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**Caribbean Regional Seminar on the implementation of the Second
International Decade for the Eradication of
Colonialism: next steps in decolonization**

St. George's, Grenada
22 to 24 May 2007

**Caribbean Regional Seminar on the implementation of the Second International
Decade for the Eradication of the Colonialism Question (1981-1990)**

Statement by the Argentine Delegation

Madam Chair,

First, I would like to thank the Government and People of Grenada for their warm welcome and hospitality and the Special Committee on Decolonisation for the invitation extended to my Government to attend and contribute to this Seminar.

the situation in the non-self-governing territories I would 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 decolonisation process.

that we renewed this decade our commitment to continue working towards its completion by doing economic, social and cultural development in the territories under colonial rule.

"Islands" which affects the territorial integrity of Argentina. This is a matter of great concern to us because it is a matter of the rights of the Argentine people.

The Argentine position on this matter is enshrined in the Argentine National Constitution which states: "The Argentine Nation ratifies the plenitude of Argentine sovereignty over the Malvinas, South Georgia and South Sandwich Islands and the corresponding maritime and insular areas, since they are an integral part of the national territory. The recovery of those territories and the full exercise of sovereignty over them, constitutes a permanent objective of the Argentine people which

Allow me to elaborate on the meaning of this paragraph. The "Question of the Malvinas Islands", which includes the Malvinas Islands, South Georgia and South Sandwich Islands and the surrounding maritime areas, constitutes a special and particular case as it was expressly recognized by the Resolutions of the Special Committee related to this Question. Its specificity derives from the following historical facts:

For most of the 16th century only navigators in the service of Spain travelled the maritime routes along the South American coast, advancing southwards in their search for an inter-oceanic passage. In this process the Malvinas Islands were discovered by

on European maps under a variety of names and remained under effective control of Spanish authorities.

When in 1764 a French sailor established Port Louis on Soledad Island, Spain objected and France recognized Spanish sovereignty. In 1770 the British took possession of the settlement to Spain, which renamed it Puerto Soledad. The year after the French settlement, a clandestine British expedition arrived in the archipelago and in 1766 English sailors established a fort at a place they named Port Egmont on an island to the west of Gran Malvina. Despite the outcry of the British government, Spain became aware of it and insisted on protecting its rights. Not receiving an acceptable response, it

set out to find the illegal settlement and in 1770 expelled the settlers by force. After settling their differences with Spain for this action, Great Britain withdrew from Port Egmont in 1774. From then on, the Spanish authorities in Puerto Soledad continued to exercise their jurisdiction and control over the whole of the archipelago.

During this time Great Britain consented the open, continuous, effective and peaceful exercise of State sovereignty by Spain first and Argentina later. During the 41 years following the British withdrawal, Spain appointed 52 governors.

As far as Argentina, the First Government of the United Provinces of the Rio de la Plata, which was formed in 1810, did not have any territorial claims over the Malvinas Islands. It was the Second Government of the United Provinces of the Rio de la Plata, which assumed the administration of their territory, inherited from Spain by succession of States in accordance with the *possidetis juris* of 1810.

In 1820, Naval officer David Jewett took possession of the Malvinas Islands on behalf of the United Provinces of the Rio de la Plata during a ceremony in Puerto Soledad which was attended by sealers and whalers of different nationalities, most of them from the United States and Great Britain who happened to disembark on the islands.

No official function took place. Nor did the United Provinces send any representative to the Malvinas Islands during the process of recognition of Argentina's independence which started in 1833.

Navigation treaty in 1820.

During the 1820s, Argentine governments continued to exercise their sovereignty over the Malvinas Islands, including the appointment of coverage legislation on fishing resources and the granting of territorial concessions. As a result, the population of Puerto Soledad grew to a little more than one hundred fixed residents.

in the port.

On June 10, 1830, a decree of the Argentine government decided to decentralize some administrative powers from Buenos Aires and established a *Gobernación* in the Malvinas Islands.

The *Gobernación* had to administer justice, collect taxes, manage public works, and ensure safety, which meant strict regulations imposed by the Argentine

authorities and population residing there, who were never allowed to return. They were replaced during those 174 years of usurpation by a colonial administration and

or declaration by a friendly government of the Argentine Republic. It was immediately rejected and protested. On 16 January 1833, when news of the events in the Malvinas Islands reached Buenos Aires, the Argentine government informed the British Minister of Foreign Affairs, Mr. George Canning, that the Argentine government had no intention to accept the Malvinas Islands.

On 22 January, the Minister of Foreign Affairs presented a protest to the British government official.

I would like to quote part of that first protest of 22 January for the audience to be aware

and specially to point out that the spirit of our country remains this way in the
noticing the incompatibility of proceeding, as violent, as arrogant, in the midst of
the most profound peace, and when the existence of close and friendly relations

moderation, cordiality, and purpose of international law.
DRAFT DECLARATION TO THE UNITED NATIONS GENERAL ASSEMBLY
PROPOSED BY ARGENTINA ON MALVINAS

For the reasons above expressed, in compliance with the orders of His
Excellency the President of Argentina, we have the honor to make known to your Excellency, in
posterity, to the deposit which the United Provinces have entrusted to the
Government of Buenos Aires in New York before the

which has been affected of them, as equally against the insults offered to the English

CONSEQUENCE of the above cited proceedings.

His Excellency, the Foreign Minister of Argentina, is requested to lay this
Protest before his Government communication.

The issue remained unsettled until 1843, when the British Foreign Secretary, in 1843, Argentina continued to pose the issue at different levels of
government. In 1884, in view of the lack of any amending British response to the
protests, Argentina proposed to submit the issue to international arbitration.

During those 174 years of existence of the dispute, Argentina has consistently
demanded the right to self-determination of the Malvinas Islands by the Argentine
nation, and has never renounced the right to do so.

Madam Chair

This historical background demonstrates why the Malvinas Question is a particular
colonial case as it takes the form of a sovereignty dispute. Therefore, any
comparison to other colonial cases, such as Chile, is irrelevant to this
assertion as I will show later on.

Madam Chair,

Within the framework of the decolonisation process, my country has constantly
supported the principle of self-determination and its applicability in general to the
peoples under colonial rule. The Argentine Republic has demonstrated its firm
commitment in this principle as can be seen in the following documents:
Colonialism; however, in analysing the "question of the Malvinas Islands" one must
keep in mind the reasons why in this case the principle of territorial integrity prevails and

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, is the guiding resolution on decolonisation.

"colonialism in all its forms and manifestations" stating that "all peoples have an inalienable right to self-determination to complete freedom from the exercise of foreign dominion or control".

This Resolution was adopted in defence of peoples subjected to or subjugated by a colonial power and 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".

However, the principle of self-determination enshrined in paragraph 2 of Resolution 1514 is limited by the principle of territorial integrity which prevails over the former

"certain governments of the above-mentioned countries" which "have the right to exercise their right to partial or total disruption of the national unity and the territorial integrity of a country which is incompatible with the purposes and principles of the Charter of the United Nations".

In paragraph 7, it adds that "in States that observe faithfully and strictly the provisions of the Charter of the United Nations, the Universal Declaration of Human Rights and the

"sovereignty, independence and territorial integrity of the former territories of such States, and respect for the sovereign rights of all peoples and their territorial integrity!"

In the "Question of the Malvinas Islands" part of the territory of an independent State

become all the more compelling when considering that the existing population has been subjected to force, without any consideration of the will of the people, by subjects of the occupying power who naturally cannot be considered to having been ever submitted to or subjugated by a colonial power as should be the case if one is to follow Resolution 1514. We have here a colonial situation but not a colonial

population by nationals of the colonial power would place the destiny of such territory in hands of the power that was installed there by force, in violation of international law.

The fundamental principle of self-determination must not be used to transform an illegitimate possession into "sovereignty". Its application to the specific case of the Malvinas Islands, would entail the absurdity of taking advantage of Resolution 1514, the objective of which is to end colonialism, to perpetuate a colonial situation to the detriment of the Malvinas Islands and the violation of the territorial integrity of the Argentine Republic.

The correct interpretation of Resolution 1514 applied to the case of the Malvinas is clear from its wording: colonialism in all its manifestations must be brought to an end and

The general principles regulated by Resolution 1514 were applied to the specific case of the "Question of the Malvinas Islands", forthwith known as the "Question of the Malvinas Islands" which takes the form of a dispute between Argentina and the United Kingdom.

This Resolution overwhelmingly approved by the General Assembly reiterates our commitment to end colonization in all its forms, one of which is the "Question of the Malvinas Islands" which takes the form of a dispute between Argentina and the United Kingdom on sovereignty on the islands and invites both Governments to settle the dispute by peaceful means in accordance with the principles of justice and international law, and in full respect of the interests of the inhabitants of the islands.

Madam Chair,

Resolution 2065 (XX) was adopted by 94 favourable votes and only 14 abstentions including that of the United Kingdom.

Parties began to turn this mandate as immediately a process of bilateral negotiations. The parties have been meeting since 1985, with the participation of several countries, allowing several opportunities for consideration, including the consideration of several proposals, even if at the end no agreement has been reached.

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 before and after the 1982 conflict and has been specifically reiterated year after year by the Special Committee on Decolonisation (whose last Resolution is dated June 15, 2006). Moreover, the inapplicability of the principle of self-determination as a criterion for determining the status of the Malvinas Islands was demonstrated in 1980, when the United Nations General Assembly rejected two British draft resolutions which included a reference to that right in the case of the Malvinas Islands.

In this sense, I would like to quote several elements from Dr. Giacomo Lanza, the very well known Italian jurist of the University of Florence, from the report authorizing the United Nations:

"There are some cases for which the principle of self-determination is inapplicable [] considering the historic circumstances of the islands".

He has consumed a number of years in the population of the island State to which the islands belong. Under those circumstances resorting to plebiscite as a form of independence cannot be considered as it cannot constitute a satisfactory test; the criteria of free choice on the part of the interest population, which normally accompanies the anticolonialist principle and even constitutes its principal instrument of implementation, is incompatible with the former". End of quote.

Madam Chair,

The "Question of the Malvinas Islands" involves a colonial situation, to which there are only two parties: Argentina and the United Kingdom. The solution to

such dispute must be reached through negotiations between both parties. In view of the non-participation of the United Kingdom in the preparation and in the adoption of Resolution 2005 (XIV) which mandated negotiations without delay for a peaceful solution, and 25 of the South Atlantic Conflict, we are still faced with a sovereignity dispute that has not been resolved.

Between the Governments of the Argentine Republic and the United Kingdom, taking due account of the relevant resolutions of the United Nations. Unfortunately, the Argentine Government's efforts towards re-establishing negotiations according to the mandate of the General Assembly and the Special Committee, have not yet found a positive reply from the United Kingdom. Nevertheless, on this occasion, my Government reiterates its conviction on the legitimate basis of our position and its disposition to resume negotiations with the United Kingdom, in order to settle the sovereignity dispute in order to reach a peaceful, just and lasting solution to the "Question of the Malvinas Islands".

This is the spirit of the paragraph I quoted from our National Constitution at the beginning of my statement.

Thank you, Madam Chair.