
 1008-1009, 1027,
 1051, 1053, 1055
 exercises,
 1024-1025
 exercising, 982,
 995, 1015, 1030
 exhausted, 957,
 965
 exhaustible, 1012
 exhibits, 994
 exile, 1030
 exist, 950, 962,
 984, 1004, 1039
 existed, 966, 979,
 984
 existence, 1003,
 1013, 1022
 existing, 929, 984
 exists, 920, 963,
 968, 979
 expectation, 927,
 937
 expected, 923,
 972, 995
 expeditiously, 949
 experience, 977
 explain, 918, 942,
 980, 982
 explained, 928,
 948, 976, 991,
 1033-1034, 1054
 explains, 953
 explanation, 922,
 951, 1032, 1043
 explanations, 994
 explicit, 1018,
 1030, 1043, 1045
 explicitly, 973,
 1007, 1014, 1020
 exploitation,

1046-1047
 exploration, 1047
 exploring, 1005
 expose, 1026
 exposed, 1028
 express, 918, 956,
 1014, 1017-1018,
 1037
 expressed, 924,
 937, 945, 948,
 1020, 1062
 expressing, 947,
 970, 1062
 expression, 964,
 1000
 expressly, 949,
 976, 1021, 1048,
 1054, 1057, 1060
 expulsion, 967-968
 extend, 984, 1009,
 1055
 extended, 943,
 955, 1052
 extending, 955-956
 extends, 1000
 Extension, 1038
 extension, 955
 extensive, 950
 extent, 961,
 981-982, 1016,
 1018, 1050
 External, 1048,
 1060
 external, 1062
 externally, 955
 extra, 1060
 Extract, 975-976
 extract, 1012
 extracted, 1037
 extraordinary, 942
 extrapolations,
 1043
 extreme, 969
 extremely, 940,
 945, 969, 984,

1025
 eyelid, 1011

F

fabric, 923, 1024
 face, 951, 976,
 1014, 1021
 faced, 974
 faces, 1016
 facie, 1013
 facilitate, 987
 Facilitator, 986
 facilitator, 988, 992
 Facilities, 1034
 facilities,
 1033-1034, 1045,
 1048, 1051, 1053
 facing, 959
 fact, 929-930, 934,
 937, 940, 942,
 947, 954-955,
 965, 970, 990,
 1001, 1003-1008,
 1013-1014,
 1016-1017, 1020,
 1023, 1026-1028,
 1032-1033, 1037
 facto, 957, 1003,
 1029
 facts, 922, 948,
 950, 998-999,
 1001-1002, 1006,
 1009, 1021,
 1024-1025
 factual, 937, 949,
 951, 970, 997,
 1001, 1005-1006,
 1054
 fail, 974, 1017
 failed, 940, 959,
 972, 1017, 1030,

1039, 1054, 1061
 Failing, 973
 failing, 1028
 fails, 941
 failure, 978, 1016,
 1045
 fair, 921, 936, 1038
 fairly, 943, 955
 fait, 932, 936, 976
 faith, 991, 1056
 fall, 963, 998, 1004,
 1020-1021, 1024,
 1030
 fallen, 1001, 1004
 falls, 976, 1016,
 1030, 1042
 false, 1006
 familiar, 922, 946,
 975, 977, 1032,
 1034
 fanciful, 1025
 far, 927, 938, 948,
 954, 964, 966,
 976, 984, 995,
 1027, 1033,
 1043, 1051,
 1053, 1059
 Faso, 962
 fathers, 924
 favorable, 966
 favour, 1026
 favoured, 974, 976
 FCMZ, 1054-1055
 FCO, 988, 1028,
 1048, 1054, 1062
 fear, 995
 feature, 921,
 945-946
 February, 931,
 940, 993, 1038
 Federation,
 1004-1005
 feed, 937
 feel, 947, 1060
 feeling, 944

feet, 946
 fell, 940, 942, 1011, 1024
 fellow, 1034
 felt, 990
 few, 936, 938, 944-945, 985, 993, 1004, 1012, 1015, 1018, 1023, 1036, 1038, 1048, 1054, 1062
 Fiat, 998
 fide, 967
 fifties, 965
 figure, 973
 figures, 945, 973
 file, 921-922, 943
 filed, 1000, 1045
 filibuster, 1046
 filing, 922, 926
 film, 1017
 Final, 935, 960, 1009
 final, 927, 934-936, 941, 944, 948-949, 1013, 1028-1029, 1035-1037, 1047, 1056
 Finally, 976, 987, 993
 finally, 940, 992, 1005, 1030, 1035, 1058
 Financial, 987
 financially, 1064
 find, 929-930, 946, 949, 957-958, 988, 993-994, 1002, 1018, 1022, 1025, 1034, 1038, 1051, 1054
 finds, 950, 1000
 fine, 935
 finer, 954
 finish, 994, 1031
 finished, 918, 989, 1039
 finishing, 1060
 Finland, 1018
 fired, 932, 934-936
 firmly, 972
 First, 954, 957, 967, 972, 997, 1018, 1036, 1039, 1043, 1045, 1049, 1062
 first, 917, 919-920, 922, 924-925, 928, 930-931, 934, 937-938, 940, 942, 945, 949, 953-954, 957-959, 961, 963-966, 970-972, 974-979, 986, 988, 990-993, 997-998, 1000, 1009, 1013, 1015, 1022, 1025, 1029-1032, 1037, 1041, 1045, 1047, 1057, 1059-1060
 Firstly, 928
 firstly, 928
 fish, 1051-1056
 fished, 1053
 Fisheries, 988, 1005
 fisheries, 930
 fishery, 1053
 Fishing, 1005, 1038, 1052, 1054
 fishing, 920-921, 926, 929-932, 951, 956, 987, 1005, 1032, 1035-1036, 1046, 1048, 1050-1063
 fit, 940
 Five, 1032
 five, 937, 941, 952, 986, 988-989, 991, 995, 1032, 1041, 1060
 fixate, 968
 fixed, 930
 flag, 1004, 1008
 flagged, 1051-1056
 flat, 981, 983
 flattered, 1011
 fleetingly, 1053
 fleets, 987
 Fletcher, 989
 flexible, 958
 Flights, 1026
 flights, 1026, 1029
 flow, 917, 1030
 flying, 1004
 FO, 1057
 focus, 921, 934, 957, 1032, 1041
 focused, 1018
 focusing, 979
 Folder, 923, 928-933, 939, 986, 1002, 1021-1022, 1025, 1033-1035, 1038, 1048, 1051-1052, 1054-1055, 1057, 1060-1061
 folder, 928, 930, 942, 947, 949-950, 972-973, 975, 1025
 Folders, 1032
 folders, 920, 1021
 follow, 926, 928-929, 947, 966, 980, 988, 1008, 1040, 1050
 followed, 917, 926, 931, 993, 1039
 Following, 925-926
 following, 926, 943, 945, 962, 975, 990, 992, 997, 1033-1036, 1039, 1049, 1063
 follows, 950, 953, 965, 987, 995, 1025, 1034-1035, 1058
 footnote, 1003
 footnotes, 929, 1021, 1026, 1028, 1038, 1048, 1052
 for, 930
 forbid, 1055
 forbidden, 998
 force, 921, 1009, 1011
 forefront, 923
 foregoing, 1064
 Foreign, 919, 923, 931-932, 934-940, 942-945, 947, 953, 963, 988-989, 1048, 1054-1055, 1061
 foreign, 957, 961, 1005, 1053
 foremost, 920
 forever, 922
 Forget, 1053
 forgive, 1027
 form, 923, 939, 957, 992, 1013, 1016, 1027, 1030, 1048-1050, 1064
 formal, 931-932, 934-935, 939, 973, 1028,

- 1042-1044
- formalism, 925
- formalistic, 950
- formally, 976, 1050
- format, 1061
- formative, 930
- formed, 953, 957, 964, 967, 1027, 1058
- former, 962, 976, 1030
- forms, 949, 1030
- formulation, 1000
- forth, 1004, 1032, 1036, 1040, 1044, 1051, 1058
- forthcoming, 929, 1026
- Fortunately, 1038
- forum, 952, 1025
- forums, 1023
- forward, 921-922, 931-932, 944, 990, 992-993, 1015, 1029, 1035
- forwarded, 1054
- found, 929, 931, 987, 994, 1000, 1005, 1011, 1015, 1042, 1054, 1060
- Foundation, 987-988
- foundation, 987, 1021
- foundations, 969
- founded, 1026
- founding, 924
- four, 930, 986-987, 991, 1029, 1035, 1045
- fourth, 1035, 1049
- fractured, 974
- fragmentary, 941
- frail, 981
- framed, 1061
- framers, 952
- framework, 929, 938, 941, 950, 968, 970, 980
- France, 1042
- frankly, 993
- fratricidal, 962
- free, 921, 943, 958, 970, 976-977, 982, 985, 1030, 1033, 1045, 1051-1052, 1055-1056
- freedom, 984
- freedoms, 1014
- freely, 959, 970, 973, 981, 1051, 1053-1054
- French, 999
- frequently, 989, 1009
- fresh, 920
- Friday, 917, 927-929, 932, 940, 947, 953, 969-970, 1033, 1042, 1052-1053
- Friend, 943
- friend, 1038
- Friendly, 956-959, 961
- friendly, 990
- friends, 990, 1006-1007, 1034-1035, 1039, 1056
- Friendship, 1011
- frighten, 969, 974, 976
- frightened, 924
- frighteners, 1024
- front, 920, 946-947, 1000, 1002
- frontiers, 962
- fruition, 965
- frustrate, 995
- frustrated, 961
- fuel, 988
- fulfill, 932
- fulfilling, 950
- full, 921, 926, 959-960, 988, 990, 1022, 1039, 1051
- fully, 932, 936-937, 942, 951, 957, 962, 967, 989
- function, 963
- functioning, 923
- fundamentally, 920, 985
- funding, 919, 929, 987
- Further, 955
- further, 933, 940, 943, 948, 951, 957, 959, 967, 972, 975, 978-979, 989-990, 992-994, 1004, 1030, 1032-1033, 1050-1051, 1064
- furthest, 1033
- futile, 951
- future, 935, 957, 967, 969, 972, 983, 994
- 986-987, 1036, 1053, 1056-1057
- gate, 957
- gather, 927, 953, 985
- GATT, 1012
- gave, 924-925, 929, 956, 978-979, 986, 1011, 1038-1040, 1044, 1051
- General, 923, 939, 955, 958, 960-962, 965, 968, 976, 1007-1008, 1051
- general, 958, 960, 986, 1007, 1009, 1012, 1018, 1021, 1023
- generally, 966, 1005
- generation, 924
- Gentleman, 943
- gentleman, 988-989
- gentlemen, 917
- genuine, 939, 949, 970-971, 974, 990, 998-1000, 1004, 1016
- genuinely, 936, 947, 1012
- geographical, 960, 1061
- geographically, 1018
- Geological, 930
- Georgia, 949-950
- German, 1028
- gestae, 979
- gesture, 991
- getting, 963
- Gibraltar, 961
- give, 918-919, 941, 972-973, 985, 988, 995, 1013,

G

gained, 932

gap, 979

Garcia, 927, 972,

1042, 1045
 given, 919, 921,
 925-926, 929,
 938-939, 942,
 944-945, 948,
 951, 955,
 961-963, 965,
 968, 970-973,
 977-979,
 981-983,
 985-986, 991,
 993, 1003, 1017,
 1022, 1026,
 1028, 1031-1032,
 1034-1035,
 1037-1039,
 1045-1046,
 1048-1050, 1055,
 1060-1061
 gives, 983
 giving, 940, 995
 Goldman, 1017
 goodhearted, 1056
 goodness,
 1055-1056
 Googling, 946
 Gordon, 991
 got, 923, 936, 976,
 978, 985-986,
 989-990, 992,
 1011, 1013,
 1020, 1051-1052,
 1056
 Governing, 962
 governing, 957,
 959-960, 963,
 981, 1006, 1009,
 1011
 Government, 924,
 931, 933, 935,
 938, 944,
 947-948, 952,
 963, 975, 977,
 1026-1028, 1033,
 1035-1036, 1038,
 1040, 1045,
 1049-1050, 1058
 government, 941,
 945, 960, 963,
 984, 1050-1051
 Governments, 939
 governments, 933
 Governor, 924,
 955, 1035,
 1040-1041, 1043,
 1057
 Governors, 1062
 governs, 986
 grandchild, 983
 grandchildren, 981
 grandfather, 981,
 983
 granny, 981, 983
 grant, 965, 975,
 1026, 1057
 granted, 957,
 1028, 1057-1058
 granting, 957, 962
 graphically, 937
 grasp, 1054
 grateful, 919, 927,
 940, 966, 980,
 988, 1012, 1025,
 1035, 1040
 gratia, 957, 973
 gratitude, 918
 gratuitously, 1038
 gray, 972
 great, 924, 934,
 956-957, 967,
 969, 981, 983,
 1017, 1021,
 1029-1030, 1035
 greatest, 973
 greatly, 925, 940
 Greece, 1020
 greedy, 973
 Greek, 967
 green, 1002
 Greenland, 980
 GREENWOOD,
 918, 934-936,
 945-946, 953,
 963-966, 980,
 982-984, 1011,
 1027
 Greenwood,
 918-919,
 921-922, 927,
 929, 936,
 941-942, 953,
 971, 974-975,
 979, 984,
 987-989, 1002,
 1011, 1034-1037,
 1045-1046
 Grieve, 1051
 ground, 998, 1042
 grounds, 962,
 969-970, 1006
 Group, 942-943,
 1018, 1020, 1054
 group, 930, 1018
 grouper, 1061
 guarantee, 961,
 970, 1042-1043
 guaranteed, 1056
 guaranteeing, 1033
 guarantees, 975
 guaranty, 1043
 Guildford, 944-945
 guilty, 1056
 gun, 923-924, 937
 Guyana, 1003
 halted, 937
 hand, 954, 983,
 1000, 1005,
 1028, 1034, 1044
 handed, 953,
 990-991
 hands, 918, 973,
 976, 985
 handwritten, 1035,
 1046-1047,
 1057-1059
 Hansard, 942, 946
 happen, 928, 993
 happened, 923,
 970, 975,
 978-980,
 983-984, 989, 991
 happening, 944
 happens, 928, 964,
 978
 happiest, 974
 happily, 952
 happy, 961
 Harcourt, 1029
 hard, 974, 989,
 1030
 hardly, 931, 999,
 1001, 1008
 Harold, 924
 Hava, 1026
 Head, 1054-1055
 head, 923-924,
 937, 944
 headed, 928, 990
 Heads, 1062
 heads, 990
 hear, 926, 933,
 940, 985, 1021
 heard, 921, 931,
 933, 970, 980,
 987, 995,
 998-999, 1008
 hearing, 921-922,
 985, 1007, 1063
H
 half, 917, 973,
 999-1001, 1031,
 1038, 1060
 halfway, 944, 989,
 1002
 Hall, 942

hearings, 917
 hearsay, 1057
 heart, 1001-1002, 1009, 1012, 1027, 1055-1056
 hearts, 1009
 heated, 943
 heavens, 998
 heavily, 949
 height, 949
 held, 953, 975-976, 1030, 1033-1035, 1060
 help, 931, 950, 964, 1030, 1033, 1040, 1046, 1059
 helpful, 943, 949, 958, 983-985, 992, 994, 1032, 1034, 1043
 Hence, 959
 Henry, 1038
 Herbert, 975
 hereby, 1064
 herself, 1043
 hesitate, 1022
 High, 939, 988, 990-993, 999, 1026, 1047-1048, 1050, 1060-1062
 high, 949, 975, 986, 995, 1004, 1017, 1053
 higher, 948, 1024
 highest, 952
 highlighted, 921
 highlighting, 989
 highly, 950, 960, 976, 1013
 himself, 929, 954, 975
 hinting, 959
 his, 1022
 historic, 1051
 historical, 1021, 1043, 1051, 1055
 history, 960, 1021
 HMG, 1051, 1054, 1058-1059
 Hoffman, 927, 947
 Hoffmann, 986-987
 hold, 939
 holder, 985
 holding, 1038
 holds, 983, 1021
 hole, 942
 Holyhead, 944
 homeland, 974
 homework, 1017
 hon, 943, 947-948
 Hong, 1048
 honor, 952
 Honorable, 1053
 honour, 1061
 honoured, 1061
 hope, 917, 924, 927, 947, 969, 974, 976, 986-987, 994, 1007, 1011, 1017, 1030, 1048
 hoped, 940
 hopeful, 925
 hopefully, 946, 1001
 hot, 927, 1005
 hotel, 1035, 1037
 hour, 934, 1031, 1038, 1059-1060
 hours, 917
 House, 921, 943-946, 971, 1033-1037, 1040-1041, 1045, 1048-1051, 1053, 1056-1057, 1060
 house, 981, 983, 1053
 Houses, 942
 Howell, 944-945
 However, 947, 949, 1022, 1044
 however, 927, 938, 940, 999, 1006, 1015, 1041, 1052
 html, 963
 http, 963, 1005, 1017, 1026, 1028
 huge, 967, 1050, 1062
 Human, 944, 955, 987
 humanity, 982
 humility, 1047, 1054
 hurdle, 948-949
 hurry, 942, 944
 hypothesi, 979
 hypothesis, 964-965
 hypothetical, 983, 1004
 identical, 1036
 identified, 927, 950, 959, 970, 997, 1058
 identify, 950
 idle, 1059
 ignited, 990
 ignore, 949, 958, 1007, 1062
 ignored, 933, 975, 1062
 ignores, 972
 II, 953, 1004
 III, 923, 956, 960, 1007, 1018
 ill, 1026
 illegality, 967-968
 illegitimate, 1056
 illustrate, 1004
 illustrated, 955
 ILR, 1062
 imagine, 1024-1025
 immaterial, 1038-1039
 Immediately, 1033
 immediately, 927, 945, 1003, 1049
 immense, 1004
 imminent, 941
 impact, 945
 impeccable, 923
 impediment, 995
 implausible, 997, 1056
 implementation, 958
 implemented, 960
 implementing, 961
 implicates, 961
 implication, 957, 962
 implications, 933
 implicit, 949, 997, 1000, 1015,

I

Ibid, 958, 963, 972, 1018, 1020-1021, 1023, 1026-1027
 ICAO, 1012-1013, 1025, 1028-1029
 Iceland, 1005
 ICJ, 958-959, 962, 1011, 1028-1029, 1042
 ICSID, 1011
 idea, 927, 930-931, 941, 985, 1009, 1017
 ideas, 931, 935

1017, 1020,
 1024, 1030
 implied, 924, 985
 implies, 939, 968
 imply, 1017
 Import, 1012
 import, 931, 998,
 1024
 important, 947,
 952, 978, 983,
 985, 989, 991,
 1002-1003
 impose, 926, 969
 imposed, 949, 951,
 993
 impossible, 922,
 968
 impressive, 1054
 improper, 981
 improve, 972, 1047
 inability, 1002
 inaccurately, 938
 inadequate, 933
 inadmissible, 1013
 inadvertently, 1037
 inapplicable, 965
 inappropriate, 938,
 984
 incarnation, 960
 incidental, 1012,
 1020
 Incidentally, 1025
 include, 1006,
 1021, 1025
 included, 942, 944,
 947-948, 956,
 961, 964, 1016,
 1018, 1022-1023,
 1033-1034, 1036,
 1056, 1058
 includes, 987
 including, 920,
 926, 932, 951,
 954, 959, 974,
 976, 983, 989,
 1008-1009, 1018,
 1043-1045,
 1051-1052, 1057,
 1061-1062
 inclusion, 921, 934
 incoherence, 970
 income, 924-925,
 956, 987
 incompatible, 920,
 938, 951, 971,
 1001, 1009
 incomplete, 1021
 incomprehensible,
 956
 incomprehension,
 977
 inconceivable, 981,
 1017, 1024-1025
 inconsistency, 961
 inconsistent, 995
 incorporated,
 1028, 1037, 1053
 incorporation, 982,
 1038
 increase, 1058
 increasingly, 1052
 Indeed, 956-957,
 984, 1009, 1018
 indeed, 934, 937,
 943, 945,
 949-950,
 969-970, 995,
 1003, 1008,
 1020-1021, 1024,
 1026-1027
 indented, 1057
 Independence, 977
 independence,
 924, 956-962,
 964, 967,
 969-978,
 980-985, 1029,
 1041, 1047
 Independent, 931
 independent, 920,
 955, 957,
 959-960, 962,
 968-970, 983,
 1055
 independently, 920
 India, 1003,
 1012-1013, 1028
 Indian, 943-944,
 948, 974, 1034,
 1048
 indicate, 949
 indicated, 934
 indicates, 946, 949,
 972, 1048
 indicating, 993
 indication, 919,
 930, 943-944
 individual, 941,
 1012
 individuals, 925,
 939, 941, 946
 inducement, 925
 inducements, 1061
 indulgence, 1043
 Industries, 1005
 ineffective, 970
 inertia, 955
 inevitable, 924,
 1044, 1055
 inevitably, 1005
 inference, 1023
 influence, 981
 inform, 1034
 informal, 989-990,
 1029, 1043
 information, 921,
 926, 933, 940,
 943, 948
 informed, 932,
 936, 944, 973,
 1034
 informing, 933
 infused, 995
 ing, 1023
 ingeniously, 940
 inhabitants, 956,
 963
 inherent, 1014,
 1023, 1030
 initial, 942
 initially, 973
 initiated, 951
 initio, 979
 innovation, 1005
 insert, 1002
 inserted, 1021
 insertions, 1035
 inshore, 1056
 inside, 1055
 insist, 962
 insisted, 942, 1037
 insistence, 1034
 insofar, 1051
 instance, 1013
 instantiation, 964
 instatunascendi,
 984
 Instead, 949, 990,
 1038, 1050
 instead, 971, 974,
 1046, 1049, 1057
 instructed, 924
 instrument, 950,
 995, 1046
 instruments,
 958-959, 1013
 insurgents, 1029
 integral, 956, 1030
 integration, 959
 integrity, 925, 959,
 961-962,
 965-966, 970,
 1056
 intend, 947, 952,
 973
 intended, 951, 982,
 997, 1021, 1039,
 1053, 1059
 intending, 1036,
 1050
 intention, 990,

1031, 1044,
 1050, 1062
 intentions, 1057
 inter, 977, 1055
 interest, 925, 943,
 961, 967, 983
 interested, 930,
 942, 948, 972,
 1026, 1064
 interesting,
 942-943, 1012,
 1021
 Interestingly, 1027
 interests, 924, 926,
 930, 960, 963,
 974, 1056
 interim, 991
 Internal, 1035,
 1048, 1057
 internal, 921, 954,
 960, 984, 988,
 990, 1045,
 1048-1049, 1057,
 1059, 1062
 internally, 955
 International, 949,
 957, 969, 976,
 985, 1012, 1028
 international, 921,
 956-957,
 961-967, 971,
 977-978,
 980-984,
 998-999,
 1004-1007, 1009,
 1011-1012, 1021,
 1023, 1026-1028,
 1047
 internationally,
 980, 982
 interplay, 922, 979
 interpolate, 963
 interpret, 998-999,
 1006, 1008,
 1015, 1030
 Interpretation, 955
 932, 942, 990,
 993, 995, 1018,
 1030, 1049, 1061
 invited, 957, 968,
 1025
 invites, 1027
 inviting, 985
 invoke, 950, 1015,
 1050
 invoked, 961-962,
 1008, 1048, 1060
 invokes, 1051
 involve, 1006
 involved, 932, 936,
 945, 961, 1013,
 1062
 involvement, 933,
 937
 involves, 1000-1001
 involving, 941, 1023
 Iran, 1011
 irrelevant, 950, 984
 irrespective, 926,
 960, 982, 1013
 Islamic, 1011
 Island, 955
 island, 954-955,
 966, 976, 1020,
 1022-1023,
 1025-1026, 1029
 Islands, 966, 1033,
 1035
 islands, 942-943,
 953, 955, 964,
 972-973, 1020,
 1034, 1036,
 1052-1053
 Isn, 1027
 isn, 934, 1027
 ISNT, 960
 isolated, 999,
 1039, 1062
 isolation, 1018,
 1022
 Israel, 957
 interpretation,
 932, 984,
 997-998,
 1000-1004, 1006,
 1008-1009,
 1013-1016, 1020,
 1023-1024, 1030,
 1042-1045, 1048,
 1050-1051
 interpretations,
 1047, 1057
 interpreted,
 1001-1002, 1004,
 1008-1009, 1012,
 1044, 1052, 1057
 interpreting, 997,
 1002, 1007-1009,
 1011-1012,
 1014-1015, 1030
 interrelated, 970
 interrupt, 934, 945,
 1047
 interruption, 943
 intervening, 937,
 1026
 interventions, 1015
 interwoven, 999
 introduce, 917, 920
 introduced, 940,
 1032, 1057
 introducing, 931
 INTRODUCTION,
 920
 Introduction, 928,
 953
 introduction, 927
 introductory, 927,
 1007
 invalid, 1032
 invalidity, 969
 invert, 917
 inverted, 925, 1000
 investigate, 946
 investment, 1011
 invite, 925, 927,
 928-930, 932,
 937-938, 945,
 951, 960,
 965-967, 982,
 985-986, 989,
 997, 999, 1001,
 1003, 1009,
 1011-1012, 1015,
 1017-1018,
 1020-1021, 1025,
 1027-1030, 1048
 issued, 1051, 1054,
 1056
 issues, 922, 930,
 938, 950, 961,
 976, 990-991,
 993, 997-1000,
 1004-1005,
 1007-1009,
 1012-1013, 1018,
 1029
 Italian, 965
 Item, 1034, 1036
 item, 931,
 1034-1036
 items, 1033-1034,
 1036-1037, 1040
 ITLOS, 1006, 1009
 itself, 933, 955,
 959, 963-964,
 968, 982, 997,
 1039, 1042,
 1044-1046, 1050,
 1058, 1060-1061
 iuris, 967
 IV, 963
 iv, 1033
 Ivan, 947
 IX, 958
 ix, 1036
 ISSUE, 994
 Issue, 990
 issue, 924,
 928-930, 932,
 937-938, 945,
 951, 960,
 965-967, 982,
 985-986, 989,
 997, 999, 1001,
 1003, 1009,
 1011-1012, 1015,
 1017-1018,
 1020-1021, 1025,
 1027-1030, 1048
 issued, 1051, 1054,
 1056
 issues, 922, 930,
 938, 950, 961,
 976, 990-991,
 993, 997-1000,
 1004-1005,
 1007-1009,
 1012-1013, 1018,
 1029
 Italian, 965
 Item, 1034, 1036
 item, 931,
 1034-1036
 items, 1033-1034,
 1036-1037, 1040
 ITLOS, 1006, 1009
 itself, 933, 955,
 959, 963-964,
 968, 982, 997,
 1039, 1042,
 1044-1046, 1050,
 1058, 1060-1061
 iuris, 967
 IV, 963
 iv, 1033
 Ivan, 947
 IX, 958
 ix, 1036

J

James, 953
January, 930-931, 951, 991, 993, 1029, 1060
jeopardy, 987
Jeremy, 942
Joanne, 987-988, 991, 1054-1055
job, 1003, 1006
John, 989-993
join, 984
joining, 947
Joint, 933
jointly, 990
joke, 952
Judge, 918-924, 927-929, 936, 941-942, 947, 953, 966, 969, 971, 979, 981, 984, 986-989, 1002-1003, 1008, 1011, 1023, 1034-1037, 1042, 1045-1047
judge, 921, 977, 1029, 1045
judged, 941, 965
Judges, 986, 1025
judges, 958, 1060
Judgment, 1011, 1013, 1026, 1042
judgment, 951, 1012, 1027
judicial, 949, 1026
juice, 1057
July, 924, 932-936, 1038, 1051, 1054-1055, 1057, 1061
jump, 1043

jumped, 949
juris, 978-979, 982
JURISDICTION, 994
Jurisdiction, 1012-1013, 1023
jurisdiction, 922, 925-926, 953, 976, 979, 985, 995, 997-998, 1001, 1004-1005, 1008-1009, 1012-1017, 1020, 1022, 1024-1025, 1029-1030
jurisdictional, 922, 925, 949, 979, 1009
jurisprudence, 957
Justice, 1012, 1026, 1028
justice, 951
justification, 925, 928
justified, 954, 972, 1062
justify, 968
justifying, 923
justitia, 998

K

KASDAN, 1064
Kasdan, 1064
Kateka, 924, 969, 1002
keel, 997
keen, 941
Keene, 1026
keep, 932, 936, 944, 981, 985,

991, 1017, 1024
keeping, 952
kept, 934, 936-937
key, 928, 942, 975, 989, 991, 1021
Kibris, 1026
kilometres, 929, 999-1001
kind, 969, 980, 993, 1006, 1016, 1024, 1057
kindly, 925, 1032
KINGDOM, 1031
Kingdom, 917-918, 920-928, 930, 937, 939-941, 946, 948, 951, 953, 961-962, 964-966, 970-971, 975, 977-983, 986, 988-989, 994-995, 997-1009, 1012, 1015, 1017, 1021-1022, 1024-1035, 1038-1040, 1044-1046
Kinnoek, 944-945
knock, 1015
knowing, 1057-1058
knowingly, 1036
known, 967
knows, 1003, 1026, 1058
Kong, 1048
Kundasamy, 939

L

la, 1006
Labour, 942, 946-947
lack, 937, 1017, 1055
lacked, 951
lacuna, 979
ladies, 917
lady, 986, 992
lagoon, 986-987
laid, 959
Lancaster, 921, 971, 1033-1037, 1040-1041, 1045, 1048-1051, 1053, 1056-1057, 1060
land, 987, 997, 1000, 1003-1005, 1014-1016, 1020, 1022-1025, 1028
landing, 1036
landlocked, 1018
lands, 978
language, 921, 963, 1035-1036, 1042, 1050, 1058
large, 919, 929, 986, 1003
largely, 971
larger, 1052
Last, 1014, 1048
last, 917, 921-923, 930, 936, 939, 947, 952-954, 956-957, 971-972, 974, 986, 990, 992, 1001-1002, 1011, 1024, 1031-1035, 1041-1042, 1048, 1052-1053,

1057-1058, 1062
 latch, *982*
 late, *928-929, 935, 940-941, 959, 1011, 1051*
 lateness, *1060*
 Later, *958*
 later, *926-927, 931, 933-935, 945, 950, 957-958, 967, 973, 976, 1036, 1038*
 Law, *949, 960, 999-1001*
 law, *921, 923, 926, 950, 953-959, 961, 963-966, 968-971, 978-985, 997-1001, 1003-1009, 1011-1012, 1021, 1023, 1025, 1027-1028, 1030, 1032, 1047*
 laws, *955, 1005*
 lawyers, *999, 1044*
 lay, *924*
 lays, *958*
 lead, *945, 961*
 leaders, *924-925, 973*
 leading, *974*
 leap, *1050*
 learned, *931*
 lease, *972-974, 1057-1058*
 leased, *1033*
 least, *935, 968, 1007, 1015, 1020, 1022, 1029, 1031, 1036, 1043, 1050-1051, 1053, 1055, 1057*
 leave, *974, 976, 978, 990, 1030, 1046*
 leaving, *932, 974, 1015*
 led, *948, 1047, 1056*
 left, *925, 927, 931, 953, 985, 1002, 1021, 1032, 1037*
 Legal, *1038-1039, 1049, 1054, 1062*
 legal, *921-922, 927, 932-933, 948-950, 956-958, 966, 968-970, 981, 995, 997, 1001, 1003-1006, 1008, 1015, 1020-1021, 1027, 1029-1030, 1038-1040, 1044-1045, 1052, 1062*
 legality, *965-966, 1000*
 LEGALLY, *1031*
 legally, *921, 978, 981, 1031-1033, 1039, 1041, 1044-1047, 1055-1056, 1062*
 legible, *942*
 legislation, *929-930, 964, 971, 986*
 Legislative, *1052-1053*
 legislative, *976*
 legitimate, *926*
 legs, *936, 1030*
 lemon, *1057*
 length, *925, 955, 991*
 lengths, *956*
 lengthy, *947, 949, 990*
 less, *917, 929, 957, 959, 973, 984, 1017, 1043, 1048, 1058*
 lessons, *976*
 Letter, *951, 1048, 1060-1061*
 letter, *923, 935, 939-941, 954, 988-993, 1034-1035, 1048-1050*
 letters, *941, 947, 1047-1048, 1060*
 level, *935, 951, 1047, 1062*
 levels, *986*
 Lewis, *947*
 Liberal, *944*
 liberal, *955*
 liberation, *984*
 liberty, *969*
 licence, *930, 1049, 1051*
 Licences, *1054*
 licences, *929, 1026, 1051-1056*
 licencing, *1056*
 license, *1051, 1054*
 lie, *1013*
 lies, *944, 1027*
 lieu, *1017*
 light, *926, 939, 979, 999, 1013, 1018, 1020, 1032, 1059*
 lightly, *949*
 likely, *931, 1037*
 likewise, *976*
 limb, *920, 925-926, 1029-1031, 1043*
 limbs, *1009*
 limit, *1009, 1014, 1054*
 limitation, *1014, 1023*
 limitations, *1014*
 limited, *985, 987, 1052, 1059*
 limiting, *1008*
 Limits, *921*
 limits, *986, 1018*
 Line, *1002*
 line, *920-924, 954, 956-957, 963-964, 969, 971, 975, 980, 995, 1001, 1008, 1013, 1025, 1035, 1038, 1043, 1049, 1054, 1062*
 lines, *921-923, 927, 943, 947, 954-959, 962-963, 969, 971-972, 974, 976, 997, 999-1000, 1003, 1007-1009, 1013, 1016, 1021, 1025-1026, 1037, 1041-1045, 1048-1054, 1058, 1060, 1062*
 link, *1004, 1016*
 linkages, *1018*
 linked, *1009, 1023-1024*
 list, *955, 959, 994, 1033-1035*
 listed, *1006, 1033*
 listen, *983*
 listened, *1001*
 literally, *1016*
 literature, *928*
 litigation, *1029, 1064*
 little, *925, 936, 948, 951, 957, 964, 989, 1029,*

1061
live, 981
lived, 1047
living, 943, 1052
ll, 921, 934, 942,
947, 952, 957,
972, 985,
991-992, 1018,
1027, 1039
lobster, 1004
location, 960, 1003
locked, 1004
locus, 964
lodged, 1028-1029
Loewenstein, 926,
933
logic, 1000, 1006
logical, 961
logically, 962, 995
London, 939, 952,
974, 999, 1029
long, 924, 949,
951-952, 962,
990, 992-993,
999-1000, 1049
longer, 945, 947,
952, 956, 1013,
1023-1024, 1045,
1061
longstanding, 999
look, 928, 931, 933,
942, 947, 969,
988-991, 993,
1002, 1004
looked, 986,
1011-1012, 1027,
1057
looking, 922, 936,
969, 973
looks, 934, 990
loosely, 980
Lord, 944-945, 1026
Lords, 944-946
lose, 970
loss, 956

lost, 922, 987
lot, 936, 992
Louis, 952, 988,
1048, 1060
love, 1013, 1055
low, 1062
Lowe, 960, 1027
lower, 1032
Lunch, 925
lunch, 917

M

MACDONALD,
934-936,
945-946, 952
Macdonald,
917-918, 925,
927-928, 934,
945, 952, 954,
999
Mackerel, 1005
mackerel, 1005
made, 919, 924,
926, 928, 930,
932, 934-935,
938, 942-943,
945, 947-948,
950-951,
955-956, 959,
961-963,
968-969,
972-973,
976-977,
981-982, 987,
991-993, 997,
999, 1013-1015,
1023, 1025,
1029, 1031,
1033, 1038,
1047-1049,
1054-1056, 1062

magic, 1017, 1021
mail, 988, 990, 992
mailing, 992
mails, 988
main, 947, 955,
958, 991
mainstay, 1022
maintain, 1049
maintaining, 987
maintenance, 961
Majesty, 944, 977,
1049
major, 1015
majority, 956-957,
1020, 1032, 1044
Mali, 962
Malta, 1020
man, 1038
manage, 944
managed, 1005
Management, 1052
managing, 1014
mandate, 1026
manifestly, 1018
Mankind, 959
mankind, 960
manner, 921, 928,
1046
Manuscript, 1034
manuscript, 1035
many, 933, 937,
944-945, 951,
954, 958,
976-977, 983,
999, 1005, 1017,
1021, 1025-1026,
1032, 1057, 1062
marathon, 957, 965
March, 919,
934-935,
940-944,
947-948, 982,
988, 993,
1047-1050, 1060

Marine, 920-921,
925, 930, 938,
942, 990,
999-1000, 1030
marine, 928, 933,
943-944,
947-948, 1000,
1024, 1055, 1061
maritime, 926,
951, 960, 999,
1003, 1008,
1018, 1020-1023
mark, 948
markets, 1021
Marlin, 987
marriage, 954
massive, 1061
material, 929, 933,
1018, 1039, 1044
materials, 932
matter, 918,
926-927,
940-942, 944,
946, 950, 961,
969, 971-972,
975, 980, 989,
997, 1001,
1003-1005, 1013,
1015-1016, 1023,
1027-1030,
1044-1045, 1051,
1059
mattered, 966
Matters, 1033
matters, 926-927,
978, 990, 993,
997-998, 1000,
1004, 1008,
1014, 1023, 1058
Maundy, 944
Mauritian, 924-925,
931, 938-940,
945, 956,
970-973,
975-976, 978,

989, 992, 999,
 1033-1038, 1040,
 1044, 1047,
 1051-1058,
 1061-1062
Mauritians,
 923-924,
 972-973,
 989-990, 1051
MAURITIUS, 1031
Mauritius, 917,
 919-926,
 928-941,
 943-946,
 948-951,
 953-956, 960,
 962-964,
 966-977, 980,
 983, 986-990,
 992-995, 998,
 1000-1003, 1005,
 1009, 1015-1016,
 1022, 1030-1043,
 1045-1063
maxim, 965
maximum, 975
mean, 941, 946,
 950, 958, 979,
 1003, 1016,
 1053, 1056
meaning, 922, 925,
 998-1006, 1008,
 1012, 1016-1017,
 1022, 1043, 1055
meaningful, 933
Means, 931
means, 949,
 954-955, 971,
 1003, 1017, 1053
meant, 918, 923,
 937, 963-964,
 1042, 1052
measure, 947, 951
measures, 931
meat, 991
mechanism, 938,

1026, 1029
meet, 933, 970,
 992, 1032
Meeting, 975-976,
 991, 1033-1034
meeting, 932-934,
 939, 941,
 952-953,
 971-972,
 974-976,
 989-993, 1018,
 1020, 1033-1037,
 1040, 1048-1050,
 1052, 1056-1057
meetings, 976,
 1040, 1051
meets, 986
Meg, 946
mellifluous, 1045
melted, 922
Member, 942, 948,
 1053
member, 1005
Members, 917,
 920, 925, 928,
 942, 947-948,
 952-953, 958,
 963, 976-977,
 986, 988, 994,
 999, 1007, 1014,
 1029, 1031-1032,
 1046, 1060
members, 927,
 942, 952, 976-977
membership, 997
memoire, 1021
Memorandum,
 1048
memorandum, 963
Memorial, 924,
 942, 951, 993,
 1000, 1045-1046
memory, 1021,
 1048
memos, 1062
mention, 956, 972

mentioned, 928,
 972, 984, 1007,
 1009, 1016, 1056
mere, 1041-1043
merely, 954, 959,
 1008, 1013,
 1061-1062
merit, 933, 1029
Merits, 953
merits, 922, 925,
 933, 952, 995,
 1013, 1048
met, 927, 951, 1055
meteorological,
 1048
metropolitan, 967,
 969, 971, 980
MFA, 992
Michael, 921-922,
 924, 954-959,
 961-963,
 968-969,
 971-972,
 974-976, 995,
 999, 1003
mid, 917, 924
middle, 1034
might, 917,
 919-920, 922,
 924, 930, 934,
 936-937,
 956-957,
 964-965,
 967-968, 974,
 979, 992-993,
 1000, 1005-1006,
 1009, 1011,
 1015, 1022-1024,
 1026, 1049,
 1058-1059
migratory, 1012
mile, 987,
 1053-1055
mileage, 929
miles, 1051-1056

Miliband, 941, 988,
 990-991
military, 961-963,
 967, 1029
million, 956, 973,
 975, 987,
 999-1001
mind, 920, 923,
 927, 935, 966,
 974, 989, 999,
 1005, 1033
minds, 1009
mine, 936
mineral, 920, 956,
 1032, 1035-1036,
 1046-1047, 1049,
 1063
minerals, 921, 926,
 1036, 1047, 1049
Minister, 923, 935,
 938-942,
 944-945, 947,
 951, 969, 971,
 974-975,
 988-989, 991,
 1034, 1036,
 1047-1050, 1060
Ministerial, 931,
 951, 989
Ministers, 924,
 932, 935,
 939-940, 956,
 970, 972-976,
 978, 980,
 1033-1034,
 1037-1038,
 1040-1041,
 1043-1044, 1057
ministers, 973
Ministry, 1005
minorities, 975
minority, 1020
Minute, 1034, 1038
minute, 952, 975,
 1047

- Minutes, *975-976, 1034*
- minutes, *917-918, 926, 936, 953, 972, 976, 985, 989, 1013, 1031, 1038, 1059-1060*
- misapprehended, *1017*
- misconceptions, *1054*
- misinterpretation, *992*
- misleading, *972*
- misplaced, *1052*
- misrepresentation, *925*
- missing, *947, 1021*
- mistakenly, *954*
- misunderstanding, *939, 993*
- misunderstandings, *992*
- mixed, *1000, 1008, 1020, 1022-1023*
- MM, *924, 938-941, 951, 972, 1000, 1033, 1040, 1048, 1057, 1060-1061*
- modalities, *958*
- modern, *924*
- modest, *949*
- modified, *1037*
- modifying, *1048*
- Mohamed, *1035, 1037*
- moment, *934, 965-966, 978, 1002, 1008, 1017, 1020, 1031, 1047*
- momentarily, *1035*
- momentum, *932, 934-936*
- Monday, *920, 994*
- money, *971-973*
- monopolies, *961*
- month, *1048, 1059*
- months, *931, 944, 993*
- morning, *917, 926, 974, 994, 998-999, 1007, 1011, 1030, 1047, 1056, 1059, 1063*
- Most, *956*
- most, *925, 943, 969, 977, 986, 1002, 1023, 1039, 1056, 1060*
- mostly, *922, 986*
- motivations, *925*
- move, *924, 931-932, 990-991*
- moved, *942*
- movement, *931, 977*
- Moving, *941*
- moving, *961, 983*
- MP, *946*
- MPA, *919-921, 923, 926-934, 938-939, 941-942, 944-945, 951, 968, 986-989, 992, 995, 999-1000, 1052, 1056, 1063*
- MRAG, *1055*
- MS, *934-936, 945-946, 952*
- Ms, *917-918, 925, 927, 929-931, 934, 937-940, 942, 945-946, 952-954, 999, 1035, 1041-1043, 1048, 1051-1052, 1054, 1057-1058, 1060*
- much, *917, 929-930, 932, 935, 952, 973, 976, 979, 985, 987, 994, 1009, 1013, 1015, 1021, 1030-1031, 1047-1049, 1053, 1057-1060*
- muddled, *1002*
- mull, *1035, 1037*
- mulled, *1037*
- multiple, *979*
- Munn, *946, 953*
- Murton, *989-993*
- must, *940, 942, 949-950, 955-956, 961, 970, 972, 980, 982, 988, 1004, 1008, 1016, 1018, 1046*
- mutual, *1043*
- mutually, *938, 1062*
- myself, *957, 967, 976*
- National, *986*
- national, *984, 1012, 1027-1028*
- nationality, *1011-1012*
- Nationals, *1004*
- Nations, *921, 958, 960, 963*
- natural, *1012, 1016*
- Nature, *928*
- nature, *928, 930, 983, 987, 1038, 1043, 1063*
- Nauru, *976, 978*
- navigation, *1048*
- NEAFC, *1005*
- near, *935, 994, 1032, 1036*
- nearly, *938*
- neatly, *1051*
- necessarily, *936, 967, 993, 999, 1016, 1042*
- necessary, *929, 933, 949, 960, 987, 1004, 1009, 1016, 1029, 1040, 1047, 1054*
- necessity, *1015*
- need, *919, 921, 949-950, 957, 959-960, 963, 967, 977, 984, 993, 1000, 1004, 1011, 1015, 1018, 1024, 1026, 1033-1034, 1043, 1045-1046, 1053, 1062*
- needed, *933, 945, 956, 1029, 1061*
- needs, *929, 960*
- negative, *990*
- negotiate, *972*
- Negotiating, *1018,*

N

- name, *931, 946, 989, 1038*
- namely, *925-926, 938, 987, 1030*
- names, *945*
- Namibia, *957*
- narrow, *1016, 1020, 1022, 1029*
- narrowly, *1018*
- nation, *924*

1020
negotiating, 980,
1018
negotiation, 969,
971, 981, 1028
Negotiations, 969,
1038
negotiations, 969,
971, 973, 975,
977, 982,
1016-1017,
1021-1022
negotiators, 995,
999, 1017
neighbouring, 967
neither, 976, 993,
998, 1023, 1039,
1059, 1064
Never, 974
never, 924, 939,
948, 967, 970,
987, 1017, 1021,
1042, 1051,
1055, 1060
nevertheless, 922,
1013, 1027
Nevill, 929-931,
934, 937-940, 942
New, 1021, 1042
new, 918, 924,
929, 940, 942,
952, 956, 959,
962, 973, 977,
999, 1037, 1048,
1058
newly, 957, 962,
969, 983
news, 1005
next, 920, 925,
933, 937-938,
945, 947, 972,
985, 988-990,
1006, 1011-1012,
1034-1035, 1044,
1047, 1051,
1053, 1059

NGOs, 931
nice, 981
Nigeria, 1029
Nigerian, 1029
night, 1011
noble, 944
nominees, 970
Non, 962, 1028
non, 957, 959-960,
981, 992,
1042-1043
none, 921-922,
939, 1033, 1043,
1045, 1051
nonetheless, 989
nonexistence, 1061
Nor, 1008, 1013,
1032, 1038, 1047
nor, 939, 951, 969,
982-983, 998,
1003, 1023,
1039, 1043,
1056, 1058-1059,
1064
normal, 917
normally, 1061
North, 1005
Northern, 1026,
1028
northern,
1026-1028
Norway, 1005
notably, 968
notation, 1058
Note, 938, 940,
993, 1038, 1048,
1060
note, 928, 931,
939-940, 974,
976, 995,
1007-1008,
1034-1036, 1046,
1048, 1057-1059
noted, 920-921,
924, 927, 959,

1018, 1024,
1027, 1038, 1056
notes, 929, 952,
986
Nothing, 972, 1007
nothing, 919, 923,
931, 933, 936,
948-950, 952,
957, 977-978,
981-982, 997,
999, 1001, 1007,
1014, 1016,
1054, 1058
notice, 990
noticed, 928, 1017
Notification, 1000
notification, 956
noting, 958, 1018
notion, 974
notorious, 921
notwithstanding,
943, 948, 997,
1015
November,
937-939, 941,
965, 982, 1035,
1039-1041,
1047-1048, 1057,
1060
novo, 984
nowhere, 1039
nr, 1005
nub, 1020
Nuclear, 977, 980,
984, 1042
nuclear, 1042
nullity, 922
Number, 989
number, 921, 938,
941, 943, 945,
972-974,
988-989, 992,
1003, 1013,
1035, 1038, 1057
numbered, 1034
numbering, 1048

Numbers, 994
numbers, 1032
Numerous, 1020
numerous, 924
numerus, 969

O

object, 940, 974,
995, 1035
objected, 1054,
1057
objection, 918,
961, 963
objections, 926,
935, 938, 1013
objectives, 963
objector, 964
obligated, 1056
obligation, 932,
949, 970, 974,
983-984, 1027,
1052, 1055
obligations, 983,
1007, 1038,
1041, 1044,
1046-1047
obligatory, 1063
obliged, 983, 1045
observation, 1049
observations, 918,
930, 1013, 1018,
1049
observe, 1022
observed, 931
observes, 940
obtain, 1054
obtained, 982, 998,
1057
obtaining, 925,
941, 962, 1053

obvious, 921, 925,
962, 993, 1002,
1014, 1016,
1023, 1039
Obviously, 964,
990, 1006
obviously, 919,
923, 946-947,
982, 988,
990-992, 994,
999, 1001-1003,
1007, 1029-1030,
1035
occasion, 917, 965,
1006, 1021
occasions, 924,
927, 945, 979,
993, 1015
occupation, 957
occupies, 983
occupy, 983
occurred, 933, 967,
978-979, 983,
989, 1018
occurrence, 1007
occurs, 962, 984
Ocean, 943-944,
948, 974, 1034,
1048
ocean, 1000
Oceanography, 986
Oceans, 960
Oct, 1026
October, 953, 957,
1012, 1026,
1034-1040, 1048,
1054, 1058, 1062
odds, 995
of, 1021
offer, 923, 1018,
1032
offered, 925, 937,
963, 971, 973,
1016, 1021,
1034, 1058-1059
offering, 929
offers, 951, 1006
Office, 919,
943-945, 947,
953, 988-989,
1035, 1040-1041,
1048, 1054-1055,
1057, 1060-1061
office, 934, 953
Officer, 988
offices, 1053
official, 963, 970,
975, 1033,
1036-1037,
1040-1041,
1048-1049, 1051,
1053, 1057, 1062
Officials, 932
officials, 933-936,
939, 941, 1045,
1047, 1062
often, 935, 1017,
1021, 1026
Oil, 1011
oil, 920-921, 926,
956, 1032,
1035-1036,
1046-1047, 1049,
1063
oils, 1047
okay, 954
old, 923
Oman, 961
omission, 975
Once, 924
once, 924, 957,
1021
One, 923, 927, 941,
944, 967, 1000,
1004-1005, 1022,
1058
one, 917-918,
921-922, 924,
926-927, 929,
932, 934-935,
939, 941,
945-946,
948-949,
953-954,
968-970,
972-973, 975,
980-981, 984,
990-991, 993,
997, 999-1000,
1002, 1004-1009,
1013-1016, 1020,
1022-1024,
1027-1030, 1032,
1035-1036, 1038,
1043-1044,
1046-1048,
1051-1052,
1054-1055, 1057
onerous, 963
ones, 923, 969,
1039
ongoing, 978-979
online, 1042-1043
only, 917, 919,
922, 924-926,
929, 933, 942,
949, 953,
956-959, 961,
969, 972-973,
979-980, 982,
985, 987, 989,
993-994,
999-1000,
1003-1005,
1017-1018, 1020,
1023-1025, 1037,
1040-1041,
1043-1044, 1046,
1053, 1056-1057,
1061
onus, 1017
open, 971-972,
982, 992, 1006
opened, 937
opening, 1051
operate, 1026
operating, 1028
operation, 1017
opined, 1041
opinio, 967
Opinion, 958-959
opinion, 957-958,
1038-1039, 1046
opinions, 1038-1039
Oppenheim, 1012
opportunity,
918-919, 927,
940, 971, 986,
1038
oppose, 974
opposed, 924, 972,
976, 1041, 1045
opposite, 988-989,
1007, 1039,
1056, 1059
opposition, 924,
938, 976, 1041,
1043
opt, 1016, 1020,
1022
option, 973, 986
optional, 1014
oral, 921, 926, 950,
989, 1016, 1029,
1038
orally, 1039
Order, 952, 971,
974
order, 921, 948,
991-992, 1038,
1045
Ordinance, 930,
955
ordinance,
1053-1054
ordinary, 1017
org, 963, 1026
organ, 1013
organization, 925
original, 983, 1003,
1037, 1049,

1058-1059
originally, *1028*
originate, *954*
originated, *1046*
Ormiston, *988*
ostensibly, *950*
other, *918*,
921-922, 927,
929, 933, 944,
949, 959-960,
962, 964, 966,
969, 973, 976,
987, 989-990,
993-994, 1000,
1005, 1008-1009,
1013, 1016,
1018, 1023,
1025-1026,
1028-1029,
1034-1036,
1038-1040,
1043-1044, 1050,
1053, 1055-1058
others, *925, 927*,
930, 943, 1018,
1032, 1046, 1054
otherwise, *949*,
956, 963, 983,
988, 999, 1008,
1013, 1016,
1022, 1040,
1056, 1064
ought, *1015*
ourselves, *940*,
975, 1043
out, *920, 924, 926*,
929-935, 938,
944, 948, 950,
959-960, 967,
969, 972-974,
976, 978,
980-981, 989,
991-992, 994,
997, 1007, 1009,
1011-1012,
1014-1016, 1018,
1020-1022, 1024,

1035-1038, 1043,
1048-1051,
1053-1057
outcome, *933, 947*,
971, 973-974,
1064
outdated, *1039*
outer, *920, 922*,
1018
outline, *918*
outlined, *985*
outs, *1035*
outset, *1021*
outside, *938*,
954-955, 959,
1009, 1013
outstanding, *941*,
986, 990
OVER, *994*
Over, *920, 993*,
1059
over, *917, 920*,
926, 934-935,
943-944, 946,
949, 951, 957,
961, 964, 967,
970-971, 981,
985, 987,
989-991, 995,
997, 999-1001,
1004-1005, 1008,
1011-1012, 1014,
1016, 1020-1021,
1024-1026,
1029-1031, 1033,
1035, 1037,
1044, 1047,
1051-1052, 1056,
1059, 1062
overarching, *951*
overblown, *980*
Oversea, *975-976*
Overseas, *953*,
988, 1054-1055
overseas, *955*
overtake, *941*

overwhelming,
1062
own, *921, 924*,
942-943, 948,
955, 983, 993,
1002, 1015, 1042
ownership, *960*
ox, *1028*
Oxford, *1042-1044*
oxymoronic, *1042*

paper, *923, 931*,
981, 1012, 1025
para, *925, 939*,
950, 958-959,
962-963, 1003,
1009, 1011,
1013, 1018,
1020, 1023,
1026-1027, 1042,
1046, 1054
Paragraph, *964*,
987, 1000, 1013,
1040, 1048
paragraph, *921*,
924, 942-943,
945, 947, 949,
958, 960-961,
972, 975,
989-992, 1000,
1018, 1033-1034,
1036-1037,
1040-1041, 1046,
1049-1050
paragraphs, *991*,
1007, 1016, 1042
parallel, *976*
paramount, *963*
paraphrase, *936*
paras, *924, 961*,
1015, 1062
park, *944*
Parliament, *942*,
944, 948, 999,
1027
parliamentarians,
947
Parliamentary,
942, 944, 953,
1060
parliamentary,
945, 976
Part, *969, 995*,
1000, 1006-1009,
1014, 1016,
1021-1025,

P

Pacific, *987, 1042*
pack, *993*
package, *948, 976*,
1018, 1020, 1038
pacta, *969*
Page, *919, 991*
page, *924*,
927-928, 930,
942-944, 947,
972-973, 975,
990-993, 1002,
1032-1035, 1037,
1040-1045,
1048-1055,
1057-1058, 1060,
1062
Pages, *1012*
pages, *944*,
972-973, 990,
1002, 1012,
1017, 1036-1037,
1045
paid, *975*
pains, *1017, 1024*
Pakistan,
1012-1013, 1028
Palestine, *957*
Paper, *1028, 1054*

1030-1031
 part, 921, 925-928, 930, 933, 943-944, 948-949, 951, 953-957, 959, 964-965, 967, 978-979, 984, 987, 992, 995, 998-1003, 1006, 1011, 1015-1016, 1018, 1020, 1023, 1028-1030, 1033, 1039, 1044-1048, 1056, 1058
 parte, 963
 participants, 958
 participate, 975
 participation, 992
 particular, 948, 957, 960, 965, 993, 1006, 1009, 1012-1013, 1017, 1024-1025, 1028, 1033, 1035-1036, 1041, 1053-1054
 particularly, 934-935, 940, 946, 962, 977, 1035
 Parties, 936-937, 949, 980, 1006, 1015, 1035, 1051, 1062
 parties, 932, 942, 947, 949, 953, 970, 980, 998, 1001, 1003, 1008, 1013, 1017-1018, 1036, 1051, 1064
 partisan, 1048, 1059
 partly, 941
 partnership, 987
 parts, 928
 Party, 942-943, 1006-1007, 1053
 party, 939, 946-947, 1006, 1026, 1041
 pass, 932, 1024
 passage, 942-943, 965, 967, 1035
 passages, 942-943, 972
 passed, 927
 past, 947, 952, 1012, 1045
 pasted, 942
 path, 922, 980
 patrol, 929, 987
 patting, 991
 Paturau, 1035
 paucity, 1021
 PAUL, 1031
 Pause, 947
 pause, 932, 954, 1002, 1028, 1031, 1047
 pay, 973, 987, 1051
 paying, 1036
 payments, 973
 pdf, 1026, 1028
 pecial, 960
 peer, 928, 944
 pejoratives, 997
 penalties, 930
 pending, 944, 987
 people, 924, 941, 945, 959-960, 962, 970-971, 978, 982, 985, 1056
 peoples, 957-961, 969, 1009
 per, 987, 1036
 perceived, 990
 perfectly, 979
 Perhaps, 918, 967, 987, 1041, 1059
 perhaps, 917, 922, 939, 943, 948, 955, 964-965, 968, 977, 989-990, 992, 995, 1021, 1028, 1040, 1047, 1056, 1058
 Period, 1056
 period, 934, 936, 950-951, 967, 978, 981-982, 984-985, 988, 1031, 1044, 1047, 1056
 permission, 995, 1026
 permits, 1026-1028
 permitted, 987
 perpetuating, 995
 perplexed, 958
 persistent, 961, 963-964
 person, 978, 1011
 personae, 946, 953
 personal, 1017, 1022, 1062
 Persons, 955
 persons, 982
 perspective, 968, 971
 persuade, 938, 948, 956, 958, 971, 1005, 1014
 pertaining, 920
 pertinent, 1013
 petitions, 941
 Pew, 931
 pg, 961
 phenomenon, 962
 Philippe, 920, 994
 phrase, 948, 989, 1042, 1050, 1057
 phrases, 960
 picked, 923, 947
 picture, 935
 piece, 923, 929, 981
 Pitcairn, 1054-1055
 place, 923, 925, 933, 936-938, 940-942, 944, 947, 952, 965-967, 969, 973, 983, 991-992, 1029, 1035, 1053, 1059
 placed, 950, 1032
 places, 1058
 plagiarism, 1022
 plain, 1008, 1017, 1021-1022, 1024, 1028
 plainly, 997, 1008-1009, 1016, 1020, 1022, 1025, 1057
 planning, 983
 plans, 972
 Platforms, 1011
 plausible, 1032, 1040
 play, 1033
 pleaded, 967
 pleading, 956, 1039
 pleadings, 921, 926, 935, 950-951, 1015-1016, 1029, 1038-1039, 1045-1046, 1061
 Please, 1034-1035, 1061
 please, 961, 980, 982, 1002, 1006, 1040, 1048
 pledge, 1042-1043
 plenary, 1018, 1020
 plotted, 1061
 plural, 1050

plus, 973, 1032
 PM, 989
 PMSD, 1041
 podium, 927, 1030
 poenitentiae, 964
 point, 923, 927,
 929-930, 932,
 934-938, 940,
 945-946, 948,
 950-951,
 954-957, 959,
 961, 964-965,
 968-970, 974,
 976-977,
 983-987,
 993-994, 998,
 1001-1002,
 1004-1005, 1007,
 1011, 1013-1016,
 1020, 1022-1025,
 1027-1028, 1036,
 1038, 1041,
 1050-1051, 1054,
 1059, 1063
 pointed, 929,
 958-959, 974,
 981, 1009,
 1053-1054
 pointing, 974
 points, 940, 943,
 954, 961, 963,
 972, 991-992,
 997, 1015, 1021
 Policy, 953, 960,
 975-976
 policy, 932, 974,
 987
 political, 947, 959,
 969, 1025
 politically, 1045
 politicians, 936,
 947, 973
 politicised, 976
 pollutant, 986
 pollution, 986
 population, 962-963, 966-968
 populations, 967
 Port, 952, 988,
 1029, 1048, 1060
 portion, 929
 portions, 1054
 portrayal, 973
 Portugal, 1029
 Portuguese, 1029
 pose, 952
 posed, 928, 936,
 944, 971, 1032,
 1034, 1045
 position, 921-922,
 926, 928-929,
 933, 937-938,
 943, 947, 950,
 954-955,
 962-963, 967,
 969, 972, 974,
 977, 980-981,
 987, 993, 998,
 1013, 1015,
 1044-1047,
 1049-1050, 1060
 possession, 1033
 possibilities, 974,
 1058, 1061
 possibility, 972,
 974, 981, 983,
 992, 1028
 possible, 919, 922,
 924, 931, 948,
 971, 978, 981,
 984, 987, 1000
 Possibly, 949
 possibly, 987, 1024
 possidetis, 961-963
 post, 957, 967, 981
 potato, 927
 potentially, 924
 power, 924, 962,
 969, 977, 980,
 982-983
 powerful, 969
 powers, 930, 957,
 961, 974, 1024
 pp, 921, 961-962,
 968, 1015, 1018,
 1021
 PPS, 946
 practicable, 1051
 practice, 954, 957,
 964-965, 984,
 1012, 1031,
 1044-1045,
 1051-1053, 1055,
 1059-1060
 practiced, 1052
 pre, 921, 939, 982,
 985, 1045, 1047
 Preamble, 1008
 precise, 923, 965,
 1045
 precisely, 962, 980,
 1028, 1045,
 1055, 1057, 1060
 preclude, 941, 997
 precluded, 1007,
 1014, 1029
 precludes, 1015
 preconditions, 993
 predetermined,
 971, 974
 prefatory, 1050
 prefer, 973, 997
 preference, 1057,
 1059
 preferences,
 1057-1058
 preferential,
 1056-1059
 preferred, 1020
 prejudice, 959,
 992, 1052
 preliminary, 921,
 926, 1015
 Premier, 971-972,
 974, 1034-1037,
 1046-1047, 1053,
 1058-1059
 premise, 980-981
 premised, 1027,
 1029
 premises, 970
 preoccupation,
 1050
 preparatoires, 1015
 prepared, 974,
 993, 1020,
 1033-1034, 1055,
 1059
 prescribes, 959
 prescription, 958
 presence, 982,
 1003, 1011
 present, 940, 976,
 992, 1013, 1021,
 1057, 1059
 presentation, 926,
 956, 961, 974,
 977, 986, 997,
 1014, 1033,
 1038, 1048,
 1050, 1052-1053,
 1060
 presentational,
 1029
 presented, 938,
 1027, 1037
 presenting, 995
 presents, 939, 1029
 presided, 970
 PRESIDENT,
 917-919, 927,
 952, 966, 979,
 984-986, 994,
 1013-1014,
 1030-1031, 1041,
 1059-1060, 1063
 President, 917-920,
 925, 927-929,
 942, 951-953,
 957, 963,
 976-977,

985-986, 988,
 994, 1007-1008,
 1013-1014,
 1021-1022, 1024,
 1029-1031, 1038,
 1040-1041, 1046,
 1059-1060, 1063
 Press, 1042-1043
 pressed, 940, 943,
 1042
 pressure, 969, 978,
 981
 presumably, 925,
 980, 1025
 presume, 1020,
 1059
 presumption, 982,
 1021
 pretended, 954
 pretty, 917, 963
 prevent, 931, 962,
 968, 1024
 prevented, 973
 preventing, 967
 prevention, 986
 previous, 919, 947,
 957, 992, 1050
 previously, 939,
 953, 1023, 1037
 price, 973
 prides, 997
 prima, 1013
 primarily, 937, 1018
 primary, 968, 1017
 Prime, 938-941,
 951, 969, 971,
 974-975, 989,
 991, 1034, 1036,
 1047-1050, 1060
 Princess, 1017
 princess, 1017
 principal, 963, 967,
 1035
 principally, 1023
 principle, 933,
 958-959, 961,
 963-965, 969,
 977, 1008, 1016,
 1020, 1023
 Principles, 958
 principles, 950,
 962-964
 Prior, 1054
 prior, 960, 967,
 977, 980, 1055,
 1058
 priori, 1002, 1020
 Private, 932, 936,
 974, 989
 private, 919, 929,
 934, 939, 987,
 995
 pro, 977, 1037,
 1046
 probably, 922, 925,
 928, 984-985,
 1059
 problems, 990
 procedural, 919
 procedure, 940,
 1028
 procedures, 948,
 985, 1014
 proceed, 937, 947,
 975, 1007, 1027,
 1042, 1059
 proceeded, 953
 proceeding, 1007,
 1032, 1064
 Proceedings, 1062
 proceedings, 928,
 940, 949, 951,
 958, 1007, 1013,
 1016, 1026,
 1032, 1047,
 1055, 1062, 1064
 process, 917, 919,
 930, 932-933,
 935, 938, 943,
 945, 957-958,
 966, 983
 processing, 966
 proclaimed, 959
 Proclamation,
 965-966
 procured, 970
 produce, 929, 942,
 949, 966, 1039
 produced, 922,
 940, 953, 1033
 produces, 1029
 product, 1037
 Products, 1012
 professed, 1008,
 1047
 PROFESSOR,
 917-918, 952,
 964, 966-968,
 978-979,
 981-985, 1011,
 1013-1014, 1027
 Professor, 920,
 923, 925-926,
 928-929,
 931-933, 937,
 940, 952-953,
 963, 965-966,
 978-980, 983,
 985, 994-995,
 998, 1000, 1002,
 1004, 1008,
 1011, 1022-1025,
 1027-1029,
 1032-1033, 1047,
 1059
 program, 967
 progress, 930
 prohibiting, 1053
 Prohibition, 1012
 prohibition, 929
 project, 930-931,
 934, 944
 prominent, 1060
 promise, 948,
 1042-1043
 promised, 944,
 956, 1052
 promises, 970
 promoting, 960
 prompted, 942
 pronounce, 1007
 proofreader, 1021
 proper, 951, 973,
 997, 1023-1024,
 1056
 properly, 936, 946,
 972, 1002
 proportion, 929
 proposal, 917-918,
 931-933,
 936-937, 956,
 960, 989, 1047,
 1055, 1057
 proposals, 975,
 1035
 propose, 932, 938,
 951, 1048, 1060
 proposed, 918,
 932, 938, 992,
 1036, 1038,
 1057-1058
 proposing, 954, 992
 proposition, 966,
 970, 1005, 1023,
 1061
 propositions, 949
 prospecting,
 1048-1049
 prospection, 1048
 prospects, 1025
 Protected,
 920-921, 925,
 930, 938, 942,
 999-1000, 1030
 protected, 944,
 947-948, 987
 Protection, 988, 990
 protection, 931,
 933, 941, 943,
 948, 986, 1025,
 1061
 protective, 969

protest, *976, 1029, 1061*
 protests, *1061*
 prove, *934, 1030*
 provide, *980, 1006, 1014, 1033*
 provided, *928, 947, 955, 981, 987-988, 1014, 1053*
 provides, *929-930, 958, 961, 970, 1004, 1022, 1025, 1050-1051, 1061*
 providing, *989*
 province, *1029*
 provision, *956, 960, 987, 1003, 1009, 1016-1017, 1024*
 provisional, *981*
 provisions, *926, 949, 960, 1004, 1007-1009, 1025-1026, 1029*
 proviso, *959, 1015-1016*
 provoked, *962, 1050*
 prudent, *1043*
 pry, *1056*
 public, *919, 936-938, 941, 967, 976, 982, 987, 993*
 publicly, *1012, 1028*
 published, *919, 938, 1021, 1028*
 pull, *930*
 punch, *942*
 pure, *971, 1008*
 purely, *1007*
 purported, *920-921, 924, 926, 953, 995, 999, 1037, 1060-1061*
 purportedly, *970, 998, 1032*
 purporting, *1006*
 purports, *1008*
 purpose, *929, 954, 956, 958, 962, 968, 1007-1008, 1035, 1038, 1050, 1062*
 purposes, *945, 951, 954, 956, 962, 967-968, 995, 999, 1004-1005, 1025, 1033*
 pursuant, *967, 1048-1049, 1051-1052, 1054-1055*
 pursue, *931*
 pursuit, *1005*
 push, *956*
 put, *920-922, 924-925, 928, 937, 939, 947, 949, 957, 964-965, 968-969, 973, 978, 995, 1001-1002, 1012, 1015, 1017, 1021, 1023-1024, 1027, 1035, 1042*
 puts, *998, 1002-1003, 1008, 1017*
 Putting, *1007, 1027*
 putting, *922-923, 937*
 puzzled, *964*
 puzzling, *953*

Q

QC, *920, 994, 1027*
 qualify, *978, 984, 1006*
 quality, *986, 1042*
 quasi, *984*
 Question, *962, 1033-1034*
 question, *919-922, 927-930, 933, 936, 941-942, 944, 946, 950, 953, 957, 959, 961, 963, 965-971, 975, 978-980, 984, 986-988, 995, 997-1002, 1004-1007, 1009, 1012-1013, 1016-1017, 1020-1024, 1027, 1031, 1034, 1036, 1039, 1041-1042, 1044-1046, 1049, 1052-1053, 1059*
 questioner, *1052*
 questioning, *1059*
 Questions, *923, 927, 1005*
 questions, *918-919, 921, 923, 927-928, 936, 941, 944, 952-953, 967, 971, 974, 979, 986, 994-995, 997-999, 1002-1003, 1006, 1008, 1018, 1020-1024, 1030, 1032, 1035, 1045*
 quick, *961, 1011*
 quickly, *943*
 quid, *977, 1037, 1046*
 Quite, *933*
 quite, *923, 935-936, 938, 943, 958, 967, 972, 983-984, 989-991, 993, 995, 998*
 quixotic, *936*
 quo, *977, 1037, 1046*
 quotations, *1021*
 quote, *923-924, 927-929, 965, 986, 1023, 1025-1026, 1028, 1045, 1049, 1057*
 quoted, *963, 1057*
 quoting, *1037-1038, 1045, 1049*

R

raft, *931*
 raise, *918, 1005, 1015*
 raised, *924-925, 940, 947, 966, 969, 999-1000, 1015-1016, 1029*
 raises, *999, 1003*
 RAMGOOLAM, *1033*
 Ramgoolam, *938-941, 971-972, 974, 989, 991-993, 1034-1037, 1047,*

1049
 random, 1007, 1011
 range, 1007, 1016
 ranking, 975
 Rao, 1023
 rarely, 1054
 Rather, 950
 rather, 917,
 920-922, 939,
 952, 973,
 980-981,
 990-991,
 997-1000, 1003,
 1015, 1017,
 1030, 1048, 1059
 ratified, 935, 976,
 1006
 ratifying, 1014
 rd, 924, 938, 960,
 1033-1034
 rdDefence, 953
 RDR, 1064
 re, 918, 922, 930,
 934-936, 947,
 955, 981-984,
 986, 988, 992,
 994, 999, 1002,
 1005, 1012,
 1018, 1042-1043,
 1049, 1054
 reach, 949, 1006,
 1009, 1012,
 1030, 1059
 reached, 917, 968,
 980, 1012,
 1016-1017, 1023,
 1033, 1039-1040,
 1055
 reacting, 967
 reaction, 931, 966
 reactions, 990
 read, 926, 932-933,
 953, 965,
 990-991, 1012,
 1017-1018,
 1027-1028, 1035,
 1040-1042, 1045,
 1048, 1050,
 1057-1059
 readers, 1024-1025
 reading, 936, 938,
 942-943,
 1023-1024, 1032,
 1048, 1050
 readout, 942, 991
 reads, 954, 1034,
 1040
 ready, 973
 reaffirm, 1063
 reaffirmation, 959,
 977, 980, 984,
 1049
 reaffirmed, 979,
 1055
 reaffirming, 998,
 1045, 1047
 real, 922, 932, 946,
 950, 955, 978,
 1000, 1016,
 1029, 1047
 realistic, 993
 reality, 954, 956,
 969
 realize, 935
 really, 923,
 935-936, 941,
 984, 1005, 1007,
 1012, 1015,
 1058-1059
 realm, 969
 rearrangements,
 962
 reason, 917, 924,
 929, 934, 936,
 982, 991, 993,
 1005, 1026,
 1058, 1061-1062
 reasonable, 932,
 936, 951, 1043,
 1046
 reasoned, 1015
 reasoning, 1024
 reasons, 921, 937,
 954, 968, 976,
 983, 991, 1014,
 1035, 1037,
 1043, 1056
 recall, 928, 931,
 939, 944, 988,
 997, 1013, 1032,
 1040, 1047
 receive, 972, 981
 received, 941, 973,
 984, 988-989, 991
 receives, 1046
 recent, 930, 956,
 992
 recently, 1005
 reception, 957
 Recess, 944
 recess, 942, 952,
 1014, 1041
 reclassifies, 957
 recognise, 961,
 1024-1025,
 1027-1028
 Recognised, 1028
 recognised, 922,
 957, 961, 1004,
 1007, 1029
 recognises, 957
 recognising, 1017
 recognition,
 922-923, 984,
 989, 1060
 recognized, 960,
 999, 1054
 recollect, 989
 recollection, 939,
 1042, 1048
 recollections, 1017
 recommend,
 1033-1034
 recommendation,
 1049
 recommendations,
 1050
 recommended, 993
 reconcile, 934
 reconsider, 1061
 reconstruct, 989
 reconvene, 918
 Record, 991, 1033
 record, 924, 932,
 934, 936, 940,
 944, 947,
 950-951, 953,
 963, 972-974,
 989-992, 1011,
 1018, 1021,
 1033-1038,
 1040-1042,
 1047-1054, 1064
 recorded, 931,
 933, 947, 990,
 1033-1034, 1037,
 1064
 records, 933, 961,
 971, 974, 987,
 989-991, 1018,
 1045
 recounting, 1021
 recourse, 924,
 1009, 1011
 recreational, 987
 red, 943, 947, 972,
 1061
 redacted, 1038
 reduced, 1064
 refer, 932, 939,
 949-950, 953,
 958, 972, 990,
 992, 1007, 1012,
 1032-1034, 1036,
 1041, 1044
 reference, 921,
 930, 946-947,
 955, 957, 959,
 977, 986, 992,
 1008-1009,
 1011-1012, 1027,
 1038, 1041,

1044, 1048,
 1050, 1057, 1059
 references, 932,
 951, 959-960,
 1018, 1021, 1051
 referencing, 1021
 referred, 939, 942,
 950, 958, 961,
 972, 976-977,
 987, 989, 991,
 1012-1014, 1016,
 1023, 1028-1029,
 1033, 1048,
 1050, 1058, 1060
 Referring, 1049
 referring, 935, 947,
 949, 959, 962,
 966, 976, 984,
 989, 992, 1032,
 1058-1059, 1062
 refers, 926, 929,
 957-958, 960,
 972, 988, 991,
 1041, 1050, 1054
 reflect, 964,
 973-974, 1020,
 1052, 1062
 reflected, 961, 977,
 995, 1036, 1044,
 1047, 1051
 reflecting, 1042,
 1044
 reformatted, 942
 reforms, 975
 refueling, 1036
 refuge, 922, 1000
 refused, 937
 regard, 924, 929,
 950, 956, 974,
 976, 982,
 1026-1027, 1031,
 1033, 1036,
 1048, 1051-1052,
 1055, 1060
 regarded, 954,
 956, 1039, 1046,
 1059
 regarding, 971,
 998, 1015, 1018
 regardless, 940,
 1031
 regards, 961, 972,
 1009, 1024
 regime, 969
 regret, 925, 1003
 regrets, 941
 regrettably, 988,
 993
 regularized, 995
 regularly, 1011
 regulation, 1005
 regulations, 929,
 1005
 rehabilitation, 978
 REICHLER, 1031,
 1042, 1047,
 1059-1060
 Reichler, 926, 977,
 1030-1031,
 1041-1042, 1045,
 1047, 1054,
 1059, 1063
 Reiner, 1017
 reiterate, 958,
 1009, 1016
 reiterated, 971
 reiterates, 959
 reject, 976
 rejected, 954, 974,
 1050
 rejection, 1022
 Rejoinder, 921,
 938, 961, 971,
 1035
 relate, 1014
 related, 1013,
 1023, 1064
 relates, 949,
 999-1000
 Relating, 1013
 relating, 938, 978,
 989, 1008,
 1012-1013, 1036
 relation, 917-918,
 920-923,
 925-927, 929,
 961, 968-969,
 974, 981,
 985-986, 994,
 999-1001,
 1004-1005, 1007,
 1013, 1017,
 1024, 1030, 1033
 Relations, 956-959,
 961
 relations, 969,
 976-977, 979
 relationship, 936,
 955, 968
 relatively, 922,
 988, 1021
 relaxed, 917
 relevant, 930, 933,
 949, 955,
 960-961, 968,
 983, 992, 1007,
 1025, 1048
 reliability, 1036
 reliance, 923, 966,
 971, 984, 1035,
 1052
 relied, 949, 1054,
 1057, 1061
 Relief, 1000
 relief, 926, 995
 relies, 1045, 1047,
 1052, 1062
 relinquish, 970
 reluctance, 949
 reluctant, 940, 948
 reluctantly, 924
 rely, 960, 1022,
 1062
 relying, 921, 940,
 981, 1017, 1032,
 1045, 1048
 remain, 977-978,
 1051
 remained, 973,
 1039
 remains, 918, 925,
 945, 974, 979,
 998, 1022, 1027
 remark, 924, 984,
 1021
 remarkable, 974,
 977
 remarks, 931, 954,
 998, 1007, 1015,
 1038, 1041, 1047
 remedial, 959
 remember, 929,
 1011
 remembering, 1017
 remind, 959
 reminded, 1004
 reminder, 944
 reminding, 1012
 removal, 962
 removed, 1043
 removing, 963
 render, 964, 1023
 rendered, 1038
 renders, 1024
 renewed, 1031,
 1055
 renewing, 1047
 repackaged, 971
 repaired, 978
 repeat, 949, 957,
 976, 1015
 repeated, 951,
 954, 956, 972,
 1000, 1055
 repeatedly, 934,
 977, 1020, 1031
 Repeating, 938
 repeating, 934
 repetition, 951
 replace, 951
 replete, 949, 1018
 replied, 944, 961,

989, 993, 1033
 replies, 933
 Reply, 953, 987,
 1000, 1015-1016,
 1018, 1042
 reply, 918, 928,
 953, 990, 993
 Replying, 969
 repopulation, 967
 Report, 986, 1012
 report, 941, 944,
 986, 988, 1029,
 1054-1055
 reported, 924,
 1033-1034, 1043
 REPORTER, 1064
 Reporter, 1064
 reporting, 1041,
 1056-1057
 Reports, 958-959,
 962, 1011, 1013,
 1042
 reports, 919
 representation,
 984-985
 representations,
 933
 representative, 944
 representatives,
 970-973,
 981-982, 990
 represented, 985
 representing, 1041
 represents, 1021
 Republic, 920, 938,
 994, 1011,
 1026-1030
 repudiate, 969
 request, 926-928,
 954, 992, 1031,
 1055, 1061
 requested, 917,
 1040, 1057
 require, 1001, 1006
 required, 931, 933,
 1026, 1037
 requirement, 949,
 1004, 1055
 requirements, 928,
 948, 950-951,
 970-971, 984,
 995, 1008,
 1058-1059
 requires, 997, 999,
 1009, 1014-1015
 Res, 959, 962
 res, 979
 Research, 1054
 research, 1000,
 1024
 reserve, 928, 932,
 987, 1055
 reserves, 1050
 reserving, 1050
 resettled, 956, 968,
 1053
 Resettlement, 1038
 resettlement, 931,
 956, 967-968,
 1053
 resettlements, 967
 residents, 956,
 1030
 Resolution, 923,
 957-958,
 960-962, 964, 966
 resolution, 948,
 995, 1007-1008
 resolutions,
 960-961
 resolve, 990, 1002,
 1004, 1009,
 1027, 1029
 resolved, 952, 997,
 1003, 1005-1006,
 1016, 1028
 resolves, 1022
 resolving, 990, 1023
 resorted, 995
 resource, 1012
 resources, 920,
 960, 1012
 respect, 926, 956,
 962, 968-970,
 974-975, 977,
 981, 999, 1001,
 1009, 1013-1014,
 1020, 1025-1028,
 1031, 1042
 respected, 1056
 respectful, 1000
 respectfully, 975,
 1040, 1062
 respond, 919, 921,
 924-927, 940,
 953, 965, 986,
 995, 997-998,
 1015, 1031,
 1038, 1045
 responded, 944,
 993
 respondent, 1006
 responding, 921
 response, 920-923,
 927, 940-943,
 954, 963, 965,
 971, 989, 1012,
 1033, 1037-1038,
 1045, 1053,
 1055, 1062
 responses,
 941-942, 957,
 986, 1039
 responsibility, 947,
 969-970, 982
 responsible, 962
 rest, 937, 990
 restatement, 1015
 restating, 961
 restricted, 987
 rests, 970
 result, 926, 1003,
 1023, 1053
 resulted, 955, 958,
 973
 results, 1061
 resume, 917, 952,
 993
 retain, 970-971,
 1004, 1033
 retained, 981,
 1001, 1049
 retains, 982
 reticent, 1008
 retina, 954
 retold, 971
 retrospect, 966
 retrospectively, 964
 return, 921,
 926-928, 968,
 973, 979, 985,
 1005-1006, 1017,
 1030, 1034-1035,
 1038, 1041,
 1044, 1046
 returned, 964, 1034
 Returning, 1043
 returning, 973
 revenue, 1018
 reversal, 983
 reverse, 982
 reversion, 983,
 1032-1033, 1046,
 1063
 reversionary, 920
 revert, 956, 968,
 995, 1033, 1047
 reverted, 973, 1049
 reverts, 1036
 review, 1026,
 1032, 1040,
 1044, 1055
 reviewed, 928,
 974, 1032, 1037,
 1047, 1053-1054,
 1062
 reviewing, 1050
 rhetoric, 980
 Richards, 1026
 rightly, 997
 Rights, 944, 956,
 987, 1054

rights, 920-922,
926, 931, 951,
956, 959-960,
978, 1004,
1007-1008, 1014,
1018, 1025-1027,
1032, 1035-1036,
1046, 1048,
1050-1063
risk, 1026
Rob, 1017
Roberts, 919,
931-932, 934,
987, 1054-1055
robotically, 1044
RoC, 1027
Rodrigues, 955
role, 982, 1004,
1023, 1060
room, 975, 1011
rooms, 952
Rosenne, 960
Round, 928,
1051-1052
round, 917,
919-920, 922,
925, 930,
933-934,
936-941, 949,
957, 961,
963-964, 966,
971-972,
976-978, 989,
997, 1015, 1022,
1031, 1038,
1045, 1047,
1049, 1060
rounds, 921, 938,
980, 1029
ru, 1017
ruat, 998
Rüdiger, 923
rule, 925, 962-963,
965-968, 997,
1020, 1028, 1030

ruled, 1012, 1026,
1054
rules, 958-959,
1009, 1011-1012
run, 917, 921, 962,
985, 1025
runner, 957, 965
running, 951-952,
992-993
runs, 934
rush, 944
rushed, 951, 962
Russia, 949-950
Russian, 1004-1005

S

safeguard, 924
safeguarded, 1053
Sahara, 958-959
Saiga, 1009
sail, 1004
sake, 964
salami, 1022
Saltaire, 944
same, 922-923,
931, 935,
937-938, 944,
965-966,
971-972, 983,
985, 988, 1005,
1011, 1022,
1025, 1027,
1032-1033, 1036,
1039, 1041,
1044, 1046,
1050, 1053, 1061
Sander, 1035,
1041-1043, 1048,
1050, 1052,
1054, 1057-1058,

1060, 1062
SANDS, 917-918,
985, 1011,
1013-1014, 1027
Sands, 917-920,
927-928, 953,
985, 994, 1011,
1014-1015, 1027,
1030
sann, 1028
São, 1029
satisfactory, 948
satisfied, 939
satisfies, 971
satisfy, 949, 963
Saturday, 940
save, 1038, 1053
saving, 959, 1012
saw, 922-923, 937,
965, 974, 1057
sawn, 1043
saying, 930-931,
933-935,
937-938, 944,
947-948,
963-964, 980,
982-983, 989,
1005, 1007,
1033, 1045
says, 940, 942-944,
949, 972,
974-975, 977,
986, 989-992,
995, 998,
1001-1003,
1006-1007, 1012,
1016-1018, 1020,
1022, 1025,
1031, 1050,
1052, 1058
SC, 953
Scene, 1017
scepticism, 961
schedule, 917
scheduled, 932,
1026

School, 960
scientific, 925,
927-929, 986,
1000, 1024
scientists, 933, 999
Scope, 1062
scope, 963, 1008
Scott, 1038
scratched, 990
screen, 1061
script, 1017
scrutiny, 962-963,
965
Sea, 949, 960,
999-1001, 1004,
1038
sea, 999-1001,
1003, 1008,
1012, 1023-1024,
1053
seas, 1004, 1053
seawater, 986
Second, 928, 970,
997, 1018, 1036,
1039, 1043
second, 917,
919-920,
925-926, 930,
942, 947, 955,
961, 964-965,
975, 979,
982-984,
989-990,
1003-1004, 1006,
1009, 1014,
1018, 1031,
1038, 1045,
1049, 1057,
1059, 1061
Secondly, 954, 958
secondly, 928, 953,
972
seconds, 997,
1002-1006, 1027
secret, 975

Secretaries, 1062
 SECRETARY, 1033
 Secretary, 923,
 931-932,
 934-938, 942,
 944, 953, 963,
 971-972,
 974-976, 989,
 992, 1026-1028,
 1033-1034, 1040,
 1057
 Section, 955, 986,
 1054-1055
 section, 955, 1014
 secure, 925, 948,
 956, 973
 secured, 974, 1052
 securing, 924, 956
 security, 974
 sedentary, 943
 See, 923, 1005,
 1023
 see, 920, 929-933,
 935-936, 940,
 942-947, 953,
 967, 972, 983,
 989-993, 1000,
 1002-1004,
 1011-1013, 1017,
 1021, 1023,
 1027, 1030,
 1033-1034, 1036,
 1042, 1050,
 1054, 1057, 1061
 Seeballuck, 992-993
 seeing, 921
 seek, 920, 926,
 939, 977, 1009,
 1028
 seeking, 936, 1009
 seeks, 929, 978,
 995, 1009, 1015
 seem, 1004, 1044
 seemed, 928-929,
 1025
 seems, 931,
 935-937, 941,
 943, 950,
 954-955, 980,
 990, 999, 1007,
 1009, 1028, 1059
 seen, 934,
 937-938,
 940-942, 945,
 947-948, 954,
 972, 989, 999,
 1040, 1043, 1057
 sees, 961
 Seewoosagur,
 972-973, 976
 seize, 1006
 selection, 950
 Self, 962
 self, 923, 925, 951,
 953-954,
 956-963, 965,
 968-971, 974,
 981, 984-985,
 995, 998, 1000,
 1004, 1006-1009,
 1024, 1032, 1056
 seminars, 992
 send, 946
 sending, 922, 989
 senior, 990, 1045,
 1047, 1062
 sense, 920, 922,
 943, 948, 965,
 985, 1020, 1029
 sensible, 950, 985
 sensitive, 945, 1020
 sent, 930, 988,
 991, 993, 1040,
 1045, 1048, 1055
 sentence, 975,
 992, 1041, 1049
 sentences, 992
 separate, 955, 962,
 967, 1016
 separated, 953
 Separately, 938
 separately, 941
 separating, 1053
 September, 953,
 969, 971-972,
 974, 987,
 1032-1035, 1037,
 1039, 1047-1050,
 1057, 1060
 seq, 1011
 series, 923, 940,
 1061
 serious, 935,
 940-941, 945,
 947, 969
 seriously, 923
 seriousness, 933
 servanda, 969
 servant, 1054
 servants, 999, 1062
 serves, 959
 service, 1026
 sessions, 920
 set, 920, 924, 936,
 985, 991, 997,
 1004, 1011,
 1014-1015,
 1017-1018, 1033,
 1036, 1038,
 1040, 1048-1051,
 1058
 sets, 969
 setting, 1044, 1058
 settle, 1008
 settlement, 949,
 998, 1008, 1018,
 1020-1021,
 1025-1026,
 1028-1030
 seven, 985
 several, 993, 1028
 severed, 1061
 Seychelles, 943,
 964, 973, 975,
 983, 1054, 1056
 sfy, 1017
 shall, 960, 962,
 1005, 1014, 1025
 shape, 936
 shaped, 952
 share, 960, 969
 shares, 1052
 sharing, 1018
 SHEARER,
 917-919, 927,
 952, 966, 979,
 984-986, 994,
 1013-1014,
 1030-1031, 1041,
 1059-1060, 1063
 Shearer, 927
 Shelf, 921
 shelf, 920, 922,
 1018
 Sheppard, 929
 ship, 1004-1005
 ships, 1004
 shoehorning, 1001
 Shooting, 1017
 short, 977, 985,
 989, 992, 997,
 1047, 1050
 shortly, 988, 1039
 Shouldn, 967
 shouldn, 1046
 show, 923-924,
 934, 937, 1011,
 1017, 1053
 showed, 949, 974,
 1060
 showing, 932, 983
 shown, 949, 1016,
 1030
 shows, 932, 934,
 951, 961, 982,
 1016, 1020,
 1036, 1038, 1044
 Shrimp, 1012
 side, 919, 927, 980,

986, 990, 994,
 1006, 1011,
 1034-1035, 1039,
 1044, 1051,
 1059-1060
 sides, 933, 974,
 1032, 1035-1036
 sign, 981
 signally, 972
 signals, 922
 signed, 935, 941,
 970, 975, 1006
 significance, 961,
 987, 1037
 significant, 921,
 936, 1036
 signifies, 975
 signing, 1014
 silence, 927, 978,
 982
 silent, 978
 silo, 1018
 siloed, 1022
 similar, 959, 1023,
 1036, 1058
 Similarly, 1023
 similarly, 1044
 simple, 921-922,
 1005-1007, 1027
 simply, 917,
 929-932, 935,
 938-940, 947,
 949-951, 955,
 957, 963, 973,
 997-998, 1004,
 1006, 1016-1017,
 1021-1023, 1036,
 1043, 1047-1048,
 1058
 simultaneously,
 950
 Since, 940, 1033,
 1052
 since, 929, 938,
 952, 955, 958,
 965, 967,
 975-976, 980,
 1007, 1009,
 1045, 1056
 sincerity, 923
 single, 922-923,
 968, 1012, 1039
 singled, 1007
 SIR, 1033
 Sir, 921-922, 924,
 952, 954-959,
 961-964,
 966-969,
 971-976, 978,
 983-985, 995,
 999, 1003
 sir, 964, 979,
 981-982, 984
 sister, 958
 sit, 1030
 site, 942
 sitting, 942, 967,
 1011, 1029
 situation, 931, 957,
 961, 964-967,
 978-979,
 982-985, 990,
 995, 1003, 1007,
 1024, 1027
 situations, 958,
 965, 984
 six, 934-935, 1060
 sixth, 1034
 sketch, 980
 sketched, 950
 skies, 1030
 skip, 943, 1049
 skipping, 943
 skirt, 1024
 slate, 977, 981
 sliced, 1022
 slightly, 943, 992
 slot, 919
 slowly, 1002
 slur, 924
 small, 969, 976, 984
 1062
 sovereignty, 951,
 967-968, 971,
 981, 984,
 992-993, 997,
 999-1002,
 1004-1005, 1012,
 1014-1018,
 1020-1030,
 1032-1033,
 1045-1047, 1052,
 1060, 1063
 Spain, 961, 1020
 spanning, 1039
 spare, 1017
 sparse, 1021
 spawning, 1061
 speaking, 917,
 946-947
 speaks, 957, 963
 special, 985, 987,
 1024
 specially, 957
 specific, 921,
 949-951, 960,
 1031-1032,
 1037-1038, 1040
 specifically, 936,
 943, 950-951,
 975, 986,
 991-993, 1048
 specificity, 1051
 specified,
 1035-1036
 speculation, 1059
 SPEECH, 920, 994
 Speech, 953
 speech, 932, 948,
 1008, 1016,
 1054, 1059-1060
 speeches, 917,
 950-951, 976
 speed, 942
 speedy, 958
 spend, 946
 spent, 926, 938,
 Smith, 1035, 1048
 So, 929
 soften, 995
 solely, 1060
 solution, 974
 somebody, 1058
 somehow, 997,
 1000, 1003,
 1014, 1029,
 1050, 1060
 someone, 947,
 975, 992, 1057
 sometime, 919, 994
 sometimes, 935,
 946
 somewhat, 917,
 922, 925, 938,
 980
 somewhere, 1015
 soon, 995, 1029,
 1056
 Sorry, 978-979, 992
 sorry, 918-919,
 934, 945-947,
 966, 979-980,
 984, 1002, 1050
 sort, 978, 980, 984,
 1021
 Soufraki, 1011
 sought, 926, 941,
 949, 998, 1000,
 1005, 1014,
 1022, 1027,
 1040, 1057
 sounded, 997
 source, 924, 931,
 956, 1035, 1046,
 1057
 sources, 1007, 1022
 South, 961, 1004,
 1042
 sovereign, 951,
 959, 969, 1018,
 1026-1027, 1052
 Sovereignty, 1025,

1012, 1039, 1059
 spin, 1029
 spoke, 971, 1001
 spoken, 966
 spot, 1054
 square, 929,
 999-1001
 squeeze, 1057
 st, 920, 923, 928,
 935, 941-943,
 950, 1029
 stability, 962, 969
 stadium, 957
 Staff, 991
 Stage, 1062
 stage, 930,
 933-934, 940,
 947, 951, 980,
 993, 1004
 stages, 930
 stake, 968
 stakeholders, 930
 stance, 1060
 stand, 970-972,
 999, 1027, 1031,
 1039, 1047
 standard, 968, 978
 standards, 977
 standing, 999
 standpoint, 980
 stands, 917, 984
 start, 917, 933,
 963, 980, 985,
 998, 1002
 started, 1029
 starting, 1002,
 1035, 1053
 starts, 947, 991
 STATE, 994, 1031,
 1033
 State, 920-923,
 925-926, 931,
 944, 949-951,
 953, 959,
 962-963, 967,
 969, 971,
 973-974,
 976-977,
 983-984, 995,
 997-1009, 1012,
 1014-1015, 1017,
 1020, 1022-1028,
 1030-1031, 1040,
 1045-1046,
 1055-1056
 state, 969, 997,
 1000, 1002,
 1004-1005, 1008,
 1014, 1016,
 1028, 1030, 1050
 stated, 921, 933,
 938-939, 964,
 968, 982
 Statement, 919,
 941, 987
 statement, 919,
 939, 941-943,
 953, 995, 1002,
 1022-1023, 1033,
 1051, 1055
 statements, 921,
 976, 1018, 1023,
 1034, 1045,
 1047, 1052
 States, 932, 948,
 957-960, 962,
 965-966, 969,
 975, 977, 979,
 982, 985, 990,
 1003-1004,
 1006-1007,
 1011-1012, 1020,
 1022, 1028-1029,
 1034, 1053,
 1056, 1062
 states, 960, 969,
 1006, 1018,
 1025, 1035,
 1054, 1061
 static, 956
 stating, 1055
 STATUS, 1031
 Status, 956
 status, 921, 926,
 952-954,
 959-962, 1045,
 1061
 Steel, 1038-1039,
 1044
 steer, 968
 Stefan, 1028
 stenographically,
 1064
 stepped, 933, 949
 steps, 1040
 stick, 965, 997
 still, 929, 935, 938,
 941, 944, 951,
 972, 977-979,
 987, 1011,
 1021-1022, 1034,
 1038
 stock, 945
 stone, 936
 stood, 965
 stop, 965, 1063
 stopped, 922, 1029
 stopping, 1059
 story, 971, 974
 straight, 1008, 1042
 straightforward,
 940, 1002
 straining, 1043
 strait, 1007
 straits, 1007-1008
 strange, 1061
 Strasbourg, 956
 strategic, 995
 strategy, 968
 streamlined, 930
 Street, 974, 1034
 streets, 981
 strength, 950
 stress, 975
 stretching, 935
 strict, 968, 984,
 1044
 strictly, 1023
 strike, 946
 strikes, 1024
 striking, 921, 997
 strikingly, 1015
 strip, 1036
 stroke, 1056
 strong, 924-925,
 936, 988
 strongly, 1017
 struggle, 971
 struggled, 924
 struggles, 962
 Stuart, 1048
 study, 928
 sub, 1005
 Subject, 1014
 subject, 941, 950,
 970, 988, 990,
 995, 998, 1002,
 1013, 1023,
 1026, 1043,
 1051, 1055
 subjects, 1005
 submission, 922,
 928, 932,
 937-938, 941,
 949-950, 952,
 986-988, 995,
 997, 999-1000,
 1004-1005, 1008,
 1031, 1058-1059
 submissions, 926,
 928, 930, 934,
 941, 949-950,
 952, 985, 995,
 1011, 1021, 1030
 submit, 926, 948,
 951, 970, 1030,
 1040, 1044,
 1046-1047, 1053,
 1056, 1062
 submits, 1046
 submitted, 917,
 1001-1002, 1014,

1023, 1039,
 1058-1059
 subsequent, 933,
 937, 939, 965,
 976-979, 1031,
 1044-1045, 1048,
 1051-1052, 1059
 subsequently, 919,
 952, 969, 978,
 1049
 subsidiary, 1017
 substance, 975
 substantial, 941,
 1059
 substantive, 935,
 958-959, 979
 substantively, 960
 subtleties, 955
 subtlety, 1027
 subtly, 974
 success, 1025
 successfully, 1053
 Succession, 977
 successive, 940,
 954
 successor, 975
 sudden, 1047
 suffers, 1023
 sufficient, 929,
 932, 947, 950,
 997, 1003, 1016,
 1032
 sufficiently, 1009,
 1024
 suggest, 929,
 932-934, 936,
 939-940, 946,
 949, 951-952,
 957, 976, 983,
 993, 1000, 1054,
 1062
 suggested, 939,
 963, 970, 973,
 992-993, 1007,
 1017, 1024,
 1029, 1060
 suggesting, 972
 suggestion, 958,
 992, 1003, 1059
 suggests, 961, 992,
 1008, 1016,
 1020, 1055
 sui, 978-979, 982
 suit, 981, 988
 suitor, 954
 sum, 973
 summarise, 998
 summarised, 922
 summarising, 972
 summed, 990
 sums, 990
 sunt, 969
 supersede, 1049
 supervised, 960
 supervision, 1064
 supplement, 951
 supplied, 940, 1040
 supply, 1029
 support, 928-930,
 950, 954,
 1016-1017, 1050,
 1058
 supported, 931,
 1016, 1018, 1049
 supports, 962, 1015
 suppose, 964, 971,
 980, 982, 1029
 supposed, 925,
 935, 937, 941,
 1038
 surely, 965
 surety, 1043
 Suriname, 1003
 surprise, 957, 995
 surprised, 933-934,
 941, 990, 995
 surprising, 925,
 932, 935, 940,
 977
 surreptitiously, 930
 Survey, 930
 survival, 973
 survive, 930
 susceptibility, 1045
 susceptible, 1030
 suspect, 947, 1003,
 1009, 1011
 suzerainty, 1025
 sympathetic, 974
 system, 935, 965,
 969, 981, 985,
 998, 1020-1021,
 1028, 1048
 940-941,
 972-973, 989,
 992, 1060-1061
 Talmon, 1028-1029
 task, 930, 940, 995
 taught, 1021
 taut, 932, 936
 team, 927, 933
 technique, 1029
 Telegram, 1040,
 1057
 telegram, 1040,
 1057
 telephone, 941, 992
 tells, 974, 1058
 temporarily, 1036
 tempted, 956
 ten, 997, 1027
 tenable, 1046
 tender, 918
 tendered, 986
 tends, 948
 tenor, 990
 tension, 937
 term, 924, 926,
 936, 955, 970,
 1001-1003,
 1006-1007, 1009,
 1017, 1044
 termed, 954, 1040
 terminus, 1003
 terms, 919, 921,
 924, 940,
 968-969, 971,
 973, 986, 993,
 1007-1008, 1022,
 1026, 1037, 1058
 terribly, 1009
 Territorial, 961,
 1038, 1062
 territorial, 954,
 959, 961-962,
 964, 966-967,
 970, 983, 987,
 1003, 1024-1025,

T

Tab, 923, 928-933,
 939, 942, 947,
 949-950, 972,
 975, 988-989,
 991-992, 994,
 1002, 1021-1022,
 1025, 1032-1035,
 1038, 1040-1041,
 1048, 1050-1052,
 1057, 1060-1061
 tab, 945, 947, 972,
 990, 1012, 1036
 table, 961,
 972-973, 1004,
 1020
 tabled, 942, 944
 tables, 944
 Tabs, 1054-1055
 tack, 1060
 tactics, 1049
 Taiwan, 1003-1004
 Taiwanese, 987
 talked, 935, 1017
 talks, 930, 932-933,
 935-938,

1028-1029, 1053,
 1056
 Territories, 988,
 1054-1055
 territories,
 955-963, 971,
 1006
 Territory, 943-944,
 948, 962, 1025,
 1052, 1061
 territory, 924,
 944-945,
 953-954, 956,
 960-963,
 971-972, 974,
 981, 983-984,
 997, 1000,
 1003-1004, 1008,
 1020-1022,
 1025-1027, 1031,
 1033, 1052
 terse, 929
 Test, 1042
 test, 1005, 1009
 testing, 1042
 Tests, 977, 980,
 984, 1042
 text, 923, 942, 961,
 995, 997, 1003,
 1025, 1028, 1057
 texts, 1017, 1036
 textual, 950, 1017
 th, 919, 923-924,
 931-932,
 934-937,
 939-943,
 947-948,
 975-976, 982,
 988-991, 993,
 1018, 1020, 1029
 the, 931, 939, 955,
 961, 968
 themselves, 932,
 959, 1013, 1023,
 1039, 1062
 theoretical, 979
 theory, 977
 thereabouts, 919,
 1060
 Thereafter, 1056
 thereafter, 936,
 1014, 1031,
 1060, 1064
 Therefore, 964,
 1037
 therefore, 921-922,
 941, 947, 950,
 963, 970, 981,
 984, 1006, 1015,
 1020, 1032,
 1045, 1049, 1055
 thereof, 955
 thereto, 1025
 thinking, 923, 936,
 945, 995, 1002
 thinks, 1058
 Third, 919, 959,
 1036
 third, 920-921, 926,
 932, 936, 938,
 941, 943,
 991-992, 997,
 1014-1015, 1043,
 1045-1046, 1049,
 1056, 1062
 thirdly, 953
 Though, 970
 though, 934, 946,
 955-956, 968,
 983, 1017, 1021
 thoughts, 964
 threat, 969, 997
 threaten, 997
 threatening, 970
 threats, 969, 974
 Three, 921
 three, 917,
 920-921, 926,
 931, 944, 947,
 953, 957, 959,
 961, 964,
 972-973, 986,
 992-993, 997,
 1022, 1033,
 1039, 1041,
 1043, 1045,
 1047-1048, 1053,
 1060, 1062
 threshold, 949
 throughout, 940,
 1053, 1060
 throw, 981
 thrown, 981
 Thursday, 924,
 944, 971, 986,
 995, 1001-1002,
 1033-1034
 tightrope, 922
 timelines, 932, 936
 timely, 932
 timescale, 932
 timetable, 917-918
 timing, 975, 1059
 tiny, 955, 1061
 today, 917,
 919-921, 927,
 942, 957-958,
 972, 978, 1005,
 1034, 1045,
 1055, 1059-1061
 together, 923, 925,
 928, 930, 955,
 1021
 tolerance, 982
 Tom, 989
 Tomé, 1029
 Tomorrow, 926
 tomorrow,
 920-921, 968,
 979, 986, 995,
 1000, 1056,
 1059-1060, 1063
 Took, 1034
 took, 925, 931-933,
 936, 938, 942,
 965, 967,
 972-973, 976,
 983, 991-993,
 1007, 1017,
 1025, 1028,
 1035, 1037, 1060
 top, 975, 990
 totality, 960
 touch, 934, 940
 touched, 927, 936,
 966
 touches, 1024
 touching, 997,
 1016, 1020,
 1022-1023
 tough, 969
 towards, 924, 941,
 975, 977
 trace, 943
 tracks, 1036, 1050
 Traffic, 1028
 Trafford, 1035,
 1048
 Transcript,
 920-924, 927,
 929-934,
 936-940, 942,
 948, 950,
 954-959,
 961-963,
 968-969, 971,
 974-976, 986,
 997, 999-1001,
 1003, 1007-1009,
 1013, 1015-1016,
 1018, 1021,
 1025-1026, 1059
 transcript, 919,
 923-924, 927,
 943-944, 974,
 1002, 1045, 1064
 transcription, 1064
 transcripts, 932
 Transit, 1013
 translation, 1028
 Transport,
 1026-1027
 travaux,

1015-1018,
1020-1022, 1025
treat, 956, 1005,
1007
treated, 926,
954-956, 1004,
1008, 1012, 1018
Treaties, 977, 1013
treaties, 955,
968-969, 971,
980, 983-984,
1011, 1016, 1025
treatment, 977
treats, 977
Treaty, 967, 984,
1011
treaty, 949-950,
955, 969-970,
982-983, 1004,
1008-1009, 1025
Treves, 1023
Tribunal, 917-918,
920-921,
925-928, 936,
939-941, 949,
952-953, 957,
963, 969,
976-978, 980,
985-986, 988,
994-995,
997-1001,
1006-1009,
1014-1015, 1018,
1022, 1024,
1029-1032, 1038,
1043, 1046,
1055, 1057,
1059-1060, 1062
tribunal, 1000,
1002, 1006-1007,
1013-1014, 1023,
1025, 1028,
1030, 1062
tribunals, 949, 969,
1006, 1008-1009,
1011
tried, 940, 993

Trinidad, 989
triple, 1057
trivialize, 978
Tromelin, 999
troubled, 940
true, 925, 970, 975,
977, 999, 1048,
1064
truly, 977, 1018
Truman, 965-966
trust, 1038
truth, 951, 955,
1043, 1058
try, 919, 923, 929,
946, 956, 958,
972-973, 980,
982, 986, 990
trying, 931, 938,
946, 956, 1024,
1057
tuna, 987, 1012
Turk, 1026
Turkey, 1028
Turkish, 967, 1026,
1028
turn, 925, 930,
948-949, 956,
963, 970, 974,
988-989, 995,
998, 1009,
1013-1015, 1021,
1033-1035,
1047-1048, 1057
turned, 948
turns, 948, 1030
Turtles, 1012
turtles, 1012
twice, 972
twin, 958
Two, 972, 1058
two, 917, 919, 921,
927-928, 933,
938-940, 945,
954, 958-961,
963, 967,

969-970,
980-981,
988-991, 997,
1003, 1009,
1022, 1034,
1039-1040, 1045,
1047, 1049-1050,
1055-1056, 1059,
1061
typewritten, 1064
typically, 1018

U

UK, 919, 921,
923-924,
927-934,
936-942,
945-946,
948-951,
953-957,
961-963,
969-971,
973-974, 977,
986-987, 990,
993, 997-998,
1000-1001,
1003-1006, 1012,
1014-1017,
1020-1026, 1028,
1030-1063
uk, 1028
UKCM, 932, 934,
938, 950, 986,
1034, 1046,
1048, 1053, 1061
UKR, 938, 961,
1035, 1057,
1061-1062
Ukraine, 1004
Ukrainian, 1005
ultimately, 1037
umbrella, 993

unable, 921
unacceptable, 997
unaffected, 945
unambiguous, 974,
976
unanswered, 927
unaware, 975
uncertain, 926
uncertainty, 1037,
1047
unchallenged, 1032
unclear, 1055
UNCLOS, 920, 949,
994, 1000-1003,
1005-1007, 1009,
1012, 1018, 1021
uncommon, 939,
1023
uncompleted, 944
uncontroversial,
1007
unconvincing, 963
UNDER, 920, 994
Under, 953,
969-970, 1000
under, 920-921,
924, 926, 954,
956-957, 960,
962-963,
968-969, 971,
978-979,
981-984, 987,
992-993,
999-1001,
1004-1005, 1007,
1009, 1012,
1016, 1021-1027,
1029, 1031,
1050, 1052,
1060-1062, 1064
underline, 940
underlines, 930
underlying, 1026
undermine, 957,
995

underpinnings, 929, 1015
 underpins, 1030
 underscore, 1035
 underscores, 1037
 understand, 917, 921, 929, 935, 941, 946, 963-965, 982, 1040, 1045-1046, 1059
 understandably, 971
 understanding, 918, 921, 939, 988, 1021, 1023, 1034, 1040, 1043, 1049-1050, 1052, 1062
 understandings, 921, 977, 1043-1044
 understatement, 940
 understood, 929, 938, 946, 966-967, 983, 1032, 1036, 1039-1040, 1047, 1049, 1051, 1053, 1056, 1062
 undertaken, 929, 1005, 1039
 undertaking, 921, 939, 941-942, 977, 980, 1033, 1036, 1043, 1046-1052, 1054-1055, 1060-1063
UNDERTAKINGS, 1031
 undertakings, 921, 925-926, 956, 973, 980, 983, 1031-1035, 1038-1046, 1048-1050, 1060, 1062-1063
 undertook, 1039, 1046
 underway, 938
 undo, 964
 undone, 964
 undoubtedly, 955
 undue, 981
 unequivocal, 959
 unfair, 981, 1038
 unfavorable, 966
 Unfortunately, 1045
 unfortunately, 956, 988
 unfounded, 1048
 UNGA, 959, 962
 unhappy, 925
 unhelpful, 939
 unhelpfully, 991
 unidentified, 1057
 uniformly, 1044
 unilateral, 947, 980, 1055
 unilaterally, 951, 956, 970, 974
 uninhabited, 955
 uninterrupted, 1051
 uninterruptedly, 1062
 Union, 1005
 unique, 1024
 unit, 954, 974, 984
 UNITED, 1031
 United, 917-918, 920-923, 925-928, 930, 937, 939-941, 946, 948, 951, 953, 958, 960-966, 970-971, 975, 977-983, 986, 988-989, 994-995, 997-1009, 1011-1012, 1015, 1017, 1021-1022, 1024-1035, 1038-1040, 1044-1046, 1053
 universal, 963, 1020
 University, 960, 1021, 1042-1043
 unlawful, 921, 966, 968
 unless, 937, 975, 1021
 unlike, 1062
 unlikely, 949
 unnamed, 963, 1057
 unpack, 1001, 1003
 unpersuasive, 1018
 unrealistic, 950
 unreasonable, 923-924, 937
 unstated, 1014
 unsubstantiated, 924
 unsympathetic, 972
 untenable, 1024
 until, 917, 931-932, 934-936, 962, 974, 979, 985, 1029, 1047, 1052, 1056, 1060, 1062-1063
 unusual, 980
 unwarranted, 1043
 unwritten, 997, 1014-1015, 1017
 up, 923, 927, 929, 931-932, 934-936, 939, 945-947, 949, 957, 961-962, 966, 988-990, 993, 995, 1000, 1011, 1035, 1049-1050, 1052
 upcoming, 975
 upheld, 1013
 upshot, 922
 upstairs, 981
 urgency, 942
 urgent, 942
 useful, 989
 users, 1028
 uses, 939, 1007, 1014
 using, 963, 992, 1017
 usual, 955
 Utī, 962
 utī, 961-963
 utile, 1016

V

vain, 938
 valid, 982, 985, 1033
 validity, 953, 1032, 1063
 value, 1017
 variety, 979
 various, 926, 946, 962, 979, 983, 1004, 1007-1008, 1017, 1029
 vast, 929, 1032, 1044
 ve, 936, 941-942, 944-946, 948, 953, 972, 976, 978, 982-983, 985-987, 989-990, 992, 999, 1012-1013, 1026, 1028, 1050
 veiled, 969

Venezuela, 1020
 Verbale, 938, 940, 993, 1048, 1060
 verse, 923
 Version, 1061
 version, 923, 991, 1037, 1048-1049, 1057, 1061
 vessel, 929, 987, 1005, 1051, 1054-1055
 Vessels, 1038
 vessels, 1051-1056, 1061
 vested, 1031
 vests, 1045
 vexed, 973
 VI, 958, 1006
 vi, 1036, 1041
 via, 1051
 Vienna, 968-969, 977
 view, 927, 932-933, 936, 943, 948, 951, 956, 960, 972, 989, 1000, 1018, 1020-1022, 1027, 1040, 1042, 1050-1051, 1055
 viewed, 932, 973
 views, 933, 941, 949, 992, 1015, 1021-1022, 1038, 1041, 1062
 VII, 920, 994, 1000
 vii, 1034, 1036
 viii, 1035-1036, 1040
 violate, 951, 1026
 violated, 921, 925-926, 1005, 1029, 1063
 violation, 951, 964-965, 1008, 1028, 1056
 violations, 925-926
 Virginia, 960
 virtue, 982, 997, 1014, 1025, 1031
 visit, 992
 vital, 984, 1001
 vitally, 985
 vitiate, 969
 vitiated, 970, 978-979, 981
 vitiates, 969
 voice, 957, 1045
 Vol, 960
 Völkerrechts, 1028
 volte, 951
 volume, 1017, 1021, 1062
 voted, 961
 voting, 961
 vulnerable, 1056
 1025-1026, 1051, 1053, 1055-1057, 1061, 1063
 Watts, 1038-1039, 1044
 way, 919-922, 932-933, 935, 938, 941, 949-950, 961, 963, 965, 983, 990-992, 994-995, 1007, 1016, 1027, 1030, 1034, 1040-1041, 1049, 1054, 1057-1058, 1061-1062
 ways, 979, 989, 1028, 1032
 We, 930
 weaken, 931
 web, 942
 week, 917, 921, 923, 936, 938-939, 954, 956-957, 974, 986, 999, 1002, 1014, 1031-1032, 1034-1035, 1042, 1048, 1057-1058
 weekend, 917, 946
 weeks, 938, 943, 945, 1045, 1050
 weigh, 976
 weight, 969-970, 1062
 welcomed, 933
 weren, 982, 1011
 West, 961
 Western, 958-959
 Westminster, 942
 whatever, 954, 971, 979, 981, 985, 1021
 whatsoever, 1043
 Whenever, 917
 whenever, 962
 Whereupon, 985, 1063
 wherever, 948, 962
 Whether, 937, 955, 970, 979, 1052
 whether, 918, 921-922, 926-927, 933, 940, 943, 951-955, 959, 970-971, 977-980, 982, 984-985, 995, 997-1002, 1004-1006, 1012-1013, 1021, 1024-1025, 1028, 1031, 1033-1034, 1036-1037, 1039, 1044-1047, 1049, 1057, 1061
 Whilst, 1007
 White, 1056
 white, 933
 whole, 932, 943, 945, 948, 951, 960, 977, 990, 1026, 1029
 wholly, 937, 997
 whom, 1028
 WHOMERSLEY, 918-919, 986, 994
 Whomersley, 919, 986, 994
 wider, 1020, 1056
 Wikileaks, 931
 Wilberforce, 984
 Will, 1031
 will, 917-920, 923, 925-929, 931-933, 937, 939-940, 942-947, 951-953, 957,

W

wait, 921, 1042
 waived, 978-979
 waiver, 978
 walking, 922
 Wall, 957
 Wallace, 944
 wanted, 1020-1021
 War, 967
 war, 1029
 Wards, 1026
 Washington, 1054
 wasn, 923, 935-936, 965-967, 987, 992
 watch, 985, 1063
 Waters, 1038
 waters, 931, 987,

- 964, 968-970,
 974, 977,
 979-980, 983,
 985-986,
 989-995,
 997-998, 1000,
 1002-1008,
 1011-1013,
 1017-1018,
 1021-1022,
 1024-1025, 1027,
 1030-1036, 1038,
 1040-1042,
 1044-1045,
 1047-1048, 1050,
 1052-1053,
 1056-1057,
 1059-1060, 1063
- William, 1017
 willing, 973, 995,
 1020, 1040
 willingness, 918,
 972, 992
 Wilson, 924, 969,
 971, 974
 wine, 991
 wiped, 977
 wish, 940, 995,
 1012, 1018,
 1029-1030, 1036,
 1059
 wished, 988, 1058
 wishes, 959, 1016
 wishing, 921, 1045
 with, 1023
 withdraw, 925, 987
 withdrawal, 962,
 993
 withdrawn, 938
 withhold, 970, 974
 withholding, 969
 Within, 1004
 within, 922, 925,
 929, 932, 936,
 941, 952, 963,
 976, 980, 998,
 1000, 1002-1003,
 1008, 1012,
 1016-1017,
 1020-1021, 1024,
 1049-1050,
 1053-1054, 1056,
 1060
 without, 921, 924,
 930, 937, 956,
 959, 973-974,
 980, 992, 1002,
 1011, 1016,
 1021, 1045,
 1051-1053, 1056
 Witness, 919, 941,
 987
 witness, 941
WOLFRUM,
 966-968, 977,
 979, 984, 1042,
 1047
 Wolfrum, 920, 923,
 928-929, 966,
 969, 971, 981,
 1002-1003, 1008,
 1023, 1028,
 1042, 1047
 won, 976, 978
 wonder, 984, 1013
 wondering, 918
 Wood, 921-922,
 924, 948-949,
 955, 997,
 1000-1001, 1003
 word, 921-922,
 943, 950, 961,
 968, 978, 1001,
 1006-1008, 1017,
 1022, 1039,
 1042, 1044-1045,
 1053, 1059
 wording, 1016
 words, 923-924,
 930-931,
 933-935,
 938-939, 945,
 948-949, 960,
 971, 973, 987,
 989, 993,
 997-1006,
 1008-1009, 1012,
 1014-1015,
 1017-1018, 1022,
 1024, 1026,
 1030, 1038,
 1043-1044, 1057,
 1059-1060
 Wordsworth,
 921-923, 940,
 949-950, 970,
 973, 977, 982,
 984, 998-999,
 1001-1003,
 1007-1009,
 1012-1013,
 1015-1018,
 1021-1022,
 1024-1026, 1035,
 1037-1038,
 1041-1045,
 1047-1050,
 1052-1053, 1060,
 1062
 work, 930, 978,
 1018, 1020
 worked, 944
 working, 930, 965,
 979, 1018, 1054,
 1059
 works, 964
 World, 967
 world, 937, 943,
 954-955, 957,
 1033
 worn, 995
 worse, 968
 worth, 989, 1017
 wouldn't, 967, 988,
 1042
 woven, 1024
 write, 988, 1024
 writes, 1023
 writing, 963, 1014,
 1058
 writings, 1022-1023
 written, 921, 926,
 928-929, 935,
 940, 950-951,
 979, 991, 999,
 1015-1016,
 1028-1029, 1036,
 1039-1040,
 1045-1046, 1048,
 1051, 1061-1062
 wrongly, 990
 wrote, 938, 989,
 1023, 1050-1051
 WT, 1012
 WTO, 1012
 www, 963, 1026
- ## X
- XI, 963
 XIII, 1000, 1024
 XV, 958, 960, 969,
 995, 1006-1009,
 1016, 1021-1023,
 1025, 1030
 XX, 961, 1012
 XXII, 961
 XXV, 959, 962
- ## Y
- Yeadon, 930, 934,
 987-988, 1051,
 1054-1055
 Year, 987
 year, 926, 938,
 957, 972, 987,

*1032, 1044,
1056-1057*

yearly, *973*

years, *921, 925,
930, 951, 955,
976, 1005, 1021,
1031, 1033,
1036, 1044-1045,
1051-1053, 1056,
1059, 1062*

Yemen, *1062*

Yollari, *1026*

York, *1021*

yourself, *970, 995*

yourselves, *922,
977, 995, 1000,
1024*

Z

Zealand, *1042*

Zone, *1052*

zone, *1003, 1008,
1052-1056*

zones, *926, 951,
960, 1023, 1052*