

**SPECIAL COMMITTEE ON THE SITUATION WITH REGARD TO THE
IMPLEMENTATION OF THE DECLARATION ON THE GRANTING OF INDEPENDENCE
TO COLONIAL COUNTRIES AND PEOPLES**

THE MALVINAS ISLANDS QUESTION

**ADDRESS BY HIS EXCELLENCY THE MINISTER OF FOREIGN AFFAIRS,
INTERNATIONAL TRADE AND WORSHIP OF THE ARGENTINE REPUBLIC
MR. JORGE E. TAIANA**

Madam Chair,

Allow me to express our satisfaction at your chairing the sessions of this important Committee. We value your commitment to the eradication of all enduring colonial situations. We know of your conviction as to the cardinal role this forum must play in the decolonisation process. For that reason my Government trusts that, under your active chairmanship, we shall advance in the pursuit of such a noble objective.

Likewise, I would particularly like to extend our warmest recognition to the other members of the Bureau and to the personnel of the Secretariat and the distinguished delegations present for the efforts and dedication they bring to bear in this process of eliminating colonialism in all its forms.

Madam Chair,

In the framework of this decolonisation process for which my country works untiringly by reason of our firm anticolonial convictions, I come as every year to reiterate a claim of which we commemorate 174 years of existence in 2007, and which refers to an act of force that led to the colonial separation of part of the territory of the Argentine Republic: I am referring to the "Question of the Malvinas Islands," described by Her Excellency Sheika Haya Al-Khalifa, President of the United Nations General Assembly, in her recent visit to Germany as a problem of the world.

On 3 January 1833, the Malvinas Islands, being part of the territory of the Argentine Republic, governed by Argentine authorities and inhabited by Argentine settlers, were usurped and their authorities and settlers expelled by force by the United Kingdom, and their return to that territory has not been permitted ever since. On the contrary, during these 174 years of usurpation, they were replaced by a colonial administration and a population of British origin.

This act of force of 1833 -carried out in a time of peace, without prior communication or declaration by a friendly government of the Argentine Republic- was immediately rejected and protested. On 16 January 1833, the Argentine Government requested explanations from the British Chargé d'Affaires, and on 22 January, the Argentine Minister of Foreign Affairs submitted a protest to the British government official, which has been renewed and extended and reiterated to this day.

Madam Chair,

Allow me to read part of this first protest of the Argentine Minister of Foreign Affairs to the British Chargé d'Affaires, 22 January 1833, and I quote:

"[...] The Undersigned abstains for the present from more particularly noticing the incompatibility of a proceeding, as violent, as arrogant, in the midst of the most profound peace, and when the existence of close and friendly relations between the two Governments on the one hand, and on the other, the moderation, cordiality, and pureness of intention, of which England had made a boast, had given no reason to expect, that the confidence in which the Argentine Republic reposed, would have been so suddenly abused.

For the reasons above expressed, in compliance with the orders of His Excellency, and in his Name, and by that which we owe to our own dignity, to posterity, to the deposit which The United Provinces have entrusted to the Government of Buenos Aires, in fine, before the whole world which is observing us, the Undersigned protests in the most formal manner, against the pretensions of the Government of Great Britain to the Malvinas Islands, and to the occupation which has been affected of them, as equally against the insult offered to the Flag of the Republic, and to the prejudice which She has suffered, and may suffer, in consequence of the above cited proceedings, and moreover, against the still further proceedings of the English Government in this respect. The Chargé d'Affaires, to whom the Undersigned addresses himself, is requested to lay this Protest before his Government, communicating to the same, the decided resolution of this Republic to sustain Her Rights [...]". End of quote.

Madam Chair,

This document of 1833 is a clear proof that the spirit of the Argentine Government and people has not altered in the slightest. There has been no change in our perplexity at this act of colonial force, perpetuated to date over 174 years of usurpation. Nor has there been any change in my country's determination to uphold its legitimate sovereignty rights from the very moment of the plunder, a permanent objective enshrined in the Argentine National Constitution, which is not to be resigned.

Why do we insist in historical arguments? One might be tempted to pretend that it has been too long since the United Kingdom illegally occupied the Island for that to be relevant today. But the truth is that, in any civilization, to take what belongs to somebody else is unacceptable. To pretend that that the illicit character of the occupation might become fair by the mere passing of time, in spite of the sustained claim by the holder of legitimate rights – that pretension resists no moral judgment.

Madam Chair,

The "Question of the Malvinas Islands," which includes the Malvinas Islands, South Georgias and South Sandwich Islands and the surrounding maritime areas, has been recognised by the General Assembly and the Special Committee on Decolonisation of this Organisation as a special and particular case which differs from traditional colonial situations due to the fact that it involves a dispute over sovereignty.

The Preamble of the guiding rule of decolonisation, that is to say, the Declaration on the Granting of Independence to Colonial Countries and Peoples, Resolution 1514 (XV) of the United Nations General Assembly adopted on 14 December 1960, proclaims "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 [...]"

It also declares 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”.

In defence of those peoples subjected or subjugated by a colonial power the Declaration enshrines, in its second paragraph, the principle of self-determination of peoples. However it also enshrines the principle of territorial integrity to which the first must be limited. In fact, the sixth paragraph of said Resolution states that: “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.” It goes on to say 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, of non-interference in the internal affairs of all States, and respect for the sovereign rights of all peoples and their territorial integrity”.

The general principles contained in Resolution 1514 were applied forty-two years ago to the specific case of the Malvinas Question by Resolution 2065 (XX), also of the United Nations General Assembly, of 16 December 1965. It recognised the justice of our claim and expressly established that the Malvinas Question is a colonial question which involves the existence of a dispute over sovereignty between Argentina and the United Kingdom as sole Parties, and urged them to negotiate, bearing in mind the provisions and objectives of the Charter of the United Nations and of Resolution 1514, as well as the interests of the population of the islands.

Resolution 2065 ruled out the applicability of the principle of self-determination as the way to settle this dispute, by accepting the existence of the dispute and urging both parties to negotiate. Therefore, to grant self-determination to the British inhabitants of the islands, transplanted there from the metropolis after the usurpation, would imply the acceptance of the disruption of the territorial integrity of the Argentine Republic.

During the debates that preceded this resolution, delegates confirmed, in the case of the Question of the Malvinas Islands, the existence of an illegally occupied territory, dismembered by force from the territorial unity of a sovereign State (the Argentine Republic) and inhabited exclusively by subjects of the occupying Power (by whom the illegal occupation is enforced), after having violently expelled the native population and prevented it from returning to this very day. The colonial power has prevented nationals of the usurped State from returning to or establishing on the territory by means of an active, systematic and discriminatory colonial administration and policy.

As the Argentine Government remarked in its Declaration of 18 February 1985 addressed to the Secretary General of the United Nations, distributed as document of the fortieth General Assembly, the United Kingdom –claiming to allegedly have competence to apply legislation in Argentine territory- ratified the British character of the population of the islands by adoption by the Parliament of the British Nationality Act in 1983.

Moreover, the delegations considered that the right to self-determination was directed at local subjugated native populations to allow them to exercise that right as a defence against the oppression exercised by the metropolis, and not to allow administrative employees or subjects (or their descendents) of colonial governments to perpetuate the colonial situation. These characteristics determine the presence of a colonial territory but not of a colonised people.

The fundamental principle of self-determination must not be used to transform an illegitimate possession into full sovereignty. To apply it to the specific case of the Malvinas Question would imply the absurdity of using Resolution 1514, which aims to end colonialism, with a view to perpetuating a colonial situation in detriment of the legitimate rights of the Argentine people, who would see the integrity of their territory disrupted. Ironically, this would mean that the colonial force, taking advantage of international efforts in the fight to force the metropolises to accept decolonisation, an objective to which we have reaffirmed our commitment in this Second Decade of the United Nations in the fight for decolonisation, could make use of the mechanisms created by the United Nations to consolidate its act of colonial plundering.

Resolution 2065 was adopted by 94 votes in favour with only 14 abstentions, including that of the United Kingdom. There were no votes against. The Parties formally declared their willingness to fulfilling their mandate, whereas during the previous more than 130 years the United Kingdom had refused to discuss the issue. Negotiations began almost immediately in January 1966 and different modalities of dispute settlement were considered. Such initiatives, some from the United Kingdom, continued until the 1970's.

On the other hand, the inapplicability of the principle of self-determination as a means of ending this colonial situation was clearly confirmed in 1985, when the General Assembly rejected two proposed amendments submitted by the United Kingdom which inappropriately aimed to include the principle of self-determination in the draft resolution on the Malvinas Question.

Madam Chair,

Having made these comments I wish to make it clear that Argentina has always been, and will continue to be, a firm defender of the principle of the 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? Many government delegations here today are from nations also born thanks to self-determination, and they all know that Argentina has always been amongst those which have most firmly and constantly fought in the international community and fora for their independence. I believe that this is the best testimony of our support to the validity of this basic principle in the modern world. This principle is so fair that in no way can it be distorted to claim to allow the continued existence of the anachronistic colonial dispute that disrupts my country's national territory from 1833 to date.

Madam Chair,

A new anniversary of the South Atlantic Conflict takes place in 2007, one of the worst moments in the long history of the sovereignty dispute between Argentina and the United Kingdom over the Malvinas Islands, South Georgias and South Sandwich Islands and the surrounding maritime spaces.

The military dictatorship that governed Argentina in 1982 acted behind the back of the Argentine people and distanced itself from the country's traditional claim to the islands by peaceful means. It was a wrong decision because the Argentine people have always known that the full exercise of sovereignty over the islands will only be restored by peaceful and diplomatic dialogue.

Argentina commemorates this anniversary with profound respect for those who gave their lives and efforts in that cherished part of its territory. As stated by the President of the

Argentine Republic, Dr. Néstor Kirchner, on 14 June 2007, "I want to honour the lives, the fighting spirit and courage of the *malvineros* who fought for Argentine sovereignty until the very last moment and very last second".

As to the United Kingdom, it has publicly developed a programme of events of a celebratory and military spirit that Argentina laments. My country can in no way share that spirit and, also quoting President Kirchner's words, I would like to remind the United Kingdom that, as a major power, "it may have won a battle [...] but it will never defeat us through the force of reason or justice because the Malvinas Islands belong to Argentina and will return to Argentine peacefully".

This conflict -in which the United Kingdom could not validly claim to be free of political responsibilities- did not alter the subsistence or the nature of the dispute. This was recognised, less than five months after the end of the hostilities, by the United Nations General Assembly. The same as before 1982, the international community has continued to recognise this fact ever since, through reiterated pronouncements, year after year, of the General Assembly and the Special Committee on Decolonisation, amongst other fora.

Madam Chair,

The Argentine Government has always been willing to cooperate with the United Kingdom on practical aspects deriving from the *de facto* situation in the South Atlantic, under due legal safeguards, as long as that cooperation contributes to creating the favourable conditions for the resumption of negotiations on sovereignty, in accordance with the relevant resolutions by the United Nations and other international fora.

In this sense, after the resumption of bilateral relations with the United Kingdom in 1990, both countries agreed on a series of provisional ad-hoc understandings under the sovereignty safeguard formula concerning the disputed area and with the intention of creating, through bilateral cooperation, an atmosphere favourable for the resumption of the negotiations on sovereignty urged by the whole of the international community.

However, in flat contradiction with the letter and spirit of these understandings, the United Kingdom has not ceased to carry out unilateral acts which, besides breaching the agreed cooperation and the mandate of the international community, introduce unilateral modifications in the situation while the islands are going through the process recommended in General Assembly resolutions, violating, in particular, Resolution 31/49 of 1st December 1976.

In the defence of its national interest, Argentina has firmly rejected such acts which have seriously affected the bilateral cooperation agreed in almost all the provisional understandings, distancing the parties and so provoking the failure of the objective of these understandings to bring them closer to the negotiating table in order to find a just, peaceful and lasting solution to the sovereignty dispute.

For this reason, for over a year ago, Argentina has repeatedly invited the United Kingdom to maintain an open dialogue on the state of play of all the provisional understandings and, in particular, the framework in which they take place, that is to say, the existence of a sovereignty dispute and the obligation of both parties to settle it by resuming the bilateral negotiations as imposed by the United Nations and the Organisation of American States in its several pronouncements on the Question of the Malvinas Islands. We have reiterated this proposal to different British authorities, at several bilateral meetings and not only

verbally. Unfortunately, the intransigence of the United Kingdom has so far not permitted to hold an open and frank dialogue.

Regarding the conservation of fishing resources, bilateral cooperation was seriously affected because of the recent establishment by the United Kingdom of a new unilateral measure which constitutes a long-term unilateral disposition of the fisheries resources in Argentine maritime areas that, due to the illegal occupation, are subject to the sovereignty dispute. This unlawful measure followed other British unilateral acts duly protested by Argentina and which refer, among other aspects, to fisheries policing actions in the South Atlantic from and outside the disputed area, the continued sale of illegitimate fishing licenses and unilateral measures related to the waters adjacent to the South Georgias and South Sandwich Islands, claiming to impose on third-country flagged fishing vessels the payment of fishing licences and other illegitimate demands related to the exploitation and control of fishing resources, contrary to the General Assembly Resolutions as well as to the multilateral regime of the Convention on the Conservation of Antarctic Marine Living Resources.

Despite my country's reiterated warnings to the United Kingdom from the very moment we could learn of its intention, it however adopted a system of alleged property rights up to 25 years applicable to fishing resources in the disputed area. This illegitimate and unilateral measure violates the Joint Declaration of 1990 as well as the mandate of the international community. My Government has officially rejected and protested it, having informed on this to the relevant bodies of the United Nations and the Organisation of American States.

All of these British unilateral acts have altered the nature of the mandate of the South Atlantic Fisheries Commission, making it increasingly difficult to maintain the degree of cooperation my country has developed within this Commission. This has forced Argentina to reflect on the sense of its participation in it. Bilateral cooperation on this matter has deteriorated to such an extent that the meetings of the South Atlantic Fisheries Commission have been suspended.

In this context, both countries have held two special diplomatic meetings in order to analyse the mandate of the South Atlantic Fisheries Commission and its political and legal framework. Having reached no agreement, they have decided to meet again.

Madam Chair,

Also regarding exploration and exploitation of hydrocarbons the Argentine Government repeatedly warned the United Kingdom on the consequences of its continued unilateral acts flatly contrary to the commitment on cooperation agreed by both countries in the Joint Declaration on Cooperation on Offshore Activities in the South West Atlantic of 27 September 1995 as well as to the mandate of the international community. The reiterated unilateral acts were duly and timely protested by the Argentine Republic.

Bilateral cooperation on the exploration and exploitation of hydrocarbons in the area subject to the sovereignty and jurisdiction dispute had been paralysed ever since July 2000, when the South West Atlantic Hydrocarbon Commission held its last meeting after having confirmed the existence of seriously diverging interpretations as to the scope of the understanding. Both Governments coincided then on the convenience to allow time for reflection on the matter and on the best way to be able to carry out future cooperation activities, as stated in the joint press release issued by both parties after that meeting.

However, both before and during this time for reflection, the United Kingdom has not refrained from carrying out unilateral acts contrary to the 1995 Joint Statement which expressly established both Governments' joint action in the area subject to the sovereignty and jurisdiction dispute. The attitude of the United Kingdom in what respects this understanding did not also contribute to creating an atmosphere conducive to the resumption of the negotiations on sovereignty repeatedly urged by the United Nations in all its resolutions in this subject.

It was the intention of the Argentine Government to convey to the British Government the conclusions reached on this understanding at the diplomatic meeting repeatedly proposed by Argentina since February 2006 to discuss the status of all the understandings agreed by both our countries, under sovereignty formula. As I said before, regrettably this has not been possible due to the refusal of the British government to hold such meeting.

This British behaviour violating and abusive of the agreed bilateral commitment, along with British reluctance to even maintain dialogue on the issue, led the Argentine Government to take the decision to terminate this understanding on 27 March 2007.

On this matter we have received the support of all the Heads of State who participated in the First South American Energy Summit held in Isla Margarita in Venezuela, who unanimously approved a Presidential Declaration on 17 April this year whereby they support the decision adopted by the Argentine Government to terminate the cooperation with the United Kingdom on hydrocarbons, for the reasons I have just given. They also supported the legitimate rights of the Argentine Republic in the sovereignty dispute, emphatically urging both countries to resume the negotiations with a view to finding as soon as possible a just, peaceful and definitive solution to the sovereignty dispute.

Madam Chair,

Despite these injurious unilateral British acts contrary to any bilateral understanding on the issue, the Argentine Government cannot be said to have any intention whatsoever to carry out actions seeking to harm the population of the islands, whose interests my country is committed to respecting as stated in the National Constitution.

Argentina seeks no damage for the inhabitants of the Islands. The lack of a solution to the sovereignty dispute creates an anomalous situation, which both Argentina and the United Kingdom have been called upon by the international community to solve through negotiations. Argentina is not to blame for this anomaly. It is not reasonable to expect that we should unilaterally constrain our policies to the preservation of such anomaly.

It is in that spirit that, in November 2003, Argentina proposed to the United Kingdom to establish scheduled direct air services between the islands and mainland Argentina, operated by Argentine commercial air companies, with a view to diversifying the communications already existing to the islands and which were implemented in 1999 at the very behest of my country. The Argentine Republic still continues to await a satisfactory British reply that will no doubt open new mutually constructive prospects for both Argentina and Britain.

In this sense, as it has also been conveyed to the United Kingdom, a new agreement putting the exchange of goods and services between the Argentine mainland and the Malvinas Islands under the sovereignty safeguard formula would imply a set of additional economic benefits for both parties.

Likewise, Argentina also expects to be able to make progress regarding confidence-building measures in military matters, for which it will be necessary to resume the meetings of the South Atlantic Working Group which have not taken place since 1994 due to British reluctance.

Madam Chair,

The international community has made repeated pronouncements at the General Assembly, adopting ten resolutions on the Malvinas Question. This very Committee has expressed itself on the same issue to date in forty-two other pronouncements.

Since 1965, all the resolutions have urged -year after year- the two Parties 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, taking into account the interests of the population of the islands, establishing 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.

My Government has reiterated at every available opportunity its willingness to negotiate. In contrast, the United Kingdom persists in its refusal. It is impossible to understand how a power, a permanent member of the United Nations Security Council, can persist all along forty two years in its attitude to ignore the repeated pronouncements of the world organization, thus failing to comply with the obligation equally pending on both Parties to resume the negotiations with a view to finding as soon as possible a peaceful, just and lasting solution to the sovereignty dispute.

When the British Government claims to condition the solution of the pending dispute to the views of the British inhabitants of the islands, it is not but openly declaring that it is reluctant to comply with the mandate emanating from the resolutions of the United Nations and the provisions of the Charter that oblige States to actively seek the peaceful settlement of international disputes to which they are a party. A commitment which, I must remind you, both our countries reaffirmed in the Joint Declaration of Madrid of 1989 with regard to our dispute.

British refusal to comply with the abovementioned international obligations is worrying because it conspires against the possibility of a return to normality in the South Atlantic in a reasonable period of time. The unilateral attitude assumed by the United Kingdom and its celebratory and militaristic vision of the South Atlantic Conflict must be added to this. The excessive militarization of the disputed area due to the presence of an important military base that is absolutely disproportionate to the objectives which allegedly justify it according to the British Government, makes this intransigent attitude even more serious.

Attention on this has been drawn in the past. Particularly in 2004, upon the enlargement of the British military base on the Malvinas Islands, with operating capacity well beyond the area illegitimately occupied by the United Kingdom, involving all of the South Atlantic. This deserved a strong protest on the part of Argentina. As you will understand, this situation makes us wonder whether London's true objectives do not go beyond the strict framework of the sovereignty dispute.

This British attitude is in open contrast with the aspiration of all costal African and Southamerican States as members of the Zone of Peace and Cooperation of the South

Atlantic. Meeting in Luanda this week to foster the goals of this forum, we have supported the efforts by all members of the Zone to promote the principle of peaceful and negotiated settlement of territorial disputes affecting States members of the Zone, while declaring the need for Argentina and the United Kingdom to resume negotiations as soon as possible in order to solve the sovereignty dispute between them.

Nor do these activities by the United Kingdom coincide with the responsibility of that country as Permanent Member of the Security Council to contribute to securing definitive stability in the South Atlantic. As Member State of the United Nations, it has the obligation to actively seek the peaceful and agreed solution to its problems with Argentina, and as colonial power it is responsible for ensuring full compliance with the decisions of this Organisation, whose competence it has specifically recognised in the Question of the Malvinas Islands.

Madam Chair,

On our side, we reaffirm once again Argentina's permanent commitment to exhaust efforts to solve in a peaceful and negotiated fashion all the problems existing with the United Kingdom. Our guide and our inspiration are the principles and purposes of the Charter of the United Nations, with which Argentina's constitutional government fully identifies.

These are the reasons why we return year after year to the United Nations and we continue to place real hope in the fact that the mandate of the international community will one day be fulfilled.

Madam Chair,

I wish to extend my recognition to the delegations present who will be supporting the draft resolution on the Question of the Malvinas Islands, which the Latin American countries, whom I also wish to thank most sincerely, have co-sponsored in a spirit of solidarity. This new resolution, like all previous ones, lays the foundations for a diplomatic settlement of this dispute.

Thank you, Madam Chair.