



## General Assembly

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

#### Summary record of the 8th meeting

Held at Headquarters, New York, on Friday, 29 June 2001 at 10 a.m.

*Chairman:* Mr. Tanoh-Boutchoué (Vice-Chairman) . . . . . (Côte d'Ivoire)

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*In the absence of Mr. Hunte (Saint Lucia), Mr. Tanoh-Boutchoué (Côte d'Ivoire), Vice-Chairman, took the Chair.*

*The meeting was called to order at 10.20 a.m.*

### **Adoption of the agenda**

1. *The agenda was adopted.*

### **Question of the Falkland Islands (Malvinas)** (A/AC.109/2001/11 and A/AC.109/2001/L.8)

2. **The Chairman** said that the delegations of Argentina, Brazil, Panama, Paraguay and Uruguay had expressed the wish to participate in consideration of the item. If there were no objections, he would take it that the Special Committee acceded to those requests in accordance with established practice.

3. *At the invitation of the Chairman, Mr. Rodríguez Giavarini (Argentina), Mr. Fonseca (Brazil), Mr. Morales (Panama), Mr. Loizaga (Paraguay) and Mr. Paolillo (Uruguay) took places at the Committee table.*

4. **The Chairman** drew attention to the working paper prepared by the Secretariat (A/AC.109/2001/11) and to the draft resolution (A/AC.109/2001/L.8). He also pointed out a number of instances in which the Spanish and French texts of the draft resolution were not consistent with the English text and indicated that those inconsistencies would have to be rectified in the final text of the draft resolution when it was adopted.

### *Hearing of petitioners*

5. **The Chairman** recalled that at its third meeting the Committee had decided to hear petitioners on the item.

6. *At the invitation of the Chairman, Mr. Bullrich (Americanos del Sur) took a place at the petitioners' table.*

7. **Mr. Bullrich** (Americanos del Sur) said that the non-governmental non-profit organization which he represented had, for the past 10 years, been working towards the submission of a draft proposal to resolve the sovereignty dispute over the Falkland Islands. The purpose of his organization was to foster relations in the South Atlantic region in which peoples would live in peace and friendship and trust each other. Any peaceful solution meant compromise. It was essential

to find a settlement under which all peoples would be the winners, even if the solution were not a perfect one.

8. Argentine and British diplomats had been working for many years on the problem. They had repeatedly expressed their views and defended their respective positions. For many years, the Special Committee had listened patiently to the same arguments. However, no solution had yet been found.

9. The islanders had also expressed their views. In fact, they held the key to the future of the islands but they must act reasonably. As they had neither the power nor the right to decide the future of the islands by themselves, they must negotiate both with Argentina and with the United Kingdom. The reality was that, as long as Argentina maintained its claims, a sword of Damocles would be hanging over the islanders. They had the most to gain if a just solution were found, but the most to lose if not.

10. Certain words such as "wishes", "interests", "self-determination", or "sovereignty" had in that situation acquired a special and emotional meaning which made mutual understanding even more difficult. After many visits to the islands and careful consideration of the viewpoints of all sides, he had developed together with Mr. Forsyth, an Englishman, a peace proposal to solve once and forever the dispute over the Falkland Islands. The draft was intended to provide a practical solution and its authors had therefore also endeavoured to avoid any "code" words with emotional connotations. The draft was not a perfect solution and did not, of course, give every side everything it wanted but he considered it was a fair proposal that provided a solution to the dispute that would be satisfactory for all sides. The "Bullrich-Forsyth proposal", as it had become widely known, had been published in Buenos Aires, London and Port Stanley. Feedback had been received from all interested quarters and the draft had been improved on the basis of the advice received.

11. The islands were a beautiful and unspoilt place, except for the military debris of the 1982 war. The islanders and the Argentines alike were peaceful, pleasant and friendly people. The only war they had fought over the past 100 years was the 1982 war which had undoubtedly been a colossal mistake. The islanders and the Argentines needed to live side by side in the southwest Atlantic. They could and should live together in peace and friendship. At the current

meeting, a peace proposal was being formally introduced to the Committee for the first time. He requested the Committee to include a reference to the proposal in its 2001 draft resolution as an alternative that should be studied by all the sides to the dispute.

12. The essence of the Bullrich Forsyth proposal was that Argentina and the United Kingdom would jointly undertake to guarantee permanently the islands' autonomy, democratic constitution, territorial integrity and marine boundaries and to consult and act together on defence and foreign affairs matters relating to the islands. Autonomy would be defined as full responsibility for internal affairs and the right to choose language, law, currency and educational system and to determine immigration and tourist policy based on the principle of non-discrimination. The current constitution of the islands would be maintained except that provision would be made for the governor and all authorities to be elected in future by the islanders themselves. The islanders would have the right to Argentine and British citizenship and would be able to hold passports of both countries if they chose to do so. A specially established tripartite commission consisting of three members, each of whom would have one vote, would oversee the implementation of the agreement. The Falkland Islands representative would be the elected governor of the islands. The representatives of Argentina and the United Kingdom would be appointed by their respective Governments.

13. No Argentine troops would be sent to the islands. The base at Mount Pleasant would be leased to the United Kingdom for a fixed period to be approved by the tripartite commission. At the end of that period, British troops would leave the islands. The islanders would take responsibility for the civilian operation of the airport. The Commission would oversee the hydrocarbon and fisheries activities, and also coordinate cooperation between the islanders and the two guarantors in matters relating to defence and foreign affairs. The United Kingdom and Argentina would not levy taxes of any kind on the islands and would bear all the costs of defence and foreign relations, and would also jointly declare the islands a special ecologically protected and nuclear-free zone.

14. The islands would have their own flag, and their official name would be the "Falkland Islands" in English and the "Islas Malvinas" in Spanish. Place names on the islands would be a matter for the islanders themselves. The agreement would be

understood as the settlement of the dispute and, with its signature, all previous claims would lapse. There would be a time limit for the ratification of the agreement by the United Kingdom and Argentina and for the modification of the constitutions of Argentina and the Falkland Islands. Provision could be made for a referendum to be held in Argentina and the Falkland Islands. The agreement would be transmitted to the United Nations as a document constituting a settlement of the dispute.

15. *Mr. Bullrich withdrew.*

16. *At the invitation of the Chairman, Mr. Cockwell and Mr. Birmingham (Legislative Council of the Falkland Islands) took places at the petitioners' table.*

17. **Mr. Cockwell** (Legislative Council of the Falkland Islands) said that he was a democratically elected member of the Falkland Islands Legislative Council and one of the three nominated members of the Executive Council. He believed that the issue under consideration was not a question of decolonization, but a historical territorial dispute which had arisen at a time when similar disputes were taking place around the world. There was a common misconception that the British settlers had dispossessed indigenous Argentine natives. Even a former Chairman of the Committee had made that mistake in a recent document on the subject. Yet there had never been an indigenous population in the Falkland Islands. Over the past one and a half centuries, the settlement of the Falkland Islands had taken place in a democratic fashion under the laws of a country which had at that time been part of the British Empire. Since that time, the Empire had been dismantled, and member countries which wished to make the transition to self-government had done so and had become independent States, and in many cases had remained members of the Commonwealth. It would set an unfortunate precedent if the people of the Falkland Islands were denied their right to self-determination solely because of the existence of a territorial dispute which had begun during a period when the mass displacement or domination of indigenous populations had been taking place in other parts of the world.

18. Earlier in 2001 the members of the Committee had considered ways in which Territories could be assisted in achieving constitutional development towards self-determination, and that approach was to be welcomed. It was difficult to see how the Committee could promote the decolonization of small

Territories without recognizing their right to self-determination. The goal of decolonization could not be achieved in the same way in all cases. The people of the smaller Territories might wish to determine their political status and achieve internal self-government without cutting all ties with the former metropolis.

19. Despite claims that there was a colonial relationship between the Falkland Islands and the United Kingdom, the two countries were moving ever further towards a partnership based on four basic principles laid down by the Foreign Secretary of the United Kingdom in 1999. First, the partnership must be founded on self-determination. The Territories were British and must be allowed to remain so for as long as they wished. The partnership created responsibilities on both sides. The United Kingdom pledged to defend its overseas Territories, encourage sustainable development and protect their interests in the international arena. In return, the Territories were expected to maintain high standards of probity, law and order, good governance and observance of the United Kingdom's international commitments. The United Kingdom would continue to provide aid to the overseas Territories when needed. The Falkland Islands welcomed and accepted those principles and did not want Argentina to extend its sovereignty over their country. There was no prospect that either the islanders or the many countries that recognized the universal right of self-determination would accept that claim. Argentina should renounce its claims to the Falkland Islands and acknowledge that their population had the same right to self-determination as all other peoples of the world.

20. **Mr. Birmingham** (Legislative Council of the Falkland Islands) said that, in his view, there had been no progress on the question of the Falkland Islands since the democratically elected representatives from the islands had first appeared before the Committee over two decades earlier. The electorate continued to be unable to understand why the United Nations (an organization set up to help the people of the world) seemed unable to understand or accept that in the lifetime of the Special Committee the situation for small countries such as the Falkland Islands had totally changed. Since 1833, the population of the islands had enjoyed total freedom of speech apart from a brief period of illegal occupation of the islands by the forces of the then undemocratic Argentina. The democratic system on the islands had evolved successfully and in

1998, in the words of the first serious Argentine reporter to visit the Falklands since the conflict, the islands had in fact become a city State. In other words, they were self-governing and the population had control of all internal affairs, both legal and financial, with only defence and foreign affairs being the responsibility of the United Kingdom.

21. Visitors, particularly those from Argentina, were surprised to discover that such a small country not only survived but prospered, and he was proud of the effective running of the Territory. In 2001 there would be elections in the Falklands which would be a continuation of an unbroken democratic process begun over a hundred years earlier. Many different views would be expressed during the election but there would be unanimity on one subject, namely the false claim by Argentina over the Falkland Islands.

22. He called on the members of the Committee to look again at the situation in the south-west Atlantic with the eyes of the twenty-first century and to put aside outdated views and prejudices. The Falkland islanders were willing to work with their Argentine neighbours on issues of interest to both countries. There was already a certain amount of cooperation and exchange of information with regard to the conservation of fish stocks in the region, but a great deal more could be done. In that context he felt that what the Prince of Wales had said during his visit to Argentina in March 1999 was important: "My hope is that the modern democratic Argentina, with its passionate attachment to its national traditions, will in future be able to live amicably alongside the people of another modern, if smaller, democracy lying a few hundred miles off your coast." He thanked those countries and delegations that had supported and continued to support the people of the Falkland Islands in their struggle for recognition of their right to self-determination.

23. **Mr. Donigi** (Papua New Guinea) asked the two previous speakers to explain which alternative was preferred by the population of the Falkland Islands (Malvinas) for their status following self-determination. The Special Committee had traditionally considered any one of three alternatives to be possible: independence, free association or integration. Consideration had been given recently to the possibility of adding a fourth alternative to those three, the specific features of which would have to be determined on a case-by-case basis. In addition, he

asked whether the statement of Mr. Cockwell that the United Kingdom would in future give assistance to overseas Territories where necessary meant that there was a firm agreement between the United Kingdom and the Territory whereby assistance would be made available to it should the need arise.

24. **Mr. Birmingham** (Legislative Council of the Falkland Islands), replying to the first question put by the representative of Papua New Guinea, said that the population of the islands was entirely satisfied with its present status as an overseas Territory of the United Kingdom and that it was unlikely that the islanders would wish to change that status in the foreseeable future.

25. **Mr. Cockwell** (Legislative Council of the Falkland Islands), answering the second question put by the representative of Papua New Guinea, said that since the Falkland Islands themselves provided the necessary financial resources the question of the provision of significant financial assistance by the United Kingdom had not so far arisen. However, in his understanding, if the country needed assistance it was entitled to apply to the Government of the United Kingdom which, in accordance with the White Paper, would meet any justified request.

26. *Mr. Cockwell and Mr. Birmingham withdrew.*

27. *At the invitation of the Chairman, Mr. Vernet took a place at the petitioners' table.*

28. **Mr. Vernet** said that he was a citizen of Argentina, a deputy for Tierra del Fuego, and also a great-great-grandson of the first Argentine Governor of the Malvinas Islands, Don Luís Vernet. In 1823, his great-great-grandfather had received permission from the Government in Buenos Aires to engage in stock raising on the Malvinas Islands and had moved there together with his family, and established a settlement eventually numbering 120 inhabitants. At that time, the Government in Buenos Aires, as the successor to the Vice-royalty of Rio de la Plata, had legally exercised sovereignty over the Malvinas Islands.

29. So that the concession granted to him should not be disputed by the arrival of fishing vessels in the islands, Don Luís Vernet had handed a translation of the document granting the concession to the Chargé d'affaires of the United Kingdom and the Vice-Consul who had raised no objections on behalf of the Government of that country. Those concessions had

later been included in the Treaty of Amity, Commerce and Navigation signed between the United Provinces of Rio de la Plata and the United Kingdom in 1825. In that Treaty, the United Kingdom, on the one hand, recognized the legitimacy of the Argentine Government and, on the other, expressed no objections or reservations with respect to the Malvinas Islands then under the governance of the United Provinces of La Plata, which in 1820, had officially declared the Malvinas Islands to be a part of that State.

30. The Government of Luís Vernet had brought the fruits of civilization and progress to the islands, which had soon become a socio-economic and cultural centre with its capital in Puerto Soledad. However, a reappraisal of the importance of the islands, the introduction by Vernet's administration of limitations on fish catches in order to conserve resources and the strategic location of the islands on the sea route between the Atlantic and Pacific Oceans had aroused the cupidity of the principal maritime Power of that time, the United Kingdom. In 1833, a landing party had been put ashore from the British ship *Clio*, raised the British flag over the islands and forced the inhabitants to leave their territory. Since then, Argentina had been endeavouring to have the Territory restored to it.

31. Conscious of the precarious nature of their position from an international legal standpoint, the present-day inhabitants of the islands were seeking in the Special Committee recognition by the international community of their right to self-determination. But, the principle of the self-determination of peoples could not be applied to the conflict over the Malvinas Islands on legal grounds, since the word "people" referred to an indigenous population or its descendants who were striving to sever all ties with the occupying Power. The present-day population of the Malvinas Islands was neither the indigenous population, nor its descendants. In fact, they were the descendants of colonists brought to the islands by the occupiers after they had established dominion over the islands.

32. Seizure and violence could not serve as a legal basis for the possession of a Territory by the occupying State or its nationals. The granting of the right to self-determination to the British colonists unlawfully occupying the islands would therefore make a mockery of that principle, legitimize the seizure and jeopardize the principle of respect for the territorial integrity of States. He cited, in that connection, General Assembly resolution 1514 (XV) of 14 December 1960, which

stated that any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country was incompatible with the purposes and principles of the Charter of the United Nations. It was precisely on that basis that the General Assembly had adopted resolution 2065 (XX) of 16 December 1965 and subsequent resolutions characterizing the United Kingdom's seizure of the Malvinas Islands as a manifestation of colonialism and declaring that the principle of self-determination was not applicable to that Territory. Those resolutions recognized the right of Argentina to demand the return of the islands and called on both sides to resolve the issue of their decolonization through negotiations, but the United Kingdom refused to take that step.

33. He wished to assure the present-day population of the Malvinas Islands that their lawful rights and dignity would be respected, since Argentina, its people and representatives were firmly committed to democracy, legality, freedom and justice. Taking that into account, Argentina considered that the interests of the present-day inhabitants of the islands merited special attention, a point that was stressed unequivocally in the Constitution of Argentina. He expressed the hope that the question of the Malvinas Islands could be resolved through fair and equal negotiations aimed at achieving a compromise acceptable to both sides, which would meet the national interests of both Argentina and the United Kingdom. Lastly, he called on the Committee to urge the United Kingdom to assume responsibility for resolving the sovereignty dispute over the Malvinas Islands, South Georgia and the South Sandwich Islands.

34. *Mr. Vernet withdrew.*

35. *At the invitation of the Chairman, Mr. Betts (Permanent Centre for the Study of the Problem of the Falkland Islands (Malvinas)) took a place at the petitioners' table.*

36. **Mr. Betts** (Permanent Centre for the Study of the Problem of the Falkland Islands (Malvinas)) said that he was descended from a family of British colonists who had settled on the archipelago in the 1840s. Six generations of direct descendants of the first settlers had been raised in the islands. He himself had moved from the islands to the Argentine mainland after the 1982 conflict. Since the United Kingdom's inclusion of the islands in the list of Non-Self-Governing Territories in 1946, the issue had passed through three stages of

evolution under the auspices of the United Nations. The first stage had been completed in November 1985. The second stage had begun following the adoption by the General Assembly of resolution 40/21 of 27 November 1985 and had continued until the last quarter of 1989. The third stage, which was still ongoing, had begun with the signing in Madrid in October 1989 of the Joint Declaration, which had established an umbrella formula on sovereignty and had paved the way for mutually advantageous cooperation in the South Atlantic. That process had been beset by a large number of obstacles that had delayed the finding of a definitive solution to the problem. Almost without exception, those obstacles had arisen as a result of the powerful and continuous pressure exerted by the United Kingdom in order to prevent the resolution of the issue on the basis of the framework set out in the relevant United Nations resolutions.

37. The sovereign rights of Argentina over the Malvinas Islands, South Georgia and the South Sandwich Islands and the adjacent maritime areas were based on convincing historical and juridical arguments, which had been stated repeatedly by Argentina at the meetings of the Special Committee and the General Assembly and in other international forums. That concept had been reflected in General Assembly resolution 2065 (XX), in which the Governments of Argentina and the United Kingdom had been invited to proceed without delay with bilateral negotiations with a view to finding a peaceful solution to the problem. Subsequently, in resolution 31/49 of 1 December 1976, both sides had been requested to expedite the negotiations concerning the dispute over sovereignty. As a result of British reluctance to resume the bilateral negotiations, the Special Committee had adopted on 29 July 1992 resolution A/AC.109/1132, in which it had again requested the United Kingdom and Argentina to find a peaceful and negotiated solution to the sovereignty dispute relating to the question of the Falkland Islands (Malvinas). Every year, the resolutions of the Special Committee expressed regret that that prolonged controversy had not yet been resolved.

38. In addition, General Assembly resolutions 2065 (XX) and 31/49 stated that the two parties should refrain from taking decisions that would imply introducing unilateral modifications in the situation while the islands were the subject of bilateral

negotiations. Nevertheless, in violation of the resolutions, which had been adopted by a sizeable majority of the members of the General Assembly, the United Kingdom was constantly implementing unilateral measures in relation to the islands, their inhabitants and the surrounding maritime areas, totally transforming the customs, traditions, demographic distribution and composition and characteristic lifestyle of the islanders. An important factor in those undesirable changes had been the United Kingdom's establishment of a military base in the islands, which was a violation of United Nations principles and declarations concerning installations of that nature, including General Assembly resolution 41/11 of 26 October 1986, in which the South Atlantic had been declared a "zone of peace and cooperation". Furthermore, the base's presence in the islands constituted a violation of other regional and international disarmament treaties, in accordance with which the establishment of military bases on illegally occupied Territories was a violation of national sovereignty and territorial integrity, as well as being one of the forms of colonial domination.

39. He emphatically disagreed with the view that the fundamental aspect of the question was the principle of self-determination. That principle was not uniformly applied in all situations requiring a decolonization process. The controversy over the Malvinas (Falkland) Islands had a singular characteristic that separated it from the pending colonial cases: the existence of a sovereignty dispute that nullified the application of the principle of self-determination to that issue. In the judicial interpretation, application of the principle of self-determination to that particular case would be equivalent to perpetuating the de facto colonial situation and legitimizing the use of force and the consequent annexation of the Territory which was the subject of the dispute.

40. That did not imply that, in endeavouring to resolve the issue, Argentina would leave aside its constitutional obligations to recover its sovereignty over the islands through dialogue and negotiations, respecting the particular way of life of the Territory's inhabitants in accordance with the principles of international law. For more than 15 years, representatives of the Argentine Government had repeatedly pledged at meetings of the General Assembly and the Special Committee that Argentina was willing to offer the present inhabitants of the

islands special guarantees with regard to their well-being, traditions, identity, language and culture. The previous year he had himself given details to the Special Committee of the range of constitutional rights and guarantees of a political, civil and individual nature covered by articles 121 to 125 of the Argentine Constitution and their application to the Territory and the islanders.

41. In all the resolutions of the United Nations which referred to sovereignty over the Malvinas (Falkland) Islands, the international community called on the parties to engage in bilateral negotiations. The present stage of the bilateral relations between Argentina and the United Kingdom could be described as excellent. The draft resolution that had been submitted to the Special Committee affirmed the principles and objectives that were important for a definitive and just negotiated settlement of the situation. There could no longer be any doubt that there were no valid reasons for avoiding a dialogue and the negotiations to bring the dispute to a close. One could therefore be confident that, during the second International Decade for the Eradication of Colonialism, the renewed efforts of the Special Committee and other parties would lead to compliance with the demand for the resumption of negotiations. The law of force must give way to the force of law.

42. *Mr. Betts withdrew.*

43. *At the invitation of the Chairman, Mr. Ancell Patterson took a place at the petitioners' table.*

44. **Mr. Ancell Patterson** said that he was an agricultural engineer by profession and currently a member of the National Congress of the Province of Santa Cruz and was also Chairman of the Provincial Committee of the Radical Union Party. His ancestors had gone to the Malvinas Islands from Scotland in 1873. His great-grandfather and great-grandmother had been born in the islands. In 1890, they had moved to the mainland where they had begun to work as sheep breeders in the province of Santa Cruz. They had prospered there and, like other inhabitants of the Malvinas Islands, had been able fully to enjoy the rights guaranteed by the Constitution of Argentina to all inhabitants of the country. The Constitution contained a new provision whereby, when sovereignty was established over the Malvinas Islands, the way of life of their inhabitants must be respected in accordance with the principles of international law.

Those principles had not been observed by the United Kingdom when in 1833 it had forced the Argentine population and authorities to leave the Malvinas Islands after seizing that Territory for the purposes of establishing control over strategic ports on the sea route to Australia and Tasmania and securing the fisheries resources of the region.

45. The parties to the dispute over the Malvinas Islands continued to adopt diametrically opposed positions. The United Kingdom, on the one hand, was clearly ignoring the provisions of the General Assembly resolutions, refusing to enter into the negotiations for which the Assembly called. On the other hand, Argentina, on the basis of numerous resolutions and historical precedents, was calling for the settlement by joint efforts of the sovereignty dispute, in the conviction that the islands had always rightly belonged to Argentina. In its actions, Argentina had never been guided by the possibility of exploiting the resources of the islands but had consistently endeavoured, through legal means, to secure the return of part of its territory, essentially invoking the principle of territorial integrity.

46. A few days previously, a session of the South Atlantic Fisheries Commission had been held in London. Discussion at the session had concentrated mainly on three types of marine resources which were of particular importance for the region: stocks of squid, New Zealand hake and blue whiting. It had been decided to continue the application of the guiding principles of conservation of the natural resources of the region and to set up an early warning system to ensure the sustainable exploitation of squid stocks. That was evidence of Argentina's readiness to work peacefully to conserve fish stocks for the benefit of present and future generations. That position was further confirmation of Argentina's respect for the interests of the inhabitants of the region, including the interests of the islanders for whom those species were a principal source of income.

47. At the same time, Argentina would never abandon its attempts to re-establish its sovereignty over the islands as that would be contrary to the resolutions of the international community, including those of the Special Committee, which many years ago had acknowledged the existence of a dispute over sovereignty and had called for it to be settled peacefully. However, the Government of the United Kingdom had consistently refused to discuss the issue,

preventing the creation of machinery for resolving the problem. Argentina was ready to listen to any proposals emanating from the Malvinas Islands other than proposals directed towards the decolonization of the islands in violation of the principles established by the United Nations, which had rejected by an overwhelming majority the option of extending the right of self-determination to the islanders. The right of self-determination could not be extended to a population which was not the lawful owner of a Territory.

48. A review by the United Kingdom of its position with respect to the dispute would be in the interest of both sides and of the international community. In supporting the draft resolution, the Committee would be promoting the peaceful settlement of the territorial dispute concerning sovereignty over the Malvinas Islands and the related problems.

49. *Mr. Ancell Patterson withdrew.*

#### *General debate*

50. **Mr. Thayeb** (Indonesia) said that, while mindful of the commendable achievements of the Committee, his delegation noted that there were several issues on its agenda that eluded a solution, including the question of the Falkland Islands (Malvinas). To its credit, the Committee had recognized that no universal formula could be applied and that each situation was unique. The General Assembly itself had considered the question of the Falkland Islands (Malvinas) to be a special case and, in particular, had adopted resolution 2065 (XX), and resolution 3160 (XXVIII) of 14 December 1973.

51. The Committee had repeatedly affirmed the need to consolidate the process of dialogue in order to find a just solution. His delegation was pleased to note that Argentina and the United Kingdom had demonstrated sincerity and sagacity by engaging in negotiations to reach an amicable settlement. It was gratifying to note that in recent years there had been talks on matters concerning the welfare of the people of the islands, such as the conservation of fish stocks and the exchange of information, future modes of cooperation in the exploration and exploitation of hydrocarbons in the maritime areas of the South-West Atlantic and air transportation.

52. It was to be hoped that Argentina and the United Kingdom would continue to pursue the path of



dialogue in order to find a peaceful negotiated solution to the sovereignty dispute in accordance with the relevant resolutions of the United Nations and the Organization of American States (OAS), and with the principle of territorial integrity, the established principles of international law and the Charter of the United Nations. His delegation hoped that the resolution on the item would once again be adopted by consensus.

53. **Mr. Valdes** (Chile), speaking also on behalf of Bolivia, Cuba and Venezuela, introduced a draft resolution on the question of the Falkland Islands (Malvinas) (A/AC.109/2001/L.8), and said that the draft resolution was a further contribution to the efforts for a peaceful settlement of the prolonged dispute between Argentina and the United Kingdom concerning sovereignty over the Malvinas.

54. His Government was firmly convinced that a peaceful settlement of the question of the Malvinas on the basis of negotiations was the only way to resolve the problem. For that reason, Chile once again called for the speedy implementation of resolution 2065 (XX) and other resolutions in which the General Assembly invited Argentina and the United Kingdom to resume negotiations on the issue.

55. The draft resolution was based on the text of draft resolution A/AC.109/2000/23 of 11 July 2000, and the sponsors hoped that it would be adopted by consensus.

56. **Mr. Rodríguez Giavarini** (Minister for Foreign Affairs, International Trade and Worship of Argentina) said that the question of the sovereignty of the Malvinas, South Georgia and the South Sandwich Islands and adjacent maritime areas was of great significance to Argentina. His Government was determined to regain sovereignty over those archipelagos and maritime areas which were part of the national territory of Argentina. That goal was constant and unchanging and could be achieved only through diplomatic negotiations; it had been confirmed repeatedly by successive Governments of Argentina and was reflected in the Argentine Constitution, which also guaranteed respect for the way of life of the inhabitants of the islands.

57. The Malvinas, which had been an inseparable part of the territory of Argentina since it had gained independence, had been occupied in 1833 by the British armed forces, which had driven the Argentine population and administrative authorities from the

islands and then prevented their return, while settling British subjects in order to colonize the Territory. Argentina had never been able to accept those violent actions and ever since then had tried to recover the islands.

58. The passage of time had not lessened the urgency of Argentina's demands, or reduced its conviction that a solution of the long drawn-out dispute could be found through diplomatic negotiations. On that basis, his Government once again declared its full willingness to resume bilateral negotiations with the United Kingdom in accordance with the provisions of the resolutions of the Committee and the General Assembly, and also the statements on the question by OAS. His Government found it deeply regrettable that the United Kingdom still did not want to renew the dialogue, and was thereby delaying the achievement of full mutual understanding in bilateral relations.

59. In 1965, in resolution 2065 (XX), the General Assembly had recognized the colonial status of the Malvinas and recommended that it should be brought to an end on the basis of respect for the territorial integrity of Argentina and recognition of the interests of the population of the islands. In 1985, the General Assembly had confirmed that position, declaring that the principle of self-determination was not applicable to that particular case.

60. The restoration of diplomatic relations between Argentina and the United Kingdom in 1990 had begun with the signing of a bilateral agreement, which contained a provision on the question of sovereignty which had enabled both countries to maintain their respective positions in relation to the dispute concerning sovereignty over the Malvinas, South Georgia and the South Sandwich islands and adjacent maritime areas.

61. One of the basic principles of international relations was the peaceful settlement of disputes. That principle was confirmed in the third paragraph of the joint Argentine-British declaration of 19 October 1989, with which the process of re-establishing of diplomatic relations had begun. In that document, both parties had confirmed their commitment to respect fully the principles of the Charter of the United Nations.

62. Argentina was striving to settle the issue, which was having an adverse effect on its relations with the United Kingdom, by overcoming the obstacles on the

basis of a creative approach and in a spirit of cooperation.

63. The preliminary agreements reached in the context of formulating the sovereignty issue had led to contacts between the islanders and the inhabitants of the mainland part of Argentina and to cooperation in the South Atlantic in the interests of all inhabitants. He was pleased to note the resumption of flights by private civilian aircraft and of navigation by private vessels between the mainland part of Argentine territory and the Malvinas Islands, as well as the announcement of negotiations with a view to taking measures connected with the preparation of materials for the Commission on the Limits of the Continental Shelf. Despite such collaboration, however, the Government of the United Kingdom had taken unilateral action contrary to the letter and the spirit of cooperation. Such unilateral measures were contrary to General Assembly resolution 31/49, which called upon the two parties to refrain from taking decisions that would imply introducing unilateral modifications in the situation.

64. The Governments of Argentina and the United Kingdom had common values and interests in the most varied fields and were collaborating in the multilateral framework of the United Nations and other international organizations, a fact that reinforced Argentina's belief that the time was right for bilateral settlement of the sovereignty dispute. The Government of Argentina hoped that the Government of the United Kingdom would respond to the numerous appeals by the international community and, taking the favourable circumstances into account, would agree to take a seat at the negotiating table.

65. Argentina, for its part, reaffirmed its willingness to respect the interests of the inhabitants of the Malvinas Islands, guaranteeing the maintenance of their way of life and their welfare, as well as respect for human rights.

66. Argentina's efforts to renew dialogue with the United Kingdom had been approved by various international and regional forums. In particular, the regular session of the General Assembly of the Organization of American States (OAS), meeting in San José, had unanimously adopted a declaration once again calling on the Governments of Argentina and the United Kingdom to renew negotiations with a view to a speedy and peaceful settlement of the sovereignty dispute. He also mentioned in that connection the

statements made by the South American Common Market (MERCOSUR), the meeting of the Presidents of South American countries and the Ibero-American Summit meetings. In conclusion, he expressed appreciation to the Latin American countries which had sponsored the draft resolution and to the other countries participating in the meetings of the Special Committee for their contribution to the settlement of the dispute and hoped that the draft resolution would receive wide support among the members of the Special Committee.

67. **Mr. Loizaga** (Paraguay), speaking on behalf of the member countries of MERCOSUR and Bolivia and Chile, recalled the statement on the question of the Malvinas Islands adopted by the participants at the tenth meeting of the Presidents of the MERCOSUR countries in 1996. In that statement, the States members of MERCOSUR, together with Bolivia and Chile, had reaffirmed their support for the legitimate rights of Argentina in the sovereignty dispute over the Malvinas Islands and had expressed their interest in the prompt settlement of the problem in accordance with the resolutions of the United Nations and the Organization of American States. In the course of a similar meeting in 1999, the Presidents of the MERCOSUR member countries, together with Bolivia and Chile, had noted with satisfaction the positive dialogue between Argentina and the United Kingdom and had declared their commitment to the policy of establishing communications and passenger transport services without discrimination of any kind. At the thirty-first regular session of the General Assembly of OAS, held in San José on 5 June 2001, the Minister for Foreign Affairs of Paraguay had also voiced support for the legitimate rights of Argentina in the sovereignty dispute over the Malvinas Islands. Thus, the issuing of statements on that matter by the States of the region had already become a tradition and he again affirmed the commitment of the States members of MERCOSUR, together with the associated States, to the vindication of the rights of Argentina. In conclusion, he expressed the hope that the draft resolution would be adopted without a vote.

68. **Mr. Fonseca** (Brazil) associated himself with the statement made by the representative of Paraguay on behalf of the member countries of MERCOSUR. All the countries of South America without exception took an abiding interest in the settlement of the sovereignty dispute between Argentina and the United Kingdom.

69. At the meeting of the Presidents of South American countries in Brasilia (31 August to 1 September 2000), a declaration had been adopted in which the Presidents had drawn attention to the maintenance of the colonial status of the Malvinas Islands. Given that manifestations of colonialism were incompatible with the ideals of peace, security and cooperation on the subcontinent, they had noted the necessity of a resumption of negotiations by both sides with a view to the timely settlement of the sovereignty dispute, bearing in mind the relevant resolutions of the United Nations and OAS. It was to be hoped that that declaration would make a constructive contribution to efforts to resolve the dispute.

70. In conclusion, his country affirmed the legitimate rights of Argentina in the sovereignty dispute over the Malvinas Islands and expressed the hope that the draft resolution on that matter would again be adopted without a vote.

71. **Mr. Paolillo** (Uruguay), associating himself with the statement made by the representative of Paraguay on behalf of the member countries of MERCOSUR, spoke of the close relations between his own country and both parties to the conflict — Argentina and the United Kingdom. With respect to the latter, consular relations between Uruguay and the United Kingdom had been established as early as 1873. Uruguay also took particular interest in the conflict because sea-going vessels periodically plied between Uruguay and the Malvinas Islands.

72. The General Assembly, in its resolution 41/11, had declared the region of the Atlantic Ocean in question a “Zone of Peace and Cooperation of the South Atlantic”. It was well known that the region was very extensive, extremely wealthy and of great strategic importance, so that it could naturally become a zone of peace and fruitful cooperation between all the States of which it was composed.

73. He recalled that both parties to the conflict had voted for that resolution and had thereby committed themselves to observing the principles proclaimed in 1986, in particular the principle of respect for the sovereignty, political independence and territorial integrity of States. In spite of that, one of the parties had not fulfilled its obligations and had not made efforts towards a just settlement of the conflict.

74. As a result, there continued to exist in that zone a situation incompatible with the status that the

international community had intended for it. Those islands looked like a tiny speck on the map of the Atlantic Ocean but, at the same time, they constituted a blot on the history of political relations by virtue of their irregular status.

75. The prolongation of the conflict was all the more absurd since, as everyone well knew, that problem was sure to be resolved definitively and, sooner or later, the Malvinas Islands would return to the jurisdiction of Argentina.

76. Thus, it made no sense at all to maintain the current situation, which constantly jeopardized the establishment of the conditions necessary to transform that part of the planet into a zone of peace, cooperation and solidarity. Uruguay therefore reiterated its call to the parties to the conflict to intensify negotiations with a view to eliminating once and for all that obstacle to the transformation of the South Atlantic into a zone of peace.

77. **Mr. Morales** (Panama) said that the United Nations had been able to put an end to the enslavement of some countries by others and to achieve successes in safeguarding the rights of countries or Territories occupied by foreign Powers against their will. In keeping with that policy, the Organization was attempting to solve the problem of sovereignty over the Malvinas Islands, South Georgia, the South Sandwich Islands and their coastal waters. Panama considered it extremely important that Argentina and the United Kingdom, following the resumption of formal negotiations, should achieve a just solution to the dispute over the Malvinas Islands and wished to reiterate its support, in that connection, for the decision adopted by the General Assembly on 20 November 2000 to include the question of the Malvinas Islands in the provisional agenda of its fifty-sixth session. Panama also supported the draft resolution submitted by the representative of Chile.

78. It should be noted that the Ibero-American countries also supported the speedy resolution of that problem and that, at the tenth Ibero-American summit meeting held on 18 November 2000, the heads of State and Government had reiterated the need for the early resumption of negotiations between the Governments of Argentina and the United Kingdom aimed at settling the sovereignty dispute over the Malvinas Islands in accordance with the resolutions of the United Nations and OAS and the principle of territorial integrity.

79. **Mr. Wang Yingfan** (China) recalled that, as early as 1965, the General Assembly had called on the Governments of Argentina and the United Kingdom to proceed without delay with the negotiations recommended by the Special Committee with a view to finding a peaceful solution to the question of the Falkland Islands (Malvinas). The Special Committee itself had adopted resolutions time and again calling on the Governments of those two States to strengthen dialogue and cooperation.

80. His delegation believed that there was now broad acceptance in the international community of the principle that territorial disputes between countries must be resolved through peaceful negotiations, in accordance with the spirit of the Charter of the United Nations. By sticking to a course of active and patient negotiations and dialogue, his Government had successfully resolved border disputes with the majority of neighbouring States, and it was adopting the same approach to those issues that were yet to be settled, whether territorial disputes or the demarcation of the continental shelf and oceans.

81. Progress could always be achieved in the settlement of disputes with the help of dialogue and negotiations, and the Chinese experience bore out that point. His delegation therefore called on Argentina and the United Kingdom to continue their constructive dialogue and to work towards the rapid achievement of a peaceful and just settlement. It supported the adoption of the draft resolution on the question under consideration.

82. **Mr. Zaemsky** (Russian Federation) said that his delegation supported the draft resolution on the question under consideration and was satisfied that it had again been possible to achieve a consensus. It continued to proceed on the basis that it was necessary to find a mutually acceptable solution through the bilateral Argentine-British negotiations, taking into account the relevant resolutions of the General Assembly.

83. **Mr. Milos Alcalay** (Venezuela) expressed appreciation to the Minister for Foreign Affairs of Argentina for his statement, in which he had called for the resumption of bilateral negotiations aimed at finding a peaceful solution to the dispute over the Malvinas Islands. He noted the importance of the presence in the meeting room of Argentine

parliamentarians representing the country's various political groups.

84. As in previous years, his delegation was joining the sponsors of the draft resolution on the question of the Malvinas Islands (A/AC.109/2001/L.8). It wished to reiterate, in that connection, its support for the lawful rights of Argentina in the sovereignty dispute over the Malvinas Islands, the negotiations between Argentina and the United Kingdom being an appropriate means of settling that dispute.

85. The current state of bilateral relations and cooperation between Argentina and the United Kingdom allowed for the creation of the conditions necessary for finding an acceptable solution, and he wished to align himself, in that connection, with the points made by the representative of Uruguay in his statement.

86. The work of the Special Committee and the Secretary-General's mission of good offices were striking proof that the international community was doing all it could to encourage the sides to find a peaceful, definitive and negotiated solution to that dispute. His delegation joined with all the previous speakers who had expressed the hope that the current draft resolution would be adopted without a vote, as in the past.

87. **Mr. Benítez Versón** (Cuba) said that his Government fully supported the lawful rights of Argentina in the sovereignty dispute over the Malvinas Islands. A just solution to that problem was possible only on the basis of dialogue and negotiations between the parties.

88. Unfortunately, despite the international community's support for the idea of negotiations, the implementation of the resolutions of the Special Committee and the General Assembly on the question of the Malvinas Islands had yet to begin. His delegation was joining the sponsors of the draft resolution on the question, and it wished to appeal to all the members of the Committee for support so that the draft resolution could again be adopted without a vote.

89. **Mr. Mekdad** (Syrian Arab Republic) said that the presence at the current meeting of the Minister for Foreign Affairs of Argentina was evidence of that country's commitment to the settlement of the question of the Falkland Islands (Malvinas) within the

framework of international law and the relevant resolutions of the United Nations. The willingness expressed by the Government of Argentina to engage in a dialogue with the United Kingdom with a view to settling the problem of sovereignty was particularly welcomed by his delegation, which wished those two countries every success in their dialogue. It also supported the draft resolution on that matter and hoped that it would be adopted by consensus.

90. **Mr. Abebe** (Ethiopia) said that his delegation had a clear position on the question of the Falkland Islands (Malvinas): that was a colonial situation, notable because of the existence of a dispute over sovereignty. Once again it had to be pointed out that little if any progress had been achieved on matters of substance. The Ethiopian delegation once again urged the two parties to heed the appeal of the Special Committee and find a solution to the problem based on the resolutions of the General Assembly and the relevant international principles. His delegation supported the draft resolution on the item.

91. **Mr. Ortiz** (Bolivia) said that his country's position had been unambiguously reflected, in particular, in the statement made by the representative of Paraguay on behalf of the member countries of MERCOSUR.

92. His country's position was also reflected in the draft resolution, of which it was a sponsor. Bolivia was very satisfied by the Special Committee's efforts to achieve the objectives of the United Nations in the field of decolonization and, in the specific case in hand, it called on the Governments of the two countries to begin negotiations to seek a peaceful solution to the problem of the Malvinas Islands. That was clearly indicated in the draft resolution, which he hoped would be adopted by consensus.

93. **Mr. Stanislaus** (Grenada) said that the Prime Minister of his country had just concluded an official visit to Argentina. Believing that the best means of resolving problems was through dialogue and discussion, his delegation supported the adoption of the draft resolution by consensus.

94. **Ms. Seth** (Antigua and Barbuda) said that her country had always insisted that the functions of the Special Committee involved self-determination and decolonization. The question currently under discussion was unrelated to those questions and was clearly a matter of sovereignty. The Committee had no

mandate to resolve such matters. At the same time, if the Committee could in any way promote the welfare of the inhabitants of the Falkland Islands (Malvinas), it was willing to do so.

95. The majority of administering Powers were currently collaborating with the Committee and had, in particular, attended the regional seminar in Havana. Her country also welcomed the recently concluded agreement under which Argentine air transport services to the Falkland Islands (Malvinas) were being resumed for the first time in 10 years. Her country welcomed the continuation of the dialogue between Argentina and the United Kingdom, with both of which it maintained the most cordial relations. It would therefore join the traditional consensus concerning the draft resolution on the item.

#### *Adoption of the draft resolution*

96. **The Chairman** said that the sponsors of the draft resolution had expressed the wish that it should be adopted without a vote.

97. *Draft resolution A/AC.109/2001/L.8 was adopted without a vote.*

98. **Mr. Donigi** (Papua New Guinea) said that, as members of the Committee were aware, he had distributed a document entitled "Decolonization in the twenty-first century", the status of which was explained in its first footnote. Its contents had been regarded with some concern by the Governments of the United Kingdom, Spain and Argentina. In that connection, he wished to emphasize that there were no hidden motives behind the document, which was intended to stimulate discussion and a more searching analysis by the members of the Committee of questions concerning its mandate, taking into account the reforms under way throughout the United Nations system.

99. The Committee had to answer three major questions. What was its mandate? Did it include the settlement or consideration of disputes concerning sovereignty? If not, could the Committee establish programmes of work with respect to Gibraltar and the Falkland Islands (Malvinas) without going into the question of sovereignty? His delegation hoped that the Committee would be able to begin consideration of those questions at the earliest opportunity during the forthcoming session of the General Assembly. By deferring decisions on those issues, the Committee would put itself at a disadvantage. It was obliged to go

into the dilemma facing the inhabitants of those Territories and induce the administering Power to engage in a dialogue, while defending their interests.

100. He hoped that the Governments of the United Kingdom, Spain and Argentina as well as other administering Powers would understand the spirit in which that document had been written and distributed. He once again appealed urgently to the administering Powers to cooperate constructively and openly with the Special Committee in establishing the programme of work with respect to the remaining Non-Self-Governing Territories.

101. **Mr. Naidu** (Fiji) pointed out that the draft resolution just adopted had been adopted without a vote since 1993. His delegation urged Argentina and the United Kingdom to engage in a constructive dialogue in a spirit of cooperation with a view to finding a peaceful settlement of the dispute over the Falkland Islands (Malvinas), thereby paving the way for the Committee to take the next step and establish a programme of work with respect to that Territory.

102. **Mr. During** (Sierra Leone) said that his delegation had consistently maintained that the efforts by the Governments of Argentina and the United Kingdom to reach a peaceful settlement of the problem should be welcomed but that it was essential to pay due attention to the wishes and interests of the population of the islands. The resolution should include an appropriate reference to the topical issue of the self-determination of the population. Certain people maintained that the principle of self-determination was not applicable to all situations involving decolonization. His delegation, however, firmly and sincerely considered that the principle should be not subjective but objective.

103. **The Chairman** said that the Committee had concluded its consideration of that item of the agenda.

#### **Question of sending visiting missions to Territories** (*continued*) (A/AC.109/2001/L.6)

104. **Mr. Donigi** (Papua New Guinea) suggested the inclusion at the end of paragraph 5 of the draft resolution of the phrase: "to coincide with the proposed plebiscite to be conducted by the Guam Election Commission on or about 7 September 2002".

105. *Draft resolution A/AC.109/2001/L.6, as orally amended, was adopted without a vote.*

106. **The Chairman** said that the Committee had concluded its consideration of that item of the agenda.

#### **Question of Gibraltar** (*continued*) (A/AC.109/2001/10)

107. **Mr. Donigi** (Papua New Guinea) said that the statement he had made on the question of the Falkland Islands (Malvinas) also applied to the question of Gibraltar.

108. **Mr. Stanislaus** (Grenada) quoted the English saying: "In matters of principle, stand as the Rock of Gibraltar, but in matters of State, swim with the current" and wondered which position should be adopted in consideration of the present item.

109. **Ms. Menéndez** (Spain) said that the representative of Papua New Guinea had said in his statement that Spain had been concerned about the document he had submitted. At the same time, it should be pointed out that the document set forth the exclusively personal point of view of its author. The traditional position of Spain was that it preferred to discuss official documents which were under consideration by the General Assembly or the Special Committee rather than the private opinions of representatives of one State or another. In conclusion, it should be noted that in his statement the representative of Papua New Guinea had mentioned Spain as being an administering Power which, as was well known, it was not.

110. **Mr. Blanco** (Venezuela) said that his delegation would like to make known its position concerning the document prepared by the representative of Papua New Guinea entitled "Decolonization in the twenty-first century". Having noted the major contribution which that representative had made to the work of the Committee, he also pointed out that, before expressing an opinion on the contents of that document, it was essential to look into procedural aspects of the submission of such documents. The document in question set forth the personal opinion of its author concerning the problems of decolonization, rather than the official position of Papua New Guinea. In that connection it was appropriate to point out that any persons participating in the work of organs of the United Nations system, irrespective of whether or not they represented a State, were obliged strictly to abide by procedural rules and official requirements which had been established after a long process of consultation and negotiation and were intended to give

legal force to the decisions taken and to enhance the effectiveness of the work of the organs concerned. It was clear that the Special Committee should be guided in its work by such procedures. Its members officially represented their Governments and, for that reason, any opinions expressed at its meetings were not the point of view of a particular private individual but the official position of a State; any other arrangement would be incompatible with the principles to which the United Nations, as an intergovernmental body, adhered. The Special Committee was a particular kind of organ in that persons who did not represent a State could take part in its work. However, their participation was governed by a whole series of officially established procedures. Thus, experts on various questions, petitioners and representatives of Non-Self-Governing Territories, before being entitled to address the Committee, officially requested the Committee's authorization through the appropriate channels. That was the procedure. Consequently, the question arose of the nature of the document that had been distributed to delegations, since its author did not belong to the category of persons he had just mentioned and was not putting forward the official position of his State. In that connection, the delegation of Venezuela considered that it would be inappropriate to discuss that document until such time as the essential requirements governing its submission had been complied with.

111. **The Chairman** suggested that the Committee should continue its consideration of the question of Gibraltar at its next session, bearing in mind the instructions that the General Assembly might adopt at its fifty-sixth session. In addition, to assist consideration of the question in the Fourth Committee, he suggested that all relevant documentation be transmitted to the Assembly.

112. *It was so decided.*

113. **The Chairman** said that the Committee had concluded consideration of that item of its agenda.

*The meeting rose at 1.15 p.m.*