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Chair of Política Exterior Argentina (Argentine Foreign Policy)

The Malvinas/Falklands Dispute:
The Failure of Bilateral Negotiations
(1965-1982)

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*Malvinas, tierra cautiva,
De un rubio tiempo pirata.
Patagonia te suspira.
Toda la Pampa te llama.
Seguirán las mil banderas
Del mar, azules y blancas,
Pero queremos ver una
Sobre tus piedras, clavada.
Para llenarte de criollos.
Para curtirte la cara
Hasta que logres el gesto
Tradicional de la Patria.

Ay hermanita perdida
Hermanita: vuelve a casa*

*(La Hermanita Perdida, Atahualpa Yupanqui, 1961)**

* Malvinas, captive land
Of a blond, pirated time
Patagonia sighs for you
The whole Pampa calls your name
A thousand flags will continue
Over the sea, blue and white
But we want to see one
Firmly planted on your rocks
To fill you with criollos
To harden your face
Until you achieve the gesture
Traditional of the Motherland
Oh, little lost sister
Little sister: come back home

INTRODUCTION

Max Weber argued that a social scientist, due to the very nature of their subject, cannot completely eliminate their subjective preferences in order to produce a perfectly objective analysis. The implicit risk, however, is that such preferences, if not adequately disciplined, may undermine the scientific validity of the study. For this reason, Weber proposed that scholars allow their subjectivity to guide the choice of topic, and then deliberately set it aside when conducting the analysis itself¹. This is precisely the position I found myself in when I began working on this thesis, whose origins trace back to my exchange semester in Buenos Aires, Argentina. The first striking element was not encountered in classrooms or archives, but in the streets: moving around the city, one could not avoid the stickers plastered across buses, walls, shop windows, and even in front of the Ministry of Foreign Affairs, repeating the same slogans: *Las Malvinas son argentinas* (“The Malvinas are Argentine”) and *Malvinas nos une* (“The Malvinas unite us”). It was particularly the latter that captured my attention, because I kept asking: why would a remote, sparsely populated archipelago serve as a unifying symbol for an entire nation still grappling with pressing economic, political, and social challenges?

My initial knowledge of the dispute was limited to the 1982 war and its geopolitical consequences, yet I had not asked myself what preceded that conflict, nor why the issue remained so central in Argentina’s collective consciousness. That moment of curiosity was decisive in orienting my research toward the period before the war, when a diplomatic settlement seemed at least conceivable. Understanding this period, I realized, is not only a matter of historical interest but provides a rare lens to examine the dynamics of trust, credibility and negotiation in international relations. Indeed, these negotiations, though ultimately unsuccessful, offer a rich case study for assessing how States manage complex disputes under conditions of asymmetry and uncertainty.

The dispute over the Malvinas/Falklands has generated an extensive historiography that spans international law, diplomatic history, and international relations. In Argentina, a central reference is the legal work of Marcelo G. Kohen and Facundo Rodríguez, whose *Las Malvinas/Falkland entre el Derecho y la Historia* offers one of the most detailed reconstructions of sovereignty arguments, combining doctrinal analysis with historical documentation. Abel González’ *The Genesis of the Falklands (Malvinas) Conflict*, represents, on the other hand, the only detailed work on the prewar negotiations, at least until the 1968 Memorandum of Understanding. On the British side, Lawrence Freedman’s *Official History of the Falklands Campaign* remains the most authoritative

¹ Weber, M. (1949) *The Methodology of the Social Sciences*, pp. 50-55

reconstruction, although focused more on the military conflict and the political decision-making of the 1970s and early 1980s.

These interpretations allow to connect the case study to wider debates in International Relation, from questions of asymmetry and dependency to the dynamics of trust and credibility in interstate bargaining². Scholars of asymmetric negotiations, such as Lebow and Ruzicka, emphasize that trust is not a vague sentiment but a relational variable that determines whether legal arguments, procedural steps, or practical proposals can be effective. Yet despite this richness, a gap remains. The twenty years of negotiations between 1965 and 1982, marked by moments of genuine diplomatic innovation, but also of recurring stalemate, are often overshadowed either by the 1833 occupation or the 1982 conflict. Few works have systematically analyzed why these negotiations failed despite apparent windows of opportunity³. This thesis positions itself in that gap, arguing that one of the central explanatory factors is the absence of mutual trust, which undermined the potential of legal arguments, diplomatic initiatives, and even pragmatic proposals such as the 1968 Memorandum of Understanding or the late-1970s leaseback plans.

The core objective of this thesis is therefore twofold: first, to reconstruct the main diplomatic exchanges between Argentina and the United Kingdom from 1965 to 1982; second, to interpret their failure through the lens of cooperation theory, with particular attention to the construction, or lack, of mutual trust. Trust, in this sense, is understood not as a vague sentiment but as a relational variable in IR: the expectation that the other party will act consistently, transparently, and in line with declared commitments⁴. Methodologically, the thesis combines international history with IR theory, and it relies heavily on primary sources: official UN documents, particularly Resolution 2065 and debates of the Decolonization Committee; bilateral communiqués such as the Stewart–Zavala Ortiz statement of 1966; draft agreements like the 1968 Memorandum of Understanding; and the 1971 Communications Agreements. British archival material, including records of the Foreign and Commonwealth Office, as well as Argentine sources, such as speeches by foreign ministers and military leaders, complement this documentary base. By cross-examining these sources with the interpretations offered in the existing literature, the thesis seeks to highlight not only what was discussed and proposed, but also the underlying perceptions of credibility and good faith.

The argument develops over four chapters. The first chapter sets the coordinates of the analysis, clarifying the relevance of mutual trust in IR and reviewing the literature on the Malvinas. It also

² Lebow, R. N. (2008) *A Cultural Theory in International Relations*, pp. 15-30

³ Kohen, M. G. & Rodriguez, F. (2017) *The Malvinas/Falklands Between History and Law: Refutation of the British Pamphlet "Getting it Right: The Real History of the Falklands/Malvinas"*, pp. 102-120

⁴ Lebow, R. N. (2008) *A Cultural Theory in International Relations*

provides a historical overview of the islands' occupation, from early European settlements to the 1833 British takeover, before closing with the period 1945–1965, crucial for understanding the adoption of Resolution 2065 and the Peronist embedding of the issue into national identity. The second chapter turns to the international dimension, reconstructing the debates within the UN and the reasoning behind Argentina's diplomatic victories, as well as the legal positions advanced by both sides. Here, the tension between historical claims, evolving international law, and political feasibility becomes apparent. The third chapter analyzes the most promising phase of negotiations (1965–1976), from the Stewart–Zavala Ortiz communiqué to the 1968 Memorandum and the 1971 Communications Agreements, and then their unraveling with the return of Perón and the rise of mutual suspicion. The fourth and final chapter examines the breakdown of diplomacy (1976–1982), focusing on the leaseback proposals, the South Georgia incident, and U.S. mediation under Secretary of State Haig. By then, mutual distrust had crystallized: the islanders doubted Argentine guarantees, Britain doubted Argentine patience, and Argentina doubted Britain's sincerity. The consequence was war.

By situating the Malvinas dispute within both historical and theoretical perspectives, this thesis demonstrates that diplomatic failures cannot be explained solely by legal incompatibilities or geopolitical asymmetry. Rather, they are rooted in the inability of the parties to establish and sustain a minimum level of trust, offering broader lessons on the role of credibility and perception in interstate negotiations. This contribution provides insights into both the history of the dispute and central debates in international relations theory, particularly regarding confidence-building and cooperative dynamics under conditions of asymmetry.

CHAPTER 1: THEORETICAL AND HISTORICAL FRAMEWORK

1.1 Coordinates of the analysis and the relevance of mutual trust in international relations

1.1.1 Why the two decades before the war

“Si quieren venir, que vengan. Les presentaremos batalla” ⁵(“If they want to come, let them come. We will give them battle”).

These are the final and resounding words of the speech delivered by General Leopoldo Galtieri, then President of Argentina and leader of the last military dictatorship, on the 10th of April 1982. He addressed tens of thousands of Argentinians gathered in *Plaza de Mayo*, the country’s most symbolic square, exactly one week after the Argentine invasion of South Georgia, South Sandwich, and the Malvinas/Falkland Islands. As is well known, Galtieri’s challenge was accepted by the United Kingdom and its Prime Minister Margaret Thatcher. Argentina was defeated, and the UK swiftly regained full control over the archipelago.

However, the war itself will not be the focus of this thesis. Rather, the analysis will concentrate on the twenty years of negotiations that preceded the conflict, from the milestone 1965 United Nations General Assembly Resolution 2065, which officially acknowledged the existence of a sovereignty dispute between Argentina and the United Kingdom, to the days immediately prior to the landing of British troops on the islands. Studying this twenty-year period is essential not only to understand why negotiations failed, but also to explore the role of trust, perceptions and diplomatic strategies in shaping international disputes. This analysis aims to uncover how mutual misperceptions and a lack of confidence between Argentina and the United Kingdom contributed to the breakdown of dialogue, offering broader insights into the dynamics of conflict escalation and the limits of diplomacy.

Nonetheless, Galtieri’s speech stands as a significant starting point for at least one key reason: the fact that the general was speaking to the same masses who, just a week before, had crowded the square to protest against the worsening economic crisis and the unbearable living conditions imposed by the dictatorship⁶. Their sudden transformation, from angry citizens to joyful patriots, highlights

⁵ Galtieri, L. (1982) *Discurso pronunciado en la Plaza de Mayo el 2 de Abril 1982*

⁶ Briscoe, I. (2007) *Argentina and the Malvinas, twenty-five years on*

the extent to which the Malvinas issue was, and still is, deeply embedded in Argentine national identity. For many, the mere symbolic recovery of those distant and inhospitable islands was powerful enough to momentarily override everyday suffering and internal discontent⁷. It is precisely this political and symbolic centrality that makes it essential to analyze in depth what occurred in the two decades prior to the conflict, in order to fully grasp the complexity of a dispute that is too often reduced to a simplistic narrative: that of a declining military regime tragically confronting the uncompromising Iron Lady. In reality, the 1982 war was the result of a prolonged diplomatic deadlock, twenty years of frustrations, ambiguities, and missed opportunities, in which both governments repeatedly failed to build the mutual trust necessary for a peaceful settlement⁸. From the perspective of the present work, by the time Galtieri and Thatcher came to power, the chances of avoiding an escalation had already become extremely narrow⁹.

Despite its relevance, this twenty-year period has received limited scholarly attention¹⁰. The main reason is that most of the dispute unfolded behind closed doors, confined to diplomatic negotiations and official channels. This was arguably the most strictly political phase of the controversy: while the Argentine public was aware of the ongoing talks regarding the islands, the issue had not yet become a mass political cause or a source of mobilization, something that would change dramatically in the early 1980s¹¹. Still, the belief that something vital had been unjustly taken away persisted in the collective imagination, reinforced by the narratives promoted during the first Peronist government in the immediate aftermath of World War II. Juan Domingo Perón played a key role in shaping a national identity rooted in historical grievances, among which the loss of the Malvinas occupied a central place¹². For this reason, the construction of Argentine nationalism during the Peronist decade between 1946 and 1955 will be examined in the early part of the analysis. Equally important is to trace back the history of the islands themselves: how their occupation unfolded, what conflicting claims emerged over time, and how both countries developed their respective narratives on sovereignty. The historical and legal confusion surrounding their discovery and early administration is not only illustrative of the dispute's complexity, but also crucial in understanding the arguments that both Argentina and the United Kingdom repeatedly brought before the United Nations during the negotiation years¹³. This historical review will then transition into the global context of decolonization and the

⁷ Guber, R. (2001) *¿Por qué Malvinas? De la causa nacional a la guerra absurda*, p. 45

⁸ Lanús, J. A. (2001) *Aquel Apogeo: Política Internacional Argentina 1910-1939*, p. 482

⁹ Freedman, L. (2005) *The Official History of the Falklands Campaign, Vol. 1: The Origins of the Falkland War*, p. 67

¹⁰ Beck, P. (2014) *The Falkland Islands as an International Problem*, p. 3

¹¹ Lorenz, F. (2006) *Las guerras por Malvinas*, p. 41

¹² Guber, R. (2001) *¿Por qué Malvinas? De la causa nacional a la guerra absurda*, pp. 37-38

¹³ Beck, P. (2014) *The Falkland Islands as an International Problem*, pp. 14-15

internationalization of the dispute. With Resolution 2065, the UN formally recognized the existence of a colonial situation and urged both parties to engage in bilateral negotiations¹⁴. While this resolution became a cornerstone of Argentina's diplomatic strategy, the subsequent talks failed to achieve any meaningful resolution, because the two governments never managed to harmonize their approaches to the core issues at stake, often emphasizing opposing legal principles and interpreting key concepts in incompatible ways¹⁵.

Existing literature on the Malvinas/Falkland dispute has primarily concentrated on military operations, domestic political dynamics or the war itself, leaving the two decades of pre-war negotiations comparatively underexplored. A limited number of studies have addressed this diplomatic and international dimension, notably the works of Abel Gonzalez, "The Genesis of the Falkland/Malvinas Conflict", which explores the UN discussions and the negotiations until the 1968 Memorandum of Understanding; Peter Beck's "The Falkland Islands as an International Problem, which offers an in-depth analysis about the whole dispute; Lanús' *De Chapultepec al Beagle. Política exterior Argentina, 1945-1980*, which studies Argentina foreign policy after the WWII, in particular its territorial disputes; some selected British scholars, like Adrian Hope, which offers an insight of the islands' early history and the juridical dispute, which is the main theme of another Argentinian book, written by Marcelo Kohen and Facundo Rodriguez, "The Malvinas/Falkland. Between History and Law". A clarification must be made: not only is secondary literature on the issue particularly limited, but also has the great issue of being biased towards one side or the other, which makes it hard to analyze what happened in a pure objective way. That's why, what sets this study apart is its empirical basis: the analysis will draw on a wide range of primary sources, including archival records from both the United Kingdom and Argentina, as well as official documents, diplomatic cables, and memos from relevant international actors.

The purpose of this work is not to determine who was right or wrong. International politics does not function in binary terms, and historical disputes rarely lend themselves to black-and-white interpretations. Rather, the central argument advanced here is that both Argentina and the United Kingdom failed to cultivate a minimum level of reciprocal trust, something that would have facilitated, if not ensured, a peaceful and durable solution. The core of this research will revolve around the theme of mutual trust in international relations, analyzing how shifting political priorities,

¹⁴ Freedman, L. (2005) *The Official History of the Falklands Campaign, Vol. 1: The Origins of the Falkland War*, pp. 21-23

¹⁵ Ministerio de Relaciones Exteriores, Comercio Internacional y Culto (2015) *Discurso del Canciller Timerman en el Comité Especial de Descolonización de las Naciones Unidas*

internal instability, secrecy, and opportunism on both sides progressively undermined any prospect of diplomatic success.

1.1.2 Mutual trust in International Relations and Diplomacy

Reducing the failure of negotiations solely to a lack of mutual trust would be misleading and simplistic, as it would overlook the real complexity of the dispute. It is necessary to stress that numerous factors contributed to the impossibility of building a stable climate of confidence between Argentina and the United Kingdom. These included endogenous elements, such as political instability, abrupt changes in leadership, and internal ideological shifts within both countries, and exogenous ones, such as Cold War dynamics, shifting alliances, and pressure from international institutions¹⁶.

That being said, the topic of trust in international relations represents a relatively recent and interdisciplinary approach to the study of interstate relations¹⁷. In recent decades, literature has increasingly focused on this concept, often under the influence of behaviorist and neo-institutionalist paradigms, which gained renewed relevance in the 1980s¹⁸.

Trust, following the interpretation given by Richard Lebow, includes a fundamental emotional component. It can be understood as the willingness to engage in cooperative or even altruistic behavior without expecting an immediate or tangible return, thereby transcending purely rational calculations. In this sense, trust challenges the traditional assumption that political actors behave exclusively to maximize their own interests in a rational manner; it instead invites to consider emotional, cultural, and ideological components in the decision-making process¹⁹. Therefore, it's impossible to value political actions simply as rational choices made by actors only pursuing their selfish purposes, but it becomes important to evaluate emotional components, which can also help to explain irrational decisions²⁰. This emotional and non-rational component makes trust particularly relevant when analyzing foreign policy decisions that appear, at first glance, counterintuitive or self-defeating. It can also help to explain why diplomatic solutions sometimes collapse even when mutual interest would suggest otherwise. Moreover, trust enables cooperation by reducing uncertainty and

¹⁶ Beck, P. (2014) *The Falkland Islands as an International Problem*, p. 35

¹⁷ Ruzicka, J. (2015) *Going global: Trust Research and International Relations*, p. 3

¹⁸ Axelrod, R. (1984) *The Evolution of Cooperation*, pp. 12-15

¹⁹ Lebow, R. N. (2013) *The Role of Trust in International Relations*, pp. 21-22

²⁰ Jervis, R. (1976) *Perception and Misperception in International Politics*, pp. 5-7

fear of opportunistic behavior, allowing States to negotiate, share information and commit to agreements even in complex situations²¹. This is clearly illustrated by game theory, particularly in the classic example of the Prisoner's Dilemma. If the game is played only once, the rational choice is defection. However, as Axelrod demonstrated, when the game is repeated over time, the likelihood of cooperation increases, as each player begins to anticipate and trust the behavior of the other. Trust, in this framework, becomes both a condition and a result of repeated interaction, which mirrors the real-world diplomatic dynamics between states²². Yet, even this optimistic reading must be nuanced. The model assumes that both actors perceive cooperation as the most rational path forward, but, in the real world, cooperation may not always be the best rational option, at least not in the short term, because States may be driven by other imperatives: prestige, domestic legitimacy, strategic advantage²³. This helps explain, for instance, the enduring nature of the Anglo-American alliance: the cultural and political affinity between the United Kingdom and the United States made it unthinkable for Washington to support the Argentinian position in 1982, despite the potential advantages of maintaining stronger ties with Buenos Aires in the context of Cold War politics.

Emerging scholarship on trust, such as the work of Michel Ruzicka and other scholars influenced by social constructivism, highlights how trust is often a precondition for successful negotiation and long-term cooperation²⁴. Without it, as shown in this case study, diplomacy becomes a fragile and superficial exercise, highly susceptible to abrupt changes and external shocks. This is especially relevant in multilateral frameworks, where the legitimacy of agreements relies not only on legal commitments but also on the mutual perception of intentions and consistency²⁵. Furthermore, as noted in several recent policy papers, including reports by institutions such as the British Council, trust cannot be built overnight, nor can it be taken for granted. It is a dynamic and cumulative process that requires time, transparency, and repeated signals of reliability²⁶. Once broken, it is extremely difficult to restore, a dynamic well reflected in the gradual erosion of dialogue between Argentina and the United Kingdom over the course of the two decades analyzed in this thesis.

In short, trust is a complex concept. It is hard to define and even harder to measure empirically. Yet, despite, or perhaps because of, its intangible nature, it plays a crucial role in shaping political outcomes. It cannot be the sole explanatory variable in the analysis of international disputes, but it

²¹ Lebow, R. N. (2010) *Why Nations Fight: Past and Future Motives of War*, pp. 29-31

²² Axelrod, R. (1984) *The Evolution of Cooperation*, pp. 58-62

²³ Michel, T. (2016) *Trust and International Relations*, pp. 7-8

²⁴ Ruzicka, J. (2015) *Going global: Trust Research and International Relations*, p. 9

²⁵ Lebow, R. N. (2008) *A Cultural Theory in International Relations*, pp. 43-50

²⁶ British Council (2022) *Trust in international relations, public diplomacy and soft power*, p. 24

cannot be omitted either²⁷. As Samuel Huntington emphasized in his theory of the Clash of Civilizations, the waning role of ideology in world politics has left cultural identity and historical memory as powerful, and often irrational, driving forces. These forces shape perceptions of legitimacy, sovereignty, and justice in ways that cannot be fully captured by rationalist models. Cultural norms, historical memory and collective identities play a central role: past conflicts, shared narratives and civilizational values influence how states interpret each other's intentions and assess the reliability of their counterparts²⁸. Huntington's insight illustrates this dynamic: how trust, or its absence, interacts with these deep-seated cultural and historical factors, sometimes bridging divides, sometimes reinforcing them, as seen in Islamic fundamentalism and the ongoing instability in the Middle East. Thus, while trust is not a panacea, it can serve as a powerful tool for conflict prevention and diplomatic engagement. Its loss can mark the beginning of escalation, while its careful construction can lay the groundwork for durable peace²⁹.

1.2 The history of the islands' occupation

1.2.1 The discovery dilemma

The Malvinas/Falkland Islands are an archipelago of approximately 200 islands situated in the South Atlantic Ocean "on the Argentine continental shelf at a distance of around 300 nautical miles east of the Patagonian coast at *Rio Gallegos* and approximately 1,025 nautical miles directly south of Buenos Aires"³⁰. The two main islands, *Gran Malvina* and *Soledad* (known in English as West Falkland and East Falkland), are the only inhabited ones, although life there is particularly harsh due to the inhospitable climate and the rugged, rocky terrain. Viscount Bryce, during his visit, famously described the archipelago as "a land without expression, desolate and solitary"³¹.

The moment of discovery is especially controversial, as many of the sovereignty claims made by both Argentina and the United Kingdom are rooted in this phase of the islands' history. Moreover, what follows is emblematic of the entire dispute's complexity. The first known references to the

²⁷ Ruzicka, J. (2015) *Going global: Trust Research and International Relations*, p. 10

²⁸ Huntington, S. P. (1996) *The Clash of Civilizations and the Remaking of World Order*, pp. 40-56

²⁹ Axelrod, R. (1984) *The Evolution of Cooperation*, p. 50

³⁰ Hope, A. (1983) *Sovereignty and Decolonization of the Malvinas (Falkland) Islands*, p. 391

³¹ Hope, A. (1983) *Sovereignty and Decolonization of the Malvinas (Falkland) Islands*, p. 391

archipelago appear as early as 1501, during Vespucci's expedition, and later in pilot books such as those by Kunstmann II, Maiollo, Nicolaus of Caveiro, among others, all dating from the early 16th century³². Diego de Rivera's 1527 map, though imprecise, depicts a more defined representation of the islands³³. Some scholars argue that Esteban Gomez, a pilot on Magellan's 1520 expedition, may have been the first to sight the islands, and it is also to this expedition that the earliest specific map of the archipelago is attributed, seven years before Rivera's.

On the British side, it was long believed that the islands had first been discovered by Captain John Davis in 1592, a claim not supported by any of the aforementioned maps. Another significant expedition often cited is that of 1594, led by Captain John Hawkins, and interpreted by some as the first act of British sovereignty over the islands. However, Hawkins' own description contradicts this claim. He described the islands he encountered as being not mountainous but flat, temperate in climate, and similar to England, and, most importantly, inhabited. This directly opposes later accounts that portray the Malvinas as uninhabited, aside from sporadic Spanish and Portuguese sailor encampments³⁴. Furthermore, Hawkins never actually claimed sovereignty for Britain, and Davis's alleged discovery lacks confirmation, making both claims historically weak.

It is also worth recalling another British exploration in the late 1600s, which led to the alleged discovery of the so-called "Pepys Islands", a place later proven never to have existed³⁵. It was during this same period that the names still in use today were first coined. In 1690, an English expedition led by John Strong passed through the strait separating the two main islands and named it Falkland Sound, in honor of Lucius Carey, Viscount Falkland³⁶. The Spanish name, ironically, has French origins: it derives from the port of Saint-Malo, home to many French sailors who often stopped at the islands. From there comes "*Malouines*", later adapted into Spanish as "Malvinas"³⁷.

What emerges from this overview of early explorations is that nearly all major colonial powers of the time came into contact with the islands, though none of these encounters were sufficient to constitute a clear claim of sovereignty. Discovery alone, under international law, does not provide a complete legal title; it only establishes an "*inchoate title*", which must be followed by concrete acts

³² Kohen, M. G. & Rodriguez, F. (2017) *The Malvinas/Falklands Between History and Law: Refutation of the British Pamphlet "Getting it Right: The Real History of the Falklands/Malvinas*, p. 17

³³ Reyes, A. O. (1984) *La Cuestión de las Islas Malvinas*, p. 80

³⁴ Kohen, M. G. & Rodriguez, F. (2017) *The Malvinas/Falklands Between History and Law: Refutation of the British Pamphlet "Getting it Right: The Real History of the Falklands/Malvinas*, p. 16

³⁵ Hope, A. (1983) *Sovereignty and Decolonization of the Malvinas (Falkland) Islands*, p. 402

³⁶ Reyes, A. O. (1984) *La Cuestión de las Islas Malvinas*, p. 80

³⁷ Hope, A. (1983) *Sovereignty and Decolonization of the Malvinas (Falkland) Islands*, p. 402

demonstrating a State's intent to effectively govern and occupy the territory. This intent must be clearly supported by the allocation of necessary resources. At this stage, the Malvinas were mainly a stopover for maritime routes, used occasionally by sailors but never colonized, likely due to their harsh environmental conditions.

1.2.2 First settlements: Port Luis/Puerto Soledad and Port Egmont

The first true settlement in the archipelago, one that explicitly entailed a claim to sovereignty, was Port Louis, established in 1764 following a French expedition led by Louis Antoine de Bougainville, a distinguished naval officer known for his campaigns in Canada against the British, he secured the approval of the French crown, particularly from the Minister of the Colonies, the Duke of Choiseul. He departed from Saint-Malo aboard two frigates with the aim of founding a colony on the island today known as *Soledad* or East Falkland.

Port Louis was officially founded in the name of King Louis XV in the spring of 1764, as recorded in an act of settlement drafted by Bougainville and his crew on April 5th. The document states:

“We the majors and petty officers of the King's frigate L'Aigle and the Sphinx, certify that making our way to search for lands in Eastern South America, on Tuesday the thirty-first of January at six o'clock in the morning, we had knowledge of a land in the east of us. [...] That after having recognized the said land and that it was an island without any trace of inhabitants, we took possession of it in the name of His Very Christian Majesty, and we raised the King's flag on a fort built in the same Bay. [...] (and) we simultaneously took possession of a few other isles adjacent to the Main Island which seemed to us to have two hundred leagues around, and we understood these isles under the name of the Malouines Islands; done at Fort San Louis on the 5th of April one thousand seven hundred and sixty-four”³⁸.

Later that year, in September, the French king formally approved and recognized the establishment of the new colony. Bougainville was instructed to return to the islands accompanied by the first appointed governor:

³⁸ Archives Nationales d'outre-mer (ANOM) (1764) *Déclaration contenant l'acte de la prise de possession des îles Malouines, faite au nom du roi, le 5 Avril 1764, par les états-majors et officiers des frégates du roi L'Aigle et le Sphinx. Actes du pouvoir souverain (1628–1779), COL A 9.* (Author's translation)

“Seeing the above act ... containing the taking possession of the Malvinas (sic) Islands made in our name by the Majors, Officers and petty officers of our Frigates L'Aigle and le Sphinx, located to the East of the South America ... Pleased by the conduct by our aforesaid subjects on (this) occasion, (We) have hereby signed with our hand, and with our full Royal power and authority, approved and approve, confirmed and confirm as required the said occupations and taking possession made in our name in the said lands and Isles, as well as all the content in the aforesaid deed; declare that we want to maintain and keep in possession of the rights that they are henceforth regarded as forming part and being of the dependence of the Kingdom of France and governed by the same laws, status and ordinances as the other places, lands and countries subject to our obedience”³⁹.

Thus began the brief period of French control over the Malvinas. However, this was quickly contested by Spain, which, relying on papal bulls such as *Inter Caetera* (1493) by Pope Alexander VI and the Treaty of Tordesillas (1494), considered the territory under its rightful domain. These agreements had long established spheres of influence for Spain and Portugal in the New World to prevent conflict, and Spain interpreted them as conferring sovereignty over regions adjacent to modern-day Argentina, including the Malvinas. Spanish authorities quickly became suspicious of the French expedition, especially after Bougainville's ships stopped in Montevideo for supplies. Although aid was granted due to the excellent relations between the Bourbon monarchies, cemented by the 1761 Family Pact, the deviation from the declared route to the East Indies raised questions. As the Marquis of Grimaldi, Spanish Minister of Foreign Affairs, noted in a letter dated June 11th, 1764, he judged “*muy extraña la ida á aquel Puerto de la Fragata y Corbeta francesas el Aguila y el Sphinx*”⁴⁰ (very strange the arrival in that port of the French frigate and corvette Eagle and Sphinx), and he called for an investigation. A correspondence ensued between Count of Fuentes, Spanish Ambassador in Paris, and the Duke of Choiseul, in which the latter explained that the French were exploring the region in search of a new island to establish a naval base that would facilitate navigation around Cape Horn. Once the foundation of Port Louis became public, Grimaldi expressed concern that the French move could set a precedent, potentially provoking British interest in what Spain considered its own territory⁴¹.

³⁹ Archives Nationales d'outre-mer (ANOM) (1764) *Acte royal confirmant la prise de possession des îles Malouines au nom de la France, signé par Louis XV, en présence des officiers et des sous-officiers des frégates L'Aigle et le Sphinx*. Actes du pouvoir souverain (1628–1779), COL A 9, 12 septembre 1764. (Trans.)

⁴⁰ Archivo General de Simancas (1764) *Letra del Marquis Grimaldi al Conde de Fuentes sobre la llegada de Bougainville a Montevideo*. 11 de junio 1764, Legajo 6957

⁴¹ Archivo Historico Nacional (1764) *Grimaldi a Aranda, Madrid 2 de agosto 1764*. ES.28079.AHN// State, 2858, Exp.2.

Consequently, diplomatic negotiations began. Spain submitted the aforementioned documents to assert its historical and legal claim to the Malvinas and requested that France cede Port Louis and all related possessions. Given the good relations between the two crowns and in recognition of the papal decrees, the French king agreed to transfer the colony⁴². Only one issue remained: Bougainville's personal financial investment in the settlement. In a letter dated April 8th, prior to the formal transfer, Choiseul laid out the terms:

"I send you M. de Bougainville; his business is simple, or Spain leaves us the Malvinas Islands, which we will keep and will be useful to both monarchies, useless to Spain that cannot maintain them; or Spain will want to take them back, but M. de Bougainville will have to be reimbursed for the expenses he incurred in establishing a colony there"⁴³.

Choiseul's use of the term *reprendre* (to take back) is particularly notable, as it implicitly acknowledges that Bougainville had not founded the settlement on *terra nullius* but on territory understood to be Spanish, which the French had assumed was of no strategic value to Iberian interests. Negotiations concluded successfully. Spain agreed to reimburse Bougainville's expenses, as he himself confirmed:

"I have received six hundred and ten
eight thousand one hundred and eight pounds thirteen wages and eleven
money matters a state that I have presented of
the expenses incurred by the Society of St Malo expeditions made to found its intruding
establishments in the Malvinas Islands of His Catholic Majesty"⁴⁴.

Spanish sovereignty was formalized with the appointment of the first governor. On October 4th, 1766, King Charles III ordered Felipe Ruiz Puente to assume office under the direct supervision of the Governorate in Buenos Aires, led by Captain General Francisco Bucarelli⁴⁵. The settlement's name was changed from Port Louis to *Puerto Soledad*. From this point until Spain's withdrawal in 1811, twenty governors were appointed. Spain faced several initial challenges in administering the islands.

⁴² Cañas, M. F. (2011) *Reseña sobre la Cuestión de las Islas Malvinas*, p. 82

⁴³ Universidad de Buenos Aires (1766) *Choiseul a Louis-François de Bausset, Embajador francés en la corte española, 8 de abril 1766*. Colección De Documentos Relativos A La Historia De Las Islas Malvinas, Tomo I 1957, p. 356. (Trans.)

⁴⁴ Archivo General de la Nación Argentina (1766) *Recibo donde Luis de Bougainville detalla el modo en que ha sido indemnizado por España, 4 de noviembre 1766*. (A.G.N. X-293) (Trans.)

⁴⁵ Archivo General de la Nación Argentina (1766) *Real Cedula a por la cual se ordena a Felipe Ruiz Puente su viaje a las Islas Malvinas para recibirlas y asumir sus funciones como gobernador, 4 de octubre 1766*. (A.G.N. IX-642)

Bougainville had confidentially informed Fernando de Magallón, secretary of the Spanish Embassy in France, that during his final expedition to the Malvinas, he had spotted English ships headed towards the South Sea. Their presence, along with the composition of their crews, suggested preparations for establishing a permanent settlement⁴⁶. This intelligence was passed on to Grimaldi, who initiated inquiries with the assistance of the French.

Indeed, a British settlement had already taken root. To understand its origins, however, British interest in the South Atlantic must be traced back to the mid-18th century: seeking to improve trade routes and explore new opportunities, Britain organized an expedition led by Lord Anson, intended to circumnavigate the globe and assess the potential of the South Seas. In 1749, British authorities informed Spain of the proposed expedition, clearly stating that it was not intended for colonization but for exploration and the facilitation of trade. Spain responded with strong objections, viewing the move as a threat to its territorial claims. Out of concern for diplomatic relations, Britain canceled the expedition⁴⁷.

This incident is significant: by informing Spain and acknowledging its objections, Britain implicitly recognized Spanish sovereignty. Had the islands been *terra nullius*, no prior notice or restraint would have been necessary⁴⁸.

British interest resurfaced in 1764. In a June memorandum, the Lords of the Admiralty instructed Captain John Byron to explore the nonexistent Pepys Islands and the Falklands. Although they claimed initial British discovery, no detailed mapping or assessment had ever been done⁴⁹. This time, however, the British did not inform any foreign powers, aware of French activity in the area. Byron's expedition reached West Falkland (*Gran Malvina*) in early 1765 and established Port Egmont, named after one of the expedition's sponsors. The ships Bougainville had reported were, in fact, Byron's. In 1766, as France transferred Port Louis to Spain, a second British expedition led by Captain McBride arrived at Port Egmont. While officially tasked with further exploring Byron's findings, McBride

⁴⁶ Archivo General de Indias (1766) *Oficio de Fernando de Magallón al Marquis de Grimaldi sobre la información facilitada por Mr. de Bougainville, 7 marzo 1766*. Sección V, Indiferente General, Expediente sobre establecimiento de ingleses en varios puntos, 1766-1770, Est. 138, caj. 6, leg. 3, Leg. 415

⁴⁷ Williams, G. (2019) *Lord Anson: A Naval Biography*, p. 688

⁴⁸ Dodds, K. (2002) *Pink Ice: Britain and the South Atlantic Empire*, p. 45

⁴⁹ The National Archives (1764) *Original Instructions signed by Egmont, Carysfort and Howe, directed to John Byron, captain of His Britannic Majesty's ship "Dolphin", which must be accompanied by the frigate "Tamer". The orders are to explore Pepys and Falkland Islands*. Records of the Admiralty, London, Admiralty, Secret Orders and Letters, Ad. 2/1332

went beyond his orders and formalized the settlement. The British government made no objection, thereby validating the action *post facto*⁵⁰.

By the end of 1766, the archipelago presented a complex and unstable situation. On East Falkland, the Spanish held *Puerto Soledad*, inherited from the French. On West Falkland, the British had secretly founded Port Egmont. It was evident that the two settlements could not long coexist in such close proximity on an archipelago claimed in its entirety by Spain.

1.2.3 The period of Spanish domination (1766-1811)

The suspicions aroused within the Spanish leadership by Bougainville's actions were confirmed to Foreign Minister Grimaldi by the Spanish ambassador in London, the Marquis of Masserano. A particular note to Choiseul, subsequently forwarded to the Spanish embassy, reported:

"... in May, England had been advised of the cession of the islands to Spain by Bougainville. Egmont, who wanted to consolidate the English position there regardless of the claim of Spain to sovereignty over the Falklands, worked from June through most of August to obtain the cabinet's approval of the Admiralty scheme of sending ships to Port Egmont."⁵¹

In a more urgent report to Grimaldi, Masserano recommended:

"to destroy the British colony before an English fleet arrived... He argued that ... Britain's 1749 acknowledgement of Spain's right meant that the English had no right to be on the islands and could be forcibly evicted."⁵²

From London, Spain's stance became uncompromising: invoking a clause of the Treaty of Utrecht of 1713, Britain had committed to supporting Spain in maintaining its South Atlantic territories within the boundaries predating the reign of Charles II. Furthermore, previous actions, such as the unrealized expedition of Anson, suggested an implicit British recognition of Spanish sovereignty over the Malvinas. On these grounds, the British presence at Port Egmont was considered illegal under international law⁵³.

⁵⁰ Kohen, M. G. & Rodriguez, F. (2017) *The Malvinas/Falklands Between History and Law: Refutation of the British Pamphlet "Getting it Right: The Real History of the Falklands/Malvinas"*, p. 35

⁵¹ The National Archives (1766) *Note from Masserano to Grimaldi regarding Egmont's intention to strengthen Port Egmont following the transfer of the Falkland Islands to Spain*. Records of the Admiralty, London, Admiralty correspondence regarding Port Egmont, Ad. 1/1600

⁵² Archivo General de Simancas (1766) *Masserano to Grimaldi August 11, 1766*. Inglaterra, Legajo 6961

⁵³ Reyes, A. O. (1984) *La Cuestión de las Islas Malvinas*, p. 84

Grimaldi found himself caught between opposing pressures. On one side, Choiseul, representing France, insisted on avoiding escalation and resolving the matter diplomatically; on the other, trusted Spanish advisors, especially Masserano, urged prompt and decisive action to prevent any British claim, even by force. The tension escalated when English officials, including senior Admiralty figures, consistently asserted a right of first discovery, which they claimed established British sovereignty. Consequently, they categorically refused to abandon Port Egmont. This clash of perspectives intensified the situation on the ground, where any encounter between Spanish and British vessels risked triggering an incident, as indeed occurred in 1769. That year, a Spanish frigate was sent to survey the archipelago and locate the British outpost⁵⁴. It encountered a British ship, whose captain was formally asked to justify his presence in waters under Spanish sovereignty. The response, sent by Captain Anthony Hunt, was unequivocal:

“I have received your letter by the officer, acquainting me, that these islands, and coast thereof, belong to the King of Spain, your Master. In return, I am to acquaint you, that the said islands belong to his Britannick Majesty, my Master, by right of discovery, as well as settlement; and that the subjects of no other power whatever can have any right to be settled in the said islands, without leave from his Britannick Majesty. I do therefore, in his Majesty's name, and by his orders, warn you to leave the said islands; and in order that you may be the better enabled to remove your effects, you may remain six months from the date hereof; at the expiration of which you are expected to depart accordingly.”⁵⁵

This response was the final straw: it confirmed the existence of a British settlement and prompted the need to locate and expel it. A reconnaissance mission was launched from Montevideo in February 1770, led by Captain Rubalcava. Upon officially entering Port Egmont, he confirmed the presence of a British post and relayed the news to *Puerto Soledad*, and subsequently to Buenos Aires. From there, a new expedition was dispatched in May, under the orders of Captain General Francisco Bucarelli, which led to the eviction of the British from Port Egmont⁵⁶. This military confrontation gave way to diplomatic negotiations between Madrid and London, aimed at avoiding open war. A resolution was reached only in January 1771. The crux of the dispute was not sovereignty *per se* but rather the affront to King George III, whose authority had been challenged by the forcible expulsion. The diplomatic compromise consisted in restoring the *status quo ante*, with Port Egmont returned to British control. Spain, however, insisted that this restitution “cannot nor ought in any way to affect the question of

⁵⁴ Hope, A. (1983) *Sovereignty and Decolonization of the Malvinas (Falkland) Islands*, p. 404

⁵⁵ The Scots Magazine (1771) *Capt. Hunt to Don Phelipe Ruiz Puente December 10, 1769*

⁵⁶ Rossi Casé, M. N. (2005) *Historia de Malvinas*, pp. 6-7

the prior right of sovereignty over the Malouine Islands, otherwise called Falkland's Islands”⁵⁷. Interestingly, this language stemmed from an English redraft of a Spanish proposal, which had more explicitly stated that the restitution “shall not prejudice the anterior rights of His Catholic Majesty to the islands...”⁵⁸. The British alteration intentionally introduced vagueness, allowing the question of sovereignty to remain unresolved and open to future interpretation.

Events soon took an unexpected turn: in 1774, only three years later, Britain officially abandoned Port Egmont, citing financial reasons, because maintaining a distant settlement had become economically untenable⁵⁹. However, rumors persist of a possible secret clause in the 1771 agreement, in which Britain had allegedly promised to leave the outpost after its return. Whether or not this was the case, the British departure included a symbolic act intended to preserve their claim: they left a lead plaque stating:

“Be it known to all nations that the Falkland Islands, with this fort, the storehouses, wharfs, harbors, bays, and creeks thereunto belonging are the sole right and property of His Most Sacred Majesty George the Third, King of Great Britain, France and Ireland, Defender of the Faith, etc. In witness whereof this plate is set up, and his Britannick Majesty's colors left flying as a mark of possession by S. W. Clayton, commanding officer at Falkland Islands, A.D. 1774”⁶⁰

This phase is crucial to understanding the legal claims of sovereignty still invoked by both Argentina and the United Kingdom, and will be further examined in the second chapter.

Following the British withdrawal, Spain entered a period of uncontested administration of the Malvinas, which lasted until 1811. At that point, the islands were vacated due to Spain’s need to address the independence movements sweeping through Latin America, compounded by internal instability following the Napoleonic invasion. One of the first actions taken by the junta in *Puerto Soledad* was to destroy the remnants of Port Egmont, thereby eliminating any British markers of sovereignty. The lead plaque was seized and transported to Buenos Aires. Spanish orders were unambiguous: no foreign power, especially Britain, was to re-establish a presence on the islands⁶¹. Consequently, Spain began dispatching regular expeditions to monitor and safeguard the territory.

⁵⁷ *Agreement between Spain and Great Britain for the restitution of Port Egmont, Madrid, 22 January 1771*

⁵⁸ *Draft clause proposed by the Spanish delegation during the negotiations for the Agreement on the restitution of Port Egmont (1771)*

⁵⁹ Gustafson, L. S. (1988) *The Sovereignty Dispute over the Falkland (Malvinas) Islands*, pp. 16-17

⁶⁰ UK Government (1774) *Lead plaque proclamation left at Port Egmont*. State Papers, Colonial Series, South America: Falkland Islands

⁶¹ Gustafson, L. S. (1988) *The Sovereignty Dispute over the Falkland (Malvinas) Islands*, pp. 11-12

1.2.4 The brief Argentine takeover and the British occupation

Argentina's independence, like that of other Latin American countries, stemmed from the severe weakening of the Spanish monarchy at the end of the 18th century, followed by its collapse under Napoleon's invasion in the early 19th century. However, to understand the legal basis for Buenos Aires' sovereignty claims over the Malvinas as a Spanish legacy, it is necessary to go back to the War of Spanish Succession, concluded by the Treaty of Utrecht in 1713. This treaty marked the end of Habsburg rule in Spain and the beginning of the Bourbon dynasty. One of the first significant reforms introduced was the creation of the Viceroyalty of the Río de la Plata in 1777, with Buenos Aires as its administrative capital⁶². While Buenos Aires had already become the most prominent port in South America, through which major goods and ships passed, it had not previously served as the colony's political center. The establishment of the Viceroyalty shifted this balance, granting Buenos Aires administrative authority, though the new entity only lasted about thirty years and was not fully recognized by rival power centers in Lima or Asunción⁶³.

The broader change under Bourbon rule was the shift in status of the American colonies: from semi-autonomous territories to tightly controlled dependencies governed directly by Spain. This centralization frustrated local elites, who soon had to confront the English invasions of the early 1800s without much metropolitan support⁶⁴. It was in this chaotic context that the drive for Argentine independence emerged, taking formal shape during the *Revolución de Mayo* on 25 May 1810. Exploiting the collapse of the Spanish monarchy, local political actors convened in a *cabildo abierto* and declared the independence of the United Provinces of the Río de la Plata. What followed was a turbulent phase of Argentine history: unstable governments, triumvirates, directors, and civil war, all while fighting the restored Spanish monarchy under Ferdinand VII⁶⁵. The new state was deeply divided, most notably between the *porteños* of Buenos Aires and residents of other provinces, neither of whom wished to be governed by the other. As central authority disintegrated, regional *caudillos*, military strongmen, began to dominate local politics. Among them rose Juan Manuel de Rosas, the *caudillo* of Buenos Aires, who managed to create a semblance of stability through a vast patronage network and strategic alliances, though he failed to unify the country due to persistent provincial resistance. His authoritarianism eventually led to his overthrow by Justo José de Urquiza, the *caudillo* of Entre Ríos, initiating the formal split between Buenos Aires and the Argentine Confederation. This

⁶² Gibson, C. (1966) *Spain in America*, p. 221

⁶³ Rock, D. (1987) *Argentina, 1516-1987: From Spanish Colonization to Alfonsín*, p. 45

⁶⁴ Gibson, C. (1966) *Spain in America*, p. 225

⁶⁵ Halperin Donghi, T. (2014) *Revolución y Guerra. Formación de una Elite Dirigente en la Argentina Criolla*, pp. 45-46

schism lasted until 1860, when Buenos Aires finally ratified the national Constitution originally adopted by the Confederation in 1853⁶⁶. Recalling this fraught history is crucial for the purpose of this study. Both the first Argentine measures concerning the Malvinas and the subsequent British occupation in 1833 occurred during a period of extreme instability, with multiple competing centers of power. Any assessment of the legality of actions taken regarding the islands must consider this fragmented and precarious historical context⁶⁷.

Returning to the Malvinas: Argentine leaders at the time understood themselves as inheritors of Spain's territorial rights over the former Viceroyalty of the Río de la Plata. This aligns with the legal principle of *uti possidetis*, widely adopted in post-independence Latin America, which held that new states should maintain the colonial administrative boundaries inherited from Spanish rule⁶⁸. Based on this logic, and the fact that Britain had abandoned its settlement in the Malvinas in 1774, leaving Spain in effective control, the islands, administered from Buenos Aires, were deemed Argentine territory by succession. Evidence of this position is found in early Argentine governmental actions. The first Provisional Junta of 1810, which replaced the viceroy, assumed responsibility for paying wages requested by the last Spanish governor to the workers stationed in the Malvinas⁶⁹. Furthermore, after Spain's departure, foreign ships continued to seek permission from Buenos Aires to exploit the islands' natural resources. A notable example is an 1813 letter from Henry Jones, captain of the British brig *El Rastrero*, who formally requested permission from the Argentine authorities to hunt sea wolves on the islands: a clear acknowledgment of Buenos Aires' authority and a rejection of the idea that the islands were *terra nullius* after Spain's withdrawal (the beginning of the letter is particularly eloquent, given the use of the words *pide permiso*⁷⁰). Though Argentina lacked a permanent settlement, it issued decrees and undertook actions asserting sovereignty in a continuous line with Spanish governance.

A significant milestone came in 1820, when Colonel David Jewett, in service of the United Provinces' navy, sailed to the Malvinas. There, he took formal possession of the islands in the government's name. His declaration was published in the newspaper *El Argos* on 10 November 1821:

⁶⁶ Rock, D. (1987) *Argentina, 1516-1987: From Spanish Colonization to Alfonsín*, p. 112

⁶⁷ Palermo, V. (2010) *Causa Malvinas, diplomacia y guerra. Una mirada de la historia a la luz de contribuciones recientes*, pp. 2-3

⁶⁸ Kohen, M. G. & Rodríguez, F. (2017) *The Malvinas/Falklands Between History and Law: Refutation of the British Pamphlet "Getting it Right: The Real History of the Falklands/Malvinas"*, p. 71

⁶⁹ Kohen, M. G. & Rodríguez, F. (2017) *The Malvinas/Falklands Between History and Law: Refutation of the British Pamphlet "Getting it Right: The Real History of the Falklands/Malvinas"*, p. 82

⁷⁰ Archivo General de la Nación Argentina (1813) *Minuta del permiso para cazar lobos solicitado por el capitán Henry Jones, del bergantín inglés El Rastrero*. (A.G.N. X-611)

“The Colonel Jewett of the Navy of the United Provinces of South America, and Commander of the frigate *Heroína*, in circular dated November 9, 1821 in the port of Soledad, prevents having taken the 6 (November) posesion of the Falkland Islands on behalf of these provinces.”⁷¹

In this article, Jewett quoted his circular of 9 November that confirmed the ceremony of possession held at *Puerto Soledad*, in the presence of several British and American ships. Notably, his actions elicited no protest from foreign powers. Jewett’s presence lasted about six months, but he left behind the Argentine flag. In 1823, an effort to settle the islands began: Jorge Pacheco, a decorated independence war veteran, requested land on the islands from the governor of Buenos Aires, alongside his partner Luis Vernet. The two were granted “thirty leagues of land on Isla Soledad”⁷² and Pablo Areguati was named Commander of Isla Soledad. However, the 1824 and 1826 expeditions failed to establish a lasting colony. Only later did Vernet obtain a decree granting him exclusive control over Isla Soledad, as well as exclusive hunting and fishing rights⁷³. This enabled him to return with a stronger expedition, and in 1829, Buenos Aires officially created a Military and Political Command for the islands. Vernet was appointed as commander of this new government body, and he was granted broad administrative and military authority delegated by the Buenos Aires government, though not full political sovereignty. It was this formal establishment of Argentine governance that triggered the first official British protest. Lord Aberdeen, Foreign Secretary under the Duke of Wellington, instructed British Consul General in Buenos Aires Woodbine Parish to protest Vernet’s appointment, arguing that the British Crown had never renounced its claim to the islands. Aberdeen cited Britain’s original discovery and symbolic acts, like the plaque left at Port Egmont in 1774, as the foundation of continued British sovereignty⁷⁴. The protest went unanswered, but it marked the first explicit British assertion of claims. The British now only awaited an opportunity to act.

That opportunity came in 1831, when Vernet, acting under Argentine law, detained three U.S. ships accused of illegal fishing. He intended to send them to Buenos Aires for trial, but only one ship made the journey, with Vernet on board. This provoked a sharp U.S. response: not only did it sever diplomatic relations with Argentina, but it also launched a naval expedition that destroyed the *Puerto Soledad* settlement. Once Argentina recovered from the attack, it quickly appointed José María Pinedo as *interim* commander to reassert control. But Britain, too, had acted: the warship *Clio*, under

⁷¹ Archivo General de la Nación Argentina (1821) *Periódico El Argos de Buenos Aires*. 10 de noviembre de 1821. (AGN. Biblioteca Celesia)

⁷² Hope, A. (1983) *Sovereignty and Decolonization of the Malvinas (Falkland) Islands*, p. 414

⁷³ Hope, A. (1983) *Sovereignty and Decolonization of the Malvinas (Falkland) Islands*, p. 414

⁷⁴ De Bernhardt, G. (1911) *Memorandum respecting the Falkland Islands. Confidential (9755)*, Printed for the use of the Foreign Office, FO 881/9755

Captain Onslow, arrived at *Puerto Soledad* on 2 January 1833. Onslow ordered Pinedo to evacuate within twenty-four hours, but, upon his refusal, the British took the islands by force⁷⁵.

1.3 Great Britain challenges in stabilizing the colony and the institutionalization of the *Nacionalismo Malvinense* in Argentina (1946-1964)

1.3.1 The International Relations of Great Britain and Argentina in the postwar

The end of the Second World War and the defeat of Nazi-Fascism brought about a radical transformation of the international system. Some of the changes were of such magnitude that it is essential to recall them, as they inevitably conditioned the foreign policy decisions of all states. The two world wars, and the period between them, had produced an unprecedented humanitarian catastrophe, with peaks of terror and violence without historical precedent⁷⁶. To prevent the repetition of such events on a global scale and to stimulate a process of peace based on the protection of fundamental rights, the United Nations was founded in 1945. Composed of the vast majority of the world's states, the organization was tasked with maintaining peace and international security, safeguarding inalienable rights, and facilitating international cooperation. Its main bodies included the General Assembly, where all member states have equal representation; the Security Council, entrusted with binding decisions and including the five permanent members (the United States, France, the United Kingdom, the Soviet Union, and China) with veto power; and the Secretariat, responsible for administering the day-to-day work of the organization and supporting its decision-making processes⁷⁷. Among the winners of the WWII, the five with veto power within the Security Council, only two of them came up as dominant in the new international system, a bipolar one, with the United States and the Soviet Union as the two superpowers. These two blocs embodied opposing ideological visions and, without ever directly engaging in armed conflict, competed to export their models of governance in an effort to establish global hegemony.

⁷⁵ Reyes, A. O. (1984) *La Cuestión de las Islas Malvinas*, pp. 88-89

⁷⁶ Hobsbawm, E. (1994) *The Age of Extremes: The Short Twentieth Century, 1914-1991*, pp. 200-201

⁷⁷ Claude, I. L. (1984) *Swords into Plowshares: The Problems and Progress of International Organization*, pp. 23-25

The Cold War, how this confrontation came to be known, reached its most intense phase during the two decades discussed in this section. The threat of nuclear war became a concrete possibility, especially after the formation and consolidation of the opposing blocs: the Western bloc led by the United States, which had consolidated Europe through the Truman Doctrine, the Marshall Plan, and the establishment of NATO; and the Eastern bloc, under Soviet leadership, which formalized its position through the Warsaw Pact in 1955⁷⁸. Additional countries were gradually drawn into the gravitational pull of these two superpowers. China, for example, aligned itself with the USSR during the Korean War in 1950 and until the start of the post-Stalinist thaw in 1956, when the rift between the two communist powers became evident. Most of Latin America, meanwhile, fell under U.S. influence, as Washington promoted economic aid, military cooperation, and political alignment through initiatives such as the Alliance for Progress. The region experienced frequent political instability, with coups and authoritarian regimes often supported or tolerated by the United States to prevent perceived communist expansion⁷⁹. The notable exception was Cuba, following Castro's 1959 revolution, which aligned itself with the Soviet Union and resisted U.S. hegemony⁸⁰.

In 1955, with the Bandung Conference, a third path began to emerge: the Non-Aligned Movement. This group of countries, many of them former colonies, refused to be drawn into the logic of the Cold War and sought an independent course. This position became increasingly viable thanks to the wave of decolonization in the 1960s and a gradual easing of tensions between the superpowers, spurred by Stalin's death in 1953 and Khrushchev's subsequent policies of de-Stalinization and peaceful coexistence. It was within this evolving international landscape, marked by decolonization and the bipolar logic of the Cold War, that both Great Britain and Argentina operated. The former, though one of the war's victors, was a declining power, increasingly dependent on the United States; the latter, a peripheral state, was emerging from a period of isolation and seeking to redefine its role on the global stage⁸¹.

In Britain, the end of the war brought about the unexpected defeat of Winston Churchill, the iconic leader of the wartime effort. His successor, Clement Attlee, initiated the Labour experiment, which aimed to reconstruct the British economy and society through the establishment of the Welfare State. This involved a greater role for the state in managing the economy and reducing social inequality. However, the timing for such an ambitious economic plan was problematic. Britain's productive

⁷⁸ Gaddis, J. L. (2005) *The Cold War: A New History*, pp. 45-47

⁷⁹ Wright, T. C. (2001) *Latin America in the Era of the Cuban Revolution*, pp. 45-48

⁸⁰ Hobsbawm, E. (1994) *The Age of Extremes: The Short Twentieth Century, 1914-1991*, pp. 296-297

⁸¹ Gaddis, J. L. (2005) *The Cold War: A New History*, pp. 70-72

capacity was still struggling to recover, and American wartime financial aid had been discontinued⁸². As a result, Attlee's government was forced to suspend the pound's convertibility, triggering a major financial crisis. To avoid losing its key European ally and to prevent Europe from falling further into Soviet hands, especially amid the Greek civil war, the United States intervened to support the British economy. In exchange, it secured not only access to British markets but also the full convertibility of the pound, which effectively ended the British currency's dominance and symbolized the UK's new dependence on the U.S. dollar⁸³. At the same time, Britain's vast colonial empire was becoming unmanageable. One by one, colonies began to demand and obtain independence, starting with India and culminating in near-total decolonization by the late 1950s. The turning point came with the 1956 Suez Crisis, when Egyptian President Nasser nationalized the canal, then under Anglo-French control. Britain and France, in concert with Israel, devised a covert plan to retake control of the area under the pretense of restoring peace. However, the conflict quickly escalated and exposed the weakened position of the European powers. The USSR threatened intervention, and the United States, concerned about the Western bloc's credibility, aligned with Egypt⁸⁴. In a rare show of cooperation between the superpowers, Washington forced the European and Israeli withdrawal, thereby confirming Britain's definitive loss of global leadership and further accelerating decolonization.

Argentina's situation was markedly different. Though untouched by the Second World War, the country had experienced a turbulent political period known as *Decada Infame*. During the war, a military regime led by Edelmiro Farrell had declared neutrality, a position that initially served Argentina well but eventually left it isolated, especially under mounting U.S. pressure. Within this context emerged Juan Domingo Perón, a general and vice president with broad popular support. In March 1945, Perón's government declared war on the Axis powers, mostly a symbolic act, shortly before the war's end. Upon becoming president in 1946, Perón sought to end Argentina's international isolation and launched a new political era defined by social justice and populist rhetoric. The Peronist regime deeply shaped Argentine political identity, introducing ambitious welfare programs and mobilizing previously marginalized social sectors. Although Perón was supported by the masses, his rule also faced significant opposition, especially from the military, and created a polarized political climate that would divide the country for decades⁸⁵.

⁸² Brendon, P. (2008) *The Decline and Fall of the British Empire, 1781-1997*, pp. 543-550

⁸³ Di Nolfo, E. (2015) *Storia delle Relazioni Internazionali. Gli Anni della Guerra Fredda (1946-1990)*, pp. 22-23

⁸⁴ Di Nolfo, E. (2015) *Storia delle Relazioni Internazionali. Gli Anni della Guerra Fredda (1946-1990)*, pp. 293-294

⁸⁵ Paradiso, J. (2009) *Los años del peronismo*. En *Debates y trayectoria de la política exterior argentina*, pp. 112-115

According to Roberto Russell, Perón's ascent marked the beginning of Argentina's second major cycle in foreign policy, which lasted until the end of the Malvinas War in 1982. This period was characterized by chronic political instability, alternating between civilian governments with limited democratic legitimacy and successive military regimes⁸⁶. It was also defined by the so-called "Third Position", an ideological doctrine of non-alignment that aimed to maintain autonomy from both superpowers. While not strictly equidistant, the doctrine reflected a pragmatic attempt to balance relations: Perón opposed alignment treaties like NATO out of fear of being drawn into another world war, yet he maintained strong ties with the U.S. and even sent troops to support Western forces in the Korean War, though these were later withdrawn due to domestic backlash. At the same time, Argentina re-established diplomatic relations with the USSR, culminating in a trade treaty in 1953 that remained in force until the fall of the military regime in 1983, showing a pragmatic approach towards the Eastern superpower⁸⁷. Such ambiguity frustrated both domestic opposition and international partners. Perón's decision to sign an oil contract with a U.S. subsidiary, despite advocating for economic self-sufficiency, exemplified the contradictions of his foreign policy. After his overthrow in 1955, General Aramburu dismantled many of Perón's reforms while simultaneously pursuing pragmatic economic ties with the Soviet Union and aligning more closely with the United States. Still, economic difficulties persisted. The import substitution model failed to gain traction, and military rule eroded public support. Elections were called in 1958, bringing the radical Arturo Frondizi to power. Along with his successor Illia, Frondizi sought to stabilize Argentina's economy and pursued a mixed model of foreign investment and industrialization. In foreign affairs, both administrations adhered to the Third Position, maintaining pragmatic relations with both blocs while emphasizing regional cooperation, particularly with historically rival countries such as Brazil⁸⁸.

Finally, it was during these governments that Argentina began to address the Malvinas question at the United Nations within the broader framework of decolonization, a theme that will be examined in detail in the next chapter.

⁸⁶ Russell, R. (2010) *La Argentina del Segundo Centenario: ficciones y realidades de la política exterior*. En *Argentina 1910-2010. Balance del siglo*, p. 248

⁸⁷ Paradiso, J. (2009) *Los años del peronismo*. En *Debates y trayectoria de la política exterior argentina*, pp. 120-123

⁸⁸ Paradiso, J. (2009) *Inestabilidad institucional, estrategias de desarrollo y política exterior: 1955-1973*. En *Debates y trayectoria de la política exterior Argentina*, p. 145

1.3.2 The English colonization of the Falklands and its challenges

Following the occupation of 1833, the English Crown encountered numerous difficulties in establishing a stable colony, as were many others in its gigantic empire. First of all, to placate the revolts of prisoners and Argentine *gauchos* cost a particularly high price, including the killing of Captain Brisbane by a group of rebels led by the *gaucho* Antonio Rivero. Only in 1842 did the islands begin to be officially populated, with English settlers arriving from the motherland to exploit mainly the sheep wool market, which was proving particularly fruitful. In the 1950s, the Falkland Islands Company (FIC) was also born, to which the kingdom guaranteed exclusive rights for the exploitation of the islands' resources. The mother country appointed governors, who managed, in a particularly authoritarian and personalistic way, the politics in the islands. It must be said that in such a hostile territory, the possibilities of self-sustenance of the colony were particularly limited, so much so that Britain had to finance almost entirely the very life of the Falklands colonists, and this situation remained so beyond 1945. In fact, the population itself was never stable but, after reaching its peak of about 2,200 inhabitants, many soon began to return home, indicating a willingness of that population not to settle permanently, because the opportunities were particularly limited⁸⁹.

From the political point of view, any governor had to face the great power that both the FIC and the landowners had on the territory, opposed to any land reform that would undermine rights and clearly give more power to the governorship. Of course, this was also due to the fact that those who ruled did so in a totally undemocratic way, which in the long run began to weigh on the inhabitants, who gradually, in the new century, began to demand more urgent participation⁹⁰. The Legislative Council was thus established, which initially had members appointed only by the Governor, but was amended in 1948 to include four members elected by universal suffrage, while the other four were appointed by the Governor himself. The establishment plan was completed by two *ex officio* members.

At the end of the Second World War, the colony faced difficulties similar to those affecting Great Britain, despite the government's increased financial support for its overseas territories. The idea was to promote development and aim for ever greater economic independence from the motherland itself. At this point, the Falklands Governorate began to take measures that would first allow a complete knowledge of the archipelago, which had not yet been explored in its entirety, with the hope of finding possible new sources of income. Attempts were made to improve the system of communications with

⁸⁹ Kohen, M. G. & Rodriguez, F. (2017) *The Malvinas/Falklands Between History and Law: Refutation of the British Pamphlet "Getting it Right: The Real History of the Falklands/Malvinas"*, pp. 205-206

⁹⁰ Freedman, L. (2005) *The Official History of the Falklands Campaign, Vol. 1: The Origins of the Falkland War*, pp. 32-35

Great Britain, which was particularly slow and complex, and taxes levied on the inhabitants were increased⁹¹. Overall, these measures were a failure, which slowed down if not blocked the autonomous development of the colony. It was also the result of the serious financial crisis that faced Britain and which forced it to cut off much of the funds for the colonies. This now inevitably deteriorated the situation and forced the government of the islands to resuscitate the hunt for sea lions, as a way to diversify an economy based exclusively on beef and sheep's wool⁹². This choice also proved particularly fruitless.

The post-war years proved all the difficulties of making the colony prosper. The scarcity of resources and geographic isolation made any attempt at economic independence more challenging. Despite efforts to encourage fishing and seal hunting as alternative industries, the limited population and the lack of substantial investment led to little success. The colony struggled with low productivity, and the measures introduced to foster local development, such as improvements in communication and taxation, were insufficient to create a lasting change in the islands' economy⁹³. Moreover, the population itself was in decline, exacerbating the situation: the harsh living conditions and lack of opportunities meant that many settlers left, further complicating the colony's efforts to maintain a stable community. The British government was reluctant to invest in the colonies without immediate returns, and despite an increased financial commitment post-1945, it remained clear that the Falklands were unlikely to become a self-sufficient colony. By the 1960s, the situation had not markedly improved, with the islanders still reliant on the British state for their survival, and the colony struggling to find its place in the broader framework of decolonization.

The Second World War aftermath, marked by a deep financial crisis in Britain, illustrated the limits of colonial governance. The British focus was to maintain the *status quo* and prevent the island from becoming a diplomatic liability, rather than fostering its growth. Consequently, the Falklands were left to grapple with the challenges of survival in an unyielding and remote environment, while the population remained small and demographically stagnant.

⁹¹ Ellerby, C. R. (1990) *British Interests in the Falkland Islands: Economic Development, the Falkland Lobby and the Sovereignty Dispute. 1945 to 1989*, p. 36

⁹² Freedman, L. (2005) *The Official History of the Falklands Campaign, Vol. 1: The Origins of the Falkland War*, pp. 22-25

⁹³ Ellerby, C. R. (1990) *British Interests in the Falkland Islands: Economic Development, the Falkland Lobby and the Sovereignty Dispute. 1945 to 1989*, p. 31

1.3.3 The indissoluble entanglement between Argentine nationalism and the Malvinas question

In his great work of rebuilding Argentine society, Perón immediately recognized the significance of the Malvinas question in strengthening his idea of nationalism and eventually uniting the population towards a common goal. In fact, already in his first speeches, the president harshly criticized the actions of previous governments after the British occupation, which, while formally protesting and cyclically reminding the international community not to drop the matter, had not taken any further action⁹⁴. Over time, the issue had lost weight internally as well, as evidenced by the fact that, in schoolbooks prior to the Peronist era, the islands were still referred to, in some cases, by their English name, Falkland, rather than Malvinas⁹⁵. The foreign policy actions carried out by Perón's government were focused on raising Argentina's voice on the international stage and bringing the controversy to global attention. The birth of the United Nations had opened new possibilities in this regard. Perón's Foreign Minister, Attilio Bramuglia, advanced the matter regionally, notably at the meeting in Rio de Janeiro, where the TIAR (*Tratado Interamericano de Asistencia Reciproca*) was ratified. This treaty established a multilateral system of mutual defense, which, despite the Malvinas not being Argentine territory, included the Falklands, as they lay within the same continental platform⁹⁶. In 1948, at the IX Pan-American Conference in Bogotá, Bramuglia made it clear that "as long as there are colonial enclaves in America, the independence of our continent will be incomplete⁹⁷", implicitly referring to the Malvinas. The culmination of this strategy came in 1953, when Perón himself formally requested the British Crown to sell the archipelago to Argentina, proposing an economic transaction. This marked the first concrete step toward negotiating the transfer of sovereignty. The proposal was presented by Alberto Teisaire, the President of the Argentine Senate, during a visit to Great Britain for Queen Elizabeth II's coronation. Teisaire met with Lord Reading, head of Latin American affairs at the British Foreign Office, to present the offer. However, the British side immediately rejected it, arguing that the population of the islands was predominantly British and that, in a possible referendum, they would choose to remain under British sovereignty. Furthermore, a sale of the

⁹⁴ García, A. B. (2009) *Textos escolares: Las Malvinas y la Antártida para la "Nueva Argentina" de Perón*, è. 1038

⁹⁵ Escudé, C. (2001) *Cultura Política, Política Exterior, y Caducidad del Modelo del Estado como Actor Racional: el Caso Argentino*, p. 7

⁹⁶ García, G. R. (2022) *El desarrollo de la Cuestión Malvinas en el Gobierno de Juan Domingo Perón (1945-1955): Afianzamiento de la Problemática en la Sociedad Argentina y el Orden Internacional*, p. 1041

⁹⁷ García, G. R. (2022) *El desarrollo de la Cuestión Malvinas en el Gobierno de Juan Domingo Perón (1945-1955): Afianzamiento de la Problemática en la Sociedad Argentina y el Orden Internacional*, p. 1043

Malvinas to Argentina would have further weakened the already fragile Churchill government, a view shared by Teisaire, who concluded his mission with no results.⁹⁸

In addition to foreign actions, it was essential to act domestically. Every revolution in society starts with reforms in education: indeed, Perón's idea was to instill in future generations the injustice suffered with the Malvinas issue, ensuring that the struggle would persist. This educational reform was part of a broader vision to create a "New Argentina," which encompassed all the territories that Argentina believed had been unjustly taken from it. Carlos Escudé's study of Argentine geography textbooks from 1876 to 1986 demonstrates the evolution of the issue and its perception within society. Prior to 1940, the Malvinas issue was barely present in schoolbooks, and the islands were largely referred to as Falkland. The issue was addressed weakly, if at all. After Perón came to power, the name "Falkland" was entirely replaced by "Malvinas." Textbooks radically changed: first, the territorial boundaries of the Argentine Republic expanded significantly, as the books now included territories that had been lost. Secondly, the Malvinas began to be mentioned in every single textbook, alongside a claim of Argentine sovereignty. The nature of this claim varied in strength, ranging from a simple account of the usurpation of 1833 to detailed legal arguments outlining Spain's territorial rights and how they had passed to Argentina through the principle of succession⁹⁹. This political action, primarily focused on education, forged the typical characters of Argentine nationalism, which would later explain many of the actions taken regarding the Malvinas. Argentina's foreign policy, traditionally seen as discontinuous, actually displays significant continuity, as Robert Russell's theory of cycles in foreign policy suggests. One of the most prominent constants is the "tendency to overreach", a persistent overestimation by Argentine elites of the country's influence and role in the international system¹⁰⁰. This tendency has deep historical and cultural roots, stemming from the formation of a strong national identity during the 19th century and the recurring perception of Argentina as a regional power with global relevance¹⁰¹. It is reinforced by domestic political dynamics, including the need for governments to legitimize their authority through assertive foreign policy gestures, and by collective memory that valorizes past successes while downplaying limitations. This perceptual distortion has repeatedly produced strategic decisions that exceed Argentina's real material and political capacities¹⁰². The 1982 Falklands War exemplifies this

⁹⁸ El País (1984) *Perón quiso comprar las Malvinas al Reino Unido en 1953*

⁹⁹ Escudé, C. (2001) *Cultura Política, Política Exterior, y Caducidad del Modelo del Estado como Actor Racional: el Caso Argentino*, p. 23

¹⁰⁰ Russell, R. (2010) *La Argentina del Segundo Centenario: ficciones y realidades de la política exterior*. En *Argentina 1910-2010. Balance del siglo*, pp. 45-62

¹⁰¹ Escudé, C. (1992) *Realismo Periferico: Fundamentos para la Nueva política Exterior Argentina*, pp. 45-48

¹⁰² Russell, R. (2010) *La Argentina del Segundo Centenario: ficciones y realidades de la política exterior*. En *Argentina 1910-2010. Balance del siglo*, pp. 45-62

phenomenon, where nationalist sentiment, domestic political pressures, and historical perceptions combined to drive a conflict that was disproportionate to Argentina's actual capabilities.

This tendency stems from an idealized vision of the nation, tied to a sense of national superiority, nourished by the belief in a great homeland united by common values and destined to play a leading role in South America and the global arena. This symbolic construction has been reinforced by the educational reform promoted by Peronism, which has made nationalism a central element of public discourse since the 1940s. As Palermo highlights, the Malvinas have become an identity trauma for Argentina, an issue that society cannot digest, affecting how Argentines relate to the world¹⁰³. This perception positions them as perpetual victims of external forces that have continually mutilated their territory. This is where the concept of territorial superiority, as described by Carlos Escudé, comes into play. Argentina has developed a geopolitical identity centered on the possession of territory it perceives as inherently legitimate and indivisible¹⁰⁴. The Malvinas thus assumed enormous symbolic value, representing a territory usurped by European colonial powers. This form of victimized and defensive nationalism has made the Malvinas issue non-negotiable, transforming what could have been a territorial dispute into a fundamental element of both Argentina's domestic and foreign policy. The conflict is not merely about sovereignty; it is about colonial trauma and the perceived historical necessity to restore national honor.¹⁰⁵

An exaggerated sense of Argentina's international relevance, coupled with a deep-rooted sense of victimization in the face of an unjust global order, has entrenched the Malvinas issue in Argentina's collective imagination, assigning it symbolic importance that persists to this day. This national sentiment, intertwined with the country's identity and historical memory, has turned the claim to sovereignty over the islands into a cause that is moral, cultural, and legal-political in nature. This perception also had a significant effect on the British side: the belief that Argentina was incapable of adopting a flexible position, due to being trapped in a deeply ingrained ideological and cultural narrative, often discouraged the opening of genuine negotiations, as it will be seen later in this thesis.

¹⁰³ Palermo, V. (2007) *Sal en las heridas. Las Malvinas en la cultura argentina contemporánea*, p. 16

¹⁰⁴ Escudé, C. (2001) *Cultura Política, Política Exterior, y Caducidad del Modelo del Estado como Actor Racional: el Caso Argentino*, p. 27

¹⁰⁵ Palermo, V. (2007) *Sal en las heridas. Las Malvinas en la cultura argentina contemporánea*, p. 21

CHAPTER 2: THE UN DEBATE ON SOVEREIGNTY WITHIN THE DECOLONIZATION FRAMEWORK

2.1 The clash at the UN

2.1.1 Decolonization and UN resolutions

Having addressed the question of the most distant past of the archipelago and the state of foreign relations of the two protagonist countries, both topics necessary for understanding the period in which the issue will be brought to the attention of a multilateral international organization for the first time. The intervention of the UN will therefore be the subject of analysis, which found itself listening to the versions of the two countries and the legal elements that they brought in its favor, but encountered important difficulties in agreeing with one rather than the other, leaving the resolution of the dispute to bilateral negotiation between the two countries. Beyond the internal debate within the United Nations, the legal issue will be addressed in detail, with the aim on the one hand of highlighting its complexity, and on the other of also understanding why it was then preferred to move on to negotiating and not to submit the issue to an international legal authority. However, it must be said, to introduce the theme, nothing that will be discussed in this chapter would have happened without what was one of the most significant global processes of the XX century.

Decolonization was a widespread process through which many regions of the world gained independence from colonial powers, beginning in the aftermath of the Second World War. Three major waves can be identified: the first, in the 1940s, primarily involved Asian territories such as former French Indochina, India, and Pakistan; the second occurred in the 1950s and concerned North Africa, where states like Morocco, Tunisia, and Algeria achieved independence; the final wave took place in the 1960s and led to the rapid and extensive decolonization of Sub-Saharan Africa¹⁰⁶. The United Nations promptly engaged with this global process. The UN Charter signed in San Francisco in 1945 already included a specific focus on so-called Non-Self-Governing Territories. Member states that retained colonial possessions were requested to submit a list of such territories to the Secretary-General: the United Kingdom included the Falkland Islands on its list, and it was at this moment that Argentina first officially entered a reservation regarding the Malvinas issue at the UN:

¹⁰⁶ Nuhiu, F. & Sherifi, Q. & Bislimi, B. (2022) *The Process of Decolonization and its Impact in IR*, pp. 56-66

“En cuanto a las Islas Malvinas (Falkland), la delegación argentina, en el curso de la vigesimoquinta sesión de la Comisión, formuló la reserva de que el Gobierno de Argentina no reconocía la soberanía británica en las Islas Malvinas (Falkland)”¹⁰⁷

Article 73, Chapter XI of the UN Charter affirms that:

“Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants of these territories, and, to this end:

1. to ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment, and their protection against abuses;
2. to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement;
3. to further international peace and security;
4. to promote constructive measures of development, to encourage research, and to co-operate with one another and, when and where appropriate, with specialized international bodies with a view to the practical achievement of the social, economic, and scientific purposes set forth in this Article; and
5. to transmit regularly to the Secretary-General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social, and educational conditions in the territories for which they are respectively responsible other than those territories to which Chapters XII and XIII apply”¹⁰⁸

Thus, one of the UN’s core priorities was to ensure the protection of people who had not yet been freed from colonial rule. However, when the first waves of decolonization began, the UN played only

¹⁰⁷ Consejo Argentino para las Relaciones Internacionales (1999) *Tomo XII: La diplomacia de Malvinas (1943-1989)*, p. 12

¹⁰⁸ Organization of the United Nations (1945) *UN Charter*

a marginal role¹⁰⁹, but, with the admission of newly independent states, decolonization became a central issue in the organization's agenda, as many territories and peoples were still awaiting self-determination. This momentum culminated in the historic General Assembly Resolution 1514 of 1960, officially titled the "*Declaration on the Granting of Independence to Colonial Countries and Peoples*."

For the purposes of this study, it is useful to highlight selected articles of the resolution, which would later become key to understanding the opposing principles invoked by Argentina and the United Kingdom before the Third Subcommittee of the Committee of 24, which examined the Malvinas case.

Article 2 establishes the principle of self-determination and its universal application, a feature that has led it to be recognized as a peremptory norm of international law (*jus cogens*):

"All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development"¹¹⁰

Article 5 further specifies that the implementation of self-determination in Non-Self-Governing Territories must be carried out urgently and unconditionally, with the explicit aim of bringing an end to all forms of colonialism:

"Immediate steps shall be taken, in Trust and Non-Self-Governing Territories or all other territories which have not yet attained independence, to transfer all powers to the peoples of those territories, without any conditions or reservations, in accordance with their freely expressed will and desire, without any distinction as to race, creed or colour, in order to enable them to enjoy complete independence and freedom"¹¹¹

Finally, Article 6 introduces the principle of territorial integrity:

"Any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations"¹¹²

¹⁰⁹ Consejo Argentino para las Relaciones Internacionales (1999) *Tomo XII: La diplomacia de Malvinas (1943-1989)*, p. 13

¹¹⁰ United Nations General Assembly (1960) *Declaration on the Granting of Independence to Colonial Countries and Peoples (Resolution 1514)*

¹¹¹ United Nations General Assembly (1960) *Declaration on the Granting of Independence to Colonial Countries and Peoples (Resolution 1514)*

¹¹² United Nations General Assembly (1960) *Declaration on the Granting of Independence to Colonial Countries and Peoples (Resolution 1514)*

These two principles, self-determination and territorial integrity, are inherently difficult to reconcile, as recognizing the independence of a people often entails the loss of a portion of territory by an existing state. The situation is more straightforward when the population in question is subjected to degrading conditions and colonial subjugation, violating their fundamental rights, but, in a case like that of the Falklands, where the population is strongly tied to the administering state, does not report any form of colonial oppression, and would almost certainly vote to remain under the same sovereignty, even if, from a legal standpoint, the territory may have been occupied unlawfully, which of the two equally fundamental principles should prevail? And more importantly, who has the authority to make such a determination?

The most obvious candidate would be the International Court of Justice, a third-party judicial body capable of rendering binding decisions. Yet a significant obstacle exists: states are under no obligation to submit to the Court's jurisdiction. International law allows for such exceptions, and Argentina itself invoked this right in 1955 when the UK brought a case before the ICJ concerning incidents on other disputed islands, namely the so-called Falkland Dependencies (South Sandwich Islands, South Georgia, South Orkney Islands, South Shetland Islands, Graham Land, and Coats Land). The UK sought to compel Argentina to abandon its sovereignty claims, but Argentina rejected the Court's jurisdiction, wary that it would have to defend its weaker legal claims over these other territories¹¹³.

Such a path might have blocked the broader decolonization process altogether. Moreover, delays in implementing Resolution 1514 were already mounting. In response, the General Assembly adopted Resolution 1654 in November 1961, which established a Special Committee of Seventeen Members "to examine the application of the Declaration, to make suggestions and recommendations on the progress and extent of the implementation of the Declaration, and to report to the General Assembly at its seventeenth session"¹¹⁴. Subsequently, Resolution 1810 expanded the committee to 24 members, giving rise to the *Special Committee on Decolonization*, commonly known as the "Committee of 24." The same resolution reaffirmed a key consideration:

"Reaffirming its conviction that any delay in the implementation of the Declaration constitutes a continuing source of international conflict, seriously impeding international co-operation and creating

¹¹³ Consejo Argentino para las Relaciones Internacionales (1999) *Tomo XII: La diplomacia de Malvinas (1943-1989)*, p. 50

¹¹⁴ United Nations General Assembly (1962) *The situation with regard to the implementation of the Declaration on the granting of independence to colonial countries and peoples (Resolution 1654)*

in many regions of the world increasingly dangerous situations likely to threaten international peace and security”¹¹⁵

This highlights the Assembly’s belief that prolonged decolonization processes could threaten international peace and security. Under Chapter VII of the UN Charter, any such threat mandates action by the Security Council, which may adopt the necessary measures to restore peace. However, it is inconceivable that the Council would ever intervene in the Malvinas case, given that the UK, as a permanent member, holds veto power, and would never acknowledge the existence of such a threat in the South Atlantic, let alone allow any action that might benefit Argentina.

Consequently, Argentina never pursued this path. Instead, it directed all its efforts toward obtaining international recognition of the dispute through the Committee of 24. Here, the issue would be evaluated by other states, particularly those more sympathetic to Argentina’s position and distanced from the British sphere of influence. A forum of this nature, where peripheral states outnumbered global powers, could offer greater diplomatic traction, if not a decisive political victory¹¹⁶. This persistent need for Argentina to rely on diplomatic forums such as the Committee of 24 underscores a pattern that would characterize the Falklands/Malvinas dispute for decades to come: the stark asymmetry of international standing between the two parties. The United Kingdom, by virtue of its status as a permanent member of the UN Security Council and a major global power, was repeatedly able to ignore or delay any meaningful progress toward resolution. In the literature on asymmetric negotiations, scholars emphasize the critical importance of building mutual trust precisely to overcome such disparities and to pave the way for a sustainable agreement¹¹⁷ indeed, reciprocal confidence is often identified as the single most powerful deterrent against the outbreak of conflict.

As decolonization stalled and the Special Committee’s work dragged on, the General Assembly in 1964 resolved to subdivide the Committee of 24 into three Sub-Committees, each tasked with examining different cases but expressly without authority to adjudicate sovereignty. This procedural change was especially significant for the Malvinas: all participants understood that the Sub-Committee’s findings could not overturn the existing status quo, yet a successful report would grant the dispute unprecedented international visibility.

¹¹⁵ United Nations General Assembly (1962) *The situation with regard to the implementation of the Declaration on the granting of independence to colonial countries and peoples (Resolution 1810)*

¹¹⁶ Gonzalez, M.A. (2013) *The Genesis of the Falklands (Malvinas) Conflict*, p. 54

¹¹⁷ Pfetsch, F. (2012) *Power in International Negotiations: Symmetry and Asymmetry*, pp. 72-75

Argentina and the United Kingdom were both permitted to attend the debates, though without voting rights. From London's perspective, the composition of Sub-Committee III was a source of grave concern: chaired by Uruguay and including Venezuela, Italy, Bulgaria, Iran, Madagascar, Côte d'Ivoire, and the United Arab Republic (Egypt only, as Syria had withdrawn in 1961¹¹⁸). It is important to underline the composition of the subcommittee, as its internal dynamics would significantly influence the outcome of its analysis regarding the existence of a colonial question between the two countries, without, however, deciding on the issue of sovereignty. The main British concern revolved around the makeup of the subcommittee, which they considered overly favorable to the Argentine position. The two Latin American countries present were not only openly supportive of their neighbor, but Uruguay also held the chairmanship of the subcommittee and, through its representative Velázquez, would actively work to sway the other members in favor of Argentina. Although the Afro-Asian bloc, historically inclined to support the principle of self-determination, might have posed a challenge to affirming a violation of Argentina's territorial integrity in relation to the 1833 occupation, it was nonetheless expected to be more receptive to dialogue than other African countries that could have been included in the subcommittee.¹¹⁹

This situation was a source of concern for the United Kingdom, as it found itself at a disadvantage both in terms of alliances and substantive arguments. As the Foreign Office itself acknowledged:

"The territory on which our position in the Committee is weakest is the Falklands. There are only 2,000 people involved and we can hardly offer independence as the alternative to the Argentine claim. The Falklands have no petitioners who could appear effectively before the Committee of 24. No doubt because of this Uruguay and Venezuela brought it forward as the first territory to be discussed"¹²⁰

By commenting on Uruguay's decision to include the Falklands as the first territory to be discussed, the British clearly demonstrated an awareness of the fragility of their position in promoting the principle of self-determination. Yet this was not the only concern. Further Foreign Office notes also reveal an implicit recognition of the weakness of British sovereignty claims prior to the 1833 occupation, claims that, in fact, seemed to favor the Argentine position:

¹¹⁸ Campanini, M. (2020) *Storia del Medio Oriente Contemporaneo*, p. 142

¹¹⁹ Gonzalez, M.A. (2013) *The Genesis of the Falklands (Malvinas) Conflict*, p. 57

¹²⁰ Beck, P. (2014) *The Falkland Islands as an International Problem*, p. 71

“Since our claim mainly rests on peaceful and continuous occupation since 1833 we are on rather thin ice discussing our claims prior to this period”¹²¹

The British, however, were aware that the Subcommittee did not have the authority to rule on the question of sovereignty itself, and they attempted to use this argument to prevent the Malvinas issue from being discussed at all. This position was conveyed in a note by the British representative Cecil King, which was met with a response from Velázquez, the Uruguayan delegate and chair of the Subcommittee. While Velázquez acknowledged that the body lacked the competence to enact any transfer of sovereignty, he firmly asserted that it was fully empowered to examine every aspect of a colonial situation, including any interests of a third country¹²². Once this strategy had failed, the United Kingdom had no choice but to rely on its status and proceed as described above, also taking advantage of the fact that any eventual resolution passed by the General Assembly, had the entire discussion process been completed, would not have been legally binding. A Foreign Office note from February 1964 clearly reflects this attitude:

“If, in the face of our denial of the Argentine claim and our maintenance of the principle of self-determination for the Falklands, the Committee passes an unacceptable resolution favouring the Argentine, we shall simply ignore it, as we have done with other unacceptable resolutions, as an emanation from a non-competent body”¹²³

A thorough examination of the Subcommittee’s internal dynamics is vital not only for understanding the evolving bilateral relationship between Argentina and the United Kingdom, but also for grasping how these discussions paved the way for General Assembly Resolution 2065, which London ultimately chose to accept. The key reason is straightforward: the Foreign Office note cited above refers to decisions of a subsidiary body, the Committee of 24, not to those of the General Assembly itself. Moreover, Subcommittee III’s final conclusions did not fully endorse Argentina’s position; rather, they represented a compromise designed to promote dialogue between the two Governments and to invite them, in accordance with Resolution 1514, to negotiate in order to find a peaceful solution to the problem¹²⁴.

Velázquez’s intervention was pivotal in shaping the Committee’s report before it went to the full plenary. He succeeded in ensuring that the text specifically named “Argentina” and “the United

¹²¹ Foreign and Commonwealth Office (1967) *Letter, T. Smith to Hohler, 9 March 1967*. FCO 7/144

¹²² Gonzalez, M.A. (2013) *The Genesis of the Falklands (Malvinas) Conflict*, p. 60

¹²³ Foreign Office (1964) *Marnham to Arrowsmith, 26 February 1964*. FO 371/173663

¹²⁴ Subcommittee III on Decolonization (1964) *Draft Resolution on the Falkland (Malvinas) Question*

Kingdom,” thereby precluding an alternative formulation, favored by some African delegations, that would have referred more generically to “the parties.” Had the latter wording prevailed, it could have been interpreted to include the islanders as a third, independent actor in the negotiations, severely disadvantaging Argentina¹²⁵. This linguistic victory meant that, for the next two decades, the islanders would be obliged to engage through the British Government, fostering the rise of a powerful parliamentary lobby in Westminster that would become a critical player in all subsequent bilateral talks.

With the Subcommittee’s recommendations forwarded to the full Committee of 24, Argentina secured a significant diplomatic triumph, but, at the same time, faced a strategic dilemma: press for a definitive ruling on sovereignty, risking defeat before a larger, potentially hostile group of member states, including Latin American neighbors like Chile with whom it still had acute border disputes, as well as members of the Afro-Asian bloc staunchly committed to self-determination, or accept the Committee’s proposal to enter negotiations, thereby preserving broad multilateral support and lining up a key ally for the next phase. Argentina opted for the latter. This choice illustrates the complexity and nuance of the process: by prioritizing a binding multilateral endorsement of negotiations over an immediate demand for sovereignty, Argentina maximized its diplomatic gains and set the stage for the bilateral discussions that would follow¹²⁶. Finally, the Committee adopted these recommendations and forwarded them to the General Assembly, with a significant Argentine amendment securing the dual usage of “Malvinas” alongside “Falkland” in all Committee documents. Chile’s own proposal was also approved, allowing its Beagle Channel sovereignty dispute with Argentina to be submitted to the International Court of Justice¹²⁷.

On 16 December 1965, the United Nations General Assembly endorsed the Committee’s recommendations in Resolution 2065, the full text of which is reproduced above, since it marks the formal launch of bilateral negotiations aimed at resolving the controversy:

“The General Assembly,

Having examined the question of the Falkland Islands (Malvinas),

Taking into account the chapters of the reports of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and

¹²⁵ Gonzalez, M.A. (2013) *The Genesis of the Falklands (Malvinas) Conflict*, p. 197

¹²⁶ Gonzalez, M.A. (2013) *The Genesis of the Falklands (Malvinas) Conflict*, p. 72

¹²⁷ Gonzalez, M.A. (2013) *The Genesis of the Falklands (Malvinas) Conflict*, p. 77

Peoples relating to the Falkland Islands (Malvinas), and in particular the conclusions and recommendations adopted by the Committee with reference to that Territory,

Considering that its resolution 1514 (XV) of 14 December 1960 was prompted by the cherished aim of bringing to an end everywhere colonialism in all its forms, one of which covers the case of the Falkland Islands (Malvinas),

Noting the existence of a dispute between the Governments of Argentina and the United Kingdom of Great Britain and Northern Ireland concerning sovereignty over the said Islands,

1. **Invites** the Governments of Argentina and the United Kingdom of Great Britain and Northern Ireland to proceed without delay with the negotiations recommended by the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples with a view to finding a peaceful solution to the problem, bearing in mind the provisions and objectives of the charter of the United Nations and of General Assembly resolution 1514 (XV) and the interests of the population of the Falkland Islands (Malvinas);

2. **Requests** the two Governments to report to the Special Committee and to the General Assembly at its twenty-first session on the results of the negotiations”¹²⁸

The adoption of Resolution 2065 represented both a major diplomatic triumph for Argentina and the beginning of the real dispute, the genuine negotiations, and the substantive challenges that form the core of this thesis. However, it would be premature to move directly into the bilateral phase. For a comprehensive understanding, it is essential first to explore in depth the legal complexities and competing sovereignty claims, in other words, to examine all relevant precedents so as to provide a complete foundation for the subsequent history.

2.1.2 The Subcommittee debate: territorial integrity or people’s self-determination?

The legal debate within Subcommittee III on decolonization was structured from the outset around two opposing principles, each clearly outlined in the initial statements made by the parties involved.

¹²⁸ United Nations General Assembly (1965) *Question of the Falkland Islands (Malvinas) (Resolution 2065)*

The Argentine delegate, José María Ruda, after presenting a detailed historical account of the occupation of the archipelago and the sovereignty claims of his country, stated:

“En tal sentido, consideramos que el principio de libre determinación sería mal aplicado en situaciones en que parte del territorio de un Estado independiente ha sido separado contra la voluntad de sus habitantes en virtud de un acto de fuerza por un tercer Estado, como en el caso de las Malvinas, sin que exista ningún acuerdo internacional posterior que convalide esta situación de hecho y cuando, por el contrario, el Estado agraviado ha protestado permanentemente por esta situación. Estas consideraciones se ven agravadas muy en especial cuando la población originaria ha sido desalojada por este acto de fuerza y grupos fluctuantes de nacionales de la potencia ocupante la han reemplazado”¹²⁹

In response, the British representative, Cecil King, replied:

“The Argentine representative had suggested that the status of the Falkland Islands as a British colony was an anachronism; the Sub-Committee might consider whether it was the United Kingdom Government's clearly stated policy of allowing the Falkland Islanders to choose their constitutional future or the Argentine Government's desire to annex a small Territory against the wishes of its inhabitants that was more in keeping with modern thought. ... his delegation found nothing in the Charter or in the Declaration on the granting of independence to colonial countries or peoples to suggest that the principle of self-determination should not be applied to communities of British descent...”¹³⁰

This initial exchange laid bare the fundamental divergence between the two positions. Argentina argued that before invoking the right to self-determination of the current island population, one must examine the conditions under which that population was established, namely, through an illegal act of occupation by force, which violated the principle of territorial integrity, and thus also Article 6 of Resolution 1514.

The principle of territorial integrity is deeply rooted in the very definition of the sovereign state, whose sovereignty is inviolable and bounded by the territory in which it is exercised¹³¹. As a core

¹²⁹ Ruda, J. M. (1964) *Intervención del Representante Argentino, Embajador José María Ruda, en El Subcomité III del Comité Especial encargado de examinar la situación con respecto a la aplicación de la Declaración sobre la Concesión de la Independencia a los Países y Pueblos Coloniales*

¹³⁰ King, C. (1964) *Intervention at the Subcommittee III of the Special Committee on Decolonization*. UN Doc A/5800/Rev.1

¹³¹ Rathod, V. [et al.] (2021) *Territorial integrity and self-determination-approach of international law*, p. 42

component of statehood, territory is considered immune to external interference and must preserve its unity. The rationale behind this principle lies in the need to protect states not only from foreign intervention and war, but also from destabilizing secessionist movements encouraged from outside¹³². His notion was explicitly enshrined in Article 2(4) of the United Nations Charter, which prohibits the use of force against the territorial integrity or political independence of any state. Today, this article is regarded as a cornerstone of international legal order and is part of *jus cogens*, peremptory norms from which no derogation is permitted¹³³. By its very nature, this principle protects the interests of the state and has historically served as a safeguard during the decolonization process to prevent the uncontrolled fragmentation of established political entities. It also implicitly limits the scope of the other principle, invoked by the United Kingdom: the right to self-determination.

Self-determination is of more recent codification. A key early articulation was offered by U.S. President Woodrow Wilson in 1919, in a speech to the League of Nations, where he defined it as “the right of every people to choose the sovereign under which they live, to be free of alien masters, and not to be handed about from sovereign to sovereign as if they were property”¹³⁴. However, Wilson’s formulation reflected an incomplete conception of the principle, focused primarily on its internal dimension, the right of citizens to choose their own rulers. It did not yet encompass the possibility of external self-determination, such as secession or full independence.

The transition of self-determination into a binding international principle of international law, and of peoples as international legal subjects, only took place with the birth of the United Nations¹³⁵. In its founding document, particularly in Article 1, paragraph 2, this principle is mentioned alongside the equality of rights and the pursuit of universal peace, thus acquiring a central value,¹³⁶ later confirmed by jurisprudence. For example, in the ICJ judgment on the East Timor case between Portugal and Australia (1995), the Court recognized self-determination as having *erga omnes* validity and as one of the fundamental principles of contemporary international law¹³⁷. Despite this, until the decolonization period, the external dimension of this principle was not recognized, as it remained

¹³² LawTeacher (2018) *Self Determination and the Territorial Integrity*

¹³³ International Court of Justice (1986) *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*

¹³⁴ Rathod, V. [et al.] (2021) *Territorial integrity and self-determination-approach of international law*, p. 41

¹³⁵ Lanovoy, V. (2015) *Self-determination in International Law: A Democratic Phenomenon or an Abuse of Right?*, pp. 388-389

¹³⁶ Organization of the United Nations (1945) *UN Charter*

¹³⁷ International Court of Justice (1995) *Case Concerning East Timor (Portugal v Australia)*

within a state-centric view¹³⁸. It was only later that the right of colonial peoples to sever ties with the mother country was acknowledged, precisely thanks to Resolution 1514, the articles of which have already been previously cited. However, over time, both legal practice and jurisprudence have limited the external applicability of the principle of self-determination to colonial situations only, as expressed in Resolution 2625 of the General Assembly (Declaration on Friendly Relations), dated 1970. This resolution also refers to the principle of territorial integrity, which appears to serve as a limitation to self-determination itself.¹³⁹

The above considerations allow to conclude that, like all fundamental rights, the right of peoples to self-determination has limitations, which must be assessed when it comes into conflict with other rights of equal hierarchical rank, such as the principle of territorial integrity. The complexity of this conflict lies in the fact that it involves two fundamental subjects of international law, state and people, both of whom are entitled to inviolable rights. Resolving such a conflict proves even more difficult because it lends itself to political exploitation: a given country, depending on its interests and the specific case it is involved in, may choose to defend one or the other, lacking coherence and undermining the universality of international law. A clear example is the United Kingdom, which invoked territorial integrity in the case of Gibraltar but staunchly defended the right to self-determination in relation to the South Atlantic archipelago.¹⁴⁰

In the case of the Malvinas, the principle of external self-determination clearly applies, as Resolution 2065 recognized the existence of a colonial dispute between Argentina and the United Kingdom, even though, in reality, the dispute should be between the state and the people inhabiting the islands, who are, in fact, not Argentine. It must be said that this phrasing is inherently misleading, since Argentina claims the violation of another right, one that predates the establishment of that population, and would therefore not be part of a possible discussion on the independence of the islanders from the United Kingdom. It is also true that jurisprudence has recognized the right to self-determination for the peoples of all Non-Self-Governing Territories, as stated in the advisory opinion on Namibia in 1971¹⁴¹. Moreover, some ICJ judges, in separate opinions appended to various rulings, albeit subsequent to the 1960s, have clarified that, even if a territorial acquisition occurred illegally, but

¹³⁸ Lanovoy, V. (2015) *Self-determination in International Law: A Democratic Phenomenon or an Abuse of Right?*, pp. 390-391

¹³⁹ United Nations General Assembly (1970) *Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations (Resolution 2625)*

¹⁴⁰ Paoletta, M. B. (2023) *Entre la integridad territorial y la libre determinación de los pueblos*, p. 73

¹⁴¹ International Court of Justice (1971) *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*

people have since settled there and hold the right to self-determination, such right should prevail over the territorial integrity of the injured state¹⁴².

However, such jurisprudence is, indeed, subsequent and should not be applied to the limited period under analysis. For that reason, it is necessary to refer to Resolution 1514, whose Article 1 establishes a fundamental requirement for invoking the right to self-determination, namely: “the subjection of peoples to alien subjugation, domination and exploitation”¹⁴³. In other words, the colonial people in question must be subjected to a condition of oppression that prevents them from living freely. The Argentine argument in this regard was made by Ruda, who emphasized that the islanders were not oppressed; rather, it was the British Crown that financed the sustenance and survival of that colony, which otherwise would never have prospered in such a hostile territory. In fact, the population itself was fleeing the islands, as demonstrated by the annual censuses that consistently showed negative net migration, more people left than arrived¹⁴⁴. This would thus prevent the islanders from claiming the right to self-determination precisely because of their will to remain British and the necessity of a government interested in their survival.

On the other hand, the British rule was clearly colonial in nature. Ruda himself cited the monopoly exercised by the Falkland Islands Company, whose board included members of the British Parliament¹⁴⁵. The Argentine position thus aimed not only to discredit the British action of 1833, but also to highlight the colonial and imperialistic nature of the Atlantic dominion they had created, one that should not have ended with the islands’ independence but with the restoration of Argentine sovereignty. This was because, according to Resolution 1514, the islanders did not qualify for the right to self-determination.

The British argument, on the contrary, appears particularly weak if limited to the two principles that emerged from the Subcommittee debates and especially when examined through the legal sources of the time, for the reasons outlined above, which are further confirmed by the doubts and uncertainties expressed by the Foreign Office on the eve of the debate itself. Nevertheless, a strong British

¹⁴² Potts, S. (2012) *Falkland Islands – What the ICJ (International Courts of Justice) Might Say About Argentina’s Claims*, p. 49

¹⁴³ United Nations General Assembly (1960) *Declaration on the Granting of Independence to Colonial Countries and Peoples (Resolution 1514)*

¹⁴⁴ Ruda, J. M. (1964) *Intervención del Representante Argentino, Embajador José María Ruda, en El Subcomité III del Comité Especial encargado de examinar la situación con respecto a la aplicación de la Declaración sobre la Concesión de la Independencia a los Países y Pueblos Coloniales*

¹⁴⁵ Ruda, J. M. (1964) *Intervención del Representante Argentino, Embajador José María Ruda, en El Subcomité III del Comité Especial encargado de examinar la situación con respecto a la aplicación de la Declaración sobre la Concesión de la Independencia a los Países y Pueblos Coloniales*

argument has always been that the 1833 occupation was not illegal because the archipelago was not part of Argentine territory¹⁴⁶, but rather was *terra nullius*. According to this view, following the Spanish withdrawal in 1811, no party had enacted an effective and lasting occupation sufficient to establish sovereignty, since the actions of Jewett and Vernet during their early expeditions were essentially unsuccessful.

At this point in the analysis, two questions arise that demand an answer: why, despite having such a strong position in terms of principles, did Argentina never, at least during these years or before jurisprudence became unfavorable, bring the matter before the ICJ for a legal resolution? Was it not strategically convenient due to the weaknesses in Argentina's claimed titles of sovereignty?

The remainder of the chapter will seek plausible answers to these questions.

2.1.3 Why not involve the ICJ?

Analysis to date reveals that both parties remained thoroughly convinced of their respective positions, perhaps the United Kingdom with somewhat greater doubts concerning the period preceding the 1833 occupation, while Argentina has consistently asserted the absolute solidity of its titles and the correctness of its entire historical narrative. It is therefore natural to ask why Argentine leaders never submitted the dispute to the United Nations' judicial organ, whose decisions are binding on the parties¹⁴⁷. The reasons are varied and of both legal and political-strategic nature.

First, there is the question of accepting the Court's jurisdiction. Article 36(2) of the Statute of the International Court of Justice provides that States may accept the Court's compulsory jurisdiction either *ad hoc*, case by case, via a special agreement (*compromis*), or generally, through a unilateral declaration applicable to all disputes in which the State is a party¹⁴⁸. The rationale for this flexibility lies in the protection of State sovereignty and is known in international law as optional clause jurisdiction¹⁴⁹, whereby a State retains the prerogative to decide whether to submit itself to the Court in any given case.

¹⁴⁶ Potts, S. (2012) *Falkland Islands – What the ICJ (International Courts of Justice) Might Say About Argentina's Claims*, pp. 37-38

¹⁴⁷ Scott, S. (2021) *National Encounters with the International Court of Justice: Avoiding Litigating Antarctic Sovereignty*, p. 5

¹⁴⁸ International Court of Justice (1945) *Statute of the International Court of Justice*

¹⁴⁹ Klabbbers, J. (2002) *An Introduction to International Institutional Law*, pp. 75-76

Neither the United Kingdom nor Argentina took a fundamentally different approach: both deliberately avoided committing themselves to the Court's compulsory jurisdiction for all disputes that could involve them. They did not in principle reject the ICJ, but retained the option to recognize its jurisdiction or refuse it for any specific case¹⁵⁰. This is why in 1955 Argentina was able to decline the Court's jurisdiction over incidents in the other disputed dependencies, South Sandwich, South Georgia, South Orkney, South Shetland, Graham Land, and Coats Land, so as to prevent a potentially unfavorable ruling that would have encompassed territories beyond the Malvinas. That episode illustrates one major obstacle to resorting to the ICJ: the United Kingdom, bolstered by its firm control over those dependencies, would have sought in every way to frame the dispute within the same proceedings, knowing that a favorable outcome there would strengthen its claim to the Falklands, since if the dependencies were confirmed as British, so too must be the islands from which they derive¹⁵¹.

Conversely, the United Kingdom itself had opted for case-by-case jurisdictional reservations. Hence any Argentine attempt to bring the Malvinas before the Court would have been met with an explicit British refusal, resulting in a deadlock and likely undermining bilateral negotiations, where, in any event, the Crown's government would have invested minimal effort¹⁵². For completeness, one should also mention the further hardening of Britain's stance regarding ICJ involvement after the 1982 Falklands War: in a unilateral declaration of 1987, the United Kingdom accepted the Court's compulsory jurisdiction for all cases except those disputes... which arise out of or are connected with disputes relating to territory which is or has been the subject of a dispute between the United Kingdom and another State and which arose before 1 January 1945¹⁵³. This reservation explicitly preserved Britain's right to refuse any attempt to bring the Malvinas dispute before the Court.

Beyond jurisdictional technicalities, Argentina in any case had little incentive to shift the dispute onto a strictly legal plane, since its strategy had always rested on historical and political arguments, fields in which it believed to be enjoying a comparative advantage¹⁵⁴. This too represented a potential risk factor. Ultimately, it was the very uncertainty of what an ICJ judgment might bring that led Argentine leadership to favor a diplomatic-negotiation approach, convinced it would offer broader room for

¹⁵⁰ Milanovic, M. (2010) *Why the Falklands Dispute Will (Probably) Never Go to Court*

¹⁵¹ Potts, S. (2012) *Falkland Islands – What the ICJ (International Courts of Justice) Might Say About Argentina's Claims*, p. 51

¹⁵² International Court of Justice (1956) *Pleadings, Oral Arguments, Documents. Antarctica Cases (United Kingdom v. Argentina; United Kingdom v. Chile)*, p. 29

¹⁵³ *United Kingdom Declaration Recognizing the Jurisdiction of the International Court of Justice as Compulsory* (1987)

¹⁵⁴ Soukiassian, C. (2000) *El Caso Malvinas y la Corte Internacional de Justicia*, pp. 92-93

manoeuvre and more concrete outcomes, as evidenced by the success of Resolution 2065. Indeed, recourse to the Court would have produced a definitive, binding verdict that might have exposed any vulnerabilities in Argentina's position. It is precisely these weaknesses, and the ways in which they have been perceived and handled, that the final section of this chapter will explore, aiming to assess the weight of the competing historical narratives and the real strength of each party's arguments.

2.2 Spain and Argentina sovereignty titles

2.2.1 Papal bulls and Anglo Spanish bilateral treaties

To disentangle the complex web of sovereignty claims over the Malvinas/Falkland Islands, it is essential to examine each claimant's titles in chronological order and to weigh their competing interpretations over time.

Spain's earliest assertions over South Atlantic territories date back to fifteenth-century papal partitions between Spain and Portugal following the discovery of the Americas. In 1493, Pope Alexander VI issued the bull *Inter Caetera*, which divided the New World between Spain and Portugal by granting Spain all territories west of a meridian 100 leagues west of the Azores¹⁵⁵. A few months later, the bull *Dudum Si Quidem* extended these grants to any lands not yet discovered by the Catholic Monarchs' navigators during their voyages to the Indies¹⁵⁶. The legal force of these papal documents has been fiercely debated. Medieval doctrine held that the pope, as Christ's vicar on earth, owned all lands, known and unknown, and could grant colonization rights to Catholic sovereigns¹⁵⁷. Indeed, European monarchs commonly derived territorial claims from papal concessions, such as Pope Adrian IV's bull recognizing English dominion over Ireland, or various bulls endorsing Portuguese conquests in Africa¹⁵⁸. Yet leading scholars like Andrés Bello argued that "estas concesiones pontificias, lo mismo que las convenciones que sobre éste asunto intervinieron entre las potestades seculares no fueron respetadas por la Gran Bretaña, ni por la Francia i Holanda, i en el día,

¹⁵⁵ Reyes, A. O. (1984) *La Cuestión de las Islas Malvinas*, p. 91

¹⁵⁶ *Dudum Si Quidem Papal Bull* (1493)

¹⁵⁷ Soukiassian, C. (2000) *El Caso Malvinas y la Corte Internacional de Justicia*, pp. 89-90

¹⁵⁸ Kohen, M. G. & Rodriguez, F. (2017) *The Malvinas/Falklands Between History and Law: Refutation of the British Pamphlet "Getting it Right: The Real History of the Falklands/Malvinas"*, pp. 12-13

las referidas bulas son letra muerta, a no ser en las cuestiones de límites entre Portugal i España”¹⁵⁹, implying they bound only the original parties, not other powers, even in the absence of protest¹⁶⁰.

Moreover, *Inter Caetera* was heavily skewed in Spain’s favor, granting Portugal virtually nothing in the New World, yet it did not deter English or French colonization of North America, often without Iberian objection. Although the Malvinas lay within Spain’s customary sphere, only Portugal, not Britain, was technically barred from colonizing them under these bulls. Portugal therefore negotiated the 1494 Treaty of Tordesillas with Spain, a bilateral accord shifting the papal meridian to 270 leagues west of the Azores¹⁶¹. This move reserved eastern Brazil for Portugal while leaving the Malvinas under Spain’s influence. Pope Julius II subsequently issued *Ea Quae Pro Pacis Bono* to ratify Tordesillas.

While papal bulls remained legally ambiguous and unrecognized by Britain as foundational sovereignty titles, they did delineate a Spanish zone of influence in the South Atlantic by custom. Successive bilateral treaties between Spain and Britain appeared to reinforce this Iberian claim. The 1667 Treaty of Peace, Alliance, and Commerce forbade English subjects from trading or navigating in any Spanish ports or fortifications¹⁶², thereby closing the door to further British claims. Three years later, the 1670 Treaty of Madrid reiterated in its preamble the aim of settling colonial differences and, under Article VII:

“the Most Serene King of Great Britain, his heirs and successors, shall have, hold and possess forever, with full right of sovereignty, ownership and possession, all the lands, regions, islands, colonies, and dominions, situated in the West Indies or in any part of America, that the said King of Great Britain and his subjects at present hold and possess; so that neither on that account nor on any other pretext may or should anything ever be further urged, or any controversy begun in future”¹⁶³

The various interpretations of this article are particularly interesting, as it clearly represents a Spanish acknowledgment of British acquisitions in North America, albeit limited to that specific geographical area. The British scholarly perspective emphasizes that the absence, within the same document, of a reciprocal recognition by Britain of Spanish territories in the South Atlantic¹⁶⁴ has been a recurring

¹⁵⁹ Bello, A. (1946) *Principios de Derecho Internacional Público*, p. 53

¹⁶⁰ Reyes, A. O. (1984) *La Cuestión de las Islas Malvinas*, p. 97

¹⁶¹ Hope, A. (1983) *Sovereignty and Decolonization of the Malvinas (Falkland) Islands*, p. 407

¹⁶² Reyes, A. O. (1984) *La Cuestión de las Islas Malvinas*, pp. 91-92

¹⁶³ *Treaty between Great Britain and Spain for the settlement of all disputes in America* (1670)

¹⁶⁴ Pascoe, G. & Pepper, P. (2008) *Getting it Right: The Real History of the Falklands/Malvinas*, p. 5

argument used to downplay the significance of Anglo-Spanish bilateral treaties, especially due to the lack of an explicit reference to the Malvinas Islands.

On the other hand, Argentine scholars argue that it was self-evident that there was no need for a specific mention of the Spanish possessions. According to the papal bulls and the Treaty of Tordesillas, whose legitimacy had never been formally contested by other powers, Spanish presence in the Americas was the rule, while any other power's presence was the exception, and therefore the only circumstance that required explicit acknowledgment¹⁶⁵. Moreover, continuing with the reading of the treaty, Article VIII appears particularly clear in outlining the limitations imposed on Great Britain regarding Spanish colonies in the Americas:

“subjects of the King of Great Britain shall on no account direct their commerce or undertake navigation to the ports or places which the Catholic King holds in the said Indies, nor trade in them”¹⁶⁶

This restriction, which appears to have been outlined by the Spanish Crown, was further confirmed and reinforced in the Treaties of Utrecht of 1713, signed at the end of the War of the Spanish Succession. The significance of these treaties was already discussed in the first chapter, as they led to the creation of the Viceroyalty of the Río de la Plata, an entity later invoked to claim *uti possidetis iuris* over the Malvinas Islands. The Preliminary Treaty of Peace and Friendship, signed in March 1713, established in Article XIV that:

“His British Majesty has certainly agreed upon the promulgation of the strictest prohibitions and has subjected all his subjects to the most rigorous penalties in order to prevent any British vessel from crossing to the South Sea or trading in any other area of the Spanish India, except for the company devoted to the slave trade”¹⁶⁷

What stands out from this article, clearly favorable to the Spanish side, is that Great Britain was denied access to the "South Sea" and any form of trade within the territories of the "Spanish Indies," except for the slave trade. It is important to note this specific terminology, as the words used can give rise to different interpretations. This is demonstrated by Article VIII of the Definitive Treaty signed in Utrecht in July 1713, which, unlike the previous one that clearly prohibited British entry into a precisely defined geographic area, opened the door to divergent interpretations by the two parties.

¹⁶⁵ Kohen, M. G. & Rodriguez, F. (2017) *The Malvinas/Falklands Between History and Law: Refutation of the British Pamphlet "Getting it Right: The Real History of the Falklands/Malvinas"*, p. 21

¹⁶⁶ *Treaty between Great Britain and Spain for the settlement of all disputes in America* (1670)

¹⁶⁷ *Preliminary treaty of friendship and good will between England and Spain* (1713)

“On the contrary, that the Spanish dominions in the West Indies may be preserved whole and entire, the Queen of Great Britain engages, that she will endeavor, and give assistance to the Spaniards, that the ancient limits of their dominions in the West Indies be restored, and settled as they flood in the time of the above-said Catholic King Charles the Second, if it shall appear that they have in any manner, or under any pretense, been broken into, and lessened in any part”¹⁶⁸

The tone of this article is markedly different from the earlier one: rather than issuing a command or decree, it appears to solicit British cooperation in restoring Spanish dominions that may have been violated in the “West Indies.” It is precisely this term, “West Indies”, that has given rise to two contrasting interpretations. From the British perspective, the West Indies encompassed only North America and the Caribbean islands, thus limiting the treaty’s scope to the colonies contested by the two powers and excluding the Falklands. By contrast, Argentine scholars contend that the West Indies referred to all Spanish dominions in the Americas, and that this terminology therefore encompassed the Malvinas among the territories to which Britain could not claim sovereignty¹⁶⁹. Latin American authors further argue that their interpretation finds support in the failure of Lord Anson’s 1749 expedition to the Falklands (discussed in Chapter 1). They assert that Anson abandoned the venture in deference to Spanish displeasure over a British action against a region, which, under these treaties, was indisputably under Iberian control, thereby constituting an implicit British acknowledgment of Spanish sovereignty over the islands. The British, however, have traditionally maintained that Anson’s withdrawal was driven by strategic considerations: namely, a desire not to offend Spanish sensitivities while important trade negotiations were underway, culminating in the 1750 Anglo–Spanish Commercial Treaty¹⁷⁰.

To complete this survey of bilateral agreements, omitting here the Nootka Sound Convention, which will be analyzed separately due to its later date following Spain’s reoccupation of the Malvinas and the British expulsion from Port Egmont, one must mention the 1763 Treaty of Paris, which ended the Seven Years’ War between Britain and the Spanish French coalition. Article II of that treaty reaffirmed the continuing validity of “all the treaties concluded between His Catholic Majesty and the King of Great Britain”¹⁷¹, underscoring the enduring legal force of the earlier Spain–Britain accords.

¹⁶⁸ *Peace and Friendship Treaty of Utrecht between Spain and Great Britain* (1713)

¹⁶⁹ Kohen, M. G. & Rodriguez, F. (2017) *The Malvinas/Falklands Between History and Law: Refutation of the British Pamphlet "Getting it Right: The Real History of the Falklands/Malvinas"*, pp. 21-22

¹⁷⁰ Beck, P. (2014) *The Falkland Islands as an International Problem*, pp. 75-76

¹⁷¹ Reyes, A. O. (1984) *La Cuestión de las Islas Malvinas*, pp. 93-94

2.2.2 Spanish occupation and British claims

In analyzing the events following the French foundation of Port Louis, it is essential to understand the concept of acquiescence under international law. Acquiescence refers to a party's inaction, specifically, its passive silence in the face of another international actor's conduct, which produces legal effects by implying tacit consent and thereby foreclosing the silent party's right to protest. Protest must be made at the moment the party perceives the situation as injurious or unlawful¹⁷². This doctrine has been repeatedly recognized by jurisprudence. For example, in the 2008 sovereignty dispute over Pedra Branca between Singapore and Malaysia, the International Court of Justice found that Malaysia's failure to object to Singapore's long-standing exercise of authority over the island constituted acquiescence, and accordingly awarded sovereignty to Singapore¹⁷³.

When the French established Port Louis, as detailed in the historical overview, Spain promptly objected to what it deemed a violation of its sovereignty, ultimately taking control of the settlement and renaming it Puerto Soledad. Neither of these actions, Spain's protest nor its seizure, elicited any protest from Britain, thereby legally validating those measures through Britain's silence¹⁷⁴. Of course, the British could not intervene at that time because they had secretly settled the opposite island of the archipelago, founding Port Egmont without notifying any other power, unlike the French and Spanish, who had each formally signaled their actions. This secrecy suggests Britain's own awareness that its occupation might infringe the prior treaties, such as Utrecht's ambiguous provisions, and that a contemporaneous protest would have thrust the issue onto a different legal plane¹⁷⁵.

The fact remains that this clandestine settlement was eventually discovered by the Spanish, dismantled, and became the subject of negotiations. In 1771, the two parties reached an agreement to return the settlement to British hands, thus repairing the offense committed against His Majesty. However, the agreement included an explicit reservation that it did not entail any recognition of sovereignty, particularly since it referred solely to one fort on only one of the islands in the archipelago. It is crucial to emphasize the geographical limitation of this agreement, which the British themselves had intentionally framed in such narrow terms. This is evidenced by the plaque they left behind when abandoning the outpost three years later: it did not declare that the *Falkland Islands* were the territory of His Britannic Majesty, but instead used the singular, *Falkland Island*, indicating

¹⁷² Klabbers, J. (2002) *An Introduction to International Institutional Law*, pp. 92-94

¹⁷³ International Court of Justice (2008) *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia v. Singapore)*

¹⁷⁴ Reyes, A. O. (1984) *La Cuestión de las Islas Malvinas*, p. 98

¹⁷⁵ Kohen, M. G. & Rodríguez, F. (2017) *The Malvinas/Falklands Between History and Law: Refutation of the British Pamphlet "Getting it Right: The Real History of the Falklands/Malvinas"*, p. 35

that, for any future claim, they intended to refer exclusively to the island where Port Egmont had been located¹⁷⁶. Whether that plaque alone could constitute a sufficient legal basis for Britain to assert sovereignty even after its withdrawal from the archipelago is a matter that will be discussed in the section dedicated to British titles, since this is a central argument used to claim that the United Kingdom never formally renounced the islands. What is certain, however, is that from that point on, Spain remained the sole power present in the archipelago, thereby initiating an occupation that lasted nearly forty years, without receiving any form of protest from Britain, not even when Port Egmont was razed and the plaque removed¹⁷⁷. This uninterrupted presence opened the door for Spain to acquire title by prescription, a concept that will be analyzed in greater detail later and compared with the British position from 1833 onward.

However, the discussion of that period cannot be concluded without addressing the issue of the secret agreement reached on the sidelines of the 1771 negotiations, according to which the British allegedly promised to abandon Port Egmont. This opens the way for different assessments regarding the matter of the withdrawal and, consequently, the validity of British claims, an aspect that will be useful later in the analysis of sovereignty titles. First of all, it should be specified that, more than an agreement between the two parties, it was, according to the Argentine interpretation, a verbal promise made by the British delegation, led by Minister Lord Rochford, as a condition for the Spanish to accept the restitution of Port Egmont¹⁷⁸. There is, therefore, no written version of this promise, which has always made it very difficult for authors on both sides to recognize its existence, also because it would not have brought about substantial changes to the issue, not being a binding document and, at least from the British point of view, would have been overshadowed by the plaque later left at Port Egmont, which was intended to signal a continued claim to sovereignty over Saunders Island, where the settlement was located. That said, there are nonetheless documents in which discussions about the existence of such a promise do indeed appear, including a note sent by Masserano, at the time Spanish ambassador in London, to the Marquis of Grimaldi, Minister of Foreign Affairs, a few days after the declaration of restitution, in which he stated that:

“el Rey [de España] quería fiarse a la buena fe de S. M. Británica y a las expresiones que me hizo el día después de haber firmado la consabida Declaración, y que quería también S. M. ver en que paraban las promesas de este Ministerio en cuanto la evacuación de la Gran Malvina, y a la suspensión de

¹⁷⁶ Kohen, M. G. & Rodriguez, F. (2017) *The Malvinas/Falklands Between History and Law: Refutation of the British Pamphlet "Getting it Right: The Real History of the Falklands/Malvinas"*, p. 56

¹⁷⁷ Hope, A. (1983) *Sovereignty and Decolonization of the Malvinas (Falkland) Islands*, pp. 411-412

¹⁷⁸ Bologna, A. B. (1982) *Los Derechos Argentinos sobre las Islas Malvinas*, p. 403

armamentos y preparativos de guerra que continuaban aún como si no hubiese hecho algún ajuste. Procuró satisfacerme — escribió Masserano— diciendo que se iba a dar la orden de suspender la leva de marineros; (hasta ahora no se ha hecho) que se alegraba ver los términos en que me explicaba; que ellos no podían confesar a vernos hecho ninguna promesa, habiéndose negado siempre a hablar de lo venidero; que me había hecho la referida pregunta para satisfacer en el Consejo a los que le hablasen de este asunto; que ahora enviarían dos solas fragatillas a tomar posesión de puerto Egmont, y que las acompañaría un bastimento de transporte con los víveres que podría necesitar la poca gente que enviaban a aquel paraje, y que ciertamente sería menos de la que aquí hallamos porque querían ir haciendo que decayese aquello. Estas últimas palabras — razonaba el príncipe— fueron las solas de su discurso que cuadraron más con el mío y de las cuales puede conjeturarse quieren abandonar aquel establecimiento”¹⁷⁹

The Spanish Ambassador reported the conversation he had with Lord Rochfort, who precisely relayed the promise of abandonment, also stating that preparations for the war that had been risked were being suspended, and that the British commitment to that outpost would gradually diminish until the actual departure. This was unequivocally acknowledged; however, at the same time, the British minister admitted that he could neither confess nor promise that they intended to leave in the future. This implies that the move was independently taken by the British delegation responsible for the negotiations, suggesting that such a decision might not have been shared by the rest of the leadership. This internal dispute, as well as the connection between the verbal promise and the beginning of the disarmament of the archipelago, is further corroborated by an English source: a Memorandum on the history of the Falkland Islands, a classified document (later declassified) dated 1911, intended solely for the use of the British Foreign Office. It cited an excerpt from the *Anecdotes of the Life of Lord Chatham*, the main opposition leader, in which Masserano’s version was essentially confirmed:

“About an hour before the meeting of Parliament on the 22nd January , 1771, a Declaration was signed by the Spanish Ambassador under French orders, and a French indemnification, for the restitution of Falkland's Islands to His Britannic Majesty; but t e important condition upon which this Declaration was obtained was not mentioned in the Declaration. This condition was: that the British forces should evacuate the Falkland Islands as soon as convenient after they had been put in

¹⁷⁹ Revello, J. T. (1952) *La Promesa Secreta y el Convenio Anglo-Español sobre las Malvinas de 1771*, pp. 28-29

possession of Port and Fort Egmont; and the British Ministry engaged, as a pledge of their sincerity to keep that promise that they should be the first to disarm”¹⁸⁰

Lord Rochfort himself confirmed this atmosphere of tension with Lord Chatham during a conversation with Masserano, who reported the exchange. Masserano inquired about the timing of the evacuation of Port Egmont, while the British counterpart sought to delay the response and justify why such a promise could not be put in writing:

“que ministerial, ni confidencialmente podía darme esta seguridad; — expresaba el embajador español— que no debíamos darles prisa pues el partido de oposición y mylord Chatham a su cabeza tendría mucha razón en decir que habían tratado conmigo secretamente de la evacuación de la Isla; convención que merecía castigo; que aún supuesto que hiciesen lo que yo decía no por eso quedaría decidida la cuestión del derecho; que bien veía que para ellos ni para nosotros convenía tratar de esto por escrito; que sin ser responsable con su cabeza no podía asegurarme verbalmente de lo que harían”¹⁸¹

Moreover, it appears that Lord Chatham had been made aware of these rumors, these “whispers,” as Lieutenant Colonel Barré described them, who outlined the situation in a letter addressed to him:

“My Lord, I take the pen up in a hurry to acquaint your Lordship, that I am returned from the House of Commons, where Lord North informed us, that Prince Masserano had this morning presented a declaration, signed by the King of Spain, which His Majesty has accepted of, and which would be laid before the House on Friday next. No day is fixed upon for the consideration of it; but we have moved for a call of the House on this day fortnight. The terms, as I am informed, are not very honourable – The disgrace of Bucarelli; the island to be put in our possession; and it is whispered, that there is a secret article to save the rights and pretensions in that country of the crown of Spain; which seems to promise our abandoning the spot silently, upon some future day”¹⁸²

Only a month later, that previously undefined future turned into a rather specific timeframe, as confirmed by a letter from the British Ambassador to Spain, Harris, to Lord Rochfort, dated 14 February 1771:

¹⁸⁰ De Bernhardt, G. (1911) *Memorandum respecting the Falkland Islands. Confidential (9755)*, Printed for the use of the Foreign Office, FO 881/9755, p. 27

¹⁸¹ Revello, J. T. (1952) *La Promesa Secreta y el Convenio Anglo-Español sobre las Malvinas de 1771*, pp. 29-30

¹⁸² Taylor, W. S. (ed.) (2013) *Correspondence of William Pitt, Earl of Chatham*

“they (the Spanish Government) report that we have given a verbal assurance to evacuate Falkland's Island in the space of two months”¹⁸³.

Several insights emerge from the sources cited above. First, the varied use of singular and plural when referring to the British establishment suggests an attempt to encompass the entire archipelago within its claims. Moreover, no record has been found of Rochfort's reply to Harris's letter, nor do any English sources explicitly attest that a British official promised to return Port Egmont to the Spaniards. Conversely, the Spaniards treated such a promise as an established fact and Masserano perpetually pressed for its fulfilment. Thus, while the existence of this pledge lacks explicit, decisive documentary corroboration on the British side, the Spaniards' relentless insistence implies that something of the sort may indeed have transpired, creating a genuine diplomatic rift, too controversial to invoke as justification for a British intention to abandon the territory, which would have irrevocably undermined their sovereignty claims.

2.2.3 The 1790 Nootka Sound convention

The Peace Convention of 1790, signed between Spain and Great Britain following the Nootka Sound incident, near Vancouver Island, when the Spanish detained British vessels, once again bringing the two powers to the brink of war, represents a key element in Argentina's claims over the Malvinas. According to the Argentine position, the agreement would be applicable to the islands and would signify the definitive abandonment of British claims over the archipelago, which would then have passed to Argentina through the principle of succession from Spain. In this regard, it is essential to begin by citing Article IV of the Convention:

“His Britannic majesty engages to take the most effectual measure to prevent the navigation and fishery of his subjects, in the Pacific Ocean or in the South Seas, from being made a pretext for illicit trade with the Spanish settlements; and, with this view, it is moreover expressly stipulated, that British subjects shall no navigate or carry on their fishery, in the said seas, within the space of ten sea-leagues from any part of the coasts already occupied by Spain”¹⁸⁴

¹⁸³ De Bernhardt, G. (1911) *Memorandum respecting the Falkland Islands. Confidential (9755)*, Printed for the use of the Foreign Office, FO 881/9755, p. 11

¹⁸⁴ *Comments on the Convention with Spain (1790)*

Considering the developments previously described, at that specific historical moment the British had abandoned Port Egmont, and Spain was the sole occupant of the Malvinas archipelago. It had already appointed numerous governors without receiving any protests from other powers. For this reason, the commercial prohibition established in the treaty would be applicable to the archipelago under Spanish control, and this interpretation was accepted by the British government. However, when it comes to the establishment of colonies or outposts, the situation becomes considerably more complex, as Article VI of the Convention comes into play:

“It is further agreed, with respect to the Eastern and Western coasts of South America, and to the islands adjacent, that no settlement shall be formed hereafter, by the respective subjects, in such parts of those coasts as are situated to the South of those parts of the same coasts, and of the islands adjacent, which are already occupied by Spain: provided that the said respective subjects shall retain the liberty of landing on the coasts and islands to situated for the purposes of their fishery, and of erecting thereon huts, and other temporary buildings, serving only for those purposes”¹⁸⁵

Interpretations of this article diverge. From the Argentine perspective, its application to the Malvinas is unequivocal, as the islands are considered adjacent to the Patagonian coast and were under the exclusive control of Spain at the time. Consequently, the article would constitute an explicit prohibition for Great Britain to establish any settlements along those coasts¹⁸⁶. The British position, on the other hand, emphasizes that Article VI would not apply to the Falkland Islands, as they should not be considered adjacent to the Patagonian coast due to the significant distance separating the two, estimated at approximately 300 miles. In support of this interpretation, reference is often made to a 1969 ruling by the International Court of Justice on the Continental Shelf, which established that even a distance of 100 miles could cast doubt on whether a given territory could be considered adjacent to the coast of a neighboring state¹⁸⁷. The Argentine response to this critique is grounded in the evolution of the law of the sea, particularly in the jurisprudence concerning the continental shelf. It refers to the 1982 United Nations Convention on the Law of the Sea (UNCLOS), signed in Montego Bay, which establishes that a coastal state has automatic sovereign rights over its continental shelf up to 200 nautical miles from its baseline, or, in specific cases, up to 350 nautical miles if the natural extension of the continental margin exceeds the 200-mile limit¹⁸⁸. The Malvinas are located on the Argentine continental shelf and, moreover, according to the Bassett Moore theory of continuity, a state should

¹⁸⁵ *Treaty of San Lorenzo del Escorial (Nootka Sound Convention)* (1790)

¹⁸⁶ Reyes, A. O. (1984) *La Cuestión de las Islas Malvinas*, p. 100

¹⁸⁷ Potts, S. (2012) *Falkland Islands – What the ICJ (International Courts of Justice) Might Say About Argentina's Claims*, p. 31

¹⁸⁸ *United Nations Convention on the Law of the Sea (UNCLOS)* (1982)

have control over the areas surrounding its coasts, including adjacent islands, in order to safeguard its sovereignty and national security. Crucially, this theory does not require the immediate or continuous occupation of such territories for the claim to be considered valid¹⁸⁹.

The British side also draws attention to the secret article later annexed to the Nootka Sound Convention and approved by the Spanish authorities, according to which:

“Since by Article 6 of the present convention it has been stipulated, respecting the eastern and western coasts of South America, that the respective subjects shall not in the future form any establishment on the parts of these coasts situated to the south of the parts of the said coasts actually occupied by Spain, it is agreed and declared by the present article that this stipulation shall remain in force only as long as no establishment shall have been formed by the subjects of any other power on the coasts in question. This secret article shall have the same force as if it were inserted in the convention”¹⁹⁰

Thus, according to the British perspective, when Argentina assumed control, not as a successor state, since such succession is not recognized by the British, but rather as a separate power, this article should have been applied, thereby permitting Great Britain to intervene and assert control over the archipelago¹⁹¹. In this way, the British protest of 1829 and subsequent occupation in 1833 would be justified, effectively making this convention the very legal basis that acknowledges and supports British claims. Once again, two completely opposing interpretations emerge, which, however, highlight the true legal gray area of this dispute, namely, the moment when Argentina succeeded Spain following its declaration of independence.

2.2.4 *Uti possidetis iuris* and Argentina succession to Spain rights

When Argentina gained independence, it began to exercise authority over the Malvinas Islands as if nothing had changed, considering itself the successor to the rights that Spain had held over the archipelago. Most importantly, Argentina invoked a principle of customary international law: *uti possidetis juris*. This principle, which became especially prominent in the Americas to prevent conflicts and disorder among newly independent states, is based on the preservation of the former

¹⁸⁹ Bologna, A. B. (1982) *Los Derechos Argentinos sobre las Islas Malvinas*, pp. 807-808

¹⁹⁰ Manning, W. R. (1905) *The Nootka Sound Controversy*, p. 67

¹⁹¹ Potts, S. (2012) *Falkland Islands – What the ICJ (International Courts of Justice) Might Say About Argentina's Claims*, pp. 31-32

colonial administrative boundaries to delineate the borders of the emerging nations¹⁹². Following this logic, since present-day Argentina was part of the Viceroyalty of the Río de la Plata, and given that the Malvinas had always been administratively dependent on Buenos Aires, particularly regarding the appointment of governors and the provision of supplies, the islands should legally be considered territory of the new Argentine Republic¹⁹³.

According to Argentine scholars, although this principle originated in a regional context, it has since developed into a general principle of international law, as affirmed by the International Court of Justice in the territorial dispute case between Burkina Faso and Mali:

“(...) it should be noted that the principle of *uti possidetis* seems to have been first invoked and applied in Spanish America. Nevertheless the principle is not a special rule which pertains solely to one specific system of international law. It is a general principle, which is logically connected with the phenomenon of the obtaining of independence, wherever it occurs”¹⁹⁴

This approach is further reinforced by the ruling of the Court in the territorial dispute between El Salvador and Honduras, where the principle of *uti possidetis* was upheld. The Court recognized that the contested territory had been discovered by Spain and remained under its control until the independence of the Central American countries in question. These states, however, did not encounter *terra nullius*, but rather a territory that passed to the new independent state by virtue of *uti possidetis*, and therefore could not be acquired through territorial occupation¹⁹⁵. Clearly, from the Argentine perspective, this example closely parallels the case of the Malvinas, with the added factor that, beyond discovery, Spain’s effective occupation provided an even stronger legal title. For this reason, Argentina maintains that this guiding precedent of the Court should also apply to the Antarctic archipelago¹⁹⁶. Consequently, when Great Britain signed the Treaty of Friendship and Commerce with Argentina in 1825, thereby implicitly acknowledging Argentina’s independence, and thus its territorial sovereignty, if Britain had recognized the principle of *uti possidetis*, this would have included the Malvinas. Accordingly, this treaty would represent yet another example of the abandonment of British claims¹⁹⁷.

¹⁹² Reyes, A. O. (1984) *La Cuestión de las Islas Malvinas*, p. 94

¹⁹³ Bologna, A. B. (1982) *Los Derechos Argentinos sobre las Islas Malvinas*, pp. 805-806

¹⁹⁴ International Court of Justice (1986) *Frontier Dispute (Burkina Faso v. Republic of Mali)*

¹⁹⁵ International Court of Justice (1992) *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)*

¹⁹⁶ Kohen, M. G. & Rodríguez, F. (2017) *The Malvinas/Falklands Between History and Law: Refutation of the British Pamphlet "Getting it Right: The Real History of the Falklands/Malvinas"*, p. 72

¹⁹⁷ Bologna, A. B. (1982) *Los Derechos Argentinos sobre las Islas Malvinas*, pp. 805-806

However, there is also the British perspective to consider, which holds that before examining the treaty, one must carefully analyze the application of the principle of *uti possidetis*. According to this interpretation, before being regarded as a universal principle, *uti possidetis* was primarily intended to regulate inter-American conflicts or, more broadly, disputes localized at the regional level. In this view, the ICJ ruling in the El Salvador/Honduras case should be understood accordingly and would not apply to the Falklands precisely because a non-European power is involved¹⁹⁸. Furthermore, it appears that Latin American states have not consistently relied on the principle of *uti possidetis* to regulate their borders, despite its unanimous recognition at the American Congress of Lima in 1848. This is evidenced by a case involving Argentina and Paraguay, who resolved their territorial disputes through direct negotiation¹⁹⁹. The ICJ itself, in the dispute between Mali and Burkina Faso, accepted the application of the *uti possidetis* principle precisely because the countries involved had reached a mutual agreement to use it for delimiting their borders²⁰⁰, which is fully consistent with the ruling in the Honduras case, where both countries had accepted the principle. This already represents a significant difference with the Falklands issue, since the acceptance of *uti possidetis* by the United Kingdom would be necessary, something that has never occurred and would certainly undermine Argentina's position before any potential ICJ judgment, given the precedents.

The matter does not end there, because unlike the Honduras case, in the Anglo-Argentine dispute the title claimed on behalf of Spain is not merely discovery but a genuine administrative occupation with explicit acts of sovereignty clearly exercised. According to ICJ jurisprudence, such a claim would require a stronger burden of proof to justify a transfer of sovereignty²⁰¹. Indeed, what the British interpretation has always criticized is the absence of an explicit written document formalizing the transfer of sovereignty from Spain to Argentina, a document that, in fact, only appeared in 1863²⁰², too late to have any legal relevance, since Britain had already occupied the archipelago for over thirty years.

According to the British perspective, the principle of *uti possidetis* would not apply for the reasons outlined above, which poses a significant challenge to Argentine claims. The inability to rely on the right of succession would have rendered the Falkland Islands *terra nullius* at the time, without undermining in any way Britain's right to occupy them. Moreover, if the applicability of the Nootka

¹⁹⁸ Potts, S. (2012) *Falkland Islands – What the ICJ (International Courts of Justice) Might Say About Argentina's Claims*, p. 28

¹⁹⁹ Potts, S. (2012) *Falkland Islands – What the ICJ (International Courts of Justice) Might Say About Argentina's Claims*, p. 29

²⁰⁰ International Court of Justice (1986) *Frontier Dispute (Burkina Faso v. Republic of Mali)*

²⁰¹ Rodríguez, L. S. (1997) *L'Uti Possidetis et les Effectivités dans les Contentieux Territoriaux et Frontaliers*

²⁰² Bologna, A. B. (1982) *Los Derechos Argentinos sobre las Islas Malvinas*, p. 806

Sound Convention to the Malvinas were accepted, the secret clause favoring Britain would have been triggered. According to this interpretation, the only way to consider the British occupation of 1833 illegal would be to acknowledge that, during the brief period in which Argentina was able to establish itself on the islands, it exercised acts of sovereignty sufficient to constitute effective occupation, a principle consistently favored by international jurisprudence in territorial disputes²⁰³.

2.2.5 Argentina's occupation: complete or incomplete title?

Another particularly complex and debated issue concerns the brief Argentine occupation of the islands and to what extent the actions taken constituted full sovereignty, enough to deem the subsequent British occupation illegitimate, regardless of the arguments over the applicability of *uti possidetis*. The Argentine position has consistently emphasized the acts carried out by Jewett and Vernet on behalf of the United Provinces, which would indicate a clear sovereign intent unjustly interrupted. Starting with Jewett, he arrived in the archipelago after receiving a concession from the Argentine government for the exploitation and economic use of local wildlife. This was formally inaugurated with a ceremony, already mentioned, involving captains of ships flying different flags, which did not provoke any protest from other powers²⁰⁴. All this happened ten years after the Spanish evacuation, during which time the islands remained uninhabited. However, as noted in the previous chapter, it was the Argentine government that took responsibility for all outstanding payments, given that the archipelago was directly dependent on Buenos Aires. Furthermore, Pablo Areguati was appointed governor, but overall, this first expedition did not have the success hoped for, just like the subsequent one led by Pacheco and Vernet in 1823, to whom the Buenos Aires government had also granted concessions to carry out economic activities²⁰⁵. Only later, in 1829, did Vernet manage to establish himself in the archipelago, officially becoming Political and Military Commander, the first true political act by the Argentine government, immediately followed by the British protest, which effectively blocked the acquisition of the title of effective occupation, as it was no longer peaceful²⁰⁶.

The British counterargument focuses precisely on the excessive discontinuity of the Argentine presence on the islands, which was insufficient to claim effective occupation. They also argue that the actions carried out by these Argentine government emissaries were actually private

²⁰³ International Court of Justice (1986) *Frontier Dispute (Burkina Faso v. Republic of Mali)*

²⁰⁴ Kohen, M. G. & Rodriguez, F. (2017) *The Malvinas/Falklands Between History and Law: Refutation of the British Pamphlet "Getting it Right: The Real History of the Falklands/Malvinas"*, pp. 93-94

²⁰⁵ Beck, P. (2014) *The Falkland Islands as an International Problem*, pp. 55-56

²⁰⁶ Hope, A. (1983) *Sovereignty and Decolonization of the Malvinas (Falkland) Islands*, p. 414

entrepreneurial activities without any real support from the Argentine government. For example, according to this interpretation, the Argentine authorities were not aware of the ceremony organized by Jewett, and Jewett himself did not notify them until some time later²⁰⁷. Furthermore, particular attention is drawn to Vernet's notably ambiguous behavior: first of all, he maintained extensive contacts with the British authorities, claiming, for example, that he was acting entirely on his own, without receiving any salary as governor and without receiving any support whatsoever from the Argentine authorities²⁰⁸, but also, in other communications, he reportedly requested British support because he feared that Argentina's fragile internal situation would soon reach a point of no return. However, he did not manage to obtain such support in time, as shortly thereafter the incident with the American ships occurred, which ultimately led to the British occupation²⁰⁹. On the other hand, one of Vernet's first actions as Commander was to enforce Argentine hunting and fishing laws. However, this ongoing need to protect his own personal interests seems to weaken the idea of a fully exercised Argentine sovereignty.

It must be recognized, though, that the ICJ itself, in the Pedra Branca case between Malaysia and Singapore, affirmed that acts carried out by private individuals could have sovereign character if the State to which they are attributed was aware of them, if these acts were consistent, and if they did not receive protests from other States²¹⁰. In the Falklands case, the acts carried out by both Jewett and Vernet demonstrated, if not explicit sovereignty, at least an awareness of it by Buenos Aires. These were repeated attempts following earlier failures, and until 1829, no protests were made. On the other hand, however, Buenos Aires itself admitted that it had not devoted enough effort or attention to the Falklands²¹¹. However, the occupation itself, additionally marked by significant discontinuity, was not sufficient to qualify as effective occupation, as reiterated by the ICJ jurisprudence in other territorial disputes²¹².

What seems to emerge, then, is that Argentina was on the path toward fully establishing its claim, which at that time was incomplete and rested primarily on assertions, partly due to the uncertainties surrounding the application of *uti possidetis*, but that British intervention and occupation interrupted

²⁰⁷ Potts, S. (2012) *Falkland Islands – What the ICJ (International Courts of Justice) Might Say About Argentina's Claims*, p. 15

²⁰⁸ Foreign and Commonwealth Office (1833) *British Foreign Service Papers* (1832-33)

²⁰⁹ Potts, S. (2012) *Falkland Islands – What the ICJ (International Courts of Justice) Might Say About Argentina's Claims*, p. 47

²¹⁰ International Court of Justice (2008) *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia v. Singapore)*

²¹¹ Potts, S. (2012) *Falkland Islands – What the ICJ (International Courts of Justice) Might Say About Argentina's Claims*, pp. 53-54

²¹² International Court of Justice (1975) *Western Sahara Advisory Opinion*

this process through the use of force²¹³, not necessarily illegal if the succession was not recognized, especially considering the historical context in which power politics often prevailed over legal justice. Obviously, this is not an absolute truth, but rather evidence that the legal situation is complex and impossible to resolve with certainty. Argentina's position reveals not necessarily flaws, but difficult doubts that are hard to unravel, which consequently weaken its claim. The same applies to the British claim.

2.3 British titles of sovereignty

2.3.1 Discovery

The historical section touched upon the debate over who actually discovered the Malvinas/Falkland Islands, emphasizing that for Britain this has always been an important title, particularly immediately following the 1833 occupation. This is confirmed in a letter from Viscount Palmerston, in which he asserts both the primacy of discovery and the first landing in the archipelago²¹⁴. Regarding the sightings by Davis and Hawkins, it has already been noted that their ship logs were particularly imprecise, so much so that they reported an archipelago, the Pepys Islands, that in fact do not exist. They also indicated incorrect coordinates for the Malvinas Islands, making it more plausible that the two captains had sighted Patagonia rather than the disputed archipelago²¹⁵. Furthermore, their discoveries were apparently ignored by English cartographers of the time, which is particularly strange considering that the islands already appeared on earlier Spanish geographic maps predating the English expeditions²¹⁶. Beyond this, many sources attribute the official discovery of the islands to an expedition led by the Dutchman Sebald de Weert in 1600²¹⁷, while the theory that the first actual landing was made by the English expedition of John Strong in 1690, when the islands were officially named Falkland, finds support²¹⁸.

However, all of this would have limited legal relevance, since neither discovery nor landing on previously unknown territory alone constitute full titles of sovereignty. For sovereignty to be

²¹³ Soukiassian, C. (2000) *El Caso Malvinas y la Corte Internacional de Justicia*, p. 93

²¹⁴ Beck, P. (2014) *The Falkland Islands as an International Problem*, p. 48

²¹⁵ Goebel, J. (1928) *The Struggle for the Falkland Island*, pp. 34-37

²¹⁶ Beck, P. (2014) *The Falkland Islands as an International Problem*, pp. 74-75

²¹⁷ Hope, A. (1983) *Sovereignty and Decolonization of the Malvinas (Falkland) Islands*, p. 401

²¹⁸ Kohen, M. G. & Rodriguez, F. (2017) *The Malvinas/Falklands Between History and Law: Refutation of the British Pamphlet "Getting it Right: The Real History of the Falklands/Malvinas"*, p. 7

established, an effective occupation is required, whose importance has already been emphasized in jurisprudence concerning territorial disputes²¹⁹. What these claims would grant is a so-called *inchoate title*, which is a partial, incomplete title that requires further actions or integration to give rise to a legally relevant claim²²⁰, as confirmed in the arbitral award concerning the Island of Palmas dispute between the United States and the Netherlands²²¹.

In short, considering that both parties agree the first settlement with sovereign intent was French, the titles claimed by Great Britain carry particularly limited legal weight, if not prove altogether irrelevant when confronted with clearer demonstrations of sovereignty, such as those exercised by Spain.

2.3.2 Port Egmont and the lead plaque

From the Port Egmont experience, British rhetoric has highlighted two events which, according to them, give rise to valid sovereignty titles. First and foremost, the 1771 declaration, as it effectively represents the restoration of the outpost to the British, and has therefore always been interpreted as an implicit recognition of British rights, at least over Saunders Island²²². The first chapter mentioned the Spanish version of that declaration, which aimed to clarify more explicitly that the restoration served solely to repair the honor of the King of England following the forcible expulsion of his subjects from the outpost, and in no way was meant to affect prior claims of sovereignty over the archipelago. However, the revision introduced by the British delegation prevailed, which rendered the statement somewhat more ambiguous. Nevertheless, the reference still alluded to prior rights, which, according to the British interpretation, were theirs by virtue of the discovery and first landing described in the previous paragraph²²³.

Beyond the limited scope of those rights, it must be noted that the course of events significantly curtailed such claims, since the British remained there for only three years and then voluntarily withdrew, never subsequently protesting the Spanish occupation. This allowed the Spanish presence to assume the character of a true effective occupation, a much stronger title compared to the vague claims set forth in that declaration. The International Court of Justice has repeatedly affirmed this

²¹⁹ Reyes, A. O. (1984) *La Cuestión de las Islas Malvinas*, p. 95

²²⁰ Rousseu, C. (1966) *Derecho Internacional Público*, pp- 142-145

²²¹ Kohen, M. G. & Rodriguez, F. (2017) *The Malvinas/Falklands Between History and Law: Refutation of the British Pamphlet "Getting it Right: The Real History of the Falklands/Malvinas"*, p. 167

²²² Beck, P. (2014) *The Falkland Islands as an International Problem*, p. 51

²²³ Hope, A. (1983) *Sovereignty and Decolonization of the Malvinas (Falkland) Islands*, p. 13

hierarchy of titles, as in the aforementioned Island of Palmas arbitral award, where it was clarified that neither discovery nor temporary settlement hold legal weight unless followed by continuous and effective possession²²⁴, which was precisely what was lacking in the case of Port Egmont. Secondly, in the Pedra Branca sovereignty dispute between Malaysia and Singapore, the Court established that effective occupation without protest carries more weight than ancient or partial sovereignty claims²²⁵.

From a certain point of view, the same reasoning can be applied to analyze the legal value of the plaque left after the abandonment, which, from the British perspective, should indicate the absence of *animus derelinquendi*, that is, the intention to permanently abandon the outpost, and thus justify a subsequent claim to the title²²⁶. Once again, it is the ICJ that provides guidance on the use of symbols to assert sovereignty: in the 1986 territorial dispute between Burkina Faso and Mali, the Court reaffirmed that symbolic elements, such as flags, plaques, or markers, are insufficient unless accompanied by the actual intention to govern, the so-called *animus domini*²²⁷, fundamental element to claim a right to effective occupation, which is precisely what Great Britain has asserted from 1833 to the present.

2.3.3 Great Britain's prescriptive adquisition after 1833 occupation

The strongest legal title that the United Kingdom can claim regarding the Falkland Islands is, according to many, acquisitive prescription, based on an occupation lasting over a century and a half. By definition, acquisitive prescription differs from occupation in that it generally applies to a territory that already has a sovereign state, meaning it is not *terra nullius*, as is the case with occupation²²⁸. It is therefore an institution more akin to usucapion (adverse possession), which begins with the possession of a certain thing and, after a certain period and upon fulfillment of specific conditions, leads to acquiring ownership. It is noteworthy that the United Kingdom places so much emphasis on this principle because it assumes that the Falklands were not their territory at the time of occupation, or at least that they were not *terra nullius* (land belonging to no one); otherwise, the claim would be based on occupation rather than prescription. This reveals a particularly ambiguous stance by the United Kingdom, as the titles it invokes appear inconsistent with one another: some require the

²²⁴ *Arbitration on the Palmas Island case (USA v. Netherlands)* (1928)

²²⁵ International Court of Justice (2008) *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia v. Singapore)*

²²⁶ Reyes, A. O. (1984) *La Cuestión de las Islas Malvinas*, p. 99

²²⁷ International Court of Justice (1986) *Frontier Dispute (Burkina Faso v. Republic of Mali)*

²²⁸ Bologna, A. B. (1983) *Los Derechos de Inglaterra sobre las Islas Malvinas*, p. 777

existence of a prior and superior sovereignty right compared to other powers, while acquisitive prescription would justify the use of force to acquire the territory, since, according to doctrine, war is one of the means by which control can be obtained²²⁹. Moreover, acquisitive prescription might represent the best way to justify a conquest carried out by force, since possession of a given territory would eventually convert into legitimate ownership. This idea is expressed, with reference to the Falklands, by William Beckett, Legal Adviser to the Foreign Office, in a 1946 Memorandum:

“an act of unjustifiable aggression which has now acquired the backing of the right of prescription”²³⁰

However, this statement must be analyzed considering the characteristics that, according to doctrine and jurisprudence, an occupation must possess to be considered acquisitive prescription. In particular, it must be public, peaceful, uncontested, and uninterrupted²³¹. This is precisely where doubts begin to arise, since British dominion, although public and indeed uninterrupted, was certainly neither peaceful nor uncontested. Argentina protested repeatedly whenever possible, yet there were periods of silence that the British conveniently invoked to demonstrate the legitimacy of their acquisitive prescription²³², even Ruda himself, in his statement to Subcommittee III, implied that in some cases it was not possible due to the country’s internal situation, which was still focused on stabilizing its newly acquired independence²³³.

Another possible reason for such silence, according to the British interpretation, would be that Argentina should be held responsible for acquiescence, that is, a renunciation of its claims, particularly following the signing of the Anglo-Argentine Peace Convention of 1849, also known as the Arana-Southern Convention²³⁴. This treaty was signed to end the Anglo-French blockade of the Río de la Plata against Argentina and, as stated in its preamble, was intended to restore a perfect relationship of friendship between the two nations²³⁵. The text of the convention itself did not mention the situation in the Falklands, but according to the British, by signing a treaty that entailed the cessation of all existing disputes between the two countries, Argentina implicitly accepted the status

²²⁹ Verdross, A. (1957) *Derecho Internacional Público*, pp. 312-316

²³⁰ Foreign Office (1946) *Memorandum respecting the Falkland Islands*, 17 Sept 1946. FO AS5728/311/2, CRS A1068/A47/26/6

²³¹ Bologna, A. B. (1983) *Los Derechos de Inglaterra sobre las Islas Malvinas*, p. 777

²³² Kohen, M. G. & Rodriguez, F. (2017) *The Malvinas/Falklands Between History and Law: Refutation of the British Pamphlet "Getting it Right: The Real History of the Falklands/Malvinas"*, pp. 148-149

²³³ Ruda, J. M. (1964) *Intervención del Representante Argentino, Embajador José María Ruda, en El Subcomité III del Comité Especial encargado de examinar la situación con respecto a la aplicación de la Declaración sobre la Concesión de la Independencia a los Países y Pueblos Coloniales*

²³⁴ Pascoe, G. & Pepper, P. (2008) *Getting it Right: the Real History of the Falklands/Malvinas*

²³⁵ *Convention for the Perfect Restoration of Friendly Relations between the Argentine Confederation and Her Britannic Majesty (Arana Southern Convention)* (1849)

quo in the islands, that is, the British occupation. This idea even finds support in the interpretations of Spanish scholars, who highlighted Rosas's negligence, at the time in charge of foreign affairs for the United Provinces of the Río de la Plata, in failing to explicitly include the Falklands issue in the treaty, thus giving rise to the phenomenon of acquiescence²³⁶.

On the other hand, the Argentine response highlights that this was not a peace treaty, which, by definition, involves signatories in hierarchically different positions of victors and vanquished, but rather a convention aimed at restoring friendship and resolving existing differences. However, these differences referred solely to the situation in the Río de la Plata and navigation in those waters, without any mention whatsoever of the situation in the Falklands. It would have been in Britain's interest to include such a reference to secure a definitive legal title supporting its claims, which in fact never relied on that convention²³⁷. It even appears that the only forum in which the archipelago was mentioned was within the House of Lords, where, in light of the hardships suffered by the Argentines over the Río de la Plata issue, there were two occasions when the possibility of compensating that grievance with the restitution of sovereignty over the Falklands was raised²³⁸.

A final doubt concerning the entire issue of acquisitive prescription is the unclear stance of jurisprudence, which has never reached consensus on the time period required for an occupation to become acquisitive prescription, with a range varying from twelve to one hundred years²³⁹, which, according to the most optimistic interpretation of Argentina's titles, would allow the Latin American country to invoke acquisitive prescription before Great Britain, due to the two decades prior to 1833.

To conclude this first part, which has aimed to provide as comprehensive a background as possible on the Malvinas issue, it can certainly be affirmed that fully siding with either claimant is practically impossible, and this legal examination has demonstrated why. Both positions possess significant strengths, but also undeniable weaknesses, and involve some of the most debated questions in international law, often overlapping or conflicting with one another. However, one assumption can be made with confidence: there appears to be no doubt about Spain's sovereignty over the Malvinas Islands, as well as Britain's renunciation through the abandonment of Port Egmont. Doubts arise with the issue of state succession, which Great Britain seems to have leveraged, exploiting the legal grey

²³⁶ Potts, S. (2012) *Falkland Islands – What the ICJ (International Courts of Justice) Might Say About Argentina's Claims*, pp. 1-3

²³⁷ Kohen, M. G. & Rodriguez, F. (2017) *The Malvinas/Falklands Between History and Law: Refutation of the British Pamphlet "Getting it Right: The Real History of the Falklands/Malvinas"*, p. 153

²³⁸ Kohen, M. G. & Rodriguez, F. (2017) *The Malvinas/Falklands Between History and Law: Refutation of the British Pamphlet "Getting it Right: The Real History of the Falklands/Malvinas"*, p. 151

²³⁹ Beck, P. (2014) *The Falkland Islands as an International Problem*, p. 59

areas to establish itself in the archipelago, aided by its particular status as a global power and by relying on a title especially valued in jurisprudence. From this uncertain situation arose Argentina's decision to pursue negotiations, which will always take place against the backdrop of the legal issues outlined so far, but will also deepen and explore new concepts, possible solutions, challenges of cooperation, and above all, the attempt to build an environment of trust capable of bridging two positions so diametrically opposed.

CHAPTER 3: THE BILATERAL NEGOTIATIONS AFTER THE UN RESOLUTION (1965-1976)

3.1 UK and Argentina international relations in the distension era

3.1.1 The end of the British empire and the European option

In the mid-1960s, when the United Nations General Assembly approved Resolution 2065, which for the first time obliged the United Kingdom and Argentina to negotiate in order to resolve the dispute concerning the Malvinas, the international environment seemed to reflect this peaceful and diplomatic attitude towards the resolution of conflicts²⁴⁰. Having overcome the period of maximum tension of the Cold War, the two superpowers, under the leadership of Kennedy in the United States and Khrushchev in the Soviet Union, entered the phase of so-called competitive coexistence, which consisted of the implicit recognition of the other as a main actor in the international arena, whose proposed way of life was no longer to be erased, but with which coexistence was necessary, and if anything, to try to surpass it by offering increasingly significant improvements of one's own model²⁴¹. The arms race and the risk of nuclear war, which reached its peak in the Cuban missile crisis of 1961, when Soviet infiltration into the American backyard following the Castro revolution brought the world to the brink of the abyss, made the two leaders realize that the confrontation between the two blocs could also take place on grounds other than the military one²⁴². This was the beginning of the period of détente, a relaxation of tension between the USA and the USSR, which did indeed continue to compete in the search for new favorable alliances that would guarantee greater security with respect to the other, but which did not hold back from forms of cooperation aimed at distancing the nuclear threat, such as the Treaty banning atmospheric testing, the Nuclear Non-Proliferation Treaty, and the SALT I agreements on the limitation of strategic armaments²⁴³.

Such an international environment and such a renewed relationship between the superpowers was also obviously favored by decolonization, which in the 1960s reached its peak, introducing into the system an entire range of new actors and therefore also new challenges for their inclusion: the Non-Aligned Movement was consolidated and new problems arose for the old colonial empires, from that moment

²⁴⁰ McWhinney, E. (1965) *Changing International Law Method and Objectives in the Era of the Soviet-Western Détente*, pp. 1-15

²⁴¹ Gaddis, J. L. (2005) *The Cold War: A New History*, p. 168

²⁴² Trachtenberg, M. (1991) *History and Strategy*, p. 145

²⁴³ Bansal, N. (2023) *Critical Analysis of the Détente Period in the Cold War*, p. 9

forced to renounce significant resources²⁴⁴. This important process should not be underestimated, both, of course, for the effects it had on the bipolar dynamic, and because it had considerable effects on the two main actors in the Malvinas dispute: the natural closeness, in the General Assembly, among former colonies had already helped Argentina almost decisively in seeing Resolution 2065 approved, but would in the future always constitute a safe harbor to compel Great Britain not to abandon or slow down the negotiating process²⁴⁵.

Focusing specifically on Great Britain, this was certainly the country most penalized by the process of decolonization, since it was the largest colonial empire in the world, which had brought the mother country an enormous quantity of wealth, so much needed after the end of the Second World War²⁴⁶. In fact, the restoration of colonial empires after 1945 was supposed to allow the powers to recover what had been spent in carrying on the conflict, mainly in economic terms and raw materials, but it had become increasingly difficult to keep under control territories that had contributed so much to the war effort and now wanted their rights recognized, and were no longer willing to remain mere pawns in the hands of the mother country²⁴⁷. It was precisely for this reason that, although the colonies had been restored, they became progressively uncontrollable and difficult to sustain, turning into a burden rather than a real resource, being also able to rely on the propensity of the two superpowers to bring the empires to an end, as the Suez crisis demonstrated in 1956²⁴⁸.

This chain of events did nothing but exacerbate the severe economic crisis that Britain had already been facing since 1945, as Prime Minister Wilson pointed out to President Johnson in a telegram of 1964: "Now that we have examined all the facts I find the situation is even worse than we had supposed. In brief, we are faced with a probable deficit on external account for this year which may be as high as £800 million; and a suspected deficit, for next year, if we do nothing about it, which, while much less, would still be quite unacceptable. My colleagues and I have therefore determined to take firm remedial measures. In deciding on our programme of action we have been guided by two main purposes. First, to avoid a repetition of the stop and go policies which have plagued the steady growth of the British economy since the end of the war. Secondly, to ensure that the short term measures which are necessary to meet the immediate situation should not hamper our action to get the balance of the economy right for the longer term. We have considered and rejected two alternative courses of action: the first,2 with all its repercussions on the international exchanges, will be obvious

²⁴⁴ Westad, O. A. (2005) *The Global Cold War: Third World Interventions and the Making of our Times*, p. 100

²⁴⁵ Terragno, R. (1996) *Malvinas: la trama secreta*, p. 57

²⁴⁶ Darwin, J. (1988) *Britain and Decolonisation: The Retreat from Empire in the Post-War World*, p. 14

²⁴⁷ Low, A. (1998) *Britain and the End of Empire*, p. 30

²⁴⁸ Westad, O. A. (2005) *The Global Cold War: Third World Interventions and the Making of our Times*, p. 107

to you, and this we have rejected now, and for all time; the second, an increase in interest rates, I am against in principle both because of its restrictive effect on the economy and because of its impact on your own problems, especially at this time. Our immediate situation has to be dealt with by means which we would, of course, have preferred to avoid both for the sake of the British public at home and our friends overseas”²⁴⁹.

Such a domestic context, combined with the loss of the main sources of wealth of the past, forced the British leadership to take drastic decisions in foreign policy. The guideline in this respect was dictated by the White Defence Paper, or Statement on the Defence Estimates, of 1966, the document that established the measures to be taken in the field of defence on the basis of the country’s international position, which was clearly influenced by domestic political variables, and in which it was recognized that military expenditure had become unsustainable for the state coffers, making it necessary to reduce commitment in that field to the bare minimum, namely the obligations linked to NATO and the Commonwealth²⁵⁰. From this document thus came the decision to demilitarize the area that was called “East of Suez”, which included some outposts in the Persian Gulf and in Southeast Asia, including the British protectorate of Aden, and which would continue for the following five years²⁵¹. This was the most well-known case, above all because of its extension, but other bases were also subject to such defensive downsizing, including the Falklands themselves, which suffered a reduction in the military personnel stationed in the archipelago, in a certain sense also favored by the positive climate that the beginning of negotiations was bringing, but which in a short time actually turned into the first real exception to the Defence White Paper, since Operation Condor, a reckless incident caused by some Argentine citizens, and which will be discussed later, made the British realize that tension in the archipelago could not be underestimated, and that it was necessary for the military presence to be restored to its previous level²⁵².

This forced renunciation of the possibility of playing a significant global role did not follow the same direction as what the United States was doing at the time, seeking to take advantage of decolonization to expand its zone of influence in the world²⁵³. This meant, on the British side, a forced distancing from the historic ally, since it would have been too risky and economically burdensome to follow the superpower in its worldwide competition, something that Britain, at that precise moment in its history,

²⁴⁹ Foreign Office (1964) *Outward telegram no 12331 from FO to Washington transmitting a message from Mr Wilson to President Johnson, 23 October 1964*

²⁵⁰ Freedman, L. (1980) *Britain and Nuclear Weapons*, p. 155

²⁵¹ UK Ministry of Defence (1966) *Defence White Paper*

²⁵² Freedman, L. (2005) *The Official History of the Falklands Campaign, Vol. 2: War and Diplomacy* p. 32

²⁵³ Kennedy, P. (1987) *The Rise and Fall of the Great Powers: Economic Change and Military Conflict from 1500 to 2000*, p. 511

could not afford²⁵⁴. To confirm this, a report from the United States Embassy in London stated: “While British officials remain committed to the Atlantic alliance, there is no illusion that the ‘special relationship’ can continue on the basis of shared global responsibilities. The economic crisis and the withdrawal from East of Suez compel a redefinition of British priorities”²⁵⁵, in connection with which a comment by Prime Minister Wilson during a cabinet meeting must be read: “the Prime Minister said that the term ‘special relationship’ has become more of a sentimental label than a description of practical arrangements”²⁵⁶. Overall, it was an extremely difficult moment for Great Britain, which at the same time lost the source of resources that had enabled it to maintain its position as a great power even after the First World War, and was forced to loosen its connection with its historic ally, the one that had until then most contributed to post-1945 reconstruction.

It was because of all this that the British leadership was forced to look around and seek new allies, this time territorially closer, in order to minimize the expenditure of resources²⁵⁷. Hence the approach, not surprisingly, to the European cause, which was experiencing a particularly flourishing period of its integration, further strengthened by the creation of the European Economic Community, which extended the areas of cooperation from the mere joint management of raw materials to the creation of a common agricultural policy and the establishment of a genuine common market characterized by the abolition of customs barriers²⁵⁸. The first British attempt to enter the EEC, dating back to 1961, met with a negative French response, with a consequent veto, and in particular that of President De Gaulle, who at first linked his refusal to the non-belonging of Britain to continental Europe, whose structures differed so substantially from those of the United Kingdom as to destabilize the balances that had been created within the Community, while when, in 1967, the Wilson government made a second attempt to join, the further Gaullist refusal was this time motivated on the basis of the profound economic and financial crisis in which Britain found itself, which would have damaged an organization in the process of consolidation²⁵⁹. In the end, in 1971, the United Kingdom was able to enter the EEC, De Gaulle was no longer in power in France, replaced by Georges Pompidou, who adopted a less intransigent position than his predecessor, closing in a short time and positively the negotiations with the new Heath government²⁶⁰. The result was the necessity to approach and rely, for the first time, on a mechanism of multilateral cooperation that required the pooling of certain state

²⁵⁴ Greenwood, S. (2000) *Britain and the Cold War, 1945-1991*, p. 79

²⁵⁵ US Department of State (1966) *Foreign Relations of the United States 1964–1968*, vol. XII, document 132 (27 July 1966)

²⁵⁶ UK Cabinet Office (1967) *Cabinet Minutes CAB 128/43*

²⁵⁷ Kennedy, P. (1987) *The Rise and Fall of the Great Powers: Economic Change and Military Conflict from 1500 to 2000*, p. 514

²⁵⁸ Milward, A. S. (2000) *The European Rescue of the Nations-State*, p. 187

²⁵⁹ Gilbert, M. (2021) *History of European Integration 1945-2020: A Political and Economic Perspective*, p. 118

²⁶⁰ Archer, C. (2001) *The European Union: Structure and Process*, p. 55

resources, something that was completely new for Great Britain, and it was many times difficult to digest it, something that inevitably characterized its participation in the project, always marked by ambivalences and real steps backward²⁶¹.

It was a period of necessary transition for Great Britain, a search for new balances, major compromises, and defeats, a moment in which it seemed possible to tame the historic British power, in which it might have been possible to achieve a decisive diplomatic victory over the Falklands, but Argentina was also struggling.

3.1.2 Political instability and the return of peronism

The Cuban Revolution and the victory of communism in a South American country had significant repercussions even within Argentina itself, since much of the population had never fully accepted the dethronement of Perón by the military, temporarily appeased by the calling of general elections which brought a Radical Party victory. The weakness these governments showed, especially in not fiercely pursuing the fight against communism, which had become even more urgent following the Castroist victory, but rather maintaining pragmatic relations with the USSR and other Soviet countries, led to their dissolution by a new military regime. This regime immediately embarked on openly pro-American policies, partially abandoning the Third Position²⁶². The debate, which had become typical since the postwar period, about Argentina's position in the world and the effectiveness of its economic model, remained highly relevant. In fact, the regime led by Onganía sought to continue along a line of continuity with the previous military government and an import substitution economic model, but the international context had changed just as profoundly. The shift was from competitive coexistence to peaceful coexistence; Kissinger's opening towards China and China's break with the USSR were striking examples of the progressive globalization and interdependence of international relations, far from rigid divisions²⁶³.

The decision by the military leadership to openly side with the USA in direct opposition to communism represented a misjudgment of the new global landscape. It was an example of the tendency toward excess typical of Argentina's leadership during the second long cycle of foreign policy, an endemic inability to understand state dynamics, which made the country appear unreliable in the eyes of other states, being unpredictable and in some ways even uncontrollable²⁶⁴. The clearest

²⁶¹ George, S. (1990) *An Awkward Partner: Britain in the European Community*, p. 41

²⁶² Russell, R. (1996) *Sistemas de creencias y política exterior. 1976-1989*, p. 13

²⁶³ Di Nolfo, E. (2015) *Storia delle Relazioni Internazionali. Gli Anni della Guerra Fredda (1946-1990)*, pp. 563-572

²⁶⁴ Russell, R. (2010) *La Argentina del Secundo Centenario: ficciones y realidades de la política exterior. En Argentina 1910-2010. Balance del siglo*, pp. 238-281

example in this period was the cold reception given to Argentina's declaration regarding Cuba during the twelfth meeting of the OAS Foreign Ministers held in Washington in 1967: the minutes of the session report the results of the discussion about the repeated interventions by the Cuban government in financing guerrilla fighters who were spreading panic in Bolivia and Venezuela. The conclusion was that it was necessary to continue the embargo against the regime and implement stricter surveillance actions, similar to how the UN acted when dealing with comparable situations²⁶⁵. José Paradiso's studies, however, report a voice out of tune during the internal debates of the meeting, namely, Argentina's. Argentina adopted such a hardline and belligerent stance, even going so far as to suggest the possibility of armed intervention against Cuba, that it ended up isolated among the other member states, not followed even by the directly concerned countries (Bolivia and Venezuela), and certainly not gaining the favor of the United States²⁶⁶.

Difficulties and mistakes in the search for its own place in the world were compounded by the struggles of an economic model that could no longer keep pace with an increasingly globalized international trade. Despite this, the military government defended it to the very end, nullifying the country's potential growth during those years. This had some significant effects: firstly, external ones, as Brazil began its ascent toward South American primacy in a long-standing rivalry between the two countries, a rivalry that Argentina had always viewed with great apprehension, as well as the risk that the former Portuguese colony could form a virtually insurmountable power bloc with the United States²⁶⁷. In this sense, the rapprochement and search for forms of cooperation with other South American countries during the military government can be understood as explicitly aimed against Brazil. Similarly, the partial abandonment of the Third Position in favor of a more explicit support for U.S. interests should be viewed in the same light²⁶⁸. Then there were internal effects, such as the growing discontent among the population, who were becoming tired of enduring harsh military regimes that intervened supposedly to improve the situation but instead only worsened it, depriving the country of political stability that was not reciprocated by economic stability, as Peronism was offering, albeit clearly at the expense of democracy. Since his ousting, Perón had never lost popular support, especially from those social classes who, for the first time, had received political attention, and who from the very beginning of their president's exile organized themselves to favor his return. Numerous Peronist movements were born and operated from 1955 onward, but the most renowned

²⁶⁵ Organización de los Estados Americanos (1967) *Acta Final de la Duodécima Reunión de Consulta de Ministros de Relaciones Exteriores*

²⁶⁶ Paradiso, J. (2009) *Inestabilidad institucional, estrategias de desarrollo y política exterior: 1955-1973*. En *Debates y trayectoria de la política exterior argentina*, p. 144

²⁶⁷ Busso, A. Actis, E. Novello, M. R. (2017) *La geometría de la Política Exterior Argentina (1989-2015). Fin del diseño triangular e irrupción de un nuevo vértice: las relaciones con Estados Unidos, Brasil y China*, pp. 13-51

²⁶⁸ Robert Russell (1995) *Los ejes estructurantes de la política exterior argentina: apuntes para un debate*

and remembered was the Montonero Peronist Movement, simply known as the Montoneros, who began to act more decisively from the mid-1960s, contributing to making the military government's rule difficult, if not impossible, especially when in 1970 a Montonero commando managed to capture and kill General Pedro Aramburu, the man who had led the anti-Peronist coup in 1955²⁶⁹. In the end, the regime could not withstand the pressure, the economic stagnation, and the internal violence, and decided to call elections for 1973, allowing Peronism to return to the electoral race from which it had been excluded for nearly twenty years, but without its leader, who was not permitted to return to the country²⁷⁰. It was really only a matter of time, as the Peronist candidate Héctor Cámpora won that election, approved amnesty for Perón, who was then able to return triumphantly to Argentina, win the elections called after Cámpora's strategic resignation, whose government lasted exactly 73 days, and reclaim the long-desired presidency. It was at the IV Conference of Non-Aligned Countries that the new president outlined the main lines of government policy:

“1. - The integral defense of national sovereignty in all our territory and especially on Argentina Antarctica, the Falkland Islands and their independent islands.

2.- The exercise of Social Justice, Economic Independence and Political Sovereignty, as bases to ensure each people of the world their own happiness, through the realization of their own justice and freedom.

3.- The Third Position as a universal solution distinct from dogmatic international Marxism and capitalist demoliberalism, which will lead to the annulment of all imperialist rule in the world.”²⁷¹

It was precisely the Third Position that Perón immediately restored upon returning to power, trying from the start to demonstrate that Argentina could regain a certain degree of freedom of action on the international stage, which however had to be focused on solving internal economic problems. To do this, he maintained, on the one hand, the import substitution model but at the same time opened it up

²⁶⁹ Paradiso, J. (2009) *Inestabilidad institucional, estrategias de desarrollo y política exterior: 1973-1983*. En *Debates y trayectoria de la política exterior argentina*, p. 170

²⁷⁰ Paradiso, J. (2009) *Inestabilidad institucional, estrategias de desarrollo y política exterior: 1973-1983*. En *Debates y trayectoria de la política exterior argentina*, pp. 167-168

²⁷¹ Perón, J. D. (1973) *Mensaje a la IV Cumbre de Países No Alineados* (Orig. Spanish) “1.- La defensa integral de la soberanía nacional en todo nuestro territorio y especialmente sobre la Antártida Argentina, las Islas Malvinas y sus islas independientes.

2.- El ejercicio de la Justicia Social, la Independencia Económica y la Soberanía Política, como bases para asegurar a cada Pueblo del mundo su propia felicidad, mediante la realización de la propia justicia y la propia libertad.

3.- La Tercera Posición como solución universal distinta del marxismo internacional dogmático y del demoliberalismo capitalista, que conducirá a la anulación de todo dominio imperialista en el mundo.”

to European investments that would bring into the country a massive flow of capital capable of revitalizing the economy, also because the new international context, ever more globalized and interdependent, allowed it, as well as, this time truly, allowed Argentina to maintain a position distinct from the two competing blocs, something practically impossible in 1945²⁷². This is why, when the adverse conjuncture arose, namely the 1973 oil crisis caused by the Yom Kippur War between Israel and Egypt, which led the oil-exporting countries, members of OPEC, to sharply increase prices, triggering a severe crisis in the United States and forcing President Nixon to announce the suspension of the dollar's convertibility, thus halting what had been the engine of the free market since the end of World War II, and ultimately causing Western countries to respond with protectionist measures, the Peronist government was able to redirect its economic focus toward the countries of the Eastern bloc, including the Soviet Union, already an important trade partner during the first two postwar mandates. This shift did not provoke significant reactions from the United States, except for tensions triggered when Perón met with Fidel Castro and decided to open a line of credit with Cuba, tensions that, however, never escalated into serious incidents²⁷³.

While on the foreign policy front it seemed that Argentina could truly express an autonomous position, able to navigate between blocs by maintaining pragmatic relations on both sides and enjoying the support of the Non-Aligned Movement, the internal situation was far from idyllic. Citizens' living conditions did not improve, social expenditures once again became a heavy burden on the State's finances, and the Peronist movement itself was not united as its leader tirelessly tried to convey. In fact, the movement had split into two factions: a more moderate right-wing Peronist faction, which included Perón's third wife, Isabel, and a left-wing faction composed of guerrillas who had lived clandestinely and fought against the military to bring the aging leader back to the country, leaving him with the unenviable task of mediating between the two sides. Perón's third term was overall very short-lived, as the president died in July 1974, leaving the reins of the country to his wife, "Isabelita," supported by his most trusted advisor and the true leader of the Peronist right, José López Rega. López Rega was the architect of the decision to definitively eliminate the Montoneros movement through the creation of a paramilitary force known as the Triple A, which embarked on a neighborhood-by-neighborhood civil war that sowed panic among the population, further worsening an already extremely difficult internal situation²⁷⁴.

²⁷² Paradiso, J. (2009) *Inestabilidad institucional, estrategias de desarrollo y política exterior: 1973-1983*. En *Debates y trayectoria de la política exterior argentina*, p. 170

²⁷³ Paradiso, J. (2009) *Inestabilidad institucional, estrategias de desarrollo y política exterior: 1973-1983*. En *Debates y trayectoria de la política exterior argentina*, p. 171

²⁷⁴ Gillespie, R. (1982) *Soldiers of Perón: Argentina's Montoneros*, pp. 45-48

It was precisely due to the chaos reigning in the country, and the very limited results achieved by the government, that in 1976 the military once again decided to take control of the situation, overthrowing Isabelita's government and establishing yet another military dictatorship, known as the "*Proceso*," led by General Jorge Rafael Videla.

Having provided a comprehensive overview of the experiences of the two States during the period covered in the third chapter, it will be important to keep this context in mind when analyzing the negotiations over the Falklands, as the great instability both countries experienced significantly influenced the diplomatic events, intertwining with many of the occurrences outlined so far.

3.2 First approaches, divergences and incidents

3.2.1 The Stewart-Zavala Ortiz statement and the beginning of negotiations

The adoption of Resolution 2065 by the United Nations General Assembly represented the success of Argentine diplomatic efforts in the multilateral arena, yet the issue was far from resolved and was transferred to a domain where achieving a definitive outcome was arguably more difficult, that is, the bilateral level. In this context, both main actors, as in any bargaining situation, started from extreme positions and from there sought to find common ground to reach a shared solution²⁷⁵. This would have been possible only if both parties had been genuinely willing to resolve the dispute. However, as will be shown, from the outset the British diplomatic strategy aimed to stall the sovereignty discussion, seeking instead to use the issue to address broader concerns related to the international situation and, more generally, to Britain's position in the Cold War.

The intervention of the United Nations in the dispute completely disrupted the British leadership's plans, which had intended simply to indefinitely ignore Argentine claims. Instead, they found themselves compelled to confront yet another delicate issue at a time when longstanding certainties underpinning their foreign policy were rapidly unraveling.

This context helps explain the initially positive attitude toward bilateral negotiations. Indeed, in January 1966, Foreign Secretary Michael Stewart undertook, for the first time in history, an official visit to Argentina, where he held preliminary informal talks with his counterpart Miguel Ángel Zavala Ortiz. These meetings culminated in the first joint declaration on the Malvinas issue, known as the

²⁷⁵ Morrow, J. (1994) *Game theory for political scientists*, pp. 23-25

Zavala Ortiz-Stewart communiqué, officially marking the beginning of formal negotiations²⁷⁶. The full text of the communiqué is reproduced below because it serves as an essential starting point to outline the fundamental characteristics of the respective positions and the objectives that the leaderships had set in the course of the negotiations:

“The Ministers discussed the differences between the Government of the United Kingdom and that of the Argentine Republic on the Malvinas. In accord with the spirit of conciliation which inspired the resolution of the twentieth general Assembly of the United Nations approved on 16 December 1965, they have carried out a valuable and frank exchange of views, in the course of which both Ministers restated the positions of their respective governments. Finally, as a result of this exchange, both Ministers have agreed that discussions recommended by this resolution should be pursued without delay through diplomatic channels, or such other means as may be decided with the purpose of finding a peaceful solution to the problem and to prevent this question affecting the excellent relations existing between Argentina and the United Kingdom. The Ministers decided to transmit this decision to the Secretary General of the United Nations”²⁷⁷.

The reiteration of their respective positions established the starting point, the two extremes that, at some stage, would need to converge. The primary objective of the Argentine leadership was, naturally, the complete restoration of sovereignty over the islands to their country. This entailed, above all, striving by every means to exclude the islanders from the discussion, thereby preventing the principle of self-determination from becoming an integral part of the negotiations, a principle whose recognition had already been fiercely contested during the UN resolution process²⁷⁸. Both the objective and the means to achieve it had been clearly outlined and could be summarized in the awareness that the discussion needed to remain bilateral, avoiding the involvement of any potentially immovable third party, especially one with veto power. At the same time, however, the engagement of the islanders had to be avoided on an issue that, as constructed by Perón, had become a core part of Argentine cultural identity and national consciousness. Their involvement risked triggering

²⁷⁶ Consejo Argentino para las Relaciones Internacionales (1999) *Tomo XII: La diplomacia de Malvinas (1943-1989)*, pp. 51-52

²⁷⁷ Zavala Ortiz, M. A. & Stewart, M. (1966) *Comunicado de prensa sobre Malvinas*. (Orig. Spanish) “Los ministros, Miguel Zavala Ortiz y Michael Stewart, consideraron la diferencia existente entre el gobierno argentino y el del Reino Unido sobre las Islas Malvinas (Falkland). De acuerdo con el espíritu de conciliación que ha inspirado la Resolución de la XX Asamblea General de las Naciones Unidas aprobada el 16 de diciembre de 1965, ambos Ministros efectuaron un valioso y franco intercambio de puntos de vista, en el curso del cual los Ministros reiteraron las posiciones de sus respectivos gobiernos. Finalmente, como resultado de esas conversaciones, los dos Ministros han coincidido en proseguir sin demora las negociaciones recomendadas en la citada resolución por la vía diplomática o por aquellos medios que puedan acordarse a fin de encontrar una solución pacífica al problema e impedir que la cuestión llegue a afectar las excelentes relaciones que vinculan a la Argentina y al Reino Unido. Ambos Ministros acordaron transmitir esta decisión al Secretario General de las Naciones Unidas.”

²⁷⁸ Gonzalez, M.A. (2013) *The Genesis of the Falklands (Malvinas) Conflict*, pp. 62-63

unilateral actions by popular groups and could seriously undermine the negotiation process, since diplomacy inherently requires patience and time to produce results, qualities often lacking in civil society, particularly during a period when the country was grappling with other crises and still attempting to move beyond the Peronist era. Ultimately, Argentine politicians failed to consider these factors, as evidenced by Zavala Ortiz himself appearing on television to declare a new era of relations with Britain and proclaim that justice had finally been served regarding the Malvinas, thereby raising Argentine public expectations for negotiations that had not even yet begun²⁷⁹.

On the other side of the ocean, the situation facing the British government was equally complex: the very existence of the dispute and the obligation to resolve it affected the country's broader foreign relations, as well as its other colonial possessions worldwide. Most importantly, it was closely linked to the situation in Gibraltar, a territory of far greater strategic significance than the Falklands. Immediate concession of sovereignty to Argentina was therefore impossible, as this would have provided Spain with a powerful argument to demand the return of Gibraltar. At the same time, however, the British could not afford to stall excessively in negotiations with Argentina, as this risked provoking a possible military action over the Falklands, an eventuality for which the United Kingdom was completely unprepared.²⁸⁰, this was especially significant considering that just one month after the Stewart-Zavala Ortiz communiqué, the White Defence Paper came into effect. This policy led to the near-total withdrawal of the marine contingent stationed on the islands, only for a necessary reassessment to follow after the so-called Operation Condor in September 1966. By that time, Argentina was already under the military regime of Onganía, and the first formal round of negotiations had taken place. During Operation Condor, a group of twenty armed Argentines hijacked a commercial airliner and forced it to land in Port Stanley with the objective of capturing the military garrison stationed there. The attempt ended in a farcical failure but heightened British awareness of the archipelago's lack of defenses and the persistent threat of sudden military action. From that point onward, this specter continually influenced internal British discussions on negotiation strategies, necessitating careful calibration to avoid triggering a military response²⁸¹. Such caution proved highly detrimental to the negotiation process, as it signaled that the British government did not trust the Argentine government to control the actions of its population and was wary of potential developments. In response to Operation Condor, the military presence was significantly reinforced (*"the Royal Marine detachment on the Islands, which had been established in 1965 but reduced to*

²⁷⁹ Falkland Wordtime Press. *1960-1971 Decolonization and Rights*, p. 50

²⁸⁰ Gonzalez, M.A. (2013) *The Genesis of the Falklands (Malvinas) Conflict*, pp. 133-134

²⁸¹ Lippincot, D. & Treverton, G. F. (1988) *Negotiations Concerning the Falklands/Malvinas Dispute*, p. 3

one officer and five men in 1966, was restored to platoon strength²⁸²”), a notable exception to the provisions of the Defence Paper but confirmed that the approach advocated by Stewart was fundamentally sound: the British needed to adopt a conciliatory stance and seek a solution that, at some indefinite point in the future, might lead to the transfer of sovereignty²⁸³.

Such a position implied two main courses of action: firstly, it was necessary to bring the sovereignty discussion to a standstill, instead pursuing a gradual transfer of responsibilities and administration to the Argentines. If Argentina truly desired the Falklands, it would need to begin sharing the costs of their maintenance, thereby reducing the isolation of the archipelago by fostering increased communication and connections between the islands and the mainland²⁸⁴. Secondly, and this was a point of convergence with the Argentine strategy, it was essential to exclude the islanders from the negotiations, as they would inevitably oppose any transfer of sovereignty. They could invoke the principle of self-determination in relation to the British Crown, which might lead to potentially disastrous repercussions, especially regarding Gibraltar. However, this also meant operating behind the back of Parliament, since the conservative opposition within it supported the islanders, and some members were even majority shareholders of the Falkland Islands Company (“back in 1965, someone there wrote the Islands had a representative in both Houses of Parliament. Why? Because one FIC director was an MP, as were others, while another was a peer”²⁸⁵), which entailed risks for the stability of the recently established Labour government, then seeking to consolidate its role in British politics²⁸⁶. his stance was confirmed, for example, by Stewart’s speech in the House of Commons, where he reported on the outcomes of his trip to Argentina:

“I did not discuss British sovereignty over the Falkland Islands with the Argentine Government; Her Majesty’s Government does not consider that this is negotiable. I did, however, suggest that the Argentine Government should consider the removal of obstacles to free movement between Argentina and the Falkland Islands. We hope to discuss that subject again during further talks with Argentine officials.”²⁸⁷

In continuity with this discourse, the events following Onganía’s rise to power warrant attention: Argentine sources report that the British Undersecretary of State for the Americas, part of the Foreign Office, invited the Argentine chargé d’affaires to lunch, during which he conveyed advice that the

²⁸² Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, p. 5

²⁸³ Lippincot, D. & Treverton, G. F. (1988) *Negotiations Concerning the Falklands/Malvinas Dispute*, p. 3

²⁸⁴ Gonzalez, M.A. (2013) *The Genesis of the Falklands (Malvinas) Conflict*, pp. 143-145

²⁸⁵ Crowie, B. (1994) *Written evidence submitted to the UK Parliament Citizenship Commission* (Evidence No. 124144)

²⁸⁶ Machinandiarena de Devoto, L. (2020) *Negociaciones para la firma de un memorándum de entendimiento argentino-británico relativo a las Islas Malvinas (1966-1968) según la documentación del foreign office*, pp. 6-7

²⁸⁷ UK Parliament (1966) *Hansard col.161W, January, 31 1966*

latter subsequently reported back to his government: “if they want to conquer the hearts and souls of the islanders, [the Argentines] must try to be friends and prove that they [the islanders] would be better with them”²⁸⁸. This marked the beginning of what would later be termed the “seduction policies”²⁸⁹, that is, the strategies aimed at persuading the islanders to exercise their right to self-determination, but specifically in favor of Argentina. The critical point, as previously emphasized, was that at that moment the principle of self-determination could not and must not be incorporated into the equation.

It was precisely on this issue that the first two rounds of formal negotiations reached a stalemate. The first round took place in July 1966, before Operation Condor, and was essentially a continuation of the communiqué issued a few months earlier, with the Argentine delegation reiterating that the only acceptable solution to the dispute was the return of sovereignty to its legitimate owner²⁹⁰, while also presenting the first proposal to safeguard the rights of the islanders, particularly that “in accordance with the rights and guarantees established in the Argentine Constitution my Government will assure the small number of inhabitants of the Islas Malvinas full enjoyment of their civil rights and religious freedom. Likewise, it will authorize the use of the English language both in schools and other activities, in order to avoid any harm to their interests. Moved by the same spirit it is prepared to consider exemption from military service for the inhabitants for a period to be determined”²⁹¹.

This partial Argentine opening was met with a corresponding British concession during the second round of negotiations in November 1966, which saw the participation of Her Majesty’s new Foreign Secretary, George Brown, whose more conciliatory nature became evident in the acceleration of the talks from that point onward²⁹². At this juncture, just two months after Operation Condor and with a real fear that an Argentine attack could come at any moment, the British entourage realized that they too had to make some concessions to Argentina’s demands. For this reason, a proposal was made to freeze the sovereignty issue for thirty years, during which British rights would be protected, but Argentina would have all the time necessary to establish connections between the mainland and the islands, allowing the *Kelpers* to become more familiar with the country. Thus, at the end of this period, the islanders themselves would be free to decide whether to accept governance by the South

²⁸⁸ Consejo Argentino para las Relaciones Internacionales (1999) *Tomo XII: La diplomacia de Malvinas (1943-1989)*, p.52 (Orig. Spanish) “*si quieren conquistar los corazones y las almas de los isleños, [los argentinos] deben probar ser amigos y demostrar que ellos [los isleños] estarían mejor con ustedes*”

²⁸⁹ Cassese, N. (2005) *¿Seduciendo lo imposible? La estrategia argentina sobre Malvinas*

²⁹⁰ Ministerio de Relaciones Exteriores, Comercio Internacional y Culto (2023) *Las negociaciones diplomáticas por la cuestión Malvinas (1966-1982)*, p. 26

²⁹¹ Foreign Office (1973) *Research Department Memorandum: The Falkland Islands Dispute: Developments from 1965 -1968 (May 3, 1973) Annex 3 in FO 7/3201 attached to 281*

²⁹² Beck, P. (2014) *The Falkland Islands as an International Problem*, pp. 110-111

American country²⁹³. Although a possible sovereignty transfer seemed to be on the horizon, the Argentine government rejected the proposal because such a transfer was not entrusted to the British government, but implicitly recognized the principle of self-determination for the islanders, who would thus have been free to choose which side to support. This was not part of the Argentine leadership's plans, which, from the beginning, tended to exclude self-determination for it not to collide with the violated territorial integrity, and, moreover, to keep excluding the islanders from having some sort of veto power²⁹⁴.

Furthermore, this was the last formal meeting concerning the Falklands, that is, the final one of those structured meetings that followed immediately after Resolution 2065, which were scheduled and whose content had to be reported to the United Nations Secretary-General. From this point onward, negotiations shifted mainly to an informal level, resulting in even more frequent meetings.

3.2.2 Informal negotiations and the 1968 Memorandum of Understanding

The shift to a more informal negotiating environment had as its primary consequence the broadening of the range of state actors who could contribute to achieving results, but at the same time it risked further prolonging the stalemate that was already effectively taking shape. It was necessary to find common ground amid the existing divisions, that is, to try to bring the sovereignty issue back to the table and to assess the role of the islanders in this regard.

This was the main dilemma that Brown had to face, but it was the international situation confronting his country that made him realize some concessions had to be made, both because this would leave a wider margin of maneuver regarding Gibraltar, and because the Falklands held no strategic value for Britain at that moment²⁹⁵, as confirmed: “firstly that the islands are not only useless to us but a political embarrassment, and secondly that we must pay due regard to the wishes of the islanders²⁹⁶”. From this general line of thought emerged the historic decision to guarantee the future transfer of the islands to Argentina²⁹⁷, sealed in the negotiating instructions issued by the Colonial Office to the British delegation that was to present them to the Argentines. However, before being delivered, they were further modified by Brown, who shortened the transition period for the opening of all communications between the mainland and the islands from thirty to ten years. Additionally, he

²⁹³ Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, pp. 5-7

²⁹⁴ Gonzalez, M.A. (2013) *The Genesis of the Falklands (Malvinas) Conflict*, pp. 182-183

²⁹⁵ Gonzalez, M.A. (2013) *The Genesis of the Falklands (Malvinas) Conflict*, p. 135

²⁹⁶ Foreign and Commonwealth Office (1967) *Minute by MacLehose, 17.2.67, FCO 7/144*

²⁹⁷ Beck, P. (2014) *The Falkland Islands as an International Problem*, pp. 110-111

stipulated that the guarantees offered by Argentina had to be deemed acceptable by the islanders, using a more flexible wording that avoided the need for a *referendum*, which would certainly have been rejected by the Argentines, but still opened the door to obtaining the islanders' consent through more informal means.²⁹⁸

The proposal was presented in March 1967 to the Argentine ambassador to the United Kingdom, Eduardo McLoughlin, who immediately acknowledged the significant step forward that Britain was taking to resolve the issue. At the same time, however, he remained firm on the problem of the islanders: the formula used could potentially lead to a referendum and put everything in the hands of the *Kelpers*. Argentina could not take such a major risk precisely at the moment when the British will to part with the colony had become clear. A definitive judgment by the islanders could not be trusted, and likewise, the ambassador could not understand why the British entourage was so concerned about the fate of the *Kelpers*, whose fundamental rights and interests, in his view, would certainly be preserved²⁹⁹. Did they not trust the Argentine government's good faith and word? Did they consider a military and non-democratic government so unreliable? Or were they instead trying to place themselves in a position to let the islanders decide to remain under British sovereignty, thus closing the matter once and for all? In any case, neither side fully trusted the intentions of the other, and the Argentine delegation rejected the proposal in April³⁰⁰.

As further confirmation of the above, the issue of terminology created a significant divide between the two positions: using the word *desires* left room for a purely subjective dimension that considered factors different from the objective advantages of proximity to Argentina. In this sense, *desires* encompass national belonging and the feeling of being culturally British, while *interests* concern lifestyle, the availability and quality of services, and which party could best and most swiftly provide them. This is why the Argentine leadership tried in every possible way to bring about a change in the terminology regarding what aspect of the islanders was to be satisfied; in their view, this concession could have unlocked a deadlock that the British, instead, attributed to McLoughlin's intransigence. So much so that they pushed to move the center of negotiations to New York, at the level of Permanent Missions, thus handing the reins to Ruda, whom the British considered more trustworthy and likely more flexible³⁰¹. However, before the Argentine representative could begin bridging the growing divide between the two sides, a cold shower came from Gibraltar: the situation had already become extremely tense, as the Spanish regime had closed the airspace around the Rock, prompting the British

²⁹⁸ Gonzalez, M.A. (2013) *The Genesis of the Falklands (Malvinas) Conflict*, pp. 179-180

²⁹⁹ Gonzalez, M.A. (2013) *The Genesis of the Falklands (Malvinas) Conflict*, pp. 182-183

³⁰⁰ Foreign and Commonwealth Office (1968) *Falkland Islands and Dependencies Report for the Year 1966 & 1967*

³⁰¹ Gonzalez, M.A. (2013) *The Genesis of the Falklands (Malvinas) Conflict*, pp. 184-185

to announce a referendum to be held in September of that same year. This, of course, further complicated the negotiations on the Falklands front³⁰².

It was in this renewed context that the two delegations, led by Foreign Ministers Brown and Costa Méndez, met in New York in June 1967 during a UN meeting to try to find common ground. The announcement of the referendum in Gibraltar compelled the British government to insist on consulting the islanders in order to maintain consistency between the two situations, while Costa Méndez, feeling close to signing an agreement, would have been willing to make some concessions, provided that the wishes of the *Kelpers* were reframed as interests, as required by Resolution 2065³⁰³. Once this condition was secured, during yet another meeting in New York, this time in September, the Argentine minister agreed to the opening of communication lines with the islands, in order to bring them out of their centuries-long isolation. Most importantly, he also accepted the possibility of consulting the islanders on the matter, but only on the condition that the sole topic of discussion would be the rights that Argentina would be required to guarantee. This process, he insisted, would never turn into a referendum but would remain strictly within the informal sphere³⁰⁴.

Argentina's willingness to consult with the *Kelpers*, while on one hand aligning the Falklands issue with that of Gibraltar, also brought with it a range of problems tied to the fact that, up to that point, everything had been kept secret and the islanders had not been consulted at all regarding the modalities of the transfer of the archipelago to Argentina. This meant that the islanders would be faced with a *fait accompli*, with their only role being to express their level of satisfaction with the guarantees offered by their neighbors³⁰⁵. A particularly complex dialogue was on the horizon, as it would inevitably involve public opinion, Parliament, and the press at home. Therefore, it was necessary to formalize the progress made during the negotiations in a written agreement as soon as possible, in order to take a step forward that could not be reversed. This explains why, following the meetings in New York, the United Kingdom presented a proposal for an agreement in November 1967, in the form of a Memorandum of Understanding:

“Desirous of responding in a positive spirit to the views expressed by Dr. Costa Mendez in New York, Her Majesty's Government, after careful consideration, now wish to offer the following proposals for the solution of the outstanding points of disagreement. Her Majesty's Government propose that the position so far reached in the talks should be recorded in a Memorandum of Understanding... In this connection, the Argentine Government will note that, according to the terms of paragraph 4... Her

³⁰² Gonzalez, M.A. (2013) *The Genesis of the Falklands (Malvinas) Conflict*, p. 179

³⁰³ Falkland Wordtime Press. *1960-1971 Decolonization and Rights*

³⁰⁴ Gonzalez, M.A. (2013) *The Genesis of the Falklands (Malvinas) Conflict*, p. 197

³⁰⁵ Bologna, A. B. (1992) *El conflicto de las Islas Malvinas*, p. 116

Majesty's Government would not feel able to regard the "safeguards and guarantees" as satisfactory unless they were satisfied that the population of the Islands was ready to accept them. Her Majesty's Government would be obliged to explain this publicly at the time of the announcement of the Memorandum of Understanding"³⁰⁶.

The draft presented to Ambassador McLoughlin also included the condition that the final text should not be made public until the government of the islands had given its consent to support the British solution. Consequently, visits from senior officials of the Colonial Office began to test the waters and start addressing the issue³⁰⁷. Meanwhile, at the end of November, the Argentine ambassador's response arrived at the Foreign Office, which was reported as follows: "... his Government had given very careful study to the British proposals handed to him on 10 November. They accepted that an agreement should be drawn up in the form of a Memorandum of Understanding, and that its publication should be deferred... (he) said that the Argentine Government wished to review the wording of paragraphs 2, 3 and 4... As expected, the most important point of difficulty for the Argentines was the phrase "are acceptable to the population of the Islands..."³⁰⁸.

Once again, the sticking point remained preventing the *Kelpers* from exercising any kind of veto power, since the first version of paragraph 4 of the Memorandum stated that: *el gobierno del Reino Unido ha indicado que como parte de tal arreglo final estará preparado a reconocer la soberanía argentina sobre las islas con efecto a partir de una fecha a ser convenida, a condición de que el gobierno del Reino Unido esté satisfecho en el momento apropiado de que las salvaguardias y garantías ofrecidas por el gobierno argentino sean aceptables a la población de las islas*³⁰⁹. This wording still left the islanders some room to maneuver in deciding which guarantees and safeguards might be considered acceptable; they could thus influence the British government in this regard. The Argentine counterproposal, however, sought to close all doors in this direction: *...a condición de que el gobierno del Reino Unido esté satisfecho en el momento apropiado (i) de que la población de las islas Malvinas/Falkland comprenda plenamente los beneficios y la eficacia de las salvaguardias y garantías ofrecidas por el gobierno argentino, y (ii) que los intereses de la población han sido completamente asegurados*³¹⁰. The aim was still to present the inhabitants solely with a *fait accompli*,

³⁰⁶ Foreign Office (1973) *Research Department Memorandum: The Falkland Islands Dispute: Developments from 1965 -1968 (May 3, 1973) Annex 5 in FO 7/3201 attached to 281.*

³⁰⁷ Machinandiarena de Devoto, L. (2020) *Negociaciones para la firma de un memorándum de entendimiento argentino-británico relativo a las Islas Malvinas (1966-1968) según la documentación del foreign office*, p. 7

³⁰⁸ Foreign and Commonwealth Office (1967) *Summary of the message delivered by Argentina's Ambassador McLoughlin to the Foreign Office, November 30, 1967, FCO 42/67*

³⁰⁹ *Primer Borrador del Memorandum de Entendimiento de 1968 (1967)*

³¹⁰ Foreign and Commonwealth Office (1967) *Atkinson to Barker & Diggines, Falkland Islands: Anglo-Argentine Talks, 5/12/1967, FCO 7/145*

without giving them the opportunity to be consulted. Naturally, such a solution was unacceptable in Britain, so the subsequent proposal stipulated that sovereignty would only be transferred when the British government deemed that the islanders' interests were being met by the proposed guarantees and safeguards. The Argentines responded with a final version, dated January 1968, in which they opened the door to the possibility of discussions between the British government and the islanders, from which it could be considered that the latter's interests had been satisfied³¹¹.

While these informal discussions were taking place in London, in Argentina Foreign Minister Costa Mendez began to move on another important front, one that would deprive the islanders of one of their most important allies, but which was also part of the "charm offensive" aimed at familiarising the *Kelpers* with Argentina in order to persuade them to accept a transfer of sovereignty. On their side, however, the islanders were becoming increasingly resentful of having been kept in the dark and of the impression that the government seemed ready to abandon them.

The Argentine attempt to take control of the Falkland Islands Company was set in motion by the Foreign Minister soon after the New York discussions, when, during a television interview, he invited John Phillimore of Baring Brothers bank to explore the possibility of creating an Argentine company that would purchase the Falkland Islands Company, thus establishing an official presence in the islands. Phillimore's response, however, revealed the complications of such an operation: the company was listed on the London Stock Exchange, which had been in less-than-ideal shape for at least two decades. This meant that a deal of this kind, with crucial political implications, could trigger a potentially unsustainable shock to the market. At the same time, neither of the shareholders had any direct ties to the islands, which meant there was no emotional attachment to the company's existence. Phillimore therefore hinted that if there were significant further political developments, the matter could be considered operationally feasible, as shared also by Secretary Brown himself³¹².

Returning to the drafting of the Memorandum, since it was clear that sovereignty could not be transferred against the will of the islanders, the time had come to involve them in the discussions by presenting them with the draft under negotiation, in order to secure their acceptance and thus open the way to a definitive resolution of the dispute. It should be noted, however, that in the preceding months voices from Port Stanley regarding the Anglo-Argentine negotiations had been unequivocal in their refusal to abandon the mother country and in their staunch defence of their national identity; under no circumstances were they willing to come under Argentine sovereignty. Therefore, when the

³¹¹ Machinandiarena de Devoto, L. (2020) *Negociaciones para la firma de un memorándum de entendimiento argentino-británico relativo a las Islas Malvinas (1966-1968) según la documentación del foreign office*, pp. 7-8

³¹² Machinandiarena de Devoto, L. (2020) *Negociaciones para la firma de un memorándum de entendimiento argentino-británico relativo a las Islas Malvinas (1966-1968) según la documentación del foreign office*, p. 8

Governor of the Islands, Cosmo Haskard, arrived in London between late January and early February 1968, he learned of the existence of a draft Memorandum of Understanding in which Britain committed itself to ceding the sovereignty of the islands to Argentina. Unsurprisingly, upon his return and after informing them, the Executive Council of the Falklands expressed firm opposition to the proposal³¹³: “Having studied the text of the broadcast address made by Your Excellency after your return from official "talks" in London, and compared it with draft 'Memorandum of Understanding' at present under discussion between Governments of Britain and Argentina we, the elected and nominated members of your Executive Council are dismayed that so little attention has been or is being paid to the wishes (repeat wishes) of the Islanders. ... Your Excellency's broadcast does nothing to reassure Islanders that their expressed wishes to remain under the British flag will be observed. On the contrary the broadcast suggests that British Government proposes to act sooner or later in precisely the opposite manner and does nothing to dispel the atmosphere of uneasiness, speculation and indeed fear of future now prevailing in the Islands due to secrecy enforced by Whitehall in its handling of our affairs.”³¹⁴

This message was probably the beginning of the end for any hopes of the Memorandum of Understanding coming to fruition, since, as previously noted, there were reasons why the *Kelpers* had been deliberately excluded from the talks until the very last moment, chief among them the risk of parliamentary intervention and the strong opposition of the Conservative faction. In early March, every single member of the British Parliament received a telegram from the Falkland Islands, which was above all a plea for help, but also a direct and unequivocal attack on the actions of the Labour government:

“To Members of Parliament

ARE YOU AWARE THAT - Negotiations are now proceeding between the British and Argentine Governments which may result at any moment in the handing-over of the Falkland Islands to The Argentine.

TAKE NOTE THAT - The Inhabitants of the Islands have never yet been consulted regarding their future – they do NOT want to become Argentines – they are as British as you are, mostly of English and Scottish ancestry, even to the 6th generation – five out of six were born in the Islands – many

³¹³ Machinandiarena de Devoto, L. (2020) *Negociaciones para la firma de un memorándum de entendimiento argentino-británico relativo a las Islas Malvinas (1966-1968) según la documentación del foreign office*, p. 12

³¹⁴ Foreign and Commonwealth Office (1967) *Message from the Executive Council of the Falkland Islands to the Governor Haskard FCO 42/67. Signed by A.G. Barton, R.V. Goss, S. Millar and G.C.R. Bonner.*

elderly people have never been elsewhere – there is no racial problem – no unemployment – no poverty, and we are not in debt.

ARE YOU AWARE THAT - The people of these Islands do not wish to submit to a Foreign Language, Law, Customs, and Culture because for 135 years they have happily pursued their own peaceful way of life, a very British way of life, unique in fact, when you consider that the Islands are 8,000 miles from the Country which they still call 'Home' in spite of the Immigration Act. Lord Caradon said to the General Assembly of the United Nations in 1965: "The people of this territory are not to be betrayed or bartered. Their wishes and their interests are paramount and we shall do our duty in protecting them." British Ministers have said the same until 1967 since when there has been silence.

QUESTIONS - Is our tiny community to be used as a pawn in Power Politics? Do you not feel ashamed that this wicked thing may suddenly be foisted on use? What can you do to prevent it? What are you doing?

WE NEED YOUR HELP!"³¹⁵

It was a decisive move on the part of the islanders, as from that moment the government was forced to face opposition at home, given that, until that moment, Parliament had not been informed in the slightest of the direction in which the negotiations were proceeding, therefore the use of such strong words by the islanders, such as the reference to a transfer of sovereignty that could take place at any time, that the Government had been betraying its citizens for numerous generations and that it was also reneging on the promises made since 1965, they alerted the House of Commons, since such a request for help would also animate public opinion, it was necessary to understand what was really happening and stop a cession of sovereignty that would affect British citizens against their will. This marked also the beginning of the activities of the so-called *Falkland Lobby*, which emerged in this very context under the impetus of Arthur Barton, the local director of the FIC in the archipelago. Barton travelled to Britain specifically to publicize the *Kelpers'* cause and, with the support of the British members of the FIC, secured meetings with high-level parliamentarians and members of the press, achieving, in his own words, considerable success³¹⁶. On 25 March, the *Falkland Islands Emergency Committee* was formally established, bringing together several Conservative MPs. The following morning, they voiced the gravity of the situation during a parliamentary debate, asserting that the United Nations had discredited the principle of self-determination, that the government was

³¹⁵ *To Members of Parliament: appeal regarding the Falkland Islands sovereignty negotiations, March 4, 1968* (1968)

³¹⁶ Ellerby, C. R. (1990) *British Interests in the Falkland Islands: Economic Development, the Falkland Lobby and the Sovereignty Dispute. 1945 to 1989*, p. 152

bypassing its own people and using them as pawns, and that it was contributing to the ongoing dismantling of British imperial power (revealing, in so doing, a certain nostalgia for that imperial past)³¹⁷ and also that: “honour rather than national interest was at the root of the Falklands Lobby's position”³¹⁸. Alongside the political action and the search for parliamentary support, there also followed, inevitably, a social campaign aimed at winning over the British public. The goal was to generate a level of pressure that the government would ultimately be unable to withstand, particularly given its vulnerabilities on other political fronts, until it was forced to abandon the Memorandum project altogether.

Meanwhile, by mid-March, the Foreign Office had once again come under the leadership of Michael Stewart, the architect of the initial negotiating steps following the UN resolution. It was Stewart who took part in the first debate attended by the newly formed Falkland Lobby, and he appeared able to keep the situation under control, both by justifying why sovereignty had been discussed without the knowledge of the islanders, and by reaffirming that no one would forget them and that any agreement would require their approval. At the same time, he insisted that the task of conducting the negotiations and determining their course rested solely with the Government. The key passages of his intervention are reproduced below: “It is the normal practice for talks like this to be confidential, but there are some things which it would be appropriate to say about them now. Our object in conducting these talks is to secure a lasting and satisfactory *modus vivendi* between these islands and Argentina, because we believe this to be a necessary long-term aim of policy. ... We have thought it right, in pursuance of this objective, that the question of sovereignty should be discussed in these talks... if one is genuine in saying that one wants good relations, one cannot refuse to discuss a subject even if one's views and the views of the other party are completely at variance and even if one cannot see, at the beginning of the talks, how those differences are to be reconciled. The House will accept that there was here a genuine problem to be resolved... it would not have been prudent, far sighted and in the interest of the islanders for us to preclude any possibility of discussion by saying that we would not even discuss this question of sovereignty. ... I say this quite clearly, Her Majesty's Government would agree to ... a cession only, first on the condition I have mentioned that it must be part of an agreement fully satisfactory in other respects, and secondly, only if it were clear to us, to the Government in the United Kingdom, that the islanders themselves regarded such an agreement as satisfactory to their interests.”³¹⁹

³¹⁷ Ellerby, C. R. (1990) *British Interests in the Falkland Islands: Economic Development, the Falkland Lobby and the Sovereignty Dispute. 1945 to 1989*, p. 153

³¹⁸ Christie, C. J. (1985) *Nationalism and Internationalism: Britain's Left and Policy towards the F.I.s, 1982-1984*, pp. 23

³¹⁹ UK Parliament (1968) *House of Commons Debate 26 March 1968* vol.761 cc1446-67

Note, in Stewart's words, the attempt to motivate the inclusion of the topic of sovereignty in the negotiations which, according to him, was at some point obliged, given the Argentine position, but at the same time there is reassurance to Parliament about the intent of the Government, which had never forgotten or put aside island interests. In short, nothing new in the Minister's speech regarding British diplomatic position on the Falklands, but it was a necessary step before a Parliament whose only knowledge of the state of the affair at that time was the islanders' appeal, with essentially more critical and alarmist tones. It must be said, however, that Stewart's speech was not only a mere report to the House of Commons and in some way a correction also with respect to the criticisms that had rained down on the Government from that message from the islanders, but he concluded his speech with a strong stance, as if to say that yes, the legislature would have been made aware, but his powers regarding the affair basically ended there:

“That is one condition, that the cession of sovereignty could be considered only as part of an agreement of that nature, but further – notice this – the right to agree to such cession lies with Her Majesty’s Government here. That, of course, is a simple point of law, that the actual power to decide over a transfer of sovereignty lies with Her Majesty’s Government here. But I say this quite clearly, Her Majesty’s Government would agree to such a cession only ... only if it were clear to us, to the Government in the United Kingdom, that the Islanders themselves regarded such an agreement as satisfactory to their interests.”³²⁰

In the House of Lords, tensions were no less acute. Lord Chalfont, Minister at the Foreign Office, echoing Stewart’s statements in the Commons, was compelled to defend himself against a barrage of criticism: “There is no question of bartering over the heads of anybody here. All I have said is that we regard the wishes of the Islanders as being of great importance; and, of course, we have studied those wishes constantly in the course of the negotiations. There is continuing consultation all the time with the Governor of the Falkland Islands about this matter; and, as I say, in all this we shall regard their interests as paramount”³²¹. The main accusations centered on the charge that the Government had assumed the role of arbiter of the islanders’ fate, arrogating to itself the right to decide on their behalf and then effectively compelling them to acquiesce, precisely the course of action which, as the documents above make clear, had been the Foreign Office’s plan all along. Such a tense climate could not fail to produce repercussions on the international stage and in relations with the other negotiating party, for Stewart now found himself obliged to proceed with extreme caution, virtually under the scrutiny of all concerned, a situation confirmed by Secretary Gore-Booth

³²⁰ UK Parliament (1968) *House of Commons Debate 26 March 1968 vol.761 cc1446-67*

³²¹ UK Parliament (1968) *House of Lords Debate 27 March 1968 vol.290 cc990-6990*

himself in a communication to Ambassador McLoughlin: “although everything that is said from now on would have to take full account of the views expressed in Parliament”³²². The following months were marked by relentless and exhausting discussions over the precise wording of paragraph 4 of the Memorandum. The Argentine side sought by every means to avoid granting the islanders an active role in the decision on sovereignty, while for the British it was of vital importance to include such participation in order to defuse tensions in Parliament. During this period, the idea gained ground of stating in the Memorandum that a divergence remained to be resolved before any transfer of sovereignty could take place. Meanwhile, Stewart sought to work directly with Costa Méndez to persuade him that his hands were tied, and that the text would necessarily have to be accompanied by a unilateral declaration linking the transfer to the islanders’ own judgement as to whether their interests had been satisfactorily safeguarded, an addition the Argentine minister persistently sought to reject³²³. The British had returned to a tougher stance, understandable given the internal situation and the efforts of the Falkland Lobby. It was becoming clear even to the Argentine leadership that perhaps the United Kingdom did not genuinely want to discuss sovereignty. In this sense, Lord Chalfont’s visit to the islands at the end of November 1968 was emblematic, as he secured the Islanders’ agreement to the Memorandum. This was because there was no real binding commitment to transfer sovereignty; the unilateral declaration would have granted the inhabitants significant decision-making power, and in addition, Argentina would open communication lines, thus easing the burden on the United Kingdom regarding the administration of the colony³²⁴. It truly seemed that the British had no intention of negotiating sovereignty, and were in fact maintaining the same diplomatic stance as in 1966. So much so that Lord Chalfont, during his visit to Buenos Aires, told Costa Méndez that he would take steps to soften the unilateral declaration, avoiding any explicit veto power for the *Kelpers*, thus trying to convince him to agree to sign the Memorandum³²⁵.

In fact, by August the final version of the Memorandum had meanwhile been submitted, which Britain was willing to sign and had sent to Buenos Aires to obtain its approval. The most relevant parts of the text read:

³²² Gore-Booth, B. (1968) *Conversation with the Argentine Ambassador, 23/4/1968, FCO 7/138* (Orig. Spanish) “*aunque todo lo que se dijera de ahora en adelante tendría que tomar plenamente en cuenta las opiniones expresadas en el Parlamento*”

³²³ Ministerio de Relaciones Exteriores, Comercio Internacional y Culto (2023) *Las negociaciones diplomáticas por la cuestión Malvinas (1966-1982)*, p. 31

³²⁴ Machinandiarena de Devoto, L. (2020) *Negociaciones para la firma de un memorándum de entendimiento argentino-británico relativo a las Islas Malvinas (1966-1968) según la documentación del foreign office*, p. 9

³²⁵ Machinandiarena de Devoto, L. (2020) *Negociaciones para la firma de un memorándum de entendimiento argentino-británico relativo a las Islas Malvinas (1966-1968) según la documentación del foreign office*, p.18

"1. The representatives of the Government of the Argentine Republic and the Government of the United Kingdom of Great Britain and Northern Ireland, having discussed the question of the Falkland Islands (Malvinas) in a spirit of friendship and cooperation, in accordance with resolution 2065 (XX) of the General Assembly of the United Nations, record this Memorandum of their understanding about the position reached in the negotiations. (...)

3. To this end and in the desire to contribute to such a solution, the government of the Argentine Republic will promote free communication and movement between the mainland and the islands and the government of the United Kingdom will collaborate in implementing this policy. Discussions on practical measures to be taken will take place immediately in Buenos Aires.

4. The Government of the United Kingdom, as part of that final settlement, will recognize the sovereignty of the Argentine Republic over the Islands from a date to be agreed upon as soon as possible after (i) the two Governments have resolved their current disagreement with respect to the criterion under which the Government of the United Kingdom will consider whether the interests of the islanders would be secured by the safeguards and guarantees to be provided by the Argentine Government; and (ii) the government of the United Kingdom is satisfied that these interests are thus assured.”³²⁶

The nature of the text would be debated later, but at first glance, it is immediately noticeable how it reflects all the differing viewpoints between the two parties. Confirming this, more than two months passed from the date it was received before approval to sign came from Buenos Aires. In this regard, it is natural to ask why, if this was really such a fundamental or decisive document as has often been claimed³²⁷. In the opinion of the writer, since no official documents or statements from the protagonists are traceable, there were obviously internal debates within the Argentine leadership.

³²⁶ *Memorandum de Entendimiento entre el Gobierno de la Republica Argentina y el Gobierno del Reino Unido de Gran Bretaña e Irlanda del Norte sobre la cuestión de las Islas Malvinas (Falkland), agosto de 1968 (1968) (Orig. Spanish)* ““1. Los representantes del Gobierno de la República Argentina y del Gobierno del Reino Unido de Gran Bretaña e Irlanda del Norte, habiendo discutido la cuestión de las Islas Malvinas (Falkland Islands) en un espíritu de amistad y cooperación, de conformidad con la Resolución 2065 (XX) de la Asamblea General de las Naciones Unidas, dejan constancia de este Memorándum de su entendimiento acerca de la posición alcanzada en las negociaciones. (...)

3. A tal efecto y en el deseo de contribuir a esa solución, el gobierno de la República Argentina promoverá la libre comunicación y movimiento entre el continente y las Islas y el gobierno del Reino Unido colaborará en la ejecución de esta política. Las discusiones sobre las medidas prácticas a adoptarse tendrán lugar de inmediato en Buenos Aires.

4. El gobierno del Reino Unido, como parte de esa solución final, reconocerá la soberanía de la República Argentina sobre las Islas a partir de una fecha a ser convenida tan pronto como sea posible después de que (i) los dos gobiernos hayan resuelto la actual divergencia entre ellos respecto del criterio conforme al cual el gobierno del Reino Unido considerará si los intereses de los isleños estarían asegurados por las salvaguardias y garantías a ser ofrecidas por el gobierno argentino y (ii) el gobierno del Reino Unido se halle entonces satisfecho de que aquellos intereses estén asegurados así.

³²⁷ Gonzalez, M.A. (2013) *The Genesis of the Falklands (Malvinas) Conflict*, p. 206

Probably, the new British stance, following the birth of the lobby and parliamentary interest, had become tougher and less willing to compromise. This sudden assent from the islanders after Lord Chalfont's mission had to hide something; there must have been some reassurance he gave them. Otherwise, it was inexplicable how a text for which they had mobilized so much, even asking Parliament for help, could be signed by them. Did that unilateral declaration really risk blocking the sovereignty transfer? Such doubts tormented the regime and indeed split it: on one side Costa Méndez, who believed the fruits of negotiation should be seized and a tangible result brought home; on the other, apparently, Onganía himself, who remained silent during the internal discussions of the military leadership³²⁸, since he most likely did not trust the real British intentions, being himself particularly paranoid, as demonstrated by the doubts he harbored toward American imperialism³²⁹.

Meanwhile, in Great Britain the lobby was not idle but worked to influence government decisions, even involving Prime Minister Harold Wilson himself, when on November 28 a parliamentary motion was signed, gaining the support of about a hundred opposition Conservative MPs³³⁰, asking the Prime Minister: "once and for all to make clear that the Falkland Islanders are British, will remain British, and need not fear any transfer against their will to an alien land"³³¹. Directly implicated, it was up to Wilson to convene a meeting in early December 1968, while Stewart was on an official trip to India and Pakistan, in which, effectively, the signing of the Memorandum was abandoned due to excessive pressure and the need to avoid giving the Conservatives a strong argument to use during the election campaign: namely, that the Labour Party did not care about the British overseas population³³². Returning from his trip, Stewart faced a completely changed situation and was ordered to inform Costa Méndez: "In my message of 9 December I said that I hoped to give you advance notice of the content of the statement which I expected to make in the House of Commons this week. I shall be making this statement this afternoon, and I have outlined its general content to your Ambassador here. 2. Nevertheless, I should like to give you the following summary of what I shall be saying. I shall start by explaining the very good reasons why our two governments have been holding talks about the Falkland Islands' question. I shall go on to say that we have reached a measure of understanding, but that there remains an important divergence relating to HMG's insistence that there could be no transfer of sovereignty against the wishes of the Falkland Islanders, and that this remains our policy.

³²⁸ Consejo Argentino para las Relaciones Internacionales (1999) *Tomo XII: La diplomacia de Malvinas (1943-1989)*, p. 57

³²⁹ Paradiso, J. (2009) *Inestabilidad institucional, estrategias de desarrollo y política exterior: 1955-1973*. En *Debates y trayectoria de la política exterior Argentina*, pp. 156-157

³³⁰ Ellerby, C. R. (1990) *British Interests in the Falkland Islands: Economic Development, the Falkland Lobby and the Sovereignty Dispute. 1945 to 1989*, p. 181

³³¹ Daily Telegraph (1968) *Falkland Challenge to Wilson, 29 November 1968*

³³² Ellerby, C. R. (1990) *British Interests in the Falkland Islands: Economic Development, the Falkland Lobby and the Sovereignty Dispute. 1945 to 1989*, pp. 164-165

I shall, however, also make it clear that we are anxious to find a solution of this question and that we therefore propose to continue our talks with your Government to that end. 3. I am sure that you will feel, as I do, that we have made useful progress in this matter, and that you, like ourselves, will wish to continue our talks on the same friendly and constructive basis as before”³³³.

The Argentine minister responded: “I much regret that the British Government has not been able to sign the Memorandum of Understanding concluded on 12 August between the Foreign Office negotiators and those of our Embassy... I shall tonight, 12th, inform Argentine public opinion about the state of the negotiations. ... My Government is ready to continue the negotiations, as is laid down in resolution 2065 (XX)”.³³⁴

Stewart then gave a speech in the House of Commons, once again emphasizing the reason why the document had not been signed, namely the wishes of the islanders:

“In their talks with the Argentine Government, H.M. Government have been trying to reach an understanding with Argentina with the object of securing a satisfactory relationship between the islands and the nearest continental mainland. Since that time, the talks have continued and the two Governments have reached a measure of understanding although this is not yet complete. There is a basic divergence over H.M. Government's insistence that no transfer of sovereignty could be made against the wishes of the Falkland Islanders... Her Majesty's Government are very conscious of the close ties between the population of the islands and the United Kingdom and of their loyalty to the Crown. It is for this reason that Her Majesty's Government have insisted on the paramountcy of the islanders' wishes. Her Majesty's Government have not exerted any pressure on the islanders to change those wishes nor do they intend to do so”.³³⁵

Some considerations must be made before proceeding with the analysis of how negotiations continued after what has been called the failure of Argentine diplomacy, but was it really a failure? According to the available documentation and the description of events, during the two years of intense negotiations following Resolution 2065, neither position moved from its initial stance: rather than discussing sovereignty, Britain aimed to eliminate the isolation imposed on the archipelago from the continent and initiate a process whereby it would progressively reduce its commitment to maintaining the colony. Indeed, even when sovereignty was put on the table, there was never any serious thought

³³³ Foreign and Commonwealth Office (1968) *FCO 7/1073. Copied to the Falklands Governor and the UK Mission at the United Nations*

³³⁴ Foreign Office (1973) *Annex 11 of Research Department Memorandum: The Falkland Islands Dispute: Developments from 1965 -1968 (May 3, 1973) in FO 7/3201 attached to 281*

³³⁵ UK Parliament (1968) *House of Commons Debate 11 December 1968 vol.775 cc424-34*

of ceding it. In this respect, the islanders acted as a shield against Argentine demands, while the issue of communications was always addressed in formal or informal meetings.

On the Argentine side, the objective was the cession of sovereignty, always demanding that the other party step back. Argentina sought to exclude the islanders from the discussions and, when this became impossible, prevented them from having any veto power, as had been established from the beginning. Following Gonzalez's analysis, the 1968 Memorandum of Understanding, rather than representing the point closest to resolving the dispute, appears to be a written acknowledgment of the perhaps insurmountable gap between the parties. As the text itself admits, nothing could be done until the two countries resolved the divergence regarding the satisfaction of the islanders' interests. But exactly when would Britain be satisfied? How long would this divergence last? Was it all a tactic to buy time and prolong the issue, leaving Argentina to bear the costs of maintaining the colony while seducing it, while Britain kept its sovereignty and a community of loyalists? These thoughts surely crossed the minds of Argentine diplomats. Committing to such a document meant a British promise to return sovereignty but contained enormous delaying risks. The suspicion that it was all a strategy to let time diminish the UN's attention and leave the status quo untouched could not lead to hasty decisions. All this would make their doubts perfectly legitimate, since they knew they could not fully trust the British, and vice versa, clearly, since there were other incidents after Operation Condor and during negotiations that certainly did not portray Argentina in a positive light to the islanders, especially considering the communications blackout.

Probably this frantic initial period of negotiations tackled the issue with extreme haste. Both countries tried to reach their ultimate desired solution without attempting to smooth their positions, bypassing the direct protagonists of the case (with disastrous effects, among others) and creating a climate that was far from optimal for continuing negotiations. It was therefore necessary to start again with small steps, ascending one rung at a time and regaining the trust of the islanders, but also of Britain itself, so that Argentine goodwill in wanting to reclaim the islands could be seen, not as a country enraged by an international wrong it had suffered

3.3 The Communications Agreements

3.3.1 Suspend sovereignty to enhance cooperation

The failure of the Memorandum of Understanding seemed, in a way, to validate the British approach, since for them the goal was a negotiation stalemate, whereas for Argentina the final outcome had to

be the resolution of the dispute. Nevertheless, the Argentines also agreed that before returning to discussions about sovereignty, something had to be done to improve their image in the eyes of the islanders, taking advantage of the fact that the British were still willing to negotiate. It is within this context that the message delivered by the Argentine representative Ruda to the United Nations Secretary-General in November 1969, stating that, although differences between the two positions remained, the two Governments would have started special talks about issues of communications and connection between Argentina and the islands, should be understood³³⁶. Informal talks between the two parties continued throughout 1969, but at a particularly slow pace due to the British election year and the need to see which government would be responsible for handling these special communications conversations, called “special” precisely because they were supposed to set aside and suspend all issues regarding sovereignty, which were part of the broader negotiations³³⁷.

In 1970, the elections delivered victory to the Conservatives, who returned to government and appointed Edward Heath as Prime Minister. There has been talk of the support the Conservative Party enjoyed among the Falkland Islands population, as well as the presence of many of them in the Falkland Lobby. Therefore, the return to 10 Downing Street might suggest a decision to close the negotiations once and for all. However, Heath’s choice was extremely pragmatic: the need to end the internal crisis could not include a return to active militarism, which would have been necessary given the unpredictability of an Argentine reaction to news of the end of talks. On the other hand, limiting meetings to simple matters of improving connections between the islands and the mainland would avoid having to worry about sovereignty, and would also allow sharing the costs of a colony that by then brought no benefits to the mother country, as already reported in 1968 during a Wilson government cabinet meeting: “the islands are no longer of any strategic or commercial value to us”³³⁸. In short, for both parties, for different reasons, it was convenient at this stage to negotiate the opening of communication lines, an inevitability that the Lobby itself had come to accept. They were aware that the *Kelpers* found themselves too isolated, and even the FIC, many of whose members were part of the Emergency Committee, faced difficulties managing the flow of goods to and from the islands³³⁹.

³³⁶ Ruda, J. M. (1969) *Letter dated 21 November from the Permanent Representative of Argentina to the United Nations addressed to the Secretary-General*. UN Doc A/7785

³³⁷ Ministerio de Relaciones Exteriores, Comercio Internacional y Culto (2023) *Las negociaciones diplomáticas por la cuestión Malvinas (1966-1982)*, p. 33

³³⁸ UK Cabinet Office (1968) *Cabinet meeting 21 September 1968*

³³⁹ Ellerby, C. R. (1990) *British Interests in the Falkland Islands: Economic Development, the Falkland Lobby and the Sovereignty Dispute. 1945 to 1989*, p. 173

From the informal meetings held throughout the first half of 1970, an agreement was reached to schedule a formal negotiation session in London between July 14 and 23, 1970. This was the first round of special talks on the issue of communications, involving on the British side the Foreign Office Undersecretary for the Falklands, David Scott, and on the Argentine side the Minister-Counselor of the Argentine Embassy in London, Juan Carlos Beltramino, accompanied by their respective diplomatic delegations³⁴⁰. It was Scott who immediately clarified the tone and subject of the talks when, in confidence, he said to Beltramino: “rape of the Falklands, no; seduction by all means”³⁴¹, and for this reason, before beginning to discuss communications, it was necessary to find the formula for the so-called “sovereignty umbrella” (*paraguas de soberanía*), indicating the mutual commitment of both parties to engage in dialogue without allowing the negotiations to interfere with their respective positions regarding sovereignty, which therefore would remain unchanged³⁴². Once that was made clear, as Beltramino reports, the negotiations proceeded on the various agenda points, which ranged from the movement of people and goods, to different types of transportation, to the fiscal, banking, and customs regimes, to economic, financial, and commercial operations, as well as exchanges in health, technical, and cultural fields, with the idea of creating a comprehensive connection³⁴³. Although a complete agreement was not reached, the final press release summarized the main results achieved and set the predetermined venues for the next two sessions³⁴⁴.

Between June 21 and 30, 1971, the two delegations met for the second negotiation session in Buenos Aires. Given the prior acquaintance between the diplomats and the groundwork already carried out in London, the discussions at this stage were substantially quicker and more fruitful. This led to the signing of the agreement on communications, whose form was much debated, but ultimately both parties agreed on a Joint Declaration to be submitted for signature by their respective governments. An understanding was also reached regarding the structuring of the “sovereignty umbrella” formula, which established the following:

“the Government of the United Kingdom are prepared to conclude an agreement with the Government of the Argentine Republic in the following terms: 1. (a) Since divergence remains between the two Governments regarding the circumstances that should exist for a definitive solution to the dispute concerning sovereignty over the Falkland Islands, nothing contained in the Joint Statement referred

³⁴⁰ Beltramino, J. C. (1997) *Las "Conversaciones Especiales" Argentina-Gran Bretaña sobre comunicaciones entre el Territorio Continental Argentino y las Islas Malvinas de 1970-72. Una negociación Diplomática Típica*, pp. 7-8

³⁴¹ Hastings, M. (1983) *The Battle for the Falklands*, p. 22

³⁴² Beck, P. (2014) *The Falkland Islands as an International Problem*, pp. 115-116

³⁴³ Beltramino, J. C. (1997) *Las "Conversaciones Especiales" Argentina-Gran Bretaña sobre comunicaciones entre el Territorio Continental Argentino y las Islas Malvinas de 1970-72. Una negociación Diplomática Típica*, p. 8

³⁴⁴ Beltramino, J. C. (1997) *Las "Conversaciones Especiales" Argentina-Gran Bretaña sobre comunicaciones entre el Territorio Continental Argentino y las Islas Malvinas de 1970-72. Una negociación Diplomática Típica*, p. 9

to above and approved by our two Governments on today's date shall be interpreted as:- (i) a renunciation by either Government of any right of territorial sovereignty over the Falkland Islands; or (ii) a recognition of or support for the other Government's position with regard to territorial sovereignty over the Falkland Islands. (b) No acts or activities taking place as a consequence of the Joint Statement referred to above having been put into operation and while it is in operation shall constitute a basis for asserting, supporting, or denying the position of either Government with regard to territorial sovereignty over the Falkland Islands”³⁴⁵.

The idea was to create a negotiating framework that would not subject a vital issue for the islanders, who, moreover, participated with their own delegation united with the British one in these negotiations, to the question of sovereignty, which could have become a veto against reaching any agreement. Regarding the Joint Declaration, it will be examined in more detail later, as it serves as the main source to explain which connection measures were actually adopted by the parties.

The third and final session of negotiations on communications took place the following year, between November 21 and 24, 1972. It was limited to discussing some practical measures to be implemented based on those already established in the Joint Declaration, focusing mainly on refining the details, which is why its duration was shorter³⁴⁶. This marked the end of the period of cooperation between Argentina and the United Kingdom regarding the Malvinas issue, since Perón's return to government forcefully brought back to the forefront the sovereignty question, along with all the contradictions that had already characterized the initial phase of discussions on the matter.

3.3.2 Connecting the islands to the continent

By examining the text of the Joint Declaration, one can extract the main measures adopted regarding the opening of communications. The first point established a bipartite body whose functions were strictly limited to overseeing and promoting communications between Argentina and the islanders, who would also benefit from a special document, later annexed to the Declaration, that essentially allowed free transit both for the islanders within the Argentine Republic and for Argentine residents traveling to the islands³⁴⁷. This opened the way to the free movement of people in both directions,

³⁴⁵ *Formula de paraguas de soberanía para proceder a las Conversaciones Especiales sobre comunicaciones, 5 de agosto de 1971* (1971)

³⁴⁶ Beltramino, J. C. (1997) *Las "Conversaciones Especiales" Argentina-Gran Bretaña sobre comunicaciones entre el Territorio Continental Argentino y las Islas Malvinas de 1970-72. Una negociación Diplomática Típica*, pp. 14-15

³⁴⁷ *Declaración conjunta entre la República Argentina y el Reino Unido de Gran Bretaña e Irlanda del Norte sobre el establecimiento de comunicaciones entre el territorio continental argentino y las Islas Malvinas (Falkland), 5 de agosto 1971* (1971)

and in both cases, this was intended to be the only document required³⁴⁸. Subsequently, the document focused on defining the special status of the *Kelpers* in relation to Argentina, since their movement was indeed facilitated, but they were not Argentine citizens; therefore, they necessarily had to be exempt from both military service and the payment of taxes. The same applied as an obligation for the British government towards Argentines working in the islands. Likewise, the luggage of both islanders traveling to the mainland and Argentines traveling to the islands was not to be subject to taxes, and their transfer was to be facilitated in a single trip in the event of the permanent relocation of an islander to Argentina or of an Argentine to the archipelago³⁴⁹.

It was then established, with regard to the transport of both people and goods, that the British government would be responsible for the maritime service, thus organizing communications by ship, while the Argentine government would be tasked with guaranteeing an air service. This made necessary the construction of a small airport connecting Port Stanley to the Bernardino Rivadavia Airfield, located in the Province of Buenos Aires. The construction of this airport encountered some problems, which is why the Declaration itself established an obligation for the Argentine Government to guarantee, in the meantime, amphibious aircraft to cover that specific route: "Pending the completion of the airfield at Port Stanley, the Argentine Government should provide a temporary service by amphibian aircraft between the Argentine mainland and the Falkland Islands for passengers, cargo and mail. This service should be reviewed from time to time in the light of progress in the construction of the airfield mentioned above"³⁵⁰. Furthermore, the islanders were exempted from military service by both Governments, which, for their part, also had the active obligation to work towards simplifying all administrative procedures that could affect the islands' population, as well as to cooperate with each other to promote trade at controlled rates. Finally, they committed to collaborating in other areas of the islanders' lives, such as education³⁵¹.

This was probably the highest point of cooperation between the two countries regarding the archipelago, so much so that, following the signing of the Joint Declaration, the political-administrative machinery immediately set in motion to implement what was established in the

³⁴⁸ *Declaracion conjunta entre la Republica Argentina y el Reino Unido de Gran Bretaña e Irlanda del Norte sobre el establecimiento de comunicaciones entre el territorio continental argentino y las Islas Malvinas (Falkland), 5 de agosto 1971 (1971)*

³⁴⁹ *Declaracion conjunta entre la Republica Argentina y el Reino Unido de Gran Bretaña e Irlanda del Norte sobre el establecimiento de comunicaciones entre el territorio continental argentino y las Islas Malvinas (Falkland), 5 de agosto 1971 (1971)*

³⁵⁰ *Declaracion conjunta entre la Republica Argentina y el Reino Unido de Gran Bretaña e Irlanda del Norte sobre el establecimiento de comunicaciones entre el territorio continental argentino y las Islas Malvinas (Falkland), 5 de agosto 1971 (1971)*

³⁵¹ *Declaracion conjunta entre la Republica Argentina y el Reino Unido de Gran Bretaña e Irlanda del Norte sobre el establecimiento de comunicaciones entre el territorio continental argentino y las Islas Malvinas (Falkland), 5 de agosto 1971 (1971)*

document. In August 1971, a bipartisan group of Argentines and British arrived in Port Stanley to begin assessments for the construction of a small airport: “they recommended a 1,250-metre runway costing 351,031,000, which could be used by Focker 27 and HS 748 (Andover) aircraft without a full load”³⁵². It was only in November, however, that possibilities were explored for having flights to Comodoro Rivadavia (Argentina), Punta Arenas (Chile), and Montevideo (Uruguay) in case of emergency³⁵³. Actual work began in the spring of 1972, when the two countries agreed that Argentina would be responsible for the construction of the airport and would bear all the costs, while in the meantime it focused on other measures to facilitate communications, such as teaching Spanish in the island’s schools and revitalizing trade³⁵⁴. In the same way, the Special Consultative Commission continued to operate, to the point that a new round of special talks was even scheduled in London in 1973. However, this would coincide with the return to power of Perón, the man who had fused the Malvinas issue with Argentine culture and created the Malvinas myth. He would therefore not be content to continue talking about communications, but would adopt a firmer stance, with his first priority undoubtedly being to return to the question of sovereignty and to steer the negotiations back toward the ultimate objective that the Argentine leadership had always pursued in the dispute.

3.4 New talks on sovereignty, old issues (1973-1976)

3.4.1 Proposals of shared administration during Perón’s government

At the beginning of 1973, it can be said that the negotiations were largely following the will of the British administration, avoiding conflict while at the same time refraining from making any definitive commitments on the question of sovereignty. On the Argentine side, however, a certain impatience was beginning to be felt. While the special talks on communications were indeed necessary to try to convince the *Kelpers* of Argentina’s good faith, they were also useful to the British as a means of postponing the sovereignty discusión, which, in turn, increased doubts and mistrust about the European counterpart’s true intentions. This impatience became evident in a letter from the Argentine representative to the United Nations Committee on Decolonization, as if to say that, since nothing

³⁵² Ellerby, C. R. (1990) *British Interests in the Falkland Islands: Economic Development, the Falkland Lobby and the Sovereignty Dispute. 1945 to 1989*, p. 175

³⁵³ Ellerby, C. R. (1990) *British Interests in the Falkland Islands: Economic Development, the Falkland Lobby and the Sovereignty Dispute. 1945 to 1989*, pp. 175-176

³⁵⁴ Ministerio de Relaciones Exteriores, Comercio Internacional y Culto (2023) *Las negociaciones diplomáticas por la cuestión Malvinas (1966-1982)*, pp. 48-49

had moved forward in the bilateral sphere, perhaps the time had come to bring the UN back into the matter

“... his Government regretted to report that the negotiations had been virtually paralysed as a result of the attitude adopted by the United Kingdom, whose position, he said, had changed substantially from that which it had taken since contacts were first established in 1966. When,.. efforts were made to reactivate the negotiations, postponed since 1968, the United Kingdom took the position that the round of meetings could not be called negotiations on sovereignty since in its opinion they involved only talks or discussions, and it was willing to discuss only the collateral question of communications rather than the basic issue of sovereignty over the territory... This position, Argentina considered, was not in conformity with the provisions of the Assembly's resolution of 16 December 1965. Argentina called on the United Kingdom Government to take measures to continue the negotiations without further procrastination, within the framework of that resolution and subsequent decisions, so as to bring about the speedy elimination of the territory's colonial situation”³⁵⁵.

As had already happened with Resolution 2065, the discussion then passed into the hands of the General Assembly, which called a session to address the issue in the second half of August 1973. At this session, the new Argentine Foreign Minister, who would be a key figure in this phase, the Peronist Alberto Vignes, spoke. His statement was indicative of the new direction the Argentine leadership would take regarding the Malvinas issue: “*my country ... is forced to state that the procedure cannot be indefinitely prolonged*”³⁵⁶. A firm position, obviously open to dialogue but no longer willing to tolerate delays or deadlocks imposed by the Foreign Office; otherwise, the military option could not be excluded, as Vignes himself later affirmed: “*the only other option open to the Argentine government is a resort to force*”³⁵⁷. This was perhaps the most innovative element of the Argentine strategy: the threat of using force against the British attempt to delay a definitive resolution of the dispute as long as possible. This situation would create a balance of terror in which the diplomats of both countries would be forced to confront each other, compelled to act with extreme caution to avoid ruptures, while at the same time viewing any move by the opponent with suspicion.

As in the past, the Argentine multilateral strategy worked here as well, since the General Assembly approved Resolution 3160 (XXVII):

³⁵⁵ Division of Public Information of the UN (1973) *UN Yearbook 1973*, p. 698

³⁵⁶ Division of Public Information of the UN (1973) *UN Yearbook 1973*, p. 757

³⁵⁷ Vignes, A. (1975) *Minister Vignes to the Argentine press March 19, 1975*

“The General Assembly,

Having considered the question of the Falkland Islands (Malvinas), (...)

Gravely concerned at the fact that eight years have elapsed since the adoption of resolution 2065 (XX) without any substantial progress having been made in the negotiations, (...)

Expressing its gratitude for the continuous efforts made by the Government of Argentina, in accordance with the relevant decisions of the General Assembly, to facilitate the process of decolonization and to promote the well-being of the population of the islands, (...)

2. Declares the need to accelerate the negotiations between the Governments of Argentina and the United Kingdom of Great Britain and Northern Ireland called for in General Assembly resolution 2065 (XX) in order to arrive at a peaceful solution of the conflict of sovereignty between them concerning the Falkland Islands (Malvinas);

3. Urges the Governments of Argentina and the United Kingdom, therefore, to proceed without delay with the negotiations, in accordance with the provisions of the relevant resolutions of the General Assembly, in order to put an end to the colonial situation”³⁵⁸.

It was essentially a cold shower for the British government: recognition of the efforts made to resolve the dispute was granted exclusively to Argentina, while the grave concern expressed by the General Assembly cast a negative light on the work of the Foreign Office, implicitly accusing it of having done too little and, indirectly, of seeking to perpetuate a colonial situation. On the other hand, the British Foreign Office had not remained idle: throughout 1973, faced with Argentina’s growing intransigence, discussions began on possible intermediate solutions to the transfer of sovereignty. These would have had to include some form of direct Argentine administration of the islands, while at the same time securing the consent of the islanders, whose opinion had by then become not only non-negligible but essential to reaching a final settlement. The idea of a condominium, a joint Anglo-Argentine administration, thus began to be considered, alongside significant opportunities for economic cooperation between the two countries³⁵⁹. Since British interests in the islands were taking on considerable strategic and economic significance, completely the opposite of the situation in the 1960s, due to the global oil crisis and the discovery of hydrocarbons in the archipelago, which would allow for a reduction in dependence on Middle Eastern crude oil³⁶⁰. In confirmation of this, in January 1974 a memorandum drafted by Foreign Secretary

³⁵⁸ United Nations General Assembly (1973) *Question of the Falkland Islands (Malvinas). Resolution 3160*

³⁵⁹ Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, p. 8

³⁶⁰ Bologna, A. B. (1992) *El conflicto de las Islas Malvinas*, pp. 35-36

Douglas-Home on the Falklands was circulating in the Foreign Office offices: “Douglas-Home concluded that doing nothing would endanger the interests and security of the islands. He believed condominium was the best way of continuing a dialogue with both parties, reasoning that it would have a greater chance of acceptance from islanders than talks on an outright transfer of sovereignty”³⁶¹. Faced with the possibility of reopening negotiations on the sovereignty of the Falklands, the lobby also moved, after a period of silence during the Communications Agreements, and reformed under the name United Kingdom Falkland Islands Committee, regaining its strength in Parliament and ready to oppose any project that would allow Argentina to gain a foothold in the islands³⁶².

Once again, the situation the British government faced was not easy to untangle: on one side were the opposing pressures from Argentina, backed by the United Nations, and on the other those of the lobby (and therefore the islanders). Moreover, caution was required, as at that time the archipelago seemed poised to become a potential gold mine, while at the same time Argentina’s position had grown much tougher compared to 1968, raising the risk of being unable to guarantee the islands’ security. It thus became necessary for the Foreign Office to propose the condominium solution to the Argentine government, in the form expressed by the new Foreign Secretary, Callaghan: “therefore recommended that (Ambassador Hopson) call on Vignes and explain that Britain would shortly resume a dialogue. There would be no mention of condominium until the islanders had been consulted by the governor. Care was also taken to avoid use of the term ‘negotiations’. Callaghan believed its inclusion would only alarm islanders and give rise to hostile questions in Parliament...”³⁶³.

The approach had to be very cautious, aiming to address potential oppositions one at a time in order to find a solution acceptable to all. The first obstacle to be resolved was the one that not only held veto power but also the ability to bring down the minority Labour government through parliamentary action, the lobby.

After an initial meeting with the islanders, who agreed to resume negotiations on the condition that they participate and that the satisfaction of their interests was a *sine qua non* for resolving the dispute, it was the British ambassador to Argentina who presented the proposal for an Anglo-Argentine condominium to Vignes and President Perón in June 1974. This document was supposed to remain secret, a so-called “non-paper”, but was later published by the Argentine newspaper *La Nación*, and still today represents perhaps the most advanced British proposal regarding sovereignty:

³⁶¹ Donaghy, A. (2014) *The British Government and the Falkland Islands, 1974-79*, pp. 112-114

³⁶² Calí, E. (2021) *La diplomacia por las Islas Malvinas, Sandwich y Georgias del Sur. Un estudio sobre los factores que conllevaron al congelamiento de las relaciones anglo-argentinas. (1974 a 1982)*, pp. 5-6

³⁶³ Donaghy, A. (2014) *The British Government and the Falkland Islands, 1974-79*, pp. 116-117

“I have now received instructions from Her Majesty’s Government to propose that the discussions between Britain and the Falkland Islands should be resumed on the basis of the safeguards and guarantees to be extended to the Islanders in the hypothesised event of a condominium.(...) The codomini would be Her Majesty The Queen and His Excellency the President of the Argentina Nation. There are several forms which a condominium might take but the basic elements might include the following:

- 1) The British and Argentine flags would fly side by side and the official language would be English and Spanish;*
- 2) All 'belongs' of the Islands would possess dual nationality;*
- 3) Existing colony passports would be replaced by travel documents issued in the co-domini;*
- 4) The present constitution, administration and legal system would have to be adapted to the needs of a condominium. The Governor might be appointed alternatively by the Queen and the President of Argentina;*
- 5) Further constitutional change would require the agreement of the co-domini. I also have to inform you that a Joint Session of the Executive and Legislative Councils of the Islands have informed the Governor that they had no objection to talks being held with the Argentine Government on the safeguards and guarantees required in a condominium.”³⁶⁴*

The United Kingdom would have officially recognized part of Argentina’s sovereignty over the archipelago for the first time in over a century, and would have agreed to administer a colony of its own nationals jointly with another country. This was an extremely advanced step toward Argentina’s position and ultimate goal. Ambassador Ortiz de Rozas reported the reactions of the leadership to that proposal: President Perón, who had indeed shown himself to be far more uncompromising than his predecessors on the issue, but who was also an extremely pragmatic politician, grasped the opportunities that such a proposal presented, to the point that he told Vignes to immediately arrange the meetings, and furthermore stated: “si ponemos un pie en las islas, no nos van a sacar más”³⁶⁵ (if we set foot on the islands they won’t take us out anymore). It was the Foreign Minister who was instead doubtful (“Vignes responded cautiously. He promised to put the proposal to Perón, but believed that in view of Argentina’s repeated declarations in the UN and elsewhere, it would be ‘extremely difficult’ to agree to share sovereignty with Britain”³⁶⁶), just as Zavala Ortiz and Onganía

³⁶⁴ La Nación (2012) *La propuesta secreta de los ingleses a Perón por las Malvinas*

³⁶⁵ Ortiz de Rosas, C. (2011) *Confidencias Diplomáticas*, p. 43

³⁶⁶ Donaghy, A. (2014) *The British Government and the Falkland Islands, 1974-79*, p. 126

had been with regard to the Memorandum of Understanding: what was behind this sudden British advancement? Wouldn't sharing sovereignty imply that Argentina recognized and validated the British sovereignty claims? And wouldn't this give the British legal arguments to present to the United Nations or the ICJ? Could such a significant advancement be trusted despite all the opposition it would face? In short, the Argentine diplomats were far more cautious than their president, who died only two months later, which allowed Vignes to drag out the negotiations by proposing a joint administration project and rejecting any other option that excluded the issue of sovereignty³⁶⁷. Meanwhile, in Great Britain, just like in 1968, the lobby had forcefully resumed its activity; the issue was brought up once again in Parliament and the government was once more put under pressure, with a faction of the islanders strongly opposing any reopening of the negotiation channels on sovereignty. As a result, in the summer of 1974, the British decided to withdraw the condominium proposal³⁶⁸.

3.4.2 Leaseback and the Shackleton incident

In March 1975, the British Parliament received the document concerning the geological survey carried out in the Falklands by Professor Griffiths, which acknowledged the possible existence of rich hydrocarbon deposits: "Griffiths reported in early 1975 that the prognosis was 'sufficiently promising to encourage further commercial exploration'"³⁶⁹. The Argentine government reacted immediately, given that any exploration and extraction activities would take place on the continental shelf of the Latin American country³⁷⁰. Griffiths' discoveries obviously posed a danger to Argentina, since the main pillar of Argentina's intransigence, its conviction that the archipelago held no strategic value for the British, was beginning to crumble. If the British, together with the islanders, started to resist, then conflict would become unavoidable. Vignes continued to allude to this possibility, further intensifying an already rigid stance, which was also confirmed by the new government. Therefore, negotiations needed to remain open, but at the same time, it was crucial to prevent the British from discovering the archipelago's natural wealth.

At this point, a pragmatic idea began to take hold within the Foreign Office: to defuse this potential conflict by proposing that Argentina participate in South Atlantic economic cooperation, thereby gaining smooth access to those natural resources³⁷¹. Vignes did not close the door, but stated that an

³⁶⁷ Lanús, J.A. (2016) *Repensando Malvinas: una causa nacional*, p. 182

³⁶⁸ Ministerio de Relaciones Exteriores, Comercio Internacional y Culto (2023) *Las negociaciones diplomáticas por la cuestión Malvinas (1966-1982)*, p. 51

³⁶⁹ Livingstone, G. (2018) *Britain and the Dictatorships of Argentina and Chile*, p. 95

³⁷⁰ Donaghy, A. (2014) *The British Government and the Falkland Islands, 1974-79*, p. 136

³⁷¹ Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, p. 17

economic cooperation proposal on its own, one that did not include the sovereignty of the islands, could not be considered by the Argentine government. However, it would be gladly discussed if accompanied by a leaseback option, meaning a formal transfer of sovereignty to Argentina, which would then lease the islands back to Great Britain for a specified period of time³⁷². Once again, it was the islanders who firmly opposed, creating what seemed like a deadlock with no way out: the Argentines refused to negotiate unless sovereignty was included, but the islanders would not accept any negotiation involving the sovereignty issue, especially if it came alongside proposals for occupation of the South Georgia archipelago.

However, it must be said that there was some room for negotiation: the Argentine position was intransigent but not willing to close off negotiations entirely, while the British side might have found something to convince the islanders. What worried the British most was the stability of the Peronist government, as reports from the embassy in Buenos Aires indicated that the government might not last long³⁷³, and the situation grew even more tense when Vignes himself was removed from office and replaced, which triggered a diplomatic pullback by the British, as Foreign Secretary Callaghan told the British ambassador to Argentina, Ashe: “We have been some way across a diplomatic minefield with an Argentine foreign minister who has been thrown out of office just at the moment when there was a chance of launching a new dialogue. We must be extremely cautious before attempting to relaunch it”³⁷⁴. Once again, it was the political uncertainty in Argentina and the impossibility of predicting what would happen next that held back the British push toward negotiation. It was the distrust of an unpredictable system that led Her Majesty’s government to avoid taking further risks, choosing instead to wait for developments in Argentine politics.

Meanwhile, a decision was made to launch an exploratory expedition to the Falkland Islands, following up on Griffiths’ geological surveys: the Shackleton expedition. During the expedition, while the ship was off the islands, it was intercepted by the Argentine Navy destroyer and then escorted to Port Stanley, escalating an already very tense situation since the UK had announced the expedition to Argentina, which the Argentines had declared unwelcome, and which led to the mutual withdrawal of the ambassadors from the two countries³⁷⁵. The situation later de-escalated, also because the international energy crisis found a resolution, reducing the pressure on the developed countries³⁷⁶, but that doesn’t change the fact that, by February 1976, when this incident occurred, the

³⁷² Bologna, A. B. (1992) *El conflicto de las Islas Malvinas*, p. 44

³⁷³ Falkland Wordtime Press. *1972-1982 Negotiation*

³⁷⁴ Foreign Office (1975) *Callaghan to Ashe August 15, 1975 in FO 7/2952*

³⁷⁵ Bologna, A. B. (1992) *El conflicto de las Islas Malvinas*, p. 38

³⁷⁶ Bologna, A. B. (1992) *El conflicto de las Islas Malvinas*, pp. 38-39

dispute was already at a diplomatic deadlock: many solutions had been proposed, but positions had hardened, and even when they seemed to soften, mistrust of the other side prevented any decisive step, just like with the condominium proposal, when it was the Argentines who didn't trust the true intentions of the British³⁷⁷, but also with the leaseback proposal, it was the British who were unwilling to proceed, either out of fear of an unfavorable change in government or apprehension over a disproportionate reaction to any action in the islands. Negotiations had, in short, become extremely difficult; both sides were growing tired of moving closer only to be pushed back. The idea of resolving the dispute militarily began to take hold in Argentine rhetoric, which certainly did not boost British confidence. On their side, the British wanted to relieve the pressure coming from internal opposition and the UN on the international stage. Everything seemed set for the emergence of extreme positions on both sides, as indeed eventually happened, but not without, and this must be said, one last attempt to negotiate.

³⁷⁷ Calí, E. (2021) *La diplomacia por las Islas Malvinas, Sandwich y Georgias del Sur. Un estudio sobre los factores que conllevaron al congelamiento de las relaciones anglo-argentinas. (1974 a 1982)*, pp. 7-8

CHAPTER 4: The path to war (1976-1982)

4.1 Renewed Cold War tension, stronger tie with the US

4.1.1 The Great Britain from the 1976 sterling crisis to Thatcherism

Entering the second half of the 1970s, marked by the return to a hardline leadership in the Soviet Union with the rise of Leonid Brezhnev and by the beginning of Jimmy Carter's presidency in the United States, the conflict between the two superpowers once again experienced major peaks of tension after the period of *detente*³⁷⁸. Both countries were going through times of great uncertainty: the suspension of the dollar's convertibility following the 1973 oil crisis had seriously called into question the primacy that the United States claimed for its economic model, while also undermining the cornerstone that had made postwar reconstruction possible³⁷⁹, while the Soviet Union continued to struggle in its attempts to overcome the contradictions of an increasingly unsustainable economic system³⁸⁰. In this sense, it was almost inevitable for the two main actors of the postwar order to return to competing for supremacy, refusing to back down when it came to threatening each other. Despite the intention to create a peaceful climate, affirmed at the 1975 Helsinki Conference, the crisis of the Euromissiles ensued, which placed the USSR at the real risk of missile bases being installed on its European borders. This was followed by Soviet interventions in the last African countries decolonization, in Angola and Mozambique, and by the far more significant invasion of Afghanistan in 1979, an ultimate attempt to show the ability to challenge U.S. influence in the Middle East, but in reality, the spark that ignited the future implosion of the Soviet Union³⁸¹. For their part, the United States, first under Carter and then, from 1980, under Reagan, resumed an openly anti-Soviet rhetoric: Carter by stressing the issue of human rights and their constant violation by the Eastern bloc, Reagan by implementing the rhetoric of the "evil empire," which would prove extremely influential even in subsequent Republican administrations for the identification of the enemy³⁸².

Moreover, Reagan's arrival at the White House also translated into a sweeping plan to transform the economic model that had developed in the United States and the West since Keynes and the New Deal. According to the American president, the responsibility for allocating resources and guiding

³⁷⁸ Nanda, V. (1980) *Human Rights and U.S. Foreign Policy under Carter: Continuity and Change*, pp. 444-482

³⁷⁹ Eichengreen, B. (1996) *Globalizing Capital: A History of the International Monetary System*, p. 215

³⁸⁰ Nove, A. (1992) *An Economic History of the USSR 1917-1991*, p. 215

³⁸¹ Westad, O. A. (2005) *The Global Cold War: Third World Interventions and the Making of Our Times*, p. 193

³⁸² Gaddis, J. L. (2005), *The Cold War: A New History*, p. 205

economic outcomes had to be entrusted back to the market, while the interventionist role of the State, which had grown progressively heavier and more unsustainable, had to be dismantled. The solution, therefore, was to return to a liberal model that would relieve the State of the burden of supporting the economy at the expense of its budget³⁸³. This neoliberal shift is an extremely relevant element, as it was an attempt to adopt a position entirely opposite to that of the Soviets, abandoning any features the two models might have had in common, such as State involvement in the economy, which in the Soviet case was total and permeated all aspects of citizens' lives, while in the Western case it was limited to guaranteeing rights aimed at reducing social inequality³⁸⁴. The move toward a system that no longer contemplated the existence of a regulatory State was a way of expressing the sharpest possible rejection of the alternative model, one whose spread had to be curtailed as much as possible. This explains Reagan's renewed activism in intervening in the internal affairs of Central American states torn apart by communist guerrilla movements, such as the dirty war in Nicaragua, where allies in the region were needed to join the struggle. It was this logic that explains both Washington's rapprochement with Argentina and its reluctance to abandon the ally on the eve of the Malvinas war³⁸⁵.

On the other side, with reference to relations with Great Britain, the convergence of interests was even more natural, given that neoliberal policies began to be adopted there one year before Reagan's election, under the new Conservative Prime Minister Margaret Thatcher. She had won the 1979 general election and came to power with the aim of restoring the economy of a country that showed no sign of recovery.

The Second World War had brought an end to the greatest remaining colonial power, and successive governments had tried to deal with the consequences. The truth is that none of them had truly succeeded, and discontent began to spread among the population, particularly after the 1976 sterling crisis. Before the Iron Lady's arrival in Downing Street, the Labour government led by James Callaghan had been forced to face the consequences of the 1973 global crisis. The loss of the dollar as a point of reference destabilized the currency market, inflation rose dramatically, and this inevitably resulted in a monetary crisis that completely destabilized the pound. The United Kingdom was forced to request a large loan from the International Monetary Fund, which tied the country to what was known as the Washington Consensus and thus inevitably to the sphere of U.S. influence.

³⁸³ Edwards, L. (2013) *Reagan: A Life in Letters*, p. 112

³⁸⁴ Harvey, D. (2005) *A Brief History of Neoliberalism*, p. 22

³⁸⁵ Schmidli, W. M. (2021) *Reframing Human Rights: Reagan's 'Project Democracy' and the US Intervention in Nicaragua*, pp. 237-259

This came after a cooling of relations between the two countries, even leading to a downgrading of the “special relationship” that had existed since the 1940s³⁸⁶.

The new rapprochement with the Western superpower, combined with the need to follow the IMF’s recipe for recovery, raising interest rates and cutting public spending to the bone, greatly favored the victory of the Conservatives. Once in office, a highly charismatic personality determined to revive the British economy initiated a massive wave of privatizations of sectors previously under state control and launched an all-out war with the unions, facing strikes that paralyzed the country for an entire year, such as the miners’ strike, to push through a radical change. What was required was boldness and the will to stop at nothing in order to restore Britain’s international standing. Such a disruptive personality has always divided public opinion and anyone called to evaluate her work: some hail her as the savior of Britain from the decline into which it was sliding, while others see her as no different from her predecessors, arguing that although she had proposed a new recipe, it had not truly borne fruit. For the purposes of this thesis, however, it is not her domestic policy that is to be assessed, but rather the importance of understanding her personality to grasp the decisions she made in foreign policy and in the management of the Falklands dispute, decisions that even led her to face an armed conflict³⁸⁷.

It must first be said, however, that Thatcher’s primary inclination was toward domestic politics, the real knot to untangle, which was also conditioning the country’s international action. This latter sphere, however, could only be dealt with once Britain’s structural problems had been resolved. Indeed, the Prime Minister did not have a background particularly oriented toward foreign policy, which was entrusted to the man with the most experience in the field: Lord Carrington, Foreign Secretary in every Conservative government since Churchill’s. Nevertheless, the Iron Lady had firm positions she was determined to pursue, not secondary matters, but instead a complete break with the previous approach to international alliances³⁸⁸.

If previously the UK had loosened its ties with the United States in favor of European integration, with Thatcher the tune changed completely. Brussels was blamed for trying to create a new supranational center of government that would control member states, impose decisions from above, and place excessive burdens on national economies. This was the Prime Minister’s main point of criticism, as shown by her vehement interventions in the EEC, most famously her “No. No. No” speech before the House of Commons in response to the prospect of giving the Community a state-

³⁸⁶ Young, H. (2013) *One of Us: A Biography of Margaret Thatcher*, pp. 245–250

³⁸⁷ Evans, E. J. (2004) *Thatcher and Thatcherism*, pp. 58–65

³⁸⁸ Holt, A. (2013) *Margaret Thatcher and the Cold War*

like structure, with legislative, executive, and judicial bodies³⁸⁹. From then on, Britain progressively disengaged from its European commitments. Although a real rupture never occurred, the strong engagement that had characterized the early years of EEC membership faded. At that point, the Community was seen as an unnecessary additional expense draining the coffers of an already exhausted state, and thus had to be cut back like all other forms of spending³⁹⁰.

Across the ocean, Reagan was elected, and a bond of rare complicity was born, forged through shared ideas and positions between two political leaders who had come to power in moments of crisis and were equally determined to overcome them with the same recipe. During this period, the UK–US relationship once again became truly special, not merely a nostalgic memory of a partnership that had deteriorated, but the belief that they could once again change the world together, shaping a new Western model more suited to the international arena that had emerged from decolonization, and opposing the perennial enemy who continued to obstruct this plan and had to be fought on all fronts³⁹¹. A shared ambition, similar political as well as personal traits, a common enemy with whom tensions had reignited: the Anglo-American axis flourished once more around a shared mantra: “Government is not the solution, it is the problem,” as Reagan proclaimed; “there is no such thing as society, there are individual men and women”, Thatcher would add³⁹².

It was a new period for British politics, both domestic and international, in the postwar era. Recognizing this change is important, for it would shape not only the final phase of the dispute before the war but also the outbreak of the conflict itself. A different context would not have led to the same developments. But to understand this conjuncture, it is necessary to consider the protagonists, and how their personalities fit into the dynamics analyzed so far: how U.S. involvement led to a last-ditch mediation before the conflict, how President Reagan hesitated between supporting one side or the other, between the new Western model or an important ally opposing it with an alternative one. None of this can be fully understood without situating the events immediately preceding the conflict within the new international context, one profoundly different from just a few years earlier, not only for Great Britain but also for Argentina itself, engaged in an enormous effort of internal re-stabilization³⁹³.

³⁸⁹ BBC News (2013) *Margaret Thatcher and her Tussels with Europe*

³⁹⁰ BBC News (2013) *Margaret Thatcher and her Tussels with Europe*

³⁹¹ Young, H. (2013) *One of Us: A Biography of Margaret Thatcher*, pp. 245–250

³⁹² Rosaspina, E. (2019) *Margaret Thatcher. Biografia della donna e della politica*, p. 182

³⁹³ Freedman, L. (2005) *The Official History of the Falklands Campaign, Vol. 1: The Origins of the Falkland War*, pp. 45–50

4.1.2 The *Proceso* dictatorship in Argentina: from Videla to Galtieri

The military government that took power in Argentina in 1976 displayed different characteristics compared to those that had previously governed. It was a system of broader concentration of power that required including, both in the decision-making process and in government positions, men belonging to all the different branches of the armed forces, including the army, the air force, and the navy. An executive body was therefore created with executive powers, among them that of appointing the President *de facto*, the *Junta*, in which the three heads of the three main branches of the armed forces were present, and who held stronger decision-making power than the others³⁹⁴. The main consequence of adopting such a structure, which therefore emphasized collegiality in decision making, was the high fragmentation of power among different figure³⁹⁵, with the risk of paralyzing a form of government that, according to those who themselves composed it, had been born in a state of emergency and with the purpose of quickly resolving a crisis, while that Argentine dictatorship presented the features of a government that had set itself the goal of remaining in power and of not reopening the path to a more democratic political life, thus readmitting party participation.

From such a political structure also derived a less ideological approach compared to its predecessors, although there remained certain cornerstones that could absolutely not be violated³⁹⁶. In domestic politics, these regarded the staunch defense of an economic model based on market liberalization that would prevent inflation from growing and allow greater room for maneuver in an increasingly globalized market. But in order for the population to accept such a change it was necessary to eliminate any opposition, especially at a time when the country was emerging from a particularly unstable and controversial period³⁹⁷. The first target was the Montoneros, who became the first victims, the first desaparecidos of this regime, which would employ the technique of forced disappearance to eliminate all possible enemies and opponents of the regime, thereby creating an unprecedented climate of internal political terror, while outwardly it had to appear as though all was silent and going well, as was attempted during the 1978 World Cup, held precisely in Argentina, projecting the image of a perfect country, when in reality it was at that very moment that the protests of the families of the victims were able to make their voices heard before international media, giving the issue a new importance³⁹⁸. The action of the “Madres de Plaza de Mayo” was significant because it placed Videla’s government on a collision course with the United States, which at that time was

³⁹⁴ Bonvecchi, A. (2017) *Una dictadura sin centro: historia y ciencia política en la interpretación del Proceso de Reorganización Nacional*, p. 131

³⁹⁵ Bonvecchi, A. (2017) *Una dictadura sin centro: historia y ciencia política en la interpretación del Proceso de Reorganización Nacional*, p. 130

³⁹⁶ Gardini, G. L. (2011) *Latin American Foreign Policies between Ideology and Pragmatism*, p. 27

³⁹⁷ Russell, R. (1996) *Sistemas de creencias y política exterior argentina: 1976-1989*, p. 26

³⁹⁸ Ortiz, K. (2012) *Las Madres de la Plaza de Mayo y su legado por la defensa de los derechos humanos*, p. 167

governed by Carter, a staunch defender of human rights that were being violated daily by the Argentine government³⁹⁹.

Like all other military governments, the Proceso also seemed unwilling to follow the Peronist Third Position in foreign policy, but at least rhetorically, it claimed an openly anti-communist and pro-American stance⁴⁰⁰, tempered with a large dose of pragmatism, as was required by the country's desperate economic situation which translated into the maintenance and strengthening of trade relations with the Soviet Union, which precisely during the Proceso reached their peak⁴⁰¹. The regime was obviously pushed in this direction by the ongoing tensions with the Carter administration, which criticized not only the internal situation in Argentina, with state terrorism and forced disappearances, but also the international closeness to the Soviet Union, as Carter himself stated in a letter to Videla the day after the Soviet invasion of Afghanistan: ““(…) Creo que ninguna nación comprometida con la paz y la estabilidad puede continuar haciendo negocios como siempre con la Unión Soviética. Argentina, con sus tradiciones, no tengo dudas considerará las medidas que adoptará en respuesta a la agresión soviética ... No podemos proteger mejor nuestro honor nacional y la paz mundial”⁴⁰², to which the Argentine reply followed, born of the pragmatism of this period and in open contrast to the expectations of the North American president: “Pero con el mismo énfasis y basados en análogas tradiciones, nos rehusamos a participar en decisiones o actitudes punitivas que se hayan adoptado sin nuestra intervención previa o que surjan de centros de decisión ajenos al país. Nunca fuimos en el pasado, ni seremos en el futuro, actores de voluntades extrañas, ni adherentes de última hora a estrategias de poder, marginales al ordenamiento jurídico internacional. Por otra parte, es una constante de la política exterior argentina la no utilización de sanciones económicas como forma de presión o punición en el ámbito de las relaciones políticas entre los países”⁴⁰³.

As already anticipated, however, relations with the superpower changed dramatically with the arrival of Reagan to power, and at that moment changes had also taken place in Argentina, given that the Junta had removed Videla from the presidency, both because the results in domestic politics had been rather meagre, and because there was too much international attention on the issue of the desaparecidos, making it necessary to calm the waters. After a brief interlude under General Viola, Leopoldo Fortunato Galtieri was appointed president, a general with a deeply nationalist spirit,

³⁹⁹ Paradiso, J. (2009) *Inestabilidad institucional, estrategias de desarrollo y política exterior: 1973-1983*. En *Debates y trayectoria de la política exterior argentina*, p. 175

⁴⁰⁰ Russell, R. (2010) La Argentina del Segundo Centenario: ficciones y realidades de la política exterior. En *Argentina 1910-2010. Balance del siglo*, p. 252

⁴⁰¹ Paradiso, J. (2009) *Inestabilidad institucional, estrategias de desarrollo y política exterior: 1973-1983*. En *Debates y trayectoria de la política exterior argentina*, p. 176

⁴⁰² Lanús J. A. (1986) *De Chapultepec al Beagle. Política exterior argentina, 1945-1980, Tomo I*, p. 112

⁴⁰³ Lanús J. A. (1986) *De Chapultepec al Beagle. Política exterior argentina, 1945-1980, Tomo I*, p. 112

another major characteristic element of the entire military regime, the deepest force that was supposed to inspire the actions of Argentines and unite them especially in the face of injustice. Nationalism was perhaps the most relevant element in the entire history of the Proceso, as it represented a way to keep under control a population that for years had been subjected to unimaginable pressure, and that at that moment was experiencing the drama of state repression, an endless economic crisis, degrading social conditions, and poverty, but that Argentines were ready to set aside in the face of the dishonor and injustice of being deprived of territories belonging to them, of their territorial integrity, of those lands that, as has been seen, had become part of their culture. In this sense one must see the increase in tension with Chile over the dispute regarding the Beagle Channel, which nearly brought the two countries to war in 1978, the first moment in which the military junta managed to divert attention away from the impossibility of solving internal problems.

Another issue that allowed for significant nationalist propaganda was precisely that of anti-communism, which once again offered the opportunity to focus attention on a common enemy that had returned to expand, and in this Galtieri could count on Reagan's support, and vice versa, since Argentina was one of the best allies to have in South America to fight the red enemy. It is not too far-fetched to affirm that it was precisely the relationship with the United States that could have blocked the declaration of war against Great Britain, given the possibility of a negative reaction from the superpower, but with that relationship the General was absolutely certain that Reagan would in fact support him or at least remain neutral, something that did not happen, as he himself recalls: "Yo confiaba en que ellos (los norteamericanos) conservaran una equidistancia de posiciones (entre Argentina y Gran Bretaña (...)) no esperaba que ellos asumieran la posición (pro-británica) que luego tomaron" ⁴⁰⁴ "(...) Debo decir que les guardo (a las autoridades norteamericanas) un gran rencor porque los norteamericanos saben muy bien que siendo comandante del Ejército, es decir antes de ser presidente, siempre traté de acercarme a ellos y a su administración, de reanudar el mutuo entendimiento que se había debilitado durante la administración anterior (la de James Carter)... Fue muy decepcionante cuando (Haig) se puso de parte de los ingleses... Lo peor es que Reagan y su plana mayor hicieron lo mismo. A decir verdad, los argentinos comparten mi opinión de que esto es una traición" ⁴⁰⁵. It remains to be seen now what happened that led to what the general defines as a betrayal.

⁴⁰⁴ Diario Clarín (1983) *Entrevista de Juan Bautista Yofre a Galtieri, 29 de julio de 1982*, p. 1

⁴⁰⁵ Galtieri, L. F. (1982) *Argentina seguirá combatiendo*

4.2 The state of the dispute before Thatcher and Galtieri

4.2.1 The Shackleton report and its consequences

Entering the year 1976, the negotiating situation between the two parties already seemed inevitably deteriorated: Argentina had resumed its action at the United Nations, this time addressing extremely harsh words towards its counterpart, speaking of a unilateral rupture of negotiations on sovereignty and warning not to underestimate Argentina's patience and tolerance towards such behavior, thus closing with a veiled threat of a possible military action⁴⁰⁶. On its side, Great Britain acknowledged this tension, deciding to further reinforce the contingent stationed on the islands by sending the HMS Endurance to the waters of the South Atlantic, an Antarctic patrol ship whose function was to discourage a potential Argentine intervention⁴⁰⁷, and which entered Port Stanley in February 1976 carrying on board Lord Shackleton, the man entrusted with the scientific investigation of the island in search of growth potential for the archipelago and who had been caught up shortly before in the incident with the Argentine warship *Almirante Storni*⁴⁰⁸.

From these few events, some absolutely relevant elements already emerge: first of all, the parties seemed at this point further apart than ever, between Argentine threats and British fears of war, with the consequent reinforcement of their military presence, even though Defense reports still considered a sudden Argentine invasion as “unlikely, but that there was an increased likelihood of Argentine political and economic action against British interests and that, as the sequence of Argentine measures proceeded, the possibility of military operations must be regarded as that much nearer”⁴⁰⁹. This renewed tension, the other defining element of this period, found its motivation precisely in the Shackleton report, the document drafted at the end of that expedition so widely discussed up to this point, and which significantly changed the state of play, because it undermined what until then had been Argentina's certainty regarding the future cession of sovereignty of the islands, namely their substantial uselessness for the British government, opening instead to the possibility of a new strategic vitality for the archipelago⁴¹⁰.

In the report, Shackleton examined comprehensively the political, social and economic configuration of the archipelago, but the most interesting insights for the dispute concerned the third aspect. In this regard, he reported having found a society in decline in many respects, which could no longer survive

⁴⁰⁶ Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, p. 9

⁴⁰⁷ Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, p. 12

⁴⁰⁸ Beck, P. (2014) *The Falkland Islands as an International Problem*, p. 124

⁴⁰⁹ UK Parliament (1983) *Baroness Young in House of Lords Debate 25 January 1983*, vol.438 cc136-247

⁴¹⁰ Freedman, L. (2005) *The Official History of the Falklands Campaign, Vol. 1: The Origins of the Falkland War*, pp. 65-68

on a subsistence economy based on the wool trade, whose price was moreover constantly falling, a fact that effectively prevented the growth and development of the island population itself⁴¹¹. Furthermore, development was strongly inhibited by the isolation to which the archipelago was subjected, suggesting that too little had been done with Argentina in terms of communications, and that there was a need to anchor the islands to the continent to foster greater development⁴¹².

“We do believe, however, that the Falkland Islands are capable of development⁴¹³”. This is the sentence that opens the most innovative part of the document, since from it follows a series of development possibilities that the British government had never taken into account, given that strategically the Falklands had never been considered a priority⁴¹⁴. First of all, economic return could be obtained both from fishing and from the trade of marine algae present on the seabed, which, according to Shackleton, were found in great abundance, but what immediately caught the government’s attention was the presence of significant oil veins⁴¹⁵, which would have been essential for the British economy, especially in the wake of the 1973 crisis⁴¹⁶. But, as Shackleton himself warned, not everything would be so simple, because: “current opinion is that the Malvinas Basin, west of the Islands, is a continuation of a sedimentary basin stretching down to the Tierra del Fuego where oil and gas are produced today by the Argentinians and Chileans”⁴¹⁷. This meant that the oil was located on the Argentine continental shelf, which extended precisely to the Malvinas, and the same applied to fishing and the collection of algae in waters that Argentina considered within its Exclusive Economic Zone, which obviously meant that the South American country necessarily had to be convinced and involved in any extraction activity and therefore in any economic profit⁴¹⁸.

Obviously, this state of affairs had important consequences: first of all for Great Britain, which for the first time saw a glimmer of utility in a colony that until then had been “of no strategic value to us”, but which could suddenly become primary in a world increasingly dependent on energy resources⁴¹⁹. Confirming this change of perception, the Under-Secretary of State for Foreign Affairs Ted Rowlands declared before the House of Commons: “The report makes clear that the Falkland Islands have a potential for development and are not the economic liability they have sometimes been portrayed to be. This means that we must take seriously their strategic importance and the prospects

⁴¹¹ Shackleton, L. (1977) *Prospect of the Falkland Islands*, p. 4

⁴¹² Shackleton, L. (1977) *Prospect of the Falkland Islands*, p. 8

⁴¹³ Shackleton, L. (1977) *Prospect of the Falkland Islands*, p. 8

⁴¹⁴ Greño Velasco, J. E. (1978) *El Informe Shackleton sobre las Islas Malvinas*, p. 33

⁴¹⁵ Greño Velasco, J. E. (1978) *El Informe Shackleton sobre las Islas Malvinas*, p. 32

⁴¹⁶ Beck, P. (2014) *The Falkland Islands as an International Problem*, p. 126

⁴¹⁷ Shackleton, L. (1977) *Prospect of the Falkland Islands*, p. 8

⁴¹⁸ Greño Velasco, J. E. (1978) *El Informe Shackleton sobre las Islas Malvinas*, p. 33

⁴¹⁹ Beck, P. (2014) *The Falkland Islands as an International Problem*

for their future”⁴²⁰. In this way, the main reason that might have led to seriously considering ceding sovereignty to Argentina fell away; therefore, the initial tactic that had guided negotiations up to that point, namely stalling in order to avoid a United Nations reaction, acquired even greater value, as it could lead to agreements on economic cooperation with Argentina that could transform the archipelago into a goldmine. From this point onwards, this would become the main British negotiating strategy: as with the communications issue, economic cooperation would be used to elude the sovereignty question⁴²¹, as also confirmed by internal Foreign Office documents, including for instance a 1977 memo which stated: “if sovereignty cannot be conceded, then practical cooperation on fisheries, communications and resources should be promoted to maintain goodwill and postpone the issue”⁴²².

If on the British side the report was positive insofar as it reinforced the negotiating strategy pursued up to that point and even opened new potential scenarios of growth for the country, in Argentina its consequences were extremely negative, primarily because it eliminated the only argument on which Argentine diplomacy was still relying in order to achieve a diplomatic victory, namely that over time Britain would no longer be able to bear the burden of maintaining a declining colony and would hand it over to Argentina perhaps even against the will of the islanders themselves⁴²³, but the wait had become ever longer, the conviction had been that the issue could be closed within a short time, but then came the British delaying strategy, the agreements on communications, up to Shackleton. Argentine frustration therefore increasingly grew, since the common assumption had been that the Falklands would wear themselves out in a short time, given also the British domestic situation, but in fact this was not the case.

The situation became even more tense when the Argentines themselves first discovered the potential fossil resources of the archipelago: already towards the end of the 1960s and the early 1970s, therefore before the research of Griffiths and Shackleton, there is evidence not only of seismic research expeditions financed by the Argentine government, but also of a certain awareness of the oil area around the Malvinas, which was even estimated at around one hundred thousand barrels a day⁴²⁴. This meant that the Argentine leadership was also aware of having little time before Britain discovered it as well, and the colony, forgotten until then, could become the cornerstone of a potential

⁴²⁰ UK Parliament (1976) *House of Commons Debate*, 2 December 1976, vol 921, col 691-692

⁴²¹ Freedman, L. (2005) *The Official History of the Falklands Campaign, Vol. 1: The Origins of the Falkland War*, pp. 112–115

⁴²² Foreign and Commonwealth Office (1977) *Internal Memo*, FCO 7/3279

⁴²³ Freedman, L. (2005) *The Official History of the Falklands Campaign, Vol. 1: The Origins of the Falklands War*, pp. 99-101

⁴²⁴ South Atlantic Council Oil (1998) *The Falkland Islands Update: A Record of the Proceedings*, p. 8

rebirth of the British economy, something that absolutely had to be prevented, since it would have meant the definitive closure of the sovereignty issue. Finally, the dispute over hydrocarbons, if no form of cooperation were reached, would raise the dispute to a completely new level of tension, given everything that was potentially at stake, and it would no longer be a simple territorial sovereignty dispute over whether or not to apply the principle of self-determination of peoples because of the population living there, but a real battle for strategic resources essential for a country's economic development.

The already great Argentine frustration over how the situation was evolving was further aggravated by the awareness that the report would provide the counterpart with a new excuse to stall the sovereignty discussion, as had already happened in the talks on the 1968 Memorandum of Understanding and in the negotiating process as a whole up to that point, something of which the Argentine leadership was fully aware and wanted to avoid at all costs⁴²⁵, as is also evident from a press release issued on 5 January 1976 by the Ministry of Foreign Affairs and agreed upon by the military Junta, which stated: “ante tal comprobación, la Cancillería argentina estima inadecuado avenirse a considerar temas que, frente a aquella reticencia, resultan insustanciales con relación al problema verdadero, y no conducentes por lo tanto a la justa solución del mismo”⁴²⁶, confirming that the highest ranks of government knew the British would find yet another excuse to waste time.

Such a burdensome situation for Buenos Aires, deprived of its main negotiating weapon and facing yet another period of meetings substantially useless for the sovereignty issue, required a more incisive and assertive action, all the more so with a military regime in power that had made nationalism its main banner. In this sense, the vehement reaction to Shackleton's expedition can be explained, which was not limited only to customary statements of opposition, such as that by the Argentine Foreign Minister Castex on 2 January 1976, who defined Shackleton's arrival in Port Stanley on the same day as the British occupation of 1833 as an “unfriendly and unthoughtful coincidence”⁴²⁷, even threatening that “if the British Government refuses to resume negotiations, then the two countries are rapidly moving towards a head-on collision”⁴²⁸, but which was accompanied by the decision, again attributable to the Foreign Minister, to withdraw the Argentine Ambassador in London, suggesting to the counterpart to do the same with its representative in Buenos Aires⁴²⁹, hereby decidedly worsening bilateral relations between the two countries.

⁴²⁵ Una Humana Historia (2012) *Malvinas (IV): La Derrota Diplomática de Gran Bretaña*

⁴²⁶ Lanús J. A. (1986) *De Chapultepec al Beagle. Política exterior argentina, 1945-1980*, p. 482

⁴²⁷ Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, p. 10

⁴²⁸ Carassai, S. (2022) *Lo que no sabemos de Malvinas. Las islas, su gente y nosotros antes de la guerra*

⁴²⁹ Ministerio de Relaciones Exteriores, Comercio Internacional y Culto (2023) *Las negociaciones diplomáticas por la cuestión Malvinas (1966-1982)*, p. 55

It was a decidedly strong response, but one that cost Castex his position at the Ministry, and he was replaced by Raul Quijano, a sign that, while the most nationalist sectors of the Junta had welcomed his move, the majority of it still saw some room to try to negotiate and bring the sovereignty issue back to the center of the meetings⁴³⁰. To this end, as had always been done in the past to bring Britain back into line, they turned to the United Nations, where the Argentine Permanent Representative Ortiz de Rozas launched an important invective against Britain's unilateral action in breaking off sovereignty negotiations⁴³¹, which materialized, at the end of 1976, in the approval of General Assembly Resolution 31/49 (XXXI), which reiterated the previous ones, once again recognizing the efforts made by the Argentine government and urging the British one not to waste further time in reaching a definitive agreement⁴³².

Finally, and this was perhaps the most important demonstration of the new post-Shackleton diplomatic course, in December 1976 a helicopter taking off from the *Endurance* discovered that the Argentines had settled in Southern Thule, in the South Sandwich Islands, one of the Falkland Islands Dependencies under British sovereignty, in what can be considered the first act of active sovereignty by Argentina over one of the territories it claimed⁴³³. With this action, for the first time, the range of territories involved in the dispute was extended to the other groups of islands under British sovereignty, in an attempt to demonstrate that there was no more time to lose, and that Argentina's ability to reach the other islands should not be underestimated by the British, who would face enormous difficulties in defending the South Atlantic. Such a move therefore aimed to try to bypass British attempts at negotiating stalemate by introducing the threat of even military repercussions, as if to say and demonstrate that patience was about to reach its limit, as Vignes had already warned at the time and as Ortiz de Rozas reiterated in an interview in December 1975: "The limits of our patience and tolerance must not be underestimated should we be confronted with an obstinate and unjustified refusal to negotiate"⁴³⁴. The British reaction to the discovery of the settlement was extremely cautious, precisely because of the threat implied in it: an explanation was first requested from the Argentine Foreign Ministry about the presence of that settlement, which in response claimed that it was a scientific installation intended to conduct specific investigations in the area, but which was nevertheless seen by the British as a violation of their sovereignty, although they refrained from making it immediately public, probably because that was what Argentina would have wanted, since

⁴³⁰ Carassai, S. (2022) *Lo que no sabemos de Malvinas. Las islas, su gente y nosotros antes de la guerra*

⁴³¹ Ministerio de Relaciones Exteriores, Comercio Internacional y Culto (2023) *Las negociaciones diplomáticas por la cuestión Malvinas (1966-1982)*, p. 54

⁴³² Consejo Argentino para las Relaciones Internacionales (1999) *Tomo XII: La diplomacia de Malvinas (1943-1989)*, p. 71

⁴³³ Lippincot, D. & Treverton, G. F. (1988) *Negotiations Concerning the Falklands/Malvinas Dispute*, p. 6

⁴³⁴ La Nación (1975) *Entrevista al Embajador Ortiz de Rozas, 12 de diciembre 1975*

the British establishment was fully aware that this was a way of obtaining a new negotiating tool when the meetings resumed, and at the same time served to test a possible reaction⁴³⁵. At the end of January 1977, after carefully analyzing the situation, also considering that bilateral negotiations had in fact resumed, the British leadership realized that there was no point in expelling the Argentine station by force, but that it would be more convenient to let them stay, even though it was discovered that the settlement was larger than previously thought⁴³⁶, and after all, possible scientific cooperation could further prolong the negotiations along with the theme of economic cooperation, allowing once more to set sovereignty aside. It could almost be said that, in reality, the Argentine act that was supposed to be a threat and to push the British to accelerate in finding a solution on sovereignty, actually turned almost into an opportunity to continue their diplomatic strategy.

Thus, at the dawn of 1977, negotiations resumed, but the atmosphere between the two parties was already spoiled, trust between them was practically at its lowest, and yet another frustrating negotiating round with no results loomed ahead.

4.2.2 New rounds of negotiations, same old issues

Discussions about resuming negotiations began as early as February 1976, even before the military Junta took power in Argentina. For Britain, this was a way to prevent the other side from hardening its stance further. Thus, when Minister of State Ted Rowlands met his Argentine counterpart in New York, he made it clear from the outset that Britain would defend the Falklands against any act of military aggression, and that negotiations should resume with a view to finding a solution⁴³⁷. The establishment of the *Proceso* in Argentina briefly slowed down the organization of the next rounds, since the British also needed to assess who they would be dealing with, while the new Argentine government had to set its domestic agenda. It was only in February 1977 that Foreign Secretary Anthony Crosland officially announced in the House of Commons: “the time has come to consider both with the Islanders and the Argentine Government whether a climate exists for discussing the broad issues which bear on the future of the Falkland Islands, and the possibilities of co-operation between Britain and Argentina in the region of the South West Atlantic”⁴³⁸. In his statement, Crosland explicitly mentioned cooperation, while leaving sovereignty aside. He knew fully well that no envoy could go to the Islands and announce that sovereignty was back on the table without facing an outright

⁴³⁵ Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, p. 14-15

⁴³⁶ Lippincot, D. & Treverton, G. F. (1988) *Negotiations Concerning the Falklands/Malvinas Dispute*, p. 6

⁴³⁷ Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, p. 12

⁴³⁸ UK Parliament (1977) *Official Report, House of Commons, 2 February 1977*, Cols. 550–561

rejection. When Rowlands arrived in Port Stanley, he therefore focused on explaining to the local government the potential benefits of economic cooperation with Argentina. The islanders, however, showed no support, looking with deep suspicion and mistrust at the prospect of joint development⁴³⁹. The conversations in Buenos Aires, where Rowlands traveled afterwards, proved more fruitful. Foreign Minister Guzzetti agreed that negotiations should resume, but insisted that economic cooperation could not be separated from sovereignty, which had to remain part of the discussions. Moreover, the two sides managed to agree on the return of ambassadors to their respective capitals⁴⁴⁰. In April 1977, a joint communiqué summarized the main outcomes of those talks: “The Governments of the Argentine Republic and the United Kingdom of Great Britain and Northern Ireland have agreed to hold negotiations from June or July 1977 which will concern future political relations, including sovereignty, with regard to the Falkland Islands, South Georgia and South Sandwich Islands, and economic co-operation with regard to the said territories, in particular, and the South West Atlantic, in general. In these negotiations the issues affecting the future of the Islands will be discussed and negotiations will be directed to the working out of a peaceful solution to the existing dispute on sovereignty between the two states, and the establishment of a framework for Anglo-Argentine economic co-operation which will contribute substantially to the development of the Islands, and the region as a whole”⁴⁴¹.

Shortly before the Rome round of July 1977, the British Defense Committee was presented with a briefing paper on the strategy to adopt in order to avoid potential Argentine retaliation. It stressed that negotiations had to be taken seriously, offering tangible advantages to the counterpart in order to keep it engaged and prevent relations from deteriorating. On sovereignty, however, the line was to gain time, possibly by making concessions on other Dependencies, while working on public opinion and the Islanders to make them accept some version of leaseback as the ultimate solution⁴⁴². When the two delegations met in Rome, the atmosphere was cordial, but no substantive agreement was reached. On the contrary, the British appeared particularly firm on sovereignty, declaring Argentina’s refusal to apply the principle of self-determination to the Islanders⁴⁴³: “nada que sea inaceptable para los isleños puede ser aceptable para el gobierno británico”⁴⁴⁴. Still, they agreed to meet again in December 1977 in New York. In the meantime, however, relations deteriorated sharply as Argentina

⁴³⁹ Consejo Argentino para las Relaciones Internacionales (1999) *Tomo XII: La diplomacia de Malvinas (1943-1989)*, p. 73

⁴⁴⁰ Ministerio de Relaciones Exteriores, Comercio Internacional y Culto (2023) *Las negociaciones diplomáticas por la cuestión Malvinas (1966-1982)*, pp. 56-57

⁴⁴¹ UK Parliament (1977) *Official Report, House of Commons, 26 April 1977, Written Answers*, Cols. 273–274

⁴⁴² Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, p. 17

⁴⁴³ Consejo Argentino para las Relaciones Internacionales (1999) *Tomo XII: La diplomacia de Malvinas (1943-1989)*, p. 75

⁴⁴⁴ Lanús J. A. (1986) *De Chapultepec al Beagle. Política exterior argentina, 1945-1980*, p. 482

hardened its stance. Unable to make progress on sovereignty, it sought to increase pressure through incidents such as firing on a British vessel near the Falklands, once again withdrawing its ambassador from London, and staging other maneuvers meant to force the British government and negotiating team's hand⁴⁴⁵. The UK did not remain passive in the face of this escalation. It reinforced military countermeasures, especially after learning that Argentina had again established a presence in South Thule. A secret naval force was dispatched to the South Atlantic as a precaution in case the talks collapsed and Argentina resorted to retaliation, although it was withdrawn afterwards when the meeting turned out to be more positive than expected⁴⁴⁶.

Indeed, in New York the two delegations agreed to create two separate working groups: one on sovereignty and the other on economic cooperation, which were meant to meet more frequently and at a more informal level. In practice, however, things unfolded differently⁴⁴⁷. In practice, however, things unfolded differently. The economic cooperation group convened far more often than the sovereignty group, which eventually suspended its activities altogether. This once again led to frustration in Argentine diplomacy, which in turn began to block progress on other fronts, since the central issue was not being addressed⁴⁴⁸.

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4.3 The last negotiation attempts

4.3.1 From the Thatcher election to Galtieri's presidency

In May 1979 the new Conservative government led by Margaret Thatcher took office, with Lord Carrington heading the Foreign Office. It was Carrington himself who first informed the Under-

⁴⁴⁵ Consejo Argentino para las Relaciones Internacionales (1999) *Tomo XII: La diplomacia de Malvinas (1943-1989)*, p. 76

⁴⁴⁶ Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, pp. 18-19

⁴⁴⁷ Ministerio de Relaciones Exteriores, Comercio Internacional y Culto (2023) *Las negociaciones diplomáticas por la cuestión Malvinas (1966-1982)*, p. 58

⁴⁴⁸ Consejo Argentino para las Relaciones Internacionales (1999) *Tomo XII: La diplomacia de Malvinas (1943-1989)*, p. 77

⁴⁴⁹ Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, p. 19

Secretary and main protagonist of this phase of negotiations, Nicholas Ridley, that it was time to put all possible options on the table, as the moment had come to bring the dispute to an end once and for all⁴⁵⁰. Before reporting them to the Prime Minister, however, it was necessary for Ridley to travel to Argentina and to the Islands in order to assess the options of the other actors involved, thereby attempting to narrow the full range of starting possibilities. In June of that same year, Ridley met with the Argentine Under-Secretary for Foreign Affairs, Carlos Cavandoli, in a meeting that essentially amounted to a statement of their respective and antithetical positions: the British one, which leaned more towards economic cooperation, and the Argentine one, which did not contemplate excluding sovereignty from any type of discussion⁴⁵¹. The following month Ridley visited the Falklands, reiterating Britain's firm will to respect their wishes and not do anything against their will, receiving in return a very cold reaction both to proposals of Anglo-Argentine cooperation and to the idea of a leaseback, reporting to the Under-Secretary that the best option for them would have been a freeze of the sovereignty issue for a number of years⁴⁵². The extended synthesis of all this was later summarized by Lord Carrington in the minute dated 20 September 1979, addressed to Prime Minister Thatcher and some members of the Ministry of Defence, in which three major options were presented for managing the dispute with Argentina. The first, the so-called "Fortress Falklands", meaning the end of negotiations and preparation for the defence of the Islands, an option which, according to Carrington, "would not be realistic. The Islands and their Dependencies are small, remote, undeveloped and underpopulated (1,850 people of British stock). Their only hope for a secure economic and political future is through cooperation with Argentina. They are already dependent on Argentina for vital supplies (eg oil) and for communications (air services). The islands are militarily indefensible except by major diversion of our current military resources. The cost of supplying them direct from the UK in face of a hostile Argentina would be unacceptably high. The Islands would be condemned to economic decline and social decay and we would have to commit ourselves to heavy aid expenditure to keep them going"⁴⁵³. The extended synthesis of all this was later summarized by Lord Carrington in the minute dated 20 September 1979, addressed to Prime Minister Thatcher and some members of the Ministry of Defence, in which three major options were presented for managing the dispute with Argentina. The first, the so-called "Fortress Falklands", meaning the end of negotiations and preparation for the defence of the Islands, an option which, according to Carrington

⁴⁵⁰ Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, p. 20

⁴⁵¹ Consejo Argentino para las Relaciones Internacionales (1999) *Tomo XII: La diplomacia de Malvinas (1943-1989)*, p. 77

⁴⁵² Consejo Argentino para las Relaciones Internacionales (1999) *Tomo XII: La diplomacia de Malvinas (1943-1989)*, p. 77

⁴⁵³ Carrington, L. (1979) *Minute to Prime Minister Margaret Thatcher, 20 September 1979*, ALW040/325/14, p. 1

⁴⁵⁴. The third and last option, the most sensible one according to the Minister compared to the previous sterile two, was “to aim for substantive negotiations. I have written to the Argentine Foreign Minister to tell him of our wish to continue the dialogue in a constructive spirit and with the sincere intention of resolving our difficulties. But serious negotiations will have to encompass the question of sovereignty. We do not have much to bargain with⁴⁵⁵.”

This was essentially a new vision compared to the past, the British leadership had decided to change opinion and approach, the realization that the dispute had lasted too long and that the stalemate would bring undesirable consequences convinced everyone of the genuine need to achieve a transfer of sovereignty into the hands of Argentina, certainly not against the will of the Islanders, whose interests still had to be taken into account, but, in Carrington’s view, leaseback was fundamentally the best option for all, since Argentina would obtain the much-coveted sovereignty, but would lend it to Britain for a period to be agreed, and thus the Islanders could preserve their way of life and gradually adapt to the new Argentine rule, always with their former mother country overseeing⁴⁵⁶. This was a major change in the dispute, since for the first time Britain seemed truly sincere in wanting to bring negotiations to a positive conclusion, and this was perceived by the Argentine leadership, as indirectly proven by the decrease in the threat of military action against the Falklands in the biennial Defence Committee report drafted in November 1979, compared to the previous one of 1977⁴⁵⁷.

After an initial stalemate, due to the need to deal with other priority issues, it was decided at governmental level that no further waiting was possible, and an exploratory round was convened with Cavandoli to be held in New York in April 1980, in which positions remained divergent on the issue of sovereignty, but agreement was reached that this should not prevent possible accords on economic cooperation⁴⁵⁸. This meeting was nonetheless important, because it convinced Lord Carrington to pursue the path of leaseback, and for this reason he ordered Ridley to return for the second time to the Falklands to test the ground and understand the mood surrounding this possible strategy. In November 1980 the Under-Secretary arrived in Port Stanley, where he met in the town hall with three hundred representatives of the Islanders, to whom he essentially presented four alternatives, which in some way replicated those already outlined by Carrington: therefore leaseback, the freezing of discussions on sovereignty, an option previously appreciated by the Islanders, the refusal of any discussion on sovereignty with the risk of an Argentine military retaliation, or the complete cession

⁴⁵⁴ Carrington, L. (1979) *Minute to Prime Minister Margaret Thatcher, 20 September 1979*, ALW040/325/14, pp. 1-2

⁴⁵⁵ Carrington, L. (1979) *Minute to Prime Minister Margaret Thatcher, 20 September 1979*, ALW040/325/14, pp. 1-2

⁴⁵⁶ Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, pp. 20-21

⁴⁵⁷ Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, p. 22

⁴⁵⁸ Ministerio de Relaciones Exteriores, Comercio Internacional y Culto (2023) *Las negociaciones diplomáticas por la cuestión Malvinas (1966-1982)*, p. 64

of sovereignty to Argentina⁴⁵⁹. This was the most disruptive and innovative element of this new course, placing the Islanders before the real possibility of ignoring their will, which probably, in Ridley's plan, was only meant to convince them that, faced with the worst case scenario, it would be better to choose the second worst option, thus leaning towards leaseback and at least preserving their way of life while remaining under British administration. It must be said that the strategy partially worked, since, according to Ridley's own account, on leaseback the Islanders appeared to be opposed only by a minority and mostly undecided⁴⁶⁰, while the group of those who managed the Island's main market, sheep wool, would have preferred the maintenance of the status quo⁴⁶¹. The real problem, however, was that talking about a cession of sovereignty without conditions exposed the government to the attacks of the Falkland Lobby and Parliament, both of which were extremely harsh, forcing the Executive onto the defensive. An article in the Times thundered that Ridley was ready to cede sovereignty of the Islands to Argentina, even suggesting that he might have pressured the Islanders in that direction⁴⁶², while in London the Lobby mobilized, and the parliamentary hearing that the Under-Secretary had to face in December, on his return from Port Stanley, was a real cold shower from both majority and opposition, so much so that even a member of his own party, the Conservative Julien Amery, described Ridley's proposal as "profoundly disturbing"⁴⁶³. The Islanders' position once again became more extreme, an indication of a polarization that continued to obstruct the resolution of the dispute, but also revealing the failure of previous governments, from both political factions, to educate the Islanders to the benefits of a transfer to Argentina⁴⁶⁴, as well as the failure of Britain's diplomatic strategy itself, at least as it had initially been conceived, that is, to prevent the Islanders from obtaining veto power over diplomatic decisions, which they in fact did, since, in order to calm the situation, Thatcher herself had to intervene, stating that it was up to the Islanders: "to decide between the various options for the future. We will, of course, accept their decisión"⁴⁶⁵.

The first real round of formal negotiations was therefore not held under the best auspices. At the meeting, held in New York in February 1981, also attended by two Island councillors, the British delegation, led by Ridley, was effectively forced to propose maintaining the status quo through a freeze of discussions on sovereignty, which was immediately rejected by the Argentines, as was

⁴⁵⁹ Consejo Argentino para las Relaciones Internacionales (1999) *Tomo XII: La diplomacia de Malvinas (1943-1989)*, p. 79

⁴⁶⁰ Beck, P. (2014) *The Falkland Islands as an International Problem*, p. 133

⁴⁶¹ Consejo Argentino para las Relaciones Internacionales (1999) *Tomo XII: La diplomacia de Malvinas (1943-1989)*, p. 79

⁴⁶² Consejo Argentino para las Relaciones Internacionales (1999) *Tomo XII: La diplomacia de Malvinas (1943-1989)*, p. 79

⁴⁶³ UK Parliament (1980) *House of Commons Debate, 2 Dec 1980*, vol. 994, cols. 195–204

⁴⁶⁴ Beck, P. (2014) *The Falkland Islands as an International Problem*, p. 134

⁴⁶⁵ BBC (1987) *Little Platoon, Pym, 10 May 1987*

predictable⁴⁶⁶. Lord Carrington, for his part, saw the glass half full: in a new note sent to the Prime Minister and the Defence Committee on 13 March 1981, updating them on the outcome of the New York round, he stated that there had been a certain usefulness in putting Argentines and Islanders face to face, since for the first time they had been able to have a frank exchange of views, but that it was they who had to clarify their ideas before resuming negotiations, in other words, they had to make a decision on what to do, on how much and whether they were willing to open up to a real solution to the controversy⁴⁶⁷.

On the other side, however, stood the Argentine leadership, which was no longer so willing to wait. There was in fact a certain diversity of positions, ranging from the cautious optimism of some diplomats, such as the Under-Secretary for Foreign Affairs Enrique Ros, who believed there was time to wait for the outcome of the Legislative Council elections on the Islands, with the risk of victory for those favouring a more intransigent position⁴⁶⁸, to the growing and dangerous impatience of the military factions, as indicated by the speech of Galtieri himself, at the time still Commander-in-Chief of the Armed Forces, in a speech in May 1981: “nadie podrá decir que no hemos sido extremadamente calmos y pacientes en el manejo de nuestros problemas internacionales, que de ningún modo surgen de las apetencias territoriales de nuestra parte. Sin embargo. luego de un siglo y medio, ellos se han vuelto más y más insoportable”⁴⁶⁹. Caution was necessary to avoid Argentina’s own position polarising to the point of no return, also because the urgency with which the British Embassy in Buenos Aires was requesting a new round of negotiations suggested that the situation could quickly degenerate⁴⁷⁰.

All these perceptions were present in the report presented by J. B. Ure, senior official of the Foreign Office, upon returning from being sent to Argentina and the Islands to assess the situation and reassure the Argentines of the continuation of negotiations, at the meeting convened by Ridley at the end of June 1981 to take stock of the matter. The main recommendation was to accelerate the process of convincing the Islanders of the leaseback solution, since this was also viewed positively in Argentina, through a policy of education on the benefits of that solution, and, at the same time, it was decided once again to buy time with the Argentines, risking of course a possible reaction, which at that moment did not seem certain, given the military plans that had been developed, and perhaps waiting

⁴⁶⁶ Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, pp. 23-24

⁴⁶⁷ Carrington, L. (1981) *Minute to Prime Minister Margaret Thatcher, 13 March 1981*, ALW040/325/2 Part B 76 - 150, p. 1

⁴⁶⁸ Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, pp. 24-25

⁴⁶⁹ Consejo Argentino para las Relaciones Internacionales (1999) *Tomo XII: La diplomacia de Malvinas (1943-1989)*, p. 83

⁴⁷⁰ Beck, P. (2014) *The Falkland Islands as an International Problem*, p. 135

for a favorable outcome of the Island elections⁴⁷¹. A month later, however, in a note sent by Ridley to Lord Carrington, that cautious optimism seemed to have vanished: yes, leaseback remained the only possible way to resolve the issue peacefully, but on the Islands the faction diametrically opposed to any agreement with Argentina would most likely gain the majority, effectively blocking any initiative and opting for a freeze of the issue, something which, at that time, the British government could not possibly afford. Thus, for Ridley, the possible paths to take were essentially three: to open negotiations even without the consent of the Islanders, but still bound to their assent at the time of reaching an agreement, or to stop negotiating on sovereignty preparing properly to face the consequences, and finally, and this would be Ridley's preferred option, to launch an educational campaign to attempt to convince the Islanders to accept leaseback⁴⁷². The Minister had to decide which strategy to adopt in view of the meeting with his Argentine counterpart Camilion in New York, already the options were few and the prospects of success were fading, but to add further pressure on Carrington came his counterpart himself, who decided to make explicit Argentina's impatience, suggesting that it would be better to accelerate negotiations considerably to avoid the situation deteriorating⁴⁷³.

Taking all this into consideration, Lord Carrington sent a note to the Prime Minister and the Defence Committee, in which he spelled out his decision, namely that he did not want to pursue the path of an educational campaign towards the Islanders, and what his strategy would be in view of the meeting:

"I propose to tell him that we want to end the dispute: but that we can act only in accordance with the wishes of the Islanders. We shall certainly be recommending them to agree to further talks and we may hope that these might lead them to realise the advantages of a settlement. If the Argentines were able to put forward constructive proposals of their own, this would help. But to put pressure on the Islanders to take any decision against their will could only be counter-productive. The Argentines will not like this. They are under strong domestic pressures to show results. If they conclude that we are unable or unwilling to negotiate seriously, they may see little purpose in trying to maintain a dialogue"⁴⁷⁴.

This was in fact an important note, as it officially denoted the abandonment of the British negotiating initiative, which the London government had always sought to maintain so as not to let the situation slip out of hand, but at that moment, with options exhausted and awaiting to understand what majority

⁴⁷¹ Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, pp. 25-26

⁴⁷² Lippincot, D. & Treverton, G. F. (1988) *Negotiations Concerning the Falklands/Malvinas Dispute*, p. 8

⁴⁷³ Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, pp. 27-28

⁴⁷⁴ Carrington, L. (1981) *Minute to Prime Minister Margaret Thatcher, 14 September 1981*, ALW040/325/2 Part D 226, p. 2

would govern the Islands, the Argentines were being asked to make some proposal to consider⁴⁷⁵. Furthermore, the strong domestic pressures the Argentine government was facing were a heavy reality that increased their impatience, Camilión himself warned that it would be extremely risky to postpone further the issue and solution of the sovereignty dispute, which, in order to resolve a practically disastrous internal situation, the military Junta had turned into its primary foreign policy objective⁴⁷⁶.

An encounter full of tension was therefore looming, the dispute was at yet another stalemate and the actors involved were running out of peaceful options at their disposal, as well as time and patience. The two Ministers met on 23 September 1981 in New York, and Carrington immediately made explicit the difficult position in which he found himself, willing and desirous to resolve the issue, which had dragged on for too long in the relations between the two countries, but on the other hand unable to force the Islanders to accept something they did not want, though perhaps some Argentine proposal might have been able to break down this resistance, something to which Camilión did not respond, but emphasized that the Islanders could not and should not have veto power, as this was not a matter of self-determination, but of sovereignty, which had always been a question between States⁴⁷⁷. In the end both parties left partially satisfied from the negotiations: in a dialogue with the British Ambassador in Buenos Aires, dated October 1981, Camilión said he was satisfied with the negotiations, as Britain seemed for the first time to have the real intention of resolving the issue, but he was aware that it could not be a short process and that perhaps in the long run it might be possible⁴⁷⁸. The Ambassador himself later reported this conversation to Carrington, but sought not to raise expectations, saying that the pressure the military government was facing should not be underestimated, and that therefore essentially fruitless or resultless rounds were no longer acceptable, but, despite this, Carrington saw a small room for manoeuvre to possibly succeed⁴⁷⁹. The latest cold shower, however, came from the elections in Port Stanley, which, as widely predicted, delivered victory to the most stubbornly anti-Argentine faction, which immediately closed the door to any discussion concerning sovereignty, though not to those on other issues, for which dialogue still had to continue⁴⁸⁰.

For this reason, a new meeting was scheduled, later postponed to the end of February 1982 due to other urgencies of the new British Under-Secretary who had replaced Ridley, Richard Luce. In the

⁴⁷⁵ Hoffmann, F. L. & Hoffman, O. M. (2022) *Sovereignty In Dispute: The Falklands/Malvinas, 1493-1982*, p. 157

⁴⁷⁶ Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, pp. 27-28

⁴⁷⁷ Consejo Argentino para las Relaciones Internacionales (1999) *Tomo XII: La diplomacia de Malvinas (1943-1989)*, p. 86

⁴⁷⁸ Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, p. 30

⁴⁷⁹ Foreign and Commonwealth Office (1981) *Letter from the UK Ambassador to Buenos Aires to Fearn, 2 October 1981*, ALW040/325/2 Part D 226

⁴⁸⁰ Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, pp. 30-31

meantime, however, in Argentina the government had changed, and Leopoldo Galtieri had risen to power, perhaps the very personification of the impatience of the military over the Malvinas question.

4.3.2 The end of negotiations and the islands' invasion

The change of leadership in Buenos Aires marked the definitive radicalization of the Argentine position, following that of the Islanders after the election of the new Legislative Council, which definitively abandoned even the leaseback option⁴⁸¹. resident Galtieri, whose stance on the dispute had already been glimpsed when he was only head of the Army, a position he moreover maintained together with the presidency⁴⁸², shared a strong unity of intent with the head of the Navy, Admiral Anaya, who as early as 1978 had begun preparing military plans for the invasion of the Malvinas⁴⁸³, and who became one of his most trusted advisers. Also standing out among the government team was the choice for the Ministry of Foreign Affairs of the man who had guided the first steps of the negotiations over the controversy during Onganía's regime, Nicanor Costa Mendez, who thus returned for the second time to the Palacio de San Martín, still mindful of the frustration over the failure of the Memorandum de Entendimiento.

From the outset it was made clear how the Argentine leadership intended to handle the dispute, as stated in a note later sent to the British Embassy in Buenos Aires at the end of January 1982: the diplomatic path remained the main way to resolve the situation, but the time had come to stop wasting time and accelerate the negotiation process, which in recent years had been excessively postponed, diverting from what was the central theme, namely sovereignty over the Malvinas, South Georgia and the South Sandwich Islands, the only, final and priority objective for the Argentine government, which would never diminish or loosen its grip on the matter⁴⁸⁴. The ball was definitely in Argentine hands, as demonstrated by the proposal to create a permanent negotiation commission on sovereignty, jointly managed by the two Foreign Ministers, with a pre-established agenda and a strictly defined schedule of meetings, which was supposed to lead quickly to the solution of the controversy, for example within a year, and the details of this proposal would then be further discussed in detail at a meeting between the two delegations the following month in New York⁴⁸⁵. short, at that moment it was the military regime dictating the pace and demanding compliance from the other side, which had

⁴⁸¹ Ministerio de Relaciones Exteriores, Comercio Internacional y Culto (2023) *Las negociaciones diplomáticas por la cuestión Malvinas (1966-1982)*, p. 68

⁴⁸² Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, pp. 34-35

⁴⁸³ Beck, P. (2014) *The Falkland Islands as an International Problem*, p. 139

⁴⁸⁴ Foreign and Commonwealth Office (1982) *Argentina bout de papier to the British Embassy, 27 January 1982*, FCO12/384 f74

⁴⁸⁵ Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, pp. 36-37

exhausted its innovative options⁴⁸⁶, short, at that moment it was the military regime dictating the pace and demanding compliance from the other side, which had exhausted its innovative options⁴⁸⁷. It must nonetheless be said that, at the dawn of 1982, military plans were being talked about, but the idea of war was in fact still distant, as confirmed by intelligence reports of that period, and it was far more likely that any Argentine retaliation would involve the suspension of the communication services installed after 1971⁴⁸⁸.

The situation, however, would soon degenerate, for this ultimatum to the British government came at the worst possible moment, given that the Islanders accepted only Fortress Falklands as a solution, and it would have been impossible to mediate and bring closer two positions now completely at odds, as well as to try to gain time. Despite the extremely negative premises, and despite the disturbing media campaign by the Argentine journalist of *La Prensa*, Iglesias Rouco (“the time is approaching for Buenos Aires to think in terms of force”⁴⁸⁹) the New York meeting took place at the end of February: the discussion began on the details of the work of the permanent commission, without achieving major results but showing, on both sides, a spirit and willingness to negotiate, which at that time was not to be taken for granted, and the meeting concluded with the decision of the parties to issue a joint communiqué as general as possible and to keep the details of the dialogue secret for the moment⁴⁹⁰. Very shortly after the conclusion of the meeting, however, with an absolutely unilateral action, the Argentine delegation issued, to the surprise of the British, a communiqué that instead described in detail the subject of the negotiation round:

“at the meeting held in New York on 26 and 27 February, the representatives of Argentina and Great Britain considered an Argentine proposal to establish a system of monthly meetings with a preestablished agenda, pre-arranged meeting place, and led by top-level officials. The aim of such meetings will be genuinely to speed up to the maximum the negotiations in train to achieve recognition of Argentine sovereignty over the Malvinas, South Georgia and the South Sandwich Islands, and by this means to achieve substantial results within a time which at this advanced stage of the discussions will necessarily have to be short. (...) The new system constitutes an effective step for the early solution of the dispute. However, should this not occur, Argentina reserves the right to

⁴⁸⁶ Bersategui, V. (2013) *La Política británica hacia las Malvinas*, p. 2

⁴⁸⁷ Ministerio de Relaciones Exteriores, Comercio Internacional y Culto (2023) *Las negociaciones diplomáticas por la cuestión Malvinas (1966-1982)*, p. 69

⁴⁸⁸ Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, pp.35-36

⁴⁸⁹ Foreign and Commonwealth Office (1982) *Argentine press activity in La Prensa by Iglesias Rouco*, ALW 040/325/3

⁴⁹⁰ Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, pp. 39-40

terminate the working of this mechanism and to chose freely the procedure which best accords with her interests”⁴⁹¹.

This was the first step in the new Argentine strategy, to try to catch the British leadership off guard, to put pressure on them with increasingly consistent threats and ultimately to obtain the definitive cession of sovereignty, the tactic of hit and retreat (*golpear y volver*), as Bologna called it⁴⁹². The first result achieved, however, was yet another erosion of mutual trust, by now at an extremely low level, although it must be said that concern in the United Kingdom certainly increased, also in view of the media campaign which, again through Rouco, pointed out that the British would have until the beginning of the summer of 1982 to cede sovereignty. This media move was so effective that it alarmed Thatcher herself, who ordered the preparation of contingency plans, how to act if the Argentines moved either on the civil front, by cutting communications, or on the military front, from operations on uninhabited islands of the archipelagos to a large-scale invasion, even though the opinion of the intelligence services still considered a war action distant, but it had emerged that the Navy would be ready to move if nothing was resolved by June, launching a diplomatic offensive at the level of international organizations⁴⁹³. The British governmental reaction was cautious in this case, but it was at this juncture that they also began to mobilize to seek the good offices of mediation by the United States, but this will be the subject of the last paragraph. In a Foreign Office meeting dated 5 March 1982, in the presence of Lord Carrington, the steps to be taken to deal with the issue of the Argentine unilateral communiqué were decided: the most relevant decision was to send a message to Minister Costa Mendez, stating that such a hostile climate hindered and prevented the course of negotiations, and that it was necessary to return to the track established at the New York meeting, but in the end the message was never sent due to the South Georgia incident, which once again and even more seriously changed the situation⁴⁹⁴.

Incidents, misunderstandings and unilateral actions by Argentine citizens both in the Falklands and in the Dependencies had been frequent since 1965 and had certainly not helped the climate between the two parties, but had never had too significant an impact. What happened in South Georgia, however, had a different scope, given the unprecedented climate surrounding the dispute in 1982, and also given the fact that the Dependencies had effectively been included in the main contention. The protagonist of the affair was a metal merchant from Buenos Aires, Constantino Davidoff, who at the end of 1981 had obtained a contract with the British to inspect and possibly collect metal in South

⁴⁹¹ Foreign and Commonwealth Office (1982) *Williams to FCO March 2, 1982*, ALW 040/325/1 B 51-100

⁴⁹² Bologna, A. B. (1992) *El conflicto de las Islas Malvinas*, p. 53

⁴⁹³ Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, pp. 43-45

⁴⁹⁴ Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, p. 47

Georgia, in the area around Leith, where he docked for the first time in mid-December 1981, on an Argentine-flagged icebreaker, the *Almirante Irizar*, which was judged by the British side as a violation of sovereignty, since the ship should have obtained clearance from the port of Grytviken before arriving at Leith⁴⁹⁵. Despite this small hitch, Davidoff apologized to the British Embassy for the turmoil caused, and obtained permission to return with a group of men to extract that metal, which happened on 19 March 1982, when the *Bahia Buen Suceso*, again flying the Argentine flag, arrived at the port of Leith, once again bypassing Grytviken, but the forty-one men Davidoff had brought with him took possession of the outpost, hoisting the Argentine flag⁴⁹⁶. Doubts immediately arose about the real nature of that expedition, since the crew was unloading supplies to stay longer than necessary, which raised suspicion, especially considered by the Falkland Governor, that behind the entire initiative was the Argentine Navy, with the aim of putting further pressure in view of the British delay in proposing a date for the first meeting of the permanent commission, suspicion increased by the curious fact, noted by Richard Luce, that during the almost three days spent in Leith, the *Buen Suceso* had maintained strict radio silence⁴⁹⁷.

This time, however, the British reaction was not cautious at all: not only was a message sent from the British Antarctic Survey based in Grytviken, which caused the lowering of the Argentine flag, but from London it was decided that HMS *Endurance* should leave the Falklands for South Georgia, which enormously alarmed the military government, which was absolutely not ready for an escalation in the South Atlantic⁴⁹⁸. Costa Mendez once again took on the role of mediator on the Argentine side, first of all stating that he was extremely surprised by the speed with which the British had taken such a heavy decision, namely to send their main military force in the South Atlantic to expel the Argentines who remained at Leith, given that the *Buen Suceso* had left the port with most of the Argentines on board on 21 March, and then suggesting that he would discuss with the military the possibility that an Argentine ship might intervene to recover the last men left at Leith, without the intervention of the *Endurance*⁴⁹⁹. At this point the situation began to precipitate, since the firm British reaction had removed any doubt for the Junta and for Galtieri himself: not only were the islands Argentine and illegally occupied, but Britain was prepared to defend them militarily rather than continue negotiating and wasting time⁵⁰⁰: “For the military junta, ‘all else had failed’. They perceived the South Georgia crisis, not as an isolated incident, but as part of a chain of events dating back to

⁴⁹⁵ Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, pp. 48-49

⁴⁹⁶ Lippincot, D. & Treverton, G. F. (1988) *Negotiations Concerning the Falklands/Malvinas Dispute*, p. 10

⁴⁹⁷ Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, pp. 49-55

⁴⁹⁸ Lippincot, D. & Treverton, G. F. (1988) *Negotiations Concerning the Falklands/Malvinas Dispute*, p. 11

⁴⁹⁹ Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, pp. 49-55

⁵⁰⁰ Beck, P. (2014) *The Falkland Islands as an International Problem*, p. 141

1965 ... Everything was pushing the Argentinians toward ... military intervention”⁵⁰¹. The first to bear the enormous pressure of the Junta’s decision was precisely Costa Mendez, who had tried to mediate and not allow the belligerent positions to prevail, but who at that moment was subjected to essentially unmanageable pressure, and for this he blamed the British, the first, in his view, to have adopted such belligerent attitudes: after the war, in an interview with Peter Beck, he stated that:

“from the beginning of the Georgia crisis, the British Government assumed an intransigent stand, leaving very little room for a pacific settlement of the incident ... and cornered the Argentine Government ... Argentina had no other choice but to occupy the islands. Argentina had to preserve and assert its sovereignty rights, in order to maintain international credibility ... to place pressure on Britain, to draw the attention of international public opinion and to cause the intervention of the International Organisations”⁵⁰².

From that moment on, Argentina and the regime could not afford to lose face internationally, also considering the domestic protests that Galtieri was already facing on economic and social issues, which resulted in a stalemate on the South Georgia front, at least until 27 March, when Costa Mendez made a public statement saying that the Argentines who remained there would receive all possible protection, forcing the British to seek a diplomatic effort to resolve the situation in the following days, which was possible, according to what the Argentine Minister himself had told the British Embassy⁵⁰³.

On the British side, however, something did not add up: the suspicion that Costa Mendez was deceiving them raised the doubt that South Georgia had now become a mere diversion and that the Argentine military leadership was already preparing the invasion of the Malvinas, an idea that found arguments in its favor both in the message sent by Costa Mendez, in which he blamed the British for everything that had happened by not recognizing Argentine sovereignty, and in the deployment of the Argentine fleet in the Atlantic⁵⁰⁴. At this point the top officials of the British Ministry of Defence met, following the Prime Minister’s decision, in agreement with Lord Carrington, to send a nuclear submarine to give the impression that the British would not back down⁵⁰⁵. Tension continued to rise, Costa Mendez warned that the messages from the British press about the deployment of forces did not help to resolve the situation, but there was now nothing left to negotiate, since on 31 March two

⁵⁰¹ Gamba, V. (1987) *The Falklands/Malvinas War: A Model for North-South Crisis Prevention*, pp. 116–127

⁵⁰² Beck, P. (2014) *The Falkland Islands as an International Problem*, p. 141

⁵⁰³ Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, pp. 59-60

⁵⁰⁴ Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, 59-60

⁵⁰⁵ Hastings, M. (1983) *The Battle for the Falklands*, p.76

intelligence reports arrived at the Foreign Office stating that the Argentine government had made its decision and that an invasion of the Falklands was now imminent⁵⁰⁶.

April 1 was an extremely hectic day for the British government: meeting after meeting followed to assess the timing of the arrival of a contingent that could retake the islands after the invasion, and it was estimated that it would take about three weeks to reach the Falklands, and that the force employed would have to succeed in a relatively short time⁵⁰⁷. In the meantime Costa Mendez declared to the Ambassador that the South Georgia incident was closed, a statement that coincided with another intelligence report received in London, warning that the invasion would take place around noon the following morning, 2 April 1982, as already scheduled on 26 March, when *Operación Azul* had been planned, initially to take place on 1 April, with the possibility of being moved to the 2nd or 3rd⁵⁰⁸. Also on April 1, Margaret Thatcher made a last-ditch attempt to prevent war: she reached out by telegram to U.S. President Reagan, aware that his good relations with Galtieri might dissuade him, obtaining the President's agreement to make an attempt, but the Argentine general initially did not answer the calls of his North American counterpart and, when he did, he declared: "Listen, we've been negotiating with these guys for donkey's years. They don't want to do anything. It's politically mandatory that we take action"⁵⁰⁹. At that point there was nothing more to be done, and the British Prime Minister had no choice but to order the troops to prepare for deployment. The following day, 2 April, at the end of the morning, the Argentine government declared that it had taken control of the islands⁵¹⁰.

4.3.3 The role of the United States: Alexander Haig final mediatory attempt

The outbreak of the Malvinas conflict was a bolt from the blue for President Reagan, since it erupted between two very important allies for the course of his administration, as he himself declared immediately after receiving the news on April 2: "We're friends with both sides in this. And we're going to try, strive for—and I think they will be willing to meet in the idea of a peaceful resolution. . . I just don't think that it's an issue that should come to that point [i.e., war]"⁵¹¹. It was for him a real dilemma, and he did not want in any way to find himself in the position of having to choose between the two sides. For this reason, he hoped that Great Britain had no intention of responding in kind, but

⁵⁰⁶ Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, pp. 66-68

⁵⁰⁷ Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, pp. 68-71

⁵⁰⁸ Comisión de Análisis y Evaluación de las Responsabilidades Políticas y Estratégicas Militares en el Conflicto del Atlántico Sur (1988) *Informe Rattenbach*, p. 81

⁵⁰⁹ Lippincot, D. & Treverton, G. F. (1988) *Negotiations Concerning the Falklands/Malvinas Dispute*, p. 11

⁵¹⁰ Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, pp. 71-72

⁵¹¹ Lippincot, D. & Treverton, G. F. (1988) *Negotiations Concerning the Falklands/Malvinas Dispute*, p. 13

on April 5 Prime Minister Thatcher ordered the deployment of almost 30,000 men, who would reach the islands at the end of the month with the clear objective of taking them back⁵¹². Only the path of a last-minute mediation remained, which was undertaken by Secretary of State Alexander Haig, who had already for some months begun to show interest in the matter and to entertain conversations with Lord Carrington and the Foreign Office, also following the visit of Thomas Enders, the United States Assistant Secretary of State for Latin American Affairs, to Argentina in early March 1982, with the aim of calming the waters after the unilateral communiqué following the New York meeting, but which in that case had no effect⁵¹³.

Haig, for his part, sided with the British, he believed they were right on everything and that they would win a possible war, even if he did not agree with a militarization of the dispute⁵¹⁴. When the Argentinians invaded the islands, he maintained an extremely pragmatic attitude, as he himself wrote in his autobiography: “It remained essential, in the early stages of the crisis, for American neutrality to be preserved. If the prospects for a peaceful solution were not great, they still must be seized. It was my opinion, tested in a series of freewheeling staff discussions, that the United States alone had enough influence with both sides to provide an outside chance of success”⁵¹⁵. Strongly convinced that he could succeed, he decided to take charge of this last attempt himself, and for this reason he turned to President Reagan to ask for authorization to travel to London and Buenos Aires to reconcile the sides, receiving presidential approval⁵¹⁶. On the morning of April 7 the National Security Council (NSC) therefore met to discuss the details of this intervention, but the same body was divided between eventual support for Great Britain or Argentina, such as Ambassador to the United Nations Jean Kirkpatrick, who had invested so much in the connection with Argentina and did not want to sacrifice it for a conflict with Great Britain, while on the British side was CIA Deputy Director Bobby Inman, citing instead the problems the US was having with the Argentine Junta on the issue of non-proliferation, and that if this aggression were allowed to pass, what would prevent it from resorting also to nuclear threat in the future⁵¹⁷. Despite the divisions, Haig’s mission was approved, and the Secretary was able to depart on the night of April 8.

It was bound to be a complex mission, above all because the negotiating team would have to shuttle between London and Buenos Aires, two cities not exactly close to each other, with limited time

⁵¹² Morgenfeld, L. (2022) *La visita del Secretario de Estado Alexander Haig en el marco de la frustrada mediación de Estados Unidos en el conflicto de Malvinas*, p. 73

⁵¹³ Falkland Islands Review (1983) *Report of a Committee of Privy Counsellors (Franks Report)*, p. 42

⁵¹⁴ Lippincot, D. & Treverton, G. F. (1988) *Negotiations Concerning the Falklands/Malvinas Dispute*, p. 16

⁵¹⁵ Haig, A. (1984) *Caveat: Realism, Reagan, and Foreign Policy*, pp. 270–271

⁵¹⁶ Lippincot, D. & Treverton, G. F. (1988) *Negotiations Concerning the Falklands/Malvinas Dispute*, p. 18

⁵¹⁷ Lippincot, D. & Treverton, G. F. (1988) *Negotiations Concerning the Falklands/Malvinas Dispute*, p. 18

available, since the British ships were already on their way to the South Atlantic, and above all because the two positions had become even more rigid than in the past, especially the British one, as Haig was able to see in his first meeting with Thatcher: “Before dinner, Mrs. Thatcher had shown me and the other Americans portraits of Wellington and Nelson. She was in a forceful mood, embattled, incisive, and with the right indisputably on her side. It was evident from the beginning of the five hours of talks with Mrs. Thatcher and members of her government that the prime minister “had the bit in her teeth”⁵¹⁸. The Prime Minister could in no way accept the violation of international law by the military government, she was ready to fight with all her strength, also because the internal stability of her government before Parliament and public opinion would have been at great risk if she had decided to step back⁵¹⁹: “Thatcher was not [buying our] approach. With high color in her cheeks, a note of rising indignation in her voice, she leaned across the polished table and flatly rejected what she called the “woolliness” of our second-stage formulation [the interim administration], conceived in our view as a transitional face-saving ploy for Galtieri: “I am pledged before the House of Commons, the Defense Minister is pledged, the Foreign Secretary is pledged to restore British administration. I did not dispatch a fleet to install some nebulous arrangement which would have no authority whatsoever. Interim authority!—to do what? I beg you, I beg you to remember that in 1938 Neville Chamberlain sat at this same table discussing an arrangement which sounds very much like the one you are asking me to accept; and were I to do so, I would be censured in the House of Commons and properly so! We in Britain simply refuse to reward aggression—and that is the lesson we have learned from 1938”⁵²⁰. The proposal to which Thatcher was referring was the one Haig and his team had prepared as the basis for negotiations and to be presented to the two leaders, which was based on the withdrawal of Argentine troops from the archipelago, the abolition of the British administration and the Governor, who would have been replaced by a tripartite joint administration while the parties negotiated a solution to the dispute with a deadline set for December 31, 1982⁵²¹. The British government rejected it on the grounds that it ignored the right to self-determination of the Kelpers and that it would not negotiate with a country that had violated the prohibition on the use of armed force for the resolution of disputes, leaving Haig with very little to present to Galtieri in Buenos Aires, except that a first step to return to negotiations would have been the withdrawal of Argentine troops from the Falklands⁵²².

⁵¹⁸ Haig, A. (1984) *Caveat: Realism, Reagan, and Foreign Policy*, pp. 273–274

⁵¹⁹ Lippincot, D. & Treverton, G. F. (1988) *Negotiations Concerning the Falklands/Malvinas Dispute*, p. 20

⁵²⁰ Haig, A. (1984) *Caveat: Realism, Reagan, and Foreign Policy*, pp. 273–274

⁵²¹ Morgenfeld, L. (2022) *La visita del Secretario de Estado Alexander Haig en el marco de la frustrada mediación de Estados Unidos en el conflicto de Malvinas*, p. 74

⁵²² Haig, A. (1984) *Caveat: Realism, Reagan, and Foreign Policy*, pp. 273–274

With a taste of British determination, the team took off again and flew to Buenos Aires, where it landed on April 9, but the meeting with Galtieri took place the following day. The reception, in Haig's words, was very peculiar, reminiscent of Mussolini, and Galtieri went straight to the point and to his main concern: "The Argentinian government is willing to find an honorable solution that will save Mrs. Thatcher's government. But we cannot sacrifice our honor.... You will understand that the Argentinian government has to look good, too"⁵²³. On the Argentine side, too, there were very important considerations regarding the internal stability of the government in trying to emerge well from the dispute, which, however, for the Argentines and given the way the rhetoric about the Malvinas had always been constructed, could only mean the cession of sovereignty, otherwise they would fight. It must be said, however, that in this first meeting Galtieri and Costa Mendez were particularly skeptical about a possible British military response, which was already underway, and it was Haig who had to warn them⁵²⁴, but the two did not seem sufficiently worried to bend to American demands, because, according to Costa Mendez, they did not take into account what Argentina had gained with the military action, which particularly annoyed Haig and his delegation, who thus could not bring anything to the British, since neither side seemed truly willing to avoid war⁵²⁵. was Costa Mendez who had a slight change of heart, and arranged a private meeting between Haig and Galtieri to see what could be done, with the latter at one point letting himself go and confessing to the American Secretary that he could not withdraw his military and administrative presence from the islands and remain in office for more than a week, a confession that in fact opened up the possibility of drafting a proposal similar to the one that had initially been put forward in London, but which included the withdrawal of Argentine troops, the restoration of British administration, and the cessation of economic and financial measures against Argentina⁵²⁶.

With something more than before, the American delegation returned to London on April 12, but Thatcher had not taken a single step back from her previous position and was absolutely not ready to do so, she needed a clear victory while continuing to face miners' protests⁵²⁷. Finding no space to bend the Prime Minister, Haig telephoned Costa Mendez, who for his part would have been ready to concede not to insist on the appointment of an Argentine governor if Great Britain had stopped its fleet on its way and sent it back, which particularly angered Thatcher, who could not renounce her only deterrent at that moment, but this minimal opening made Haig think there might be a window of success, so much so that, after numerous efforts, he managed to have the British sign the proposal

⁵²³ Haig, A. (1984) *Caveat: Realism, Reagan, and Foreign Policy*, pp. 276–284

⁵²⁴ Lippincot, D. & Treverton, G. F. (1988) *Negotiations Concerning the Falklands/Malvinas Dispute*, p. 22

⁵²⁵ Lippincot, D. & Treverton, G. F. (1988) *Negotiations Concerning the Falklands/Malvinas Dispute*, p. 23

⁵²⁶ Haig, A. (1984) *Caveat: Realism, Reagan, and Foreign Policy*, pp. 276–284

⁵²⁷ Lippincot, D. & Treverton, G. F. (1988) *Negotiations Concerning the Falklands/Malvinas Dispute*, p. 24

that would later be presented to the Argentinians in the second trip of the delegation to Buenos Aires⁵²⁸. Nevertheless, British willingness to negotiate was gradually fading, the government did not understand why the United States had not immediately sided with their historic ally and why they were procrastinating on the position to be taken⁵²⁹. This was wearing them out quite a lot, even if obviously, trust in the Anglo-American relationship was not lost, but it must be said that a certain friction was being reached.

After a brief stopover in Washington, the delegation arrived once again, on April 15, in Buenos Aires, but the situation had markedly worsened compared to the first trip. Even though the Americans believed the proposal was irresistible: “Effective immediately on the signature of this agreement, the Argentines will begin evacuation of the islands and the British fleet will stop in place. A tripartite administration will be formed of Britons, Argentines, and Americans. All three flags will fly over the island during this period of administration, until the negotiations for the final disposition of the islands are settled, at the latest on the 31st of December 1982. I can’t believe we had gotten [the British] to agree to that, but they did”⁵³⁰, the attitude of the Junta had drastically changed, the military were willing to negotiate only if the joint administration of the archipelago allowed the replacement of the British population present with an Argentine one, which would have guaranteed recognition of sovereignty once the transition was over⁵³¹. It was fundamentally an unacceptable proposal for the British, but for Haig it tasted of defeat, yet he wanted to make one last attempt in a meeting with the full Junta, which however proved fruitless above all due to Anaya’s intransigence, but above all because the entire military leadership had changed its mind about the American Secretary, who at that moment was seen as a British emissary who could absolutely not be trusted, and that the United States had already decided which side to stand on, the *traición* was now definitively complete.⁵³² Also in this case, even though no one really wanted to negotiate for the implications that that step towards war meant too much for their permanence in power, the end of trust or its absence placed the final tombstone on the last attempt to avoid the Malvinas war.

At the end of April the British troops arrived in the archipelago and, with American help, who had then effectively sided with their historic ally, obviously after the end of Haig’s mission⁵³³, resolved the conflict in just over a month. By June 1982 hostilities were over, but the war had nonetheless been

⁵²⁸ Lippincot, D. & Treverton, G. F. (1988) *Negotiations Concerning the Falklands/Malvinas Dispute*, p. 25

⁵²⁹ Hastings, M. (1983) *The Battle for the Falklands*, p. 109

⁵³⁰ Haig, A. (1984) *Caveat: Realism, Reagan, and Foreign Policy*, pp. 276-284

⁵³¹ Lippincot, D. & Treverton, G. F. (1988) *Negotiations Concerning the Falklands/Malvinas Dispute*, p. 27

⁵³² Lippincot, D. & Treverton, G. F. (1988) *Negotiations Concerning the Falklands/Malvinas Dispute*, p. 28

⁵³³ Bologna, A. B. (1992) *El conflicto de las Islas Malvinas*, p. 57

“the most dreadful waste of young lives”⁵³⁴, as Margaret Thatcher had predicted before the troops reached their destination.

⁵³⁴ Rosaspina, E. (2019) *Margaret Thatcher. Biografia della donna e della politica*, p. 192

CONCLUSION

It was a deliberate decision to avoid a conventional summary conclusion for the fourth chapter, in order to end directly with the outbreak of war, thereby underscoring the comprehensive collapse of diplomatic efforts. Reaching the conclusion, much could still be said. First, a brief mention of the post-war period is necessary, mainly because the negotiation dynamic never truly recovered. While at every meeting between the two countries the leaders claimed to have discussed the issue anew, in reality, it is unlikely that any progress comparable to the solutions proposed in the 1960s could occur⁵³⁵. It should be noted that immediately after the war, a “sovereignty umbrella” approach was reinstated, while the Menem government in Argentina attempted new conciliatory policies⁵³⁶. However, the initiative quickly lost momentum due to the numerous challenges facing the newly established Argentine democracy, including governmental stabilization, the 2001 economic crisis, the recovery from default, the return of Peronism under the Kirchners, frictions with the United States, currency crises, and, more recently, the COVID-19 pandemic and the Milei administration, which even proposed abandoning discussions on the Malvinas in exchange for Argentina’s entry into NATO⁵³⁷. This indicates two things: first, the war extinguished much of the international sympathy previously garnered, meaning the international support that had been decisive in Argentina’s action at the UN and had compelled Britain to remain engaged in negotiations was effectively lost. Second, the dispute lost internal momentum as well, although the issue is more complex: while initially, invoking the Malvinas could rally the Argentine population, as Galtieri had done, today the younger generations largely consider the matter secondary, arguing that other national priorities take precedence. A detailed post-war analysis would be interesting, but it falls outside the scope of this study; suffice it to say, the war significantly reshuffled the cards.

Much more can be said about the period this thesis examines: the failure of bilateral negotiations. Several questions demand answers: which of the two parties can be considered legally justified in their claim? Why did the conflict escalate to war? Why did diplomacy fail?

Regarding the first question, the answer is highly complex but begins with a fixed point: Spanish sovereignty. There is no doubt that the United Kingdom had renounced its rights in favor of the Spanish crown, which remained the sole authority over the archipelago for nearly half a century,

⁵³⁵ Corbacho, A. (2011) *Prenegotiation and Mediation: The Anglo-Argentine Diplomacy after the Falkland/Malvinas War (1983-1989)*

⁵³⁶ Laver, R. (2001) *The Falklands/ Malvinas: A New Framework for Dealing with the Anglo-Argentine Sovereignty Dispute*, pp. 1-30

⁵³⁷ Lisińska, M. (2016) *Is the Archipelago a Political Tool? The Role of the Falkland Islands Sovereignty Dispute in Argentine Policy During the Kirchner Era*, pp. 119-134

appointing twenty governors and facing virtually no interference. Doubts arise with the emergence of Argentina as an independent state: if state succession is recognized, British occupation would be illegal, and the islands should return to Argentine sovereignty. The problem lies in the unclear jurisprudence on state succession, which was barely developed at the time: Britain claimed that succession required a formal transfer, a written act, which arrived from Spain only after the 1833 occupation. In this scenario, succession would not apply, as Argentina had limited time to perfect its sovereignty claim, given that British intervention occurred while the archipelago was effectively *terra nullius* and, according to British interpretation, peacefully exercised sovereignty for over a century. Even here, nuances exist, as Argentine protests occurred but, according to Britain, had ceased for a period. In short, providing a definitive and unambiguous answer to this question is extremely complex, if not impossible.

Regarding the other two questions, directly tied to negotiations, the failure is clearly attributable to both countries. Argentine collective memory played a decisive role in shaping perceptions of the Malvinas as inalienable territory since the mid-19th century, when Britain expelled the Argentine garrison in 1833. This event was interpreted not only as a violation of sovereignty but as a national trauma ingrained in collective consciousness for generations. Throughout the 20th century, governments of varying political orientations maintained continuity on the issue, reinforcing a public discourse that positioned the Malvinas as a symbol of national unity and resistance against imperialism. Educational and cultural reforms from the 1930s and 1940s further consolidated this narrative: the islands were depicted in school textbooks and the press as “usurped” and integral to the nation. Within this framework, any British proposal implying permanent sovereignty was perceived not only as unacceptable but as an existential threat to Argentine identity.

From the British perspective, although the peculiar nature of the dispute was acknowledged, historical memory played a different role. The Malvinas were seen as peripheral but still an imperial legacy that could not be relinquished lightly without risking a domino effect in other overseas territories. In the 1960s and 1970s, London was already engaged in a challenging decolonization process across Africa, Asia, and the Caribbean. Granting Argentina’s claim could be perceived as a weakness, potentially encouraging other independence movements or territorial claims. Moreover, British governments were increasingly constrained by the principle of *kelper* self-determination: the inhabitants’ consistent opposition to Argentine sovereignty became central to justifying London’s immovable stance. This rigidity created a clash between two opposing and hardly reconcilable perspectives: Argentine historical and identity claims versus the British principle of self-determination.

The analysis further revealed that bilateral proposals between the mid-1960s and late 1970s were consistently marked by a lack of transparency and clarity. Beginning with UN Resolution 2065 in 1965, which acknowledged a sovereignty dispute and invited negotiation, a formal dialogue opened but was immediately clouded by mutual suspicion. Proposals, ranging from conditional sovereignty solutions to joint administration, were deliberately ambiguous. From Argentina's perspective, Britain aimed solely to buy time, maintaining the status quo and defusing UN pressure without real intent to concede. Conversely, Britain believed Argentina could not accept any genuine compromise, constrained by public opinion and a domestic discourse rendering the Malvinas non-negotiable.

This dynamic was evident in late-1960s negotiations, during discussions of a "sovereignty freeze": a temporary British administration with commitments to negotiate future transfer. Buenos Aires rejected it, fearing indefinite delay. Similarly, in the 1970s, during "leaseback" negotiations, reactions mirrored this pattern: Argentina viewed it as too penalizing and contrary to immediate sovereignty ambitions, while Britain abandoned it due to *Kelper* opposition and domestic public opinion.

Finally, domestic politics in both countries profoundly influenced negotiation failure. In Argentina, chronic political instability, recurring economic crises, and the authoritarian, repressive turn of the 1970s military dictatorship prevented a coherent and credible diplomatic line. In Britain, post-war economic fragility and gradual international decline led to a defensive management style, more focused on preserving remaining imperial assets than generating creative solutions. Every gesture was read as tactical, aimed at strengthening initial positions. This created a vicious cycle: negotiations, instead of consolidating trust, further eroded it, reinforcing the perception that the other side was unreliable and uninterested in compromise. Ultimately, the diplomatic dynamics between London and Buenos Aires demonstrated that, in the absence of even minimal trust, even UN-facilitated multilateral mechanisms were ineffective, incapable of translating dialogue into concrete progress.

Given all this, it is possible to assert that the other two questions also lack a univocal answer; yet this was never the objective of the thesis. From the outset, the aim was to bring the issue of mutual trust into analyses of inter-state negotiation processes, to demonstrate that the absence of trust increases the risk of escalation and the probability of conflict. The objective was to show that trust is not an abstract or secondary concept in international relations, but a concrete and decisive variable. As highlighted in the literature, trust reduces uncertainty, fosters belief in the other's good faith, and enables cooperative pathways that would otherwise be impossible.

In the case of the Malvinas, this condition never occurred. Argentine perceptions of a manipulative and unreliable United Kingdom collided with British views of an irrational Argentina hostage to its nationalism. In this climate, any gesture of openness was interpreted as a tactical move, not a sincere signal. For London, immediate restitution requests confirmed Argentina's maximalist and unrealistic approach; for Buenos Aires, intermediate British proposals, sovereignty freeze, joint administration, or leaseback, were perceived as attempts to indefinitely postpone the issue, maintaining British control. The result was the inability to develop even a minimal core of trust, essential for building political and symbolic capital. Every negotiation became a vicious cycle: divergences fostered suspicion, and suspicion, in turn, hardened positions. The symbolic dimension of the islands exacerbated this dynamic: for Argentina, they represented a historical wound and emblem of national identity; for the United Kingdom, sovereignty was a test of international credibility and respect for *Kelper* will. In the absence of trust, these symbols could not be renegotiated, only defended at all costs. Trust's absence was not merely a diplomatic obstacle but a structural factor preventing the transformation of divergences into compromise. Openings were seen as weaknesses to exploit, concessions as insincere tactical tools, and international mediation proposals as time-buying attempts. Between 1965 and 1982, the bilateral relationship never produced shared political capital on which to build lasting compromises, condemning negotiations to gradual deterioration and ultimate rupture.

In conclusion, this final rupture and the resulting conflict were not solely the product of an isolated episode or the clash between two governments with charismatic leaders who projected domestic challenges onto an external war. Rather, it represents the culmination of a centuries-long history: colonialism, negotiations, diplomacy, distrust, suspicion, and misunderstandings. Regardless of who was right or wrong, this history led to the deaths of nearly one thousand people, mostly young men, in just over a month of war.

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