

# Averting a Strategic Misstep

Why the Government should walk away from its draft agreement to cede the Chagos Islands to Mauritius

Marcus Solarz Hendriks, Yuan Yi Zhu and Richard Ekins KC (Hon)

Foreword by Admiral Lord West of Spithead GCB DSC PC





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## About the Authors

**Marcus Solarz Hendriks** is Head of the National Security Unit and joined Policy Exchange in September 2023. He holds both a Master's Degree (Politics and International Relations) and a BA (Arabic, Persian and Middle Eastern Studies) from the University of Cambridge.

**Yuan Yi Zhu** is a Senior Fellow at Policy Exchange and an Assistant Professor of International Relations and International Law at Leiden University.

**Professor Richard Ekins KC (Hon)** is Head of Policy Exchange's Judicial Power Project and Professor of Law and Constitutional Government, University of Oxford.

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# Foreword

*Admiral Lord West of Spithead GCB DSC PC*

As the UK faces the most perilous geopolitical landscape in at least a generation, our overseas military bases – so indispensable to British national security – are an invaluable currency. So too is the strength and depth of our relationship with the United States.

For reasons that are difficult to fathom, the Government risks jeopardising both of these assets as it apparently remains determined to cede sovereignty of the Chagos Islands – the home of our vital Diego Garcia military base – to Mauritius.

As I have argued elsewhere, surrendering sovereignty over the Chagos Islands would be an irresponsible act, which would put our strategic interests – and the interests of our closest allies – in danger. Indeed, I said this before we knew that the next American Administration would include senior figures who have openly criticised the idea of reaching a settlement with Mauritius.

The strategic implications are clear. China's military, espionage and diplomatic activities in the Indian Ocean are fast expanding – so too are its relations with Mauritius. It has never been more important for the UK to retain its sovereign authority to protect the Diego Garcia base – a strategic jewel in a critical gateway region, which is causing no one any injustice today.

The Government may genuinely believe that the base's long-term future is “more secure under the agreement than without it”. But, as Policy Exchange's vital Research Note compellingly argues, this is simply not the case. How can the base – which serves as an indispensable naval, air, and intelligence asset – be more secure under the sovereignty of another nation, rather than under our own? The Government is yet to share any legal or security provisions that would prevent Mauritius, which enjoys growing relations with China, from choosing to violate – or tear up entirely – the proposed deal. Parliament must have the assurances and the details before being asked to endorse this deal.

Developments since the proposed deal's announcement only several months ago demonstrate just how shaky its foundations are. American consent, which the UK Government has presented as so crucial to the negotiation, may well collapse with the arrival of the next Administration. The new Mauritian Government itself has in effect rejected the terms by re-opening negotiations to extract more cash. Meanwhile, the

wide condemnation of the Chagossian diaspora, and neighbouring Maldives, punctures the argument that we have fostered goodwill with the 'Global South' by righting a past wrong.

But, in these same changed circumstances lies a 'get out of jail free card', allowing the Government to withdraw from the proposed deal honourably. Its attempt to resolve a matter of dynamic strategic risk, as if it were a matter of legal compliance, has been exposed as a misbegotten act. As the authors rightly argue, the Government must seize the small window of opportunity to correct its mistake.

*Admiral Lord West of Spithead GCB DSC PC, former First Sea Lord and Security Minister.*



# Introduction

In this Research Note, we outline why the British Government's decision to transfer sovereignty over the British Indian Ocean Territory (BIOT; commonly known as the Chagos Islands) to the Republic of Mauritius must be reconsidered in light of consequential developments since its agreement.

In 2023, Policy Exchange argued that to transfer sovereignty over the Chagos Islands to Mauritius would jeopardise the United Kingdom's (UK) strategic position in the Indian Ocean, and do so on the basis of flawed legal reasoning.<sup>1</sup> Nevertheless, the present British Government elected to conclude negotiations with Mauritius last year.

Although its exact terms are cloaked in secrecy, the substance of the deal is that sovereignty over the Chagos Islands will be transferred to Mauritius, which will lease the island of Diego Garcia, on which the joint UK-U.S. Naval Support Facility is situated, to the UK for a 99-year period.<sup>2</sup>

There are also substantial, though once again officially undisclosed, financial provisions involving large annual payments to Mauritius, in addition to a substantial development aid package to Mauritius. Just recently, it was reported that the UK has offered to pay Mauritius £90 million per year, with an initial downpayment of several years' worth, for the Diego Garcia lease –<sup>3</sup> amounting, again according to reports, to £9 billion over 99-years.<sup>4</sup>

There is currently no public information about what assurances the British government has received from Mauritius that it will not resile from the agreement, whose terms senior Mauritian politicians have already criticised as being unduly favourably to the UK. Yet, even if the firmest of guarantees have indeed been offered, the Indian Ocean is a geopolitically volatile region where smaller states are subject to increasing Chinese pressure. The inescapable fact is that, the moment that sovereignty over Chagos is ceded to Mauritius, the future security and viability of the base is fundamentally out of the UK's control.

Indeed, four developments in the few months since the announcement demonstrate just how dynamic, and subject to change, the context surrounding the deal is. Fortunately, these developments also provide a legitimate reason to withdraw from the deal altogether, allowing the British government to make an honourable retreat from a strategic impasse.

First, Donald Trump's victory in the presidential election will usher in a new American Administration, many of whose senior national security advisers are openly critical of the deal. Incoming U.S. National Security Advisor Michael Waltz stated in 2022 that a future deal would allow China

1. Yuan Yi Zhu, Tom Grant, and Richard Ekins, *Sovereignty and Security in the Indian Ocean*, Policy Exchange, 27 October 2023, [link](#).
2. HM Government, UK and Mauritius joint statement, 3 October 2024, [link](#).
3. Lucy Fisher, UK offers to frontload payments in Chagos talks, *FT*, 8 January 2025, [link](#).
4. George Grylls, Britain offers Mauritius £9bn in renegotiated Chagos Islands deal, *The Times*, 8 January 2025, [link](#).

to “take advantage of the resulting vacuum”, which “would be catastrophic to deterring our adversaries in the Middle East and Indo-Pacific”.<sup>5</sup> U.S. Secretary of State-designate Marco Rubio previously said that British-Mauritian negotiations over Chagos are “concerning as it would provide an opportunity for communist China to gain valuable intelligence” on the UK-U.S. base on Diego Garcia.<sup>6</sup> The likelihood of aggravating the new American Administration is even greater in light of the impression, and reports,<sup>7</sup> that the UK is rushing the deal through before President-elect Donald Trump’s inauguration. In any case, the Government has repeatedly emphasised the importance of the Biden Administration’s consent for the deal.<sup>8</sup> If this approval was so important, the likelihood of this not being mirrored by the incoming Republican Administration must also be significant.

Second, the new Mauritian Prime Minister has re-opened negotiations in a bid to extract exorbitant additional financial payments (reported to be £800 million per year, plus “billions... in reparations”)<sup>9</sup> – in effect walking away from the original deal. The Government’s recent offer to frontload payments for the lease demonstrates the fundamentally weak position that the agreement would leave the UK in vis-à-vis future Mauritian moves to re-visit the terms. This concern is all the more pressing if reports are correct that the UK intends never to reveal the full details to the British taxpayer of the financial settlement agreed with Mauritius – the costs of agreeing to surrender territory over which we currently enjoy sovereignty.

Third, the agreement was received extremely negatively by Chagossians living in the UK and elsewhere – none of whom were consulted during the negotiations.

Fourth, the disapproval of the Maldivian Government, which was excluded from the British-Mauritian agreement, discredits the notion that the UK has acted honourably towards its regional and Commonwealth partners.

Each of these developments raises serious questions about the foresight of the Foreign, Commonwealth and Development Office (FCDO), and the legal and strategic advice it has provided to ministers. The Government’s clumsy handling of the aftermath of the deal also provides serious cause to refrain from pressing ahead with signing a treaty of cession to present to Parliament for ratification before there has been time for proper parliamentary consideration of the situation.

As we go to print, nothing has been formally agreed, which allows the Government legitimate room to reconsider its decision in the new context. More than anything, the fast-evolving context demonstrates that, contrary to the Government’s approach, the Chagos dispute is not a matter of static international law compliance, but rather one of dynamic geostrategic and political risk. If the Government is indeed satisfied with how it has balanced the legal and strategic elements of the deal, it should be prepared to submit its analysis to the full scrutiny of the Foreign Affairs Select Committee, as well as to the new American administration, whose attitude to the deal is vital. On the topic of transparency, it would furthermore be highly

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5. Waltz Raises Alarm Over Negotiations that Could Jeopardize Diego Garcia Naval Facility”, 19 December 2022, [link](#).

6. Emilio Casalicchio, US Republicans fear UK Chagos Islands deal will boost China, *Politico*, 4 October 2024, [link](#).

7. Lucy Fisher, UK offers to frontload payments in Chagos talks, *FT*, 8 January 2025, [link](#).

8. For Example, David Lammy “inaction impacted on our relationship with the United States, which neither wanted nor welcomed the legal uncertainty and strongly encouraged us to strike a deal. I am a transatlanticist, and we had to protect that important relationship”, in UK Parliament, British Indian Ocean Territory: Negotiations, volume 754: debated on Monday 7 October 2024, [link](#).

9. David Churchill, Mauritius demands £800million a year and billions in reparations for controversial Chagos Islands deal, *Daily Mail*, 29 December 2024, [link](#).

unreasonable – as officials have reportedly suggested –<sup>10</sup> to maintain secrecy over the costs of maintaining the use of a territory over which we are voluntarily ceding sovereignty – especially if this is tantamount to accepting Mauritian demands for reparations.

From a legal standpoint, the British Government is fully entitled to withdraw from the unsigned and unratified agreement – not least as the new Mauritian Government has chosen to re-open the matter and try to renegotiate the terms. The UK remains, as it always has been, under no legal obligation to cede the Chagos to Mauritius – whether in consequence of the International Court of Justice (ICJ)’s advisory, legally non-binding opinion, or otherwise. In choosing not to accept the opinion, and standing on its legal rights, the UK would not be acting as some kind of rogue state. As this Research Note outlines, there are many other cases in which states have acted in ways that are not in line with the relevant ICJ advisory opinion, without incurring widespread condemnation or diplomatic isolation.

In seeking to correct a past wrong done to the Chagossians, the Government has in fact confused it further: by going over their heads; and by arbitrarily privileging Mauritius’ territorial demands over those of the Maldives – playing into the electoral strategy of a now-defeated former Mauritian prime minister, while risking stoking regional tensions in the Indian Ocean. Instead of improving our diplomatic relations – particularly those with the ‘Global South’ – the deal makes the UK look weak and prone to cave to pressure to foreign countries. It is thus unsurprising that Argentinian ministers are already using the Chagos deal to argue that the Falklands are next.

Policy Exchange thus maintains that ceding sovereignty over the Chagos would be a grave strategic misstep for two reasons. First, it would surrender sovereignty, and thus ultimate control, over a critical military asset in the gateway region between the Euro-Atlantic and Indo-Pacific, in the midst of rapidly expanding Chinese presence in the Indian Ocean. Second, it would risk damaging the British-American relationship by clashing with the incoming Trump Administration over the incident – not least at a time when the UK seeks to persuade the President-elect and his team to remain firmly committed to European security.

There was never a good case for cession, but fortuitous developments have granted the UK an opportunity to withdraw gracefully. This Note thus urges the British Government to take the opportunity to correct course, to show the humility and strategic sense to realise its error, and to retreat with honour from the ill-conceived agreement that it rushed through – and which the Mauritians have already signalled their intention to abandon.

10. Lucy Fisher, UK offers to frontload payments in Chagos talks, *FT*, 8 January 2025, [link](#).

### Suggested Questions for Parliamentary Scrutiny

The Government has refused to share with the public or Parliament numerous aspects of the deal – all of which will be crucial to the long-term security of the Diego Garcia base. The following draft questions should be asked of Government, either as Parliamentary Questions or as the basis of an urgent Foreign Affairs Select Committee assessment.

- Ask the Government to share its strategic risk assessment of the long-term security of the Diego Garcia base – particularly in light of Chinese Indian Ocean region strategy, and its utilisation of commercial vessels for espionage.
- Ask the Government what legal protection it has guaranteed to prohibit a future Mauritian Government from violating any part of the deal which pertains to the security of the base, or from terminating the lease agreement altogether.
- Ask the Government when it will disclose the legal protection it has received.
- Ask the Government what guarantees it has received that the new Marine Protected Area (MPA) governing the Chagos Islands will as stringently prohibit foreign fishing vessels from entering Chagossian waters as the current MPA.
- Ask the Government whether Mauritius will be solely responsible for policing Chagossian waters, or whether the UK and U.S. will be involved in this security measure.
- Ask the Government whether it has agreed, in defiance of cross party consensus for some 50 years, that the UK acted wrongly in maintaining sovereignty over the Chagos Islands, and has it agreed to pay reparations?
- Ask the Government about the basis of its claim that accepting the ICJ's advisory opinion on Chagos does not set a legal precedent for any future, similar ruling on other British overseas territories, such as the Falkland Islands.

## Part 1: A bad idea re-visited

In October 2023, Policy Exchange published *Sovereignty and Security in the Indian Ocean*, which dismantled the erroneous legal argument that the UK should accept the logic of the International Court of Justice (ICJ)’s 2019 advisory, legally non-binding opinion: that the UK’s “continued administration of the Chagos Archipelago constitutes a wrongful act entailing the international responsibility of that State”.<sup>11</sup> The ICJ concluded that the UK “has an obligation to bring to an end its administration of the Chagos Archipelago as rapidly as possible.”<sup>12</sup>

### Policy Exchange’s Critique of the ICJ’s Opinon in 2023

In *Sovereignty and Security in the Indian Ocean* (2023),<sup>13</sup> Policy Exchange critiqued the view that the ICJ’s Chagos advisory opinion meant that the UK was bound in law to hand over the Chagos to Mauritius.

After demonstrating that the Court’s reasoning in the advisory opinion is at odds with the factual and historical record before it, the report pointed out that:

- The ICJ’s advisory opinion did not adjudicate any dispute, nor could have done so, between the UK and Mauritius, because there is no jurisdiction at international law for any court or tribunal to adjudicate a dispute without the consent of the states which are involved; and the UK has consistently refused to allow the ICJ such jurisdiction over the Chagos issue;
- The guidance the ICJ supplied to the UN General Assembly—for that was what the advisory opinion amounted to—did not prescribe a procedure for how “decolonisation” of the Chagos Islands should be implemented;
- The ICJ’s advisory opinion did not specify the form that the final disposition of the Chagos is to take, but in line with UN practice left a range of options open;
- There are indications in the ICJ’s opinion that the final disposition of the Chagos Islands should be left to the Chagossians, a position that Mauritius has refused to accept, arguing instead that Mauritius has a self-evident right to the islands regardless of the Chagossians’ wishes.

Policy Exchange’s 2023 argument, boiled down to its core, was twofold: first, that there was no legal obligation on the UK, arising from the ICJ’s

11. International Court of Justice, Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, 25 February 2019, 100, [link](#).

12. *Ibid.*, 139-140.

13. Dr Yuan Yi Zhu, Dr Tom Grant and Professor Richard Ekins KC, *Sovereignty and Security in the Indian Ocean*, Policy Exchange, 27 October 2023, [link](#).

advisory opinion and similar opinions (such as the International Tribunal for the Law of the Sea’s ruling of 2021 in a dispute between Mauritius and the Maldives, which presumed Mauritian sovereignty over Chagos)<sup>14</sup> to cede the Chagos to Mauritius – whose connection to the islands was merely formal, and which in any case it voluntarily forfeited; and second, that there is an overwhelming strategic case against cession, as the Diego Garcia base, shared with the U.S., constitutes the UK’s sole military base in the Indian Ocean – a region experiencing a rapid expansion of Chinese presence.

Before considering the post-agreement developments which demand that the Government urgently reconsider the deal, we shall briefly summarise those legal and strategic considerations again.

### Legal Risk: A Baseless Deal

#### 1. Viability of consent-based dispute settlement under international law

The development of sophisticated judicial and arbitral procedures in international law during the past decades has enabled states to achieve binding resolutions for legal disputes through consensual mechanisms more easily. However, the principle of state consent remains fundamental to international law: with vanishingly rare exceptions (such as the universal prohibition against genocide), any rule of international law or international legal regime is only binding on a state if that state has consented to be so bound.

This goes for, *inter alia*, the degree to which the UK is subject—if at all—to the jurisdiction of the ICJ. Given that the UK has chosen to exclude disputes between Commonwealth members and itself from the purview of the ICJ’s jurisdiction, there was no basis on which Mauritius could bring the case against the UK to the ICJ. Instead, it chose to hijack the advisory opinion procedure, under which the ICJ provides non-binding legal opinions to certain international bodies, to get the ICJ to pronounce an opinion on the UK’s sovereignty over the Chagos. This misuse of the advisory opinion procedure represents a significant and controversial shift in international law, for which there is no state sanction.

In their written opinions in the Chagos advisory opinion case in the ICJ, Judges Tomka and Donoghue expressed concern that the advisory opinion enabled contentious disputes in effect to be decided by the ICJ, thus bypassing the requirement of State consent. They framed this as a dangerous expansion of the ICJ’s advisory function.

Judge Donoghue (as she then was) concluded that the ICJ’s Chagos advisory opinion “signals that the advisory opinion procedure is available as a fall-back mechanism to be used to overcome the absence of consent to jurisdiction in contentious cases.”<sup>15</sup> Judge Tomka, meanwhile, noted in a Declaration appended to the advisory opinion that “advisory proceedings have now become a way of bringing before the Court contentious matters, with which the General Assembly had not been dealing prior to requesting

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14. International Tribunal for the Law of the Sea, Dispute Concerning Delimitation of the Maritime Boundary Between Mauritius and Maldives in the Indian Ocean, 28 January 2021, [link](#).

15. ICJ Rep. 2019 at p. 266 (para. 23)

an opinion upon an initiative taken by one of the parties to the dispute.”<sup>16</sup> He also castigated the ICJ’s “unnecessary pronouncement” that the UK’s continual administration of the Chagos Islands was “an unlawful act of a continuing character.”<sup>17</sup>

The majority on the ICJ, however, maintained that its opinion did not violate the principle of state consent, asserting that addressing legal issues between Mauritius and the UK did not equate to adjudicating their bilateral dispute. This interpretation was rejected by Judge Donoghue in her dissent, in which she took her colleagues to task for effectively purporting to decide the underlying substantive issue, an interpretation which was later adopted by the International Tribunal for the Law of the Sea (ITLOS), which contradicted the majority on the ICJ when it purported to accept their opinion as binding in international law.

Given that the majority of the judges on the ICJ in the Chagos advisory case explicitly disclaimed the interpretation that their opinion was binding, it would be entirely consistent with their protestations for the UK to treat their opinion as such: opinions and nothing more. To do otherwise would have dramatic impacts on international law, eviscerating the principle of state consent in international adjudication and enlarging the ICJ’s jurisdiction to an extent which no state foresaw or accepted.

In 2023, Policy Exchange thus voiced its criticism about the shift in legal function of ICJ advisory opinions – arguing that it sets a dangerous precedent for further interstate disputes, as well as for Britain’s continuous sovereignty in other disputed territories such as Gibraltar, the Falkland Islands, and the Sovereign Base Areas in Cyprus, due to the Government’s implicit acceptance of advisory opinions of the ICJ as binding upon the United Kingdom:

“We fear that FCDO, in its decision to make concessions to Mauritius in respect of the BIOT, has given the impression that it accepts the mistaken premise that the ICJ advisory proceedings on the Chagos have dispositive legal effect on the United Kingdom. If that premise indeed motivates current British policy, the long-term consequences will be very adverse, and Ministers ought to repudiate the premise and rethink their negotiation.”<sup>18</sup>

Unfortunately, the Ministers of the current British Government have not heeded this advice. Although the Government has not explicitly said that it accepts the ICJ’s opinion on Chagos as authoritative, its actions and words appear to suggest as much. For example, Lord Hermer KC, the Attorney General, remarked in a speech last year that the Government has struck a deal with Mauritius “in a manner that successfully marries our international law obligations with vital national security requirements.”<sup>19</sup> The Foreign Secretary went even further in asserting that the ICJ’s opinion is binding, as he stated that the Government’s objective had been to ensure that the UK “upholds the international rule of law.”<sup>20</sup>

These remarks display an ideological predisposition to a maximalist theory of the international rule of law, and which is far too ready to sacrifice the UK’s legal rights, which international law carefully protects,

16. Declaration of Judge Tomka, ICJ Rep. at p. 148 (para. 2)

17. Declaration of Judge Tomka, ICJ Rep. 2019 at p. 151 (para. 8) (quoting advisory opinion at para. 177).

18. Sovereignty and Security in the Indian Ocean, *Policy Exchange*, 27 October 2023, 59.

19. HM Government, Attorney General’s 2024 Bingham Lecture on the rule of law, 15 October 2024, [link](#).

20. HM Government, Foreign Secretary’s statement on the Chagos Islands, 7 October 2024, [link](#).

in order to advance supranationalism and to stay on the right side of the opinion of international courts and institutions, even when they are acting outside their jurisdiction. In elevating this ideological commitment into a key aspect of foreign policy, Government risks, as seems to have happened here, adopting an understanding of the UK's legal position that is misguided and self-harming.

### **2. Casting a cloud over sovereign rights in other colonial and post-colonial settings**

The ICJ's advisory opinion on Chagos raised further concerns, owing to the risk of creating a precedent where the integration of colonial territories into other states is presumed mandatory under the law of decolonisation.

Such a presumption could cast doubt over the legitimacy of prior decisions regarding colonial territories, as seen in cases like the separation of Gilbert and Ellice Islands into the sovereign states of Kiribati and Tuvalu, or the partition of the Trust Territory of the Pacific Islands into three distinct countries as well as an American territory. An absolutist interpretation of territorial integrity prior to the achievement of independence during decolonisation would invite challenges to postcolonial settlements globally.

For example, quite predictably, Argentina and the African Union have framed the Chagos issue in the context of Argentina's claim to the Falkland Islands, which underscores how uncritical acceptance of the ICJ's Chagos advisory opinion could unintentionally embolden contentious disputes over sovereignty in other postcolonial territories, including British overseas territories. Indeed, on the very day that the UK and Mauritius announced the deal over Chagos, Argentinian Foreign Minister Diana Mondino declared that Buenos Aires still intended to "recover" the Falkland Islands from the UK.<sup>21</sup>

Moreover, acceptance of the Chagos precedent also risks jeopardising the UK's continued sovereignty over Gibraltar, the Falkland Islands, and especially the Sovereign Base Areas in Cyprus, despite Government claims to the contrary. Notably, the SBAs were detached from Cyprus at around the same time as the Chagos were administratively detached from Mauritius, so that, *pari passu*, there is no reason why acceptance of the ICJ's opinion that detachment was unlawful in the case of the Chagos would not apply to the SBAs, which play an almost equally crucial role for the UK's contribution to international security. While the Government has repeatedly denied that this is politically the case – indeed, the Foreign Secretary has alleged that Chagos and the Falklands "are not comparable"<sup>22</sup> – ministers seem to be unaware of the legal precedent they have set.

### **3. A volte-face as potential embarrassment to the UK's partners and allies**

If the UK decides to proceed with the surrender of the Chagos Islands, this would have had potentially significant implications for our relationships with key partners and allies. Many of these allies expressed strong

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21. Twitter, @DianaMondino, 3 October 2024, [link](#).

22. David Lammy in House of Commons debate: British Indian Ocean Territory Negotiations, Volume 754: debated on Monday 7 October 2024, [link](#).



reservations throughout the advisory opinion process, emphasising that the ICJ lacks the jurisdiction to adjudicate contentious bilateral disputes without the consent of the parties involved, and supporting the-then position of the UK to that effect.

For example, the German Government expressed its concern that the UN General Assembly’s request for the ICJ’s opinion “should not be interpreted in an overstretched manner”, and reminded the Court that it “cannot decide on the bilateral dispute which forms the background of the request... given the overarching principle of consent which governs the exercise of the Court’s contentious jurisdiction.”<sup>23</sup> Australia argued that the Court should have refused the request, by virtue of the fact that it has no remit to adjudicate contentious interstate cases.<sup>24</sup> France raised a similar contention over the assumption of the Court to intervene in a bilateral dispute.<sup>25</sup> Finally, the U.S. proclaimed that it “is quite clear that Mauritius sought an advisory opinion in order to advance its sovereignty claim against the UK, after failed attempts to seek adjudication of that claim in other fora”.<sup>26</sup> It is worth noting that this American legal opinion came during the first Trump Administration, particularly amidst uncertainty about the President-elect’s opinion on the UK-Mauritius agreement.

It is worth quoting Policy Exchange’s 2023 assessment of the diplomatic and geopolitical implications of the Chagos dispute, which remain relevant today.

“We find it difficult to understand the reasoning. An as-yet-unrealized advantage in diplomatic relations with a Non-Aligned country does not justify the risk of an immediate split from long-standing allies that share vital interests with the United Kingdom in the region. Given the vagaries and imprecision of diplomacy, a prospective improvement in diplomatic relations is not a substantial dividend. The costs, however, are clear. The United Kingdom now seems poised to relinquish control over a strategic asset. Moreover, by embracing the results of the ICJ advisory proceedings and seeming to impute binding force to them, the United Kingdom exposes itself and other countries to further losses in future.”<sup>27</sup>

It is to the impact on this “strategic asset” that we now turn.

## Strategic Risk

### Diego Garcia - Our Regional Strategic Jewel

The Chagos Islands are situated in the middle of the Indian Ocean – a major maritime junction of global trade and shipping traffic between the Atlantic, Pacific and Mediterranean. The UK’s *Integrated Review Refresh (2023)* rightly concluded that “the prosperity and security of the Euro-Atlantic and Indo-Pacific are inextricably linked”.<sup>28</sup> The Indian Ocean’s strategic significance thus derives from being the Eurasian gateway zone linking those two regions together; its location on the westward shipping transit route from Asia to the Cape of Good Hope; as well as constituting the southern oceanic entry and exit point to the Red Sea and the Persian Gulf – major nodes of global cargo and energy trade. Presence and influence

23. Written Statement of Germany (Jan. 2018) p. XI (paras. 33, 34).

24. Written Statement of the Government of Australia (27 Feb. 2018) pp. 5-6 (paras. 23-24), pp. 16-17 (para. 59).

25. Written Statement of the French Republic, (28 Feb. 2018), p. 2 (para. 6); p. 5 (paras. 16-19).

26. Written Statement of the United States of America (1 Mar. 2018) p. 14 (para. 3.25); pp. 15-16 (para. 3.32).

27. *Sovereignty and Security in the Indian Ocean, Policy Exchange*, 27 October 2023, 63.

28. HM Government, *Integrated Review Refresh*, March 2023, 9, [link](#).

in the Indian Ocean therefore affect the balances of power in the Euro-Atlantic and the Indo-Pacific regions and, as a corollary, that of the global geopolitical landscape itself.



Image source: [Sky News](#)

It is therefore obvious why the UK and its free-market global partners benefit from a secure strategic position in the Indian Ocean – hence the rationale for establishing the Diego Garcia base in the 1960s.

Diego Garcia base serves as a joint UK-U.S. facility with key regional naval, air and intelligence functions. Beyond offering basing and re-supply facilities for peacetime maritime patrol and military exercises in the Indo-Pacific, the facility possesses valuable intelligence and communications systems - all evinced by the role it played in UK-U.S. activities during both Gulf Wars, Afghanistan and the War on Terror. In wartime, its proximity to the southern Eurasian littoral regions, Middle Eastern choke-points, and function as a basing stepping stone in the 5 Eyes/AUKUS UK-U.S.-Australia trilateral partnership are invaluable assets. According to a former U.S. Navy intelligence officer with expansive experience in the Indo-Pacific and Middle East, Diego Garcia “remains an invaluable operating location in a region with few permanent American bases.”<sup>29</sup>

There are also concerns that the cession of the Islands to Mauritius would deleteriously affect our ability to use the base for nuclear operations, given that the state is a signatory of the Pelindaba Treaty (an African Nuclear Weapons-Free Zone) – from which the Diego Garcia base is currently excluded.<sup>30</sup>

The British Government appears at least cognisant of the importance of the base; the Foreign Secretary stated, as part of the rationale for the deal, that it “saved the base... [and] secured Britain’s national interests for the long-term.”<sup>31</sup> As we shall soon see, however, this is a misguided interpretation of the deal’s implications.

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29. Blake Herzinger, The power of example: America’s presence in Diego Garcia, *The Interpreter*, 15 February 2021, [link](#)

30. Treaty of Pelindaba, UN, [link](#).

31. HM Government, Foreign Secretary’s statement on the Chagos Islands, 7 October 2024, [link](#).

## Balancing Against the Chinese Threat

What is true for one global power with hegemonic aspirations is generally true for another. Thus, the People's Republic of China (PRC) has gradually expanded its strategic position in the Indian Ocean over the course of the 21<sup>st</sup> century – developing a network of regional basing that the U.S. military established has called a 'string of pearls'. Indeed, it is vital to place the Chagos Islands in the wider Indian Ocean strategic context in order to understand fully the perils of any development which opens the door to greater Chinese presence and action.

### China's 'String of Pearls' Strategy

In 2004, the U.S. Net Assessment establishment observed that Beijing's investment of resources and attention into the littoral areas of the Indian Ocean was not scattergun, but rather the beginnings of a coordinated cross-regional strategy.<sup>32</sup> In 2006, the U.S. Army War College's Strategic Studies Institute noted "China's rising geopolitical influence through efforts to increase access to ports and airfields, develop special diplomatic relationships, and modernize [sic] military forces that extend from the South China Sea through the Strait of Malacca, across the Indian Ocean, and on to the Arabian Gulf."<sup>33</sup>

Today, Beijing's 'string of pearls' refers to the chain of ports, running westward from the South China Sea to the Red Sea, in which it enjoys stakes (investor shares and/or basing rights) – including in Pakistan, Bangladesh, Burma, Sri Lanka, Djibouti, Cambodia – and perhaps a secret one in the Maldives.<sup>34</sup>



Image sourced: [Launch Pad](#)

The precise, overall strategic objective of this expansion is contested by analysts, given that it remains unclear what the Chinese Communist

32. Energy Futures in Asia, Booz-Allen-Hamilton, published 2005 by the U.S. Department of Defense's Office of Net Assessment.

33. Christopher J. Pehrson, String of Pearls: Meeting the Challenge of China's Rising Power across the Asian Littoral, U.S. Army War College Strategic Studies Institute, July 2006, [link](#), v.

34. Saurabh Sharma, Secret military works in the name of agri project? Maldives opposition raises alarm over Chinese presence, *Business Today*, 3 April 2024, [link](#).

Party (CCP)'s final intentions are for each 'pearl'. For some analysts,<sup>35</sup> the target locations of Chinese activity seem primarily confined to commercial interests – such as cementing supply lines and trade routes – whereas others see an eventual military impetus for each base, with a view to establish eventual sea control in the Indian Ocean.<sup>36</sup>

Despite the ambiguous intent – on a granular level – of the 'string of pearls' strategy, for our purposes it suffices to understand that all Chinese activity in the Indian Ocean carries a degree of strategic threat. The PRC packages its increasingly global economic and political aspirations under the aegis of the Belt and Road Initiative and, more recently, the Global Security, Civilisation and Development Initiatives. These megaprojects necessitate a concomitant extension of reach, both military and non-military. This can either be achieved by establishing military 'bases', as in Djibouti, or 'places' – which involves reaching deals with other states whereby Chinese inward investment secures the People's Liberation Army Navy (PLAN)'s access to ostensibly civilian infrastructure and facilities, as with the Ream base in Cambodia. With the rise of Chinese investment and the influx of Chinese workers comes influence – another core component of the CCP's grand strategy to reconfigure world order away from American hegemony.<sup>37</sup> Thus, the 'strings of pearl' strategy is 'dual-use' by design: the establishment of some form of military footprint facilitates deepening political and economic links across the southern Eurasian littoral.

### The 'Malacca Dilemma'

The 'string of pearls' strategy also forms a vital component of the CCP's plan to circumvent the nightmare scenario it fears in a future open conflict with the U.S.: a long-distance economic blockade. As far back as 2003, then-CCP General Secretary Hu Jintao conceptualised this contingency as the 'Malacca Dilemma', referring to the PRC's Achilles Heel: its economic reliance on Eurasian waterways which are fully under the sea control of the U.S.<sup>38</sup>

In order to break out of the Malacca Dilemma, so the theory goes, China must establish alternative routes for inbound and outbound goods and energy trade in the immediate term. The long-term goal is to overhaul the balance of power in its neighbourhood to neutralise the latent threat posed by the sea control (and so latent sea denial) of the U.S. and its regional partners. This strategic conundrum provided the guiding principle behind the Belt and Road Initiative (formerly the One Belt One Road Initiative) and the Made in China 2025 project. On the latter, by embedding the PRC into essential global production lines, and bolstering its own quasi-autarkic credentials, the CCP could both erode the leverage of the American economic weapon, while strengthening its own.

The PRC thus has both wartime and peacetime interests in expanding

37. For example, see Xi Jinping, speech: Secure a Decisive Victory in Building a Moderately Prosperous Society in All Respects and Strive for the Great Success of Socialism with Chinese Characteristics for a New Era, 19<sup>th</sup> National Congress of the Communist Party of China, 18 October 2017, [link](#).

35. For example, Chris Devonshire-Ellis, China's String of Pearls Strategy, *China Briefing*, March 18, 2009, [link](#).

36. Gurmeet Kanwal and Monika Chansoria, Breathing Fire: China's Aggressive Tactical Posturing, *Centre for Land Warfare Studies Issue Brief no. 12*, October 2009.

38. For example, Marc Lanteigne, "China's Maritime Security and the 'Malacca Dilemma,'" *Asian Security* 4, no. 2 (2008), 143, [link](#).

its presence and situational awareness in the Indian Ocean, and compromising that of the U.S. and its partners. The future British and American ability to operate the Diego Garcia base is an indispensable blocker against Chinese efforts to tilt the regional strategic balance in its favour.

The CCP is in no position to become the undisputed military heavyweight in the Indian Ocean any time soon, given the American longstanding presence and India's rapidly strengthening naval capabilities.<sup>39</sup> However, it does not need to earn such credentials before it endangers British and allied interests; any improvement in the CCP's ability to monitor, and manoeuvre around, the Chagos Islands can compromise a vital military facility in the region, and thwart a future attempt to exercise sea denial in a military context.<sup>40</sup> Crucially, such Chinese operations need not be conducted by military vessels, but can be accomplished by 'commercially' or 'scientifically'-designated ships kitted out with intelligence-gathering equipment. One need only look back as far as last December, when a Chinese bulk carrier sabotaged undersea cables in the Baltics (perhaps in concert with Russia), to see how the PRC utilises 'commercial' vessels for hostile effect.<sup>41</sup>

Indeed, the PRC has a long track record of blending the civilian and the military for strategic effect. Chinese commercial ships and 'oceanographic' research vessels, routinely accused of conducting espionage, are caught behaving suspiciously in the Indian Ocean (and elsewhere)<sup>42</sup> on a monthly basis. The PLAN's fleet of so-called China Marine Research Vessels, are frequently identified by satellite trackers charting strange courses in the economic exclusive zones of Indian Ocean states like the Maldives, the Seychelles, Mauritius, Madagascar, Sri Lanka and India.<sup>43</sup> As with Russian 'oceanographic' vessels which frequent the critical undersea infrastructure in the Baltic and North Seas, it is supremely likely that these are partaking in probing and mapping missions to build critical situational awareness. The Wall Street Journal reported in September 2023 that the American Government has tracked as many as 100 attempts by Chinese nationals to access U.S. military facilities in recent years, in what officials described as an "espionage threat".<sup>44</sup>

### Indian Ocean Geostrategic Complexity

The Indian Ocean Region is increasingly caught in the headwinds of Sino-Indian geostrategic competition. These complex and volatile geopolitical conditions make long-term bets and overly-simplistic political analysis problematic, in particular when it comes to forecasting the long-term behaviour and loyalties of smaller states.

Unfortunately, the British Government has attempted just that with Mauritius. During an interview the day after the deal was revealed, the new British National Security Adviser Jonathan Powell – who was involved in the latter stages of negotiating the Chagos deal on behalf of the Government – sought to dismiss fears about Chinese influence over

39. Dr Arzan Tarapore, Engaging with reality in the Indian Ocean, *United States Studies Centre*, 12 September 2024, [link](#).

40. Joshua T. White, China's Indian Ocean Ambitions: Investment, Influence, and Military Advantage, *Global China*, June 2020, 9-11, [link](#).

41. Chinese ship linked to Baltic Sea cable breach resumes voyage, *Reuters*, 21 December 2024, [link](#).

42. Matthew P. Funaiolo et al., Skirting the Shores: China's New High-Tech Research Ship Probes the Waters around Taiwan, *CSIS*, 26 February 2024, [link](#).

43. Chinese research vessels operating in the Indian Ocean, *Reuters*, 22 February 2024, [link](#).

44. Gordon Lubold et al., Chinese Gate-Crashers at U.S. Bases Spark Espionage Concerns, *The Wall Street Journal*, 4 September 2023, [link](#).

Mauritius. He pointed out that the latter has not joined the Belt and Road Initiative, and is in fact an “ally” of India (the same claim that FCDO Minister Stephen Doughty made during a House of Commons debate on 18 December.)<sup>45</sup>

Both individuals thus elected not to mention that Mauritius became the first African country to sign a Free Trade Agreement with China in 2019, that Huawei has recently won a contract to provide telecommunications infrastructure to the island state, nor that India publicly shuns ‘alliances’ due to its position of non-alignment.<sup>46</sup>

The fact is that state relations in the Indian Ocean are immensely dynamic, and cannot simply be fixed in perpetuity by a negotiated deal. Mauritius, like many other smaller states in the Indian Ocean region (and further east in South Asia, for that matter) is caught in the middle of growing, and quickly evolving, arm wrestle between New Delhi and Beijing. Perceptions of interests and threats are subject to change swiftly as both New Delhi and Beijing apply pressure to amenable political and social groups in these smaller countries to influence their political and economic inclinations.

For example, the Maldives’ decision to accept a flurry of Indian investments – which was itself an effort to offset its \$1bn of debt to China – induced a pro-China “India Out” campaign last year.<sup>47</sup> A similar situation is unfolding in Sri Lanka, where Beijing and New Delhi are both seeking to curry favour with certain political parties to induce geopolitical alignment.<sup>48</sup>

Buffeted by such forceful geopolitical headwinds, the affiliations of states such as Mauritius and its neighbours can change – indeed oscillate – quickly. It is thus impossible to assert with certainty, as the British Government has, how much influence China will have over Mauritius in five or ten years – let alone for the duration of the 99-year lease agreement the UK has agreed over Diego Garcia. This geopolitical backdrop also raises serious questions about the credibility of diplomatic agreements, and whether the protections included therein can withstand changes of circumstance.

### British Miscalculation

The immense challenge posed by the PRC’s strategic creativity, grey-zone operations, and penchant for coercing or creating dependencies with smaller states raises national security concerns about the new arrangement over the Diego Garcia base. This complex and fast-evolving strategic context is also the source of weakness of the British Government’s assertion that “the base’s long-term future is... more secure under this agreement than without it”, as Mauritius has reportedly agreed to provide “robust security arrangements preventing armed forces from accessing or establishing themselves on the outer islands [those around Diego Garcia].”<sup>49</sup> The current Chagos Marine Protected Area (MPA), through which the UK is able to prohibit access to both naval and commercial vessels, will also in theory be sustained by the creation of a Mauritian MPA. As a result of these

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45. UK Parliament, British Indian Ocean Territory: Sovereignty, Volume 759: debated on Wednesday 18 December 2024, [link](#).

46. Qair Signs Agreement with Huawei on Mauritius 100MW and 290MWh Projects, 10 November 2024, [link](#).

47. Nilanthi Samaranyake, As Tensions with India Grow, Maldives Looks to China, United States Institute of Peace, 18 January 2024, [link](#).

48. For example, see Chulanee Attanayake, Sri Lanka caught in the crossfire of India-China maritime rivalry, *East Asia Forum*, 19 September 2024, [link](#).

49. HM Government, Foreign Secretary’s statement on the Chagos Islands, 7 October 2024, [link](#).

so-called guarantees, ministers feel emboldened to rubbish the national security-based criticisms of the deal's sceptics.<sup>50</sup>

### The Deal - What We Know

Neither the British, American, nor Mauritian governments have yet revealed the full details of the Chagos deal. However, a number of key details have been trailed:<sup>51</sup>

- The UK will cede the 60-odd islands which constitute the Chagos Islands to Mauritius.
- Mauritius will lease Diego Garcia to the UK for an initial 99-year period, at which point extension will be subject to negotiation. Reports suggest that the UK has offered £90 million per year to lease Diego Garcia, including a frontloaded tranche for several years' worth to convince the new Mauritian Government to agree to the deal.<sup>52</sup>
- The British and Mauritian governments will cooperate on "environmental protection, maritime security and combating illegal fishing, as well as the creation of a Mauritian Marine Protected Area." The folding of the current Chagos MPA into a larger Mauritian one indicates it could thus be adapted, and in any case is now the sovereign prerogative of Mauritius.
- The UK will pay Mauritius to continue operating the naval base on Diego Garcia, in addition to separate payments to sustain a new bilateral "economic, security and environmental partnership". The sum has not been disclosed, but has been described by a former Mauritian minister as "many billions of rupees". A *Times* report put the Mauritian re-negotiation ask at £800 million per year, plus reparations.<sup>53</sup>
- The Mauritian Government can implement a resettlement programme to all islands except Diego Garcia.
- The Mauritian Government has supposedly offered assurances of "robust security arrangements including preventing foreign armed forces from accessing or establishing themselves on the outer islands."<sup>54</sup>
- A joint programme to permit visits to the archipelago for the Chagossian diaspora.
- A trust fund "for the benefit of Chagossians" – co-managed but capitalised by the UK.
- The UK will provide further support for Chagossians living in the UK.

Subject to British parliamentary ratification, the deal will be translated into a legally binding treaty – a process the Government intends to initiate early this year.

The UK has also signed a Memorandum of Understanding with the

50. For example, FCDO Minister Stephen Doughty levelled against those who "constantly whip up the idea about China influence", UK Parliament, British Indian Ocean Territory: Sovereignty, Volume 759: debated on Wednesday 18 December 2024, [link](#).

51. From House of Commons Library, Research Briefing: British Indian Ocean Territory: 2024 UK and Mauritius agreement, 31 October 2024, [link](#).

52. Lucy Fisher, UK offers to frontload payments in Chagos talks, *FT*, 8 January 2025, [link](#).

53. Tim Shipman, Britain and the Chagos, the seven-year mess that'll cost us all, *The Times*, 28 December 2024, [link](#).

54. HM Government, Foreign Secretary's statement on the Chagos Islands, 7 October 2024, [link](#).

British Overseas Territory of St Helena, agreeing that the latter will house (with the UK funding administrative costs) irregular migrant arrivals to the Chagos from the time of the agreement until the UK-Mauritius treaty comes into force (at which point Mauritius becomes responsible for handling migration).<sup>55</sup>

However, there is no cause for such confidence, unless it is disclosed that the deal contains hefty legal protections against future Mauritian violation of any aspect of the agreement. But, even if the strongest guarantees are given today, it is essentially impossible for any agreement to protect the UK's interests over a 99-year period, given the complex strategic and political contingencies covered above.

### The Fragility of Basing Guarantees

Though the UK is at pains to emphasise that the future of the base is secure under the deal, history provides numerous examples of seemingly permanent military basing agreements being terminated or altered due to pressure from one of the parties. For example, the UK had to withdraw its facilities from Libya following a regime change in the country. Similarly, in the early 1990s, the U.S. was forced to abandon its two largest overseas military bases after negotiations with the Philippines failed.

A senior Mauritian Minister has already suggested that Mauritius views the length of the lease (99 years with a renewal option) as being too long —“the tenant has become the owner of Diego Garcia for 200 years.”<sup>56</sup> The British Government may point to such remarks as evidence that it has secured the base – but the harsher truth is that such protests could, in the future, evolve into Mauritian efforts to renege on the deal altogether.

For example, will the new MPA governing the Chagos Islands be as stringent as the current one? Will Mauritius have the means and desire to police the waters as rigorously as the UK and the U.S. have previously – irrespective of the degree of operational sophistication China might bring to clandestine activity around the base? Could U.S. or UK efforts to do the same be subject to legal challenge? Could Diego Garcia's surrounding islands be gradually flooded with Chinese financed infrastructure projects, migrant workers, and other forms of 'commercial' presence, all in proximity to our naval base? And how robust will any security guarantees prove if a future Mauritian government seeks to revise the MPA to allow more Chinese 'fishing' vessels around Chagos; seeks to renegotiate the deal again under Chinese pressure; or simply chooses to renege of its own accord? What legal recourse will the UK have in any of these eventualities?

Such fears about the robustness of a hypothetical Chagos deal are not new. In 2022, then-Chairman of the U.S. House Armed Services Subcommittee on Readiness, Representative Michael Waltz – now

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55. Partnership Between UK Government and St Helena Government Regarding Future British Indian Ocean Territory Migrants, St Helena Government, 23 October 2024, [link](#).

56. Yasmine Mohabuth, "New Mauritian PM sends fresh Chagos proposals to UK", BBC News, 17 December 2024, [link](#).



incoming U.S. National Security Advisor, expressed his concerns to the State and Defense Departments about the strategic implications of any future UK-Mauritius agreement over BIOT. He wrote that this may allow Beijing to “take advantage of the resulting vacuum”, which “would be catastrophic to deterring our adversaries in the Middle East and Indo-Pacific”.<sup>57</sup>

A few months later in May 2023, British media reported that the White House had expressed “serious concerns” about the UK’s working plans, due to the immense sensitivity of the Diego Garcia base to the American strategic position in the Indian Ocean.<sup>58</sup> Due to the Government’s secrecy, neither the public nor Parliament yet know whether the Americans changed their mind because more iron-clad security guarantees have been received from Mauritius, or whether they lowered their security demands for other reasons.

The British Government has attempted to resolve the dispute as if it were a matter of static international law compliance (even though in fact the UK has no legal obligation surrender the islands to Mauritius), rather than one involving geostrategic and political dynamic risk. It has therefore attempted to lock in a positive outcome ‘on its own terms’ via legal means, rather than continue managing the situation diplomatically. That it has favoured this approach under the pressure of a non-binding legal opinion raises serious questions about the quality of the legal advice that the Government has elected to heed, and indeed the level of oversight and scrutiny ministers have brought to bear on this critical national security issue.

In other words, the Government has placed total faith in the inviolability and durability of a legal solution. This explains why the Government is so confident that a negotiation is the best way of securing the base’s future, and why it is now reportedly rushing the deal along before it can be unpicked by the incoming Trump Administration. Such conviction in the indissoluble nature of the legal agreement also explains why government officials allege that this is the surest way of meeting our national security needs.

However, what the Government has in fact done is to weaken the UK’s authority over the long-term future of the base. The UK loses any ability to influence Mauritius’ future governance of the Chagos Islands the moment that sovereignty is ceded. Even if this Mauritian Government intends to provide genuinely robust assurances, there is no way of preventing these from being loosened, reinterpreted, or torn apart altogether, in the future. Diego Garcia has thus been left subject to terms that others may set (or impose) differently in the future – with no ability for the UK to reverse course by then.

That the Government has so drastically misread the legal and strategic elements of this decision raises two possibilities: that it has demonstrated somewhat poor judgment; or that it has received and acted upon poor legal advice. Either way, something has gone badly wrong.

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57. Waltz Raises Alarm Over Negotiations that Could Jeopardize Diego Garcia Naval Facility’, 19 December 2022, [link](#).

58. Glen Owen, “Britain’s plan to hand over ‘un-sinkable aircraft carrier’ island in the Indian Ocean to Chinese ally Mauritius sparks row with US”, Daily Mail, 20 May 2023, [link](#).

## Part 2: Changing circumstances

The case for a deal was never sound, but the British Government has nevertheless reached an agreement in principle with Mauritius – electing only to release some of the terms of the proposed treaty of cession to date.

However, four developments have occurred in the three months since the deal was announced, whose combined effect is to have utterly transformed the context – now making it nonsensical to proceed. These developments confirm that the strategic picture of the Chagos Islands is a dynamic one – not static as the British Government supposes. It is our contention that these shifts are so consequential as to demand an immediate withdrawal from the agreement.

### 1. Changes in Washington

Despite the Biden Administration’s reported reservations of May 2023 expressed above, it ultimately chose to consent to the UK-Mauritian deal. The official White House release of 3 October 2024 stated that the President “applaud[s] the historic agreement and conclusion of the negotiations”.<sup>59</sup>

It does not appear that the incoming Republican Administration is likely to share this sentiment. In his 2022 letter to the Biden Administration, Michael Waltz reaffirmed the “central role” that Diego Garcia plays in American attempts to maintain a free and open Indo-Pacific.<sup>60</sup> Notably, he drew a direct parallel with what he called the President’s “shortsighted blunder of ignoring our generals’ recommendations and abandoning Bagram Air Base” in Afghanistan, which he made a point of observing was “bordering China and in the backyard of Russia and Iran.” It is thus clear that the incoming U.S. National Security Advisor frontloads geopolitical considerations before all else vis-à-vis the Indian Ocean military facility, and thus will not sympathise with arguments pertaining to historical wrongs nor dubious legal arguments.

Representative Waltz is not the only senior incoming Republican to express publicly a dim view of the deal. Senator Marco Rubio, Secretary of State-designate, remarked that the deal is “concerning as it would provide an opportunity for communist China to gain valuable intelligence on our naval support facility in Mauritius”, adding that “this poses a serious threat to our national security interests in the Indian Ocean and threatens critical U.S. military posture in the region.”<sup>61</sup> His consternation is mirrored by Senator James Risch, member of the Senate Foreign Relations Committee, who said that the deal seems as if it “gives in to Chinese lawfare and yields to pressure from unaccountable international institutions like the International Court of Justice at the expense of U.S. and U.K. strategic and

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59. The White House, Statement from President Joe Biden on the Occasion of an Agreement between the Republic of Mauritius and the United Kingdom on the Status of the Chagos Archipelago, 3 October 2024, [link](#).

60. Waltz Raises Alarm Over Negotiations that Could Jeopardize Diego Garcia Naval Facility”, 19 December 2022, 1.

61. Emilio Casalicchio, US Republicans fear UK Chagos Islands deal will boost China, *Politico*, 4 October 2024, [link](#).

military interests.”<sup>62</sup> Finally, Representative Michael McCaul, Chairman of the House Foreign Affairs Committee, has described the naval facility as “essential” to balancing against China in the Indo-Pacific.<sup>63</sup>

The British Government has been keen to stress that, once the details of the deal are disclosed to the incoming Second Trump Administration, these fears shall be assuaged. Foreign Secretary David Lammy told the House of Commons Foreign Affairs Select Committee of his confidence that the “incoming [U.S.] administration will be reassured”.<sup>64</sup>

Nonetheless, Jonathan Powell reportedly thought it prudent to travel to Washington to seek meetings with the incoming Republican team.<sup>65</sup> It is clear that the reports of whisperings from across the Atlantic have concerned the British Government – so too, perhaps, have Nigel Farage’s regular interventions in the House of Commons that the President-elect’s team share “very deep disquiet” about the agreement.<sup>66</sup> Indeed, the sense that the UK is now rushing the deal through before the presidential inauguration clashes with the confidence, expressed by Government officials, about the reception that the deal will receive in the Trump team.

The President-elect has not yet commented publicly on the Chagos deal, but it is safe to assume that he will not take kindly to the UK rushing to surrender territorial sovereignty over a key UK-U.S. military asset in a region of rising geostrategic competition with China. It is also worth noting again (see p4) that the first Trump Administration’s legal view during negotiations was that it “is quite clear that Mauritius sought an advisory opinion in order to advance its sovereignty claim against the United Kingdom, after failed attempts to seek adjudication of that claim in other fora”.<sup>67</sup> In any case, a concession to international courts, and the court of world opinion, does not seem in-keeping with the *modus operandi* of a President-elect vowing a ‘peace through strength’ approach to geostrategic competition.

The deal is *sui generis* a mistake for the geostrategic reasons outlined above. But it is also an act of strategic self-sabotage as it risks inflicting damage on our relationship with the next American Administration, given all the above markers that key officials oppose the agreement.

David Lammy gave the support of the Biden Administration as paramount for the deal, arguing that “inaction impacted on our relationship with the United States, which neither wanted nor welcomed the legal uncertainty and strongly encouraged us to strike a deal. I am a transatlanticist, and we had to protect that important relationship.”<sup>68</sup> Yet, the impression that the UK is rushing to seal the deal with Mauritius in order to present it as a *fait accompli* to the Trump Administration – as intimated by Mauritian Prime Minister Navin Ramgoolam,<sup>69</sup> and reportedly by British officials –<sup>70</sup> could also be received very negatively by the new President. At a moment when the UK and its European partners seek to persuade the U.S. to continue supporting Ukraine and the continent’s security architecture more broadly, this is exceedingly foolhardy.

62. *Ibid.*

63. *Ibid.*

64. UK Parliament, Foreign Secretary David Lammy to face questions from the Foreign Affairs Committee, 26 November 2024, [link](#).

65. Eleni Courea and Kiran Stacey, UK government seeks meeting with Trump team over Chagos Islands agreement, *The Guardian*, 26 November 2024, [link](#).

66. Amy Gibbons, Trump camp full of ‘disquiet’ over Chagos Islands deal, Farage warns, *The Telegraph*, 18 December 2024, [link](#).

67. Written Statement of the United States of America (1 Mar. 2018) p. 14 (para. 3.25); pp. 15-16 (para. 3.32).

68. UK Parliament, British Indian Ocean Territory: Negotiations, volume 754: debated on Monday 7 October 2024, [link](#).

69. Ramgoolam suggested that the UK was keen to complete the deal “before [Donald] Trump swears in as president on 20 January, Yasmine Mohabuth, Mauritius hints Chagos talks stuck over money, *BBC News*, 23 December 2024, [link](#).

70. Lucy Fisher, UK offers to frontload payments in Chagos talks, *FT*, 8 January 2025, [link](#).

## 2. Mauritian renegotiation

The second – and most important – change in circumstances pertains to the Mauritian election, and the new Mauritian Prime Minister’s desire to re-open negotiations.

Mauritius went to the polls a little more than one month after the deal was reported. The incumbent MSM party was swept away in a landslide victory for a coalition headed by the new Prime Minister Ramgoolam’s Labour Party – whose leader wasted no time criticising the previous Government for agreeing to lease Diego Garcia to the UK. Indeed, even at the tail-end of the campaign trail, Ramgoolam lambasted the deal as a “sell-out” and “high treason” against the Mauritian state.<sup>71</sup>

The new Prime Minister has now formally re-opened negotiations, and has sent what is in effect a counter-proposal to the British Government. Reports have it that the new Mauritian Government seeks £800mn/annum for the Diego Garcia base plus billions in “reparations” – apparently to make amends for the UK’s historical wrong of exercising sovereignty over its territory. The corollary of the new Mauritian Government’s rejection of the initial agreement is that it is willing to consider walking away altogether, should the full extent of its financial demands not be met – thereby surrendering ownership of the Islands altogether. This is an odd position for a party seeking redressal for a past injustice, and leaves us with the perception that the new Mauritian Government is simply employing cynical tactics to extract more money from the UK.

The British Government may well reach a new agreement with Mauritius. However, the fact remains that Ramgoolam Government’s decision to walk back the unsigned deal provides cause to kill it altogether, in light of the other considerations outlined in this Research Note. It also supports the argument, made in 2023 by Policy Exchange, that ceding sovereignty over Diego Garcia will enable future Mauritian Governments to make further financial demands, perhaps initiate a bidding war with China, or even terminate the lease agreement altogether. The inescapable truth is that the UK will become hostage to the changing political preferences of another government.

## 3. Chagossian blowback

The Chagossians, who lived on the Islands until their forcible expulsion in the 1960s following the establishment of the naval base on Diego Garcia, were not consulted during the last round of negotiations. For a British Government claiming to be – according to the Foreign Secretary – “showing that what we mean is what we say on international law and desire for partnerships with the Global South”, this lack of respect for the people in question is a deeply hypocritical sleight of hand.<sup>72</sup> If the Government’s appeals to moral and legal compulsions are inconsistent, we must question the very foundations of the agreement.

At least 10,000 Chagossians currently reside in the Seychelles, Mauritius or the UK.<sup>73</sup> Two thirds of the 3,500 Chagossians living in the UK live in Crawley, many of whom have expressly rejected the deal – with hundreds

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71. Dissolution du parlement : ‘Un soulagement’ pour les Mauriciens, s’exclame Navin Ramgoolam, *Le Mauricien*, 5 October 2024, [link](#).

72. HM Government, Foreign Secretary’s statement on the Chagos Islands, 7 October, 2024, [link](#).

73. Who are the Chagossians?, Chagossian Voices, [link](#).

protesting at their exclusion from the negotiations.<sup>74</sup>

One of the sources of grievance has been the ambiguity over whether there will in fact be a resettlement arrangement for Chagossians to return to the Islands. According to the British Government, “Mauritius is now free to implement a resettlement programme to islands other than Diego Garcia” – but it is unclear whether it will be mandatory for Mauritius to launch this initiative.<sup>75</sup> The Chagossians have also expressed frustration over the denial of their right to return to Diego Garcia. As a result of this widespread antipathy within the diaspora, the Friends of the British Overseas Territories charitable organisation is set to host an informal referendum amongst the UK-residing diaspora early this year.<sup>76</sup>

The protests were also driven by anger that Mauritius is to assume ownership of the Chagos Islands. Few Chagossians have any ties to Mauritius whatsoever, being descended instead from freed African slaves who were brought to the island in the 18<sup>th</sup> century. Mauritians and Chagossians speak different Creole dialects. Furthermore, many Chagossians have gone on record about their treatment as “second-class citizens” in Mauritius – such as by being referred to as the derogatory French word ‘ilios’ (those born on an island).<sup>77</sup>

All this means that it is difficult to believe that, as the Foreign Secretary, David Lammy alleges, the Labour Government “kept the Chagossians informed all along the way”.<sup>78</sup> Indeed, Chagossian Voices, a grassroots platform for the global diaspora, wrote a letter to the Foreign Secretary disputing this claim, and asking him to publicly correct his parliamentary record over the past few months.<sup>79</sup> Related to this seeming disregard for the Chagossians, it has been reported that one of the FCDO’s recent lead negotiators on Chagos, Vijay Rangarajan, “overstepped” his brief by offering Mauritius too much.<sup>80</sup>

Despite this blatant discord between moral grandstanding and execution, the conclusion of negotiations appears to have been driven by the belief that it was a necessary undertaking for a Government pursuing a ‘progressive’ foreign policy. Such an interpretation is characterised by Philippe Sands KC, the British-Mauritian barrister who has acted as legal counsel for over a decade for Mauritius, and is a close friend of Sir Keir Starmer. Sands wrote in his written evidence to Foreign Affairs Subcommittee on the Overseas Territories that the UK should accept the ICJ’s ruling, partly due to:

“issues with the global south and other partners, including the African Union and the Non-Aligned Movement, as well as the European Union, which will see the UK as holding others to standards which it does not apply to itself.”<sup>81</sup>

In actual fact, the Government has decided to cede the Islands to Mauritius despite not being under any legal obligation to do so, and in a manner which has in no way rectified the past wrong of expelling the indigenous peoples of the Chagos Islands. The impression that the British Government did not take due care to appreciate fully the delicate political and strategic sensitivities around this territorial dispute was emphasised

74. Lucinda Adam, Hundreds protest against Chagos Islands deal, *BBC News*, 13 November 2024, [link](#).

75. HM Government, Foreign Secretary’s statement on the Chagos Islands, 7 October 2024, [link](#).

76. FOTBOT to host informal Chagos Islands referendum, 3 December 2024, [link](#).

77. Jutalla Coulibaly-Willis, Why the return of the Chagos Islands has left Chagossians feeling excluded, *Euro News*, 10 October 2024, [link](#).

78. UK Parliament, David Lammy British Indian Ocean Territory: Negotiations, Volume 754: debated on Monday 7 October 2024, [link](#).

79. Twitter, @ChagossianVoic2, 18 October 2024, [link](#).

80. Tim Shipman, Britain and the Chagos: the seven-year mess that’ll cost us all, *The Times*, 28 December 2024, [link](#).

81. UK Parliament, Written evidence submitted by Professor Philippe Sands (CHA0023), 26 January 2024, 3, [link](#).

further by Jonathan Powell's off-hand remarks during an interview soon after the announcement, when he remarked that "these are very tiny islands in the middle of the Indian Ocean where no one actually goes."<sup>82</sup> As neither the strategic nor ethical justifications for the deal hold up to scrutiny, we thus return to our previous question: is the cause of this poor governmental decision-making, or bad legal advice?

### 4. Post-colonial confusion

The British Government's confused belief that it has righted a past wrong extends beyond the issue of the Chagossian community. By reaching a bilateral agreement with Mauritius, it has ignored the claims – older in origin than those of Mauritius – of the Maldives over maritime territory around the Chagos Islands.

This is not to say that the UK should instead have ceded Chagos to the Maldives. But it is to say that the British Government has not rectified a post-colonial dispute as neatly and uncontroversially as it maintains. This complicated history undermines the argument that there existed some inexorable moral compulsion to cede the Islands to Mauritius.

#### The Maldivian Claim on the Chagos Islands

The Maldives has pursued its own case for sovereignty over certain maritime zones of the Chagos Islands for decades. As long ago as 1992, British and Maldivian officials negotiated a draft agreement to delimit their overlapping exclusive economic zones (EEZ) – which was to be designed on the basis of equidistance. However, the Maldives never formally approved the draft, electing in 2010 to appeal to the UN for the approval of an extended continental shelf, and a revised EEZ extending 200 nautical miles from Addu Atoll – the southern-most point of the state.<sup>83</sup> This proposal contravened the understanding reached with the UK in 1992.

At this moment, Mauritius launched its own case regarding Chagos. For a time, the two neighbours united in their opposition to the UK by issuing a joint communiqué in 2011 signalling their "collective stand" in the pursuit of extended EEZs in the region.<sup>84</sup> This cooperation proved short-lived as Mauritius soon launched legal proceedings against the Maldives, from which point onwards the latter was slowly squeezed out of the dispute.

The point here is not that the UK should accept the Maldives' claims to the Chagos Islands or return to the 1992 draft agreement, which the Maldives decided to follow through in any case, but that the UK government has previously consented to negotiating with the Maldives over maritime delimitations around the Chagos Archipelago – a basis for mutual understanding which is set to be trampled over as a consequence of the deal with Mauritius.

On the question of Chagos, there is thus no such thing as a 'simple

82. Youtube, Chagos Islands: Labour dismisses security concerns over UK handover to Mauritius, *Times Radio Politics*, 4 October 2024, [link](#).

83. UN Oceans & Law of the Sea, Commission on the Limits of the Continental Shelf (CLCS) Outer limits of the continental shelf beyond 200 nautical miles from the baselines: Submission by the Republic of Maldives, 26 July 2010, [link](#).

84. Maldivian President's Office, President Nasheed Returns After Mauritius Visit, 14 March 2011, [link](#).

fix', nor a black and white case for redressing a so-called past injustice committed by 'Global North' Britain to the 'Global South'. Instead, the British Government has elected to privilege the more recent claim of a party located over 2,000 kilometres from Chagos, over the older claim of another which is around 1,500 kilometres closer to the Islands in question. An unintended consequence of the UK's convoluted bid to draw a line under the ordeal may even be to stoke interstate tensions in the region – particularly as the Maldivian President Mohamed Muizzu has sent a letter re-opening his country's claim on the Chagos Islands.<sup>85</sup>

Beyond this moral, logical and legal disarray, another deduction can be drawn from the Chagos episode: the Government's flawed grasp of interstate dynamics in the non-aligned world – what it refers to as the 'Global South'. The way in which the Government has negotiated with Mauritius, and the justifications given for the deal, serve as a vignette of a flawed foreign policy principles.

Policy Exchange has previously assessed this subject in depth,<sup>86</sup> detailing the central fallacy driving the Labour Government's foreign policy towards Africa, Asia, Africa, and South America: that modes of generating 'soft power' (such as exhibiting commitment to international law, and smoothing out diplomatic relations by proactively conceding to other states' demands) can produce influence which will translate into 'hard power' in the future.

At least part of the rationale behind the approach to negotiations with Mauritius reflects this worldview. As shown above, the Foreign Secretary believes that the UK has shown "that what we mean is what we say on international law and desire for partnerships with the Global South." He goes on to say that "this strengthens our arguments when it comes to issues like Ukraine or the South China Sea."<sup>87</sup> There are two problems here.

The first is the assumption that softening our stance on disputed issues today translates into improved relations with meaningful benefits tomorrow. This is simply not the case, as evinced during the Commonwealth Heads of Government Meeting (CHOGM) in Samoa last October. Sensing the new Labour Government's receptiveness on the topic of slavery reparations, the Caribbean Community (Caricom) took the opportunity of the meeting to solicit the UK for indemnities. Sir Hilary Beckles, the chairman of Caricom, even pointed to the fact that David Lammy "has been a supporter" of the cause whilst in opposition, and urged the Prime Minister to give him a "free hand...to take the matter to a higher level."<sup>88</sup> As Sir Keir Starmer was forced into an intensely uncomfortable position, serious questions were asked of the Government's worldview. Far from generating 'soft power' and future influence, the Government's softer disposition on such issues was construed as a well-advertised weakness, making it vulnerable to greater diplomatic pressure.

The CHOGM episode and Chagos deal are clearly separate issues, but a common thread links both incidents to a core weakness in the Labour Government's strategic analysis of world order. As Caricom sought to

85. Adhadhu, President Muizzu's letter to UK states Maldives is more deserving of sovereignty over Chagos, 11 November 2024, [link](#).

86. Marcus Solarz Hendriks et al., The Myth of the 'Global South': A Flawed Foreign Policy Construct, *Policy Exchange*, 22 October 2024, [link](#).

87. HM Government, Foreign Secretary's statement on the Chagos Islands, 7 October 2024, [link](#).

88. Dominic Penna, Let Lammy secure slavery reparations says Caribbean leader, *The Telegraph*, 13 October 2024, [link](#).

leverage David Lammy's past support for slavery reparations to extract concessions, Mauritius has referenced "reparations" as a reason for demanding greater payments to lease Diego Garcia. Rather than generate favourable diplomatic relations as a basis for building influence, unilateral concessions on these occasions have surrendered leverage without guaranteed benefits. It is impossible to envisage China making the same mistakes as it competes with us to shape the Mauritian Government's future handling of the Chagos Islands.

The second problem pertains to the grossly inaccurate, and immensely self-harming, false equivalence that David Lammy makes between the UK's ownership of BIOT, and Russian and Chinese territorial aggrandisement. Putin has waged a devastating illegal war on Ukraine, killing hundreds of thousands of personnel and civilians and ruthlessly targeting critical national infrastructure in what amounts to war crimes. China, meanwhile, routinely violates its neighbours' borders, and openly speaks of revanchism vis-à-vis Taiwan.<sup>89</sup> The comparison with the UK's lawful agreement to purchase the Chagos Islands from Mauritius is astounding. Only a government that runs its ethical tests through the prism of high legalism could make such a tendentious comparison.

It is bad enough that a British Foreign Secretary has compared the UK's legal exercising of sovereignty over an overseas territory to Russia's assault on Ukraine and China's predation in the South Sea. But this is more than a question of poor optics; it amounts to strategic self-harm at a critical moment in the shaping of the international system.

As Policy Exchange's report on the Global South showed, Russia and China are pursuing systematic political warfare campaigns against the West across the globe, to sabotage our reputation and enhance their own. By making such cavalier remarks, the Foreign Secretary is doing our adversaries' bidding for them and powering their disinformation engines. This makes the UK appear – perhaps alongside Justin Trudeau's Canada – as the G7 country least equipped to understand the dynamics, let alone navigate them, of the modern world.

This is not to suggest that the UK should cover its ears to all measured discussions of colonial legacies and contemporary injustices, but it is a call for more sensibility and strategic prudence. Diplomacy is not a popularity contest, but the art of interacting with other states to protect and advance one's own interests. Voluntarily surrendering the high ground when negotiating over important strategic issues – such as overseas military bases – weakens the UK's bargaining position, strengthens the hand of neutral states, and opens the door to exploitation by our adversaries. This is a terrible basis for conducting foreign policy in an increasingly geopolitically contested environment.

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89. Nectar Gan, Xi vows 'reunification' with Taiwan on eve of Communist China's 75<sup>th</sup> birthday, CNN, 1 October 2024, [link](#).



## Part 3: Historical precedents for not accepting advisory opinions

Since its election, the British Government headed by Sir Keir Starmer has purported to make upholding the rule of law, including the rule of international law, one of its priorities. As Policy Exchange has argued, this approach at times misunderstands what the rule of law requires, as well as the position of international law within the UK's legal order.<sup>90</sup>

Nevertheless, it has been argued that the UK has a duty to lead other, perhaps less enlightened nations, by its example and encourage compliance with international law by its own actions. It has been claimed by proponents of the deal with Mauritius that the UK's decision to surrender sovereignty over the Chagos will encourage so-called 'Global South' states to demonstrate more support for Ukraine, although not a shred of evidence has been forthcoming to support this view.<sup>91</sup>

This view demonstrates an exceptionalist streak of the sort the present government has been at pains to reject in other contexts. Moreover, it presumes to draw an equivalence between situations where the legal rights and wrongs are clear and obvious (such as in Ukraine, the illegality of whose invasion is self-evident) and situations, such as the Chagos one, where the UK government is under no legal duty to act, whether as the consequence of the ICJ's non-binding advisory opinion or arising from anything else.

As the ICJ itself explains on its website, "except in rare cases where it is expressly provided that they shall have binding force... the Court's advisory opinions are not binding. The requesting organ, agency or organization remains free to decide, as it sees fit, what effect to give to these opinions."<sup>92</sup> It has not been argued that the Chagos advisory opinion falls under one of the treaty-based exceptions, and therefore it is not binding on the UK or on any other state. Nor does the UN General Assembly's vote to endorse the advisory opinion change anything, as such resolutions are non-binding as well. Indeed, an advisory opinion is not even binding on the organisation that requested it, as they are "free to decide, as it sees fit, what effect to give to these opinions."

Thus, since an advisory opinion of the ICJ is not directed at any particular state, but merely is a legal opinion offered to the international organisation which requested it, there can be no question of a state "ignoring" an advisory opinion *stricto sensu*, because the advisory opinion is not directed at that state. Nevertheless, there is ample precedent for countries taking another view of their legal obligations under international law, despite an

90. Conor Casey and Yuan Yi Zhu, *From the Rule of Law to the Rule of Lawyers? The Problem with the Attorney General's New Legal Risk Guidelines*, Policy Exchange, 26 November 2024, [link](#); Yuan Yi Zhu, "Keir Starmer's choice of Attorney General should concern conservatives", *The Spectator*, 16 November 2024, [link](#).

91. "Foreign Secretary's statement on the Chagos Islands, 7 October 2024", [link](#); "Written evidence submitted by Professor Philippe Sands", UK Parliament, 26 January 2024, [link](#); Foreign Affairs Sub-Committee on the Overseas Territories, 28 February 2024, [link](#).

92. "Advisory Jurisdiction", International Court of Justice, [link](#).

ICJ opinion which offers an alternative view of the legal situation.

The most famous example may be the so-called Israeli Wall advisory opinion, in which the UN General Assembly sought the views of the ICJ regarding the legality of the West Bank barrier, built by Israel in response to numerous West Bank-originated terrorist attacks during the Second Intifada. The ICJ advised the General Assembly that Israel was acting unlawfully and was under an international legal obligation to dismantle the wall.

Israel, in exercise of its sovereign judgment concerning its own security interests and having taking into account the nature of the ICJ's advisory opinion, declined to do so. The Israeli government's decision was endorsed by the High Court of Israel, which also found that the advisory opinion was not binding and criticised its reasoning.

Similarly, at various times, both Malaysia and Romania have declined to give effect to ICJ advisory opinions about the immunity of UN officials, without apparent ill-effect on their international standing. And in 1975, weeks after the ICJ issued its *Western Sahara* advisory opinion which declared that the territory did not belong to either Morocco or Mauritania, Morocco annexed Western Sahara, under whose rule it remains to the present day.

The same is true for cases where the ICJ has 'contentious' (and binding), as opposed to advisory jurisdiction (although, it is worth repeating once again that the ICJ had no binding jurisdiction in the case of the Chagos). In the *Nuclear Tests* case, New Zealand sought and obtained an interim order forbidding France from conducting nuclear weapons tests which would lead to radioactive fallout in New Zealand. France took the view that the ICJ had no authority to issue the order, and exploded seven nuclear devices in defiance of the Court in the space of three months in 1974. It is not alleged that France's international standing suffered as a result.

In 1974, the ICJ issued a final judgment in the *Fisheries Jurisdiction* case, siding with the UK against Iceland as to the latter's unilateral extension of its fisheries jurisdiction to 50 miles. In response, not only did Iceland ignore the ICJ's ruling, but it quadrupled its fisheries jurisdiction to 200 miles. After a long and protracted conflict, the UK gave up enforcing its legal rights against Iceland, leading to the decimation of the British fishing industry. It is not suggested that Iceland's international standing suffered as a result.

The United States has also often refused to comply with binding ICJ rulings. To take but one example, state authorities have executed foreign nationals for murder in several instances where the ICJ had issued interim orders to not proceed with the executions while cases about consular access were pending before the Court. While there were short-term ramifications in relations between the United States and the countries whose citizens were executed, there is no evidence that these had any long-term diplomatic effects.

Hence, the claim that failing to "comply" with a non-binding, advisory opinion of the ICJ will harm the UK's international standing has no basis in fact whatsoever. The ICJ's decisions, whether advisory or binding, are

regularly ignored by leading democracies (the survey above having mainly focused on democracies for the obvious reason that non-democracies are even less inclined to follow the ICJ's decisions), so that the fear that not surrendering the Chagos to Mauritius will harm the UK's international standing is a wholly imaginary one.

## Conclusion: Withdrawing with Honour

It was never legally imperative, nor strategically judicious, to reach an agreement with Mauritius – or any state for that matter – which would relinquish British sovereignty over the Chagos Islands. Nevertheless, the British Government decided to do just that on several flawed bases: fears bred by the assertion that unsustainable legal pressure would mount in the future; the misguided faith that a deal will freeze a fluid and volatile strategic environment in aspic; and a perhaps somewhat cavalier treatment of the strategic risks at play.

Even if one adopts the most generous interpretation of the Government's position, there are crucial questions to answer about the quality of the advice received in both legal and political assessments, and about the robustness of the deal itself – which is already being undercut by changed circumstances. If the Government is confident that it has balanced the legal and strategic arguments judiciously, it should not eschew robust parliamentary scrutiny, including from the Foreign Affairs Select Committee. The Government's haste to rush the deal forward in advance of President-elect Trump's inauguration certainly suggests that it harbours doubts about how the deal will be received – despite various ministers' confident words to the contrary.

In any case, there remains only one rational assessment of the deal on the basis of the publicised terms, and the Government's overall handling of the situation: that it is an entirely self-imposed strategic blow. It leaves the door ajar to Chinese efforts to compromise a UK-U.S. naval asset in the Indian Ocean – one which is vital to our strategic position in Africa and Asia. It sets a precedent that the new British Government is one which can be pressured into making concessions in the pursuit of 'improved' diplomatic relations with the non-aligned world. And it risks souring our relationship with the incoming Trump Administration, just as Europe prepares to mount a case for sustained American commitments to Ukraine and the wider continent. The costs of this agreement, if it is concluded and ratified, are profound.

It is therefore fortunate that major developments since the announcement of the deal provide a perfectly legitimate reason, and opportunity, to withdraw before it is too late. The British Government's disregard for the Chagossian and Maldivian positions on the Chagos Islands discredits the notion that this was an equitable resolution to a past wrong. The change of government, and attendant attitude, in the U.S. provides serious cause

to reconsider the sense of ceding sovereignty over territory which houses a joint base. Most significantly, the new Mauritian Government has reopened negotiations in order to seek frankly exorbitant financial demands, in effect casting aside the original deal.

The UK is well within its rights to conclude that these changed circumstances warrant a change of plan. As this Research Note showed, there is no shortage of examples of states electing not to accept or follow non-binding legal opinions without suffering major diplomatic fallout. If, as seems very likely, the British Government cannot provide compelling evidence that the agreement fully mitigates all the strategic and security risks, it should walk away and stand on the UK's legal rights, notwithstanding the ICJ's non-binding opinion.



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Policy Exchange  
1 Old Queen Street  
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London SW1H 9JA

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