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Question of the Falkland Islands (Malvinas)

Letter dated 9 April 2013 from the Permanent Representative of Argentina to the United Nations addressed to the Secretary-General

On instructions from my Government, I have the honour to write to you with reference to the letter dated 17 January 2013 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations (A/67/703), circulated in reply to the letter dated 3 January 2013 from Argentina (A/67/688).

The Argentine Republic rejects each and every one of the affirmations contained in the aforementioned British reply and reaffirms the statements made in its note dated 19 September 2012 (A/67/389). The British Government is once again seeking to legitimize its position on the question of the Malvinas Islands by misrepresenting historical facts with the firm intention of ignoring the act of usurpation that it committed in 1833, which, since the time of its commission, has been and remains the subject of continuous and repeated protests by the Argentine Government.

In its letter, the Government of the United Kingdom makes no mention of the 32 Spanish governors who held jurisdiction over the Malvinas Islands from 1774 to 1811 or of the various jurisdictional actions performed by the Governments of the Argentine Republic since its independence from Spain, which demonstrate the exercise of Argentine sovereignty over the Malvinas Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime areas and were carried out without any British protest. In particular, the letter makes no mention of the treaty on friendship and navigation between the Argentine Republic and the United Kingdom, concluded in 1825, the text of which does not contain any reservation in respect of Argentine jurisdictional acts over the disputed archipelagos, as well as several other treaties that support Spain's rights over the aforementioned islands, and therefore those of Argentina as its successor in application of the principle of *uti possidetis juris*.

Argentina recognizes the principle of the self-determination of peoples in accordance with the provisions of General Assembly resolution 1514 (XV), which grants this right to peoples subjected to alien subjugation, domination and



exploitation. As that characterization does not apply to the question of the Malvinas Islands, this question has been defined as a special and particular case of decolonization involving a sovereignty dispute between Argentina and the United Kingdom that must be resolved in a peaceful and negotiated manner, taking due account of the interests of the inhabitants of the Islands. As clearly set out in the aforementioned resolution, any attempt to disrupt the territorial integrity of a State must be understood as an act that is incompatible with the purposes and principles of the Charter of the United Nations.

Thus, it is the United Kingdom that is departing from the principles of the Charter of the United Nations since Argentina continually calls on the United Kingdom to cease its efforts to disrupt Argentina's territorial integrity and to agree to comply with the letter of the Charter, Article 33 of which requires every member of the international community to settle its disputes by peaceful means. This exchange of letters merely demonstrates that the dispute exists, that it is ongoing and that it therefore requires a negotiated settlement between Argentina and the United Kingdom in accordance with the United Nations mandate and with the international community's numerous urgings to that end.

Nevertheless, the United Kingdom has unilaterally called for a vote of the settlers that it implanted in the Malvinas Islands in order to consult them on issues that seek to misrepresent the true legal status of these Islands, ignoring the international call to resume sovereignty negotiations with Argentina as soon as possible. Argentina's position on this is clear and conclusive and is reflected in Ministry of Foreign Affairs press release No. 041/13 of 8 March 2013 (see annex).

The Argentine Government once again reiterates its invitation to the United Kingdom to resume bilateral sovereignty negotiations, which are the only means internationally recognized as legitimate, with a view to a peaceful and definitive solution to the question of the Malvinas Islands.

Reaffirming the Argentine Republic's legitimate rights of sovereignty over the Malvinas Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime areas, I request that you have this letter and its annex circulated as a document of the General Assembly under agenda item 45 concerning the question of the Malvinas Islands.

(Signed) María Cristina **Perceval**
Ambassador
Permanent Representative

Annex to the letter dated 9 April 2013 from the Permanent Representative of Argentina to the United Nations addressed to the Secretary-General

A further attempt by the British to manipulate the question of the Malvinas Islands (Argentine Ministry of Foreign Affairs press release No. 041/13 of 8 March 2013)

The United Kingdom has called for a vote by the inhabitants that it implanted in the Malvinas Islands in order to consult them on issues that seek to misrepresent the true legal status of these islands. The Malvinas Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime areas are the subject of a sovereignty dispute between the United Kingdom and Argentina that has been recognized by the two countries and by the international community as a whole. Therefore, the United Kingdom has no right to seek to alter the legal status of these territories, even under the guise of a hypothetical “referendum”.

Instead of complying with its international obligations by resuming negotiations with Argentina in order to resolve this dispute, the British Government — in an attitude that clearly demonstrates the unfounded nature of its claim and, above all, its lack of good faith — is seeking to introduce distorting elements aimed at changing the definition of this dispute under international law as reflected in repeated pronouncements by the international community. Aware of its international isolation with regard to the question of the Malvinas Islands, the United Kingdom is clearly attempting to misrepresent its dispute with Argentina rather than resolving it.

However, the United Kingdom cannot modify the dispute at will. This vote, like the myriad other polls or votes that the United Kingdom could contrive in the disputed territories involved in the question of the Malvinas Islands, cannot have such an outcome, nor can it relieve that country of its obligation under international law to resolve its sovereignty dispute with Argentina peacefully by resuming negotiations.

The United Nations and numerous regional organizations such as the Organization of American States (OAS), the Community of Latin American and Caribbean States (CELAC), the Union of South American Nations (UNASUR) and the Southern Common Market (MERCOSUR), as well as other international and biregional forums such as the Group of 77 and China, the Ibero-American Summit of Heads of State and Government, the Africa-South America Summit, the South American and Arab Countries Summit and the zone of peace and cooperation of the South Atlantic, have urged the United Kingdom and Argentina to resume these negotiations precisely in order to resolve this dispute.

The Argentine Constitution specifically protects the way of life of the population of the Malvinas Islands, and General Assembly resolution 2065 (XX) calls on the two parties to the dispute, Argentina and the United Kingdom, to bear in mind the interests of that population. In light of this mandate, the Argentine Republic regrets these initiatives by the United Kingdom, which are irresponsible and lacking in good faith, and urges it to seriously reconsider its policy of providing misinformation regarding the legal and political situation of the disputed territory that it occupies.

This British initiative is not supported by any of the 40 United Nations resolutions on the question of the Malvinas Islands, which is considered to be a special and particular case of decolonization in which the existence of a sovereignty dispute between Argentina and the United Kingdom must be resolved through bilateral negotiations, taking into account the interests (not the wishes) of the inhabitants of the Islands. On two occasions in 1985, the General Assembly expressly rejected British proposals to incorporate the principle of self-determination into the draft resolution on the question of the Malvinas Islands.

Moreover, the conduct of the United Kingdom has been inconsistent with the principle of the self-determination of peoples, which it alleges to be applicable to the question of the Malvinas Islands. Its disingenuous invocation of the aforementioned principle on this question contrasts with its position in other cases of decolonization, such as that of the Chagos Archipelago, in which it expelled the native inhabitants and, even now, continues to deny them the right of return to their land. Nor did the British Government seek the opinion of the inhabitants of Hong Kong when it returned that territory to its legitimate owner, the People's Republic of China.

This new British attempt to manipulate the question of the Malvinas Islands through a vote by the population that it implanted in those Islands has been firmly rejected by the Argentine Republic and by, among others, the UNASUR and MERCOSUR countries, since this attempt will neither alter the essence of the question nor put an end to the sovereignty dispute, which must be resolved in accordance with international law and with the many United Nations resolutions on the issue.
