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UNIVERSAL PERIODIC REVIEW

Report of the Working Group on the Universal Periodic Review

Argentina *

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Introduction

1. The Working Group on the Universal Periodic Review (UPR), established in accordance with Human Rights Council resolution 5/1 of 18 June 2007, held its first session from 7 to 18 April 2008. The review of Argentina was held at the 16th meeting on 16 April 2008. The delegation of Argentina was headed by H.E. Mr. Eduardo Luis Duhalde, Human Rights Secretary, Ministry of Justice, Security and Human Rights. For the composition of the delegation, composed of 11 members, see appendix below. At its 17th meeting held on 18 April 2008, the Working Group adopted the present report on Argentina.

2. On 28 February 2008, the Human Rights Council selected the following group of rapporteurs (troika) to facilitate the review of Argentina: Ukraine, Cuba, and Cameroon.

3. In accordance with paragraph 15 of the annex to resolution 5/1, the following documents were issued for the review of Argentina:

(a) A national report submitted/written presentation made in accordance with paragraph 15 (a) (A/HRC/WG.6/1/ARG/1);

(b) A compilation prepared by the Office of the High Commissioner for Human Rights (OHCHR), in accordance with paragraph 15 (b) (A/HRC/WG.6/1/ARG/2);

(c) A summary prepared by OHCHR, in accordance with paragraph 15 (c) (A/HRC/WG.6/1/ARG/3).

4. A list of questions prepared in advance by Denmark, Finland, Germany, Ireland, Italy, Netherlands, Romania, and the United Kingdom of Great Britain and Northern Ireland was transmitted to Argentina through the troika. These questions are available on the extranet of the Universal Periodic Review.

I. SUMMARY OF THE PROCEEDINGS OF THE REVIEW PROCESS

A. Presentation by the State under review

5. At the 16th meeting, on 16 April 2008, the representative of Argentina introduced the national report. Argentina understands the policy of human rights promotion and protection not only as policies to comply with the international human rights norms but also the fulfilment of the ethical foundations of the State with regard to the Argentine society. Addressing the problems of human rights is strategically important for democratic governance, including the review of the past and the fight against impunity. At present, hundreds of cases of crimes against humanity committed during the military dictatorship between 1976 and 1983 have been reopened. The qualitative change that Argentina is living in the fight against impunity is the result of the political, legal and ethical determination of the three powers of the State and the determined demands from civil society and the struggle of the human rights movement for more than 30 years, to seek truth and justice. Tribute was paid to the efforts of organizations of the human rights movement, in particular to the Mothers and Grandmothers of the Plaza de Mayo, converted already into a universal symbol. Argentina noted that the reference period in the fight against impunity has been expanded to cover also crimes against humanity committed before the military dictatorship. Argentina is working together with major sectors of the civil society in order to build confidence in the rule of law and democratic institutions, which are essential. The conviction that these objectives require short, medium and long term measures have led Argentina to the elaboration of a document entitled "Basis for a national human rights plan". Since 2003, the Office of the Secretary for Human Rights has

established networks of human rights observatories in the different regions of the country to promote public policies as well as to contribute to the strengthening of stakeholders. With regard to the fight against impunity, memory, truth, justice and reparation, the Supreme Court of Justice removed all legal obstacles in the fight against impunity. It declared that crimes against humanity are not subject to statutory limitations, and that the amnesty laws and the pardons of persons tried and condemned for these crimes were unconstitutional. The Argentine Parliament ratified the international treaties that were not yet applicable at the internal level, including those that establish the non-applicability of statutory limitations, and declared null and void the guarantees in the law that guaranteed the impunity of those responsible.

6. Judicial actions are complemented by an active policy to recover the historic memory, being conducted by the State and organizations of the civil society, in line with resolution 2005/66 of the Commission on Human Rights on the right to truth. The association of the Grandmothers of the Plaza de Mayo has been working on the right to identity since its creation in 1977 and it has the support of the State through the National Commission on the Right to an Identity (CONADI), created by a law adopted by Parliament. Already 88 children have been able to recover their true identity and establish a link with their biological families. In terms of reparations at the national level, since 1991, a number of norms have been adopted to economically compensate the victims of State terrorism. These norms benefit to former political prisoners, victims of forced disappearances and political executions, children born to mothers deprived of their liberty and or minors detained in relation to their parents' activities ("Ley de hijos") and others. In 2004, the clandestine detention centre known as ESMA was also provided for the creation of a space for the memory and for the promotion and defence of human rights.

7. There are however continuing problems related to impunity. The resistance to public policies on the truth and justice are expressed through a strategy of delays in the judicial processes, and a campaign of harassment, including some physical aggressions and in one case of extreme gravity, a disappearance. In the framework of the Ministry of Justice, Security and Human Rights, the National Plan to assist complainants and victims of the terrorism, as well the national programme for witness protection was established. The Truth and Justice Programme, created in May 2007, is also under the responsibility of the Ministry and has the main goal of strengthening the procedures to guarantee the protection and security of those intervening in the court cases and their families.

8. Regarding the situation of prisons, Argentina is in the process of harmonizing its legislation with international standards. The Supreme Court of Justice declared that the United Nations Minimum Rules for the Treatment of Prisoners laid down the standards for all persons deprived of their liberty. In November 2004, Argentina ratified the Optional Protocol to CAT, being the first country in the Americas and the first country with a federal level that has done so. Regarding preventive detention, a number of measures have been taken, in particular judicial and legislative measures. Recent decisions by the Supreme Court of Justice of the Nation justify however the need to maintain the preventive detention as an exceptional measure which should be applied following strict criteria of legality and not in an indiscriminate manner. Recent decisions by the federal and criminal courts have established that the rights established in international human rights treaties take precedence over procedural norms, as in the case of the Convention on the Rights of the Child, where female prisoners with minor children may be released from prison so that their children may enjoy their right to live with their mothers.

9. With regard to economic, social and cultural rights, these were weakened with the economic crisis and the social exclusion in the 1990s. One of the main purposes of the State is the fight against poverty and exclusion. The Ministry of Social Development has implemented social plans

and programmes, such as the Plan “Get to Work” (*Manos a la Obra*), the Families Plan (“*Plan Familias*”) the National Food Security Plan (“*Plan Nacional de Seguridad Alimentaria*”) with the aim of improving the situation of excluded families.

10. In response to written questions, Argentina noted that it based its National Action Plan for the Promotion and Protection of Human Rights on a recommendation of the Vienna World Conference on Human Rights. It further noted that the Action Plan has been supported by the Office of the Secretary of Human Rights, UNDP, and with the support of the OHCHR and all the United Nations agencies based in Argentina. As regards the National Plan to Combat Discrimination, Argentina announced that it had been validated by a national decree two years ago and noted that it contains a body of diagnosis and recommendations. Argentina further noted the establishment several years ago of the INADI - the National Institute Against Discrimination, Xenophobia and Racism - now within the framework of the Ministry of Justice, Security and Human Rights, which inter alia promotes inter-religious dialogue.

11. Argentina underlined the fact that it was the first country of the region to ratify the CAT-OP and noted that it has started the process of drafting a bill. Argentina noted that it faced two problems: first, the requirement of the preventive mechanism’s total independence, which should be established within the Congress of the Nation in the orbit of the legislative power; second, the need to address the structure of a federal State in which provinces retain all the powers not delegated explicitly to the federal State (i.e., they organize their own prison system and apply their own judicial procedures). At the same time, there is existing machinery that should be maintained, for example the Committee against Torture of the Provincial Commission for Memory in Buenos Aires, which visits jails without prior indication or notice and interviews detainees.

12. As regards conditions in detention, it was noted that the Public Ministry for Defence provides constant monitoring, that the Prison Commission emits directives and that a civil official in charge of prisons had been appointed by the national Government. Argentina further noted that the Province of Buenos Aires sanctioned a law in March 2006 which established standards for the adequate application of international standards. The provincial Supreme Court of Buenos Aires also created in December 2007 the “Area of Human Rights” for persons deprived of liberty, with the rank of Sub-Secretary, so as to monitor detention conditions in prisons and police centres (*Comisarias*) and to make proposals and recommendations.

13. With regard to the appointment of judges, it was noted that the national Government has established specific measures since the Supreme Court of Justice in May 2007 deemed unconstitutional the existing system and encouraged the national Government to bring a normalized system. The Council has provided a competition to fill vacancies through a legal process.

14. Argentina noted that there are four protection programmes for witnesses of crimes at the national level and various at the provincial level. Argentina noted that the National Programme for Protection of Witnesses was established in April 2007 by the Ministry of Justice and Human Rights and that a similar programme also existed at the provincial level.

15. As regards the trafficking of persons, the Congress adopted in April 2008 the law on the prevention and punishment of trafficking of persons, the purpose of which is to implement measures designed to prevent and punish trafficking and to assist and protect victims. In January 2005, in the Office of the Secretary for Human Rights, a special unit for the eradication of sexual exploitation of children had been set up. A National Prevention Programme for the

Abduction and Trafficking of Children and Crimes against their Identity also exists within the Office of the Secretary for Human Rights. At the regional level, within the framework of Mercosur, a legislative database on trafficking, sexual exploitation, sale and abuse of children and adolescents was established with the aim to harmonize Mercosur legislation in this field.

16. As regards sexual health and reproductive programmes, in October 2002 Argentina promulgated the national law on sexual and reproductive health and responsible procreation, which is an enormous step forward in this field. Within the Ministry of Health, a programme has been set up supporting the distribution of contraceptives and providing training, consultation and community organization, including in women's prisons.

17. Argentina noted, in December 2006, the project to create the office of domestic violence within the framework of the judiciary. Concerning the rights of girls, boys and adolescents, Argentina indicated that the system of "*patronato*" was derogated and the Congress adopted a comprehensive law for the protection of children in 2005, introducing changes to consider children as subject of rights. Furthermore, a National Secretariat for Children, Adolescents and Family has been established as well as the Federal Council on Children, Adolescents and the Family and the Ombudsman for Girls, Boys and Adolescents. As regards juvenile justice, Argentina noted the creation of the Commission for the Reform, which updates a number of laws regarding the status of juvenile justice in order to bring the national legislative framework in line with the principles of the Convention on the Rights of the Child (CRC). Finally, Argentina noted also the establishment of a commission and a plan for the eradication of child labour that will shortly be put before the National Congress for its approval.

B. Interactive dialogue and responses by the State under review

18. During the ensuing interactive dialogue, statements were made by 32 delegations.

19. Brazil noted that Argentina has launched a national programme to regularize the status of migrants, entitled "*Patria Grande*" based on the Agreement on Residence in Mercosur and its associated States. In this regard, Brazil asked what the guidelines of the programme are and about the main difficulties related to its implementation. Brazil noted the "truth trials" intended to gather information about what had happened to the victims of the military dictatorship as a positive step in the protection of the right to truth and memory. In this respect, Brazil asked what measures Argentina has taken to combat impunity in relation to the crimes committed during the period of military dictatorship.

20. Cameroon, noting that the safety of witnesses in cases dealing with human rights violations, in particular disappearances, is still a matter of concern, as mentioned in paragraph 58 of the national report, asked what measures the Government intends to introduce to protect such vulnerable people. In reference to a number of recommendations made by the Committee on the Elimination of Discrimination against Women (CEDAW) and the Committee on the Rights of the Child Cameroon asked about the status of implementation of these recommendations. Cameroon recommended to Argentina to continue its efforts to bring its national and provincial legislation in line with ratified international instruments. It further encouraged Argentina to continue its quest for a better redistribution of its economic growth in order to achieve the Millennium Development Goals.

21. Algeria requested further information on the measures implemented by Argentina to curb discrimination based on religion or belief. Given this, Algeria recommended that Argentina pursue its efforts to counter discrimination in whatever form, and in particular on a religious basis, and to

enhance its contribution to the dialogue in the context of preparing the review of the Durban Conference and the Working Group on the effective implementation of Durban I, as well as the ad hoc Committee on supplementary norms. Algeria congratulated the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) by Argentina in 2007 and recommended that it continue its efforts together with other signatories, including Algeria, in order to achieve better accession to the ICRMW.

22. Austria requested further information on the implementation of the 2007 decree establishing the “*Programa Verdad y Justicia*” and recommended that any obstacles be removed in order to ensure the security of victims and witnesses in human rights trials throughout the country. Austria mentioned the reference made in the national report to the “*Ley de Protección Integral de las niñas, niños y adolescentes*” adopted in 2005 and the firm commitment of national courts to providing special protection for the child’s best interest in accordance with the CRC. In this regard, Austria asked for further information on the measures taken for the protection of children from all forms of physical or mental violence as provided for in the CRC and recommended that corporal punishment in the family and schools be explicitly prohibited by law.

23. With respect to the implementation of the Programme of Truth and Justice, Slovenia recommended improving the needed protection of victims and witnesses as well as human rights defenders. With respect to the penitentiary system in the country, Slovenia noted in particular the large number of protracted detention cases and the overcrowding of the prisons, as well as factual inexistence of distinction between children detained for protection or assistance and those detained for being in conflict with the law. Slovenia recommended to address the issue of unduly protracted detentions urgently and also to promote the use of alternative measures to provisional detention, in particular for pregnant women or those with young children. Slovenia recommended adapting Argentina’s penal system to be compliant with the recommendations of the Committee on the Rights of the Child, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), and noted that it would appreciate learning about Argentina’s plans in that respect. Slovenia also noted that five persons who were under 18 at the time they committed the offences are still serving life imprisonment and asked what action will Argentina take in relation to them. Slovenia recommended that Argentina prohibit all forms of life imprisonment for offences committed by persons under the age of 18, in line with article 37 (a) of CRC. Finally, Slovenia recommended that Argentina include a gender perspective into the follow-up process to this UPR review in a systematic and continuous way.

24. Azerbaijan noted that the new National Migration Act (2004) deserves all attention due to the paradigm whereby the protection of human rights prevails over the security and border control considerations. Azerbaijan asked what measures are being taken by Argentina to address the concern expressed by CERD about incidents of incitement to racial hatred and racist propaganda in the media, including on the Internet, while duly respecting the right to freedom of expression. Azerbaijan noted that the Special Rapporteur on the question of torture expressed concern about poor prison conditions. It further noted that the Committee against Torture, the Human Rights Committee and the Working Group on Arbitrary Detention have also raised concerns about the lack of hygiene, adequate food and appropriate medical care in the prisons. In this regard, Azerbaijan asked what policy measures are being taken by Argentina to address these complex issues.

25. Germany referred to the national report mentioning the difficult conditions that still prevail in police stations - overcrowding, lack of hygiene, and lack of medical care as well as violence. In this regard, Germany asked whether Argentina could elaborate on measures taken to address and redress

this situation in the near future and what steps are envisaged to ensure that suspects are not detained for a longer period than that established by law. Germany recommended that Argentina especially address the problem of overcrowding of prisons and in this regard the overly extensive and seemingly unrestricted use of preventive detention. Germany also requested further information about strategies to effectively combat trafficking in persons in order to prevent, for example, sexual exploitation of children or forced labour. Referring to the problem of high mortality rates among women due to illegal abortions and lack of subsequent medical care, Germany asked what measures Argentina has taken or plans to take to ensure that the national regulations on contraception will be fully implemented and to guarantee respect for sexual and reproductive rights of women. It requested further information about measures taken to guarantee equal treatment of sexual minorities in practice. As regards the effective protection of judges, prosecutors and especially witnesses to human rights violations of the former military junta, Germany refrained from asking a question as this matter had been extensively elaborated in the introductory statement.

26. Colombia noted that the national report reflects Argentina's commitment to countering all forms of discrimination. Colombia further noted that the Programme against Discrimination contains commitments not only of governmental bodies but also of the society as a whole. In this regard, Colombia asked what has been the involvement of civil society in this Programme and what mechanisms are planned to follow up on this. Colombia suggested that the Council consider setting up a database compiling good practices so that States can share their experiences in order to encourage future cooperation.

27. The Russian Federation noted in particular the efforts being made by Argentina in countering all forms of discrimination. In this regard, the Russian Federation asked for more details about measures taken to encourage inter-religious dialogue. Taking into account that Argentina is a country with a large number of indigenous minorities, the Russian Federation also asked what kind of problems Argentina is faced with in ensuring the rights of these peoples and how to ensure their rights.

28. Guatemala noted that in 1993, the function of the Government Procurator for Prisons was set up as a "sectoral ombudsman" within the executive branch of Government, which in 2004, was transferred within the legislative branch. Guatemala asked whether Argentina would recommend setting up similar sectoral ombudsmen. It requested Argentina's assessment in respect to this institution. Finally, Guatemala asked what interaction there is between the Procurator of Prisons and the Ombudsman.

29. Mexico congratulated Argentina on its commitment to collaborate with UPR and efforts made on all human rights through various methods and various levels of government, and particularly commended on measures to protect truth, justice, identity and reparations and to combat impunity for human rights violations committed in the past which has earned Argentina international praise. Mexico encouraged Argentina to continue these efforts. It also underlined efforts to bolster its migrant legislation and encouraged it to continue efforts in this regard. As Argentina is essentially a host country, it regularized 800,000 migrants in the context of an economic crisis. With respect to the Optional Protocol to CAT, Mexico asked about the status of the draft law for the establishment of a national machinery provided for in the Optional Protocol to CAT. Mexico also asked about the impact of different measures in the area of indigenous peoples, and recommended to redouble efforts to implement the recommendations of CERD in this area. Further, Mexico wanted to know about the impact of the law on children and adolescents in the juvenile justice system and the situation of young people in conflict with the law. The law envisages the nomination of a defender of boys, girls and adolescents in this regard, and Mexico recommended that such a defender be

nominated quickly. Finally, Mexico recommended that Argentina consider, when appropriate, integrating the results of UPR into the national plan of action on human rights.

30. China said that Argentina has adopted effective measures in combating discrimination, xenophobia and racism, and appreciated the human rights-based approach to refugees and migrants and positive measures adopted for eliminating discrimination towards them and assisting them to better integrate. China also indicated that mainstreaming human rights by Argentina has been exemplary in empowering women. China requested Argentina to elaborate on specific measures adopted to safeguard the rights of indigenous women and women living under the poverty line.

31. Ecuador highlighted the machinery for developing the national report, and stated that it is a transparent integral programme for respecting and guaranteeing human rights. It also appreciated the machinery created for claims for justice in Argentina and wished to obtain more information on the measures adopted for the protection of witnesses and human rights defenders.

32. The Netherlands asked how the Government can ensure that the judicial system will be able to handle legal proceedings resulting from recent developments in an appropriate manner. Finally, the Netherlands stated that it heard from Argentina regarding problems in introducing a national mechanism for the Optional Protocol to CAT and recommended that Argentina implement such a mechanism as soon as possible.

33. Peru noted that Argentina was the first country in the Americas to ratify the Optional Protocol to CAT. Peru formulated three questions and a recommendation: (a) since Argentina is a federal State, how can it guarantee due application of human rights standards in the provinces? (b) given considerable efforts to improve detention conditions in penitentiaries and police establishments, is there a national register of detained persons? If not, Peru recommended that Argentina consider the establishment of such a register; and finally (c) do the Argentine security forces receive human rights training?

34. France noted that it worked closely with Argentina in adopting and promoting the International Convention for the Protection of All Persons from Enforced Disappearance and the countries will continue to do so together. France welcomed historical progress achieved since 2003 in combating impunity. However, France pointed out that there is a backlog and asked whether Argentina has provided additional resources to help the work of justice and speed up the holding of cases. France also addressed the rights of immigrant populations, which is large, particularly from neighbouring countries. Legislation in access to health or education is very generous. However, undeclared jobs and sweatshops are prevalent, particularly in the capital. France recognized that Argentina is conscious of this and asked whether measures are intended to be taken to protect the working conditions of these people.

35. In responding to questions on the right to truth, Argentina noted that it had a friendly solution between Argentina and the plaintiffs on a case in the 1990s brought before the Inter-American Human Rights Commission. This case was very important because the friendly solution ended up in the holding of trials, through which the magistrates could find the truth about what had happened to persons that had been forcefully disappeared. On the migration programmes, Argentina indicated that the programme “Patria Grande” was possible because of two main issues, on one side the simplification of the proceedings that allowed the regularization in a minimum period of a considerable number of immigrants and on the other hand, the training of the staff receiving them, in particular in the boarder areas. Argentina has adopted a law on political asylum inspired by

international refugee law. In practice, Argentina is applying not only the 1951 Convention relating to the Status of Refugees but also the Cartagena Declaration on Refugees of 1984, which is much broader.

36. Regarding the question on the strategy for the processes of the crimes against humanity and the question of the Netherlands if the situation is manageable, Argentina indicated that without any doubt this has caused problems, not only of security, as already noted with the disappearance of a key witness, which is an extremely serious case, but also raises problems of strategy and judicial management of the processes. There are more than 850 cases pending and 290 persons in preventive detention, a complex situation given also the number of victims. The response by the State has been on one hand to reorganize the executive institutions through the Truth and Justice Programme, which is under the responsibility of the Ministry of Justice, Security and Human Rights. The Prosecutor has also established its own follow-up unit for these trials and is defining strategies to address the delays. The Supreme Court has also organized an office to address the same issue. Argentina also takes note of the suggestions to apply as early as possible the mechanism to prevent torture and ill-treatment of the Optional Protocol to CAT. Argentina also highlighted the importance of the human rights training of the security and armed forces and noted that the Secretary for Human Rights is working together with civil society organizations, and in some cases with international support.

37. On the issue of witnesses' protection, Argentina referred to the Truth and Justice Programme, within the executive branch. This programme has the main responsibility of coordinating the activities of other programmes, such as the National Plan for the Assistance and Support to Plaintiffs, the National Programme for the Protection of Witnesses and also a responsibility to ensure the coordination with the Public Ministry.

38. On the issue of girls, boys and young adolescents, in particular regarding public policies, Argentina noted that the Comprehensive Child and Adolescent Protection Act was adopted in September 2005, and it was important in terms of adjusting the legislation to the Convention on the Rights of the Child. It replaces the paradigm whereby the child was simply a subject of protection rather than a subject of rights. With regard to the issue of violence against children, the comprehensive law on the protection of children prohibits physical punishment of children and includes the obligation of all persons who have knowledge of violence against children to report it to relevant authorities.

39. On the relation between the national State and the provinces and the autonomous city of Buenos Aires with regard to the implementation of the international human rights norms, Argentina indicated that at times there are tensions between the Nation and the provinces. The Nation is responsible at the international level for human rights violations even if the violation happens at the provincial level. Another problem that has been raised is the issue of the rights of persons with determined sexual preferences. The Office of the Secretary for Human Rights has been very active in this regard, and has even presented *amicus curiae* to support some cases. The National Plan to Combat Discrimination also addresses many of these issues.

40. Malaysia welcomed that Argentina made the promotion and protection of decent working conditions as an additional objective to the United Nations Millennium Development Goals, and was interested in learning more about policy measures undertaken and progress made thus far in achieving this additional objective. Malaysia was also impressed by the National Food Security Plan and stated that it would appreciate elaboration on the Plan, mechanisms involved in its implementation and the average time frame the beneficiary is covered by the Plan.

41. The United States of America noted that Argentina has been bringing accused perpetrators of military dictatorship-era human rights violations to justice, and asked what plans there are to continue this effort.

42. Canada indicated that investigations are currently underway in the following cases: the killing of a prominent human rights defender and leader of a local social movement, to which the Special Representative of the Secretary-General on human rights defenders drew attention in 2004; murders of two leaders of the *Piqueteros* movement in 2002; and the disappearance of Jorge Julio Lopez, a witness who had planned to appear before a court during a human rights-related trial. Canada recommended that Argentina undertake all possible efforts to protect witnesses, particularly those testifying in human rights-related trials and further recommended that Argentina ensure that human rights defenders are protected from persecution. Canada further noted that concerns by a variety of human rights bodies were expressed regarding overcrowding and poor physical conditions prevailing in prisons, including lack of adequate hygiene, medical care and food, poor prison conditions, reports of torture and ill-treatment of children while in police custody, and that article 205 of the Code of Criminal Procedure allows for a child to be held in incommunicado detention for a period of 72 hours. Noting efforts made by Argentina, Canada recommended that Argentina continue its efforts to improve prison conditions for inmates and address issues of overcrowding and mistreatment, including of children in police custody. Finally, while encouraged by the adoption of law 24.417 on protection against domestic violence, Canada expressed concern about the prevalence of violence against women, including rape and domestic violence, as well as sexual harassment in the workplace. It recommended that Argentina continue its efforts to combat discrimination against women in all its forms and recommended that women be afforded adequate protection and redress from domestic violence and that the perpetrators of such acts be prosecuted and punished as recommended by CEDAW.

43. Chile thanked Argentina for clarifications provided on murders of Chilean citizens that have occurred in Argentina, as stated in paragraph 23 of the national report. The programmes for migratory regularization were also commended, which has benefited many Chilean citizens. Chile appreciated progress made when it comes to political participation of women, and requested more information regarding the national plan to eradicate violence against women.

44. Ukraine asked what measures are being taken aimed at combating and eradicating violence against women (including domestic violence), ensuring that women have access to protection and effective redress. Ukraine also asked about the level of cooperation between the Ministry of Justice and the Ombudsperson. Ukraine also recommended to the Government to draw particular attention to the improvement of the cooperation between the penitentiary and judicial bodies, particularly, guarantee in the legislation of the country the right to access of detainees to a lawyer immediately after detention.

45. Venezuela referred to issues raised in the national report, including economic, social and cultural rights and noted with interest the information contained in the report about the social plans and programmes developed by the Ministry of Development to improve the situation of excluded families, for example the plans for food security, families and employment. It also requested that Argentina provide more information about the measures taken under those plans and data, if any, on the impact and effectiveness of those plans.

46. The United Kingdom of Great Britain and Northern Ireland made reference to the concerns expressed by the Committee against Torture at the uneven application of the Convention against Torture in the various provinces and that the Committee on the Rights of the Child noted that there was no legislation in force at the federal level, which considered the child as a subject of rights. The

United Kingdom also pointed to other concerns raised by the Committee against Torture in relation to delays in the judicial system which meant that cases could take years to be tried. The United Kingdom stated that this situation affected the human rights of those detained without trial, made the presentation of evidence more difficult and generally eroded public confidence in the justice system. It asked for further information on the steps Argentina had taken to tackle this problem. Additionally, the United Kingdom stated that the training of police and other enforcement agencies was key to human rights delivery. While noting the efforts to improve police training, it expressed the view that public confidence in the police had been damaged by allegations of abuses in some cases. Witness protection was also considered to be another key element to ensuring effective trials and in that regard the United Kingdom recommended that the Government ensure that an adequate witness protection programme be implemented. The United Kingdom also welcomed Argentina's recent ratification of the Optional Protocol to CAT and asked for further information on Argentina's plans for its full implementation. It was noted that the national report highlighted the problem of social exclusion, including poverty associated with the 2001 economic crisis and while welcoming the progress Argentina had made, a gap between rich and poor remained which the Government had noted was a priority to be addressed. Traditionally vulnerable groups including migrants, indigenous people and children were at risk from exclusion. Women also still suffered from inequalities, especially in the workplace. The United Kingdom recommended that Argentina takes further steps to address discrimination against women and vulnerable groups, including children, minorities and indigenous peoples.

47. Given the impressive developments mentioned in paragraph 101 of the national report relating to the empowerment of women and making them more visible in the political arena, the Syrian Arab Republic asked the delegation to further elaborate on those efforts, as in Syria's view they could be a part of best practices to be shared with other countries.

48. Italy wished to refer to two questions and recommendations. With the ratification of the International Convention on the Protection of All Persons from Enforced Disappearance and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, Argentina is completing the ratification of most existing international and regional human rights instruments. Concerning the progress made to combat discrimination, Italy asked what was the relation between the national action plan against discrimination adopted in 2005 and the other national (human rights) action plan. Italy noted that the progress achieved with the adoption of the 2005 law for the protection of children and adolescents, that according to the reports of some NGOs this legislation was not fully in line with the provisions of the Convention of the Rights of the Child, in particular concerning the legal definition of the child and its non-application to many sectors and intervention areas. Italy recommended that the Argentinean authorities adopt the necessary steps to bring their legislation into conformity with the norms and principles for the overall protection of children and adolescents.

49. Norway focused on issues raised by CEDAW and the Committee against Torture. It stated that CEDAW had expressed concern about the high incidence of violence against women including rape, domestic violence and sexual harassment in the workplace, and that perpetrators were often not brought to justice. CEDAW had recommended the enactment of a law aimed at combating and eradicating violence against women, ensuring that women have access to protection and effective redress and that perpetrators of such acts were effectively prosecuted and punished. Norway asked what steps Argentina had taken in that regard. Reference was also made to several recommendations made by the Committee against Torture, including with respect to the establishment of effective machinery within the prison system to receive and investigate reports of sexual violence and provide protection and assistance to victims. Norway asked what measures had been taken to implement those recommendations. Lastly, Norway referred to concerns raised by the

Committee against Torture, the Human Rights Committee and the Working Group on Arbitrary Detention about the overcrowding and poor physical conditions prevailing in the prisons. Norway indicated its wish to receive information on the measures taken or to be taken to address this concern.

50. Switzerland stated that it is vital that anyone suspected of having committed a serious crime should be brought to court in order to be tried. With regard to the penal procedures concerning the crimes committed during the dictatorship, Switzerland underlined the importance that the procedures were in keeping with the principles of fair trial and rapidity. It was vital that these criminal procedures should not be pointlessly slowed down, for if they were delayed this might lead to people escaping a verdict. Therefore, Switzerland recommended that Argentina take all necessary steps to ensure that the principle of rapidity is complied with. Switzerland also underlined that witnesses were a vital element in establishing facts and might be threatened as a result of their participation in legal proceedings. In order to ensure that witnesses come forward, Switzerland stated that it was vital that their personal safety was guaranteed as well as the safety of their family members. Switzerland, therefore, welcomed the witness protection programme that has been set up and recommended that Argentina continue its efforts in this area, in order to make sure that witnesses were not victims of threats or assault.

51. Uruguay noted that the report of Argentina described the long struggle against impunity for the violations of human rights committed during the military dictatorship and that this struggle was successful with the cancellation of the Presidential pardon and impunity. The highest judicial authorities considered such texts as unconstitutional and that the crimes committed could not be subjected to the statute of limitations such as torture, murder, forced disappearance and robbery of children. Progress has also been made with women's rights, examples were the quota for women in the National Assembly and that the President is a woman. Uruguay congratulated Argentina on the progress it has made on human rights in general including economic, social and cultural rights because of the fact that poverty has diminished and urged Argentina to continue with its efforts.

52. Egypt stated that impunity was key to the promotion and protection of human rights, achieving healing and reconciliation and preventing violations. Whether in regard to Argentina or other similar situations, Egypt noted that the question of amnesty versus impunity always arose, especially when it was perceived as a precondition for settling conflict or a situation of strife. In that context, Egypt raised the following question: while recognizing that different situations entailed different contexts and dynamics and that justice was best rendered when done swiftly, did Argentina's experience, from which many were benefiting or stood to benefit, suggest that there could be a potential danger in invoking or applying the principle of impunity, when seeking to settle a long-standing conflict or situation, or shortly thereafter where a situation was still fragile.

53. Sweden thanked the Government of Argentina for its serious undertaking for the Universal Periodic Review. Sweden raised a specific question on one of the issues touched upon in the written questions it submitted in advance and stated that the question could also be used as a recommendation. Concerning United Nations and NGO reports of torture and other inhuman treatment by the police, in certain parts of the country, Sweden asked for more information about the steps taken by the federal or provincial governments to ensure that there was no impunity for such crimes.

54. The Republic of Korea welcomed the creation of the National Institute against Discrimination in 1995 and the 2005 National Plan against Discrimination. It asked Argentina to elaborate on concrete measures taken in this area and their effect so far, and encouraged the Government to maintain its efforts to prevent discrimination especially towards the most vulnerable sectors of the

population. It also asked what specific measures Argentina has taken to date to prevent, investigate and punish trafficking of migrants, particularly migrant women sexually exploited and to provide assistance and support to victims. The Republic of Korea encouraged the Government to follow-up on such measures in order to ensure their effectiveness. Finally, it noted with satisfaction various efforts to recognize and fulfil the rights of indigenous populations and to ensure their participation in various aspects of society. It asked how the Government assesses those efforts today and recommended that Argentina intensify its measures to fully realize the rights of its indigenous populations, particularly their representation in the civil service and public institutions.

55. Nigeria noted with interest that Argentina is party to most international human rights instruments and particularly welcomed the ratification of the Rome Statute on the International Criminal Court and Optional Protocol to CAT. Nigeria asked how Argentina will respond to the concern of CERD about complaints regarding acts of racial discrimination, violent racist attacks and acts of police personnel committed on racial grounds. By way of recommendations, it encouraged Argentina to (a) take appropriate measures to combat racism and racist-related phenomena; (b) ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights and the Convention on the Rights of Persons with Disabilities including its optional protocol; and (c) while welcoming the laudable initiative on the devolution of national and provincial land to indigenous communities, Nigeria encouraged the authorities to provide adequate protection to indigenous peoples to enable them to own and possess these lands.

56. Responding to questions raised on allegations of torture and ill-treatment by the security forces, Argentina indicated that it would like to make a distinction between crowd control and situations of detention. Crowd control has changed radically in Argentina. There have been social protests in Argentina and at no time have there been acts which had to be deplored, except in the case in which the victim was a policeman and another case in which the victim was a professor killed by the police of one province. With regard to the situations of detention, Argentina is aware of these abuses. However, within the framework of the fight against impunity, Argentina is starting to see very severe sentences being applied to police officers who commit these crimes.

57. Another subject that cannot be ignored is the issue of the right of indigenous peoples, mentioned by Mexico and other countries. Argentina noted that there is a delay in the implementation of the international and national framework in this regard, and indicated that it must openly recognize this. However, Argentina noted that it has made efforts in two fundamental areas, i.e. land and culture. The Emergency Act on possession and ownership has not yet resolved the matter, but it has opened a parenthesis on the important issue of the relationship between indigenous peoples and their land. At the same time, a census should be conducted, which is essential to guaranteeing the rights of indigenous peoples. In terms of culture, Argentina is opening bilingual schools, which are very important.

58. Regarding the ways in which the National Plan to Combat Discrimination was developed and progress was made, in close association with sectors of the civil society. The INADI has an Advisory Council in which NGOs and other interested persons and/or persons with expertise in the fight against discrimination are represented. In this area however, Argentina also recognized a delay in practise. For example, the autonomous City of Buenos Aires has legislation that is very complete and may be exemplary with regard to persons with disabilities, but there are practical problems for which Argentina needs to find solutions.

59. Argentina is seriously working to address the problem of the management of the trials, in which there are problems of security but also of judicial strategy. There is no one single criteria or parameter and maybe several approaches will need to be combined, but certainly there is a need to

come up with procedural measures that would expedite the processes. One initiative that Argentina has taken is to request the *Consejo de la Magistratura* to undertake an investigation into procedural delays, and it has taken up this task.

60. To conclude, the representative of Argentina stressed the importance of the new Universal Periodic Review mechanism of the Human Rights Council and expressed its commitment to establish a follow-up mechanism and the broad dissemination of the procedure in the country, as well as to reporting periodically to allow for the assessment of the implementation of the recommendations and voluntary commitments.

61. Argentina reaffirmed as a commitment of the State the proposals made before the high level segment of the Human Rights Council by the Minister for Foreign Affairs, to promote the holding of a meeting at the United Nations headquarters in New York to encourage the prompt ratification of the International Convention for the Protection of All Persons from Enforced Disappearance. At the same time, Argentina has initiated the process for the recognition of the competence of the Committee on Enforced Disappearance to examine individual and inter-State communications. Similarly, Argentina is committed to recognize the competence of the Committee of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Argentina is also interested in promoting an international and regional declaration by multilateral organs on the right to memory and truth. In particular, Argentina commits itself to put in practise the mechanism of the Optional Protocol of CAT, and to continue implementing the National Plan to Combat Discrimination in all aspects and to launch the second stage of the preparatory work for a National Human Rights Plan.

62. Argentina regretted not being able to inform about the application of the instruments of human rights to which it is a State party in the totality of its national territory, which includes the Falkland Islands (Malvinas)*, South Georgia and South Sandwich Islands and noted that these are illegally occupied by the United Kingdom of Great Britain and Northern Ireland and are the subject of a dispute of sovereignty between both countries as recognized by several resolutions of the United Nations General Assembly as well as the Committee on Decolonization that urge the Governments of Argentina and the United Kingdom to resume negotiation with a view to arriving as soon as possible at a peaceful and lasting solution to the dispute. For this reason, Argentina noted that on all occasions in which the United Kingdom has pretended to extend the application of the international instruments, as mentioned in paragraph 16 of document A/HRC/WG.6/1/GBR/1 to the Falkland Islands (Malvinas), South Georgia and South Sandwich Island, Argentina has rejected this. Argentina has therefore also addressed the note 106/08 of 10 April 2008 to the President of the Human Rights Council rejecting the inclusion of the Falkland Islands (Malvinas), South Georgia and South Sandwich Island in paragraph 8 of the above-mentioned report presented by the United Kingdom within the framework of the UPR.

63. The representative of the United Kingdom of Great Britain and Northern Ireland stated that he does not believe that the Human Rights Council or the UPR Working Group was the appropriate forum for the comments made by the delegation of Argentina on 16 April 2008 regarding sovereignty on the Falkland Islands (Malvinas). The United Kingdom has no doubts about its sovereignty over the British Antarctic Territory, the Falkland Islands (Malvinas), South Georgia

* A dispute exists between the Governments of Argentina and the United Kingdom of Great Britain and Northern Ireland concerning sovereignty over the Falkland Islands (Malvinas) (see ST/CS/SER.A/42).

and South Sandwich Islands and the surrounding maritime areas. The principle of self-determination, enshrined in Article 73 of the Charter, underlies its position on the sovereignty of the Falkland Islands (Malvinas). There can be no negotiations on the sovereignty of the Falkland Islands (Malvinas) unless and until such time as the Falkland Islanders so wish.

II. CONCLUSIONS AND/OR RECOMMENDATIONS

64. The recommendations formulated during the interactive dialogue have been examined by Argentina and the recommendations listed below enjoy the support of Argentina:

- 1. To pursue its efforts to counter discrimination in whatever form, in particular towards the most vulnerable sectors of the population in the follow-up to the Durban Conference and the recommendations of the Committee on the Elimination of Racial Discrimination. (Algeria, Republic of Korea, Nigeria, Mexico)**
- 2. To take further steps to address all kinds of discrimination against women, children, minorities and indigenous peoples. (United Kingdom, Mexico)**
- 3. To continue its efforts, together with other signatories to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, to guarantee better accession; to follow up on measures to combat trafficking of migrants, in particular migrant women. (Algeria, Republic of Korea)**
- 4. To continue its efforts to improve the protection of victims and witnesses, and their families, as well as human rights defenders, particularly those testifying in human rights-related trials, and to ensure that adequate witness protection is implemented. (Austria, Slovenia, Canada, Switzerland, United Kingdom)**
- 5. To take steps to ensure that the principle of speedy trials be duly taken into account in the context of the ongoing human rights trials. (Switzerland)**
- 6. To implement the national mechanism established in the Optional Protocol to the Convention against Torture. (Netherlands)**
- 7. To take steps to ensure that, both at federal and provincial level, there is no impunity for the crime of torture. (Sweden)**
- 8. To adopt measures to improve prison conditions, especially the overcrowding. To address the issue of unduly protracted detentions and to promote the use of alternative measures to pretrial detention, in particular for pregnant women and young children. (Slovenia, Germany, Canada)**
- 9. To consider the creation of a national register of detained persons. (Peru)**
- 10. To give adequate attention to the improvement of the cooperation between penitentiary and judicial bodies. (Ukraine)**
- 11. To designate the Ombudsperson for children. (Mexico)**

12. To continue its efforts to improve the situation of children in detention as recommended by the Committee against Torture and the Committee on the Rights of the Child. (Canada, Italy, Slovenia)
 13. To adopt a penal system that is in conformity with the Committee on the Rights of the Child recommendations, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines); to prohibit the sentencing to life imprisonment for persons under 18 years of age in conformity with article 37 (a) of the Convention on the Rights of the Child. (Slovenia)
 14. To continue its efforts to bring its legislation into line with the norms and principles of the overall protection system of children and adolescents. (Italy)
 15. To intensify measures to fully realize the rights of indigenous peoples, in particular their representation in civil service and public institutions. (Republic of Korea)
 16. To provide adequate protection to indigenous peoples and ensure that their right to possess land is respected. (Nigeria)
 17. To pursue its effort to combat any kind of discrimination against women; to ensure redress for victims of domestic violence, as well as the prosecution of perpetrators as recommended by Committee on the Elimination of Discrimination against Women. (Canada)
 18. To include a gender perspective in the follow-up of its UPR process in a systematic manner. (Slovenia)
 19. To pursue its effort to bring its national and provincial legislation into line with the human rights international instruments it has ratified; to better distribute food and other resources with a view to achieving the Millennium Development Goals by 2015. (Cameroon)
 20. To envisage the inclusion of the UPR outcome in the National Human Rights Plan. (Mexico)
 21. To ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, already signed by Argentina, aiming at the abolition of the death penalty, the Convention on the Rights of Persons with Disabilities and its Optional Protocol. (Nigeria)
65. All conclusions and/or recommendations contained in this report reflect the position of the submitting State(s) and/or the State under review thereon. They should not be construed as endorsed by the Working Group as a whole.

III. VOLUNTARY PLEDGES AND COMMITMENTS

66. Argentina has initiated the procedure towards the recognition of the competence of the Committee of the Convention for the Protection of All Persons from Enforced Disappearance to examine individual or inter-State communications.

67. In the same line, Argentina pledges to recognize the competence of the Committee under the International Convention for the Protection of the Rights of All Migrant Workers and Members of Their Families.

68. Argentina will promote the adoption by the Human Rights Council of a declaration on the right to truth and memory.

69. Argentina reaffirms its commitment to continue strengthening the protection of human rights at a universal and regional level, and also to preserve and strengthen the role of NGOs in the promotion and defence of human rights.

70. Argentina commits itself to put into practice the mechanism contained in the Optional Protocol of the Convention against Torture and to continue the implementation of the National Plan to Combat Discrimination in all its aspects, and also to promote the second stage of the National Plan of Human Rights.

Annex

Composition of the delegation *

The delegation of Argentina was headed by H.E. Mr. Eduardo Luis DUHALDE, Human Rights Secretary, Ministry of Justice, Security and Human Rights and composed of 11 members:

H.E. Mr. Alberto DUMONT, Ambassador, Permanent Representative of Argentina to the United Nations Office at Geneva

Mr. Raúl PELAEZ, Minister, Permanent Mission of Argentina to the United Nations Office at Geneva

Mr. Rodolfo MATTAROLLO, Consultant in International Human Rights Law, Human Rights Secretariat, Ministry of Justice, Security and Human Rights

Ms. Andrea GUALDE, National Director of Internal Affairs relating to Human Rights, Ministry of Justice, Security and Human Rights

Mr. Sebastián ROSALES, Embassy Secretary, Permanent Mission of Argentina to the United Nations Office at Geneva

Mr. Gonzalo JORDAN, Embassy Secretary, Permanent Mission of Argentina to the United Nations Office at Geneva

Ms. Mariela FOGANTE, Embassy Secretary, Permanent Mission of Argentina to the United Nations Office at Geneva

Ms. María Cecilia VILLAGRA, Embassy Secretary, General Direction of Human Rights, Ministry of Foreign Affairs and International Trade

Mr. Ciro V. ANNICCHIARICO, Advisor at the Human Rights Secretariat, Ministry of Justice, Security and Human Rights

Ms. María FERRETI, Advisor at the Human Rights Secretariat, Ministry of Justice, Security and Human Rights.

* Circulated as received.