



# AUSTRALIA



AUSTRALIAN MISSION TO THE UNITED NATIONS

E-mail [australia@un.int](mailto:australia@un.int)

150 East 42<sup>nd</sup> Street, New York NY 10017-5612 Ph 212 - 351 6600 Fax 212 - 351 6610 [www.AustraliaUN.org](http://www.AustraliaUN.org)

**UNITED NATIONS GENERAL ASSEMBLY**  
**22 May 2019**

**Advisory opinion of the International Court of  
Justice on the legal consequences of the  
separation of the Chagos Archipelago from  
Mauritius in 1965 - Item 88**

**Explanation of Vote**

**Statement by H.E. Gillian Bird  
Ambassador and Permanent Representative  
of Australia to the United Nations**

(Check against delivery)

---

Madame President,

Australia did not take its decision lightly to vote against this resolution and wishes to take this opportunity to explain our vote.

We respect the decision of Senegal to bring forward this resolution, which we appreciate was co-sponsored by all members of the African Group.

We first wish to reiterate that Australia remains a strong supporter of the UN's decolonisation agenda and acknowledge that this agenda is incomplete.

We also continue to respect the desire of the Government of Mauritius to resolve outstanding issues in relation to the Chagos Archipelago, consistent with the 1960 UN Declaration on the Granting of Independence to Colonial Countries and Peoples.

Australia has carefully examined the non-binding Advisory Opinion on this matter rendered by the International Court of Justice on 25 February 2019, notwithstanding Australia's long-standing position that the Court's advisory jurisdiction should not be used to adjudicate bilateral disputes.

Make no mistake though, Australia views as critical the Court's role in adjudicating contentious cases between consenting states, as reflected in Australia's acceptance of the compulsory jurisdiction of the Court.

Madame President,

We wish to underscore that Australia does not take a position on the merits of this matter.

However, Australia is deeply concerned that the UN General Assembly is being asked to implement an Advisory Opinion which is not binding on the two parties in the manner in which this resolution would seek to represent it.

We consider State consent is a cornerstone of international law and we note that both parties did not consent to binding judicial settlement of this matter.

It is our view that the UN General Assembly should not seek to act on the ICJ's non-binding Advisory Opinion as if it were otherwise.

Australia is also concerned that the inclusion of an arbitrary six-month timeframe is manifestly unreasonable.

In addition, the resolution goes beyond the ICJ's advisory opinion on matters relating to territorial integrity. The resolution has also been drafted without adequate consultation with member States.

We consider there is a risk this resolution will set an unhelpful precedent and would encourage the reference of other bilateral disputes to the ICJ by the General Assembly, thus further entrenching the advisory jurisdiction as a means of circumventing the requirement for consent in the exercise of the ICJ's contentious jurisdiction.

We also reaffirm our view that the joint United Kingdom-United States military base on Diego Garcia is playing a pivotal role in the maintenance of regional and global security, including in relation to counter-terrorism and counter-piracy.

We remain firmly of the view that it is in the interest of all members of the General Assembly to ensure that there is no uncertainty about the status of the base that could jeopardise its contribution to international peace and security.

Madame President,

For these specific reasons, Australia voted against today's resolution.

However, we again encourage both Mauritius and the United Kingdom to intensify their dialogue so as to achieve a durable solution consistent with both countries' commitment to the international rules-based order.

Thank you.