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SECOND INTERNATIONAL DECADE FOR THE ERADICATION OF COLONIALISM

Pacific Regional Seminar on the implementation of the Second International Decade for the Eradication of Colonialism: priorities for the remainder of the Decade

Bandung, Indonesia
14 to 16 May 2008

STATEMENT BY THE REPRESENTATIVE OF

ARGENTINA

"Pacific Regional Seminar on the implementation of the Second International Decade for the Eradication of the Colonialism"
(Bandung, 14th -16th May 2008)

Statement by the Argentine Delegate

Mr Chairman,

I would like to thank the Government and the People of Indonesia for their warm welcome and hospitality, and the Special Committee on Decolonisation for the invitation extended to my Government to attend and address this Pacific Regional Seminar on the situation in the non-self governing territories. I would also like to add my country's support and good wishes for the success of this Seminar, and for your chairmanship of the Special Committee, which will help to continue and advance the decolonization process.

This process begins in Bandung when in the 1955 Summit, all the Asian-African leaders who met here, stated that colonialism, which was an obstacle to world peace and cooperation, should be eradicated. Later, all the international community expressed itself with the adoption of General Assembly Resolution 1514, the guiding resolution on decolonisation adopted despite the foreseeable opposition of the colonial powers. However, the anticolonialist spirit of the international community prevailed and gave birth to the decolonisation process which, though not complete, has been very successful to date. Successful, because territories involved in some of the most complicated cases that the international community had to deal with, are no longer colonies. And, also, because those difficulties did not discourage previous generations of the international community in the fight against colonialism in all its manifestations.

Today it is our time to keep sustaining that very spirit till we finish this task. We certainly cannot shy away from the difficulties that could arise in the remaining cases. I would like to congratulate the Special Committee on Decolonisation on not giving up on this objective, on continuing with this noble and difficult challenge which is the fight against colonialism and against the subjugation of the weakest.

In so doing, you have very wisely indicated that the Committee must approach each pending issue taking into consideration its individual features. The same rule applies to this important Seminar, all of our debates, interventions, as well as the report that will result from our joint effort which must therefore reflect every specific feature of all remaining cases.

Mr Chairman,

The "Question of the Malvinas Islands" is one of such remaining and particular cases as it involves a sovereignty dispute. The Argentine position is clearly stated in the Argentine National Constitution, which reads: "The Argentine Nation ratifies its legitimate and imprescriptible sovereignty over the Malvinas, South Georgias and South Sandwich Islands and the corresponding maritime and insular areas, since they are an integral part of the national territory. The recovery of those territories and the full exercise of sovereignty over them, while respecting the way of life of their inhabitants in accordance with international law, constitute a permanent objective of the Argentine people which is not to be resigned".

The particularities of the "Question of the Malvinas Islands" were expressly recognised by the Resolutions of the Special Committee related to this Question. Its specificity derives from the historical and legal facts which are clearly detailed in document A/AC.109/106.

The history of the Malvinas Islands does not begin with the British invasion of 1833. Quite the contrary, Spanish sovereignty rights to the Malvinas Islands date back to the fifteenth century. However, to be brief, it must be mentioned that on January 3, 1833, after two frustrated British attempts to invade Buenos Aires, today's capital of Argentina, in 1806 and 1807, the United Kingdom seized the islands by force, ousting the Argentine authorities and population residing there, who were never allowed to return. They were replaced during these 175 years of usurpation by a colonial administration and a population of British origin.

The act of force of 1833 was carried out when the Argentine Republic was still in the process of consolidating itself as a newly independent country, by a world power with which the Argentine Republic had friendly relations and without warning. Since then and till present time, Argentina has never ceased to formally and consistently protest the illegal occupation of these territories by the United Kingdom.

Mr Chairman,

This historical background shows why the Malvinas Question is a special and particular colonial case as it involves a sovereignty dispute. Therefore, any automatic assimilation to more classic colonial cases distorts its reality. All statements of the Special Committee and the General Assembly have expressly acknowledged this assertion.

In 1945 the United Kingdom listed the Malvinas Islands at the United Nations as a non autonomous territory, despite Argentina's protests.

The Declaration on the Granting of Independence to Colonial Countries and Peoples, Resolution 1514 (XV) of the United Nations General Assembly, was adopted on 14 December 1960 with the support of all countries that rebelled against perpetuation of colonialism. In doing so, we expressed ourselves despite the resistance by colonial powers, as shown by their negative votes cast against this Resolution, inter alia, the United Kingdom.

This Resolution was adopted in defence of peoples subjected to or subjugated by a colonial power. Its Preamble proclaimed "the necessity of bringing to a speedy and unconditional end colonialism in all its forms and manifestations", stating that "all peoples have an inalienable right to complete freedom, the exercise of their sovereignty and the integrity of their national territory."

In its paragraph 1 it establishes that "The subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to the promotion of world peace and co-operation".

As I briefly related previously, in the "Question of the Malvinas Islands" part of the territory of an independent State, the Argentine Republic, was occupied -against the will of its inhabitants- by virtue of an act of force perpetrated by the United Kingdom in 1833, which was never consented by the Argentine Republic. The population was removed by the occupying power by that act of force and was never allowed to return to this day, whilst being replaced by nationals of the occupying power. The transplanted population, therefore, cannot

be considered to having ever been submitted to or subjugated by a colonial power, which is the situation assumed to be the classical case by Resolution 1514. We have here a colonial situation but no colonised people.

The principle of self-determination enshrined in paragraph 2 of Resolution 1514 is also limited by the principle of territorial integrity, since paragraph 6 of the abovementioned resolution says: "Any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations." And paragraph 7 reinforces this when it adds that "All States shall observe faithfully and strictly the provisions of the Charter of the United Nations, the Universal Declaration of Human Rights and the present Declaration on the basis of equality, non-interference in the internal affairs of all States, and respect for the sovereign rights of all peoples and their territorial integrity".

For all of the above, in the special and particular case of the "Question of the Malvinas Islands", the fundamental principle of self-determination is not applicable. In fact, the British refusal to negotiate this sovereignty dispute between Argentina and the United Kingdom until such is the will of the British occupiers, is an unlawful pretext to take advantage of Resolution 1514, the objective of which is to end colonialism, to actually perpetuate a colonial situation to the detriment of the legitimate rights of the Argentine people and against the territorial integrity of the Argentine Republic.

The General Assembly has seen this argument for what it is. The United Kingdom attempted in 1985 to amend the General Assembly Resolution on the "Question of the Malvinas Islands" to force to include specific references to self-determination. Two amendments promoted by the United Kingdom that year were voted against by the majority of the members of the General Assembly.

Argentina has always been, and will continue to be, a firm defender of the principle of self-determination of peoples subjugated to a colonial regime. How could it be otherwise if we were born as a Nation fighting against such a situation? In the defence of this principle, we cannot allow it to be distorted to the extent of forcing an argument in favour of the continued existence of the anachronistic colonial dispute that disrupts my country s territorial integrity since1833.

The General Assembly has been clear in considering the application of the general principles set out in Resolution 1514 to the specific case of the "Question of the Malvinas Islands", forty-three years ago, when it adopted Resolution 2065 (XX) by an overwhelming majority, on 16th December 1965.

In this Resolution the General Assembly reiterates its commitment to end colonialism in all its forms, one of which is the dispute between Argentina and the United Kingdom on sovereignty in the "Question of the Malvinas Islands" over which it invites both Governments to negotiate a peaceful solution, taking into consideration the objectives of the Charter, Resolution 1514 (XV) and the interests of the inhabitants of the islands.

Resolution 2065 (XX) was adopted by 94 favourable votes, 14 abstentions and no negative votes. In fact, despite having abstained, the United Kingdom immediately engaged in the process of bilateral negotiations with Argentina requested by the resolution so as to fulfil this mandate, even if this exercise only lasted a few years and with little results.

Since 1964 and after the 1982 conflict, this call for negotiations between Argentina and the United Kingdom, as the only way to find a peaceful solution to the sovereignty dispute has been reiterated by the General Assembly and retaken year after year by the Special Committee on Decolonisation to this very date (whose last Resolution is dated June 21, 2007).

All these resolutions have been urging the two Parties to the dispute to resume the negotiations with a view to finding as soon as possible a peaceful, just and lasting solution to the sovereignty dispute over the "Question of the Malvinas Islands", whilst taking into account the interests of the population of the islands. They have also established that the way to put an end to the special and particular colonial situation in the "Question of the Malvinas Islands" is the peaceful and negotiated settlement of the sovereignty dispute that exists between the Governments of the Argentine Republic and of the United Kingdom of Great Britain and Northern Ireland over the Malvinas, South Georgias and South Sandwich Islands.

As to this, the provision of the Argentine Constitution which I read before takes all of these elements into consideration. Argentina has no doubts over its sovereignty rights over the Malvinas, South Georgias and South Sandwich Islands and the surrounding maritime areas. However, the Argentine Government has reiterated at every available opportunity its willingness to negotiate as requested by the international community.

In sharp contrast, the United Kingdom persists in its refusal. As a colonial power, it is responsible for ensuring full compliance with the decisions of the United Nations, whose competence it has specifically recognised in the "Question of the Malvinas Islands". As a permanent member of the United Nations Security Council, it cannot persistently ignore the clear and repeated calls of the world organization, thus failing to comply with the obligation equally pending on both Parties to resume the negotiations. As responsible members of the United Nations both countries have committed ourselves to solving their disputes through peaceful means as a clear commitment that stems from the very Charter of the United Nations.

Mr Chairman,

In this regard, I would like to conclude my presentation by quoting crystal clear words from Judge Lauterpacht in the case South-West Africa Voting Procedures on the 7th June 1955:

"*An administering State may not be acting illegally by declining to act upon a recommendation or series of recommendations on the same subject. But in doing so it acts at its peril when a point is reached when the cumulative effect of the persistent disregard of the articulate opinion of the Organization is such as to foster the conviction that the State in question has become guilty of disloyalty to the Principles and Purposes of the Charter. Thus an Administering State which consistently sets itself above the solemnly and repeatedly expressed judgement of the Organisation, in particular in proportion as that judgement approximates to unanimity, may find that it has overstepped the imperceptible line between impropriety and illegality, between the exercise of the legal right to disregard the recommendation and the abuse of that right, and that it has exposed itself to consequences legitimately following as a legal sanction*", end of quote.

Thank you very much, Mr Chairman.