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## Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

### Falkland Islands (Malvinas)\*\*

### Working paper prepared by the Secretariat

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\*\* 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](https://www.un.org/en/decolonization/workingpapers.shtml)).

*Note:* The information contained in the present working paper has been derived from information transmitted to the Secretary-General by the administering Power under Article 73 *e* of the Charter of the United Nations on 12 December 2018, in addition to information provided by the Government of Argentina and that available in public sources. Further details are contained in previous working papers, available from [www.un.org/en/decolonization/workingpapers.shtml](https://www.un.org/en/decolonization/workingpapers.shtml).



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## I. General

1. The Falkland Islands (Malvinas) is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland, which has been on the United Nations list of Non-Self-Governing Territories since 1946, following the transmission by the United Kingdom of the information under Article 73 *e* of the Charter of the United Nations in accordance with General Assembly resolution 66 (I). At the 25th meeting of the Special Political and Decolonization Committee (Fourth Committee), held on 6 December 1946, at the first session of the General Assembly, the delegation of Argentina expressed a reservation to the effect that the Government of Argentina did not recognize British sovereignty in the Falkland Islands (Malvinas). The delegation of the United Kingdom expressed a parallel reservation that it did not recognize Argentine sovereignty in those islands.

2. The Falkland Islands (Malvinas) comprises two large islands, known as East and West Falkland, and hundreds of smaller islands, with a total area of about 12,173 km<sup>2</sup>, situated in the South Atlantic, about 770 km north-east of Cape Horn and about 480 km east of the South American mainland. South Georgia Islands, located about 1,300 km south-east of the Falkland Islands (Malvinas) group, and the South Sandwich Islands, located about 750 km east-south-east of South Georgia Islands, are administered from the Falkland Islands (Malvinas) as a separate Territory; the Governor of the Falkland Islands currently acts concurrently as the Commissioner for South Georgia and the South Sandwich Islands. The 2016 census indicated that the total resident population was approximately 3,200 people (2,841, when excluding civilian contractors and their families linked to the Ministry of Defence complex in the Islands), representing a 15 per cent increase since the previous census in 2012 and its largest population recorded since 1931. A dispute exists between the Government of Argentina and that of the United Kingdom concerning sovereignty over the Falkland Islands (Malvinas), as established by the General Assembly in its resolution 2065 (XX) and subsequent relevant resolutions on the question of the Falkland Islands (Malvinas).

## II. Constitutional and political issues

3. The Constitution approved in 2008, which came into force on 1 January 2009 (Statutory Instrument 2008, No. 2846), has been protested by Argentina (see [A/63/542](#), annex I). Under the Constitution, members of the legislature elect a speaker to preside over sessions of the Legislative Assembly. A chief executive is appointed by the Governor in agreement with the Executive Council to serve as head of the public service to implement policy. Questions of policy are considered by the Executive Council, which consists of three members of the Legislative Assembly who are elected annually from their own numbers, in addition to two *ex officio* members, the Chief Executive and the Financial Secretary, who have no voting rights. The Attorney General and the Commander of British Forces in the Islands have the right to attend meetings of the Executive Council but not to vote. The Governor, who is appointed by the United Kingdom, has ultimate responsibility for matters including external affairs, defence, internal security (including the police) and the administration of justice. Under the terms of the Constitution, the Governor, with the advice and consent of the Legislative Assembly, may make laws for the peace, order and good governance of the Territory, while full power to make such laws is reserved for the British Crown. In addition, the British Parliament has unlimited power to make laws for all its overseas territories.

4. A general election for members of the Legislative Assembly was held on 9 November 2017. Of the eight members elected for a four-year term in that election,

five represent the Territory's urban constituency, Stanley, where the majority of the population lives, and three represent Camp, the constituency outside Stanley. There are no political parties and, therefore, all members are elected as independents. Governor Nigel Phillips assumed office in September 2017. The next general election for members of the Legislative Assembly is expected to be held in 2021.

5. During 2018, Argentina and the United Kingdom continued to reiterate their respective positions regarding sovereignty over the Territory (see sections X and XI).

### **III. Budget**

6. The Territory's financial year extends from 1 July to 30 June. Its total budget for 2018/19 is £118.4 million with an operating budget of approximately £71.7 million, which, according to the administering Power, is raised entirely from the fiscal resources (taxation and resource rents) of the Territory. The Territory makes every effort to maintain a balanced budget strategy and upholds the fiscal aim of no public sector borrowing for operating purposes.

### **IV. Economic conditions**

#### **A. General**

7. According to the report on the 2016 census of the Territory, in 2016, the average household income was calculated to be £43,600, with a median of £37,500, an increase of 15 per cent compared with 2012; the unemployment rate was 1 per cent, as had been the case in 2012, and one in five people who work have two or more jobs, which is very often by choice, according to the administering Power.

#### **B. Fisheries and agriculture**

8. The species of squid in the genera *Loligo*, or *Doryteuthis*, and *Illex* are the mainstay of the fisheries and the economy of the Falkland Islands (Malvinas). It was reported that the total catch of *Doryteuthis* and *Illex* in 2017 was approximately 65,000 and 67,000 tons, respectively. The Fisheries Department is responsible for administering the fishing sector in the Territory. According to the administering Power, as the largest contributor to gross domestic product (GDP), fisheries account for approximately 40 per cent of total GDP, and significant resources are invested to ensure that fish stock is harvested on a sustainable basis.

9. According to the United Kingdom, Falkland Islanders are entitled to explore for and exploit their natural resources for their own economic benefit, as an integral part of their right to self-determination. Throughout 2018, the United Kingdom reiterated the need for the Government of Argentina to meet those commitments made in the joint communiqué of 13 September 2016 of Argentina and the United Kingdom, in which it had been agreed that appropriate measures would be taken to remove all obstacles limiting the economic growth and sustainable development of the Falkland Islands (Malvinas), including in trade, fishing, shipping and hydrocarbons.

10. Argentina has denounced the unilateral exploitation of natural resources by the United Kingdom and reiterated its position that both parties should refrain from introducing unilateral modifications in the situation while the Islands were going through the process recommended by the General Assembly, in accordance with General Assembly resolution 31/49 of 1 December 1976 (for consideration by intergovernmental organizations and forums on the topic, see para. 41 below). The

Government of Argentina was of the view that the joint communiqué reflected the political intent of the parties to re-establish a dialogue on all matters relating to the South Atlantic, without exclusions, under the sovereignty umbrella formula and that progress had been made in various areas (see paras. 11, 15 and 37 below).

11. Under the formula on sovereignty contained in paragraph 2 of the joint declaration issued in Madrid on 19 October 1989, and following the joint communiqué of 13 September 2016, the Scientific Subcommittee of the South Atlantic Fisheries Commission was held on 14 and 15 May and 14 and 15 November 2018 in Buenos Aires and London, respectively, with the aim of resuming the exchange of data on fisheries and of conducting joint research cruises in order to fully analyse the current state of fisheries in the South Atlantic (see also section VII below).

12. According to the administering Power, the focus of the agricultural sector is on animal husbandry, primarily wool and meat production for both the domestic and export markets, and the natural soil is acidic and its fertility is low, which, coupled with the windy and cool oceanic climate, limits the cultivation of crops. While there is local production of fruits and vegetables for domestic consumption, the majority of agricultural food products are imported. The Department of Agriculture of the Territory has responsibility for administering the sector, and an ongoing five-year business plan is in place in support of agricultural development and innovation.

### **C. Tourism**

13. Tourism is a significant contributor to the Territory's economy. Total tourist expenditure in 2017 was more than £9.6 million. In 2017, land-based tourism and business travel generated 5,178 visitors, a slight decrease from 5,249 in 2016, and cruise passengers accounted for 57,496 visitors in 2017/18, a 3.3 per cent increase from 55,633 in 2016/17.

### **D. Transport, communications and utilities**

14. The Territory has approximately 1,000 km of roads. In addition, a coastal shipping service, a regular ferry service and local air services continued to ensure links between settlements on the eastern, western and outlying islands.

15. In 2018, regular weekly service between Punta Arenas, Chile, and the Falkland Islands (Malvinas), operated by LATAM, continued to be available, including two monthly stopovers in Río Gallegos, mainland Argentina, in accordance with the provisions of the joint statement of 14 July 1999 between Argentina and the United Kingdom. Under the exchange of notes of February 2001 referring to the understanding on private flights and navigation, private flights are authorized from the Falkland Islands (Malvinas) to mainland Argentina. A number of medical evacuation flights are also authorized from the Falkland Islands (Malvinas) to mainland Argentina, Chile and Uruguay. In accordance with the principles set out in the joint statement and exchange of letters of 14 July 1999, in February 2018, both sides jointly requested the assistance of the Governments of Brazil, Chile, Paraguay and Uruguay to identify eligible airlines capable of establishing new weekly scheduled air service to the Falkland Islands (Malvinas). In November 2018, in accordance with the said principles, an agreement was reached for the establishment of such an additional airlink between the Falkland Islands (Malvinas) and São Paulo, Brazil, with two monthly stopovers, one in each direction, in Cordoba, mainland Argentina, to be operated by LATAM. It was agreed that further annual bilateral discussions would be held on air services which would include reviewing further connectivity.

16. In February 2010, in response to hydrocarbon-related activities carried out in waters around the Falkland Islands (Malvinas), Argentina issued Presidential Decree 256/2010 requiring authorization measures for vessels calling at Argentine ports or crossing Argentine waters. In that connection, members of the Southern Common Market (MERCOSUR) and the Union of South American Nations (UNASUR) had previously decided to close their ports to “vessels flying the illegal flag of the Malvinas Islands”. In 2018, implementation of those decisions continued.

17. For its part, during 2018, the United Kingdom continued to consider Presidential Decree 256/2010 to be non-compliant with international law, including the United Nations Convention on the Law of the Sea, and to contend that, under international law, the Islanders had the right to develop their economy, including natural resources, for the Territory’s benefit. The United Kingdom continued to emphasize the principle and the right of the Falkland Islanders to self-determination as enshrined in the Charter of the United Nations and in article 1 of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development (see also para. 9 above).

18. With regard to telecommunications, according to the administering Power, broadband Internet service is accessed by 87 per cent of households in the Islands. With respect to utilities, according to the administering Power, a major wind farm meets approximately 34 per cent of the urban electricity needs, and renewable energy sources such as wind turbines and solar arrays are used on farms, homesteads and settlements.

## **E. Environment and hydrocarbons**

19. According to the administering Power, the Territory works to uphold a number of environmental treaties and conventions. For its part, Argentina has rejected the territorial application of those treaties and conventions by the United Kingdom on the grounds that the Territory and the surrounding maritime areas are an integral part of Argentina.

20. During 2018, offshore exploration for hydrocarbons continued amid protests from Argentina, other Member States and regional and intergovernmental organizations. In addition, Member States and associate States of MERCOSUR continued to exchange available information concerning any vessels or marine structures travelling to “the Malvinas Islands, South Georgia Islands and South Sandwich Islands with cargo to be used for illegal hydrocarbon and/or mining activities on the Argentine continental shelf”.

21. Since 2013, the energy authorities of Argentina have carried out administrative proceedings against companies developing unauthorized hydrocarbon exploration activities in the area. Argentina sent advisory letters to companies directly or indirectly involved in those activities (see also para. 41 below).

22. In 2018, the United Kingdom continued to make clear to Argentina its position that, under international law, the continental shelf did not form part of Argentina; supported the right of the Islanders to develop their natural resources for their own economic benefit as an integral part of their right of self-determination; and rejected the applicability of the domestic legislation of Argentina to those companies engaged in the Islands’ hydrocarbon activities. In the view of the United Kingdom, the politically motivated decision by the previous Administration of the Government of Argentina to target the assets and criminalize the activities of individuals working for international companies involved in the hydrocarbon sector in the area was a wholly unacceptable attempt to exercise extraterritorial jurisdiction and had no legal

justification. Furthermore, the United Kingdom considered that it had dangerous implications for global business and the principles of free trade. The United Kingdom considered that the above-mentioned advisory letters to companies were in conflict with the joint communiqué of 13 September 2016 (see also para. 9 above). Furthermore, the United Kingdom continued to reject the claim by the Government of Argentina that management of renewable and non-renewable resources of the Falkland Islands constituted unilateral action.

23. For its part, Argentina reaffirmed its right to take legal action against the carrying out of unilateral activities in the disputed area, in particular those related to the exploration and exploitation of renewable and non-renewable natural resources, which are contrary to General Assembly resolution 31/49, as recognized by several international forums. Argentina regretted that, despite the joint communiqué of 13 September 2016, the United Kingdom continued to engage in unilateral activities related to the exploration and exploitation of renewable and non-renewable natural resources in the area under dispute.

24. According to the administering Power, at the seventh meeting of the United Kingdom-Overseas Territories Joint Ministerial Council, held in London on 4 and 5 December 2018, the Government of the United Kingdom and the leaders of the overseas territories reaffirmed the communiqué adopted at the sixth meeting of the Joint Ministerial Council, held on 28 and 29 November 2017, in which they committed themselves to continuing the practice of mutual engagement ahead of international forums on climate change to ensure that the views and priorities of the overseas territories were fully reflected in negotiations. The United Kingdom reiterated its commitment to working with the overseas territories on the issue of extending the application of treaties concerning climate change to the territories, including taking forward the work to extend its ratification of the Doha Amendment to the Kyoto Protocol to those territories that had indicated their readiness for it. The importance of work in the territories on climate change adaptation and mitigation and collaboration between the territories to share best practices on environmental management and climate change issues, including through the annual meetings of ministers of the environment of the territories, was emphasized.

## **V. Social conditions**

### **A. General**

25. According to the administering Power, the Territory observes the principles contained in the Universal Declaration of Human Rights. The European Convention for the Protection of Human Rights and Fundamental Freedoms and other international human rights instruments, including the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child, have been extended to the Falkland Islands (Malvinas), at its request, by the administering Power. The right of individual petition to the European Court of Human Rights also has been extended to the Territory. In addition, the Territory legalized same-sex marriage in April 2017, following a public consultation which found high levels of support for same-sex marriage from among the community.

26. According to the administering Power, at the seventh meeting of the Joint Ministerial Council, the United Kingdom and the leaders of the overseas territories reaffirmed the communiqué adopted at the sixth meeting of the Joint Ministerial Council, in which they committed themselves to ensuring the political, economic, social and educational advancement of the people of the territories and their just treatment and protection from abuses, discussed their shared resolve to continue to

promote respect for human rights and compliance with international obligations in the territories and welcomed the constructive engagement of the territories in the preparations for the universal periodic review process of the Human Rights Council in that regard. The leaders of the overseas territories also reaffirmed their commitment to ensuring the highest possible standards for the protection of children and the promotion of children's welfare in the territories. At the meeting, the United Kingdom and the overseas territories discussed the progress made in promoting inter-agency cooperation in the territories and the development of national response plans to define policy priorities. In addition, they welcomed the progress made under the initiative led by the Falkland Islands (Malvinas) to promote more effective collaboration between the territories for the safeguarding of children.

27. For its part, Argentina has consistently rejected the territorial application by the United Kingdom of the various international instruments mentioned above, in addition to the designation of the Territory as an overseas territory of the United Kingdom or any other similar designation.

## **B. Public health**

28. According to the administering Power, medical and dental treatment is provided free of charge to all residents, and the Department of Health and Social Services of the Government of the Falkland Islands (Malvinas) provides primary, community and secondary health care in the Islands, in addition to social services for vulnerable people in the community. There is one hospital in the Territory, which offers modern facilities with medical, dental and nursing staff. A variety of specialists visit on an annual or biennial basis, depending on need, and patients who cannot be treated in the Islands can be referred to the hospitals in the United Kingdom under the reciprocal agreement between the National Health Service of the United Kingdom and the Department.

29. According to the information provided by Argentina, inhabitants of the Falkland Islands (Malvinas) enjoy equal and free access to the public health system of Argentina.

## **C. Social security and welfare**

30. According to the administering Power, the Falkland Islands Retirement Pensions Ordinance provides for mandatory fixed monthly contributions by all employers and employees between the ages of 17 and 64, and a full pension can be drawn from the age of 65. A system of social welfare grants and pensions is in place to address cases of hardship and disability.

## **D. Education**

31. Education in the Territory is free and compulsory for all children between the ages of 5 and 16, with access to free preschool (nursery) education from the age of 3. According to the administering Power, access to post-secondary education, including university education, is made available to all qualifying students and is fully funded by the Government of the Falkland Islands (Malvinas). In 2018, 488 schoolchildren were registered, 28 of whom were based in rural areas. There is a 100 per cent enrolment rate for all children of school age in the Islands, and the current teacher to student ratios for primary school and secondary school are 1:10.8 and 1:8.3, respectively.



32. According to information provided by Argentina, inhabitants of the Falkland Islands (Malvinas) enjoy equal access to the public education system of Argentina. Additional information on the subject is contained in the most recent report of the Secretary-General on offers by Member States of study and training facilities for inhabitants of Non-Self-Governing Territories.

## **VI. Mine clearance and related matters**

33. Under the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (Ottawa Convention), States parties are obliged to clear anti-personnel mines in mined areas within 10 years of the Convention's entry into force, unless an extension is granted under the Convention.

34. In November 2008, the Ninth Meeting of States Parties to the Ottawa Convention granted the United Kingdom an extension until 1 March 2019. According to the administering Power, as at 13 November 2018, approximately 12,500,000 m<sup>2</sup> of land has been cleared and 10,378 mines destroyed since 2009. There are 28 minefields and suspect areas left to be cleared of the original 129 sites, and work is expected to be completed by mid-2020.

35. Argentina recalled its interpretative declaration at its ratification of the Ottawa Convention in 1999, in which it stated that as the Islands, part of its territory, were under illegal occupation by the United Kingdom, Argentina was effectively prevented from having access to the anti-personnel mines placed in the Islands in order to fulfil the obligations undertaken under the Convention. As previously reported, in December 2009, the second Review Conference of the Ottawa Convention granted the request of Argentina for an extension until 1 January 2020. At the Seventeenth Meeting of States Parties to the Ottawa Convention, held in Geneva from 26 to 30 November 2018, Argentina stated that it was prevented from having access to the anti-personnel mines in the Islands, which was the only part of the territory of Argentina affected by anti-personnel mines.

## **VII. Bilateral developments**

36. In the joint communiqué of 13 September 2016, with regard to the South Atlantic, the Governments of Argentina and the United Kingdom, in a positive spirit, agreed to set up a dialogue to improve cooperation on South Atlantic issues of mutual interest and agreed that the formula on sovereignty in paragraph 2 of the joint statement of 19 October 1989 ([A/44/678-S/20915](#), annex) applied to the joint communiqué and to its consequences.

37. Following the joint communiqué of 13 September 2016 and the subsequent agreement between the two Governments, the field operations of the International Committee of the Red Cross (ICRC) took place in the Falkland Islands (Malvinas) for the identification of the unidentified Argentine soldiers buried in Darwin Cemetery, in June 2017 and concluded in August 2017. In December 2017, ICRC submitted to the Governments of Argentina and the United Kingdom 121 reports identifying 88 soldiers and containing the results of the DNA analysis undertaken. The Governments of Argentina and the United Kingdom welcomed the submission of the reports and agreed that the wishes of the families concerned would be paramount. In January 2018, the Government of Argentina indicated that the reports were being shared with those families that had requested the identification. On 26 March 2018, more than 200 relatives of the identified Argentinian soldiers attended Darwin Cemetery to visit the graves of their loved ones, complete with a headstone carrying

their names. Additional fallen soldiers have been identified since then, which brought the total number of identified soldiers to 110 at the time of reporting. For developments relating to the Scientific Subcommittee of the South Atlantic Fisheries Commission and the additional air service, see paras.12 and 15 above, respectively.

## **VIII. Participation in international organizations and arrangements**

38. According to information provided by the administering Power, the Government of the Falkland Islands (Malvinas) attends various Commonwealth forums and is a member of the United Kingdom Overseas Territories Association, the Association of the Overseas Countries and Territories of the European Union and the South Atlantic Territories Cooperation Forum. Furthermore, its representatives also participate, as members of the delegation of the United Kingdom, in other international meetings concerning matters affecting the Islanders' interests, to reflect their own views. It is the position of the Government of the United Kingdom that the Islanders should be able to attend all meetings affecting their interests in their own right.

39. Argentina is not a member of the aforementioned organizations. In accordance with the relevant resolutions of the United Nations in which the existence of a sovereignty dispute between Argentina and the United Kingdom is recognized, Argentina reaffirmed the bilateral nature of the question of the Falkland Islands (Malvinas) and consequently rejected any attempt to enable participation of the Islanders on their own.

## **IX. Consideration by intergovernmental organizations and forums**

40. The question of the Falkland Islands (Malvinas) was addressed during a number of meetings held in 2018 by regional and multilateral forums, such as the Organization of American States (OAS) (Washington, D.C., 4–5 June), MERCOSUR (Asunción, 18 June; and Montevideo, 18 December), the Group of 77 and China (New York, 27 September (see [A/73/417](#), annex)) and the Ibero-American Summit (Antigua, Guatemala, 15–16 November).

41. In the decisions taken following the above-mentioned meetings of the Group of 77 and China, OAS and the Ibero-American Summit, the need for Argentina and the United Kingdom to resume negotiations to find a peaceful solution to the sovereignty dispute was reaffirmed. MERCOSUR, in the decisions taken at the above-mentioned meetings, also referred to the resumption of the negotiations, while expressing support for the legitimate rights of Argentina in the sovereignty dispute. The Ibero-American Summit, in its decision at the above-mentioned meeting, recalled the need for the parties to refrain from introducing unilateral modification in the area under dispute, in accordance with the provisions of General Assembly resolution [31/49](#), and underscored the successive General Assembly resolutions in which the Secretary-General had been requested to undertake his good offices. The Group of 77 and China, in its decision at the above-mentioned meeting, highlighted the right of the member States of the Group to permanent sovereignty over their natural resources, based on the principle of territorial integrity (see General Assembly resolution 1514 (XV)) and international law, and recalled the importance of not adopting unilateral actions in the areas under sovereignty dispute between Argentina and the United Kingdom.

42. The United Kingdom is not a member of the aforementioned organizations, with the exception of that of OAS, where it has observer status, and has not been

represented at any of the aforementioned meetings. The United Kingdom maintained its position that it rejected any suggestion that hydrocarbon exploration amounted to unilateral action on its part and was being carried out in contravention of General Assembly resolution 31/49, supported the Islanders in developing their own economy and future, including their decision to exploit their natural resources, and further rejected any suggestion that military assets in the South Atlantic were subject to reinforcement or that it was allegedly militarizing the region. Furthermore, in the view of the Government of the United Kingdom, none of the aforementioned regional statements or decisions fully reflected the principle or the right of self-determination enshrined in the Charter of the United Nations and in article 1 of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights or the modern relationship between the United Kingdom and its overseas territories. The United Kingdom maintained that regional statements by members of OAS and others, as well as resolutions of the General Assembly, do not modify or dilute the obligation of nations to respect the Islanders' right to self-determination.

## **X. Future status of the Territory**

### **A. Position of the administering Power**

43. The United Kingdom has no doubt about its sovereignty over the Falkland Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime areas, nor about the principle and the right of the Falkland Islanders to self-determination, as enshrined in the Charter of the United Nations and in article 1 of the two Covenants on human rights, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development.

44. In a message to the Islanders broadcast on 21 December 2018, the Prime Minister of the United Kingdom, Theresa May, spoke about various issues and developments, including the plans for a new air link with Brazil, which would make the Islands more accessible than ever and boost economic development. With regard to the talks about fisheries, which were under way for the first time in 14 years, she said that it was a vital step in ensuring the management of the natural resources in a sustainable way. She also spoke about the visits by the relatives of deceased Argentine soldiers to Darwin Cemetery. At the same time, she reaffirmed the absolute commitment of her Government to the people and sovereignty of the Falkland Islands, and that this was not up for debate. She stated that, as long as the Islanders desired the right to be part of the family of the United Kingdom, the United Kingdom would defend that right.

45. The United Kingdom rejects claims by Argentina that the United Kingdom is militarizing the South Atlantic. The United Kingdom forces in the South Atlantic are entirely defensive in nature and are at the appropriate level to ensure the defence of the Falkland Islands against any potential threat.

46. The United Kingdom fully supports the legitimate decision of the Falkland Islanders to establish and manage a sustainable fisheries industry and to explore for hydrocarbon resources in waters around the Falkland Islands in full accordance with international law.

47. The United Kingdom is clear about the historical position on the sovereignty of the Falkland Islands. British sovereignty over the Falkland Islands dates back to 1765, some years before the Republic of Argentina existed.

48. In the communiqué adopted at the sixth meeting of the Joint Ministerial Council, the Government of the United Kingdom and the leaders of the overseas territories reaffirmed the importance of promoting the right of the peoples of the territories to self-determination, a collective responsibility of all parts of the Government of the United Kingdom. They committed themselves to exploring ways in which the overseas territories could maintain international support in countering hostile sovereignty claims. For those Territories with permanent populations who wished it, the United Kingdom would continue to support their requests for removal from the list of Non-Self-Governing Territories. At the seventh meeting of the Joint Ministerial Council, the Government of the United Kingdom and the leaders of the overseas territories reiterated the positions reflected in the communiqué of the sixth meeting, and the United Kingdom affirmed that it would continue to engage on constitutional issues more regularly with individual Governments and representatives of overseas territories to ensure that the constitutional arrangements worked and developed effectively, to promote the best wishes of those territories and the United Kingdom.

49. Furthermore, the Government of the United Kingdom supports the statements made by two members of the Legislative Assembly of the Falkland Islands during the hearing of petitioners at the 8th meeting of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, on 21 June 2018. The speakers stated the following: the population of the Falkland Islands was not implanted; in a 2013 referendum, 99.8 per cent had voted in favour of retaining their current political status; the Falkland Islanders met all the requirements for self-determination set out in the Charter of the United Nations and the terms for delisting under the fourth option set out in General Assembly 2625 (XXV); the United Nations had never explicitly stated that the right to self-determination did not apply to the Falkland Islanders; the Territory was effectively self-governing and economically self-sufficient; the Territory received no direct financial aid from the United Kingdom, apart from defence, a necessity because of the unfounded claim by Argentina over the Islands; the United Kingdom maintained a military presence sufficient to deter any erstwhile aggressor; responsible legislation for hydrocarbons was in place to protect the environment; the Government of the Falkland Islands worked closely with scientific and conservation partners to preserve natural resources for future generations; the change in tone of the current administration of the Government of Argentina had made talks on fisheries conservation possible and led to a partial lifting of sanctions against the industries of the Islands; and reiterated the invitation to the Special Committee to visit the Falkland Islands (see [A/AC.109/2018/SR.8](#)).

## **B. Position of the Government of Argentina**

50. The Government of Argentina reaffirms its imprescriptible sovereignty rights over the Malvinas Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime areas, all of which are an integral part of its national territory. Argentina maintains that, since its independence from Spain, having inherited the latter's territories in the south of the continent, including the Malvinas Islands and the other islands in the South Atlantic, Argentina uninterruptedly exercised its rights by proceeding to enact legislation, establishing legal and administrative bodies to consolidate its sovereignty, promoting the development of trade, settling a population and establishing a local administrative office, which culminated in the issuance of the decree establishing the civic and military commandancy of the Malvinas Islands on 10 January 1829, with Luis Vernet being appointed as Commander.

51. The Government of Argentina emphasizes that, on 3 January 1833, the United Kingdom violated the integrity of the Argentine territory and illegally occupied the

Islands, removing by force both the population and the legitimate Argentine authorities that had settled there. The Government of Argentina never consented to such a forceful act. Since then, the Islands have been subject to a sovereignty dispute between the two countries, recognized by the United Nations through General Assembly resolution 2065 (XX) and by several regional and multilateral forums.

52. The Government of Argentina underscores that its Constitution establishes the permanent and non-renounceable objective of recovering full exercise of sovereignty over the Malvinas Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime areas, in accordance with the principles of international law, while being respectful of the way of life of their inhabitants.

53. In addressing the General Assembly on 25 September 2018, the President of Argentina, Mauricio Macri, stated that his country maintained a strategic vision for the South Atlantic, whereby they sought to peacefully develop an active policy on resources, the environment and science, which included the question of the Malvinas Islands. He reaffirmed the legitimate and imprescriptible sovereignty rights of Argentina over the Malvinas Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime areas and reaffirmed the commitment of his Government to the new phase in relations with the United Kingdom based on building mutual trust and a broad and positive dialogue (see [A/73/PV.7](#)).

54. In a letter dated 10 October 2018 addressed to the Secretary-General ([A/73/445](#)), the Permanent Representative of Argentina to the United Nations transmitted a note from the Deputy Minister for Foreign Affairs concerning the military exercises carried out by the United Kingdom in the Malvinas Islands between 15 to 29 October 2018. In the note, the Minister stated that the persistence of the United Kingdom in carrying out military manoeuvres in the South Atlantic was in violation, especially, of General Assembly resolution [31/49](#), which called upon the two parties to refrain from introducing unilateral modifications in the situation while the negotiating process recommended by the Assembly proceeded. Argentina reiterates its call for the United Kingdom to remove its military presence in the South Atlantic and to end the unilateral activities relating to the exploration and exploitation of renewable and non-renewable natural resources in the area under dispute.

55. Furthermore, Argentina supports the statements made by Luis Gustavo Vernet and Ricardo Ancel Patterson during the hearing of petitioners at the 8th meeting of the Special Committee, on 21 June 2018, at which they stated, inter alia, the following: Argentina had inherited its right over the Malvinas Islands from Spain; Argentina had maintained a firm position on the Malvinas Islands since 1833; the inhabitants were descendants of the illegal occupiers of the Islands; the Committee could not uphold the right to self-determination with respect to the Malvinas Islands, given that their inhabitants were not a people under a colonial rule; the time had come for the United Kingdom to resolve its sovereignty dispute with Argentina, taking into account the interest of the Islanders; the Government and people of Argentina had maintained their tradition of respecting the lifestyle, culture and values, as well as the human rights, of all inhabitants of the Territory; the United Kingdom had refused to resume dialogue, hindering the implementation of the relevant United Nations resolutions; the ongoing restoration of the bilateral relationship and the commitment of Argentina to respecting the interests of inhabitants should create conditions conducive to relaunching negotiations; the United Kingdom should return to the negotiating table to find a definitive solution to the protracted sovereignty dispute (see [A/AC.109/2018/SR.8](#)).

## **XI. Consideration by the United Nations**

### **A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples**

56. The Special Committee considered the question of the Falkland Islands (Malvinas) at its 8th meeting, on 21 June 2018.

57. At the 8th meeting, the Special Committee acceded to the requests of the delegations of Algeria, Argentina, Bangladesh, Belize, Brazil, Colombia, Costa Rica, the Dominican Republic, El Salvador, Gabon, Guinea, Honduras, Lebanon, Liberia, Mexico, Morocco, Mozambique, Namibia, Paraguay, Peru, Saudi Arabia, South Africa, Spain, Turkey, Uganda, Uruguay and Zimbabwe to participate in the Committee's consideration of the item.

58. At the same meeting, during the hearing of petitioners and in line with the usual practice, the Special Committee heard the statements of Ian Hansen and Roger Edwards of the Legislative Assembly of the Falkland Islands (Malvinas), as well as those of Luis Gustavo Vernet and Ricardo Ancel Patterson, which are summarized in paragraphs 49 and 55 above (see also [A/AC.109/2018/SR.8](#)).

59. Also at the same meeting, the representative of Chile, also on behalf of Bolivia (Plurinational State of), Cuba, Ecuador and Nicaragua, introduced draft resolution [A/AC.109/2018/L.8](#), which the Special Committee subsequently adopted without a vote. In the resolution, the Special Committee reiterated that the way to put an end to the special and particular colonial situation in the question of the Falkland Islands (Malvinas) was the peaceful and negotiated settlement of the dispute over sovereignty between the Governments of Argentina and the United Kingdom.

60. Also at the 8th meeting, statements were made by the representatives of Cuba, Nicaragua, Bolivia (Plurinational State of), Chile, Ecuador, the Syrian Arab Republic, the Russian Federation, China and Indonesia, as well as by the observers of El Salvador (on behalf of the Community of Latin American and Caribbean States (CELAC)), Paraguay (on behalf of MERCOSUR), Guatemala (on behalf of the Ibero-American States), Uruguay, Brazil, Mexico, Colombia, Honduras, Costa Rica and Peru (see [A/AC.109/2018/SR.8](#)).

61. At the same meeting, the Minister for Foreign Affairs and Worship of Argentina, Jorge Marcelo Faurie, also made a statement. He said that the Argentine sovereignty over the Malvinas Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime areas had solid historical and legal underpinning and that the passage of time had not diminished the validity of the claim by his country or diluted its conviction that the sovereignty dispute must be resolved peacefully through bilateral negotiations with the United Kingdom. He stated that self-determination did not apply to the inhabitants of the Malvinas Islands and that giving the inhabitants the right to decide on the status of the territory in which they lived would contravene the letter and the spirit of General Assembly resolution 1514 (XV), as well as international law on decolonization. He further stated that, in its bid to relaunch negotiations, his Government was pursuing a policy of greater engagement with the United Kingdom, citing various examples. He also stated that the inhabitants of the Islands had welcomed the visiting relatives of the fallen Argentine soldiers buried in Darwin Cemetery with the utmost respect, a humane gesture warmly appreciated by his country. He said that an open, substantive and constructive dialogue must be maintained in order to build a level of confidence conducive to the resumption of negotiations to resolve the protracted sovereignty dispute. He called once again upon the United Kingdom to abide by General Assembly resolution [31/49](#), which required



that country to refrain from taking decisions that would imply introducing unilateral modifications into the situation. He concluded by saying that, with political will and aided by the good offices of the Secretary-General, it would be possible to reach a definitive, peaceful solution to the question of the Malvinas Islands (see [A/AC.109/2018/SR.8](#)).

## **B. Special Political and Decolonization Committee (Fourth Committee)**

62. At the 2nd, 6th, 7th and 8th meetings, on 8, 12, 15 and 16 October 2018, of the Fourth Committee of the General Assembly at its seventy-third session, during the debate on decolonization items, the delegations of Argentina, Bolivia (Plurinational State of), Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, El Salvador (on behalf of CELAC), Guatemala, Honduras, Mexico, Nicaragua, Paraguay, Peru, Timor-Leste, the United Kingdom and Uruguay (on behalf of MERCOSUR) addressed the question of the Falkland Islands (Malvinas) (see [A/C.4/73/SR.2](#), [A/C.4/73/SR.6](#), [A/C.4/73/SR.7](#) and [A/C.4/73/SR.8](#)).

63. At the 2nd meeting, on 8 October, the representative of El Salvador, speaking on behalf of CELAC, strongly supported the legitimate rights of the Argentine Republic in the sovereignty dispute over the Malvinas Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime area, citing the decision taken at the summit of CELAC in 2017, in which it reaffirmed its interest in the resumption of negotiations by the two States and called upon the Secretary-General to renew his efforts to fulfil the mission of good offices, among other things. The representative of Uruguay, speaking on behalf of MERCOSUR, said that, since the adoption of resolution 2065 (XX) in 1965, the General Assembly and the Special Committee had recognized that the question involved a sovereignty dispute between Argentina and the United Kingdom and that the way to put an end to that special and particular colonial situation was the peaceful and negotiated settlement of the dispute between the two parties and cited the joint communiqué of MERCOSUR adopted in June 2018 (see also sect. IX above).

64. At the same meeting, the representative of Argentina stated that, as recognized in General Assembly resolution 1514 (XV), self-determination should not be used as a pretext to disrupt the territorial integrity of existing States and that, in that context, the Committee should understand the special and particular colonial situation referred to as the “question of the Malvinas Islands” which involved a sovereignty dispute between Argentina and the United Kingdom. He stated that, since the adoption of General Assembly resolution 2065 (XX), in which the Assembly recognized the existence of the sovereignty dispute and pointed out that the only way to resolve it was through negotiations between Argentina and the United Kingdom, for nearly two decades, the two States had engaged in substantive negotiations and considered several proposals for settling the dispute and cooperated on practical matters related to the welfare of the inhabitants of the Islands. He also stated that the 1982 conflict had not changed the legal nature of the dispute, let alone resolved it, and that the United Kingdom had ignored the international community’s repeated calls for a resumption of negotiations (see [A/C.4/73/SR.2](#)).

65. Referring to the new chapter in bilateral relations with the United Kingdom since December 2015 and various recent developments concerning air service, fisheries and the identification of the remains of Argentine soldiers, he concluded by saying that Argentina called upon the United Kingdom to end unilateral measures in the disputed area, in accordance with General Assembly resolution [31/49](#), and expressed his Government’s confidence that the new climate in relations with the

United Kingdom would contribute to creating the conditions for the Governments to come to the negotiating table to settle the prolonged sovereignty dispute.

66. At the 7th meeting, on 15 October, the representative of the United Kingdom stated that the relationship of the United Kingdom with its overseas territories was a modern one based on partnership, shared values and the right of the people of each Territory to choose to remain British. He said that the Joint Ministerial Council was the primary forum for high-level political dialogue between the United Kingdom and the territories and had a mandate to monitor and advance collective priorities, in the spirit of partnership.

67. He went on to say that, in the communiqué adopted at the sixth meeting of the Joint Ministerial Council, the Governments of the United Kingdom and the overseas territories had confirmed their commitment to a modern political partnership based on the principle of equal rights and self-determination of peoples and their continued support for the constitutional arrangements in the territories, under which powers were devolved to the maximum extent possible consistent with British sovereignty. He also stated that his Government had undertaken to help the overseas territories to counter hostile sovereignty claims and to support the request of any Territory with a permanent population that wished to be removed from the list of Non-Self-Governing Territories. He stated that his Government's fundamental responsibility and objective under international law, including the Charter of the United Nations, was to ensure the security and good governance of the territories and their peoples and that territorial Governments were expected to meet the same high standards as the Government of the United Kingdom in maintaining the rule of law, respect for human rights and integrity in public life, delivering efficient public services and building strong and successful communities and were being supported by his Government in those areas.

68. The representative welcomed the elections held in the Falkland Islands in November 2017 and stated that the United Kingdom had no doubt about its sovereignty over the Falkland Islands and South Georgia Islands and South Sandwich Islands and the surrounding maritime areas of both territories, nor about the right of the Falkland Islanders to self-determination, as enshrined in the Charter of the United Nations and in the two international Covenants on human rights, by virtue of which they freely determined their political status and freely pursued their economic, social and cultural development. He stated that no dialogue on sovereignty could be held unless the Falkland Islanders so desired. Given the results of the 2013 referendum, in which 99.8 per cent of voters had voted to maintain their status as an overseas territory of the United Kingdom, it was clear that they had no desire for such dialogue, and their wishes should be respected (see [A/C.4/73/SR.7](#)).

69. In addition, the representatives of Argentina and of the United Kingdom, speaking in exercise of the right of reply, reiterated their Governments' respective positions a number of times during the deliberations of the Fourth Committee (see [A/C.4/73/SR.2](#) and 6–8).

### **C. Action taken by the General Assembly**

70. In its resolution [58/316](#), the General Assembly decided that the item entitled "Question of the Falkland Islands (Malvinas)" would remain on the agenda for consideration upon notification by a Member State. As at the date of the issuance of the present working paper, no such notification by a Member State to the Assembly had been received.