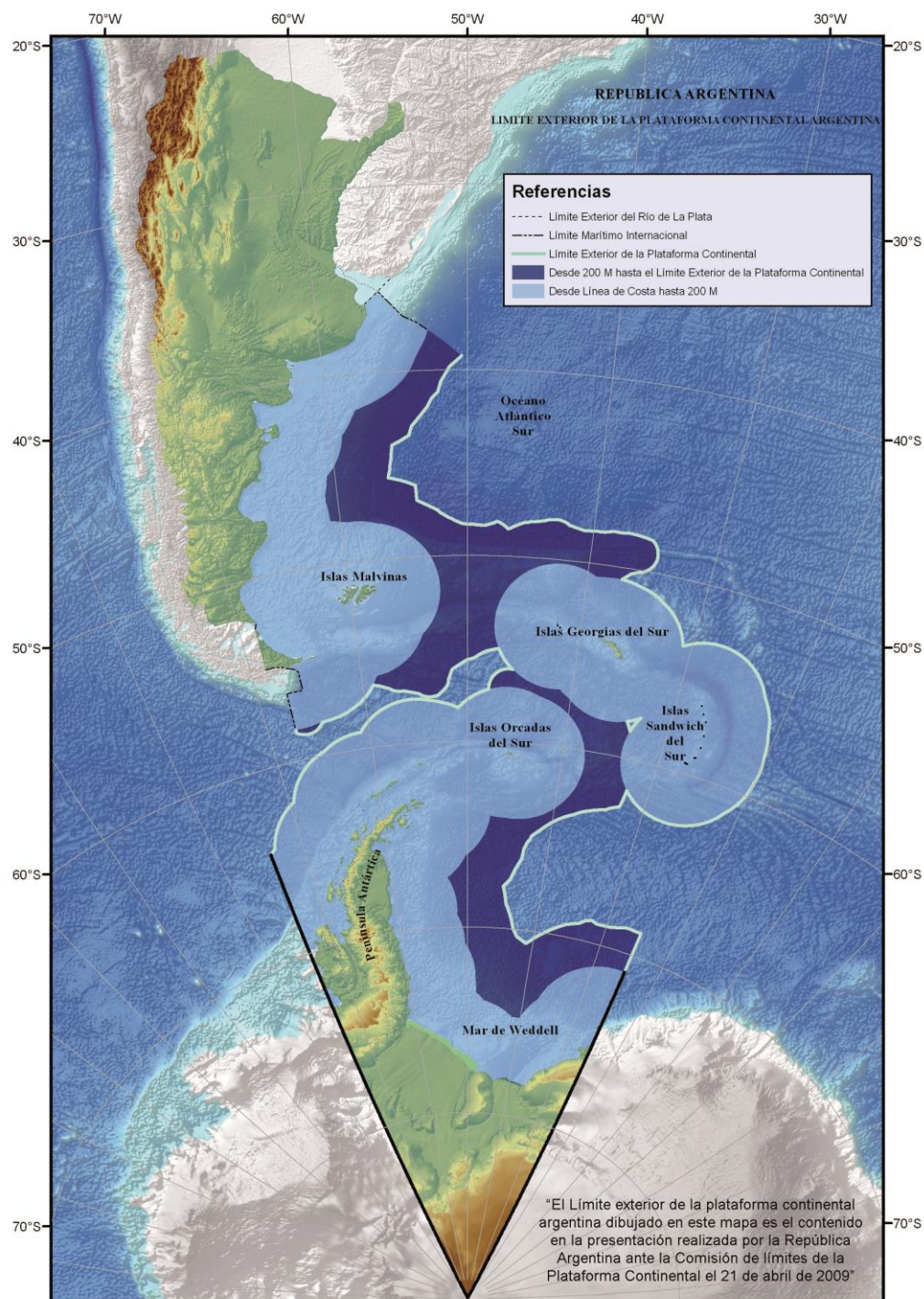


The Question of the Malvinas Islands



HISTORICAL BACKGROUND

The Malvinas Islands were discovered in 1520 by members of the Magallanes expedition. In spite of being denominated in the European cartography with diverse names, **always they remained within the spaces under effective control of the Spanish authorities.**

The Pontifical Bulls and the Treaty of Tordesillas of 1494 are the first instruments that reflect the titles of Spain in accordance with the international law of the time. The entire southern region of America, with its coasts, seas and islands, was indisputably preserved under Spanish sovereignty through the various treaties signed during this period, such as the "American" Treaty of 1670 between Spain and England.

The Utrecht Peace, signed in 1713, ensured the integrity of Spain's possessions in South America and confirmed its exclusivity of navigation in the South Atlantic. England accepted these clauses as a signatory party of the Utrecht agreements and subsequent treaties of the eighteenth century which ratified it.



First map of the islands (XVIth century), made by André Thévet (French explorer, writer and cosmographer, 1502-1590) on the base of the works of a Portuguese sailor that formed part of the Magellan expedition that discovered the islands in 1520.

In 1749 Spain learned of a British project to settle in the Malvinas Islands and protested firmly against the United Kingdom, whose government desisted to carry it out. In 1764 France was the one that manifested interest in the Malvinas Islands creating an establishment called "Port Louis" in the Island Soledad. Spain strongly opposed and obtained the recognition of France of the Spanish rights to the islands, the unoccupancy of the archipelago and its formal delivery to the Spanish authorities.

Shortly after the French installation, the United Kingdom manifested its intentions to appropriate the Islands again, this time through an expedition that came clandestinely to the archipelago and raised a small fort they called "Port Egmont" on an island to the west of Great Malvinas. Despite the secrecy of the operation, Spain became aware of this, protested insistently and, since not obtaining an acceptable answer; in 1770 it expelled its occupants.

-Gobernadores españoles	
1767 - 1773 - Felipe Ruiz Puente	1795 - 1796 - Pedro Pablo Sanguineto
1773 - 1774 - Domingo Chauri	1796 - 1797 - José de Aldana y Ortega
1774 - 1777 - Francisco Gil de Taboada y Lemos	1797 - 1798 - Luis de Medina y Torres
1777 - 1779 - Ramón de Carassa	1798 - 1799 - Francisco Xavier de Viana
1779 - 1781 - Salvador de Medina	1799 - 1800 - Luis de Medina y Torres
1781 - 1783 - Jacinto de Altolaurre	1800 - 1801 - Francisco Xavier de Viana
1783 - 1784 - Fulgencio Montemayor	1801 - 1802 - Ramón Fernández de Villegas
1784 - 1785 - Agustín de Figueroa	1802 - 1803 - Bernardo Bonavía
1785 - 1786 - Ramón de Clairac	1803 - 1804 - Antonio Leal de Ibarra
1786 - 1787 - Pedro de Mesa y Castro	1804 - 1805 - Bernardo Bonavía
1787 - 1788 - Ramón de Clairac	1805 - 1806 - Antonio Leal de Ibarra
1788 - 1789 - Pedro de Mesa y Castro	1806 - 1809 - Bernardo Bonavía
1789 - 1790 - Ramón de Clairac	1809 - 1810 - Gerardo Bordas
1790 - 1790 - Juan José de Elizalde	1810 - febrero 1811 - Pablo Guillén
1791 - 1792 - Pedro Pablo Sanguineto	
1792 - 1793 - Juan José de Elizalde	
1793 - 1794 - Pedro Pablo Sanguineto	

The succession of Spanish governors of the Malvinas islands, thirty-two in total, was continued until the year 1811

treinta y dos en total, fue conti-nua hasta el año 1811.

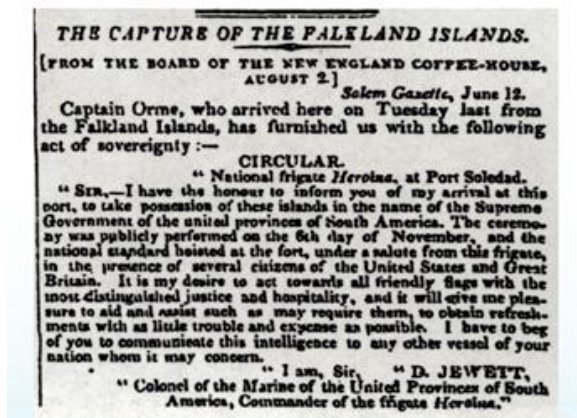
English would withdraw from Port Egmont shortly, which actually occurred in 1774.

Since then the Spanish authorities in Puerto Soledad continued to exercise their jurisdiction and control over the entire archipelago.

In 1790, with the signing of the “San Lorenzo de El Escorial” Treaty, Great Britain pledged not to form any establishment on the eastern or western coasts of South America, nor on the adjacent islands already occupied by Spain, such as The Malvinas.

From the May Revolution of 1810 the Malvinas Islands were considered by the first Argentine governments as an integral part of the territory inherited from Spain. In 1820, in spite of the internal fights that the Argentine State in formation faced the Colonel of the Argentine Navy, David Jewett, took

possession of his position in the Malvinas Islands in the name of the United Provinces of the River Plate in a public act in Puerto Soledad, before seal hunters and whalers of various nationalities, including the United States and Great Britain. The news was published in the United States and the United Kingdom media (The Times newspaper of London, August 3, 1821).



Facsimile of the news about the taken of possession of the islands by the Colonel of the Argentine Navy, David Jewett, on behalf of the United Provinces of the River Plate (published in The Times, August 3, 1821)

hunting and the provision of services to the ships that reached the port.

On June 10, 1829, the Argentine government created the Political and Military Command of the Malvinas and appointed Luis Vernet to lead it. After having remained silent for more than half a century since the fleeting episode of Port Egmont, and after several spanish and argentine administrations of the Malvinas Islands having occurred without opposition, on the 3rd of January 1833, in the frame of a rebirth of British strategic interest in the South

REINADO DE CARLOS IV

Convencion entre España é Inglaterra para explicar, ampliar y hacer efectivo el artículo 6.º del tratado definitivo de paz de 1763 con respecto á las posesiones coloniales de América: se firmó en Londres á 14 de julio de 1786.

Artículo 6.º

Se ha convenido tambien por lo que hace á las costas tanto orientales como occidentales de la América Meridional y á las islas adyacentes, que los súbditos respectivos no formarán en lo venidero ningun establecimiento en las partes de estas costas, situadas al Sur de las partes de las mismas costas y de las islas adyacentes ya ocupadas por España. Bien entendido que los dichos súbditos respectivos conservarán la facultad de desembarcar en las costas é islas así situadas, para los objetos de su pesca, y de levantar cañas y otras obras temporales que sirvan solamente á estos objetos.

ARTICULO SECRETO.

Como por el artículo 6.º del presente convenio se ha estipulado por lo que mira á las costas así orientales como occidentales de la América Meridional é islas adyacentes, que los súbditos respectivos no formarán en adelante ningun establecimiento en las partes de estas costas, situadas al Sur de las partes de las mismas costas ya ocupadas por España, se ha convenido y determinado por el presente artículo, que dicha

estipulacion no estará en vigor mas que entre tanto que no se forme algun establecimiento en los lugares en cuestion por súbditos de otra potencia. El presente artículo secreto tendrá igual fuerza que si estuviere inserto en la convencion. En fé de lo cual, nos los infrascriptos plenipotenciarios de sus Maestades católica y británica hemos firmado el presente artículo secreto, y le hemos puesto los sellos de nuestras armas. Hecho en San Lorenzo el Real á 28 de octubre de 1790.—El conde de Florida Blanca.—Alleyne Fitz-Herbert.

Las ratificaciones del convenio y artículo secreto se canjearon en el mismo San Lorenzo el Real el 22 de noviembre de este año.

San Lorenzo de El Escorial Treaty, 1790

Despite the publicity of the act carried out by the Argentine authority, neither on that occasion, nor later in the process of recognition of the Argentine State, which culminated in the signing of the Treaty of Friendship, Commerce and Navigation of 1825, Great Britain formulated any manifestation of possible claims on the Malvinas Islands.

The Argentine governments carried out several demonstrative acts of their sovereignty over the islands granting land and legislating on fishing resources. Within this framework, Puerto Soledad was developed, whose inhabitants were engaged in cattle breeding, sea lion



Luis María Vernet, named governor of the Malvinas Islands in 1829 by the Argentine Government

in Buenos Aires, the Argentine government asked the British Chargé d'Affaires, who was not aware of the actions taken by his country for explanations. A few days later, on January 22, the Argentine Foreign Minister presented a formal protest to the British official, which was reiterated on several opportunities by the Argentine representative in London. The repeated Argentinean presentations before the British government invariably encountered negative responses from that government.

Atlantic, a corvette of the British Royal Navy expelled by an act of force the Argentine authorities that refused to grant him authority.

This act, carried out in a time of peace, without any communication or previous statement from a government which was supposed to be a friend of the Argentine Republic, was immediately rejected and protested by the Argentine authorities

In fact, on January 16, 1833, when the first news of what had happened in the Malvinas Islands arrived



Puerto Soledad in the 19th century, seat of the Political and Military Command of the Malvinas (established by the Argentine Government in 1829)



On February 19, 1842, Dr. Manuel Moreno, Argentine Chargé d'Affaires in London, recalled by note to the Earl of Aberdeen - then Secretary of Foreign Affairs of the United Kingdom - the pending issue concerning the Malvinas Islands. The British official reported in his reply of March 5, 1842 that "a permanent system of colonization has just been inaugurated on those islands."

The question remained pending and was then acknowledged by the British Secretary of Foreign Affairs in 1849 in an official communication. On the Argentine side, the issue continued to be raised at different levels of government and was the subject of debates in the National Congress.

In 1884, in the lieu of a response to the protests, Argentina proposed to bring the matter to international arbitration, which was also rejected without giving reasons by the United Kingdom.

The successive Argentine governments continued to present, without success, protests before the United Kingdom and at every opportunity propitiated the presentations and corresponding reservations in defense and preservation of their rights of sovereignty over the disputed archipelagos.

THE QUESTION OF THE MALVINAS ISLANDS IN THE UNITED NATIONS

The so-called "Question of the Malvinas Islands", understood as the sovereignty dispute between Argentina and the United Kingdom for the Malvinas Islands, South Georgias, South Sandwich and the surrounding maritime areas, even before the United Nations was constituted, was present at the San Francisco Conference, in which the Argentine delegation presented a reservation of rights.



First session of the General Assembly of the United Nations (1946)

With the process of decolonization promoted by the UN Charter, already in full development on December 14, 1960, the United Nations General Assembly adopted Resolution 1514 (XV) "Declaration on the Granting of Independence to Colonial Countries and People" that proclaimed "the need to put an end, quickly and unconditionally, to colonialism in all its forms and manifestations," **consecrating two fundamental principles that should guide the process of decolonization: that of self-determination and that of territorial integrity.**

This Resolution states in its sixth paragraph that "any attempt to totally or partially break the national unity and territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations." Undoubtedly this Resolution makes clear, that where the principle of territorial integrity of States is at stake, there can be no application of self-determination.



A year before Resolution 2065 (XX), the Argentine delegate to the UN, José María Ruda, explained the historical and legal grounds of the Argentine claim.

"The fundamental principle of self-determination should not be used to transform an illegitimate possession into full sovereignty under the protection of the United Nations"

New York, September 9, 1964

In pursuance of Resolution 1514 (XV) **on 16 December 1965, the General Assembly adopted Resolution 2065 (XX), in which it recognized the existence of a sovereignty dispute between Argentina and the United Kingdom and invited both countries to negotiate to find a peaceful solution to the dispute.**

This Resolution contains the essential elements that frame the Question:

- The case of the Malvinas Islands is one of the forms of colonialism that must be ended.
- Note the existence of a dispute between the Argentine and British governments.
- The Argentine and British governments are invited to enter into negotiations in order to find a peaceful solution to the problem and to inform the Special Committee or the General Assembly of the outcome.

- Such negotiations shall take into account the objectives and provisions of the Charter (including article 33 on the obligation of the parties to a dispute to seek a solution primarily through negotiation) and Resolution 1514 (XV) (principle of territorial integrity), as well as the interests of the population of the Islands (thus leaving aside the principle of self-determination)).

Shortly after the adoption of the aforementioned Resolution, a bilateral negotiation process was initiated regarding the sovereignty over the Malvinas Islands, South Georgia and South Sandwich Islands and the surrounding maritime areas, in which both parties proposed different alternatives but not arriving to be fulfilled none.



As part of the agreement with the United Kingdom in the 1970s, the LADE airline made regular flights to the Falkland Islands



Initialization Argentina - United Kingdom of the Declaration on Communications between the Argentine continental teritoio and the Malvinas Islands. Buenos Aires, July 1, 1971

In the following years, while the scope of negotiation of sovereignty dispute was maintained, special conversations were developed on practical aspects that made the population of the islands, thus explaining Argentina's willingness to serve the interests of the island.

As a result of these special talks, both governments reached an agreement under the sovereignty formula in 1971 to cooperate in matters of air and maritime services, postal, telegraphic and telephone communications; While Argentina assumed the commitment to cooperate in the fields of health, education, agriculture and technology.

Nevertheless, in 1973, the United Nations General Assembly declared the need to accelerate the ongoing negotiations and, through its resolution 3160 (XXVIII), urged the two Governments to pursue them without delay.

Negotiations on the merits dealt officially or officially with different formulas of solution, all of which contemplated the return of the exercise of sovereignty to Argentina. But in spite of these negotiations in progress and the Argentine actions in favor of the interests of the inhabitants of the Islands, which, by the way, relieved the burdens of the responsibilities of the illegally occupied and administering the



Third round of Special Conversations between Argentina and the United Kingdom on Communications between the Argentine mainland and the Malvinas Islands. Puerto Argentino, Islas Malvinas (1972).



The former President of Argentina Arturo Humberto Illia (1963-1966), under whose mandate was passed Resolution 2065 (XX) of the General Assembly of the United Nations

United Kingdom simultaneously carried out allegedly jurisdictional acts related to the exploration of the natural resources of the disputed area which were protested by the Argentine Government.

In view of this, in December 1976, the UN General Assembly adopted a new resolution number 31/49, which is of significant importance in its content, by 102 votes to 1, against (United Kingdom), and 32 abstentions. It calls on both sides of the dispute to refrain from taking decisions that involve the introduction of unilateral changes in the situation while the Islands are undergoing the process recommended by Resolutions 2065 (XX) and 3160 (XXVI) . It is to this day that this Resolution continues to be ignored by the United Kingdom, which persists in the development of unilateral activities in the disputed area, relating mainly

to the exploration and exploitation of renewable and non-renewable natural resources, **as well as military.**

The 1982 conflict did not alter the nature of the sovereignty dispute between Argentina and the United Kingdom over the Malvinas Islands, South Georgia, South Sandwich and the surrounding maritime areas, which remained to be negotiated and settled. This was acknowledged by the General Assembly in November 1982, when it adopted Resolution 37/9, and reiterated it in resolutions 38/12, 39/6, 40/21, 41/40, 42/19 and 43/25.

The UN General Assembly Resolutions on the Falkland Islands Quest that are not reprinted by the United Kingdom:

2065 (XX), 3160 (XXVIII), 31/49, 37/9, 38/12, 39/6, 40/21, 41/40, 42/19 and 43/25.

From 1989 to the present, the examination of the Question of the Malvinas Islands is based on the Special Committee on Decolonization. This Committee annually approves a resolution in terms similar to the relevant resolutions of the General Assembly.

In addition, the mandate of the Secretary-General's good offices mission is maintained at the UN level and the topic of the Question of the Malvinas Islands has been on the permanent agenda of the General Assembly since 2004, which can be Notification of a Member State.

The resumption of consular and diplomatic relations between the two countries in October 1989 and February 1990 was preceded by an understanding of the conditions under which both countries would consider the sovereignty dispute over the Malvinas Islands, South Georgia and South Sandwich Islands and The surrounding maritime spaces. To this end, it was agreed, from the Joint Declarations of Madrid of 1989 and 1990, a formula for the reservation or safeguard of sovereignty over the Malvinas Islands, South Georgia and South Sandwich Islands and the surrounding maritime areas which, at the same time, Constitutes a

recognition by both countries on the existence and content of the controversy of sovereignty.

However, the issue of sovereignty, the central issue of the dispute, has not yet been addressed because of the refusal of the United Kingdom to resume negotiations on this matter. The United Kingdom insists on its position rejecting the repeated calls by Argentina, the United Nations, the Group of 77 plus China, the entire international community, regional bodies (OAS, MERCOSUR, UNASUR, CELAC) and the Ibero-American Summits, among other multilateral forums.

The United Kingdom attaches to its refusal to resume negotiations the invocation of an alleged right of self-determination on the part of the population of the Islands which is inapplicable to the case and has been repeatedly rejected by the United Nations. This is because the Organization understood that a population transplanted by the colonial Power, such as the population of the Malvinas Islands, is not a people with the right to self-determination, since it is not different from the people of the metropolis.