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P18

November 14, 2000

RELEASED IN FULL

Eric Newsom
Assistant Secretary of State
for Political-Military Affairs
U.S. Department of State
2201 C Street, N.W.
Room 6212
Washington, D.C. 20520

Re: Chagos Islands; The Queen (Ex parte Bancoult) v. Secretary of State

Dear Mr. Newsom:

I have been retained by M. Olivier Bancoult and by individuals comprising the Chagossian (or Ilois) community, and by the organizations they have formed to represent their interests. My retention has been arranged through Richard Gifford, Esq., of Sheridans, the solicitors in London for these clients, and by Sivkumaren Mardemootoo, Esq. of Mauritius, their counsel in that country. I am acting as part of the human rights pro bono program here at Washington College of Law, with the assistance of our students.

We have read the judgment given November 3, 2000 by Laws, L.J. and Gibbs, J., your letter of June 21, 2000, in connection with that litigation, and the trial file in that litigation. On that basis, we have concluded that the Chagossian people have claims against (1) the United States, (2) individual officers of the United States, and (3) private contractors who constructed the Diego Garcia facility. We believe that these claims include violation of peremptory norms of international law (both treaty and non-treaty), and violation of United States law in connection with the forced relocation of the Chagossian people and the continued restriction on their return to their homeland. These claims are monetary and non-monetary.

We recognize that these claims may be subject to defenses based on immunity or passage of time, but have also concluded that such defenses would not in the end succeed.

Her Majesty's Government (HMG) has indicated that it will be conferring with the United States Government (USG) to chart the future of the Chagos Islands in light of the British judgment, the new BIOT ordinance, and the existing contractual rights and security interests of the United States.

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UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: FRANK H PEREZ
DATE/CASE ID: 10 AUG 2006 200503422

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We believe there are four possible means to evaluate the Chagossians' claims and to resolve these issues. They are (!) negotiation; (2) mediation; (3) arbitration and (4) litigation.

Negotiation would be a preferred solution. British, Mauritius and U.S. counsel can present their unified position to the HMG and USG representatives, and the Chagossians' claims worked out as part of an overall resolution of the issues.

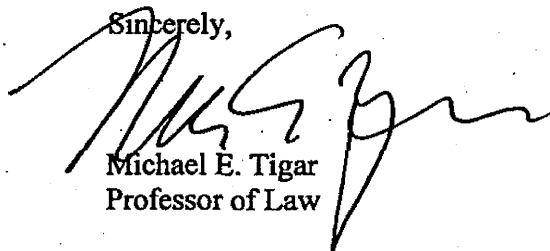
It may be helpful in this context to use the services of a mediator agreed by the parties. The USG Justice Department has often used mediators to resolve complex disputes, and there are international law specialists who could serve in that capacity.

Third, the parties might agree to an arbitration of issues relating to the Chagossian people. Any monetary settlement resulting from an arbitration would be considered an ex gratia payment that did not admit liability nor create a precedent.

If the two governments cannot resolve these issues by these alternative dispute resolution methods, we are prepared to file a lawsuit in the United States courts (with the possibility of parallel litigation in other countries).

We would be happy to meet with you at your early convenience to describe in more detail the legal and factual basis of the Chagossian claims. That seems a good first step.

Sincerely,



Michael E. Tigar
Professor of Law

BY MESSENGER

Copy via fax to Richard Gifford & Sivkumaren Mardemootoo

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