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Question of the Falkland Islands (Malvinas)

Letter dated 23 June 2010 from the Permanent Representative of Argentina to the United Nations addressed to the Secretary-General

I have the honour to refer to the letter dated 19 May 2010 (A/64/787) which the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland addressed to you in response to a letter which my Government addressed to you on 15 March 2010 (A/64/711) concerning the most recent developments in relation to the Malvinas Islands in the context of the mission of good offices entrusted to you by the General Assembly and the Special Committee on decolonization concerning the question of the Malvinas Islands.

First, the Argentine Republic finds it necessary to remind the United Kingdom that there is a sovereignty dispute between the Argentine Republic and the United Kingdom over the Malvinas, South Georgia and South Sandwich Islands and the surrounding maritime areas and that the existence and characteristics of the dispute have been recognized by the United Nations in General Assembly resolutions 2065 (XX), 3160 (XXVIII), 31/49, 37/9, 38/12, 39/6, 40/21, 41/40, 42/19 and 43/25, as well as the resolutions adopted each year by the Special Committee on decolonization, whereby both Governments are urged to resume negotiations in order to find as soon as possible a peaceful solution to the dispute.

The United Kingdom's attempts to justify its position are based exclusively on the principle of the self-determination of peoples. Moreover, in such justifications it invokes decisions of the Fourth Committee that refer not to the question of the Malvinas Islands, but to other colonial issues.

As you pointed out in your message to the Special Committee at the opening of its 2010 session on 25 February 2010, in the decolonization process it is necessary to take each Non-Self-Governing Territory's particular features and specific circumstances into account. The question of the Malvinas Islands has been dealt with in a specific way because of the particular features it has been recognized as having through the above-mentioned resolutions. All those resolutions, issued over the past 45 years in the framework of the United Nations, call for the settlement of a sovereignty dispute between Argentina and the United Kingdom. None of them characterizes the question of the Malvinas Islands in the manner in which the United Kingdom now seeks to frame it. What is more, in 1985 the



General Assembly expressly ruled out the applicability of the principle of self-determination when it rejected, by a wide margin, two British proposals seeking to incorporate that principle into the specific draft resolution on the question of the Malvinas Islands.

The United Kingdom's stubborn refusal to meet its obligation to resume the sovereignty negotiations on the Malvinas, South Georgia and South Sandwich Islands has no justification whatsoever in international law.

The Argentine Government reiterates all the views set out in the document annexed to the letter addressed to you by its Permanent Representative on 15 March 2010 (A/64/711) concerning the unlawful unilateral acts related to hydrocarbons exploration on the Argentine continental shelf, which the United Kingdom seeks to impose on the international community as a *fait accompli*. Such unilateral acts manifestly contravene the provisions of General Assembly resolution 31/49. This is not a view or concern that is exclusive to the Argentine Government, as this understanding was shared by the 32 Latin American and Caribbean countries gathered at the Unity Summit, held in Cancún in February 2010. Those countries also reaffirmed their support for the Argentine Republic's legitimate rights in the sovereignty dispute with the United Kingdom.

In this regard, the Argentine Republic reiterates its firm rejection of the British attempt to authorize hydrocarbons exploration and exploitation activities in areas of the Argentine continental shelf unlawfully occupied by the United Kingdom, which prompted a strong protest from the Argentine Government on 2 February 2010 (A/64/653). These activities manifestly contravene international law and successive United Nations pronouncements, in particular General Assembly resolution 31/49, which calls upon both parties to the sovereignty dispute, the Argentine Republic and the United Kingdom, to refrain from taking decisions that would imply introducing unilateral modifications in the situation while the Malvinas, South Georgia and South Sandwich Islands are going through the process recommended in United Nations resolutions.

The measures taken by the Argentine Republic in response to the United Kingdom's conduct, which are referred to in the United Kingdom's letter (A/64/787), are fully consistent with international law, including the law of the sea. These measures, which are reflected in Decree No. 256/2010 and Administrative Decision No. 14/2010, in no way involve restrictions on innocent passage or on the freedom of navigation. They are also consistent with Argentina's other international obligations, including those arising from bilateral treaties.

The United Kingdom's attempt to blame Argentina for the international isolation experienced by the Malvinas, South Georgia and South Sandwich Islands is indeed surprising. The Argentine Republic reiterates the content of its letter of 15 March (A/64/711) in relation to the cooperation attempts made between Argentina and the United Kingdom in the framework of the sovereignty dispute, and regrets that the possibility of cooperating on various issues is hindered by the United Kingdom's refusal to resume negotiations between the two countries in order to settle the dispute. The United Kingdom should understand that it cannot — as it has sought to do through its conduct — interpret the provisional bilateral understandings under the sovereignty formula, to which it refers in its letter, as a means of imposing a *fait accompli* through illegitimate unilateral actions.

With respect to the United Kingdom's reference, in the penultimate paragraph of its letter, to visits by relatives of Argentines fallen in the South Atlantic conflict, that country should remember that this matter is governed by an agreement to which only the Argentine Republic and the United Kingdom are parties. Moreover, the Argentine Government finds it regrettable that the United Kingdom is seeking to distort the framework applicable to these humanitarian actions, with the intent of altering the characterization of the sovereignty dispute which both countries are obligated to resolve.

Once again, the Argentine Government reiterates its strong support for the Secretary-General's continued good offices and gratefully acknowledges the Secretariat's valuable contribution in that regard. In addition, it trusts that the United Kingdom, in response to the exhortations deriving from that mandate and in fulfilment of its responsibility as a permanent member of the Security Council, will accept its obligation to settle disputes peacefully in accordance with the principles laid down in the Charter of the United Nations, together with its obligation to abide by the General Assembly's resolutions on the question of the Malvinas Islands, in particular the above-mentioned resolution 31/49.

The Argentine Government would be grateful if this letter could be circulated as a document of the General Assembly and if it — along with all documents submitted and circulated in relation to its letter of 15 March 2010 — could be considered as having been submitted in the context of the good offices mission entrusted to you by the General Assembly and the Special Committee on the question of the Malvinas Islands.

(Signed) Jorge **Argüello**
Ambassador
Permanent Representative
