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Question of the Falkland Islands (Malvinas)

Letter dated 12 February 2021 from the Permanent Representative of Argentina to the United Nations addressed to the Secretary-General

Upon the instructions of my Government, I have the honour to write to you in reference to the letter dated 14 January 2021 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations (A/75/720), circulated in response to my letter of 30 December 2020, to which was attached the official press release of the Ministry of Foreign Affairs, International Trade and Worship of the Argentine Republic on the occasion of the 188th anniversary of the usurpation of the Malvinas Islands by the United Kingdom, marked on 3 January 2021 (A/75/695).

The Argentine Republic rejects each and every one of the claims contained in the aforementioned British reply, reiterates all the statements and arguments contained in the annex to the letter of 30 December 2020 referred to above, and reaffirms that the Malvinas Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime areas are an integral part of Argentine national territory and, being illegally occupied by the United Kingdom since 1833, are the subject of a sovereignty dispute recognized by the United Nations, which calls the question of the Malvinas Islands a special and particular case of decolonization.

The Malvinas Islands had been part of the area under the jurisdiction and effective control of Spain since the earliest days of the European presence on the American continent. From 1767, the Islands had 32 successive resident governors, attached to the Governorate of Buenos Aires. The Malvinas Islands were part of the Viceroyalty of the Río de la Plata, which effectively exercised its jurisdiction over the Islands, peacefully and uninterruptedly, from its creation in 1776 until the independence of the Argentine Republic. The Argentine Republic, as the legitimate heir of Spain, continued to exercise its effective authority over the Islands and the surrounding maritime areas, demonstrating its intention to remain through the construction of civilian buildings such as hospitals, dwellings, warehouses, curing houses and stockyards. In response to the claims and interests of foreign Powers, the government in Buenos Aires decided to act to protect and fortify the civilian population by dispatching a group of soldiers with their families. Because they were in a territory under Argentine sovereignty, the settlers accompanying Luís Vernet never requested British authorization to reside in the Islands.



The United Kingdom has never been able to show a valid title of sovereignty over the Islands. The 1833 British usurpation, carried out in peacetime and contrary to the international law in force at the time, was immediately protested and never consented to by Argentina.

The assertion that in 1833 the territorial borders of the Argentine Republic did not include the geographical southern half of its present form is also false. On the contrary, the Argentine State, like the Spanish authorities that preceded it, always considered the southern regions as its own, exercising various acts of sovereignty over those areas. A clear example of this is the creation in 1829 of the Political and Military Command of the Malvinas Islands, which covered the islands adjacent to Cape Horn in the Atlantic Ocean.

The principle of self-determination of peoples is not applicable in this case, and the United Nations has never established that the inhabitants of the Malvinas Islands have the right to self-determination. None of the 10 General Assembly resolutions or 38 resolutions of the Special Committee on decolonization relating to the question of the Malvinas Islands have referred to that principle. Moreover, the General Assembly twice in 1985 expressly rejected British proposals to incorporate the principle of self-determination in the draft resolution on the question of the Malvinas Islands.

The invocation by the population of the Islands of an alleged right to self-determination does not apply to this case and has been repeatedly rejected by the United Nations, because the Organization understood that a population transplanted by the colonial Power, like the population of the Malvinas Islands, does not possess the right to self-determination, being indistinguishable from the people of the mainland. Consequently, we are not dealing with a “people” that is stifled, dominated or subjugated by a colonial Power.

The holding of a vote among British citizens residing in the Islands does not alter the existence of the sovereignty dispute in the question of the Malvinas Islands. The vote unilaterally called by the United Kingdom in 2013 in the Malvinas Islands was not organized or conducted under the auspices of the United Nations, so, in addition to being totally inappropriate because the principle of self-determination of peoples is not applicable to the question of the Malvinas Islands, it was devoid of all validity and effect. As the International Court of Justice reaffirmed in its recent advisory opinion on the legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965, the General Assembly and the Special Committee on decolonization have a central role to play in defining and monitoring the modalities necessary for the decolonization of a territory. In that regard, the General Assembly made its position clear 56 years ago in resolution 2065 (XX), in which it urged Argentina and the United Kingdom to resume negotiations in order to find as soon as possible a peaceful solution to the sovereignty dispute over the Malvinas Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime areas. That position was reiterated in General Assembly resolutions 3160 (XXVIII), 31/49, 37/9, 38/12, 39/6, 40/21, 41/40, 42/19 and 43/25, and in the 38 resolutions of the Special Committee on decolonization.

For the same reasons, the attempt to establish as a precondition for discussing “areas of mutual interest in the South Atlantic” the participation of representatives of a supposed “government” of the Malvinas Islands in any discussion of issues affecting the islanders is unacceptable, given that the relevant resolutions on the question of the Malvinas Islands recognize the bilateral nature of the sovereignty dispute and that the only way to put an end to this special colonial situation is through good-faith negotiations between Argentina and the United Kingdom.

Contrary to what the United Kingdom maintains in its letter, the obligation to resume negotiations does not depend on the “wish” of the inhabitants implanted by

the colonial Power in the Islands, but is enshrined in Article 2.3 of the Charter of the United Nations and in the resolutions on the question of the Malvinas Islands adopted by the Organization.

The Argentine Republic rejects the alleged validity and legitimacy of the decisions of the United Kingdom – attributed by it to a supposed “government” in the Malvinas Islands – to grant illegitimate fishing licences and to explore and exploit the hydrocarbon reserves in areas of Argentine national territory that it illegally occupies. These activities are contrary to international law and are in violation of General Assembly resolution 31/49, which called on the two parties to the dispute to refrain from taking decisions that would imply introducing unilateral modifications in the situation while the Islands were going through the process recommended by the United Nations resolutions on the question of the Malvinas Islands. Furthermore, the measures adopted by Argentina within its domestic jurisdiction respond to the need to discourage illegal unilateral activities and protect the renewable and non-renewable natural resources of its maritime areas and continental shelf, which the United Kingdom seeks to exploit. Such measures have been taken by Argentina in the exercise of its sovereign rights and in accordance with international law. The right of the Argentine Republic to take legal action within the scope of its legislation against unauthorized activities in that area has been recognized in many multilateral declarations, including declarations by the States which are members or associate members of the Southern Common Market (MERCOSUR) and the Group of 77 and China, which have also renewed their call for the United Kingdom to comply with the mandate of resolution 31/49.

With regard to the “entirely defensive” character expressed by the United Kingdom as a justification for its military presence in the South Atlantic, we wish to state once again that Argentina, as a democracy, has no other way to press its claims than the path of diplomacy and peace, as evidenced by its permanent and repeated willingness to resume the bilateral negotiation process with the United Kingdom in a constructive spirit, as called for by the international community, in order to find a peaceful and definitive solution to the sovereignty dispute.

I should be grateful if you would have this letter circulated as a document of the General Assembly, under agenda item 46, concerning the question of the Malvinas Islands.

(Signed) María del Carmen **Squeff**
Ambassador
Permanent Representative