

GEC Model United Nations

International Court of Justice (ICJ) The Falkland Islands' Dispute



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Letters from the Chairs

Greetings delegates,

Welcome to Global Education City Model United Nations (GECMUN), Year Five! This is Yoobin Park, your chair in the International Court of Justice (ICJ), and it is my great honour and pleasure to be serving as your chair of this special committee.

To introduce myself, I am a rising junior at Branksome Hall Asia, and also one of the leaders of BHA MUN Club. Although this is my third year participating in MUN conference, I still remember how I felt when first attended to MUN, how confusing and onerous it was. Conversely, I truly hope this conference to be a 'comfort zone' for each one of you so that all participants can be involved in the whole process, and I will make my whole effort to make you feel enjoyable and delightful during the conference as a chair.

Prior to the conference, I have an expectation of all delegate. Please be fully prepared in advance and have a sufficient understanding of the agenda, 'Case concerning the territorial sovereignty over the Falkland Islands (Falkland Dispute)'. Make sure you have read the Background Guide written by the chairs carefully.

I am looking forward to meeting all of you! Please feel free to contact me via email (parkyoobin01938@branksome.asia) if you have any questions or concerns.

Sincerely,
Yoobin Park, President

Greetings delegates,

This is Soheon Choi from Branksome Hall Asia, who will be serving as a chair for the International Court of Justice (ICJ) at GECMUN V. I would first like to show my gratitude for the honor and privilege I have received to serve as a chair of this special committee. Throughout the conference, I will be supporting delegates to engage in a fruitful debate and hence create an intimate atmosphere between all participants.

In the International Court of Justice, you will be discussing the 'Case concerning the territorial sovereignty over the Falkland Islands (Falkland Dispute)'. The fruitful debate obviously comes not only from competent chairs but also from delegates' thorough research and enthusiastic attitude. Delegates please come prepared by efficiently using data sources, such as, but not limited to, the International Court of Justice official homepage, newspaper articles, the chair report, and statistical reports.

I truly look forward for the debate and please ask any questions regarding the agenda via choisoheon01940@branksome.asia.

Regards,
Soheon Choi, Vice-President

Introduction

Following the successful work of the Permanent Court of International Justice (PCIJ), The International Court of Justice (ICJ) - founded in 1945 - has been continuously dealing with border disputes between nations. For more than 70 years since established, the ICJ has dealt with numerous border disputes between two countries. The very first case brought to the court was the Corfu Channel case (United Kingdom v. Albania), submitted on the 22 May, 1947. After two years of judgement, the case successfully ended on 9 April, 1949. Up to October 2017, the ICJ has dealt with 166 different cases regarding the borders disputes.

As a primary judicial branch and one of the six main bodies of the United Nations (UN), the ICJ provides fair judgements on numerous contentious cases and advises to the legal questions submitted by different authorized agencies and organizations - including the UN Security Council and the General Assembly. The ICJ consists of fifteen judges: thirteen members, a president and a vice-president. It is possible that two additional ad hoc judges are added if the party does not have its nationals sitting on the court. An advocate from each applicant and respondent party are also invited - he/she may bring witnesses to prove the party's claim.

The ICJ mainly deals with two types of cases: the first being with the contentious cases which refers to "legal disputes submitted between States submitted to it by them," and the second being the advisory proceedings. In GECMUN we will be dealing with a contentious case wherein the official title of the case separates each party by using the abbreviation v. standing for 'versus' (e.g. Argentina v. United Kingdom). The applicant party, the party which brought the case to the court is always on the left side, and the respondent party is on the right side of the official title.

Nowadays the ICJ aims for fair, effective, peaceful solutions to about 20 different contentious cases including Maritime Delimitation in the Caribbean Sea and the Pacific Ocean (The Democratic Republic of the Congo v. Uganda) and Land Boundary in the Northern Part of Isla Portillos (Costa Rica v. Nicaragua). It is still fully functioning as a main body of the UN, and is regarded as a huge success.

Definition of Key Terms

FALKLAND ISLANDS

The Falkland Islands, which are also known as Malvinas Islands, are a self-governing archipelago consisting of two main Islands, the East and the West. They are an internal territory of the United Kingdom in the South Atlantic Ocean. Stanley, located on East Falkland, is the capital of the Falkland islands.

FALKLANDS WAR

The Falkland Islands War initially began in 1982 between Argentina and Great Britain with the control of the Falkland Islands and the associated Island's dependencies. Argentina has claimed their sovereignty, however Britain seized the Islands in 1933 and rejected Argentina's claim. With the extreme tensions, the long-running negotiations have been violated, and this further led into the abuses of the human right.

CONVENTION OF SETTLEMENT

Convention of Settlement, also known as the Arana-Southern Treaty, refers to an agreement between Argentina and United Kingdom to re-establish relations of friendship.

RATTENBACH REPORT

The Rattenbach report was ordered by the Junta, the outgoing military, and was ready for its release before the first elected democratic government of President Raul Alfonsin. However, due to the conflict between the commanders, it was kept secret for over 50 years. The whole report has four main parts, and it is mostly about the assessment and critical analysis on the military resources, such that field, air defense artillery, and cavalry exploration squadron were highly adequate enough and had an outstanding performance.

UNITED NATIONS GENERAL ASSEMBLY RESOLUTION 2065

United Nations General Assembly Resolution 2065 acknowledges the presence of a Falkland Dispute between Argentina and United Kingdom and is adopted on December 16, 1965.

NOOTKA SOUND CONVENTION

Nootka Sound Convention includes agreements between the Kingdom of Spain and the Kingdom of Great Britain in the 1790s regarding Falklands.

Historical Background

Argentina and the United Kingdom have had a conflict concerning the territorial sovereignty over the Falkland Islands for 200 years. It started from the controversy of whether Spain or the United Kingdom first discovered the Falklands in the 16th century. While this dispute was still undetermined, Argentina gained its independence from Spain in 1816, and they started to claim dominium of the Falklands. In 1823, Argentina sent away the British governor-general and imposed a direct rule, but in 1833, the United Kingdom proclaimed a self-governing dominion, established a naval base, and deported Argentinian descendants, which was a trigger of the British immigrating to the Falkland Islands. In 1838, Argentina suggested a sell-off of the islands to the United Kingdom, however, it was refused. From then, Argentina has asserted that the domination of the United Kingdom over the Falkland Islands is an illegal, and forcible occupation and is invalid, while the United Kingdom pursued a strategy of disregard, claiming their 'legal domination lasted since first discovery.'

The 1850 Convention of Settlement, also known as the Arana-Southern Treaty, refers to an agreement between Argentina and the United Kingdom to re-establish a "perfect relations of friendship." Accordingly, there were no additional conflicts until 1885. In 1965, the United Nations General Assembly Resolution 2065 was brought up, urging a negotiation between the countries, however, the United Kingdom tried to exercise its veto and couldn't receive an approval from the Security Council. From then, the two nations initiated conversation in order to attain a peaceful concurrence. In 1968, the Rattenbach report, a record of confidential Memorandum of Understanding (MOU) explaining that the United Kingdom acknowledged the sovereignty of Argentina over the Falklands was revealed. However, the negotiation was ruptured without any consensus.

Tension mounted in April 2nd, 1982: 'Falklands War,' a ten-week war between Argentina and United Kingdom broke out. It started by Argentina invading the Falkland Islands with 2,500 of marines and special forces. General Galtieri, who was the leader of Argentina military regime, commanded the war, so as to end an illegal domination of the United Kingdom over the islands as well as to turn attention of people from domestic affairs such as an abrupt price rise, recession, and political instability. He realized to stand a chance of success, as the United Kingdom announced a plan to reduce naval power. Consequently, Argentina occupied the entire Falkland Islands and South Georgia Island only in two days, yet the United Kingdom recaptured Port Stanley on June 14, and eventually, Argentina surrendered. Due to this 74 day war that ended with the victory of the United Kingdom, a total of 900 soldiers died.

Status Quo

The dispute between the United Kingdom and Argentina regarding the Falkland territory issue has not been resolved yet. Compared to the precedent years, the direct tension between the two countries has been much more alleviated, however, the dispute remains and moreover, this issue has been brought up as an international dispute along with the presence of other country interventions. The former president of United States of America, Barack Obama for instance, stated that the USA supports the United Kingdom's sovereignty over Falklands. On the other hand, Boris Johnson, the foreign secretary of Latin America, went to lay Falklands wreath in Argentina last year.

Between the ongoing controversial issue, the Falkland Island government clearly stated their own stance. The government refers to the UN Charter, where stated the right of all people to determine

their own future, which is known as a self-determination. Hence, the Falkland Island government clarified that they have the right to choose to retain their links with the UK, and moreover this fundamental right has been denounced by the Argentine Government.

Stances of Major Parties

ARGENTINA

Since the 19th century, Argentina has been arguing their sovereignty over the Falkland toward the United Kingdom and the international assembly. Argentine president accuses the United Kingdom of having taken the possession of the Falkland Island by the blatant exercise, which seems just as an extension of a colonialism of the 19th century. Argentina states their sovereignty over the Falkland Island has been deprived by the military sanctions and moreover emphasizes the geological aspects: the Falkland Island has located 300 miles and 8,000 miles away from Argentina and British, respectively.

Additionally, Argentina critically blames the current British government's attitude of refusing the negotiation. The negotiation has been refused because of the democratic rights of 3,000 British citizens, who are currently inhabiting in the Islands. Argentina clarifies that only a third of its citizens were actually born in the Falkland Islands, thus this census' rights cannot be a concrete reasoning of the British government's action. Moreover, the rights have not been granted for the inhabitants of Diego Garcia, which is another distant British colony located in the Indian Ocean. The original islanders in the Diego Garcia were forced to return to Mauritius, which is thousands of miles away from their home country. Consequently, the islanders fought for their right to gain their lands back, and they have won in a High Court judgment in 2000.

UNITED KINGDOM

The United Kingdom (UK) officially states that there can never be any dispute on the immutable facts of history that the UK is accessible to the Falkland Islands, supported by:

1. In 1690, the British landed on the Falklands for the first time, while Captain John Strong was sailing through Falkland Sound.
2. The British initially acknowledged the potential of the Falkland Islands to be a strategic naval base; Captain John Bryon reached to Saunders Island in 1765 and constructed a fort called Port Egmont.
3. The United Kingdom asserted the sovereignty over the Falklands before Argentina existed.
4. In 1774, although the UK had to renounce its settlement owing to the economic pressures, the UK didn't relinquish the plaque proving sovereignty over Falklands.
5. Noota Sound Convention did not influence the status on the issue, only stated against further establishments.
6. Before British settlement on the Falklands, Argentina did not retain any of indigenous population.
7. Excluding 2 months of illegal occupation by Argentina, the Falklands have been consistently and peacefully occupied by the United Kingdom since 1833.
8. The Convention of Settlement terminated all possible assertions by Argentina regarding Falkland Dispute.
9. In the 1860s, the leaders of Argentina identified that there is no conflict between Argentina and United Kingdom, and Argentine maps printed between 1850 and 1884 did not indicate the Falklands as part of Argentina.

10. On March 10, 2013, a referendum to decide whether to maintain the Island's status as a British Overseas Territory was held by the Falkland Islands Government. Among 1516 residents, 1513 people (99.8%) voted in favor and only 3 against. As self-determination is a universal right stated in UN Charter, the rights of Falkland residents should be protected.
11. According to the Falkland Islands Government census in 2012, 29% of 2941 of the Falklands Islanders considered themselves as British.

Questions to Consider

- How did the Falklands War resolve, and how did it impact the relation between Argentina and United Kingdom?
- Falkland war ended in 1982, however this effects are still constantly debated, whether in the courts or in a political sense. To what extent does the Falkland islands war impacts the current international relationship of Britain and Argentina?
- What characteristics made the Falklands such a desirable region that both Argentina and United Kingdom claimed the sovereignty?
- To what extent did the recapture of South Georgia and the attack on Santa Fe escalated the tension between Argentina and Britain?
- How did the Falkland War influence the current international relationship between Britain and Argentina?

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