

# FALKLAND ISLANDS



United Nations General Assembly  
63<sup>rd</sup> Session

Special Committee of 24 on Decolonisation

18 June 2009

Statement by  
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Legislative Assembly of the Falkland Islands

**Mister Chairman, Your Excellencies and Committee Members,**

We welcome this opportunity once again to address Special Committee to express our concerns about the Draft Resolution on the Question of the Falkland Islands. We are here as democratically elected members of the Legislative Assembly, in our fourth and final year of office before the General Election in November 2009.

We have been attending this meeting for several years and we hope that, over the course of this time, our representations have allowed a greater understanding of our views and particular circumstances. Nevertheless, we are disheartened by the continual adoption of the resolution which is directly contrary to the principles established in the United Nations Charter and contrary to the wishes of the Falkland Islanders.

Whilst it would seem, on the face of it, that peaceful negotiation to resolve a dispute is a noble and eminently reasonable course of action, the attempt by both Argentina and the terms of this resolution to force one party to the table to negotiate away the rights and freedoms of the people of a nation, without reference to the democratic wishes of those same people, is quite simply unacceptable and unjust in the XXIst Century and is furthermore contrary to the ethos of the United Nations Charter which upholds the principle of self-determination as an inalienable human right.

I will explain our view regarding certain elements of the resolution, highlighting in the process the elements which are contradictory to established principles and furthermore drawing out, where relevant, the inaccuracies and untruths by which Argentina validates these same inaccuracies. Secondly, I will address issues on the current and future principles and actions proposed by this Committee.

*Expressing its preoccupation of the fact that the good relations between Argentina and the United Kingdom has not yet **led to negotiations** on the question of the Falkland Islands,*

There are fundamental reasons why there is no foreseeable prospect that the United Kingdom will agree to negotiate on the question of the Falkland Islands:

- a) Firstly the right to self-determination of the people of the Falkland Islands is extended to us through our Constitution. As in all British Overseas Territories our constitution guarantees us the absolute right to determine our own political future, and this principle has been continuously upheld since prior to the events of 1982. In March 2009 during his pre-G20 tour to Latin America and following his meeting with President Kirchner, Prime Minister Gordon Brown told reporters that: *“The essential principle has always been that the islanders should determine the issue of sovereignty for themselves and, let us be clear, our first priority will always be the needs and wishes of the islanders.”* To negotiate on sovereignty would thus be to contravene the rights laid out under the legal Constitution of the Islands.
- b) In contrast, and to the consternation of Islanders, Argentina asserts that the principle of self-determination is not applicable to the Falkland Islands due to the pre-existing sovereignty dispute. It claims that the principle of territorial integrity is of superior validity to the principle of self-determination. Annexation of the Islands to the Argentine state is therefore the only acceptable solution to the Argentine Government and as such, is a goal enshrined within their own Constitution. This pre-determined outcome on the part of Argentina is wholly contrary to the wishes and interests of the Islands and, consequently, unacceptable to the United Kingdom.

*Considering that this situation should facilitate resumption of the negotiations in order to find a **peaceful solution** to the dispute over sovereignty,*

A resumption of negotiations between Argentina and the United Kingdom without the participation and agreement of the inhabitants cannot, by definition, lead to a peaceful solution unless the express wishes of the Islanders are deliberately and cynically silenced by force. Morally, islanders can no more be compliant with negotiations on the sovereign rights of their homeland than either the people of Argentina or Great Britain can participate in theirs. Negotiation can therefore only lead to a peaceful solution if either the rights of the Islanders to self-determination are upheld, or if their rights are suppressed and ruthlessly imposed, an outcome which would utterly reject the very principles of justice and democracy that the United Nations purports to uphold but which in regard to the Falkland Islands are **only** upheld by the Administering Power.

*Reaffirming the principles of the Charter of the United Nations on the non-use of force or threat of force in international relations and the peaceful settlement of international disputes,*

Whilst there is no apparent threat of a repetition of the invasion of the Falkland Islands by Argentina in 1982, nor indeed of any use of military force, it is evident that other types of force that pre-empt peaceful solutions to matters of mutual interest are an on-going facet of our current relations. Withdrawal from regional co-operation on fisheries and hydrocarbons agreements until such time as sovereignty is placed on the agenda for discussion, the ban on charter flights across Argentine airspace unless we use Argentine carriers to and from an Argentine airfield, the insistence of using since it's creation in 1982 the name Puerto Argentino instead of Stanley, our capital, despite the fact that the town did not exist prior to 1842, all point to a level of aggression that is not peacefully intended. In the words of one Argentine political essayist, Vicente Palermo: *“In short, the Government acts as if it plans to lay siege to the inhabitants of the Islands, as a method to soften them up and to force them to accept everything that they don't want. This is terrible, for the Islanders, for Argentine objectives in relation to the Islands and, above all, for the respect that Argentines can have for themselves”* (Revista “Debate” 2004)

These actions make peaceful co-operation on areas of mutual interest an ever-receding dream in the South Atlantic. Argentina claims that these acts are in response to what they call “unilateral” acts by the British Government, such as the extension of our fisheries licensing regime to include 25 year fishing quotas. In fact, these quite legitimate measures are the result of the Falkland Island Government using its powers to develop long term protection and development of our fishery and are representative of good economic and environmentally sound management practices to the benefit of the inhabitants and environment. It is highly regrettable that every action taken designed to develop our economy, our country and regional co-operation are met with a hostile reaction from our closest neighbours.

*Reaffirming the need for the parties to take due account of the interests of the population of the islands in accordance with the provisions of the General Assembly resolutions on the question of the Falkland Islands,*

Resolutions on the questions of Gibraltar and the Falkland Islands are alone in referring, not to the inalienable right to self-determination of the inhabitants, but merely to the *interests* of the population, as if these can be better determined by people and Governments other than the Islanders themselves. It has never been clearly established why this Committee considers that of all remaining denominated colonial peoples in the world, only Gibraltarians and Falkland Islanders are denied a right to self-determination. This is not reasonable, it is not in accordance with democratic principles, and as from October 2008, it is not in accordance with the General Assembly: at the meeting of 4<sup>th</sup> Committee last year the Assembly voted to adopt an amendment to remove a recent insertion into Draft Resolution VI which qualified the principle of self-determination with the words “*and where there is no dispute over sovereignty*”. Delegates who spoke in favour of the motion to remove the insertion expressed their deepest concern at the attempts made to qualify one of the principle tenets of the United Nations Charter. It seems evident, consequently, that there is no qualification on the principle itself and this resolution should not be accepted without due reference to that principle, including the much-used argument of “territorial integrity” which will be put forward by Argentina today.

The issue of the right to territorial integrity, that is, that “*the partial or total disruption to national unity*” is incompatible with the purposes and principles of the Charter, has been upheld in Resolution 1514 to which this draft resolution refers. The principle of self-determination is deemed to apply to the peoples of states, colonies, trusts and Non-Self-Governing Territories, but not to groups within territories unless these same groups are not democratically represented by the Government of the sovereign state of which they are a part (*H.Quayne “The United Nations and the evolving right to self-determination” 1998*). The basis of the principle was to prevent future break-ups of established states, **but not** to resolve sovereignty disputes rooted in the past. In any event, this does not apply to the Falkland Islands, where Argentine occupation of the Islands was very brief and occurred whilst ownership of the Islands was in plain and documented dispute. The Islands have therefore never formed a part of Argentina, and existed as a political entity in its current form for considerable time before the modern boundaries of Argentina had been established in the mid to late 19<sup>th</sup> Century. Until the repossession of the Islands by the British in 1833, the Islands had been claimed variously by the British, the French, the Spanish and finally, by Argentina. A brief period of occupation by Argentina in the 1820’s consisting of a small population of 32 civilians of mixed nationalities and a military garrison, was

protested by Great Britain at the time. Contrary to Argentine assertions, whilst the garrison was indeed returned to Argentina following the murder of their Governor - which had led to the intervention of the British in the first place - the civilians were invited to stay on the Islands. Indeed the captain of the British ship *Clio* recorded in the log that he “*had great trouble to persuade 12 of the gauchos to remain on the settlement otherwise the cattle could not have been caught.*” Some descendents of these gauchos could still be identified in the Falkland Islands census of the 1870’s.

Aside from the very dubious claim of territorial integrity favoured by Argentina, there are contradictions inherent in using that principle to support its claim to sovereignty of the Islands and its vaunted wish to bring cessation to the so-called colonial status of the Islands currently. Resolution 1541 lays down the Principles that establish the criteria to be used to determine removal of non-self governing territories from the list of existing colonies. The three possibilities put forward, namely, full integration, sovereign independence and free association are well known. Principle IX decrees that “*the integrating territory should have attained an advanced stage of self-government with free political institutions, so that its peoples would have the capacity to make a responsible choice through informed and democratic processes*” and that “*the integration should be the result of the freely expressed wishes of the territory*”. It is clear that in Non-Self-Governing Territories, of which the Falkland Islands is *de facto* a member, integration with its Administering Power, or indeed any other sovereign state, pre-supposes that in doing so that the wishes and democratic choices of the territory are conditional to the action. It is self-evident from the assertions already made that the people of the Falkland Islands, who already enjoy an advanced stage of self-government and free political institutions, would never choose to be annexed by or integrated into Argentina. Any negotiations, therefore, which propose a transfer of sovereignty to Argentina, whether immediate or in the long-term, would be a direct contravention of this principle and would exacerbate, not resolve, the injustice meted out to Non-Self-Governing Territories by ambitious States.

*Mr. Chairman,*

Next year, 2010, represents the end of the Second International Decade for the Eradication of Colonialism. The past decade, whilst bringing some successes in this regard, has not led the world much closer to this aim than it was at the end of the previous decade. Hence the

need to re-examine the conditions and criteria for determining the end of colonization is of the utmost importance over the next months. This was recognized by the Special Committee during 2008 and is explicitly referred to in the Special Report for that year:

*“In view of the variety of circumstances of individual Non-Self- Governing Territories, some participants noted the need to consider exploring new thinking relevant to the case of each Non-Self-Governing Territory...*

*In cases where a particular Non-Self-Governing Territory is clearly in favour of building upon the basis of its existing situation, the Special Committee might wish to consider steps that it could take, bearing in mind the Territory’s interests in that regard; the UN goal of decolonization could thus be achieved in a relatively straight-forward fashion.”*

In the resolutions relating to other British Overseas Territories reference is made to the constitutional developments taking place in those territories, and welcomes the progress of such development. The Falkland Islands are no exception in this regard and our current Constitution, which came into force on 1<sup>st</sup> January this year, is evidence of a continuously developing process of internal self-government. Major steps forward, such as the binding requirement for the Governor to accept the advice of Executive Council on all matters other than defence and foreign affairs, enhance the maturing status of our relationship with Great Britain. Furthermore, in reference to Principle VI of Resolution 1541, and in terms of identifying XXI<sup>st</sup> Century models for the free expression of self-determination by small and often vulnerable states, it represents a possible 4<sup>th</sup> option for determining whether a Non-Self-Governing Territory has achieved a full measure of self-government. We would seriously encourage the Committee to take due note of the developments in the British Overseas Territories, including the Falkland Islands, when considering the actions to be taken in the Third Decade.

*Mr. Chairman,*

Whilst deeply appreciating the work that this Committee has put in over the last 40 years - and more - to bringing about the end of colonialism, it is clear that the position in 2009 is very different to that of 1969. The remaining Non-Self-Governing Territories are progressing more-or-less away from typical colonial situations into systems based on the

principle of self-determination freely expressed through democratic processes and institutions. In regard to the Falkland Islands, it is becoming ever more anomalous that this Committee should be making reference to a 200 year-old sovereignty dispute at the expense of the rights of inhabitants of a Non-Self-Governing Territory. During deliberations over the next year we would urge the Committee to consider whether this action is truly in the spirit of the ethos and principles of the United Nations Charter.

*Mr. Chairman,*

We have no quarrel with the people of Argentina, and recognize that it is a country of great potential which is working hard to overcome the political and economic turmoil that it experienced through the XXth Century. We would welcome any opportunity to engage with them on subjects of mutual interest always provided that discussions on sovereignty are NOT conditional to such engagements. We welcome visitors from Argentina to our shores and look forward to the pilgrimage of the next-of-kin due to take place later on in the year. We hope that grieving families will be able to find some comfort and sense of closure from visiting the Argentine cemetery at Darwin.

We would, however, ask that the leaders of that country consider rationally whether actions taken with the intent to force inhabitants of a small territory to their will is commensurate with modern political principles and practices. We realize that the *de facto* situation of the Falkland Islands is very disappointing to them but desire for possession is not sufficient justification either for the exertion of economic pressure on a population or for the goal of annexation and subjugation of that same population.

*Mr. Chairman,*

I thank you for the opportunity to address this Committee.