

FCO CONSULTATION DOCUMENT

CONSULTATION ON WHETHER TO ESTABLISH A MARINE PROTECTED AREA IN THE BRITISH INDIAN OCEAN TERRITORY

A consultation produced by the Foreign and Commonwealth Office.

This information is also available on the FCO website: www.fco.gov.uk, British High Commission Port Louis website:

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Foreword



Body Responsible for consultation: Overseas Territories Directorate, FCO

Who should read this document? Anyone with an interest in the British Indian Ocean Territory or the Overseas Territories in general. Anyone with an interest in protection of the environment.

Making your views heard: we are keen to gather all views on environmental protection in the British Indian Ocean Territory and any supporting evidence. You should not feel constrained by the specific question(s) or feel obliged to offer responses to all of them. Concentrate on those in which you have most interest. It would be helpful if you could describe your views, suggestions and experiences when responding, rather than giving “yes” or “no” answers.

How to respond

1. This section outlines the ways in which you can make your views heard.
2. The consultation period will begin on 10 November 2009. It will run until 12 February 2010. There will be meetings in Port Louis, Mauritius and Victoria, Seychelles between 21 January and 9 February (exact dates to be advised later). There will also be a meeting in the UK. These meetings will be organised by an

think there are other ways that we can increase awareness of the consultation, please do let us know.

Consultation Questions

It would be helpful if you could structure your response to address the question(s) below, but you should not be restricted to these questions. Please send us any information that you feel is relevant to your response.

- 1. Do you believe we should create a marine protected area in the British Indian Ocean Territory?*

If yes, from consultations with scientific/environmental and fishery experts, there appear to us to be 3 broad options for a possible framework:

- (i) Declare a full no-take marine reserve for the whole of the territorial waters and Environmental Preservation and Protection Zone (EPPZ)/Fisheries Conservation and Management Zone (FCMZ); or*
 - (ii) Declare a no-take marine reserve for the whole of the territorial waters and EPPZ/FCMZ with exceptions for certain forms of pelagic fishery (e.g., tuna) in certain zones at certain times of the year.*
 - (iii) Declare a no-take marine reserve for the vulnerable reef systems only.*
- 2. Which do you consider the best way ahead? Can you identify other options?*
 - 3. Do you have any views on the benefits listed at page 11? What importance do you attach to them?*
 - 4. Finally, beyond marine protection, should other measures be taken to protect the environment in BIOT?*

When you are responding, please state whether you are an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please state the name of the organisation, your role within it and how the views of members were assembled.

What will happen next?

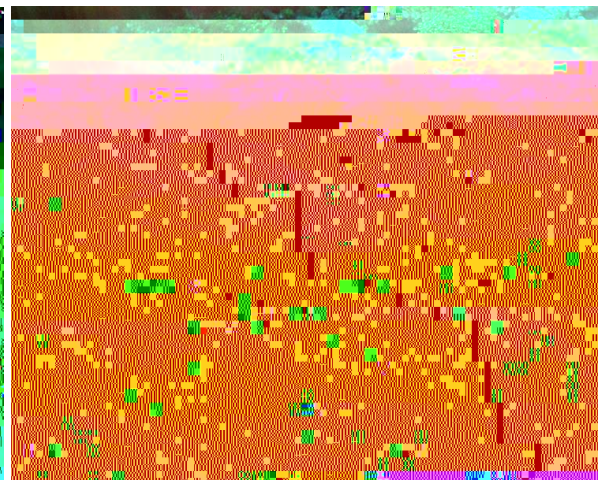
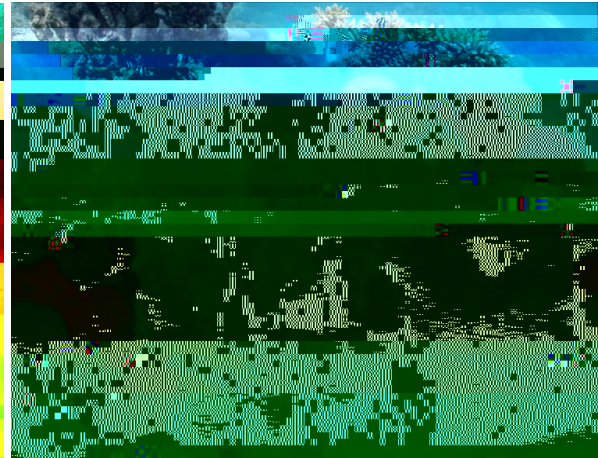
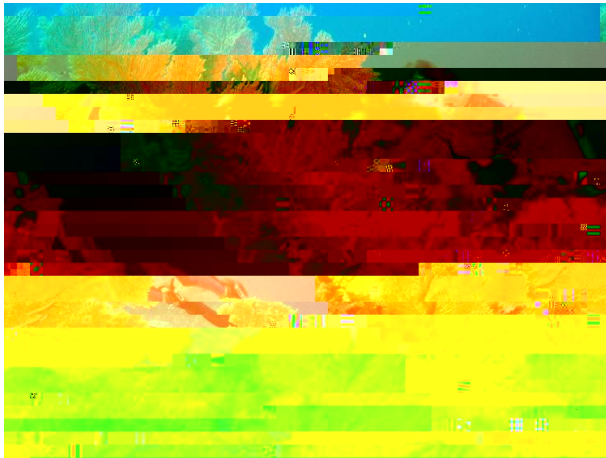
We will not be able to consider any responses received after 12 February. We will then assess the evidence and opinions received, and we will publish a summary report soon after that. We expect to announce a decision on whether to establish a Marine Protected Area in early April 2010.

Confidentiality

The information you send us may be passed to colleagues within the Foreign and Commonwealth Office or the facilitator appointed by FCO to analyse responses to this consultation, and published in a summary of responses received in response to this

your organisation's IT system, unless you specifically include a reference to the contrary in the main text of your submission to us.

If you want your name and address to be kept confidential, please mark this clearly at the top of your response. (*Confidential responses will be included in any statistical summary of numbers of comments received and views expressed.*)



SCOPE

Any declaration of a Marine Protected Area in the British Indian Ocean Territory would be made by the BIOT Commissioner and not by the UK Government. Although the BIOT Commissioner is not bound by UK Government guidelines on public consultation, the

SUMMARY OF QUESTIONS

1. *Do you believe we should create a marine protected area in the British Indian Ocean Territory?*

If yes, from consultations with scientific/environmental and fishery experts, there appear to be 3 broad options for a possible framework:

- (iv) Declare a full no-take marine reserve for the whole of the territorial waters and Environmental Preservation and Protection Zone (EPPZ)/Fisheries Conservation and Management Zone (FCMZ); or*
 - (v) Declare a no-take marine reserve for the whole of the territorial waters and EPPZ/FCMZ with exceptions for certain forms of pelagic fishery (e.g., tuna) in certain zones at certain times of the year.*
 - (vi) Declare a no-take marine reserve for the vulnerable reef systems only.*
2. *Which do you consider the best way ahead? Can you identify other options?*
 3. *Do you have any views on the benefits listed at page 11? What importance do you attach to them?*
 4. *Finally, beyond marine protection, should other measures be taken to protect the environment in BIOT?*

BACKGROUND

One of the most precious, unpolluted, tropical ocean environments left on Earth” – Chagos Conservation Trust.

The British Indian Ocean Territory (BIOT - also known as the Chagos Archipelago) is situated in the middle of the Indian Ocean and is made up of about 55 tiny islands in over half a million square kilometres of ocean. The Great Chagos Bank is the world’s largest atoll. The islands, reef systems and waters of BIOT in terms of preservation and biodiversity are among the richest on the planet and it contains about half of all the reefs of this ocean which remain in good condition. There are about 10 Important Bird Areas (IBAs). It has the Indian Ocean’s most dense populations of several seabird species. It also has remnants of Indian Ocean island hardwoods. It also contains exceptional numbers of coconut crabs and undisturbed and recovering populations of Hawksbill and Green Turtles.

This massive area has already been declared an Environmental (Preservation and Protection) Zone with legislation in place to protect these natural resources which include strict controls over fishing, pollution (air, land and water), damage to the environment, and the killing, harming or collecting of animals. Some of the most important land and sea areas have already been set aside for additional protection. Most of the lagoon areas and a large part of the land

MPA designation would be consistent with existing BIOT conservation policies, providing a very cost-effective demonstration of the UK G

IMPACT/COSTS & BENEFITS

Costs

The cost of actually declaring a marine protected area in BIOT is nil.

However, if a decision is taken to move to a no-take fishery, then additional cost to the public purse of around £1 million per annum will be incurred. This is because of the need to maintain the BIOT patrol vessel which currently performs surveillance duties in the FCMZ. The annual cost of running the vessel is about £1.7 million (including fuel costs). This is at present offset by a fishing licence income varying between £700,000 and £1 million per year. Costs not offset by income are met by a subsidy from the Overseas Territories Programme Fund.

Global studies of the economic benefits of coral reefs estimate their value to be about \$100,000 - \$600,000 per square km per year. This should be compared with current protection costs in BIOT of \$5 per sq km per year.

Benefits

The benefits of a marine protected area were considered by the Chagos Environment Network in their brochure: www.chagos-trust.org and by the National Oceanography Centre workshop: www.oceans2025.org and include:

Conservation benefits: in recent years scientists and environmentalists have stressed the value of a large-scale ecosystem approach to conservation. For geographical, economic and political reasons there are few places where this is possible. BIOT is a place where it is possible. While recognising that it is a contentious subject, the fact is that the absence of a settled human population, the strict environmental regime and the

For examination of the effects of climate change which, in most other places, is confounded by man's direct impacts and pollution;

Provision of an "environmental insurance policy" whose size would ensure integrity in the way that smaller reserves cannot;

Address a shortcoming in the global network of properly protected marine reserves (most being too small, damaged or far apart to function effectively);

Provide a scientific benchmark and natural laboratory which will contribute to our understanding of the processes that collectively create climate change and to our ability to manage the threats it poses; and

To increase our ability to manage degradation in other locations of the Indian Ocean.

Enshrining these characteristics of BIOT in a legal framework will ensure the area can continue to provide its vital functions and services.

Impact

As well as the international fishing community, there are some groups who will be directly or indirectly affected by the establishment of a marine protected area and any resulting restrictions or a ban on fishing.

US

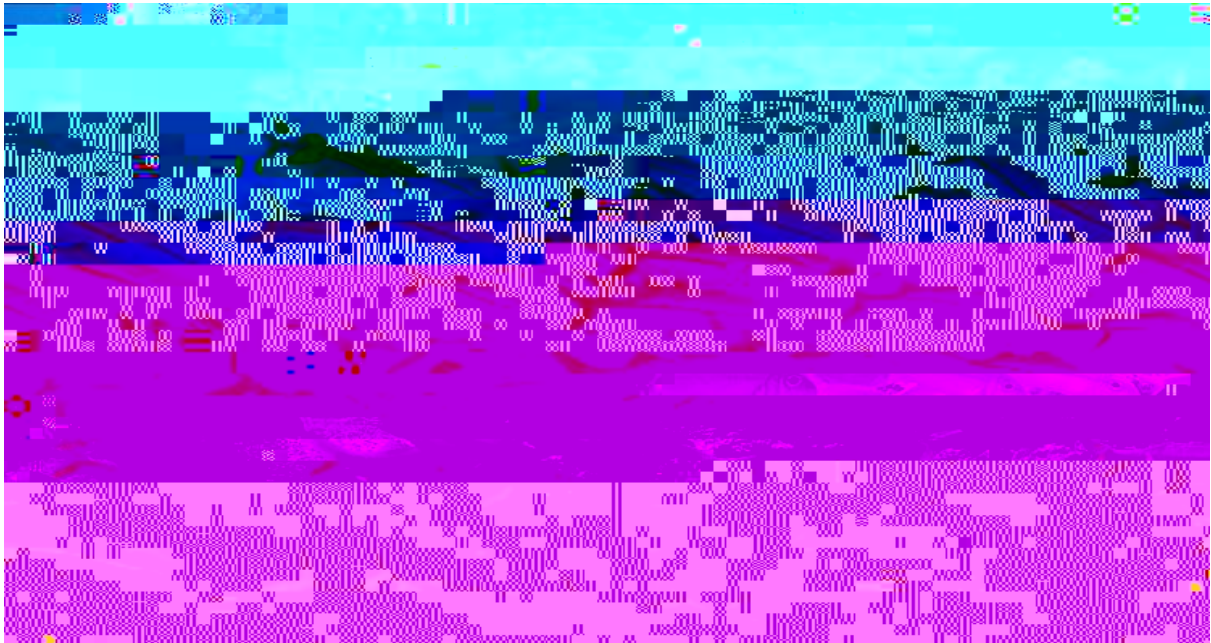
The US has a military base on Diego Garcia. The use of that facility is governed by a series of Exchange of Notes between the UK and US and imposes Treaty obligations on both parties. Because of our Treaty obligations, we have been discussing the possible creation of a marine protected area with the US. Neither we nor the US would want the creation of a marine protected area to have any impact on the operational capability of the base on Diego Garcia. For this reason, it may be necessary to consider the exclusion of Diego Garcia and its 3 mile territorial waters from any marine protected area. This would be a total of 470 km sq out of the total proposed MPA area of 544,000 sq km. The existing environmental protection on Diego Garcia which includes a large Ramsar site and several Strict Nature Reserves and other conservation regulations such as those that affect turtles will not be affected by this exclusion.

Mauritius

We have discussed the establishment of a marine protected area with the Mauritian government in bilateral talks on the British Indian Ocean Territory - the most recent being in July 2009 (see communiqué of the meeting held in Port Louis at Annex C). The Mauritian government has in principle welcomed the concept of environmental protection in the area. The UK government has confirmed to the Mauritians that the establishment of a marine protected area will have no impact on the UK's commitment to cede the Territory to Mauritius when it is no longer needed for defence purposes. We will continue to discuss the protection of the environment with the Mauritians.

Chagossian community

Following the decision of the House of Lords in *R (Bancoult) v Secretary of State for Foreign and Commonwealth Affairs* [2008] UKHL 61 on 22 October 2008 (for full judgment see www.publications.parliament.uk), the current position under the law of BIOT is that there is no right of abode in the Territory and all visitors need a permit. Under these current circumstances, the creation of a marine protected area would have no direct immediate impact on the Chagossian community. However, we recognise that these circumstances may change following any ruling that might be given in the proceedings currently pending before the European Court of Human Rights in Strasbourg in the case of *Chagos Islanders v UK*. Circumstances may also change when the Territory is ceded to Mauritius. In the meantime, the environment will be protected and preserved.



CODE OF PRACTICE ON CONSULTATION

The Seven Consultation Criteria

1. When to consult: formal consultation should take place at a stage when there is scope to influence the policy outcome.
2. Duration of consultation exercises: consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
3. Clarity of scope and impact: consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
4. Accessibility of consultation exercises: consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
5. The burden of consultation: keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
6. Responsiveness of consultation exercises: consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
7. Capacity to consult: officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.
8. The full text of the Government Code of Practice on Consultation can be found at: www.berr.gov.uk/whatwedo/bre/consultation-guidance/page44420.html.
9. If you consider that this consultation does not comply with the criteria or have comments about the consultation process, please contact:

Consultation Coordinator
Overseas Territories Department
Foreign & Commonwealth Office
King Charles Street
London
SW1A 2AH

Or

E-mail address : biotmpacoordinator@fco.gov.uk

JOINT COMMUNIQUÉ

Delegations of the Mauritian and British Governments met in Port Louis on Tuesday 21 July 2009 for the second round of talks on Chagos Archipelago/British Indian Ocean Territory. The Mauritian delegation was led by Mr S C Seeballuck, Secretary to Cabinet and Head of the Civil Service. The British delegation was led by Mr Colin Roberts, Director of Overseas Territories Department, Foreign and Commonwealth Office. The purpose of the meeting was to resume dialogue between Mauritius and the United Kingdom on the Chagos Archipelago/British Indian Ocean Territory.

Both delegations reiterated their respective positions on sovereignty and resettlement as expressed at the first round of talks held in London on 14 January 2009.

The British side provided an update on developments regarding the proceedings before the European Court of Human Rights.

Both delegations were of the view that it would be desirable to have a coordinated submission for an extended continental shelf in the Chagos Archipelago/British Indian Ocean Territory region to the UN Commission on the Limits of the Continental Shelf, in order not to

- (b) a change in the position of the United Kingdom with regard to sovereignty over the Chagos Archipelago/British Indian Ocean Territory;
- (c) recognition of or support for the position of Mauritius or the United Kingdom with regard to sovereignty over the Chagos Archipelago/British Indian Ocean Territory;
- (d) no act or activity carried out by Mauritius, United Kingdom or third parties as a consequence and in the implementation of anything agreed to, in the present meeting or in any similar subsequent meetings shall constitute a basis for affirming, supporting, or denying the position of Mauritius or the United Kingdom regarding sovereignty of the Chagos Archipelago/British Indian Ocean Territory.

Port Louis
Mauritius

21 July 2009

UK POLICY ON MARINE PROTECTED AREAS

The UK Administrations intend to establish an ecologically-coherent network of marine protected areas (MPAs) within the whole of UK waters in order to fulfil its international obligations, and to contribute to its policy intentions for the sustainable management of the marine environment.

The MPA network will play a key part in delivering our vision of clean, safe, healthy, productive and biologically diverse oceans and seas.

The MPA network will primarily consist of Marine Conservation Zones (MCZs) designated under the Marine and Coastal Access Bill and European marine sites designated under the EC Wild Birds and Habitats Directives (Natura 2000 sites). European marine sites include two types of designated areas: Special Areas of Conservation (SAC) and Special Protection Areas (SPA). SACs are designated under the EC Habitats Directive and SPAs are classified under the EC Wild Birds Directive (Council Directive 79/409/EEC on the conservation of wild birds).

Natural England (NE), Joint Nature Conservation Committee (JNCC) and Department for Environment Food and Rural Affairs (Defra) are working in partnership to implement the selection and designation of MCZs across the Defra marine area (English territorial waters and offshore waters adjacent to England, Wales and Northern Ireland).

NE and JNCC have established four regional MCZ projects that will bring stakeholders (including regional, national and relevant international) into the MCZ decision-making process from an early stage.

Finding Sanctuary has been a flagship project set up to identify Marine Conservation Zones in the South West. Based on the Finding Sanctuary model, we have asked Natural England and the JNCC to establish similar stakeholder-led MCZ projects for 3 other project areas around our coast which are now underway.

The UK remains committed to an MPA network that delivers our conservation needs while also minimising socio-economic impacts and maximising the benefits. Sites will have different levels of protection depending on conservation objectives and the sensitivity of features being protected. In some cases this will mean that there will be sites which will require high levels of protection.

OSPAR is the mechanism by which fifteen Governments of the western coasts and catchments of Europe, together with the European Community, cooperate to protect the marine environment of the North-East Atlantic.

In 2003 the OSPAR Commission agreed a work programme on Marine Protected Areas with the purpose of ensuring that by 2010 there is an ecologically coherent network of well managed marine protected areas for the maritime areas of the OSPAR network. This required each Contracting Party to:

