

International Agreements Committee

Corrected oral evidence: Implications of the transfer of sovereignty of the Chagos Archipelago

Tuesday 17 June 2025

4.05 pm

Watch the meeting

Members present: Lord Goldsmith (The Chair); Lord Anderson of Swansea; Lord German; Lord Hannay of Chiswick; Lord Howell of Guildford; Baroness Lawlor; Lord Marland; Lord Stevenson of Balmacara; Baroness Verma.

Evidence Session No. 2

Heard in Public

Questions 19 - 30

Witnesses

I: Sir Christopher Greenwood GBE, CMG, KC, judge of the Iran-US Claims Tribunal, former judge at the International Court of Justice.

USE OF THE TRANSCRIPT

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Examination of witness

Sir Christopher Greenwood GBE, CMG, KC.

Q19 **The Chair:** Good afternoon. This is a meeting of the International Agreements Committee of the House of Lords and we are investigating the agreement made between the United Kingdom Government and others on the Chagos Archipelago. We are very pleased, indeed very honoured, that we have Sir Christopher Greenwood who has come to give us evidence this afternoon. Sir Christopher, we are very grateful to you for putting yourself out. We know that you cannot be physically with us because you are in The Hague at the moment performing other duties for a tribunal on which you sit. We are grateful for that. If you can hear me well enough, I will commence the questioning and then other members of the committee will do so too.

We are looking at the Government's decision to enter into this agreement with Mauritius. They have explained that it is the result of particularly the advisory opinion from the International Court of Justice in 2019 on Chagos, which was followed by General Assembly resolution 73/295.

Could you give us your opinion of the legal effect of the advisory opinion and the United Nations General Assembly resolution under international law? The second part of this question is: what are the implications of the opinion and resolution for the UK but also for other states and United Nations bodies?

Sir Christopher Greenwood: Thank you very much, my Lord. There is no question that an advisory opinion, as its name suggests, is advisory. It is not the equivalent of a binding judgment but it is, of course, a very authoritative guide to the legal position. In reality, it would be very difficult for any state just to ignore an almost unanimous opinion of the international court.

The other thing I will comment on is that it is not a decision on sovereignty as such but it would be splitting hairs to make too much of that. It is an opinion that the United Kingdom did not properly carry out its obligations of decolonisation, back in the 1960s, for Mauritius and what was then the Mauritius dependency of the Chagos Archipelago, later the British Indian Ocean Territory. That opinion gives the clearest possible steer that no international court is likely to find in Britain's favour in a dispute about sovereignty.

The General Assembly resolution is also not legally binding but, of course, it is important, as General Assembly resolutions always are on issues of decolonisation. Again, it is a pretty clear indication of the way in which the international community of states sees the British Government's position about sovereignty. The impact, certainly at the political level, is very considerable. At the legal level it is a very clear indication to the United Kingdom that our arguments about sovereignty would be very unlikely to succeed in front of any international court or tribunal in the future.

The Chair: With your huge experience of having been a member of the International Court of Justice itself for nine years, if my memory is correct, the advisory opinion goes through the substantive arguments as well as the jurisdictional arguments, does it not?

Sir Christopher Greenwood: It goes through the substantive arguments about decolonisation. You could make a case for saying that the International Court should not have done that. I have a lot of sympathy for Judge Donoghue and Judge Tomka's view that it should have declined jurisdiction because there is precedent that it should not exercise its advisory jurisdiction over what is effectively a bilateral dispute between states but, to be honest, that ship sailed a very long time ago. It The Court has given a number of opinions in cases where there was a bilateral dispute between states in the background. The other thing is we are where we are. People can argue about whether it should have given this opinion, but it did and it said what it said and said it fairly vigorously.

The Chair: If I understand correctly, you are saying that if the matter were to come back by some different route before that court, it would

reach the same decision on the points it decided?

Sir Christopher Greenwood: Yes, I think it would and not just the International Court of Justice. I think it is fairly clear that any international tribunal would be likely to take that view.

The Chair: Thank you very much indeed. The next question comes from Baroness Lawlor.

Q20 **Baroness Lawlor:** In 2021 the International Tribunal for the Law of the Sea, as we have just discussed, so to retread some of the ground, determined a dispute between Mauritius and the Maldives on the basis that Mauritius was sovereign over the Chagos Archipelago. The UK was not a party to this dispute. Is it correct that under international law—and I think you have already commented on this but if you could make your views clear on it—courts are precluded from adjudicating disputes involving third parties without their consent? If so, does the ITLOS ruling have any impact on the UK?

I would like to elaborate a bit because I heard what you said to Lord Goldsmith but we have had four Governments one after the other, none of which have conceded sovereignty. Although you say that ship has sailed long ago, it is only in this treaty, if it goes ahead, that sovereignty will be conceded because initially the present Government did not cede sovereignty either.

There are two matters here that we want to get to the bottom of. One is: did the International Tribunal for the Law of Sea have the jurisdiction for such a judgment, since we were not party to this dispute? Two is, given that none of our Governments conceded sovereignty until this treaty, is it the case that the position has not changed unless this treaty goes ahead?

Sir Christopher Greenwood: There are several questions in one there, my Lady. The first one is that, of course, no court in international law in a case between state A and state B can determine the rights or obligations of state C. In a dispute between Mauritius and the Maldives, the International Tribunal for the Law of the Sea cannot make an authoritative ruling about sovereignty of the United Kingdom over these islands. Having said that, it did not think that that was what it was doing. It said, "This matter has been settled by the International Court of Justice in its advisory opinion. We can take that into account and, therefore, in determining the maritime boundary between the Maldives and Mauritius, we have to work on the assumption that it is Mauritius and not a third state, the United Kingdom, which has sovereignty over the Chagos Archipelago."

There is a line of authorities in the International Court of Justice that goes by the title of the monetary gold authorities because the Monetary Gold case was the one that first started this. I have to tell you that Monetary Gold is not something I would recommend anyone to go out and read without, shall we say, a bottle of whisky to hand. It is an exceptionally difficult case. The international court has not always applied the Monetary

Gold principle particularly consistently.

The Chair: Sir Christopher, I am sorry, I am just going to ask you to keep your voice up because we want to make sure that this is properly heard and it is coming out quite softly.

Sir Christopher Greenwood: Yes, I am so sorry. I am doing my best with this laptop but I am not sure whether my turning my sound up will make any difference. I have done what I can.

The Chair: Thank you.

Sir Christopher Greenwood: A ruling by ITLOS in a case between the Maldives and Mauritius has no direct effect on the United Kingdom. That is plain, but they did not think that they were ruling on the rights of the United Kingdom. They thought the International Court of Justice had already done that and, therefore, in determining where the maritime boundary between Mauritius and the Maldives lies, they took it that the Chagos Islands were part of Mauritius and that has a big impact on the way that boundary is drawn.

There is a case called Monetary Gold in the international court from the 1950s, which suggests that an international court should not rule as between state A and state B if the very subject matter of what it has to do implicates the rights of state C, when state C is not a party to the litigation. The international court has not always applied that entirely consistently and I do not think that ITLOS stepped particularly far out of line in taking the view that it did. It does not create any obligations for the United Kingdom but again it is a pretty clear indication of where the international community sees the rights and wrongs in this matter.

Baroness Lawlor: Do you agree with the critics of what has happened who say ITLOS simply rubber-stamped an advisory ruling by the International Court of Justice, which it could or could not do but it does not have any authority to do? It was purely advisory and it was just rubber-stamping something that that body had done.

Sir Christopher Greenwood: The difficulty for ITLOS or for any tribunal deciding a law of the sea dispute is disputes about the interpretation or application of the Convention on the Law of the Sea have a compulsory dispute settlement mechanism. It is one of byzantine complexity in the various provisions of the Convention on the Law of the Sea but, of course, it does not give jurisdiction over disputes about title to land. That is why when I was an arbitrator in the case between Mauritius and the United Kingdom about the marine protected area, I and the majority of the tribunal took the view that we could not determine the dispute about sovereignty over the land, but that does not mean that a court or a tribunal cannot take account of what another court has said in a particular case.

I do not think that ITLOS should be criticised for having relied upon the advisory opinion. The alternative would have been either not to deal with

the dispute at all, which is not very helpful, or to deal with it but to leave an enormous blank area in the dispute, and again that is not very helpful either.

- Q21 **Lord Hannay of Chiswick:** Sir Christopher, I want to follow up something that emerged from the question that was put to you by Baroness Lawlor, which is the issue of the transfer of sovereignty. I do not know if you saw the evidence that Philippe Sands gave the committee last week in which he made it clear that he did not think that there was a transfer of sovereignty, that this was not the correct way of describing what this treaty does. Could you say something on that point since I think otherwise there is a chance that the way the question was classed will overshadow this rather important point?

Sir Christopher Greenwood: Article 1 of the treaty is a masterpiece of drafting in that it clearly is designed to meet two very different views by the two states. Mauritius maintains it has always been sovereign; Britain maintains that it is transferring sovereignty. The formula in Article 1 just says Mauritius is sovereign, which neatly avoids having to take a firm position about this. If the agreement is ratified, I do not see that it really matters very much. If, on the other hand, it was not to be approved, this could be very important indeed because Mauritius would say that the very fact that this article is here amounts to a recognition by Britain of Mauritian sovereignty. I think that the British Government would take a different view.

I came across a very similar example years ago in a treaty that was never ratified between Israel and Lebanon, which simply says the state of war between the two countries has ended. It does not say when or how and it does not grapple with the question of what to do if the treaty is not ratified, which is what in fact happened with that treaty. I think that the agreement we have here is an attempt to cover both countries' positions without taking a firm stance between them.

The Chair: Can I follow on from Lord Hannay's question? You mentioned before, very clearly, what might happen if the issue of sovereignty came before another court. Can you give us an indication of what the route might be for a binding judgment, given that the UK's acceptance of the compulsory jurisdiction of the ICJ excludes disputes with other Commonwealth countries? Can you see routes by which it would happen?

Sir Christopher Greenwood: Very complicated ones. I think there are two routes by which it could happen but it is possible that there are others. The first is if Mauritius were to find a dispute under the Convention on the Law of the Sea that it could then bring before a law of the sea tribunal. That would have to be an Annex VII arbitration. It could not be an ICJ decision and it could not be an ITLOS decision because when Mauritius ratified the Convention on the Law of the Sea it opted for Annex VII arbitration and that is the default position unless both states agree something different.

If there were to be an Annex VII arbitration in process, Mauritius could then go to the International Tribunal for the Law of the Sea to try to get provisional measures of protection that would be legally binding. You can imagine various ways in which a dispute of that kind could be set up. For example, Mauritian ships ~~entry~~ enter into the waters around Diego Garcia or the other Chagos Islands and are subjected to some kind of restraint if ~~they did so and~~ Then a dispute ~~following about that~~ could be taken to arbitration. Both the arbitration and the provisional measures that would be indicated by ITLOS in such a circumstance would be legally binding. I think that is the likeliest.

There is also a possibility, I suppose, that even though the optional clause, as it is called, on general jurisdiction of the international court could not be invoked, you could envisage a case arising between Britain and Mauritius under one of the multilateral treaties, such as counterterrorism treaties, for example, or racial discrimination or something of that kind, which then brought the matter before the International Court of Justice. I have always been very hostile to using multilateral conventions as a way of bringing a dispute that is really about something else before the international court but I could not rule out that it could happen.

Q22 Lord German: Thank you for those replies. Following on from that, the agreement says "Mauritius is free to implement" a resettlement programme on the outer islands of the archipelago, but there is no obligation to do so. Such resettlement is to be implemented in accordance with the agreement and with the laws of Mauritius. Some members of the Chagossian community have reportedly complained to the UN Human Rights Council that their rights have not been respected in the agreement. On 11 June four United Nations human rights experts called for the agreement to be renegotiated for this reason. Do you think that United Nations human rights bodies have any locus in this matter and do you think that members of the Chagossian community have any legal recourse against the UK under international law?

Sir Christopher Greenwood: I think that the experts that were retained by the Human Rights Council are free to express an opinion on the subject. I do not think they are exceeding their powers by doing so. It is not binding on the UK, or on Mauritius for that matter. The whole problem with the way the Chagossians were treated is that, frankly, it is a shameful episode in the history of the United Kingdom and I do not think that Mauritius comes out of it entirely well either.

Looking at the terms of the treaty and whether there is a breach of any rights there, it is never going to be the case that there will be resettlement on Diego Garcia while the base is there. Britain's standing to argue that Mauritius should be required to resettle Chagossians on the other islands, frankly, is somewhat undermined by the fact that the United Kingdom has consistently refused any suggestion of resettlement on the other islands. That is a position that the UK Government have reaffirmed relatively recently. I cannot give you the exact date.

I have every sympathy for those Chagossians who feel that they are being shortchanged by this treaty but I am not sure that at this stage Britain would be in a position to require anything more of Mauritius. What you have got in the treaty is about as good as it is going to get in the present circumstances.

Lord German: Do you think that the right of self-determination has any relevance to the Chagossians' situation?

Sir Christopher Greenwood: You have to look at the right of self-determination in a historical perspective. The period from 1965 to 1968 is when Mauritius became independent; the Lancaster House conference was in 1965 but independence itself was not until 1968. The right of self-determination existed only in a colonial context and it was the right of self-determination of the entire people of the colonial unit. That would be all inhabitants of Mauritius and the Chagos Islands and there is very clear and consistent practice through the decolonisation times of not permitting bits of a colony to break away from the colony in exercise of the right of self-determination.

Today we would take a slightly broader view. Self-determination has been raised for Scotland and Quebec, for example, but I think the basic principle still holds good here that the Chagossians do not have a right to determine what happens on the Chagos Archipelago that is separate from the rights of Mauritius under the decolonisation process. I am sorry, I realise that is not a particularly attractive answer to give but I fear that that is probably the view in international law even today.

Lord German: That is presumably based upon the ICJ reference to self-determination relates to the entirety of a non-self-governing territory?

Sir Christopher Greenwood: Yes, that is right. You could say, I suppose, that since the Chagos Archipelago was treated separately by Britain in 1965-68 and retained as the British Indian Ocean Territory there is an argument for saying that the inhabitants of the British Indian Ocean Territory—or to be more precise the people who were the inhabitants at the time it was set up more than 50 years ago or the descendants of those inhabitants—should have a separate right of self-determination, but I do not think that that argument would prevail in an international court. It would also be inconsistent with the treatment of a great many groups that tried to secede from various colonies, not just British ones, at the time of independence.

Baroness Verma: I want to put on record to declare my interests as laid out in the register. Sir Christopher, this question neatly goes on from your last comment. Will the agreement on the Chagos Islands have any legal implications for any of the other UK overseas territories? When you answer it, could you give a little bit more detail on where, what and how?

Sir Christopher Greenwood: I do not think it has any legal impact on other British Overseas Territories. In some of those territories there are outstanding territorial disputes—the Falkland Islands with Argentina,

Gibraltar with Spain—but those disputes are very different in character from the dispute that you are dealing with in the case of Mauritius. Of course, self-determination for the Falklands and Gibraltar would work in favour of continued unity with the United Kingdom because that is clearly the view of the majority of the inhabitants of the territories in question. What you have there is an argument about the balance to be struck within the decolonisation resolutions between self-determination and restoring the unity of a previous sovereign territory. That is very different from the issue in the Mauritius case.

Q23 Lord Stevenson of Balmacara: Moving on to a more detailed point, paragraph 2 of annex 1 to the agreement requires the UK to inform Mauritius “expeditiously” of any armed attack on a third state emanating from Diego Garcia. Do you think that that provision requires information to be provided only after the event?

Sir Christopher Greenwood: I would not say “only after the event”. It is certainly not a general requirement of information to be provided in advance of a military operation. I think of the word “expeditiously” as meaning as soon as is reasonably practicable. What is reasonably practicable in a military matter would include security concerns and in particular not giving everybody advance notice that you are about to conduct a military attack operation of some kind. Probably my answer to your question is that I read it as being essentially about after the event notification.

Lord Stevenson of Balmacara: You are not surprised by the use of that word? Does that pop up in other places you can think of?

Sir Christopher Greenwood: I cannot think of another treaty with a provision like this, off the top of my head. I noticed that in giving his answers last week, Professor Sands, who of course represents Mauritius, was much more cautious in what he said. I think that possibly this is another example of the two parties having slightly different views.

Lord Stevenson of Balmacara: If we turn it around, do you think Mauritius would have any responsibility under international law if an armed attack were launched by the US, for example, from Diego Garcia in violation of the rules of international law?

Sir Christopher Greenwood: No, I do not. I think that the UK might be responsible if the United States conducted an attack that was in breach of international law from territory that had been leased to the United Kingdom, but I do not see that Mauritius would have such responsibility, any more than I can see that Cuba, for example, would be responsible for an attack carried out by the United States from Guantanamo Bay.

Lord Stevenson of Balmacara: Or anybody, yes. Thank you.

Q24 The Chair: Can I pick up on two points, please, Sir Christopher, following those very important answers? You expressed your opinion about whether the provision to which your attention was directed would require information in advance of an attack. If this is not an unfair question, what

degree of confidence do you have that it would not be treated as requiring, under any circumstances, provision of information in advance of an attack?

Sir Christopher Greenwood: Yes, that is a difficult question to answer. I think that this provision could be read differently and I do not think that you would get a unanimous answer from an international court or tribunal about it. A lot would depend upon the facts of the individual incident. In some cases an operation might take place where secrecy in the run-up to that operation was absolutely essential, the period of time involved was short. I do not think that there, in good faith, you could read the word "expeditiously" as requiring advance notification, but there are other circumstances where it would be much more difficult to argue that there was no need to notify Mauritius until after the event. I am sorry, that is a real lawyer's answer, my Lord.

The Chair: It is very important. Forgive me, I am going to ask you to try to keep your voice up. We have fans going on in here, which makes it even more difficult to hear you and I apologise.

Sir Christopher Greenwood: We have a heatwave in The Hague as well, which is almost unheard of.

The Chair: This is my second question. You mentioned what Professor Sands said. It happens to be question 7; I have the uncorrected transcript in front of me. He gave an answer in this context where he said, "Assuming that there is compliance with international law, there will be no difficulties at all". Is that the passage you had in mind?

Sir Christopher Greenwood: I am afraid I cannot remember. I have his evidence here but it would take me a moment to find it. He made a point in response to a question from you, my Lord, the gist of which was that this provision says what it says. I am sorry, it will take me a moment just to turn it up.

The Chair: I think I know which one that is. I was asking a slightly different question. It is not really a question; you were commenting upon his evidence, but I was looking at it afterwards. Do you have it in front of you?

Sir Christopher Greenwood: Yes, is it question 11? "Lord Goldsmith, you have plenty of experience in negotiating agreements. It says what it says. It is a form of words that leaves open presumably different interpretations. The interpretation that you have put to it is plainly one that can be sustained by the text of the treaty."

The Chair: We could take a view as to that, but could I direct you to his answer under question 7? If this is an unfair question, please do not bother to answer it. He was being asked by Lord Houghton, who is a former CDS. He makes a reference to Article 4, which is the article that commits each party to ensure that there is compliance with international law, and then says, "Assuming that there is compliance with international law, there will be no difficulties at all". Did you read anything into that?

Could it be said, for example, that that is a condition of the compliance of Mauritius with the obligations under the treaty?

Sir Christopher Greenwood: Article 4 of the treaty provides a general duty for each party to assure that everything it does in relation to the treaty is in compliance with international law. That would apply, for example, to Mauritius's human rights obligations to the Chagossians. It would apply to the use of the base for military operations. I am sure that the United Kingdom would not embark on a military operation that it did not consider was in compliance with international law. Of course, it is possible that Mauritius could take a different view.

Q25 **Lord Marland:** My apologies not to be with you. I am in an air-conditioned office. Sir Christopher, thank you very much indeed. As you know, Article 15 provides a termination clause if the UK fails to make payment on the one hand or threatens to launch a military attack on Mauritius or if an attack is launched from Diego Garcia by another state. That is quite current at the moment. Do you think, therefore, the article is sufficient to exclude other grounds for termination under general international law? If not, what other grounds might Mauritius have for termination?

Sir Christopher Greenwood: I think that if you look at the grounds for termination under general international law, they include ~~the opening article,~~ Article 54 of the Vienna Convention on the Law of Treaties, which says that a treaty can be terminated by agreement between the parties—that is clearly the case—or it can be terminated in conformity with the provisions of the treaty. That is a sort of leitmotif that runs through the later provisions, for example Article 60(4) on termination for material breach. Given how explicit Article 15 of the present agreement is, I would read the provisions of the Vienna convention on termination for material breach as being subject to this clause.

You can obviously think of other material breaches of this treaty that could take place but this treaty is very explicit in limiting Mauritius's right to terminate to these two grounds, non-payment or the use of the base for an attack upon Mauritius. I cannot see any likelihood of the base being used for an attack upon Mauritius but I suppose one can never quite envisage what might happen over a 99-year period.

Lord Marland: No. We live in interesting times. Thank you very much.

Q26 **Lord Howell of Guildford:** Pursuing the dispute issue and slightly turning it on its head, a dispute could arise on something Mauritius feels threatens its position. It could arise on something the other way round. Under Article 15, does the UK have the right to always go to arbitration if we come to a halt in dealing directly with Mauritius? How do you think this arrangement might work out? Turning this issue on its head for a moment, given that weapons technology is proceeding at such a fantastic rate that in five or 10 years the whole concept of Diego Garcia may be completely out of date—very likely in my view—what would happen if we turned round and said, "We do not want to be stuck with a 100-year

lease. We would like 10 or 20 years or less and we are finished with you"? How would that work out?

Sir Christopher Greenwood: On your question about dispute settlement, the answer is no. The only circumstances in which the treaty provides for binding dispute settlement is for a dispute under Article 15. If there is a dispute of another kind, the dispute settlement mechanism is the one in Article 14, which is political. That does not rule out the possibility that a dispute outside the scope of Article 15 could be taken to a dispute settlement mechanism outside the terms of this treaty but it would be pretty difficult to see at the moment quite what that would be.

On the question of whether the United Kingdom could terminate in advance of 99 years, I cannot see that under this treaty. I think the quid pro quo for Britain getting a guarantee of 99 years is that Mauritius gets a guarantee of 99 years as well. Even if Diego Garcia ceases to be useful as a base, we could not get out of our obligations to make payments to Mauritius without their agreement.

Q27 The Chair: Sir Christopher, it has been enormously helpful having your evidence. Is there anything else you would like to draw to our attention about this treaty, having had the opportunity of looking at it?

Sir Christopher Greenwood: Yes. I read with interest the evidence of Professor Ekins and Professor Sands. I have to say that the treaty is not perfect, but I have never seen a treaty that is. It is necessarily a compromise between the views of the two states in question. Following that opinion from the international court and the vote in the General Assembly on the resolution, I think that it would be in Britain's interests to ratify this treaty.

The consequences of not ratifying it are that, first of all, it completely undermines our position that we are a state that wishes to promote the rule of law in international affairs. It is, frankly, a rather unattractive position to take to go round the world saying that we are in favour of respecting international law but not in a case where our security interests are at issue and we cannot see any likelihood of being taken to a binding decision of an international court, even though we are fairly confident that we would lose in such a binding decision were it to happen. Secondly, the risks of it being tested out in some other context are very troubling indeed and could lead to a result far less attractive than the one we have from this treaty. I would be in favour of the agreement.

The Chair: That was a very important answer. I am slightly anxious because it became quite difficult for us to hear it. I have a couple of supplementaries from Lord Howell and Lord Hannay.

Q28 Lord Howell of Guildford: This is a brief supplementary. We obviously have the lease of various military bases around the world like Akrotiri in Cyprus and so on from the sovereign governments. Do you feel that this is a particularly good one when the money ticket is very large indeed? What is it, £99 million a year, and some estimates say by the time we have gone 100 years or much less, it will be in the many billions. Is that

the right way we want to go and have we avoided that trap in other cases?

Sir Christopher Greenwood: Cyprus is not a lease. Cyprus is a very different case because the sovereign base areas there were retained by Britain when Cyprus became independent. It is not analogous to the situation of Chagos under this agreement.

Is it worth it? That is not really a legal judgment. That is a judgment that the Government have to make in the light of how important Diego Garcia is to our security. We have always said it is essential to British security and if it is that important, presumably it is worth paying this price for it.

- Q29 **Lord Hannay of Chiswick:** I was pleased to hear what you said about the sovereign base areas, with which I had quite a lot to do during the seven years, as UK representative for Cyprus, I was trying to bring about a reuniting of the island. The basis for our status in the sovereign base areas is set out in a rather large number of international treaties, which both Cyprus and we have ratified. I am pleased to hear you say that there is no analogy there.

The very interesting answer that you gave for a non-lawyer sounded to me like saying that all our Governments in recent years have stood at the Dispatch Box and said that we stand by the rules-based international order, period. They have not qualified it or said "in most circumstances" or "when we feel like it" or anything like that. That is hardly consistent with a refusal to go ahead with this treaty, if I have understood your point of view, without doing some considerable damage to the basic position of supporting a rules-based international order.

Sir Christopher Greenwood: Yes, my Lord, that is exactly what I am saying. The rather unattractive position, as I put it, is to say, "We grant you that the International Court of Justice in its advisory opinion was virtually unanimous that we should have handed these islands to Mauritius at the time of independence and our continued presence there is a breach of our international obligations, but it is only advisory. There is no binding decision and we do not see a route by which a binding decision could be given against Britain." To say that really cuts the ground from under the feet of any Minister who says, "We support the rules-based international order". We have to have respect for the opinion that the court has given.

The Chair: I have one final question, if you can bear with us, please, Sir Christopher, from Baroness Lawlor.

- Q30 **Baroness Lawlor:** Thank you very much, Sir Christopher. What you have said is very helpful. Do I infer from what you said about the international treaty-making that Britain was quite specific with Cyprus in carving out the base and saying, "This will remain our territory" and by implication you are saying—but I do not want to put words in your mouth—that that was never made clear until now, whereas with Cyprus it was clear all along but it is not clear now with Chagos?

Sir Christopher Greenwood: I am sorry, that is not quite what I am saying. I am saying that the lease that we would get for the Chagos Islands under the terms of this treaty cannot be compared with the status of the sovereign base areas because the basis of British title there is not a lease. Also the sovereign base areas I suppose you could say is the one area of British dependent territories that might be affected by the deal on Chagos, but the big difference is that Cyprus's independence came about as a very unusual procedure involving agreements between Britain, Greece and Turkey as well as Britain and the emergent state of Cyprus. Part and parcel of that was the retention by Britain of the sovereign base areas. It is rather different from any other case that I can think of.

Baroness Lawlor: Is it right to infer that Britain was not clear about what it wanted?

Sir Christopher Greenwood: Sorry, Britain was not clear when?

Baroness Lawlor: It wanted to go ahead on Mauritius on the same sort of basis as it went ahead with the Cyprus treaty.

Sir Christopher Greenwood: Yes, I suppose so. The Cyprus treaties were negotiated in 1959, if memory serves me right, and concluded in 1960. In 1965 Britain wanted to retain what it set up as the British Indian Ocean Territory in much the same way as it retained the sovereign base areas, but there are lots of rather important differences. There was no deportation of an indigenous population in the case of the base areas. I have been to the sovereign base areas—I have not been to Diego Garcia—and you can drive through from Cyprus into one of the base areas relatively easily. Many people from Cyprus go and work in the base areas.

It is a very different state of affairs and I think the argument about consent at the time of the independence of Cyprus is somewhat stronger than it is in the case of Mauritius. There was a lack of frankness, a lack of candour in relation to the Mauritian chief minister at the time of the independence negotiations. I do not think the same is true of Cyprus but I have to confess I have not done any research on Cyprus. It is just the analogy that came to mind when we were talking.

The Chair: Sir Christopher, we have been privileged to have your evidence because it is unusual for a committee of this House to have evidence from a former member of the International Court of Justice on such an important issue. We are very grateful to you. You had no obligation to give this evidence. You did it because we asked you to, so I want to thank you very much for that on behalf of the committee and of the House. Thank you so much and that concludes the evidence that you have given to us, for which we are very grateful.

Sir Christopher Greenwood: Thank you very much, my Lord. It has been a pleasure and a privilege to appear in front of the committee.