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UNITED KINGDOM MISSION TO THE UNITED NATIONS
845 Third Avenue, New York, N.Y.

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(15119/3/66)

2 February, 1966.

Dear Christopher,

(65) ^{WLS} Thank you for your letter IRD/140/458/01 of 7 January about the Indian Ocean Territory and Article 73 of the Charter.

2. On future action by the Committee of 24 (your paragraph 1) we must certainly expect that the Committee will want a discussion on the issue. We do not know when it will come nor in what form and much will depend on the rest of the Committee's programme and on any further petitions. Although there is no sign at present of this becoming a really major issue at any rate compared with such questions as Rhodesia and Aden, there is every possibility as Lord Caradon told your Secretary of State at the meeting on 20 January, that we shall be faced with serious trouble, and much will depend on how we can present the matter.

3. It is worth noting what has happened in the Fourth Committee so far. Both the Committee discussions and Assembly resolution 2066(XI) dealt with the matter as part of the question of Mauritius. Officially no cognizance was taken of the existence of B.I.O.T. as a separate entity and indeed the resolution simply noted with deep concern that any step to detach the islands "would be" a contravention of resolution 1514 and invited us to take no action which "would" dismember the territory and violate its territorial integrity. Many delegations may not have tumbled to the fait accompli of separation. The question of adding B.I.O.T. to the list of non self-governing territories may not therefore arise immediately so directly as you suggest, and the point at issue may come up initially under either Mauritius or the Seychelles as it has in the past.

4. Secondly the point of attack, or rather warning, has so far been restricted, apart from the general "bases" issue, to the point concerning the territorial integrity of Mauritius and the Seychelles in the context of resolution 1514 and is not yet on the more serious charge of violating Chapter XII of the Charter itself, although this would come and be much more serious if it became apparent that we were doing so. Eventually we shall have to face the issue of whether we regard Chapter XII as applicable, if only when the Committee of 24 comes to report on the transmission of information under Article 73(e) for 1965. If we have not transmitted any information, this will be almost certain to attract comment and we shall be obliged to justify our position. This brings me directly to the point in paragraph 3 of your letter that

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the new territory should not be considered as a non-self-governing territory.

5. It is extremely difficult to comment on this point on the basis of the information available - especially that in Jerrom's letter IRD 140/52/01 of 28 July last year, P.O. telegram No. 4361 to which you refer, and your letter under reply - and in particular in the absence of any firm plans about the future of the present inhabitants, the timetable for establishing the defence facilities, and the extent to which some inhabitants may remain after each island has been "militarized". It seems clear however that to begin with a considerable number, and even at the end some, of the present inhabitants will remain, and this of course causes the main difficulty from the point of view of presenting our case here.

6. On the basis of the information available it seems to us difficult to avoid the conclusion that the new territory is a non-self-governing territory under Chapter XI of the Charter, particularly since it has and will or may have a more or less settled population, however small. We cannot disclaim Charter obligations to the inhabitants because they are not indigenous, since this would destroy our case on the Falklands and Gibraltar; nor apparently would the facts substantiate a plea that the inhabitants are not permanent - even if (which is not necessarily the case) Chapter XI of the Charter were confined to permanent populations. Therefore we have felt that, however we may present the issue, the United Nations will consider that it does fall under Chapter XI; it is not in their view so much a question of our deciding whether or not to accept a Charter obligation as of our actually having one whether we like it or not. Openly to refuse to accept our obligations would of course also be in contradiction of the colonial policy which we have not only followed of our own free will, but announced time and time again here, that we proceed by consultation and consent on the basis of the paramountcy of the interests of the people concerned and in accordance with the principle of self-determination. Moreover if I understand it right we have in fact gone as far as we possibly can to safeguard the interests of the people and intend to continue to do so: given that defence facilities were required, we have looked for as unpopulated a set of atolls as we could find, consistent with military requirements, so that the minimum hardship would be caused; in order not to complicate the decolonisation of Mauritius and later the Seychelles, we have created the new territory; and we are now going to pay large compensation to Mauritius and the Seychelles and do the best we can for the inhabitants. We therefore wonder whether, in the light of the point in paragraph 4 above, it is really right to conclude that we cannot so act as to be able to present a fairly reasonable case for the thesis that our actions are consistent with our Charter obligations in respect of the new territory, and more important its people, and really right that we should ourselves deliberately give the Committee just cause for criticising us for a complete breach of the Charter, if that can possibly be avoided.

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7. It may therefore be worth looking again at what would have to be done if we were to accept and try to discharge our Charter obligations. In theory we should have to accept the paramountcy of the interests of the people, develop self-government and free political institutions, and take into account their political aspirations; we should have to act in a manner which could be reconciled with the principle of self-determination (in view not of Chapter XI but rather of our own repeated and unqualified commitments to do so in all our territories); and we should also have to report on the territory. In practice this might not necessarily amount to more than devising some means of associating the present population pending their evacuation, and the final remaining labour force after militarization, with the administration of the islands. We would also have to devise evacuation schemes, as and when the time comes for each individual island, with suitable individual financial inducements to ensure that those who are to stay can be shown to have done so voluntarily. Would not these measures to some extent at least be necessary for the orderly administration of the islands and of the evacuation, quite apart from our Charter obligations, even though they would be difficult? As regards reporting we shall be faced anyhow with having to explain in the Committee of 24 and the Fourth Committee what we are doing in order to answer petitioners and criticisms. Would reporting under Article 73(e) necessarily inflict any further burden or have any wider long-term implication which we could not accept?

8. We fully realise that this course may be either impossible to carry out because of the geographical separation of the islands, or be incompatible with Anglo/American military requirements, and that the acceptance of Article 73 obligations may eventually land us in trouble, and that therefore the conclusion reached in your paragraph 3 may still turn out to be the only one practicable. You may however think in view of the arguments above that it is worth looking at again. It would incidentally to some extent mitigate the difficulty of our attitude in these islands conflicting with our position over the Falkland Islands and Gibraltar - a conflict to which attention has already been drawn in the Fourth Committee.

9. Should this not be possible we entirely agree that it is worth considering what measures might be taken to reduce our vulnerability to criticism. The measures foreshadowed in your paragraph 5(1) and (2) would certainly help us to some extent, by enabling us to show that there was no local ownership of land and that all the inhabitants of the islands were legally either Mauritians or Seychellois. But to give this substance we should have to demonstrate that all these people had the full political and other rights of other Mauritians and Seychellois - including, most important, the right to vote

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and to be represented in their parent legislatures, and to enjoy Mauritius or Seychelles citizenship - in fulfilment (until independence) of our Charter obligations in respect of those two territories. If some special arrangement could be made to enable those on the islands to exercise their votes (by post or proxy) at elections in Mauritius and the Seychelles, this would make the point more obviously valid. Again, if there are any of the inhabitants who are not accepted by Mauritius or the Seychelles as "belongers", would it be possible to consider making them full United Kingdom citizens with voting rights in the United Kingdom? In this way, we could properly claim that although we could not accept any obligations in respect of the Indian Ocean Territory as a territory, we fully accepted our obligations, including Chapter XI obligations, to the people living in the Territory and were actively discharging those obligations. Then - a point already brought out above - it would be highly desirable to avoid any action relating to the evacuation of these people, as and when this becomes necessary, which might smack of compulsion. Our position would be much better here if we could show that the people concerned had voluntarily accepted evacuation and that this was because their interests had been properly looked after in the process.

10. I should add that we are also inclined to think that the measures in your paragraph 5(1) and (2) would be worth taking even if you were able to decide that we should accept our Charter obligations as suggested earlier in this letter. They might help us to justify the eventual evacuation measures and possibly also to dodge demands under Resolution 1514 for progress towards independence. In that case the provisions made for the inhabitants to have some say in the administration of the islands would be a bonus, over and above their rights as Mauritians or Seychellois.

11. Finally the reaction here. Whatever we do we are liable to be faced with serious trouble and, whether we try to show that our actions are consistent with our Charter obligations under Article 73 or not, there will always be those who will accuse us of being in breach of them. Indeed it would not be difficult for our critics to develop the arguable thesis that detachment by itself was a breach of Article 73. Nevertheless we are inclined to think that if we were to accept our Charter obligations in respect of the new territory, or at least not say we were not doing so, the effect of the reaction would probably be mitigated, and that conversely, if we deliberately say we will not do so, it will be increased. In either event what seems to us important from our angle here is that we should have as good a case as we can to explain and that in that explanation it should be clear that we are doing our best for the, admittedly very few, inhabitants concerned.

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12. I am sorry that this is a bleak reply. Whatever you decide we shall of course do our best to defend it here and, such are the vagaries of the people with whom we are dealing, we cannot be certain that our predictions are right.

13. Copies of this letter are being sent to Sam Falle in the Foreign Office and Diggins in the C.R.O.

*Yours ever,
Brian Barber*

Rp. (F.D.W. Brown)

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