



The Ambassador

EMBASSY OF THE FEDERATIVE REPUBLIC OF BRAZIL

The Hague, April 17, 2009.

Mr. Philippe Couvreur
Registrar
International Court of Justice
Peace Palace
Carnegieplein 2
2517 KJ – The Hague

Dear Mr. Couvreur,

With reference to your letter nr. 133310, dated October 20, 2008, I am pleased to transmit the statement of the Brazilian Government on the Unilateral Declaration of Independence by the Provisional Institutions of Self-Government of Kosovo:

“The International Court of Justice requested, on 17 October 2008, written statements on the question related to the request for Advisory Opinion on the accordance with international law of the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo, as per Resolution 63/3, adopted by the United Nations General Assembly (UNGA).

Brazil voted in favour of the aforementioned UNGA Resolution. We firmly believe that an Advisory Opinion issued by the International Court of Justice would, for the benefit of the entire international community, clarify the legal aspects of the question, therefore providing an important contribution to the peaceful resolution of the controversy generated by Kosovo’s Unilateral Declaration of Independence.

In regard to the case in point, the position of the Brazilian Government is the following:

By adopting Resolution 1244 (1999), under Chapter VII of the UN Charter, the United Nations Security Council (UNSC) placed Kosovo under an international legal regime. Resolution 1244 provided an appropriate framework for the establishment, pending a

final settlement, of substantial autonomy and meaningful self-administration for Kosovo with due respect for the sovereignty and territorial integrity of the Federal Republic of Yugoslavia.



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As an elected member of the UNSC in 1999, Brazil voted in favour of Resolution 1244 as it reflected the unique capacity of the Security Council and the United Nations system for legitimate collective action to further reconciliation and stability and to promote peace on the basis of international law after the traumatic experiences faced by the population of the Balkans over the previous decade.

The Unilateral declaration of Independence of Kosovo by the Provisional Institutions of Self-Government of Kosovo has divided the international community and disregarded the authority of the Security Council in regards to the maintenance of international peace and security.

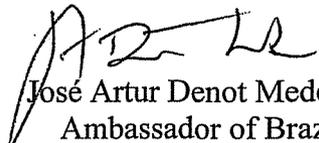
In Brazil's view, the Unilateral Declaration of Independence contradicts relevant provisions of the international law, in particular the principle of territorial integrity of sovereign and independent States. According to UNGA Resolution 2625 (1978), on Principles of International Law, "nothing [...] shall be constructed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples [...]"

Brazil considers that the right to self-determination does not stand in contradiction with the principle of territorial integrity and must respect the UNSC decisions. It is recalled that through Resolution 1244 the UNSC both reaffirmed the commitment of all member States to the sovereignty and territorial integrity of the Federal Republic of Yugoslavia and called for substantial autonomy and meaningful self-administration for Kosovo. Accordingly, Paragraph 10 of the said resolution provides for the establishment of an international civil presence in Kosovo under which the people of Kosovo could enjoy substantial autonomy within the Federal Republic of Yugoslavia.

Brazil considers therefore that UNSC Resolution 1244 remains the basis for a lasting and effective negotiated solution to the matter. Any evolution therefrom must take place under the auspices of the United Nations and in particular the UNSC, which has, according to the UN Charter, the primary responsibility for the maintenance of international peace and security."

Yours sincerely,




José Artur Denot Medeiros
Ambassador of Brazil