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SECOND INTERNATIONAL DECADE FOR THE ERADICATION OF COLONIALISM

PACIFIC REGIONAL SESSION OF THE POLITICAL SESSION ON THE IMPLEMENTATION OF THE SECOND

INTERNATIONAL DECADE FOR THE ERADICATION OF COLONIALISM

Priorities for the

Bandung, Indonesia
14 to 16 May 2008

ARGENTINA

**"Pacific Regional Seminar on the implementation of the Second International Decade
for the Eradication of the Colonialism"**

(Bandung 14th-16th May 1970)

Statement by the Argentine Delegate

Mr Chairman,

I would like to thank the Government and the People of Indonesia 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 began in Bandung when in 1955

the first summit of the newly created

States was convened

in Bandung

in 1955

in Bandung

in Bandung

in Bandung

in Bandung

involved in some of the most complicated cases that it has ever known. This is because those circumstances 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 find a solution. We are continuing with this noble and difficult challenge which is the fight against colonialism and against the subjugation of the peoples.

In so doing, you have very wisely indicated that the Committee must approach each pending issue taking into account 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 case.

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 Argentine territory. The 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. The Special Committee, in its Report of 1971, stated that the Malvinas Islands were clearly declared in document A/AC.107/100.

The history of the Malvinas Islands does not begin with the British invasion of 1833. Quite the contrary, Spanish sovereignty rights over the Malvinas Islands date back to the 16th century. However, to be brief, it must be mentioned that on January 3, 1922, after two frustrated British attempts to invade Buenos Aires, today's capital of Argentina, in 1906 and 1907, the United Kingdom, in 1922, expelled the Argentine 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 1922, by which the United Kingdom, in 1922, expelled the Argentine population, was a clear violation of the principle of non-intervention and of consolidating itself as a newly independent country, by a world power. 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 application of classic colonial bases disturbs 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 protest.

The Declaration on the Granting of Independence to Colonial Countries and Peoples, Resolution 1514 (XV) of the United Nations General Assembly, adopted on December 14, 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, and against this Declaration.

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" case, the usurpation 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. This act 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, having been replaced by nationals of the occupying power. The transplanted population, therefore,

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, territorial integrity or political independence of any State, is contrary to the purposes and principles of the Charter of the United Nations."

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

in 1985 to amend the General Assembly Resolution on the Question of the Malvinas Islands

to include specific references to self-determination. Two amendments

Argentina has always been, and will continue to be, a firm defender of the principle of self-determination of peoples subjugated to colonialism. What about the people of the Malvinas? Were they born as a Nation fighting against such a situation? In the defence of this principle, the existence of the anachronistic colonial dispute that has existed since 1833.

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

a peaceful solution, taking into consideration the objectives of the Charter, Resolution 1514

Resolution 2065 (XX) was adopted by 94 favourable votes, 14 abstentions and no negative

votes. In fact, despite having been requested by the United Kingdom

to discuss bilateral negotiations with Argentina

the General Assembly requested by the termination so as to fulfil this

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 the Security Council year after year by the O.A.S. and the Organization of American States 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

Britain and Northern Ireland over the Malvinas, South Georgias and South Sandwich Islands.

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 ensuring non compliance with the decisions of the United Nations, whose competence it has specifically recognised in the "Question of the Malvinas Islands" and the Charter of the United Nations, thus failing to comply with the obligation equally pending on both Parties to resume the

Name

Mr Chairman,

my presentation by quoting crystal clear words from Judge Lauterbach in the case South West Africa v. Namibia:

"An administering State may not be acting illegally by declining to

question has become guilty of illegal acts if the State in

recommendation and the abuse of that right, and that it has exposed itself to consequences legitimately following as a legal sanction" end of quote

I thank you very much, Mr Chairman.