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## STATEMENT OF THE CHAIRPERSON OF THE COMMISSION ON THE ADVISORY OPINION OF THE INTERNATIONAL COURT OF JUSTICE ON THE PROCESS OF DECOLONIZATION OF MAURITIUS

**Addis Ababa, 26 February 2019:** The Chairperson of the African Union Commission, Moussa Faki Mahamat, welcomes the historic Advisory Opinion issued yesterday by the International Court of Justice (ICJ) on the Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965. This Advisory Opinion was delivered in response to a resolution adopted by the United Nations General Assembly on 22 June 2017, at the initiative of the African Group in New York.

The Chairperson of the Commission would like to highlight three key aspects of the ICJ Advisory Opinion:

- i) the process of decolonization of Mauritius was not lawfully completed when that country acceded to independence in 1968, following the separation of the Chagos Archipelago;
- ii) the United Kingdom is under an obligation to bring to an end its administration of the Chagos Archipelago as rapidly as possible; and
- iii) all Member States are under an obligation to cooperation with the United Nations in order to complete the decolonization of Mauritius, given that the right for self-determination is an obligation *erga omnes* (that applies towards all) which all states have a legal interest to protect.

The Chairperson of the Commission congratulates the people and Government of Mauritius for this milestone in their efforts to complete the decolonization process of their country. He also expresses the gratitude of the African Union to all the countries both within the continent and outside Africa that voted in favour of the United Nations General Assembly resolution and participated in the proceedings before the ICJ in support of the position of Mauritius and the African Union.

The Chairperson of the Commission reaffirms the African Union determination to pursue and intensify its efforts towards the full decolonization of Mauritius, in line with international law. He urges the United Kingdom to end its administration of the Chagos

Archipelago as quickly as possible. He calls on all African Union partners to support these efforts, including by emphasizing the imperative for the scrupulous respect of international legality, as reaffirmed by the ICJ in its Advisory Opinion.

The African Union played a critical political and technical role in the process leading to the Advisory Opinion, building on its longstanding position on the issue of the Chagos Archipelago and relevant decisions of its policy organs. The Chairperson takes this opportunity to commend the African Union Legal Team, made up of the Commission's Office of the Legal Counsel, as well as African counsels and experts for their work throughout this process.

## NOTE TO THE EDITORS

**About the request to the International Court of Justice (ICJ) to render an Advisory Opinion:** Through resolution Assembly/AU/Res.1(XXVIII) adopted at its 28<sup>th</sup> Ordinary Session held in Addis Ababa, Ethiopia, from 30 to 31 January 2017, the Assembly of Heads of States and Government of the African Union (AU) reaffirmed that the Chagos Archipelago, including Diego Garcia, forms an integral part of the territory of the Republic of Mauritius and that the decolonization of Mauritius will not be complete until it is able to exercise its full sovereignty over the Chagos Archipelago. The Assembly resolved to fully support the action initiated by the Government of the Republic of Mauritius at the level of the United Nations (UN), requesting an Advisory Opinion of the ICJ on the Legal Consequences of the Separation of the Chagos Archipelago from Mauritius.

Following sustained efforts by the African Group in New York, with the support of other countries, the United Nations General Assembly adopted resolution 71/292 (2017), on 22 June 2017, requesting the ICJ to render an Advisory Opinion on the issue at hand.

**About the subsequent AU efforts:** After the ICJ Order of 14 July 2017, indicating 30 January 2018 as the time-limit within which statements on the question may be presented to the Court, and 16 April 2018 as the time-limit within which States and organizations having presented written statements may submit comments on the other written statements, the Commission, in December 2017, sent a communication to all AU Member States, urging those of them willing to furnish relevant information on the question before the ICJ to submit written statements to the Court by the end of January 2018, in support of the call for the full decolonization of the territory of Mauritius. The Commission also submitted a request to the Court, seeking permission to make a submission in accordance with Article 66 of the ICJ Statute, and established a team of African lawyers from Egypt and Senegal to assist in preparing its submission.

Subsequently, at the request of the AU, the ICJ extended the deadline for making written submissions on the issue of the completion of the decolonization of Mauritius. The new deadline was set for 1 March 2018.

At its 30<sup>th</sup> Ordinary Session held in Addis Ababa, from 28 to 29 January 2018, the Assembly of Heads of State and Government adopted Decision Assembly/AU/Dec.684(XXX), calling on all Member States, the Regional Economic Communities (RECs), the League of Arab States, the Organization of Islamic Cooperation and all AU partners to make written submissions to the ICJ in support of Mauritius. Given the tight deadline, and in order to ensure a coordinated response, the Commission distributed to Member States a simplified draft statement that could be used for this purpose. It also sent out communications to all RECs and other relevant organizations, to encourage them to submit statements to the ICJ, in order to amplify the position of the AU on this matter.

The AU Commission made its first written statement on 1 March 2018, along with a number of Member States (Djibouti, Lesotho, Madagascar, Mauritius, Namibia, Niger, Nigeria and Seychelles) and other non-African countries. The second AU written comment was submitted to the ICJ in May 2018. In addition, communications were sent

to Member States to encourage them to inform the Registrar of the ICJ of their intention to take part in the hearings on the Legal Consequences of the Separation of the Chagos Archipelago from Mauritius.

The Commission, in close collaboration with the Government of Mauritius, engaged Member States to ensure as large African presence as possible at the oral proceedings, which started on 3 September 2018. The ICJ heard pleadings from the Commission and 22 countries, 6 of which were African (Botswana, Kenya, Mauritius, Nigeria, South Africa and Zambia). The majority of the 22 States that attended the pleadings opposed the United Kingdom's assertion that it has sovereignty over the Archipelago.

The Commission made its oral pleading on 6 September 2018. The AU legal team stressed that the mandate of the Union in establishing African territorial integrity and self-determination stems from its legal instruments and the AU's contribution to the relevant resolutions of the UN General Assembly. The AU legal team called upon the ICJ to assume its responsibility as the supreme body for international justice, and affirmed that it represented the collective voice of the African continent.