

## Back to the Future? Implementing the Anglo-Argentine 14th July 1999 Joint Statement\*

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*Abstract.* This article is concerned with the implementation of the Anglo-Argentine 14th July 1999 Joint Statement relating to the Falklands/Malvinas and the South West Atlantic. Initial consideration is given to the recent historical and political context of the Falklands/Malvinas dispute. The arrest of General Pinochet in London is shown to have been a significant factor in Anglo-Argentine relations during the period of 1998–1999. Thereafter, the background relating to the 14th July 1999 Joint Statement is considered in some detail as it relates to fishing, travel, place names, land mines and an Argentine war memorial on the Falkland Islands. Each element of the Joint Statement is shown to be problematic, and the article concludes with the belief that the provisions of the Joint Statement will continue to strengthen the rapprochement between Britain and Argentina without making any substantial progress towards the eventual solution of the dispute over the Falklands/Malvinas.

### *Introduction*

Following President Menem's departure from office in December 1999, this article reflects upon the current condition of Anglo-Argentine relations and in particular the 14th July 1999 Joint Statement (unofficially called Agreement). While the United States and United Nations-sponsored diplomacy in April 1982 failed to prevent war in the remote sector of the South West Atlantic, the post-war period witnessed substantial change not only in the socio-economic condition of the Falklands Islands (Islas

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Malvinas) but also in the scope of Anglo-Argentine-Falkland relations.<sup>1</sup> The 14th July 1999 Joint Statement deserves careful analysis because it was the result of negotiations between Britain and Argentina in the aftermath of the decision by the Chilean government in March 1999 to suspend the air link between southern Chile and the Falklands. The suspension occurred as a direct consequence of the British government's decision, taken on behalf of the Spanish authorities, to detain the former Chilean President Augusto Pinochet, who was visiting London in October 1998.

While the arrest of Pinochet occurred during a period of improved Anglo-Argentine relations, the temporary ending of the Chilean air link provoked a major crisis for the Falkland Islands community. The prospect of total isolation from the South American continent loomed and the emergence of the Joint Statement in July 1999 has played an important part in re-building relations between the interested parties. If thoroughly implemented, the Joint Statement offers an opportunity for renewed communication links with the South American mainland as well as close co-operation over the management of South Atlantic marine resources. However, as the Joint Statement was not intended to confront the competing claims to sovereignty, there is a real danger that the controversies surrounding the 1971 Joint Communications Agreement could be revisited.

While few would expect to witness British and Argentine armed forces fighting each other again, the disputed status of these islands remains intact.<sup>2</sup> Despite the combined efforts of academics, experts in conflict resolution and political leaders, the arguments over these Islands have become frozen in competing discourses of sovereignty and self-determination.<sup>3</sup> Both sides still appear constrained by their domestic audiences, as pressure groups such as the Falkland Islands Association (FIA) in the United Kingdom and the Malvinas War Veterans Group in Argentina continue to campaign for no concessions to be granted on the sovereignty of the Falklands/Malvinas. Successive Argentine governments have argued that United Nations resolution 2065 (dating from 1965) has yet

<sup>1</sup> For summaries of the 1982 Falklands/Malvinas conflict and its diplomatic and political background, see P. Beck, *The Falkland Islands as an International Problem* (London, 1988), M. Dillon, *The Falklands: Law, Politics and Conflict* (London, 1988), L. Freedman and V. Gamba-Stonehouse, *Signals of War* (London, 1990).

<sup>2</sup> For a trenchant analysis of this diplomatic stalemate, see J. Tulchin, 'Continuity and change in Argentine foreign policy' in J. Tulchin and A. Garland (eds.), *Argentina: The Challenges of Modernization* (Boulder, 1998) pp. 163–200.

<sup>3</sup> This sense of stagnation had led many to conclude that sovereignty is simply a 'grey area', without really considering how that position is constructed within political discourse. See, for example, D. Gibran, *The Falklands War: Britain Versus the Past in the South Atlantic* (Jefferson, NC, 1998).

to be properly implemented in the sense that the UK government has refused to address the ‘colonial situation’ in the South Atlantic.<sup>4</sup> Moreover, this sense of Argentine frustration has mounted vis-à-vis the renewed UK commitment (in the shape of Mount Pleasant Airbase) to retaining sovereignty over these islands. Since the 1982 conflict, both the Thatcher and Major administrations reaffirmed their willingness to defend the right of the Falkland Islands community to self-determine their future. This commitment has been strongly reiterated by the subsequent Labour government. Within the Falklands, there can be little doubt that the 2,491 strong community wishes to remain under UK authority.<sup>5</sup> As a consequence the implementation in 1989–90 of the ‘sovereignty umbrella’ (which recognises the legal positions of both parties) has been instrumental in allowing both Argentina and the UK to co-operate (without prejudice) in the South Atlantic, even though the dispute remains unresolved.<sup>6</sup>

While there has been little formal movement on the sovereignty dispute, much has changed since the 1982 conflict. The most evident elements of change have been the increased opportunity for wealth-creation in the Falklands, combined with a growing sense of political confidence manifested by the Falkland Islands Government (FIG). At the same time the last Argentine government of President Menem through his

<sup>4</sup> This point has been reiterated by many Argentine analyses of the conflict and the ongoing diplomatic dispute. For example, N. Costa Méndez, *Malvinas: ésta es la historia* (Buenos Aires, 1983), A. Dabat and L. Lorenzano, *Argentina: the Malvinas and the end of Military Rule* (London, 1984) Expanded and revised translation of *Conflicto malvinense y crisis nacional* (Mexico City, 1982), and most recently, C. Bullrich, *Malvinas o Falklands?* (Buenos Aires, 2000). For another recent publication see A. Canclini, *Malvinas: su historia en historias* (Buenos Aires, 2000).

<sup>5</sup> The terms ‘wishes’ and ‘interests’ are extremely controversial when applied to the Falklands/Malvinas dispute. Since 1982, the British government has re-affirmed its commitment to respect the ‘wishes’ of the Island community and to protect their right to self-determine their own future. The Argentine government rejects the proposition that the Islanders can have such a ‘right’, given the disputed nature of sovereignty and the fact that the population of the Islands was imposed from 1833 onwards. For a review of the contested legal and political histories of the Islands see J. Goebel, *The Struggle for the Falkland Islands* (London, 1927) and more recently, L. Gustafson, *The Sovereignty Dispute over the Falkland (Malvinas) Islands* (New York, 1988).

<sup>6</sup> See the article by L. García del Solar, ‘El paraguas de soberanía’, *Archivos del Presente*, vol. 2 (1997), pp. 25–31. As García del Solar noted, the sovereignty umbrella ‘is a judicial mechanism ... that allows parties which maintain a dispute ... [to] adopt resolutions of common interest, without prejudice to their respective sovereignty positions, which remain reserved’ (*ibid.*, pp. 27–8). The principle of the ‘sovereignty umbrella’ was also used during the implementation of the 1971 Joint Communications Agreement between Argentina and Britain. García del Solar is currently the Argentine ambassador to UNESCO. Previously he was Ambassador to the United States and Director-General of the Foreign Ministry. He has also been a special representative of the Menem government for the purpose of normalising relations with the UK.

former Foreign Minister, Dr Guido Di Tella, in practice acknowledged that the Falkland Islands community was part of the problem and, therefore, had to be part of the solution to the dispute (see below). In an unparalleled manner, therefore, Di Tella broadened traditional Argentine representations of this bilateral dispute.<sup>7</sup> The result was that many conservative commentators in Argentina, such as Lucio García del Solar, Hugo Gobbi and even the new Argentine Foreign Minister, Rodríguez Giavarini, were distinctly agitated by such an admission because they believed that no sense of political legitimacy should be bestowed upon the Falkland Islands Government.<sup>8</sup> By virtue of the ‘sovereignty umbrella’ and the apparent shift in Argentine foreign policy under Menem, the interested parties have participated overtly in mechanisms designed to improve co-operation over living marine resources, communications, and hydrocarbon exploration in the South Atlantic. Indeed these mechanisms have helped to create distinctly ‘South Atlantic’ issues. The 14th July Joint Statement of 1999 has consolidated this trend while simultaneously initiating a new and uncertain future for the Falklands/Malvinas.<sup>9</sup> But far from improving relations between Britain and Argentina this Joint Statement could strain the co-operative tenor of the previous decade.

This article initially examines the Falklands/Malvinas from the recent perspective of the UK Labour government and the former administration of President Menem. However, attention is also given to the Argentine government of President Fernando de la Rúa. Recent evidence indicates that the Argentine Foreign Minister, Rodríguez Giavarini intends to pursue a legalistic policy (i.e. seeking the recovery of full sovereignty) in relation to the disputed South Atlantic islands. Thereafter the 14th July 1999 Joint Statement is considered in some detail, and consideration is given to some of the most controversial elements of the negotiations

<sup>7</sup> At a recent Argentine-British Conference (ABC) hosted at Wilton Park between 12–14 May 2000 it was apparent that Di Tella’s approach to the Falklands/Malvinas was not widely supported. Many career diplomats in the Argentine Foreign Ministry were unhappy with the admission that the Falkland Islands community deserved such acknowledgement.

<sup>8</sup> For evidence of a possible dispute between Di Tella and Giavarini see the reporting of *Clarín*, ‘Malvinas: se abre la polémica’ (2 Oct. 2000) which quoted Di Tella as noting that ‘the policy of state has been totally destroyed’. The Foreign Minister has indicated that the dispute remains bilateral and has reaffirmed Argentina’s determination to restore the sovereignty of the islands to Argentina without necessarily securing the support let alone consent of the Falkland Islanders.

<sup>9</sup> See David Held’s observations regarding the construction of ‘communities of fate’ and the role that mechanisms such as intergovernmental bodies can play in addressing trans-boundary issues such as living resource management and communications. See, for example, D. Held ‘The transformation of political community: rethinking democracy in the age of globalisation’ in I. Shapiro and C. Hacker-Cordón (eds.), *Democracy’s Edges* (Cambridge, 1999), pp. 84–111.

which followed on from the arrest in the UK of General Augusto Pinochet of Chile in October 1998. While several issues are identified which have the potential to upset the delicate balance of Anglo-Argentine-Falkland relations, it is noted that these sources of tensions have their origins in earlier phases of the sovereignty dispute. These issues involved the future of the air-link between the Falklands and the South American mainland, the conservation of living marine resources outside the Antarctic Treaty area, the Argentine memorial in the Darwin cemetery and perhaps surprisingly the question of buried landmines in the Islands.<sup>10</sup> Finally, the article concludes with the suggestion that Anglo-Argentine-Falkland relations may enter a new and unstable phase reminiscent of the post-1971 Joint Communications Agreement. As issues pertaining to the South Atlantic and the Falklands/Malvinas continue to spill across a range of territorial borders, all parties will have to evoke flexible conceptions of sovereignty, community and co-operation.<sup>11</sup>

#### *Argentine Foreign Policy and the Islas Malvinas*

In the aftermath of the Second World War, successive Argentine governments and military regimes have committed themselves (by varying degrees) to the recovery of the Islas Malvinas.<sup>12</sup> President Juan Domingo Perón was a powerful exponent of this objective, raising Argentina's claims to these Islands via bilateral negotiations with the UK and through multinational organisations such as the Organisation of American States and the security provisions of the 1947 Rio Treaty.<sup>13</sup> These diplomatic endeavours unfolded at a time of decline in Anglo-Argentine trading relations and geopolitical strife in Antarctica.<sup>14</sup>

<sup>10</sup> See P. Beck, 'Fisheries conservation as a basis for a special Anglo-Argentine relationship', *The World Today*, vol. 47 (1991), pp. 102–6.

<sup>11</sup> While this article does not consider the Antarctic Treaty region in any detail it should be noted that successive British governments have refused to support Argentina's proposal to host a secretariat to the Antarctic Treaty System in Buenos Aires. In July 2001, however, the British Labour Government agreed to drop its opposition to Argentina hosting a secretariat. For Perón's vision of an Argentine Antarctic sector, see J. Perón, *Soberanía argentina en el Antártida* (Buenos Aires, 1947).

<sup>12</sup> See the varied essays in W. Smith, *Towards Resolution? The Falklands/Malvinas Dispute* (Boulder, 1991) and A. Danchev (ed.), *A Matter of Life and Death: International Perspectives on the Falklands Conflict* (Oxford, 1992).

<sup>13</sup> See A. Cisneros and C. Escudé, *Historia general de las relaciones exteriores de la República Argentina – Parte III: Tomo XII: La diplomacia de Malvinas 1945–1989* (Buenos Aires, 1999). Argentina joined the Non-Alignment Movement in 1973 and used NAM and the OAS in the 1970s to raise the issue of the Falklands/Malvinas.

<sup>14</sup> On the Anglo-Argentine trading relationship see C. Lewis, 'Anglo-Argentine trade, 1945–1965' in D. Rock (ed.), *Argentina in the Twentieth Century* (London, 1975), pp. 114–134, D. Rock, *Politics in Argentina* (London, 1975), C. Macdonald 'The United States, Britain and Argentina in the years after the Second World War' in G. Di Tella

Domestically, Perón initiated a programme of education designed to raise awareness of the Islas Malvinas within the Argentine collective geographical imagination.<sup>15</sup> Under a federal law passed in 1948, it became a federal offence (still in force) to produce a map of Argentina, which did not include the Islas Malvinas and the Argentine Antarctic Sector.<sup>16</sup> The widespread representations of the Islands on stamps, maps, murals, and atlases and geographical textbooks for children were significant features of popular discourse.<sup>17</sup> The revisionist political scientist, Carlos Escudé has argued that Argentine public education has contributed to the production and consumption of ‘territorial mythologies’ which continue to consolidate the ‘self-perpetuated indoctrination’ of teachers and school children.<sup>18</sup> Forty years later, while giving evidence to the House of Commons Foreign Affairs Committee, the then academic, Guido Di Tella admitted the importance of this educational background:

Certainly I would say this is very deeply embedded in the attitudes and traditions of Argentina at all levels and of all social extractions and all ideological attitudes. We tend to view the Islands as part of the country which they were for some time. We think that the geographical distance has something to do with the area where they should belong.<sup>19</sup>

By the end of the 1950s, the government of Arturo Frondizi negotiated with eleven other parties (including the British) the Antarctic Treaty (1959), which effectively suspended the territorial dispute between Argentina, Britain and Chile over the Antarctic Peninsula.<sup>20</sup> With those

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and C. D. Platt (eds.), *The Political History of Argentina* (London, 1986), pp. 183–281. On geopolitical tension in Antarctica see P. Beck, *The International Politics of Antarctica* (London, 1986) and K. Dodds, *Geopolitics in Antarctica: Views from the Southern Oceanic Rim* (London, 1997).

<sup>15</sup> See J. Child, *Geopolitics and Conflict in South America* (New York, 1985), K. Dodds ‘Geopolitics and the geographical imagination of Argentina’ in K. Dodds and D. Atkinson (eds.), *Geopolitical Traditions: A Century of Geopolitical Thought* (London, 2000), pp. 150–84. See the essays in A. Hennessy and J. King (eds.), *The Land that England Lost* (London, 1992).

<sup>16</sup> See J. Child, *Geopolitics and Conflict in South America* for further details on the cultural significance of popular geopolitical representations of territory.

<sup>17</sup> See A. Graham-Yooll, *Goodbye Buenos Aires* (Nottingham, 1999), pp. 164–5. A major source on the relationship between Argentine foreign policy and education is C. Escudé, *Patología del nacionalismo: el caso argentino* (Buenos Aires, 1987) and *El fracaso del proyecto argentino* (Buenos Aires, 1990).

<sup>18</sup> See A. Cisneros and C. Escudé, *Historia general de las relaciones exteriores de la República Argentina – Parte I, Tomo I: Conceptos: la formación del estado y la construcción de la identidad* (Buenos Aires, 1998), p. 168.

<sup>19</sup> House of Commons Foreign Affairs Committee 1982–1983, *Falkland Islands: Minutes of Evidence Part 1* (1) 10/1191982–24/1/1983. p. 61. Between 1976–1982, Di Tella was a visiting academic at St Antony’s College, Oxford.

<sup>20</sup> See A. Candiotti, *El Tratado Antártico y el derecho público argentino* (Buenos Aires, 1961) and J. Puig, *La Antártida ante el derecho* (Buenos Aires, 1961).

rival Antarctic claims protected by Article IV of the 1959 Antarctic Treaty, attention once more turned to the disputed Islands in the South Atlantic. Subsequent Argentine administrations entered into negotiations with the UK on the understanding that the latter acknowledged that sovereignty over the Islands would be negotiable.

Throughout the 1960s, contact between the Islands and Argentina was minimal because of the limited shipping service offered by the Falkland Islands Company via Montevideo and the absence of an airport capable of handling large planes at Stanley.<sup>21</sup> Negotiations over the sovereignty of the Islands were slow despite the high level discussions between the respective Argentine and British foreign ministers Miguel Angel Zavala Ortiz and Michael Stewart in the aftermath of UN resolution 2065.<sup>22</sup> In August 1968, after two years of negotiation, a Memorandum of Understanding was produced between the two countries. It noted that sovereignty was transferable provided the 'interests' of the Falkland Islands community were secured.<sup>23</sup> By the late 1970s, British indecision in combination with Argentine frustration and subsequent political opportunism paved the way for the invasion of the Falklands in April 1982.<sup>24</sup> When Washington's initial attempts to mediate failed, the US provided decisive support which proved invaluable to the UK government and their armed forces. Within two months, a short war had unfolded which cost over 1,000 lives. Nonetheless, British sovereignty had been restored but the sovereignty impasse with Argentina returned.

By December 1983 democracy had been restored in Argentina but there was little to no progress in terms of conflict resolution and diplomatic negotiation.<sup>25</sup> President Raúl Alfonsín's attempts to ensure that any new

<sup>21</sup> Falkland Islanders were also reluctant to enter Argentina in case they were drafted for military service or made liable for taxation. See R. Hunt, *My Falkland Days* (Newton Abbot, 1992), pp. 110–20. Sir Rex Hunt was Governor of the Falkland Islands between 1980 and 1985. Plans to extend the airport were proposed by the 1976 Shackleton Report but these were not funded by the then Callaghan government (1976–1979).

<sup>22</sup> P. Beck, 'Co-operative confrontation in the Falkland Islands dispute: The Anglo-Argentine search for a way forward 1968–1981', *Journal of Inter-American Studies and World Affairs*, vol. 24 (1982), pp. 37–58.

<sup>23</sup> In 1968, the Falkland Islands Executive Council sent an extraordinary appeal to London demanding that there was no transfer of sovereignty. The original document notes that there was 'no racial problem' in the Islands and was clearly designed to appeal to those who campaigned against further so-called 'coloured immigration' to the UK in the late 1960s. See *Falkland Islands Monthly News*, Vol. 112 (1 April 1968).

<sup>24</sup> This sense of 'frustration' was expressed most passionately by Nicanor Costa Méndez who had been Foreign Minister between 1966–1969 and then again in 1981–1982. See N. Costa Méndez, *Malvinas*.

<sup>25</sup> See C. Escudé, *Foreign Policy Theory in Menem's Argentina* (Gainesville, 1997) and A. Romero, *Malvinas: la política exterior de Alfonsín y Menem* (Buenos Aires, 1999). In 1983, Alfonsín noted to the Argentine Congress that 'we are inflexible, and the sovereignty is a fact previous to any negotiation' (cited in Romero *Malvinas*, p. 24).

negotiations over the Islas Malvinas included sovereignty were dismissed by the Thatcher government as irrelevant, given the UK's commitment to protect British sovereignty in the South Atlantic.<sup>26</sup> Similarly, the Argentine administration was angered by the British decision to build a military base in the Falklands (which allowed rapid military reinforcement by air from the UK), and to initiate a fishing licensing regime in the waters surrounding the Islands.<sup>27</sup> Despite these changes in the South Atlantic, the American administration under President Reagan showed no inclination to intervene on behalf of the Argentine authorities. By the end of Alfonsín's administration in 1989, it would be fair to conclude that there had been very little political movement on the dispute in the South Atlantic.<sup>28</sup> Within a year of leaving office, however, political and cultural relations with the UK improved dramatically. During the bilateral negotiations held in Madrid in 1989, British and Argentine policy makers agreed to restore relations and to discuss future co-operation over the South Atlantic. The implementation of the 'sovereignty umbrella' (reminiscent of Article IV of the 1959 Antarctic Treaty and the 1971 Joint Communications Agreement) allowed this transformation to unfold, because it acknowledged that the sovereignty claims would not be adversely affected by acts of co-operation.

For much of its ten years in office, Menem's government arguably pursued a twin-tracked policy towards the Islas Malvinas. On the one hand, President Menem declared on countless occasions that he expected these Islands to be returned to the Argentine Republic by the year 2000. As he noted in 1989, 'We will acknowledge no sovereignty other than Argentina's [over the Islands] and to attain that, we will pursue it through all diplomatic channels. I do not know how many generations it will take,

<sup>26</sup> The meeting of officials in Bern in 1984 was indicative of a complete breakdown in Anglo-Argentine relations. Despite the intervention of the Swiss Foreign Ministry, the talks failed because the British would not formally discuss sovereignty and the Argentines would not consider future relations without discussing sovereignty of the Islands. See J. Burns, *The Land that Lost its Heroes: The Falklands, the Post-War and Alfonsín* (London, 1987) and W. Smith (ed.), *Towards Resolution?* (Boulder, 1990).

<sup>27</sup> The British decision to construct a new military base in the Falklands/Malvinas was based not only on a commitment to defend the Islands but also on a belief that the Alfonsín administration showed no inclination to drop Argentina's territorial claim and formally end hostilities. The declaration of a fishing zone in 1986 was provoked by the Argentines decision to negotiate fishing agreements with the Soviet Union and Bulgaria. Moreover, the sinking of a Taiwanese fishing vessel by the Argentine authorities also raised the geopolitical stakes in 1985–6. There had been some discussions with the FAO before the declaration of the Falkland Islands fisheries regime but these were inconclusive.

<sup>28</sup> It should be noted that in the last year of the Alfonsín administration the question of the 'sovereignty umbrella' was raised, and later formed the basis for discussions with the British after President Alfonsín had left office in May 1989.



but we will recover what is ours'.<sup>29</sup> While he explicitly endorsed the need for peaceful negotiation it was evident that this remained a powerful and emotive platform for his post-conflict foreign policy. It also reaffirmed Argentina's commitment to pursue bilateral negotiations with the UK over the future of the Islands. On the other hand, under Foreign Minister Di Tella's influence, Argentine foreign policy underwent a shift as it was recognised for the first time that the Falklands community was (in Di Tella's words) 'part of the problem and hence part of any solution'.<sup>30</sup> Di Tella acknowledged that the Islands were not an abstract and empty space simply waiting for the UK and Argentina to settle their sovereignty dispute. Such an admission marked a dramatic shift from the conservative political position of the Alfonsín administration and former Foreign Ministers such as Dante Caputo let alone Nicanor Costa Méndez.<sup>31</sup> Moreover, it also went against the established belief of the Argentine Foreign Ministry that the Islas Malvinas was an exclusively bilateral dispute between Britain and Argentina which had to be resolved further to United Nations Resolution 2065.

Under the euphemism of the 'charm offensive', the Argentine Foreign Minister (Di Tella) began to have direct contact with the Islanders from 1993–4 onwards. This contact included telephoning Islanders in Stanley and the Camp, sending presents and videos to bemused Islanders at Christmas, and participating with a Falkland Island Councillor in a private Argentine-British Conference in May 2000.<sup>32</sup> This represented a further departure from orthodox Argentine foreign policy because it acknowledged and even solicited contact with the community. Despite severe reservations within Argentina, most of these events occurred at a time when Argentine passport holders (except if part of the approved next of kin visits) were not able to enter the Islands (between 1982–1999). This restriction on movement was carried out against a context in which the Argentine Constitution had been amended in 1994 to reaffirm Argentina's claim to the Islas Malvinas. As the Constitution notes:

<sup>29</sup> Cited in J. Aldrich and J. Connell, *The Last Colonies* (Cambridge, 1998), p. 210.

<sup>30</sup> Interview with Dr Guido Di Tella, St Antony's College, Oxford 5 June 2000.

<sup>31</sup> Unlike previous Argentine foreign ministers, Di Tella had spent the period between 1976–1982 at Oxford University and was considered an Anglophile by many seasoned British and Falkland Islands observers.

<sup>32</sup> According to interviews carried out by Klaus Dodds in Dec. 1999, April 2000 and July 2000 most Falkland Islanders interviewed viewed the 'charm offensive' as either relatively harmless or as deeply insulting. As one female Islander noted to this author, 'Does he [Di Tella] think that we will change our minds [on sovereignty] if he sends us a few presents and talks to some of the people here?' Notwithstanding expressions of cynicism, most Islanders also acknowledged that it did make a 'welcome change' from past Argentine Foreign Ministers.

The Argentine Constitution ratifies its legal and imprescriptible sovereignty over the Malvinas, Georgias del Sur and Sandwich del Sur islands and the correspondent maritime and insular places, for being an integral part of the national territory. The recovery of such territories and the complete exercise of the sovereignty, respecting the way of life of their inhabitants, and consistent with the principles of the International Law, constitute a *permanent and not transferable* [our emphasis] objective of the Argentine Republic.<sup>33</sup>

Di Tella's direct contact with the Island community could therefore in no way diminish the constitutional importance of 'recovering' the Islas Malvinas for the Argentine Republic. As Emilio Cárdenas has noted, 'Leaving aside a few dissident voices ... the great majority of the Argentines, thank God, continue to believe that the recovery of the Malvinas Islands is a national aim. Permanent and non-transferable ... the National Constitution ... is clear and absolute'.<sup>34</sup> For the present, however, the 'sovereignty umbrella' continues to cover UK-Argentine contact (excluding other forms of contact such as sport and trade) relating to the South West Atlantic.<sup>35</sup>

Nonetheless, Argentina has over the last decade participated in a new series of bodies and networks designed *inter alia* to rebuild bilateral relations and (from the perspective of the FIG) to protect the future economic relations of the Falkland Islands.<sup>36</sup> These include participation in the South Atlantic Fisheries Commission which was designed to improve co-operation over living resource management and the South West Atlantic Hydrocarbons Commission which is to supervise further resource non-living exploitation.<sup>37</sup> The South Atlantic Fisheries Com-

<sup>33</sup> See the 1994 Constitution of the Argentine Republic. The authors have translated the 'first transitory disposition' of the Constitution. On the wider geopolitical context, see K. Dodds, *Geopolitics in Antarctica*.

<sup>34</sup> See E. Cárdenas 'Malvinas: hacia el futuro', *Revista Militar*, vol. 742 (1998), pp. 33–40. The author suggests that the National Constitution could be reformulated if necessary to imply that any compromise solution would not compromise Argentina's demand for full sovereignty over the Islands. He also notes that the constitution of the Province of Tierra del Fuego, Antártida e Islas del Atlántico Sur (created in 1957) specifies particular geographical limits and no change can be made to the constitution without popular consent.

<sup>35</sup> Interview with Dr Guido Di Tella, St Antony's College, Oxford 5 June 2000.

<sup>36</sup> There is a longer history of Anglo-Argentine-Chilean co-operation in Antarctica and this includes the 1948 Naval Agreement and the 1989 Agreement on Minerals which sought to preserve peace in the Antarctic region.

<sup>37</sup> See K. Dodds, 'Towards rapprochement? Anglo-Argentine relations and the Falklands/Malvinas in the late 1990s' *International Affairs*, vol. 74 (1998), pp. 617–30. In the case of hydrocarbon exploration, Britain and Argentina agreed in 1995 to create a zone of joint exploration in the South West Atlantic. In 1996, the FIG offered five consortia a total of seven exploratory tranches in the waters to the north of the Falklands. The initial test bore results were judged 'promising' and it remains to be seen whether a second round of oil licensing is to be approved in the near future. The

mission has played a significant role in confidence building as the interested parties sought to negotiate over resource management in a shared space. While there have been complaints from the British and Falkland Islands representatives that Argentina could do more to implement conservation strategies, dialogue has persisted since 1990. Given the dependence on the fisheries regime for the economy of the Falkland Islands, this is in itself significant as illegal fishing continues to threaten the long-term viability of fish stocks. It could also be argued that Argentina had already made an important concession to the Falkland Islands by allowing the operators LanChile to enter and leave Argentine airspace as part of the air-link from southern Chile to the Falklands/Malvinas. Moreover, Argentina has also participated in a series of mechanisms and agreements, which have helped to restore relations with the UK and the Falkland Islands Government. Progress in bilateral negotiations was undoubtedly assisted by the departure from office of Prime Minister Thatcher in 1990 and President Alfonsín in 1989. This led to the emergence of more accommodating governments headed by Prime Minister Major and President Menem.

#### *Britain and the Overseas Territories*

Within weeks of taking office, the Labour government under Prime Minister Blair was confronted with the inherited political and geographical legacies of the British Empire. Previous Conservative government negotiations under Prime Minister Thatcher eventually resulted in the transfer of Hong Kong from Britain to the People's Republic of China on 1 July 1997.<sup>38</sup> Subsequent crises in Fiji, Monserrat, Sierra Leone and Zimbabwe were to demonstrate only too clearly the complexities of dismantling an empire and establishing post-colonial reconciliation and stability. The remote South West Atlantic demanded the attention of the Blair administration as the Argentine government of President Carlos

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government of President de la Rúa has already protested to the British government about plans to licence a second round of drilling in 2001 given the disagreements over oil related royalties. See *Penguin News*, 'Argentines object but oil plans to go ahead' (21 April 2000).

<sup>38</sup> In April 1982, Former Prime Minister Edward Heath visited China in order to discuss the future of Hong Kong with the Deng Xiaoping government. In Sept. 1982, Prime Minister Thatcher visited China in order to discuss the planned hand-over of Hong Kong in July 1997. The 1981 Nationality Act had ensured that many Hong Kong residents would have no automatic rights of entry into the UK. For further details on the relationship between the Falkland Islands and Hong Kong see P. Sharp, *Thatcher's Diplomacy* (London, 1997).

Menem was anxious to pursue negotiations over the Falkland Islands. Indeed, there had been considerable amount of media and political speculation whether the Labour government would be more 'flexible' on the issue of sovereignty in contrast to the previous Conservative governments. However, on taking office, the Foreign Office reiterated its commitment to continue the process of confidence building with Argentina, while not abandoning the formal position relating to the sovereignty of the Islands.

To the surprise of some Argentine, Falkland Islands and British commentators, the Blair administration continued to strongly support British claims to sovereignty and committed the British government to respect the self-determining 'wishes' of the Island community. Unsurprisingly, however, the remaining elements of the British Empire have been 're-branded'. Under 'New Labour' colonialism and dependency is out of fashion and 'ethical' dimensions to foreign policy are in vogue.<sup>39</sup> In 1998, UK Foreign Secretary, Robin Cook announced that so-called 'custom-made' solutions would be devised for each remaining overseas territory.<sup>40</sup> As he noted in the House of Commons in March 1999:

It is the wrong name for today's territories which are energetic, self-governing and anything but dependent. It also does not fit the concept of partnership on which we want to build our relationship. We will be introducing legislation to rename the territories 'United Kingdom Overseas Territories' and in the meantime will be adopting that title in all government communications.<sup>41</sup>

Henceforth, the remaining British colonies are to be known as 'Overseas Territories'. The publication of the White Paper on '*Britain and the Overseas Territories*' is symbolic of New Labour's general approach to political reconstruction.<sup>42</sup> Since taking office in May 1997, 'mild reform' of the House of Lords has been combined with political devolution to Northern Ireland, Scotland and Wales, a new mayor for London and a new Freedom of Information Bill have been (or will be) introduced. A constitutional revolution of sorts has been undertaken and implemented. While authority has been conceded to the geographical periphery of the UK, plans for a new central framework of governance (let alone a written constitution) have been suspended. The White Paper on the Overseas

<sup>39</sup> See R. Little and M. Wickham-Jones (eds.), *New Labour's Foreign Policy: A New Moral Crusade?* (Manchester, 2000).

<sup>40</sup> Keynote speech by UK Foreign Secretary Robin Cook to the conference 'Dependent Territories in the Twentieth Century' London, 4 Feb. 1998.

<sup>41</sup> Statement made by the UK Foreign Secretary, Robin Cook to the House of Commons, 17 March 1999. Accessed on <http://britain-info.org/bistext/forodom/dts/17mar99.stm> (18 May 2000).

<sup>42</sup> See *Partnership for Progress and Prosperity: Britain and the Overseas Territories* (London, 1999).

Territories should be seen in this wider political and cultural context.<sup>43</sup> Despite endorsing New Labour terms such as ‘partnership’, ‘stakeholder’ and ‘modernisation’, the White Paper does not consider in any detail future relations with states who challenge the sovereignty of Overseas Territories (Argentina and Spain in particular).<sup>44</sup> Hence, the White Paper provides little hope to Argentine observers seeking concessions on sovereignty by the Labour government.

The White Paper addressed fundamental matters concerning citizenship, constitutional affairs, financial management, environmental affairs, human rights and self-determination. It is the product of a two-year review period. In terms of citizenship, the White Paper declared that all residents of Overseas Territories are entitled to British citizenship. This effectively ends the restrictions of the 1981 Nationality Act which removed the right of abode in Britain.<sup>45</sup> With the removal of Hong Kong from the current portfolio of Overseas Territories (OT) the number of eligible citizens fell considerably. In the realm of constitutional affairs, the White Paper argues that OT should aspire to ‘good government’ and the promotion of transparency, accountability and open governance. In the wake of concerns regarding the eventual limited remit of the Freedom of Information Act, this part of the White Paper makes for ironic reading. Moreover, many of these OTs have written constitutions, in contrast to the UK. Financially, the White Paper sets out the UK government’s determination to promote and implement high standards of financial regulation. This section was inspired by concerns that some of the Caribbean OTs were not implementing effective financial management. In the face of mounting concern over global patterns of environmental degradation, there will be limited financial support for these territories to protect and preserve their local environments. Finally, the White Paper emphatically endorsed the importance of human rights protection (in line with the UK’s commitment to the European Convention on Human Rights) and reaffirmed the significance of self-determination in deciding the fate of the OT.

The White Paper was well received in the Falkland Islands. Previous Labour governments were not perceived as staunch advocates of British

<sup>43</sup> See the analyses of New Labour by P. Mair, ‘Partyless democracy’ *New Left Review* (II, 2000), pp. 21–36 and D. Marquand, ‘Revisiting the Blair Paradox’, *New Left Review*, (II, 2000), pp. 73–9.

<sup>44</sup> For a sympathetic review of ‘New Labour’ see P. Gould, *The Unfinished Revolution: How the Modernisers Saved the Labour Party* (London, 1998). For a critical assessment of New Labour see N. Cohen, *Cruel Britannia* (London, 1999).

<sup>45</sup> The British Nationality (Falkland Islands) Act of 1983 allowed all Falkland Islanders to claim citizenship who had not already qualified under the British Nationality Act of 1981 *Public General Acts—Elizabeth II*, chapter 61 (London, 1981).

sovereignty in the South Atlantic, even though it was the Callaghan government in 1977 which despatched a nuclear submarine to the South Atlantic in order to reinforce British sovereignty claims.<sup>46</sup> Therefore, the most significant feature of the document is Labour's commitment to the principle of self-determination. As one of only two OT (the other being Gibraltar) where British sovereignty is actively contested by neighbouring states, this public commitment was most welcome. As Baroness Scotland, a Foreign Office minister, noted in April 2000:

Our commitment to maintaining the right of self-determination is unshakeable. The people of the territories choose to remain British because they want to. Where independence is an option and if it were to be asked for, we would not stand in any territory's way. Neither do we have any hidden agenda to force any territory to go down the independence route ... . We have been a steadfast advocate of the rights of self-determination for the peoples of the territories in the international arena, and in many a bilateral set of negotiations, as a lot of you know well.<sup>47</sup>

However, previous Labour governments have not always shown such commitment to the rights of people to self-determine their futures. Under the Wilson administration, a deal was made with the USA to create a British dependency for defence use.<sup>48</sup> Ignoring a United Nations resolution which demanded that the collective territory of Mauritius should not be violated, the British government created a new colony called British Indian Ocean Territory. This Anglo-American agreement allowed US forces to establish a base and refuelling station in Diego Garcia for a fifty-year period. The British Indian Ocean Territory was established in November 1965 and in subsequent years, the inhabitants of Diego Garcia (or the Ilois – see footnote 52) were exiled to Mauritius where they endured poor housing and employment opportunities. A sum of £650,000 was paid to the Mauritius government to resettle the Ilois people. This was later found to be inadequate and in 1982 the British government paid an additional £4 million to the Ilois community in Mauritius. According to government files released in 1995, the then

<sup>46</sup> J. Callaghan, *Time and Chance* (London, 1987). As Callaghan noted, 'The verdict of history must be that the Labour government kept the peace and the Conservative government won the war,' p. 370. The Callaghan government, however, did authorise arms sales to the Argentine armed forces between 1977–1981 and these included Type 42 destroyers, Lynx helicopters, Sea dart missiles and Blowpipe missiles. On arms sales to Argentina and Latin America see M. Phythian, *The Politics of British Arms Sales Since 1964* (Manchester, 2000).

<sup>47</sup> See the statement by the Parliamentary Under-Secretary of State for Foreign and Commonwealth Affairs, Baroness Scotland at the 'Overseas Territories: Into the New Millennium' conference, Wilton Park, 3 April 2000. Accessed at <http://www.fco.gov.uk/news/speechtext.asp3528> (18 May 2000).

<sup>48</sup> See J. Madeley, *Diego Garcia: A Contrast to the Falklands* (London, 1985) and M. Curtis, *The Ambiguities of Power: British Foreign Policy Since 1945* (London, 1997).

British Foreign Secretary Michael Stewart noted to his US counterpart Dean Rusk that ‘the question of detaching bits of territory from colonies that were advancing towards self-government requires careful handling’.<sup>49</sup> As John Madeley noted in 1985, the treatment of the Ilois people stood in stark contrast to the way in which the Falklands was defended by British forces in 1982.<sup>50</sup> In the case of the latter, it has been alleged retrospectively that the politics of race played a part in the willingness of the Thatcher government to defend a white population in the South West Atlantic.<sup>51</sup> During Labour’s period out of office in 1982, opposition spokesmen such as Denis Healey (on the right of the party) and Michael Foot (on the left of the party) supported the decision to wage war. Although the Falklands never enjoyed great strategic significance in the Cold War era, the United States eventually publicly supported the British taskforce in 1982 with offers of military intelligence, missiles and even naval vessels. They also continued to use Diego Garcia as a strategic base.<sup>52</sup>

In contrast to the Falkland Islands, the inhabitants of Diego Garcia never had the means or opportunity to develop a ‘lobby’, which would represent their interests in Parliament and the wider political sphere. According to the definitive study of the Falkland Islands lobby, Falkland Islands Legislative Councillor Arthur Barton initiated the ‘lobby’ after a visit to London in March 1968.<sup>53</sup> The Falkland Islands Emergency Committee (FIEC) under the leadership of Bill Hunter Christie began a high profile campaign combining imperial nostalgia with a sense of obligation.<sup>54</sup> In the immediate aftermath of the 1968 Memorandum of

<sup>49</sup> Cited in J. Pilger, *Secret Agendas* (London, 1998), p. 21.

<sup>50</sup> See J. Madeley, *Diego Garcia: A Contrast to the Falklands*.

<sup>51</sup> See S. Hall, *The Hard Road to Renewal* (London, 1988) and A. Smith, *New Right Discourse on Race and Sexuality 1968–1990* (Minneapolis, 1994) and K. Paul, *Whitewashing Britain: Race and Citizenship in the Post-War Era* (London, 1994).

<sup>52</sup> A recent judgement by the Queen’s Bench Divisional Court in London (3 Nov. 2000) has ruled that the British decision to evict the Ilois from Diego Garcia could not be justified and that it ran contrary to the British Indian Ocean Territory’s peace, order and good government. According to this judgement the Ilios people should be allowed to return to Diego Garcia and compensation for their forced exile should be forthcoming.

<sup>53</sup> C. Ellerby, *British Interests in the Falkland Islands: Economic Development, the Falkland Lobby and the Sovereignty Dispute 1945–1989*, unpubl. DPhil., Oxford, 1990. See also Foreign Office file FO 7/154 ‘Argentina: Sovereignty: Anglo-Argentine talks: Opinion in the Falkland Islands’ for further evidence of Falkland Island opinion between 1967–1968. The then Governor of the Falkland Islands, Sir Cosmo Haskard was a key figure in representing the unhappiness of Falkland Islanders to the Foreign Office over the 1968 Memorandum of Understanding.

<sup>54</sup> Bill Hunter Christie was the Third Secretary at the British Embassy in Buenos Aires between 1946 and 1948. He was also the author of *The Antarctic Problem* (London, 1951).

Understanding the lobby succeeded in persuading the Wilson government that the Falklands would not be transferred to Argentina against the ‘wishes’ of the Islanders. The UK-Falkland Islands Committee (UKFIC) campaigned throughout the 1970s to keep the Falklands British. Members lobbied their MPs and sought to raise awareness through publicity campaigns. By the time Foreign Office Minister Nicholas Ridley returned from the Falklands in December 1980 it was apparent that the Falkland Island community and large sections of Parliament were not prepared to accept any concession on sovereignty to Argentina. The idea of leasing back sovereignty (the so-called leaseback proposal) after a formal transfer of ownership from Britain to the Argentine Republic was roundly rejected. While the overwhelming majority of support came from Conservative Party members, Labour and Liberal MPs too were sympathetic to the plight of the Falkland Islanders. The Parliamentary debates in the midst of the Falklands crisis illustrated only too clearly the amount of cross-party support for the dispatch of the task force in April 1982.<sup>55</sup>

With the encouragement of Prime Minister Thatcher the Falkland Islands ‘lobby’ retained a powerful presence in the UK.<sup>56</sup> Throughout the 1980s the Falkland Islands Association (FIA) and the Falkland Islands Government (FIG which also established a London-based office, FIGO) campaigned for a fishing zone to be declared in order to allow the Falkland Islands government to raise new monies from fishing licences.<sup>57</sup> From 1986–87 onwards, the FIG was able to generate around £20 million per annum from such sales and so embarked on a major investment programme, which included a new secondary school and road improvement. The democratic credentials of the Falkland Islands Legislative Council were strengthened by the 1985 Constitution, which allowed for all eight members to be directly elected (rather than some being nominated by the Governor of the Islands). The Falklands Constitution also reaffirmed the importance of the principle of self-determination in determining the future of the Islands.<sup>58</sup> Sheltered by the military protection afforded by the Thatcher and Major governments the FIA

<sup>55</sup> HMSO, *The Falklands Campaign: A Digest of Debates in the House of Commons April 2–June 15, 1982* (London, 1982). See also L. Freedman, *Britain and the Falklands War* (Oxford, 1988). Professor Freedman is currently engaged on the official account of the 1982 Falklands campaign, which is due to be published in 2002.

<sup>56</sup> C. Ellerby, ‘The role of the Falkland lobby, 1968–1990’, in A. Danchev (ed.), *A Matter of Life and Death* (Oxford, 1992), pp. 85–108.

<sup>57</sup> See Y. Song, ‘The British 150 mile fishery conservation and management zone around the Falklands (Malvinas) Islands’ *Political Geography Quarterly* vol. 7 (1988), pp. 183–96.

<sup>58</sup> At present the FIG has begun a formal review of the 1985 Constitution and it is hoped that the review process will be concluded in 2001–2002.



in London has been confidently assertive of 'no negotiation' with Argentina over the sovereignty question.<sup>59</sup> At the same time, the FIG initiated a programme of profile raising by funding parliamentary visits to the Falkland Islands and by attending the major British political party conferences.

When Labour returned to public office in 1997 many Argentine commentators hoped that some concession would be forthcoming on the sovereignty issue.<sup>60</sup> The then Argentine Defence Minister, Jorge Domínguez, noted that 'I believe that after the first of May [1997] a new phase of review of the Malvinas with the new administration will start'.<sup>61</sup> Ironically, his statement was later denied by the Argentine Foreign Minister (Guido Di Tella) who contacted a Falkland Island journalist to note that this comment was unrepresentative. The new Labour government subsequently reaffirmed its public commitment to the principle of self-determination, which made it extremely unlikely that the Argentine government could expect any concessions in terms of the formal sovereignty of the Islands. Instead both the British and Argentine governments co-operated in an international arena, which was markedly different from the conflict-ridden days of the early 1980s. While the formal sovereignty dispute appears to be bilateral in nature, other state and non-state parties are increasingly influencing the negotiating terrain. In 1997, for example, fishing revenue taken by the Falkland Islands Government declined because of the severe Asian financial crisis which forced a reduction in the number of South Korean and Taiwanese fishing vessels operating in this region. Since then both Britain and Argentina have been involved in negotiations with distant water fishing nations and regional organisations such as the European Union.

In November 1998 the arrest of General Augusto Pinochet by the British authorities in London in response to a Spanish judicial request had a profound effect on the Falkland Islands. With Pinochet detained in order to face possible charges relating to human rights violations, the Chilean administration protested to the UK government of improper interference

<sup>59</sup> Foreign and Commonwealth Office, *Background brief: claims to the Falkland Islands* (London, 1986). More generally, see J. King, 'A view from Britain' in *British-Argentine Relations* (London, 1992), pp. 1–62.

<sup>60</sup> The basis for this belief lies with past experiences when Argentine negotiators talked to officials and ministers from the Wilson and Callaghan governments in the 1960s and 1970s. Historically, the Labour party has always been more sympathetic to addressing Argentina's claim over the Falkland Islands even if many on the Left were surprised by Labour's support of the war campaign in 1982. The Callaghan government condemned Argentine human rights abuses of the 1970s and Foreign Secretary David Owen argued strongly in favour of human rights protection. See D. Owen, *Human Rights* (London, 1978).

<sup>61</sup> Cited in *Penguin News* 'Labour denies Argentine claim' (25 April 1997).

in the sovereign affairs of another country. Although the United Nations Charter protects the sovereignty of states from outside interference, a growing international trend has developed in pursuit of violations of human rights regardless of sovereign boundaries. After months of protracted legal struggle, the Chilean government responded by terminating the air-link with the Falkland Islands in retaliation for what it believed to be an illegal and improper act by the British government. The ending of the air link left many Falkland Islanders with a feeling of increased vulnerability because it reduced their contact with the wider world. Henceforth, the Islanders were reliant on the RAF air link via Ascension Island as their only source of external transportation. Ironically, therefore, although that tension in the Anglo-Chilean relations during 1998–2000 led to General Pinochet's eventual release to Chile on health grounds it also created politico-economic distress for the Falklands and southern Chile.<sup>62</sup>

#### *Negotiating the 14th July 1999 Joint Statement*

While the arrest of General Pinochet was the catalyst for the 14th July Joint Statement in 1999 the Falkland Island Councillors had approached the British government in the hope of renewing dialogue with Argentina regarding issues of mutual concern.<sup>63</sup> In particular, the FIG was concerned that declining fishing revenues in the South Atlantic highlighted the dangers of illegal fishing, and the corresponding need for close co-operation between coastal states. Bilateral conversations began in April-May 1999 and gathered momentum in the aftermath of the United Nations meeting of the Special Committee on Decolonisation (C24) held in July 1999. The three major issues to emerge from these discussions were fisheries management, air transport between the Islands and South America and access for Argentine passport holders to the Islands. The Foreign Office had cautioned the FIG that time was of the essence given that presidential elections in Argentina were due in October 1999. While many Falkland Islands Councillors subsequently complained about the enforced speed of the negotiations, there was

<sup>62</sup> There was press speculation in the UK that the British government had tried to secure the release of General Pinochet on 'humanitarian grounds' in Jan. 1999. See *The Sunday Times*, 'Blair made secret bid to end Pinochet crisis' (15 Oct. 2000).

<sup>63</sup> Interview with Mike Summers, Falkland Islands Executive Councillor, Stanley, Falkland Islands, 20 Dec. 1999. Summers had met Guido Di Tella in Montevideo in Dec. 1998 as part of the initial phase of renewing constructive dialogue in the wake of the Pinochet affair. However, Argentine and Falkland Islands sources have hinted that there was considerable pressure from the Foreign and Commonwealth Office to negotiate with Argentina in 1999.

little doubt that British policy makers felt that it would be prudent for an agreement to be secured in the aftermath of the 1999 C24 meeting in New York.

For the FIG, the pressure to produce an agreement with Argentina had become critical in the light of an unprecedented degree of co-operation among South American states *vis-à-vis* the Falkland Islands. Due to considerable diplomatic pressure also from Argentina, Chile had withdrawn the LanChile air service between Punta Arenas and the Falklands in March 1999. Subsequently, the Argentine government through its MERCOSUR contacts requested Uruguay and Brazil to refuse any new direct air service to the Falklands unless the route included Buenos Aires. Moreover, Brazil and Uruguay had also threatened to end the diversion landing rights for the Royal Airforce (RAF) flight between Ascension Island and the Falklands. Given the distance and the nature of the South West Atlantic weather, this seriously jeopardised the safety of this air route. The implication was profound, as the FIG could no longer rely (at that stage) on a benign Chilean administration for logistical and communications support.<sup>64</sup> The potential for isolation loomed in a manner reminiscent of the early 1970s.

The motivation for the 14th July 1999 Joint Statement was not, however, unilateral. The Argentine government was also eager for further political progress given the close personal interest of the then Foreign Minister, Di Tella. With only a few months left in office, negotiations over the Islas Malvinas had been limited to contact between the parties in the South Atlantic Fisheries Commission and the South West Atlantic Hydrocarbons Commission. Discussions at the Foreign Secretary's official residence at Chevening House in 1997, had floundered not least because it was evident that there were sections of the Argentine delegation who were simply hostile to Di Tella's desire to improve relations with the Falkland Islands community. In that sense, the 14th July 1999 Joint Statement provided some evidence that rapprochement with the UK government and Islanders resulted in the lifting of the ban on Argentine passport holders entering the Islands.

For the FIG, the outcome of the 14th July 1999 Joint Statement involved some significant concessions as the restriction on Argentine passport holders entering the Islands was lifted.<sup>65</sup> Since 1982, only

<sup>64</sup> The marked improvement in Argentine-Chilean relations was an important catalyst to greater co-operation over the Falklands/Malvinas. Significantly, the boundary disputes over the Andes (such as the Hielos Continentales conflict) had been resolved in 1998–9.

<sup>65</sup> This caused considerable unease amongst the Falkland Islands Councillors, not least for those who had resolutely committed themselves to maintaining the ban on Argentine passport holders. Others, however, recognised that Argentina would not have signed

approved visits by next of kin had been allowed to enter the Falklands on Argentine passports. Any other Argentine visitor had to travel on another state's national passport. While many Argentines, including the Malvinas War Veterans Group, were unwilling to travel with any passport this restriction imposed by the FIG was ended in July 1999.<sup>66</sup> The air route with Chile was restored, albeit with the proviso that it proceeded once a month via the Argentine town of Río Gallegos, thereby reinstating the air-link with Argentina which operated in the aftermath of the 1971 Joint Communications Agreement. While it was also noted that a new public memorial at the Argentine War Veterans' cemetery in Darwin could be constructed, no Argentine flags were to be permitted.<sup>67</sup> As an unofficial *quid pro quo*, the Joint Statement called on the Argentines to review the place names (such as Puerto Argentino for Port Stanley) imposed by the Argentine Junta on the Malvinas in 1982. The Joint Statement stipulated that both Argentina and Britain would investigate whether the unexploded mines buried in the Falklands could be removed under the terms of the 1996 Ottawa Convention. The FIC did not favour this commitment because it would 'legitimate' an Argentine engineer task force to enter the Falklands. Moreover, as there was little possibility of achieving a complete clearance of the mines, many Islanders argued that it was not only unnecessary but it also offered a pretext for an Argentine presence on the Falkland Islands.

From the Argentine perspective too, the Joint Statement contained a series of significant political concessions. First, the 'sovereignty umbrella' was renewed, and for the present the continuation of the legal status quo can only benefit the FIG and the British government. Second, the presence of the Falkland Islands councillors was discreetly recognised, as two of the Councillors were witnesses to the signing of the 14th July 1999 Joint Statement.<sup>68</sup> Moreover, the Argentine design for the memorial at the

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the 14th July 1999 Joint Statement unless there had been a concession on that issue. Only one Councillor, Norma Edwards, refused to be party to the Joint Statement.

<sup>66</sup> The reason for the unhappiness lies in the fact that the Malvinas War Veterans and other Argentine groups felt that this explicitly acknowledged the authority of the FIG to administer their own customs control. In the 1970s, Argentine visitors entered the Falklands with so-called 'white cards' rather than passports. On the other hand, it should be remembered that all visitors, including British passport holders, have to carry passports and that the Joint Statement was carried out under the 'sovereignty umbrella'.

<sup>67</sup> On the importance of flags to the every day reproduction of nationalism see M. Billig, *Banal Nationalism* (London, 1995).

<sup>68</sup> The FIG undoubtedly interpreted their presence at the signing of the 14th July 1999 Joint Statement as an important demonstration of their legitimacy. Some Falkland Islands Councillors hoped that Argentina's growing interest in humanitarian operations

Darwin Cemetery has to be formally approved by the Building and Planning Committee of the FIG.<sup>69</sup> This has meant that the Argentine authorities will be delayed by a Falkland Islands Government committee. Third, the Argentine government (and would-be visitors) have had to accept the de facto authority of the FIG in terms of immigration control for the Falkland Islands. Fourth, the Argentine government agreed to commit themselves to further collaboration over the development of long term fisheries agreements with the FIG in the South West Atlantic. In financial terms, the revenue derived from fishing is crucial to the Falklands economy. While Argentina might have a financial and environmental interest in conserving fish stocks, the FIG needed this commitment from Argentina in order to pursue credible joint management strategies. Thus far the South Atlantic Fisheries Commission has often struggled to implement proposals for fisheries management. Finally, the Argentine government agreed to the restoration of the air connection with Chile without demanding that it be routed through Argentina only, much to the relief of the FIG and indirectly the business community of Punta Arenas.

There can be little doubt that elements of public and diplomatic opinion within Argentina and the Falkland Islands feel that both signatories have allowed too many concessions. While this could be evidence for a 'good' agreement, the 14th July 1999 Joint Statement could alter the tenor of Anglo-Argentine-Falkland relations. Every item of the Joint Statement has been problematic not only in terms of gathering public support (in Argentina and the Falkland Islands in particular) but also in implementing issues such as long term fisheries management.<sup>70</sup>

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in the Balkans and Africa was a sign that the principle of self-determination might eventually be extended to the peoples of the Falkland Islands. All Argentine commentators, however, would argue that the 'sovereignty umbrella' protects the territorial claim of the Republic. These public displays, therefore, are not significant in the long term.

<sup>69</sup> Ironically, the chair of this committee is Norma Edwards who was the only Councillor to reject the 14th July 1999 Joint Statement. It should be noted that the plans for a new memorial in Darwin had been secured in principle before the negotiations leading to the 14th July 1999 Joint Statement.

<sup>70</sup> In the Falklands, a number of Islanders are now involved in the publication of the *Falkland Islands Independent News* which is frequently critical of the Councillors and the 14th July 1999 Joint Statement. Issue number 6 (8 May 2000) notes, 'Both of these groups [the South Atlantic Council and Argentina] see the July 14th Agreement as a stepping stone to sovereignty negotiations and a further means of interfering in Falkland Affairs'. The Falklands Democratic Association was created in April 2000 for the purpose of improving democratic debate in the Islands in the aftermath of the 14th July 1999 Joint Statement. See *Penguin News*, Pressure group for 'greater democracy' (7 April 2000).

*Implementing the 14th July 1999 Joint Statement*

The signing of the 14th July 1999 Joint Statement was not met with universal acclaim either in the Falkland Islands or Argentina. In the immediate aftermath, many Islanders were unhappy not only with the Joint Statement but also with the manner in which it had been negotiated. At the time of the 1997 Falklands elections, all the Councillors had committed themselves to upholding the ban on Argentine passport holders entering the Islands.<sup>71</sup> In July 1999 this important policy decision was over-turned without any consultation with the Islands' electorate. While many would argue that elected Councillors should be allowed to negotiate (in consultation with the Foreign Office) without constantly having to refer back to the Islands, the Councillors had committed themselves to consult with the electorate after the Chevening House talks in 1998. For many Islanders, including those sympathetic to the general tenor of the 14th July 1999 Joint Statement, this failure to consult was construed as an 'act of betrayal'.<sup>72</sup> Indeed public protests in the Islands in July and August 1999 illustrated that some Islanders were prepared to voice their dissent from the Joint Statement.<sup>73</sup>

Despite these occasional difficulties, the least problematic area of the 14th July 1999 Joint Statement appeared to be the entry of Argentine passport holders into the Islands. After initial protests by some Islanders – which coincided with a flurry of interest from journalists and public figures – public protest in the Falkland Islands has declined. There has also been a decline in Argentine visitors, which can be linked to time and cost factors (and the novelty factor has also declined). The weekly flight schedule from South America is such that visitors have to pay for seven nights in expensive accommodation. With only two small hotels (and a few smaller establishments) available at present it is highly likely that the only regular visitors from Argentina will be those involved in next-of-kin visits. Far more significant in terms of visitor numbers are the 30,000 per annum short stay visitors from Antarctic bound cruise ships, which do include some Argentine passport holders.

<sup>71</sup> The 2001 elections may witness some candidates standing who actively reject the provision of the 14th July 1999 Joint Statement.

<sup>72</sup> The information concerning the views of the Islanders is based on Dodds' interview research carried out in the Falkland Islands in Dec. 1999, April 2000 and July 2000. All the interviews were conducted in an anonymous and confidential manner.

<sup>73</sup> It should be remembered that the last time the Falkland Islands had witnessed a public demonstration of any significance was during the visit of the Conservative Foreign Minister, Nicholas Ridley in 1980. Ridley had tried to convince the Islanders that the idea of 'leaseback' was the best way of solving the sovereignty dispute with Argentina. The leaseback proposals were rejected by the Falkland Islanders and later in UK Parliament.

Implementing the other elements of the 14th July 1999 Joint Statement have been fraught with difficulty and occasional tension. The decision to allow the Argentine government to construct a memorial to the dead in the Darwin Cemetery is a case in point. Originally, the Malvinas War Veterans Group had asked for a 'memorial' to be placed at the site where rows of small white crosses are accompanied by individual plaques. A large white cross at the top end of the site is the most prominent feature. Given that the location of the cemetery is approximately 60 miles from Stanley and that few Islanders have to pass this site, it was hoped that the design of the memorial would be a relatively unproblematic affair. The first design proposed a thirty-foot tall white cross, a small chapel and a flagpole to hoist the Argentine flag. The FIG Building and Planning Committee rejected this proposal, not least because they argued that the Argentine flag would imply a formal acknowledgement of a rival territorial claim and that the size of the new memorial cross was culturally inappropriate.<sup>74</sup> The Malvinas War Veterans Group subsequently proposed a new memorial design based on the Argentine patron saint, traditionally clad in the blue and white colours of the Argentine flag.<sup>75</sup> The final decision regarding the design of the memorial rests with this committee, but it is well known that the Islanders expected in return the Argentines to act on the question of place names before approving any construction programme.<sup>76</sup> According to a recent media report, however, there has not been an official planning application (for a memorial at the Argentine cemetery in Darwin) despite the 'preliminary design' being sent back to the Argentine authorities for modification and resubmission.<sup>77</sup>

The commitment to pursue a joint fisheries management programme has also been problematic. While the main forum for co-operation will continue to be the South Atlantic Fisheries Commission (SAFC), and although both parties seek to improve fisheries protection, living stock management and the sharing of scientific information, Anglo-Argentine collaborations have been fraught with difficulties. Despite co-operating

<sup>74</sup> Many Islanders argued in conversation that the Argentines were culturally incapable of designing a modest memorial which did not seek to make political capital out of the war dead. Given the rival territorial claim, it is not surprising that the FIG would not allow the Argentine flag to fly over the cemetery.

<sup>75</sup> The patron saint in question is the La Virgen del Rosario. The military codename for the occupation of the Malvinas in April 1982 was 'Operación Rosario'.

<sup>76</sup> The process of reviewing those Argentine place names imposed in 1982 was initiated by the Peronist MP Fernando Maurette, who later lost his seat in the Argentine elections of Oct. 1999. The Congress is currently reviewing the issue but it may take several years before the process is completed.

<sup>77</sup> The report on the Argentine memorial was carried by MERCOPRESS (20 Dec. 2000).

within the remit of the Antarctic Treaty and the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR) political disputes continue over illegal fishing around South Georgia and disagreements over pursuing those vessels and companies engaged in illegal fishing.<sup>78</sup> The British and Falkland Island delegates to the SAFC have frequently complained of Argentine reluctance to implement fisheries management in the South West Atlantic. This is important because the major source of revenue for the FIG remains the sale of fishing licences. The Fisheries Department sells squid licences to South Korean, Spanish and Taiwanese vessels.<sup>79</sup> In the last few years, the Argentine authorities have sold fishing licences to operators at a cheaper price than the FIG, and concern has been expressed that income will decline as a consequence. Therefore, it is in the direct interest of the FIG to secure agreement with Argentina over common pricing, fishing regulations and living resource protection.

While both parties have committed themselves to improved co-operation in the South West Atlantic the problem of illegal fishing requires the support of distant water fishing nations and other third parties. The FIG decided in 1999 that the fisheries protection vessel, the *Dorada*, would be armed in order to deter illegal fishing. Given the sensitivity of the Argentine authorities to the British military presence, the arming of this vessel was an unwelcome development. The former Argentine Foreign Minister, Di Tella, warned that this was a potentially dangerous development but the FIG have argued that the scale of illegal fishing in the South Atlantic demanded such a response. It remains to be seen whether both parties can agree to binding living resource protection in this region.

The question of buried landmines in the Falkland Islands has the potential to raise considerable difficulties for the British and Falkland Islands Governments. As a consequence of poor logistical planning the Argentine task force buried mines during the 1982 conflict without keeping detailed records of mine placement. While a limited number of mines were destroyed in the 1980s it is estimated that over 18,000 mines remain unaccounted for in East Falkland.<sup>80</sup> Although the general location

<sup>78</sup> See K. Dodds, 'Geopolitics, Patagonian Toothfish and living resource regulation in the Southern Ocean' *Third World Quarterly*, vol. 21 (2000), pp. 229–46.

<sup>79</sup> A standard four month fishing licence for squid costs approximately £120,000. In 1999–2000, the Fisheries Department sold 90–95 licences to those legally operating within the Falkland Islands Conservation Zone. Interview with John Barton, Director of Fisheries, Stanley, Falkland Islands 15 Dec. 1999. In the previous financial year, £20 million was gained by the sale of such licences.

<sup>80</sup> Many of the landmines are plastic so traditional metal detecting is of limited value in this context.



of the minefields is known, and the areas have been fenced off and declared out of bounds to all inhabitants of the Islands, many Islanders are bitter that these areas include popular beach areas. Nonetheless, it had the unintended benefit of creating conservation areas where wildlife can flourish without human interference. However, under the terms of the 1996 Ottawa Convention all signatories have an obligation to explore the possibility of removing mines from the physical environment. Article 5 of the Convention states that:

Each state party undertakes to destroy or ensure the destruction of all anti-personnel mines in mined areas under its jurisdiction or control, as soon as possible but not later than ten years after the entry into force of this Convention for that State Party.<sup>81</sup>

In the case of the Falklands/Malvinas, the British may exercise effective control even if Argentina would reject the UK claim to exclusive jurisdiction. The application of Article 5 is saturated with difficulty in terms of formal recognition of sovereignty. Fortunately for the Falklands, the mines have not caused any loss of human life. Their presence is regretted but there is no urgent desire on the part of the Islanders to see the mines removed from these secured areas because no one can honestly guarantee a total clearance.<sup>82</sup>

Were the Argentine authorities insist on the full and complete implementation of the 14th July 1999 Joint Statement this element would be problematic, as there is no desire amongst the British or Falkland Islands authorities to conduct a feasibility study for mine clearance. Moreover, it raises the interesting issue of whether an Anglo-Argentine taskforce should carry out this task if Argentina insists that this part of the Joint Statement be respected. In terms of de facto sovereignty then the British clearly qualify as the relevant 'State Party' and as such would have to commit themselves to this part of the Joint Statement and the provisions of the Ottawa Convention. Once again, however, the presence of the 'sovereignty umbrella' could mean that neither Britain nor Argentina would be compromising their existing claims. Leaving aside the political implications, none of the Islanders or visitors are ever likely to visit these affected areas and the very nature of the terrain means that there can be in any case no certainties regarding total and absolute mine clearance.<sup>83</sup>

<sup>81</sup> The text of the 1996 Ottawa Convention can be accessed on <http://www.mines.gc.ca/english/documents/index.html> [8 June 2000].

<sup>82</sup> This was a point that was reiterated by Islanders during the interviews carried out in the Falkland Islands in Dec. 1999 and April 2000.

<sup>83</sup> In coastal areas where mines have been planted, the combination of marine processes with landscape alteration would mean that there can be no certainty that the mines have not been moved from those identified mine fields. Likewise the soil structure in the Falklands is not stable and mines could have moved over time. See *La Nación*, 'La

The final element in the 14th July 1999 Joint Statement concerns the restoration of the air connection with South America. For the Falklands community the service with Chile is an important element in the Islands' economic diversification, as service industries depend on flows of people and goods. For the Argentines the weekly service with the monthly stop-over in Río Gallegos means that the Republic is involved once more in the communication network of the Malvinas. The long-term fear of the Islanders is that the air service may no longer operate with the full and active involvement of the Chileans. Given the long-term uncertainties over the RAF link with the UK, this could open up the possibility of a direct air connection with Argentina.<sup>84</sup> Under the terms of the 1971 Joint Communications Agreement the Argentine carrier LADE organised a connection with the Falklands via Comodoro Rivadavia.<sup>85</sup> However, according to many Islanders, the post-1971 service was not reliable in terms of flight frequency and many were resentful of the high cost of the service.<sup>86</sup> Moreover, most Islanders argue that the Argentines living in the Falklands/Malvinas prior to the 1982 invasion played their part in intelligence gathering. The Islanders fear (however remote) is that these new arrangements could precipitate a return to the 1970s when the community depended on Argentina for air transport, fuel supplies and emergency services.<sup>87</sup>

Both the British and Falkland Islands governments will be monitoring the current administration of President de la Rúa closely. Within the

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Argentina y Gran Bretaña quieren acordar el desminado' (20 Oct. 2000) which carried an article on a possible Anglo-Argentine agreement to carry out an initial feasibility study on mine clearance. There is no evidence to suggest that this will occur.

<sup>84</sup> There is no evidence at present that the RAF have any plans to end their service to the Falkland Islands. However, it has been noted that the service did come under considerable pressure during 1998–9 when the Chilean air connection ended coinciding with increased involvement of the RAF in humanitarian operations elsewhere.

<sup>85</sup> The Joint Communications Agreement was signed in August 1971 between Britain and Argentina. The main elements were that Argentina agreed to provide an air-service between the mainland and the Falklands; the British would establish a shipping service; Islanders would not be liable for military service; white cards would be issued for travel between the two places; and Argentina would help maintain communications networks. A special consultative committee was created in Buenos Aires to oversee the implementation. The UK government never established the shipping service.

<sup>86</sup> Many Islanders above the age of 35 recalled their experiences of the 1970s when discussing the 14th July 1999 Joint Statement. The background to the 1971 Joint Communications Agreement is well known even if it less well appreciated that the catalyst for the negotiations was the decision by the Falkland Islands Company to withdraw their ship the *Darwin* from service in 1970.

<sup>87</sup> It should be recalled that Lord Shackleton had to travel to the Islands in 1976 on board the polar patrol ship *Endurance* in order to carry out his economic survey because at that time the Argentine military regime refused him entry via the Republic.

Argentine Foreign Ministry, there may well be a distinct change of emphasis away from the personal and direct involvement of Di Tella (who visited the Falkland Islands in a personal capacity in October 2000).<sup>88</sup> While the Islas Malvinas have not been an immediate priority for the new President, the territorial dispute with the UK remains unresolved. At the C24 meeting at New York in July 2000, Foreign Minister Giavarini reasserted that Argentine territorial integrity should not be violated. All the mainstream Argentine newspapers reported that the ‘charm offensive’ was over and that Buenos Aires would be returning to its historical and legal position of wanting the return of the Falkland Islands to the Argentine Republic regardless of the ‘wishes’ of the Island community. *Clarín* reported, for example, that senior Foreign Ministry official Susana Ruíz Cerrutti had commented that the views of the Falkland Islanders would count for little in the negotiations between the de la Rúa administration and the British.<sup>89</sup> Critically, Giavarini noted in his speech to the C24 meeting that the agreements with the UK over hydrocarbons, fishing and communications were ‘provisional’ in nature and concluded that no ‘advancement’ on sovereignty had been achieved.<sup>90</sup> During the same meeting, Falkland Island Councillor Richard Cockwell attempted to argue that the then Argentine government had recognised the legitimacy of the FIG:

Mr Chairman, may I personally thank you for the opportunity to address this committee on behalf of the Falkland Islands. I am a democratically elected member of the Falkland Islands Legislative Council. The Legislative Council of the Falkland Islands is recognised in the joint British/Argentine statement on the Falkland Islands signed on the 14th July 1999. This statement has been circulated as a document of the General Assembly.<sup>91</sup>

While two Falkland Islanders were allowed to attend as witnesses during the signing of the 14th July 1999 Joint Statement, this apparent ‘concession’ to the Falkland Island Councillors greatly alarmed the Argentine Foreign Ministry. Under the leadership of Foreign Minister Giavarini it is apparent that there will be no further acknowledgement of

<sup>88</sup> Di Tella visited the Falkland Islands between 14 and 21 Oct. 2000. According to informal sources in Argentina, Foreign Minister Giavarini was irritated that Di Tella received ‘semi-official’ treatment from the Governor and the Falkland Island Councillors. See *La Nación* ‘Di Tella en Malvinas’ (19 Oct. 2000).

<sup>89</sup> See *Clarín*, ‘El Canciller la reclamará hoy en la ONU’ (11 July 2000) and *La Nación* ‘Rodríguez Giavarini presenta un nuevo reclamo ante la ONU’ (10 July 2000) which noted that the new Foreign Minister would return to the fiery rhetoric of former Argentine Foreign Minister Miguel Zavala Ortiz.

<sup>90</sup> See *Clarín*, ‘Malvinas: quieren volver a hablar de la soberanía’ (12 July 2000) which noted that there would be no more ‘concessions’ to the Islanders. But see also the article by Carlos Escudé ‘Argentina no es China’ in the same edition.

<sup>91</sup> The speech was reproduced in the *Falkland Islands News Network*, July 2000.

the Falkland Islands Government. It has to be recalled that the ‘sovereignty umbrella’ protects Argentina’s historic claim to the Falkland Islands. As if to remind the Falkland Island Government of this basic position, Giavarini reportedly did not shake hands with Councillors Cockwell and Halford at the July 2000 C24 meeting.

The 14th July 1999 Joint Statement continues to provide a *modus operandi* for all the major interested parties, but it does not begin to address the conflicting sovereignty claims (arguably there was no need given the ‘sovereignty umbrella’). Under the new de la Rúa government the *Islas Malvinas* will not enjoy the same high profile as they did under the Menem administration. While there are issues such as fishing and hydrocarbon exploration that do require agencies to co-operate given the implications for the entire South Atlantic, Foreign Minister Giavarini appears mindful of the implications of granting any further ‘Recognition’ to the Falkland Islands community.<sup>92</sup> That the two democratic states of Britain and Argentina have created consultative structures in order to promote co-operation and the 14th July 1999 Joint Statement should be seen not only as part of this process but also as a cornerstone for future confidence building.

Given the persistence of the sovereignty dispute it is in the direct interests of the Falkland Islands community to strengthen democratic modes for dealing with unpredictable issues such as living resource management and air transport. As democratic theorists have noted, cross-border constituencies can be sustained through further institutional structures such as deliberative fora and reciprocal representation.<sup>93</sup> This might include convening groups samples of Argentine and Falkland Islands citizens to discuss issues of mutual concern. While the 14th July Joint Statement does build upon the decade long rapprochement between Britain and Argentina there are many commentators in Argentina who believe that the position of the Falkland Islands community has been strengthened by these co-operative structures. At the end of the July 2000 C24 meeting, the Committee concluded that a ‘peaceful solution to the sovereignty controversy’ should be found as quickly as possible.<sup>94</sup> The 14th July 1999 Joint Statement was not designed to solve the sovereignty dispute. In the future, the real challenge for all the interested parties is

<sup>92</sup> See *Clarín*, ‘Balance de la reanudación de los vuelos a Malvinas’ (16 Oct. 2000) and the article by Emilio J. Cárdenas, a former representative to the United Nations. He criticises Di Tella and the ‘lost opportunity’ of the 14th July 1999 Joint Statement which did not take full advantage of MERCOSUR support for Argentina’s claim to the Falkland Islands.

<sup>93</sup> See the varied essays in B. Holden (ed.), *Global Democracy* (London, 2000).

<sup>94</sup> See the report by *Mercopress* ‘C24 meeting in New York’ (12 July 2000) on the July 2000 C24 meeting.

whether sovereignty can be conceived in more fluid rather than in exclusive terms.

### *Conclusions*

The Falklands/Malvinas dispute presents particular challenges to those who seek to manage and understand the geopolitics of the South West Atlantic. Issues and problems relating to fishing, hydrocarbon exploration, tourism and communications clearly spill over national borders (regardless of whether those borders are actually contested). Increasingly, national governments are struggling to handle vast movements of people, capital, cultures and ideas. The remote South West Atlantic is not immune from these broader transformations. The recent history of the Falklands/Malvinas suggests that the British and Argentine governments have recognised this general trend in so far as they have designed and implemented new administrative structures in order to handle areas of common concern. The creation of the South Atlantic Fisheries Commission in 1990 is one example of a semi-permanent structure designed to address living resource management, because it requires the long-term co-operation of coastal water states. In doing so it also actively creates 'South Atlantic issues' and invites further possible co-operative gestures. Ultimately, it could lead to a permanent process of confederation building and a distinct legal competence provided that the sovereign participants accept the authority of those organisations.

Despite this regime building, sovereignty over the Falkland Islands remains disputed. The 'sovereignty umbrella' (first used in the 1970s) provides, at best, temporary relief to this long-standing dispute. It does not even begin fundamentally to address Argentine grievances regarding their sovereignty claims. As Foreign Ministry official Susana Ruíz Cerrutti noted, 'sovereignty has never been put on the dialogue table' throughout the decade long period of Anglo-Argentine rapprochement.<sup>95</sup> In that sense the 14th July 1999 Joint Statement provides just another mechanism for improving co-operation amongst the interested parties, but does not lead to any particular resolution of this dispute. For successive Argentine governments these areas of improving co-operation do not in any way mitigate their desire to resolve this dispute. Within the UK the present Labour administration has stated that the principle of self-determination would continue to be applied to the Falkland Islands community. Given these positions, it is highly probable that sovereignty will remain conceived in fixed territorial terms (i.e. the Islands are either British or Argentine) and that interested political communities will have to learn,

<sup>95</sup> *La Nación*, 'El gobierno argentino no tiene apuro por negociar con Londres' (17 Oct. 2000), interview with Susana Ruíz Cerrutti.

over time, to share political power in overlapping spheres of interest.<sup>96</sup> If this proves impossible, then a future option may well be that the Falkland Islands are either partitioned or confront a form of independence with special arrangements to cover fishing and hydrocarbon interests in the South West Atlantic.

<sup>96</sup> Joint sovereignty has been a favoured solution to this particular dispute. For a recent argument in favour see C. Bullrich, *Malvinas o Falklands?* For some recent reflections on the condition of Falkland Islands' society in the late 1990s see A. Gurr, *A Little Piece of England* (London, 2001).