INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

2026

Public sitting

held on Tuesday, 10 November 2026, at 10:00 a.m.,

at the International Tribunal for the Law of the Sea, Hamburg,

President Maurice K. Kamga presiding

Case concerning hydrocarbon exploitation in the South-West Atlantic Ocean

(*Argentina* v. *United Kingdom*)

(Request for provisional measures)

Verbatim Record

Uncorrected

Present:	President	Maurice K. Kamga
	Judges	David J. Attard
		Markiyan Z. Kulyk
		Roman Kolodkin
		Liesbeth Lijnzaad
		María Teresa Infante Caffi
		Jielong Duan
		Kathy-Ann Brown
		Ida Caracciolo
		Hidehisa Horinouchi
		Thembile Elphus Joyini
		Zha Hyoung Rhee
		Osman Keh Kamara
		Konrad Marciniak
		Slim Laghmani
		Sylvia Ama Adusu
		Bimal N. Patel
		Lan-Anh Thi Nguyen
		George Rodrigo Bandeira Galindo
	Judges *ad hoc*	Raúl Vinuesa
		Vaughan Lowe
	Registrar	Ximena Hinrichs Oyarce

Argentina is represented by:

Mr Mario Javier Agustín Oyarzábal, Legal Adviser, Ministry of Foreign Affairs; Member of the International Law Commission; Member of the Institut de Droit international,

as Agent;

Ms Betina Pasquali de Fonseca, Ambassador of the Argentine Republic to the Federal Republic of Germany, Berlin, Germany,

as Co-Agent;

and

Mr Marcelo Gustavo Kohen, Professor Emeritus of International Law, Geneva Graduate Institute of International and Development Studies; Member and former Secretary General of the Institut de Droit international,

Mr Nicolaas Jan Schrijver, Professor Emeritus of Public International Law, Leiden University; Member and former President of the Institut de Droit international,

as Counsel and Advocates,

Mr Agustín Giustiniani, Lecturer, LL.M. in International Dispute Settlement, MIDS, Geneva, Switzerland,

as Counsel,

Ms María Ibarzábal Murphy, Legal and Technical Secretary, Office of the President of the Argentine Republic,

Mr Juan Ignacio Stampalija, Legal and Administrative Secretary, Ministry of Economy,

Mr Santiago Castro Videla, Deputy Attorney General,

Ms Maite Fernández García, Consul General of the Argentine Republic in Hamburg, Germany,

Mr Alejandro Horacio Luppino, Deputy Legal Adviser, Office of the Legal Adviser, Ministry of Foreign Affairs,

Mr Juan Pablo Paniego, Director of Treaties, Ministry of Foreign Affairs,

Mr Juan Manuel Galindo Roldán, Office of the Legal Adviser, Ministry of Foreign Affairs,

Ms Laura Antonella Márquez, Office of the Legal Adviser, Ministry of Foreign Affairs,

Mr Pablo Agustín Alonso, Office of the Legal Adviser, Ministry of Foreign Affairs,

Ms Daniela Luisina Varela, National Directorate for the Malvinas and South Atlantic Islands, Ministry of Foreign Affairs,

Mr Mariano Pagliettini, Deputy Consul of the Argentine Republic in Hamburg, Germany,

Mr Facundo Daniel Rodríguez, Advisory Council on Issues Related to the South Atlantic, Ministry of Foreign Affairs,

Mr Mateo Trossero, Legal and Technical Secretariat, Office of the President of the Argentine Republic,
Mr Julián Rivainera, Office of the Attorney General,
Mr Juan Ignacio Goya, Office of the Attorney General,
Mr Rafael Iribarne, Office of the President of the Argentine Republic,

as Government Representatives and Counsel.

The United Kindgom is represented by:

Ms Sally Langrish, Legal Adviser, Foreign, Commonwealth and Development Office,

as Agent;

Mr Paul McKell, Legal Director, Foreign, Commonwealth and Development Office,

as Co-Agent;

and

Rt. Hon. Ellie Reeves KC MP, Attorney General,

as Advocate,

Sir Michael Wood KC,
Mr Sam Wordsworth KC,
Lord Verdirame KC,
Ms Amy Sander KC,
Ms Belinda McRae,

as Counsel and Advocates.

Ms Naomi Hart,

as Counsel,

Mr Simon Young, Attorney General, Falkland Islands,
The Hon. Jack Ford MLA, Member of the Legislative Assembly, Falkland Islands,

as Representatives of the Falkland Islands Government,

Mr Fraser Janeczko, Assistant Legal Adviser, Foreign, Commonwealth and Development Office,
Ms Chloe Harris, Assistant Legal Adviser, Foreign, Commonwealth and Development Office,

Ms Alison Kemp, Deputy Director, Foreign, Commonwealth and Development Office,

Ms Flora Burles, Communications Officer, Foreign, Commonwealth and Development Office,

Ms Chris Bradley, Research Analyst, Foreign, Commonwealth and Development Office,

Mr Jack Stewart, Senior Laywer, Attorney General's Office,

Mr Liam Hunt, Principal Private Secretary, Attorney General's Office,

Mr Robert Williams, Special Adviser, Attorney General's Office,

as Advisers.

THE PRESIDENT *(Interpretation from French)***:** Good morning. The Tribunal is meeting today pursuant to article 26 of its statute to hear the arguments of the Parties in the *Case concerning hydrocarbon exploitation in the South-West Atlantic Ocean*, Provisional Measures, between the Argentina Republic and the United Kingdom of Great Britain and Northern Ireland.

Now, I wish to state at the outset that pursuant to article 8(2) of the Statute, the Vice President, Judge Armas-Pfirter, and Judge Heidar, have informed the Tribunal that they consider it necessary to recuse themselves from the adjudication of the case. On 13 October 2026, Argentina submitted to the Tribunal a Request for provisional measures, pending the constitution of an arbitral tribunal pursuant to article 290, paragraph 5, of the United Nations Convention on the Law of the Sea. This case has been listed on the Tribunal's List of cases under No. 37. I now invite the Registrar to summarize the proceedings and to read out Argentina's submissions.
Madam Registrar,

THE REGISTRAR: Thank you, Mr President.

On 13 October 2026, a copy of the Request for the prescription of provisional measures was transmitted to the Government of the United Kingdom. By order of 20 October 2026, the President fixed 10 and 11 November 2026 as the dates for the hearing.

By letter of 2 November 2026, the United Kingdom indicated that it had elected not to file a Statement in response to the Request made by Argentina and that "[i]ts submissions will be presented orally at the Hearing".

I will now read out the submissions of Argentina, as set out in paragraph 115 of its Request:

For the reasons set out above, pending the constitution of the arbitral tribunal under Annex VII of UNCLOS, Argentina requests that the Tribunal prescribe the following provisional measures:

> (a) that the United Kingdom prevent the commencement or continuation of the exploitation of hydrocarbon resources on the continental shelf in the North Malvinas Basin by the so-called "Sea Lion" project;
> (b) that the United Kingdom refrain from using the information obtained in the exploration of the natural resources of the disputed maritime areas to the detriment of the rights of the Argentine Republic;
> (c) that the United Kingdom cease preventing the Argentine Republic from complying with its obligation under Articles 192 and 194 of UNCLOS to protect and preserve the marine environment of the maritime areas subject to dispute; and
> (d) that the United Kingdom refrain from taking any other measure that might aggravate the dispute, in particular the granting of new permits for the exploitation of the resources of the disputed continental shelf.

Mr President.

THE PRESIDENT: (*interpretation from French*) Yes. Thank you, Madam Registrar. At today's hearing, the Parties will present the first round of their submissions. Argentina will present its arguments this morning until around about 1 p.m. We will take a 30-minute break at around 11.30. The United Kingdom will speak this afternoon between 3 p.m. and 6 p.m., approximately, with a 30-minute break at around 4.30.

Tomorrow, we shall hold the second round of oral submissions. Argentina will speak from 10.30 to midday, and the United Kingdom from 5.30 to 7.00 p.m. I note the presence at this hearing of the Agents, Co-Agents, Counsel, lawyers and representatives of the Parties.

I now invite the Agent of Argentina, his excellency, Mr Oyarzábal, to introduce the delegation of Argentina. You have the floor,S.

MR OYARZABAL: (*Interpretation from French*) Thank you, Mr President, distinguished members of the Tribunal. It is an honour for me to have this opportunity to represent the Republic of Argentina as their Agent. Allow me, first of all, to express on behalf of my Government my deep respect towards this Tribunal and our gratitude to the Registrar, and everybody within the Registry, for the efficiency with which they have set up and organized this hearing. Thank you.

I am the General Director of Legal International Affairs of the Argentine Ministry of Foreign Affairs.

Madam Betina Pasquali is the Co-Agent. They're also here as counsel – and counsel, we have Nico Schrijver and also Marcelo Kohen. Also as counsel, we have a number of Government representatives. You will have found their names in what we have distributed already.

We are happy to see the members of the UK delegation and Northern Ireland, of course.

THE PRESIDENT: (*Interpretation from French*) Thank you very much. I will now ask Ms Langrish to please present the delegation of the UK. You have the floor.

MS LANGRISH: *(Continued in English)* Mr President, Members of the Tribunal, my name is Sally Langrish and I am the Legal Adviser at the Foreign Commonwealth and Development Office of the United Kingdom. It is an honour to appear before you as Agent for the United Kingdom. The Attorney General, the Right Honourable Ellie Reeves, KC MP, will also be appearing for the United Kingdom. She was only able to travel this morning and she is scheduled to arrive shortly.

I would like to recognize, as part of the United Kingdom delegation, two senior representatives of the Falkland Islands who have travelled all the way from the Falkland Islands to be here today. They are Mr Simon Young, Attorney General of the Falkland Islands, and the Honourable Jack Ford, member of the Legislative Assembly of the Falkland Islands.

I now present the other members of the United Kingdom's team: Mr Paul McKell, Legal Director of the Foreign Commonwealth and Development Office and Co-Agent of the United Kingdom.

Then as counsel and advocates, Sir Michael Wood KC, Mr Samuel Wordsworth KC, Lord Verdirame KC, Ms Amy Sander KC, Ms Belinda McRae, and Ms Naomi Hart as counsel.

Among others in attendance, from the Foreign Commonwealth and Development Office are Mr Fraser Janeczko, Assistant Legal Adviser, Ms Chloe Harris, Assistant Legal Adviser, and Ms Alison Kemp, Deputy Director.

I thank you, Mr President.

THE PRESIDENT: (*Interpretation from French*) I thank the Agent of the United Kingdom. I now invite the Agent of Argentina, His Excellency Mr Oyarzábal, to make his opening statement. You have the floor, Sir.

MR OYARZÁBAL: *(Continued in English)* Mr President, members of the Tribunal, it is a great honour to appear before you as the Agent of the Argentine Republic. We congratulate the President on his election and the Tribunal on its thirtieth anniversary.

Upon ratifying the Convention, Argentina chose this Tribunal, first in order of preference, under article 287.[1] That choice reflects our continuing confidence in the Tribunal and its independence.

In the *ARA Libertad* case, the Tribunal prescribed provisional measures at Argentina's request, and its decision was promptly complied with.[2] Argentina has also taken part in all advisory proceedings before the Tribunal.

We come to Hamburg with that same confidence, to do what international law expects from a responsible State: to settle its disputes by peaceful means, before an impartial tribunal.

The United Kingdom's Minister for Overseas Territories has described this recourse as an attempt to "undermine the rights and livelihoods" of the Islanders and to "obstruct lawful activity".[3] It is neither. It is the procedure the United Kingdom accepted when it became party to the Convention. A dispute is not aggravated by submitting it to adjudication. It is aggravated by unilateral action while it remains pending. That is what brings us here.

[1] Declarations of the Argentine Republic made upon signature (5 October 1984) (para. 1) and upon ratification (1 December 1995) (para. f) of the United Nations Convention on the Law of the Sea, including the choice of procedure under Article 287.
[2] *"ARA Libertad" (Argentina v. Ghana)*, Provisional Measures, Order of 15 December 2012, ITLOS Reports 2012, p. 332.
[3] United Kingdom, Minister for Overseas Territories, Ms Uma Kumaran, "Statement on Falkland Islands", post on X (formerly Twitter), 30 September 2026.

We note that the United Kingdom chose not to submit a written statement to the Tribunal, submitting instead three "expert witness" statements. Argentina will refer to them, bearing in mind that they come from a British official and from the chief executives of the licensees, who – as shown by the evidence submitted by Argentina – have a personal and financial interest in the project and the outcome of these proceedings.[4] We also note that the United Kingdom's statement of 5 November 2026, setting out its position on the provisional measures requested, was submitted after the time limit fixed by the Tribunal.

Let me begin with the facts. The United Kingdom has unilaterally authorized the exploitation of hydrocarbons on the continental shelf around the Malvinas Islands: a territory subject to a sovereignty dispute, whose decolonization remains pending before the United Nations General Assembly, the organ responsible for overseeing that process.

On 10 December 2025, the British *de facto* authorities approved the "Final Investment Decision" for the so-called Sea Lion project, which provides for a 35-year production phase: 23 wells, to be drilled by a mobile offshore drilling unit anchored to the seabed.[5] Further phases in the North Malvinas Basin are already planned.

Drilling is scheduled to begin before an Annex VII tribunal could reasonably be constituted, let alone fully operational. On 24 August 2026, and again on 30 September – two days after Argentina instituted arbitral proceedings – the licensees announced that drilling would begin in "early 2027".[6] The semi-submersible drilling rig "*Noble Endeavour"*, contracted for the Sea Lion project, is reportedly due to begin operations in January 2027.[7] The United Kingdom now asserts, without substantiation, that drilling will not take place before 21 March 2027. Even on that date, preparatory work would already be underway – as the licensees' own reports prove – and the arbitral tribunal would not be in a position to afford Argentina effective protection.

But far from stopping its illegal activities, the United Kingdom has aggravated the dispute. On 21 September 2026, the British *de facto* authorities extended all hydrocarbon production licenses for five further years.[8] And on 11 October, the United Kingdom refused to adopt the provisional measures requested by Argentina.[9]

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[4] Annex 79 containing Argentina's observations on the economic aspects ot the "witness statements" of Mr Ford and Mr Ramsay, submitted with the letter of 9 November 2026.

[5] "Falkland Islands Government", Department of Mineral Resources, "Production Licence Status as of 4 March 2026"; "Falkland Islands Government", "FIG Notes Final Investment Decisions for Sea Lion Development Programme", 10 December 2025.

[6] Rockhopper Exploration plc, "Sea Lion Update & Potential Capital Raise", RNS announcement, 24 August 2026; Rockhopper Exploration plc, Interim Report 2026, 30 September 2026, pp. 1 and 3, available at: https://rockhopperexploration.co.uk/wp-content/uploads/2026/09/RKH_-_Interim_results_H1_2026-vF-300926.pdf

[7] Noble PLC, "Fleet Status Report, July 2026", available at: https://noblecorp.com/download/noble-corporation-fleet-status-report-3/?wpdmdl=3701&refresh=6aa97737828fb1789490999

[8] "Falkland Islands Government", press statement, "FIG Announces Extension of Offshore Hydrocarbon Production Licences", 21 September 2026.

[9] Note GB 132/2026 of the British Embassy in Buenos Aires, dated 11 October 2026, transmitting a letter from the British Foreign, Commonwealth and Development Secretary to the Argentine Foreign Minister dated the same day.

Mr President, what is at stake cannot be restored. Hydrocarbons are non-renewable resources, and their extraction is final. Drilling permanently alters the seabed and subsoil: wells may be plugged, but they cannot be undone. Once extracted, oil cannot be put back. No compensation could restore the *status quo ante*. Nor can the information obtained ever be withdrawn.

The marine environment is also at risk. In April 2015, a blowout preventer failed at an exploration some 30 kilometers south of the Sea Lion reservoir.[10] A licensee's own oil spill contingency plan put at 30 percent the probability that oil from a Sea Lion blowout would reach undisputed Argentine waters within 30 days.[11] And neither licensee has ever operated a production offshore field; the offshore experience of their chief executives or contractors is no substitute for that. The evidence presented by the United Kingdom contradicts none of these facts. In the event of a blowout or a spill, it is Argentina that would bear its consequences and be called upon to respond, not a State that is 12,700 kilometers away.

Moreover, the project lies within the search and rescue region for which Argentina is responsible under the 1979 International Convention on Maritime Search and Rescue (SAR),[12] a region which is internationally recognized, including by the United Kingdom, and not within the SAR area unilaterally proclaimed by the British *de facto* authorities of the Islands. Should an accident occur, it will fall to Argentina to coordinate the response.

Mr President, members of the Tribunal, one point must be clear from the outset. This case arises against the background of the sovereignty dispute, but it does not require its resolution, either by the arbitral tribunal or by this Tribunal. This case is, rather, what the Convention requires of both Parties pending the settlement of the dispute, whatever its eventual outcome.

The sovereignty dispute dates from 1833, when the United Kingdom occupied the Islands by force and expelled Argentina, then a newly independent State. Argentina has protested ever since and has repeatedly proposed to settle the dispute. If a dispute remains open, it is because the United Kingdom refuses. Since the restoration of democracy, every Argentine government has consistently pursued the peaceful settlement of the dispute.

The existence of the dispute is not a unilateral position of the Argentine Republic. The United Nations has recognized it as such. In 1965, by Resolution 2065, the General Assembly characterized the Question of the Malvinas Islands as a colonial situation, to be brought to an end through the peaceful solution of the sovereignty dispute between the governments of Argentina and the United Kingdom, bearing in mind the interests of the population, not its wishes.[13] Successive General Assembly resolutions have confirmed

[10] Press release of Falkland Oil and Gas Limited and Rockhopper Exploration PLC, dated 24 April 2015.
[11] Premier Oil Exploration & Production Ltd, Revised Oil Spill Contingency Plan for Isobel (Elaine) well, submitted for approval to the Executive Council for the revised Oil Spill Contingency Plan (OSCP) (B06), 23.
September 2015, Section D.6.3.
[12] International Maritime Organization (IMO), Circular SAR.3/Circ.5, 19 January 1996.
[13] United Nations, General Assembly, "Question of the Falkland Islands (Malvinas)", Resolution 2065 (XX) of 16 December 1965.

this, and the Special Committee on Decolonization has reaffirmed it every year, most recently on 25 June 2026.[14]

In 1976, the United Kingdom dispatched the so-called "Shackleton Mission" to assess, in particular, the prospects for hydrocarbon exploitation in the Islands and their surrounding waters. Argentina protested, and the General Assembly responded. By resolution 31/49, adopted by 102 votes to 1, it called upon the two parties "to refrain from taking decisions that would imply introducing unilateral modifications in the situation while the islands are going through the process recommended in the above-mentioned resolutions".

Fifty years later, what resolution 31/49 sought to prevent is about to happen.[15]

Just days ago, the 30th Ibero-American Summit in Madrid renewed the call to refrain from unilateral measures in the disputed area, in accordance with rtesolution 31/49, in particular regarding the exploration and exploitation of natural resources.[16]

The law of the sea says the same. Resolution III of the Third United Nations Conference on the Law of the Sea, adopted together with the Convention, expressly addresses the case of a colonial territory whose sovereignty is in dispute and for which the United Nations has recommended specific means of settlement.[17] That is precisely the situation of the Malvinas Islands. Professor Kohen will develop this point.

Mr President, Argentina has protested against every unilateral British measure on hydrocarbons, from the very first licences. Those protests are in Annexes 5 to 36 of the Request.

It has sought cooperation. In 1995, the two governments adopted the Joint Declaration on Co-operation over Offshore Activities in the South-West Atlantic, concerning maritime areas "subject to a controversy on sovereignty and jurisdiction".[18] The United Kingdom accepted those words. Yet, instead of cooperating, it unilaterally granted exploration licences. Argentina sought in vain the Declaration's faithful implementation, before terminating it in 2007.[19] Argentina did not abandon cooperation. But, as Argentines know well, it takes two to tango. Unfortunately, the United Kingdom prefers to dance alone.

The same pattern has repeated itself. On 24 August 2026, Argentina invited the United Kingdom to proceed expeditiously to an exchange of views concerning the

[14] United Nations, Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, "Question of the Falkland Islands (Malvinas)", Resolution of 25 June 2026.
[15] United Nations, General Assembly, Resolution 31/49 of 1 December 1976.
[16] Cumbre Iberoamericana, Madrid, 4 and 5 November 2026, *Comunicado Especial sobre la Cuestión de las Islas Malvinas,* Available at: https://www.cancilleria.gob.ar/userfiles/prensa/xxx_cumbre_iberoamericana-_comunicado_especial_sobre_la_cuestion_de_las_islas_malvinas.pdf
[17] Final Act of the Third United Nations Conference on the Law of the Sea, A/CONF.62/121, Annex I, resolution III, para. 1(b), Third United Nations Conference on the Law of the Sea, Official Records, Vol. XVII, p. 149.
[18] Joint Declaration on Offshore Activities in the South-West Atlantic, 27 September 1995.
[19] Note, dated 27 March 2007, of the Minister of Foreign Affairs, International Trade and Worship of the Argentine Republic to the Secretary of State for Foreign and Commonwealth Affairs of the United Kingdom of Great Britain and Northern Ireland.

announced commencement of hydrocarbon exploitation.[20] The United Kingdom's first response came in two public statements: exploitation would go ahead as planned. Its formal reply to the Argentine note arrived on 28 September,[21] the very day on which Argentina instituted arbitral proceedings, confirming that the project would continue.

Even so, on 1 October 2026, Argentina reaffirmed its readiness to negotiate on all aspects of the Question of the Malvinas Islands, including the present aggravation of the dispute caused by the United Kingdom.[22]

Mr President, members of the Tribunal, as I have said, this case is not about sovereignty over the Islands. And it is not about delimitation either.

Nor is the Tribunal asked to rule on the merits of the dispute submitted to arbitration. The measures requested would do no more than preserve the existing situation pending the constitution of the arbitral tribunal and its decision.

What, then, Mr President, honourable members of the Tribunal, is this case about? Four sets of rights under the Convention.

First, the protection of Argentina's sovereign rights over the continental shelf pending the settlement of the dispute, not their determination.

Second, Argentina's right, and the United Kingdom's corresponding obligation, that no unilateral action be taken that would irreversibly alter the disputed continental shelf or lead to the exploitation of its non-renewable resources.

Third, Argentina's right that the United Kingdom comply with its obligations to settle disputes and to act in good faith, as required by articles 279 and 300, and accordingly refrain from conduct that would jeopardize or hamper the settlement of the dispute or aggravate it.

Fourth, Argentina's right not to be prevented by the United Kingdom from performing its obligations under the Convention to protect and preserve the marine environment of the disputed area.

For Argentina, these rights derive from the Convention. The United Kingdom contests them.[23] A dispute concerning the interpretation or application of the Convention therefore plainly exists.

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[20] Note SEMAS 05/26 of 24 August 2026.

[21] Note 063/2026 of the Americas Directorate of the Foreign, Commonwealth and Development Office to the Embassy of the Argentine Republic in the United Kingdom of Great Britain and Northern Ireland, dated 25 September 2026, delivered on 28 September 2026.

[22] Argentine Republic, Ministry of Foreign Affairs, International Trade and Worship, "Sobre la Cuestión Malvinas: Comunicado oficial de la República Argentina", 1 October 2026, available at: https://www.cancilleria.gob.ar/es/actualidad/noticias/sobre-la-cuestion-malvinas-comunicado-oficial-de-la-republica-argentina ; English versión available at: https://x.com/pabloquirno/status/2105632458033262920

[23]

Mr President, the United Kingdom offers two justifications: first, that the exploitation will benefit the current inhabitants of the Islands, who allegedly enjoy a right to self-determination; and, second, that any suspension would bring the project to an end. Neither justification is well founded and neither relieves the United Kingdom of its obligations under the Convention.

As to the first justification, the General Assembly has already determined the method of decolonization in this case, which is the settlement of the sovereignty dispute between the two governments. As Professor Kohen will explain, the General Assembly has never applied the principle of self-determination to the current population of the Islands.

Argentina, unlike the United Kingdom, has always recognized the legal value of the fundamental principle of the right of peoples to self-determination, and has supported its genuine exercise by colonial peoples. It respects the interests of the inhabitants of the Islands and their way of life, as enshrined in the Argentine Constitution.[24] Argentina also fully recognizes their human rights, including all those guaranteed by the two International Covenants: the American Convention on Human Rights and Argentine legislation. What these British citizens do not have is the right to decide to which State the Islands belong. That question is to be settled between the two governments, as the General Assembly has determined.

Nor can the Islanders appropriate the resources of the disputed continental shelf. The 2021 census recorded 3,142 usual residents of whom 1,625 hold so-called "Falkland Islands Status". These resources belong to the Argentine people, some 46 million of them, including the 1,247 inhabitants born on the Islands, whose interests will be duly taken into account. So-called "Falkland Islands Status" is, moreover, not a birthright: it is granted by the Governor, an official appointed by the British Crown. Under the principle of permanent sovereignty over natural resources, those resources cannot be disposed of unilaterally while the dispute remains pending.

For Argentina, the nexus between hydrocarbon exploitation and the military base on the Islands is a matter of grave concern. As early as 1991, the Chancellor of the Exchequer wrote that, in the event of a major oil find "tax revenues should accrue to the UK Exchequer". The British Government has since repeatedly stated that the Islands' authorities intend to share oil revenues with the United Kingdom, and I quote, "to offset the cost of our defence expenditure towards the islands", a point confirmed as recently as July 2026.[25] The resources of the disputed continental shelf

[24] National Constitution of Argentina, First Temporary Provision. Available at: https://servicios.infoleg.gob.ar/infolegInternet/anexos/0-4999/804/norma.htm

[25] *Chancellor Norman Lamont to the Foreign Secretary, 1991*, FCO7/8313. The National Archives, United Kingdom, cited in Livingstone, Grace "Oil and the Falklands/Malvinas: Oil Companies, Governments and Islanders", The Round Table: The Commonwealth Journal of International Affairs and Policy Studies, Vol. 111, Issue 1, 2022, p. 96 doi:10.1080/00358533.2022.2037235. Available at: https://www.tandfonline.com/doi/full/10.1080/00358533.2022.2037235#abstract; *David Lidington, Minister for Europe, Foreign and Commonwealth Office, 13 June 2012*, HC Deb 13 June 2012, Vol 546. Available at https://hansard.parliament.uk/Commons/2012-06-13/debates/12061361000003/FalklandIslandsReferendum; *MLA Cheryl Roberts*, 2 July 2026, "Argentina angered by prospect of oil boom in Falklands", Financial Times, 2 July 2026. Available at: https://www.ft.com/content/ce25f41d-49e2-42e3-956e-dab0de9301e4%3Fsyn-25a6b1a6%3D1&ved=2ahUKEwjtkIuX5saXAxX5rZUCHWS2Mp0QFnoECBoQAQ&usg=AOvVaw1Idzw8YFmCWbPCfoqzLWtB.

would thus finance the very military base and presence that sustains the United Kingdom's *de facto* control of the territory.[26]

Mr President, the United Kingdom cannot have it both ways. It cannot invoke the sovereignty dispute to escape jurisdiction while exploiting the natural resources of the disputed area as if that dispute had already been resolved in its favor. Still less can it do so while refusing to negotiate a settlement of that dispute.

As to the second justification, Argentina cannot be made to bear the economic consequences of the Sea Lion investment. Nor has the United Kingdom shown, beyond the bare assertion of Navitas UK's chief executive, that even a brief suspension would end the project rather than cause compensable delay or cost. That investment was made in full knowledge of the dispute, despite Argentina's repeated protests to the United Kingdom and its direct warning to the companies involved, and with full awareness that Argentina could take action, including under the Convention, to which the United Kingdom is a party, to prevent unauthorized exploitation.[27] Rockhopper's 2024 report to shareholders identifies the sovereignty dispute as the "principal risk" to the investment and refers both to the position of the United Kingdom and to the company's regular contact with the Foreign Office.[28] Whatever assurances the British Government may have given the licensees, they cannot affect Argentina's rights. The licensees did not merely accept that risk; they even insured against it: the 2025 Navitas' Annual Report discloses that a political risk insurance policy of 1 billion dollars had been issued for the lenders.[29]

Mr President, members of the Tribunal, I now turn to urgency.

As Professor Schrijver will explain, this is precisely the situation for which article 290, paragraph 5, was designed.

If the Tribunal does not act, drilling will begin on the disputed continental shelf in the coming months, opening the way for the first production of hydrocarbons in the area. A threshold will be crossed: from exploration to drilling for the extraction of a finite resource. That step cannot be undone. That is the very kind of unilateral modification which the General Assembly called upon the two parties to avoid.

There is also a question of principle. A State cannot refuse to negotiate while exploiting the disputed resources under its *de facto* control. To allow it to do so

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[26] MP Ann Clwyd, House Of Commons, Wednesday 22 March 1995, HC Deb 22 March 1995, vol 257. Available at: https://hansard.parliament.uk/Commons/1995-03-22/debates/c94cd703-59e9-4453-828a-3aa451da951d/CommonsChamber.

[27] United Kingdom, Foreign, Commonwealth and Development Office and Department for Business, Innovation, Science and Trade, "Doing business with the Falkland Islands", 15 September 2026; United Kingdom Mission to the United Nations (@UKUN_NewYork), "UK Response to the Argentine Statement at the General Assembly", post on X (formerly Twitter), 23 September 2026; United Kingdom, Minister for Overseas Territories, Ms. Uma Kumaran, "Statement on Falkland Islands", post on X (formerly Twitter), 30 September 2026.

[28] Rockhopper Exploration plc, Annual Report and Accounts for the year ended 31 December 2024, "Principal Risks and Uncertainties", pp. 12-13. Available at: https://rockhopperexploration.co.uk/wp-content/uploads/2025/06/2024-RKH-Annual-Report-FINAL.pdf

[29] Navitas Petroleum, Limited Partnership, "2025 Periodic and Annual Report", 18 March 2026, available at: https://maya.tase.co.il/en/reports/1728585?attachmentType=pdf1.

would reward that refusal. This is all the more so since the Islands are subject to a decolonization process supervised by the United Nations.

In short, Argentina asks the Tribunal to prevent an irreversible *fait accompli*.

Mr President, members of the Tribunal, Argentina therefore requests the Tribunal to prescribe four provisional measures, which Professors Kohen and Schrijver will explain in detail. First, that the United Kingdom prevent the commencement or continuation of the exploitation of hydrocarbons on the continental shelf. Second, that it refrains from using that information obtained in the exploration of the disputed maritime areas to the detriment of the rights of Argentina. Third, that it ceases preventing Argentina from complying with its obligations under articles 192 and 194. And fourth, that it refrains from any other measure that might aggravate the dispute, in particular the granting of new exploitation permits.

Together, these measures preserve Argentina's rights under the law of the sea until the Arbitral Tribunal is constituted and in a position to act. None of them prejudges either the sovereignty dispute or the merits of the arbitration.

Nor would they impose an undue burden on the United Kingdom. Drilling has not yet started. The United Kingdom and the licensee companies proceeded with full knowledge of Argentina's position, and despite its formal protests and warnings. In any event, the economic cost of suspension bears no comparison with the irreparable prejudice that the exploitation would cause to Argentina. Besides, the project has already been suspended once before, between 2016 and 2022. If, as the CEO of Navitas acknowledges, "Sea Lion" survived six years of stagnation and a ten-year delay, it will survive a temporary measure pending the decision of the arbitral tribunal.

This Request engages both purposes for which article 290 allows provisional measures to be prescribed: to preserve the respective rights of the parties and to prevent serious harm to the marine environment.

Mr President, members of the Tribunal, let me outline the rest of Argentina's presentation this morning.

Professor Kohen will show that the arbitral tribunal would have *prima facie* jurisdiction. He will address the rights at stake and their plausibility and explain why measures 1 and 4 are necessary.

Professor Schrijver will then show the real and imminent risk of irreparable prejudice to those rights and of serious harm to the marine environment. He will also address urgency and explain why measures 2 and 3 are necessary.

I shall return briefly at the close of the first round to present Argentina's concluding remarks.

Mr President, members of the Tribunal, I thank you for your attention, and I would ask you to give the floor to Professor Marcelo Kohen.

THE PRESIDENT: (*Interpretation from French*) Yes, thank you, Mr Oyarzabal. I now give the floor to Mr Kohen for his statement. You have the floor.

MR KOHEN: (*Interpretation from French*) Mr President, honourable members of the Tribunal, it's an honour to appear once again before your Tribunal to defend Argentina's rights. Now, I shall explain why the conditions of *prima facie* jurisdiction and the plausibility of the rights to be protected are met and why measures to maintain the status quo and to prevent further aggravation are essential to preserve the rights of Argentina which are at issue before the arbitral tribunal.

We are not mistaken as to the proper forum. Both the arbitral tribunal and your Tribunal must address the rights and obligations of the Parties under the UN Convention on the Law of the Sea. The issue before you is even narrower than that before the arbitral tribunal in the arbitration. The scope will cover all British activities in all maritime areas surrounding the Malvinas Islands. That includes both fishing activities and those relating to hydrocarbons. The reason we are bringing this matter before you is that under the so-called "Sea Lion" Project, there is an imminent risk of irreparable harm arising from activities aimed at exploiting the non-renewable resources of the continental shelf.

To demonstrate that, you may find *prima facie* that the Tribunal has jurisdiction. I shall therefore begin by explaining that there is a dispute between the Parties concerning the rights and obligations arising from the Convention. Secondly, I shall demonstrate the plausibility of the rights claimed by Argentina. Finally, I shall justify the provisional measures aimed at, on the one hand, preventing any irreversible alteration to the disputed continental shelf, and, on the other hand, preventing further actions likely to aggravate the dispute.

Now, it is clear to everyone that there is a dispute over the Malvinas Islands and their surrounding maritime areas, except, perhaps, to the UK. This afternoon, will our colleagues on the other side finally agree to acknowledge that a dispute exists and assume the attendant consequences? Or will they persist in acting as if the United Kingdom were the sole arbiter of the British position and thus free to act wholly as it sees fit with regard both to the islands and the maritime zones?

"The land dominates the sea", they may tell us this afternoon. It is true, but the land does not erase the sea. Apparently for the United Kingdom, its relations with Argentina based on the Convention concerning the maritime areas generated by the Malvinas Islands are non-existent. If we are to believe the British position, there would thus be a "black hole" around the disputed territories which has swallowed up the "Constitution of the Oceans". Nearly 1,800,000 square kilometres where only the United Kingdom would be master of its own decisions without anybody being able to challenge them, neither us, nor you, nor the arbitral tribunal. No one.

Yet, the British government claims to be acting in accordance with the rights and obligations to the Convention.[30] We believe that the exact opposite is true. It is this issue that will be debated in the arbitration proceedings, and we stand before you, your Honours, solely to safeguard Argentina's rights during the arbitration. The issue

[30] Request for the Prescription of Provisional Measures, para. 34.

before you is a specific one: it is about not commencing work aiming at the exploitation of non-renewable resources on a continental shelf that is the subject of of a dispute recognized by the UN, whose General Assembly has defined the manner in which it is to be settled within the process of decolonization. This issue, distinguished members of the Tribunal, in no way requires a decision as to who owns the Islands or who is the coastal State.

Mr President, the specific dispute over the exploitation of hydrocarbons on the Malvinas Islands' continental shelf dates back half a century. The Agent has already spoken to you about the "Shackleton Mission" which led to the adoption of General Assembly resolution 31/49. The statement of Mr Ford, here today, confirms the existence of this exploration mission, even though he was careful to make no reference to the General Assembly resolution that the mission prompted.[31]

The Commission on the Limits of the Continental Shelf has also recognized the existence of a dispute over this maritime area, since, for both Argentina and the UK, the continental shelf around the Malvinas Islands extends beyond 200 nautical miles from their baselines. The Commission left the matter unresolved, owing to this dispute between the two Parties. This means that neither State may exploit the resources that are to be regarded as forming part of the area until the dispute has been settled and the Commission has issued a recommendation.

In fact, distinguished members of the Tribunal, there is no need to beat about the bush. The United Kingdom has explicitly acknowledged that this continental shelf is the subject of a dispute with Argentina in the joint communiqués issued by the South-West Atlantic Hydrocarbons Commission.[32] The establishment of this Commission in 1995 demonstrates the United Kingdom's recognition of the need not to act unilaterally in this matter, even though it did seek to use the 1995 Joint Declaration as a kind of smokescreen to pursue a unilateral policy contrary to both the letter and spirit of that Declaration.

Let me now outline the rights and obligations of the Parties involved which are governed by the Convention so that you may consider that it appears *prima facie* that the arbitral tribunal has jurisdiction.

Several articles of the Convention are relevant. These are articles 56, 77, 81, 192, 193, 194, 204, 205, 206, 242, 246, 279 and 300. Now, I shall address some of them, while my colleague, Nico Schrijver, will deal with the others.

Let me now explain on what grounds certain articles are invoked, and how they're relevant here. I am aware that certain articles relate to the rights and obligations of the coastal State. Argentina is entitled to invoke the rights recognized by articles 56, 77 and 81 of the Convention. The UK, in practice, does the same since it asserts that it is its own *de facto* authorities on the Islands that hold these rights. We are asserting them not for you to recognize our status as a coastal State, but to point out that the possible sovereign rights of either Party are at stake and that they must be preserved until the dispute is settled. Now, indeed, if our sovereign rights cannot be

[31] Witness statement of Mr Jack Ford, para. 16.
[32] Request for the Prescription of Provisional Measures, Annexes 57-59.

recognized in the present proceedings, surely the same applies to the alleged sovereign rights invoked by the United Kingdom.

Other articles apply regardless of the identity of the coastal State. Some articles may be read in isolation, whilst others must be read in conjunction with one another in order to apply them to the issues at the heart of the dispute. You must bear in mind that some of these articles lie at the heart of the dispute concerning whether or not it is possible to exploit non-renewable resources on the disputed continental shelf and justify the request for provisional measures.

We are well aware that the determination of the coastal State depends on the determination of which State has sovereignty over the territory in question. Our opponents are focusing unduly on this issue. In their view, since the Convention doesn't address the question of the establishment of territorial sovereignty, the arbitral tribunal would lack jurisdiction and this Tribunal could not prescribe provisional measures. This is mistaken, for the following reasons:

Firstly, the fact that the dispute concerning territorial sovereignty is governed by rules of international law doesn't mean that the maritime areas generated by that territory are not governed by the Convention. Consequently, the States Parties to the dispute aren't exempt from the rights and obligations incumbent upon them – including in their mutual relations – so long as jurisdiction over those areas has not been determined.

Secondly, because in order to rule on all the claims that Argentina has submitted to the arbitral tribunal, in particular on those relating to the provisional measures sought, it is not necessary to rule on the question of territorial sovereignty or to determine which State is the coastal State.

Thirdly, because the provisional measures sought in no way prejudge the question of sovereignty, they neither affect nor advance the position of either Party on this matter. Regardless of which State has sovereignty over the Islands and sovereign rights over the continental shelf, neither can permanently alter the continental shelf, nor extract its non-renewable resources until the dispute is resolved or the Parties seek a provisional arrangement for the transitional period.

There we have it. That's the problem, Mr President: the British side is seeking neither to settle a dispute nor to reach a provisional arrangement. It is seeking to exploit the resources as it sees fit.

Now, the case law is clear: the existence of a dispute over the sovereignty of a territory which gives rise to maritime zones does not, in itself, prevent a tribunal from considering aspects of the law of the sea relating thereto.[33] As the International

[33] *Arbitration regarding the Chagos Marine Protected Area (Mauritius* v*. United Kingdom), Award of 18 March 2015*, *R.I.A.A.*, vol. XXXI, p. 460, paras. 220-221, and pp. 499-501, paras. 319-323; *the South China Sea Arbitration between the Republic of the Philippines and the People's Republic of China, Award on jurisdiction and admissibility of 29 October 2015, R.I.A.A.*, vol. XXXIII, pp. 63-64, paras. 152-153; *Dispute Concerning Coastal State Rights in the Black Sea, Sea of Azov, and the Kerch Strait (Ukraine* v. *the Russian Federation), Award concerning the Preliminary Objections of the Russian Federation of 21 February 2020,* para. 198.

Court of Justice stated in the case known as *American Hostages in Tehran*, there's no reason why the Tribunal shouldn't take up a dispute "merely because that dispute has other aspects, however important."[34]

Let's be clear: in order to rule on Argentina's request for provisional measures, the Tribunal is not required to determine, either explicitly or implicitly, which State is the coastal State of the Malvinas Islands.

Argentina invokes four rights and the corresponding obligations. The Agent has already mentioned them to you. My colleague Nico Schrijver will address the rights and obligations relating to the protection of the marine environment. I shall deal here with the other three. These rights must be read and interpreted in the specific context of this case. This is a dispute concerning maritime areas of a territory subject to the decolonization process governed by the UN.

So why is Argentina invoking its sovereign rights over the continental shelf? Well, through the arbitration proceedings, Argentina seeks to protect its rights over maritime areas under the Convention, pending the resolution of the territorial dispute, which remains unsolved due to the UK's persistent refusal.[35]

It's to justify the need to protect the sovereign rights that Argentina asserts over the disputed continental shelf that we need to demonstrate that its claim to territorial sovereignty is plausible. "The land dominates the sea." And it is for this reason – for this reason alone – that we refer here to Argentina's sovereignty. To this end, it would be sufficient to state that the United Nations recognizes the existence of a dispute between the two States concerning sovereignty over the Malvinas Islands. We've also cited a long list of regional/international instruments through which numerous States around the world recognize Argentine sovereignty. This amply demonstrates the plausibility of the rights that Argentina claims over the continental shelf surrounding the Islands. Now, admittedly, no State has recognized British sovereignty. However, in order to prescribe the provisional measures requested, you don't need to rule on whether or not the rights claimed by the UK are plausible.

In this regard, I'd like to refer to two precedents which I consider to be very important in this particular matter. The first is the case of *Ghana v. Côte d'Ivoire*. In ordering the measure aimed at preventing further drilling in the disputed area, your Special Chamber held that the rights claimed by Côte d'Ivoire which required protection were those set out in articles 56 and 77 of the Convention. The Chamber didn't know at that time whether the continental shelf in question belonged to one party or the other, but it thereby preserved, *pendente litis*, the rights claimed by the State seeking the provisional measures. It should be noted that at conclusion of the proceedings, the judgment held that the continental shelf in question did in fact belong to the other State.

The Special Chamber of the Tribunal cited in support of its reasoning the ICJ's order on provisional measures of 8 March 2011 in the case concerning *Certain activities carried out by Nicaragua in the border area*.

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[34] *United States Diplomatic and Consular Staff in Tehran, Judgment, I.C.J. Reports 1980,* p. 19, para. 36.

[35] Request, para. 44.

In that particular case, Costa Rica asked the Court to declare and rule that Nicaragua had violated its territorial sovereignty by sending in its army, carrying out dredging activities, felling trees and constructing an artificial channel. In response to the request for provisional measures, Nicaragua had argued that it had territorial sovereignty. In order to prescribe provisional measures, the Court couldn't rule on the question of who held sovereignty. It nonetheless ordered the measures considering that Costa Rica's claim to sovereignty appeared plausible and that it wasn't necessary for that purpose to find that Nicaraguan sovereignty wasn't valid.[36]

To summarize, distinguished members of the Tribunal, as in the two cases I have just cited, if you were to consider that Argentina's claims to the continental shelf around the Malvinas are plausible, you are prejudging neither the merits of Argentina's position nor the merits, or lack thereof, of the British claim.

Let me now turn to the second right or obligation arising from the existence of the dispute, which is a key issue in the proceedings, in particular that before you. It comprises two aspects. On the one hand, there is the obligation on both States to refrain from introducing irreversible unilateral changes to the continental shelf as long as the dispute remains unresolved, and, on the other hand, the obligation on the Parties to consult with one another – taking into account the relevant UN resolutions – while making every effort to reach practical provisional arrangements that neither compromise nor hinder the achievement of a final settlement of the dispute. I know this is a lengthy definition, and it could be summarized as the "obligation not to compromise the settlement/provisional arrangements."

This obligation arises from the combined effect of articles 56, 77, 81, 279 and 300 of the Convention in the specific context of this case. Since both States claim exclusive rights over the same continental shelf, and there is an obligation to settle disputes in good faith, neither may unilaterally introduce irreversible changes to the continental shelf that would undermine the settlement of the dispute or aggravate it. There is, thus, to use the terminology employed by the ICJ and by your Tribunal, a "sufficient connection" between the aforementioned provisions of the Convention.[37]

Now, admittedly, this obligation also exists under general international law, but here it derives primarily from the Convention itself. Indeed, the Convention must be interpreted as a whole. Its articles don't exist in isolation and, consequently, must not be interpreted in isolation. As Tommy Koh stated in his address as President of the Third United Nations Conference on the Law of the Sea: "The provisions of the Convention are closely interrelated and form an integral package." In concluding his message, Tommy Koh celebrated "the victory of the rule of law and of the principle of the peaceful settlement of disputes."[38]

The ICJ also noted, in general terms, that "a rule of international law, whether customary or conventional, does not operate in a vacuum; it operates in relation to

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[36] *Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica* v. *Nicaragua), Order of 8 March 2011 indicating provisional measures, I.C.J. Reports 2011*, p. 19, para. 19, p. 14, para. 36, pp. 19-20, paras. 55-59.

[37] *Request for an Advisory Opinion submitted by the Sub-Regional Fisheries Commission, Advisory Opinion, 2 April 2015, ITLOS Reports 2015, p. 24, para. 68.*

[38] Available at: https://www.un.org/depts/los/convention_agreements/texts/koh_english.pdf

facts and in the context of a wider set of legal rules, of which it forms only a part."[39] This way of looking at things is of course not unique. Your Tribunal has itself identified obligations not explicitly mentioned in any single article of the Convention by taking into account the coordinated interplay of its various rules.

It is what you have done, for example, in relation to the precautionary approach and the concomitant obligations of due diligence and co-operation[40] or in relation to the regulation by coastal States of the bunkering of foreign vessels fishing in its EEZ.[41] States have reciprocal rights and obligations when a dispute arises between them. It is these rights and obligations relating to the disputed continental shelf that are at issue here in the specific context of decolonization and the General Assembly's powers in that regard. As the ICJ stated in a dictum which you have endorsed, every "international instrument has to be interpreted and applied within the framework of the entire legal system prevailing at the time of the interpretation."[42]

We are not the only ones to invoke the obligation on the Parties. In the exercise of its powers in the field of decolonization, the General Assembly reaffirmed this in its resolution 31/49, which was specifically prompted by the UK's stated intention to exploit the hydrocarbon resources of the continental shelf around the Malvinas Islands: "The General Assembly (...) calls upon the two parties to refrain from taking decisions that would imply introducing unilateral modifications in the situation while the Islands are going through the process recommended in resolutions [2065 (XX) and 3160 (XXVIII)."

Resolution III of the Montego Bay Conference applies the same principle in what constitutes an interpretation of the Convention in the context of a dispute over the sovereignty of a territory subject to decolonization.

Let's dwell for a moment to consider this resolution. It relates to colonial territories and it's relevant where there is a dispute between States concerning sovereignty over a territory to which the resolution applies and in respect of which the UN has recommended means of settlement. *This is precisely the case of the Malvinas Islands*. What is the means of settlement recommended by the UN? Negotiation to resolve the dispute over sovereignty.

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[39] *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt, Advisory Opinion, I.C.J. Reports 1980*, p. 76, para. 10.

[40] Southern Bluefin Tuna (New Zealand v. Japan ; Australia v. Japan), Provisional Measures, Order of 27 August 1999, ITLOS Reports 1999, pp. 295-296, paras. 70 and 77; MOX Plant (Ireland v. United Kingdom), Provisional Measures, Order of 3 December 2001, ITLOS Reports 2001, p. 110, paras. 82 and 84; Land Reclamation in and around the Straits of Johor (Malaysia v. Singapore), Provisional Measures, Order of 8 October 2003, ITLOS Reports 2003, pp. 25-26, paras. 92 and 99-102; Responsibilities and Obligations of States sponsoring persons and entities with respect to activities in the Area, Advisory Opinion, 1 February 2011, ITLOS Reports 2011, pp. 46-47, paras. 131-132; *Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law*, Advisory Opinion of 21 May 2024, p. 82, para. 213.

[41] *M/V "Virginia G" (Panama/Guinea-Bissau), Judgment, ITLOS Reports 2014*, p. 69, para. 217.

[42] *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South-West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, I.C.J. Reports 1971*, p. 31, para. 53; *Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law*, Advisory Opinion of 21 May 2024, pp. 57-58, para. 135.

The resolution refers to the interests of the people of the territory concerned. The UN has not applied the right to self-determination to the current inhabitants of the territory. The explanation is provided by the International Court of Justice, that "consideration that a certain population did not constitute a 'people' entitled to self-determination." The interests we wish to protect here are those of the Argentine people.

The resolution goes on to state that regardless of the form in which the rights under the Convention are exercised, account must be taken of the relevant UN resolutions. Which resolutions are relevant here? Well, resolutions 2026 (XX), 3160 (XXVIII), and, above all, the one of particular interest to us here, resolution 31/49. The text concludes by requiring the Parties to do their utmost to conclude practical provisional arrangements and to refrain from taking any action that might compromise or hinder the final settlement of the dispute.

Distinguished members of the Tribunal, this is precisely what Argentina is requesting during the present transitional period while the dispute remains unresolved.

The UK will probably say this afternoon that this is a political text. But no, Mr President. Resolution III is a text with a clearly legal content. It concerns the interpretation of the Convention by the Conference, as applied to a specific situation: decolonization. Now, admittedly, Argentina would have preferred a more binding text, hence its statement and regrets. Although the UK, for its part,wasn't satisfied the Conference was addressing the issue, it ultimately stated that (*continued in English*) "that resolution had been evolved in negotiations over which the President of the Conference had presided and in which the United Kingdom delegation and the Argentine delegation had taken part. The fact that the text had been adopted demonstrated that all the parties concerned had been prepared to go along with it at the time."[43]

(*Interpretation from French*) The United Kingdom must, therefore, honour its commitment and act today in accordance with what it accepted in 1982.

Mr President, Argentina undertakes to fulfil its obligation during the transitional period and is entitled to expect the UK to do the same.

Unlike good faith, the obligation to settle disputes through peaceful means is a self-standing obligation which requires an active conduct and not the mere fact of abstaining. We rely upon article 279 to qualify the conduct of the United Kingdom. Our request shows in paragraph 44 the consistent refusal by the United Kingdom to engage in negotiations as proposed by Argentina with broad international support and as requested by the United Nations. Nor did the United Kingdom accept the United Nations Secretary-General's good offices and it proposed no other means to settle the dispute.[44] The argument used is that the United Kingdom will not even

[43] A/CONF.62/SR.182, 182nd plenary meeting of the Third United Nations Conference on the Law of the Sea, 30 April 1982, *Official Records*, vol. XVI, p. 160 (extract), available at: https://legal.un.org/diplconf_records/1973_los/docs/english/vol_16/a_conf62_sr182.pdf. [Annex 72, new Argentina documents].

[44] Question of the Falkland Islands (Malvinas): Report of the Secretary-General, 10 November 1987, available at:

discuss the question of sovereignty, which implies also the question of rights over maritime spaces, unless the current inhabitants of the Islands request this. This amounts to leaving a decision to comply or not with the international obligations incumbent on a nation in the hands of some 2,000 of its citizens.

Argentina has a right to see the United Kingdom respect the obligation to resolve disputes through peaceful means which involves the obligation to abstain from doing anything that would make the settlement more difficult or impossible. This would be the case were the British side to carry on with the work aimed at the exploitation of hydrocarbons on the continental shelf which is disputed. In this regard, the report of the *British Institute of International and Comparative Law*, in its examination of the obligation to fulfil in good faith the obligations that the States have taken upon themselves under article 300 of the Convention recognizes that the obligation of good faith requires the States concerned to abstain from acts that show an unwillingness to negotiate. And it cites an example of such acts, (*continued in English)* "drilling in the seabed and subsoil for oil and gas."[45]

(*Interpretation from French continued*) Distinguished members of the Court, the obligation to not aggravate the dispute is closely tied to the obligation to settle disputes and to do so in good faith. As the recent arbitral award handed down in the case of *Coastal States Rights in the Black Sea, the Sea of Azov, and Kerch Strait* stated unanimously, the duty of non-aggravation of the dispute exists under articles 279 and 300 of the Convention. This is precisely why your Tribunal, as well as other courts, include this duty when they are ordering provisional measures, even if this obligation does not appear as such explicitly in the Convention.

Mr President, allow me now to address the first and fourth provisional measures requested by Argentina. The first measure is the most fundamental one and it involves preventing the commencement of the exploitation of hydrocarbons on the disputed continental shelf, for which work is announced for early 2027. Let me be absolutely clear: this measure involves, in particular: (1) suspending preparatory work and (2) abstaining from carrying out new drillings and installing the production infrastructure that is necessary for exploitation. The United Kingdom must take all necessary measures to ensure such conduct.

Let me now explain the connection between this provisional measure and the rights involved in these proceedings and the fact that it is both necessary and proportionate.

Exploiting natural resources involves a decision-making phase and a substantive phase. The decision-making phase includes, first of all, the right to establish when, how and under what conditions the resources of the continental shelf are to be exploited. This right is all the more important in that these are non-renewable fossil energies. The States can even decide not to exploit them in the near future and to

https://digitallibrary.un.org/record/148541/files/A_42_732-EN.pdf [Annex 73 of new Argentina documents]; Statements by officials of the United Kingdom on the good offices of the Secretary-General of the United Nations (sources stated in Annex 75).

[45] British Institute of International and Comparative Law, *Report on the Obligations of States under Articles 74(3) and 83(3) of UNCLOS in respect of Undelimited Maritime Areas, London, 2016,* p. 19, para. 65.

assess their potential exploitation at a later date. In the context of the existence of a dispute – the outcome of which relating to the title over the resources is pending – furthermore, when it involves a territory that is subject to the process of decolonization, the commencement of the unilateral exploitation of these resources would deprive Argentina definitively of any decision-making powers, as the Seabed Disputes Chamber said in its orders of 18 July 2026, "the loss of the opportunity to participate effectively in the decision-making process cannot ordinarily be remedied *ex post facto*."[46]

The decision-making aspect also includes what I have called the "obligation not to compromise the settlement/provisional arrangements". The exploitation of non-renewable resources would simply render this obligation futile. Once exploitation begins, it is then no longer possible to make arrangements on its timeliness, its viability, or its potential conditions, among other aspects.

The unilateral exploitation by the United Kingdom would also risk turning the obligation to settle the dispute in good faith into an empty concept. This exploitation and the unilateral changes brought to the disputed continental shelf would be difficult to reconcile with the idea that States should do nothing that would compromise or hamper the definitive settlement of the dispute.

Indeed, allowing such conduct would transform the absence of settlement into a *de facto* privilege to unilaterally exploit non-renewable resources.

The first provisional measure is, therefore, necessary in order to ensure that the possibility that the dispute can be settled by peaceful means is preserved as provided for by the Convention and general international law, rather than being progressively eviscerated of its substance through the unilateral conduct of the colonial power.

Let me now move on to an analysis of the proportionality of the measure of non-exploitation. The UK has presented two witness statements from representatives of the companies that are involved in the exploitation of the resources. Mr President, if there is a party that is mistaken in juridisdiction in this case, it is indeed the United Kingdom. Members of the Court, you are not an investment arbitral tribunal; you are the International Tribunal for the Law of the Sea.

New drillings and exploitation activity have not yet begun. If drilling for new wells for further exploitation begins, Argentina would irrevocably lose its rights as involved and claimed in these proceedings. On the other hand, if the first measure is ordered, there will be no further changes to the continental shelf and the non-renewable resources will continue to be available to the party that has jurisdiction over this maritime space, whichever party that may be.

[46] *Inquiry by the International Seabed Authority (Nauru Ocean Resources Inc. v. International Seabed Authority), Provisional Measures, Order of 18 July 2026, para. 197; Inquiry by the International Seabed Authority (Tonga Offshore Mining Ltd. v. International Seabed Authority), Provisional Measures, Order of 18 July 2026, para. 174.*

For its part, the UK has allowed for the commencement of the preparatory work for the exploitation, knowing full well the position of Argentina, as well as the position of the UN General Assembly.[47]

Argentina even forewarned the companies concerned, which took no heed of our warnings.[48] Mr Moody's witness statement confirms that Rockhopper was warned that its activities were in breach of the law right from the beginning of its activities and for many years.[49] He is now complaining that there will be potential economic losses for his company as a result of its own reckless behaviour.

Indeed, the company generated these own risks. It even mentioned these risks to its own shareholders by deciding to simply overlook the existence of the dispute and by ignoring the status of the territory in the maritime spaces as defined by the United Nations.[50] A serious investor in the field of hydrocarbons who would have conducted a legal assessment of the situation would never have overlooked such a circumstance that was well known.

Mr Moody also complains of court proceedings being brought in Argentina for breaches of the legislation relating to the exploitation of the resources of the continental shelf, but Mr Ford's witness statement shows the existence of British legislation that is absolutely identical: (*continued in English*) "It is unlawful for a person to explore for or exploit any mineral in certain designated maritime areas, including the Falkland Islands' continental shelf, unless a licence is obtained from the Falkland Islands Government and adhered to."[51]

(*Interpretation from French*) Could Mr Moody expect a different attitude from Argentina than that of any State under similar circumstances? Furthermore, nothing prevented the companies from requesting licences from Argentina.

Mr Moody depicted a rather somber picture of what could transpire were the Tribunal to order the suspension of drilling work. But, by its own admission: (*continued in English*) "From 2016 until 2022 (when Navitas came on board), Rockhopper was unable to make any substantial advances in the Sea Lion field."[52] (*Interpretation from French*) I wonder why, if his project had been suspended for six years until 2022, it could not be suspended now – possibly for a far shorter period – when the question will be settled by an arbitral tribunal, or perhaps even through an interim agreement between the Parties.

The hypothetical and unfounded economical calculations of the companies as to the consequences of a potential suspension[53] simply cannot compare with what would be lost by the people of Argentina if the unilateral exploitation of the non-renewable resources were to commence on the disputed continental shelf.

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[47] Request, Annexes 5 to 36 and 51 to 53; Note (Request, Annex 1), Annexes A to E.
[48] Notes sent to companies: Request, Annexes 37 to 40. Statements from companies: Request, Annexes 48 and 50; and Note (Request, Annex 1), Annexes F and G.
[49] Witness statement of Mr Moody, para. 42.
[50] Rockhopper Exploration plc, Annual Report and Accounts for the year ended 31 December 2024, "Principal Risks and Uncertainties", pp. 12-13, Annex 71 of documents submitted by Argentina.
[51] Witness statement of Mr Ford, para. 18(a).
[52] Witness statement of Mr Moody, para. 41.
[53] Annex 79 submitted by Argentina on 8 November 2026.

The same is true for the so-called losses of the possibility of development for the population of the Malvinas Islands. Aside from the fact that the examples given by Mr Ford are not credible,[54] this population is already benefitting from very significant revenue streams coming from the illegal exploitation of fishing resources, which has turned it into a population whose GDP per capita is one of the highest on the planet.[55] According to Mr Ford, the exploitation of hydrocarbon resources would double such revenues.[56]

For all of the above reasons, there is no excessive burden in adopting the first provisional measures sought. The potential economic costs by maintaining the *status quo*, regardless of the subject, aside from the fact that it would not constitute irreparable prejudice, would be without compare with the irreparable harm that would be caused to the rights that Argentina is seeking to protect.

Quite the contrary: adopting the first provisional measure sought would allow the Parties to look for a practical provisional arrangement as long as the dispute is not settled. The rights of both States would remain intact. This will not be the case if new wells are drilled for exploitation. The first provisional measure sought is therefore a measure that is reasonable, fair and necessary, and which the circumstances require.

The fourth provisional measure being sought is aimed at avoiding an aggravation of the dispute. Your Tribunal has ordered it in several different cases.[57] In the present case, this measure is all the more indispensable in that the UK has even aggravated the dispute just a few days after Argentina had proposed an exchange of views on the question that was submitted to arbitration, as the Agent has just explained.

Alas, there is more. Their preparatory work for drilling in the area of the “Sea Lion” project is ongoing and the possibility of granting new permits for exploitation under the already-granted licences is real. This has been confirmed both by the British authorities and the companies themselves.[58]

But in its note of 5 November, the United Kingdom presents a fallacious description of the so-called impossibility of granting new authorizations. The UK note states that the licences were already granted and that no new licences will be granted. The 5 November note evidently overlooks something that is very important. Indeed, British legislation requires that for exploitation to begin, the holders of existing

[54] Witness statement of Mr Ford, para. 55.
[55] “Falkland Islands Government”, Directorate of Policy, Economy & Corporate Services, Falkland Islands National Accounts 2014–2024, August 2025 (Executive Council Paper No. 150/25, 5 August 2025), available at: https://www.gov.fk/assembly/wp-content/uploads/sites/30/2026/04/150-25P.pdf; World Bank, “GDP per capita (current US$)” [NY.GDP.PCAP.CD], World Development Indicators, Washington (D.C.), World Bank Group, updated on 8 October 2026, available at: https://data.worldbank.org/indicator/NY.GDP.PCAP.CD.
[56] Witness statement of Mr Ford, para. 53.
[57] Southern Bluefin Tuna (New Zealand v. Japan; Australia v. Japan), Provisional Measures, Order of 27 August 1999, ITLOS Reports 1999, p. 297, para. 90(1)(a); Delimitation of the Maritime Boundary in the Atlantic Ocean (Ghana/Côte d’Ivoire), Special Chamber, Order of 25 April 2015, ITLOS Reports 2015, pp. 146-166, para. 108(1)(e); Detention of three Ukrainian naval vessels (Ukraine v. Russian Federation), Order of 25 May 2019, ITLOS Reports 2018-2019, p. 312, para. 124(1)(c).
[58] Institution of Arbitral Proceedings (Annex 1): Annex G; Request for Provisional Measures: paras. 98-102 and Annexes 48 and 50.

licences must carry out new steps and obtain new permits. The Offshore Minerals Ordinance of 1994 forbids a licence holder to drill a well, to install production infrastructures, or to extract hydrocarbons without the prior additional written authorization of the so-called Governor of the Islands. Thus, between the granting of the licences and the first extraction of petroleum, there are several stages that have to be completed: receipt of a drilling authorization, preceded by an environmental impact assessment or an official waiver; approval of the completion programme for each drill; validation of the security and safety documents regarding the drilling platform and the floating production, storage and offloading unit; approval of an emergency plan in case of oil spills, in accordance with a regulation which, it so happens, was adopted just a few days ago in October 2026; receipt of new authorizations for the flaring and injection of gas; as well as a production authorization, along with volume and duration limits.[59]

Members of the Court, if the United Kingdom were to grant only one of the necessary authorizations to move forward, not only for the "Sea Lion" Project but for any of the other already granted licences, it would cause a serious aggravation of the dispute.

Members of the Court, before concluding, allow me to refer to the arguments presented by the British Government to justify its conduct. It consists of claiming that the Malvinas Islands are a British Overseas Territory, a self-governing territory of the United Kingdom, and, of invoking the rights of peoples to self-determination as being applicable to the current population.[60] The British Government also says that it is applying article 73 of the Charter.

To give the appearance of grounds to this position, the UK has submitted the witness statement of Mr Ford, but this witness statement rather confirms the colonial relationship: the Governor is appointed by London. The Governor acts upon the instructions of the British Secretary for Foreign Affairs, the licences must be authorized by the Governor and the British parliament still holds decision-making powers.[61]

Any reasonably well-informed legal expert will know that a state cannot set their own internal legal order against international law. The vain efforts deployed by Mr Ford to attempt to demonstrate that this is "a self-governing territory" comes up against not only to Argentina's position but also, and especially, the position of the United Nations: this territory is still on the list of non-self-governing territories, and Resolution 1514, as well as specific resolutions relating to the Malvinas Islands, continue to be applicable to this territory. Not a word is said about what is glaringly obvious.

The so-called "government" of the Islands is not empowered to legislate on questions relating to sovereignty or sovereign rights over the maritime spaces around the Malvinas Islands, and cannot act as such internationally. If that had been the case, it could have signed the Convention in accordance with article 305 which grants such a possibility to "all territories which enjoy full internal self-government,

[59] Offshore Minerals Ordinance 1994, Annex JF1/6 of witness statement of Mr Ford.
[60] Annexes 44, 45, 61 and 65 of the Request for Provisional Measures. Witness statement of Mr Ford, paras. 12-13.
[61] Witness statement of Mr Ford, paras. 13-21.

recognized as such by the United Nations, but have not attained full independence in accordance with the General Assembly resolution 1514 (XV) and which have competence over the matters governed by this Convention, including competence to enter into treaties in respect of those matters." Of course, the Malvinas do not meet these conditions and simply do not fit in this category, and this is something that the United Kingdom cannot deny.

Members of the Court, in the exercise of their powers in the sphere of decolonization, the General Assembly and its committee on decolonization have never considered that the current population of the islands were entitled to self-determination. The only time when the United Kingdom attempted before the General Assembly to have this principle included in a resolution on the Malvinas Islands, it failed.

Referring to article 73 of the Charter offers no further justification for the British Government's unilateral conduct. There are several reasons. First of all, the obligations of colonial powers under article 73 have evolved, in particular thanks to resolution 1514. The Convention itself recognizes this by explicitly referring to resolution 1514 in articles 140 and 305.

And then, because article 73 imposes obligations upon the United Nations and the British Government cannot invoke article 73 regardless of the interpretation that is given, against the very practice of the organ which exercises a supervisory role in such matters. As is recognized in jurisprudence, it is the General Assembly that decides the way in which each one of the non-self-governing territories is to be treated.[62]

Finally, because article 73 refers to the "interests" of the population of the non-self-governing territories. Let me examine this notion.

The relevant resolutions on the Malvinas Islands indicate that no "third party" was added to the dispute. In the settlement of a dispute, the interests of the current population must be taken into consideration by the Parties, and Argentina has no objection to this. Even resolution 31/49, that was already cited, regarding unilateral measures, contains a paragraph that congratulates the Argentinian government for its efforts aimed at promoting the well-being of the population of the islands.

However, when resolution 2065 was adopted by the General Assembly, their British representative regretted that reference was made only to "the interests" and not to the "wishes" of the inhabitants of the Malvinas Islands.

Let me finish on this part of my presentation, Mr President, with a fundamental question: the international legal status of the territory does not allow the United Kingdom to act as if this were a territory over which it has sovereignty. Indeed, resolution 2625, that has already been recognized as the authorized interpretation of the charter and that expresses general international law,[63] says, without ambiguity,

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[62] *Legal Consequences of the Separation of the Chaqos Archipelago from Mauritius in 1965, Advisory Opinion, I.C.J. Reports 2019 (I)*, p. 136, para. 167.

[63] *Western Sahara, Advisory Opinion*, *I.C.J. Reports 1975*, p. 33, para. 58; *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), Merits, Judgment*, *I.C.J.*

"[t]he territory of a colony or other Non-Self-Governing Territory has, under the charter, a separate and distinct status from the territory of the state administering it".

It is precisely this separate and distinct status of the Malvinas Islands which of course includes the attached maritime spaces which constitute the context in which the Convention applies in the present case.

This brings me to my conclusions:

(1) There is a dispute between the Parties as to whether it is possible or not to unilaterally change the disputed continental shelf and to exploit its non-renewable resources;

(2) This continental shelf is generated by a non-self-governing territory over which the UN General Assembly exercises powers in the area of decolonization;

(3) The existence of a dispute over the sovereignty of the territory about which the General Assembly has said that its settlement is the way to put an end to the colonial situation, does not preclude the examination of rights and obligations of Parties over the disputed continental shelf until the dispute has been settled;

(4) The combined effect of several articles of the Convention (56, 77, 81, 192, 193, 194, 204, 205, 206, 242, 246, 279, and 300) make it possible to establish *prima facie* that your Tribunal has jurisdiction to order provisional measures;

(5) The rights invoked by Argentina are plausible;

(6) Maintaining the *status quo*, that would require that no new drilling nor the exploitation of hydrocarbons can commence, is indispensable to avoid the irreparable harm to the rights that Argentina is invoking in the arbitration;

(7) This measure is proportionate, preserves the rights of both Parties, does not prejudge said rights and does not entail any undue burden. On the contrary, it allows the Parties to look for a provisional arrangement while awaiting the settlement of the dispute;

(8) The measure requiring the dispute to not be aggravated or its settlement to be made more difficult – given the biased information provided by the United Kingdom

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Reports 1986, pp. 99-101, paras. 188 and 191, pp. 106-108, paras. 202-205, and p. 118-119, para. 228; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion*, *I.C.J. Reports 2004 (I)*, pp. 171-172, paras. 87-88, and p. 199, para. 156; *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), Judgment*, *I.C.J. Reports 2005*, pp. 226-227, para. 162, and p. 268, para. 300; *Accordance with International Law of the Unilateral Declaration of Independence in respect of Kosovo, Advisory Opinion*, *I.C.J. Reports 2010 (II)*, p. 437, para. 80; *Legal Consequences of the Separation of the Chaqos Archipelago from Mauritius in 1965, Advisory Opinion, I.C.J. Reports 2019 (I)*, p. 133, para. 155 and p. 139, para. 180; *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion of 19 July 2024*, paras. 175, 231, 241, 255 and 273; CJEU, 21 December 2016, *Council v. Front Polisario*, C-104/16 P, EU:C:2016:973, points 26, 88-92; CJEU, 4 October 2024, *Commission and Council v. Front Polisario*, C-779/21 P and C-799/21 P, EU:C:2024:835, point 18.

that leaving open the possibility of hydrocarbon exploitation activities – is also indispensable.

I would like to thank you for your attention, ladies and gentlemen, members of the Court, and unless you believe that the moment has come for the coffee break, I would ask you to give the floor to my colleague, Nico Schrijver.

THE PRESIDENT: (I*nterpretation from French*) I would like to thank Mr Kohen and I think the time has come, indeed, for the Tribunal to withdraw for 30 minutes. We shall resume at noon.

(Break)

THE PRESIDENT: (*Interpretation from French*) The hearing will now resume and I invite Mr Schrijver to take the floor.

MR SCHRIJVER: *(Continued in English)* Mr President, distinguished members of the Tribunal, it is a great honour and privilege to appear before you on behalf of the Argentine Republic.

My presentation consists of three parts. First, it addresses the issue that exploitation of hydrocarbon resources under British control on a contested continental shelf generated by a colonial territory – pending the arbitration – inevitably leads to irreparable prejudice to the rights of Argentina under UNCLOS. Exploitation of such non-renewable resources would also result in an irreversible *fait accompli*. Secondly, my presentation will demonstrate that the unilateral exploitation of the hydrocarbons as planned runs the serious risk of causing significant and irreparable harm to the marine environment. This also infringes the capacity of Argentina to exercise its rights and to discharge its duties under Part XII of UNCLOS relating to the protection of the marine environment. Thirdly, now that the preparation of exploitation as licensed by the UK is repeatedly announced as starting soon and hence is imminent, the conditions of urgency for the taking of provisional measures are fully met. The second and third set of provisional measures are also warranted as a necessary and proportional response to the unilateral action of the United Kingdom to initiate the preparation of the exploitation of oil from January 2027, with the development drilling of wells allegedly to commence “on 21 March 2027”.

Mr President, turning now to the first issue, namely, that the unilateral exploitation pending the decision of the Annex XII tribunal leads to irreparable prejudice to the rights Argentina claims under UNCLOS of the natural resources of the continental shelf. Development drilling and exploitation pass a threshold, present a *fait accompli* and cause irreparable prejudice to the rights of the Argentine Republic under UNCLOS.

Mr President, distinguished members of the Court, there is a well-established order in the pursuit of the exploitation of hydrocarbon resources, as you can see from the figure on the screen.

You start with seismic research and appraisal drilling. Then you have the full appraisal. Where do we stand? You prepare your final investment decision-making,

then you move to the important phase of development, including further drilling, where we stand right now as part of the phase of exploitation, as you can see. You move to production, all parts of the phase of exploitation, and, of course, finally, we have decommissioning; we have abandonment. The United Kingdom has now authorized the business corporations to start the phase of exploitation.

As we speak, preparations with the involvement of various contractors are underway to transport oil rigs, other materials and specialized equipment to the production site, to drill the development wells and subsequently to install infrastructure on the seabed and in the water-column – in short, making the production site ready.

So far, Argentina's requests to the United Kingdom to halt the offensive unilateral measures fell on deaf ears. In the same vein, the company Rockhopper Exploration confirmed on 30 September 2026 that "Development drilling is expected to commence early in 2027" and added on 5 October a statement from Navitas Petroleum UK "that it continues the development of the Project with the full support of the Falkland Islands Government and the Government of the United Kingdom". Indeed, the Noble Corporation, a company involved in the project, has in its fleet status report of 26 October 2026 confirmed the information in Argentina's Request for Provisional Measures,[64] that is, that the drilling platform "Noble Endeavor" would start operation in "South America" in January 2027.[65] The name of the operator is "undisclosed", as you can see, one of only two in the very long list.

Even as late as 2 November 2026, Argentina could read in the informative affidavit by Mr Ramsay, the CEO of Navitas UK, that the scheduled initial development drilling is to start "on 21 March 2027".[66] That is in just a few months from today. This requires on their part, of course, all kinds of preparations for the extensive drilling activities and the subsequent installation of all the necessary infrastructure in the area. This new drilling and the subsequent installation of infrastructure in themselves already create a risk of irreparable prejudice to the rights of Argentina, since this is all part and parcel of entering the final phase of exploitation. Exactly for that reason, Mr President, Argentina requested the United Kingdom repeatedly not to authorize this and to halt this preparatory process of the exploitation. It did so in vain.

Furthermore, as the very term "non-renewable resources" demonstrates, hydrocarbons can be harvested only once. Similarly, the continental shelf, as the very source of the hydrocarbon resources, will be permanently modified. Moreover, this modification is irreversible, whatever may be the outcome of the dispute pending between Argentina and the United Kingdom and the outcome of the decolonization process. As explained in the Technical Report on the Impact of Hydrocarbon Drilling and Exploitation in the North Malvinas Area (in your folder as Annex 60),[67] such activities constitute permanent interventions on the contested continental shelf. Some of the main findings in the Technical Report are summarized on the screen.

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[64] See Request for Provisional Measures, para. 101.

[65] Noble Corporation plc, Fleet Status Report, 26 October 2026, p. 5; the entry is the same in the report of 27 July 2026, p. 5 (Request, Annex 70). The name of the operator is "undisclosed" (with Noble Viking, Asia Pacific, one of only two in the list).

[66] See Witness Statement of Ian Ramsay, 2 November 2026, para. 4.9.

[67] Technical Report on the Impact of Hydrocarbon Drilling and Exploitation in the North Malvinas Area, Annex 60 to the Request for provisional measures.

These include, and they include:

1. 23 production and injection wells, drilled from 6 drill centres, each about 4 km long: all in all, some 85 km of steel-cased hole in total.

2. The production vessel is present for 30 years on huge piles anchored on the deep seabed, with all kinds of attachments as you can see on the screen.

3. Drill cuttings will accumulate in piles on the seabed around the drill centres. According to the operator itself, 20 years after drilling has ended, the seabed is still expected to remain "modified compared to its original condition".[68]

You can also read that for this particular phase, one expects to have 307 million barrels of oil to be extracted over a period of 30 years, and of course, were these extracted, the rock will be filled, permanently refilled with all kinds of fluids and its pressure regime is altered for good.

So far, the exploration and appraisal wells drilled between 1998 and 2015 left only plugged and abandoned wells on the seabed and nothing else; no installations, no production. But what now is about to be built, Mr President, is a very large production system that will lead to an irreversibly modified continental shelf and a depleted reservoir.[69]

Consequently, there exists a serious risk for Argentina, not only with respect to the future exercise of the continental shelf-related rights, but also at stake is the very continued existence of these rights at all, since these would be deprived of their object if the resources were to be extracted before the Annex VII tribunal has ruled.

Mr President, distinguished Members of the Court, what can we learn from the case law of arbitral tribunals, the International Court of Justice and ITLOS on such a situation? Fortunately, a lot. As a matter of fact, there exists what you could call in Europe a *jurisprudence constante* in this regard. In a nutshell, it demonstrates that drilling and exploitation activities result in a permanent physical change of the continental shelf and harm to the marine environment, and that they shall not be taken unilaterally pending the settlement of the dispute. Please allow me to mention several important examples of case law.

Firstly, the *Aegean Sea (Greece v. Turkey)*. In that case, the International Court of Justice, in 1976, declined to indicate interim measures, *inter alia*, because Turkey's seismic exploration was "of the transitory character (…), and [did] not involve the establishment of installations on or above the seabed of the continental shelf", and there was not yet any suggestion made "that Turkey ha[d] embarked upon any

[68] Sea Lion EIS (July 2024), p. 724, section 10.6.4.3.4.1: twenty years after drilling, the seabed "is expected to have returned to a productive state, albeit modified compared to its original condition".
[69] Technical Report on the Impact of Hydrocarbon Drilling and Exploitation in the North Malvinas Area, Annex 60 to the Request for provisional measures. The figures are those of the operator's own Environmental Impact Statement: Navitas Petroleum Development and Production Ltd., Environmental Impact Statement: The Sea Lion Field Northern Development Area, Phase 1 & 2, Rev. 2, July 2024, sections 1.2, 5.3, 5.4.4.4, 5.4.5.1, 5.5, 5.12, 10.3 and 10.6, Tables 5.7 and 10.14–10.15, and Figure 10-29.

operations involving the actual appropriation" of the natural resources of the disputed continental shelf.[70] These were the decisive grounds on which the Court declined to indicate provisional measures in that case, and in this case before you, it is precisely the opposite, where the stage of exploration has already been completed and where the phase of exploitation is now starting.

Secondly, Mr President, I would like to refer you to the arbitral tribunal in *Guyana v. Suriname.* That held in 2007 that "unilateral acts that cause a physical change to the marine environment will generally be comprised in a class of activities that can be undertaken only jointly or by agreement between the parties" (emphasis added). For this Tribunal, such activities could be perceived to "prejudice the position of the other party in the delimitation dispute, thereby both hampering and jeopardising the reaching of a final agreement".[71] The Tribunal applied that principle to the authorization of a single exploratory well. The fact that the Malvinas dispute involves a sovereignty dispute and not a delimitation dispute, does not change the underlying *rationale.*

The third case I would like to mention is the rather recent judgment by ICJ in *Maritime Delimitation in the Indian Ocean (Somalia v. Kenya)*. Here, in 2021 the ICJ also confirmed that drilling activities "are of the kind that could lead to permanent physical change in the marine environment" and "may alter the status quo between the parties to a maritime dispute".[72]

The challenged exploitation would thus cause irreversible and irreparable harm to the rights that Argentina asserts. Also importantly, without provisional measures, it will not be possible to seek reparation afterwards for the permanent physical modification of the disputed continental shelf, as restoring the pre-existing condition of the seabed and subsoil will no longer be possible.

Mr President, this is reflected in the fourth case which I would like to mention to you. I would like to quote from your Special Chamber in *Ghana/Côte d'Ivoire* in 2015. The Chamber stated: "There is a risk of irreparable prejudice where, in particular, activities result in significant and permanent modification of the physical character of the area in dispute and where such modification cannot be fully compensated by financial reparations", since, the Special Chamber continues, "whatever its nature, any compensation awarded would never be able to restore the status quo ante in respect of the seabed and subsoil".[73] The Chamber was answering precisely the argument that hydrocarbons are fungible and their loss compensable.

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[70] *Aegean Sea Continental Shelf (Greece v. Turkey), Interim Protection, Order of 11 September 1976, I.C.J. Reports 1976*, p. 3, at p. 10, para. 30.

[71] *Arbitration regarding the Delimitation of the Maritime Boundary between Guyana and Suriname, Award of 17 September 2007, RIAA, Vol. XXX*, pp. 132-133, paras. 466-467 and 470, and p. 137, para. 480.

[72] *Maritime Delimitation in the Indian Ocean (Somalia v. Kenya), Judgment, I.C.J. Reports 2021,* p. 206, at p. 282, para. 208.

[73] *Delimitation of the Maritime Boundary in the Atlantic Ocean (Ghana/Côte d'Ivoire), Provisional Measures, Order of 25 April 2015, ITLOS Reports 2015*, p. 146, at p. 163, paras. 89-90. On that basis, the Special Chamber found that the exploration and exploitation activities planned in the disputed area "may cause irreparable prejudice to the sovereign and exclusive rights invoked by Côte d'Ivoire in the continental shelf and superjacent waters of the disputed area" and prescribed that no new drilling take place there. *Ibid.,* at p. 164, para. 96, and at p. 166, para. 108(1)(a).

In the view of Argentina, it is imperative and urgent for the United Kingdom, pending the arbitration, not to make Argentina's legally plausible rights useless and irrelevant in the future. Argentina has protested time and again against the issuance of the exploration, the production licences and requested the United Kingdom to annul them. Even in September, even in October, even in November 2026, the United Kingdom made it clear to Argentina that it will not accede to any of the requests of Argentina and will continue with the aim of pursuing the unilateral exploitation of the natural resources of the disputed continental shelf.

The second provisional measure as requested seeks to ensure that the United Kingdom not only suspend the exploitation of hydrocarbons in the North Malvinas Basin, but also refrain from using the information obtained in the exploration of the natural resources of the disputed maritime areas to the detriment of the rights of Argentina. Thus, this additional second provisional measure seeks to prevent the British authorities, or the business corporations operating on the basis of their licences and under their control, from continuing to use or transfer or sell knowledge, findings and data as regards the continental shelf and its natural resources in the disputed area to third parties.

Mr President, members of the Tribunal, this is fully in line with what your Special Chamber prescribed as provisional measures in *Ghana/Côte d'Ivoire*, where it held that non-public information shall not be used or transferred. And now we have the second provisional measure adopted by the Special Chamber on the screen, and you can read that it is largely similar to the second provisional measure we have proposed to you.

Argentina respectfully requests the Tribunal to prescribe a measure in the same terms as in this case.

Mr President, I now proceed to the second part of my presentation, and that relates to the fact that exploitation of non-renewable resources in the South-West Atlantic Ocean runs the risk of causing significant and irreparable harm to the marine environment in violation of Argentina's rights under UNCLOS.

Opening Article 192 of Part XII formulates the general obligation that States must "protect and preserve the marine environment": protection from future damage and preservation in the sense of maintaining the current condition or improving this. For Argentina, at stake are here in particular its obligations under article 194 to prevent, reduce and control pollution of the marine environment '<u>from any source</u>' (article 194, paragraph 1) and to ensure that activities under its control are so conducted as not to cause damage by pollution to other States and their environment.

Pending the arbitration, Argentina is seeking to protect its plausible rights relating to Part XII, for article 193 recognizes the right of States to exploit their natural resources pursuant to their environmental policies and in accordance with their duty to protect and preserve the marine environment.

Also, article 246 on marine scientific research provides that the coastal State may withhold its consent to the conduct of marine scientific research by another State on the continental shelf if that project involves "… drilling into the continental shelf, the

use of explosives or the introduction of harmful substances into the marine environment".

Mr President, the potential environmental consequences of offshore hydrocarbon activities are not necessarily confined to the precise location in which those activities are undertaken. In that regard, the environmental impact assessments submitted by the United Kingdom itself confirm serious risks of pollution that may extend beyond the disputed maritime area and reach undisputed areas of Argentina's continental shelf. For example, the 2025 Environmental Impact Statement acknowledges a probability exceeding 90% that, in the event of a major spill from the floating production vessel, oil would reach international waters, with wax residues potentially extending up to 220 kilometres north of the production site, a distance that would take the oil beyond the disputed maritime area and into waters overlying an undisputed portion of Argentina's continental shelf.[74] In the event of a well blowout, the study predicts that oil could travel up to 260 kilometres within ten days and reach, in as little as 7.5 days, the outer limit of the contested continental shelf which the UK claims around the Islands.[75]

Article 194(2) requires States to ensure that activities under their control "are so conducted as not to cause damage by pollution to other States and their environment". In this case, as I mentioned, the 2025 Environmental Impact Statement gives high probabilities that a spill would reach Argentine undisputed waters. Mr President, the State cannot be said to ensure that its activities will not cause such damage when the operator's own assessment states that, in the worst case, effective recovery, I quote, "will not be possible".[76]

Past incidents demonstrate that these concerns on the marine environment are not merely speculative and that actual damage has occurred, as referred to by the Agent of Argentina in his opening presentation today.

The United Kingdom seeks to portray the Sea Lion Project as a routine offshore operation, presenting the environmental risk as manageable and the conditions in which the project will be carried out as relatively favourable. Mr Moody, the CEO of Rockhopper, states that the North Malvinas Basin is a "relatively benign location in which to operate".[77]

However, the Environmental Impact Statement of 2025 submitted by the United Kingdom itself to your Tribunal expressly acknowledges that the geographical isolation of the Malvinas Islands, their inadequate transport infrastructure and the abundance of wildlife present unique and significant challenges in responding to a major oil pollution incident. That EIS is now on the screen and also in your folder.

If I take up article 194(3)(c), then we read that measures are required against pollution from installations used in the exploitation of the seabed and subsoil, "in particular measures for preventing accidents and dealing with emergencies". Moreover, article 199 of UNCLOS requires States in the area affected to "jointly

[74] Environmental Impact Study, 2025, § 12.1.4.5.2, p. 1171.
[75] Environmental Impact Study, 2025, p. 1157.
[76] Environmental Impact Study, 2025, p. 1222.
[77] Witness Statement of Samuel John Moody, 2 November 2026, para. 34.

develop and promote contingency plans for responding to pollution incidents in the marine environment". In this case, the United Kingdom's own evidence shows that the only emergency arrangements of the operator are unilaterally planned and ineffective for the largest events.

The Environmental Impact Statement goes considerably further. It expressly recognizes that, although oil spill response equipment will be available offshore, its effective deployment is unlikely under the prevailing weather conditions of the Sea Lion field. The report acknowledges that, in the event of very large releases, the effectiveness of containment and recovery measures would be limited, to the point that oil spill response is not considered effective for the largest incidents.

The United Kingdom is asking this Tribunal to rely on the existence of mitigation measures while its own environmental assessment acknowledges that those measures may prove ineffective precisely when they are needed the most.

The possibility of a major oil spill may be assessed as unlikely, but that does not eliminate the potentially severe consequences of such an event, particularly where effective recovery cannot be assured.

This becomes, Mr President, even more troublesome when taking into consideration that, as far as we could obtain information on the companies, neither Rockhopper nor Navitas has ever been responsible for producing hydrocarbons offshore. Their own filings show that neither has served as operator of a single producing offshore field. The project will therefore be the first offshore field Navitas has ever operated, alongside a partner that has also never operated one and calls itself a non-operating partner.

It is only logical that this gives rise, Mr President, to some concern to Argentina, the more so since no Environmental Impact Assessment on the envisaged exploitation of the oil wells has been shared by the United Kingdom with Argentina, for that matter, with the UN General Assembly and its Decolonization Committee as the relevant organs concerning the Malvinas process of decolonization. This policy of the UK is in defiance of articles 204, 205 and 206 of UNCLOS on Monitoring and Environmental Assessment.

What article 206 of UNCLOS provides is on your screen: In case of planned activities under a State's control that may cause substantial pollution of or significant and harmful changes to the marine environment, they shall assess the potential effects of such activities on the marine environment and […] communicate reports of the results of such assessments in the manner provided in article 205."

If I could take you for a while to the Annex VII Tribunal in the *South China Sea Award* in 2016, then we see that the Tribunal addressed the obligation to communicate as required under article 206, and it stressed that "the obligation to communicate reports of the results of the assessments is absolute".[78] This is also amply referred to in the successive advisory opinions on climate change rendered by

[78] *South China Sea*, Arbitral Award (Merits), p. 523, para. 948, and pp. 541-542, para. 991.

ITLOS and the ICJ.[79] None of such communication has happened on an international plane in the present case of the Sea Lion Project.

To illustrate this further, brings me to a last point of concern, Mr President, and that relates to the greenhouse gases that this project will release into the atmosphere and, through it, into the ocean. At the outset, I would like to make clear what Argentina's point isn't. Argentina does not suggest that producing oil is unlawful; it produces oil itself, within its own undisputed territory, in accordance with its own climate commitments, and under its own assessment procedures. Argentina's point is narrower, and it rests entirely on the UK's own documents: a project of this size, in a disputed area, carried out unilaterally, has been placed outside any kind of international reporting, whereas the pollution it will cause has been identified, measured and rated as significant, including in non-disputed areas.

As a consequence of the British policy, the unavoidable pollution as a result of the greenhouse gases emitted by the envisaged oil production remains entirely unaddressed and fits into what my colleague, Professor Marcelo Kohen, described to you this morning as a "*trou noir*", the legal "black hole" around the disputed territories.

Operator Navitas' own Environmental Impact Statement puts it in this way as it is on the screen:[80]

" […] emissions ... represents only 0.03 % of global daily emissions […], in absolute terms this is still a significant contribution and to take a precautionary approach, the impact was considered to be 'Upper Moderate'." 'Upper Moderate' is the highest risk indicator which you can give to any planned impact of this project.[81]

Mr President, members of the Court, why does this matter under UNCLOS? Well, in your Advisory Opinion of 21 May 2024, you held that anthropogenic greenhouse gas emissions "constitute pollution of the marine environment within the meaning of Article 1 of UNCLOS";82 and that the measures required by Article 194, paragraph 1, "should be determined objectively", that they should "include, in particular, those to reduce greenhouse gas emissions", and that they are governed by a standard of due diligence that "is stringent, given the high risk of serious and irreversible harm to the marine environment from such emissions";[83] and that also relates to "activities carried out by both public and private actors" operating under a State's "control", with a standard that "can be even more stringent".[84]

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[79] ITLOS Advisory Opinion refers to this in its paras. 352, 354-355, 358-360. See also ICJ Climate Change Advisory Opinion, paras. 298–299.
[80] Navitas Petroleum Development and Production Ltd., Environmental Impact Statement: The Sea Lion Field Northern Development Area, Phase 1 & 2 – Non-Technical Summary, Doc. No. SLN-REG-ENV-RPT-00001-00, Rev. 2, July 2024 (hereinafter "Sea Lion NTS"), p. 34 (section 1.7.4.2.4).
[81] Sea Lion NTS, pp. 31–32, Table 1.6.
[82] *Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law (Request for Advisory Opinion submitted to the Tribunal), Advisory Opinion,* 21 May 2024, ITLOS Reports 2024, p. [●], at p. 71, para. 179 (hereinafter "ITLOS Climate Change Advisory Opinion").
[83] *ITLOS Climate Change Advisory Opinion*, at pp. 79–80, para. 206, and pp. 92–93, para. 243.
[84] *ITLOS Climate Change Advisory Opinion,* at p. 94, para. 247, and p. 98, para. 258.

With all these relevant quotations to your Advisory Opinion, which is of great interest to us, are on the screen and in your folder.

Fortunately, the International Court of Justice endorsed each of these determinations by your Tribunal on 23 July 2025 in its Advisory Opinion on *State Obligations in respect of Climate Change.*[85] It added a couple of more issues, they are also on the screen, and these are the quotations of the Advisory Opinion. And I limit myself to call your attention to what's mentioned under 3, that a State's failure to act to reduce "fossil fuel production … [or] the granting of fossil fuel exploration licences … may constitute an internationally wrongful act which is attributable to that State". A State party to the Paris Agreement cannot seek to hide behind the back of the private operator, because what is attributed to the State are, in the words of the ICJ, "its own actions or omissions that constitute a failure to exercise regulatory due diligence".[86]

And here is what distinguishes this project from an oil field within the undisputed territory of any State, which escape to fall into Professor Kohen's 'black hole'. Argentina's own NDC, Nationally Determined Contribution, required under the Paris Agreement covers, no surprise, the Malvinas Islands as part of the national territory, but has to record that, "due to the illegal occupation by the United Kingdom", it has not been possible to include their emissions.[87] What about the United Kingdom? Surprisingly, whereas the UK, for its part, counted the Islands' emissions against its binding commitments under the Kyoto Protocol until 2020, it has withheld the application of the Paris Agreement from them: its own NDC expressly excludes the Islands.[88] The final result is that the emissions of this project escape the climate commitments of both States, and yet here we have another *trou noir*.

Mr President, this does not occur because the Convention or for that matter the Paris Agreement has a gap, but because the United Kingdom has chosen to authorise in a disputed area what it keeps outside its own anti-pollution commitments. At the same time, it prevents Argentina from applying its own.

Mr President, members of the Tribunal, Argentina has not been notified, it was not consulted, and it is left with the message that the Environmental Impact Assessment is "available on request from the Navitas office" on the Islands, or *Puerto Argentino* as we would say.[89] This notwithstanding the pronouncement by the ICJ that notification and consultation are "particularly warranted" precisely for "the exploitation of resources linked to greenhouse GHG emissions".[90]

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[85] *Obligations of States in respect of Climate Change, Advisory Opinion of 23 July 2025,* paras. 340–353 (hereinafter "ICJ Climate Change Advisory Opinion").
[86] *ICJ Climate Change Advisory Opinion,* paras. 427–428.
[87] Argentine Republic, Argentina's Second Nationally Determined Contribution, December 2020, p. 34 (section 3(a)–(b)), notes 47–48; see also p. 6, note 1.
[88] United Nations Treaty Collection, Status of the Kyoto Protocol (chapter XXVII.7.a), notes on the United Kingdom (extension of 7 March 2007) and Argentina (objection received 27 March 2007); depositary notifications C.N.369.2020 (United Kingdom, 1 September 2020), C.N.429.2020 (Argentina, 1 October 2020) and C.N.543.2020 (United Kingdom, 2 December 2020); United Kingdom of Great Britain and Northern Ireland's 2035 Nationally Determined Contribution, CP 1250 (January 2025) (hereinafter "UK NDC"), pp. 5–6 (section 3(b)). Argentina's objection to the extension of any treaty by the United Kingdom to the Malvinas Islands is maintained in full; the extensions are relied upon solely as the United Kingdom's own acknowledgement of the control it exercises.
[89] Sea Lion NTS, p. 8 (section 1.1).
[90] *ICJ Climate Change Advisory Opinion*, para. 299.

Finally, it should be said that, while a spill is a risk, and something which has already materialized in 2015, these emissions are a certainty, Mr President. They are, in the words of both this Tribunal and the ICJ, "serious and irreversible".[91]

Provisional measures are necessary to prevent the United Kingdom from undertaking activities that would further deprive Argentina of the ability to fulfil its obligations under Articles 192 and 194 of UNCLOS. Only such measures can ensure that, pending the arbitration, the unilateral conduct of the colonial Power does not prevent Argentina from taking the preventive action those provisions require, before any harm to the marine environment occurs.

Apart from Argentina's rights, this may also impact the Area and its natural resources, which under article 136 of UNCLOS are declared to be the common heritage of humankind. Here UNCLOS vests special responsibilities to the CLCS in determining the limits of a State's outer continental shelf and to the International Seabed Authority in preventing harmful effects which may arise from such activities to the marine environment of the Area through the articles 145 and 147(3) of UNCLOS. Spill-over of environmental harm as a result of oil spills may, of course, also affect the marine environment of the high seas.

Furthermore, in the field of serious harm to the marine environment, article 290 also establishes a special guardianship role of ITLOS, your Tribunal, where it provides that, apart from preserving the rights of parties, preventing serious harm to the environment is also a ground for prescribing provisional measures, pending the final decision by a court or tribunal. No doubt, Mr President, your Tribunal will also in this case be fully aware of this important responsibility of ITLOS on behalf of the international community.

I now would like to take up the last part of my presentation and address the fact that the conditions of urgency for the taking of provisional measures are met.

Article 290, paragraph 1, of UNCLOS reads that the purpose of provisional measures, applied to this case, is to preserve the rights of the parties pending the arbitration. The current situation of unilateral activities aimed at new drilling, transporting specialised equipment, installing infrastructure on the seabed, all for preparing the exploitation of hydrocarbons in the disputed maritime areas, will result in permanent and irreparable consequences that cannot be reversed once the underlying dispute has been finally settled. Therefore, the preservation of the rights at issue requires that neither party be permitted, pending the arbitration, to undertake measures that would alter the existing situation or prejudice the ability of the Tribunal to render an effective decision. This is all the more required when a risk of irreparable prejudice to those rights exists in the near future as in the present case, or a risk of significant harm to the environment.

The urgency of Argentina's request for provisional measures under article 290(5) is to be assessed in light of the future establishment of the Annex VII arbitral tribunal that will deal with the merits of the dispute and its ability to act.

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[91] *ITLOS Climate Change Advisory Opinion,* at pp. 92–93, para. 243, and p. 138, para. 400; *ICJ Climate Change Advisory Opinion*, p. 101, para. 342.

Your Tribunal has been consistent on how to interpret urgency in these cases for purposes of assessing the risk of environmental harm. In *MOX Plant*, you held that provisional measures may be prescribed pending the constitution of the Annex VII tribunal where "action prejudicial to the rights of either party or causing serious harm to the marine environment is likely to be taken before the constitution of the Annex VII […] tribunal".[92] In *Land Reclamation*, Singapore argued, as no doubt the United Kingdom will do this afternoon, that there was no need for measures because the arbitral tribunal was about to be established. Indeed, it was to be established the very next day. However, the Tribunal rejected the argument. It held that the period before constitution "is not necessarily determinative for the assessment of the urgency of the situation" and that that "must be assessed taking into account the period during which the envisaged […] tribunal is not yet in a position to 'modify, revoke or affirm those provisional measures'".[93]

The Tribunal has applied this *Land Reclamation* test, if I can call it that way, ever since: in *Arctic Sunrise*;[94] in *Enrica Lexie*, where the Tribunal determined "a real and imminent risk that irreparable prejudice could be caused to the rights of the parties to the dispute pending such a time when the Annex VII arbitral tribunal […] is in a position to modify, revoke or affirm the provisional measures";[95] and, in its most recent formulation, in the Orders of 2019 concerning the *Ukrainian naval vessels* and the *San Padre Pio*, where the question was whether irreparable prejudice may be caused "before the constitution and functioning of the Annex VII arbitral tribunal".[96] Clearly, Mr President, the standard is hence "Constitution *and functioning"*. That does not mean the day on which the fifth arbitrator is appointed, but the day on which the arbitral tribunal can be expected to be actually in a position to act.

Measured against that test, the need for ITLOS to act is evident. The UK challenges the urgency of the measures requested on the basis of informing Argentina of two things: namely, that drilling "will not commence before 21 March 2027, at the earliest"; and, second, "no extraction of hydrocarbons before March 2028, at the earliest".

However, the jurisprudence of ITLOS demonstrates that the date of March 2028 is irrelevant for purposes of assessing the risk of environmental harm. The act that modifies the seabed and the subsoil, as the Special Chamber in *Ghana/Côte d'Ivoire* put it, is the drilling, not the moment at which the first barrel of oil is extracted. The measure prescribed by your Special Chamber in that case was that "no new drilling"

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[92] *MOX Plant (Ireland v. United Kingdom), Provisional Measures, Order of 3 December 2001, ITLOS Reports 2001*, p. 95, at p. 108, para. 64.
[93] *Land Reclamation in and around the Straits of Johor (Malaysia v. Singapore), Provisional Measures, Order of 8 October 2003, ITLOS Reports 2003*, p. 10, at p. 22, paras. 66–68.
[94] *"Arctic Sunrise" (Kingdom of the Netherlands v. Russian Federation), Provisional Measures, Order of 22 November 2013, ITLOS Reports 2013*, p. 230, at p. 248, paras. 84–85.
[95] *"Enrica Lexie" (Italy v. India), Provisional Measures, Order of 24 August 2015, ITLOS Reports 2015*, p. 182, at p. 197, para. 87.
[96] *Detention of three Ukrainian naval vessels (Ukraine v. Russian Federation), Provisional Measures, Order of 25 May 2019, ITLOS Reports 2018–2019*, p. 283, at p. 307, para. 100, and at p. 309, para. 113; *M/T "San Padre Pio" (Switzerland v. Nigeria), Provisional Measures, Order of 6 July 2019, ITLOS Reports 2018–2019*, p. 375, at p. 400, para. 111.

take place in the disputed area.[97] Similarly, whether the oil flows in 2028 or later does not alter the fact that once the production wells have been drilled, the physical character of the continental shelf has been permanently altered. In the words of the Special Chamber in *Ghana/Côte d'Ivoire*, "any compensation awarded would never be able to restore the status quo ante in respect of the seabed and subsoil".[98]

Equally, the urgency exists today as demonstrated by the advanced stage of the Sea Lion Project. The Final Investment Decision has already been taken, specialist contractors have been engaged, and the drilling rig has been selected. Only a limited number of regulatory and operational steps remain before drilling can commence. A project that has been fully prepared and installed and awaits only the order to spud the first well is not a project held in abeyance; it is a *fait accompli* all but in name.

In certain situations, the Special Chamber in *Ghana/Côte d'Ivoire* declined to suspend activities where drilling had already taken place, but ordered that no new drilling should take place in the disputed area.[99] The distinction is clear: While completed drilling cannot be undone, new drilling can and must be prevented where it risks irreversibly prejudicing the rights of the Parties.

The urgency lies precisely in the fact that the remaining steps can soon be completed, allowing drilling to begin before the rights at issue of Argentina have been adequately protected. Once drilling starts, Mr President, the Annex VII tribunal will face drilling already under way and physical alterations to the seabed and subsoil that cannot be undone (please recall the award in *Ghana/Côte d'Ivoire*). By then, it will be too late to preserve the status quo in its existing condition.

In this context, the question hence is: can it realistically be expected that the Annex VII arbitral tribunal is established *and functioning* before 21 March 2027? Regrettably, this is highly unlikely. The Parties have, under Annex VII, 60 days from the institution of the proceedings to agree on the three remaining members of the tribunal, including its President, and failing agreement, either party may request the President of this Tribunal to do so, which he is to do within thirty days. And, well, if you take that all together, of course Argentina would be happy to proceed expeditiously, it is highly unlikely that that will be done in a couple of months, let alone weeks. The United Kingdom appointed its arbitrator only on 22 October and the first meeting of the parties to appoint the remaining arbitrators and agree on operational issues will take place in Hamburg tomorrow – in two days to come, the day after the hearings close.

And, of course, the constitution of the tribunal is only the first step in a series of decisions that are far from trivial in a dispute like this: the terms of appointment; the designation of a registry; the adoption of rules of procedure; a first procedural meeting, et cetera, et cetera.

Taking as an example the previous experience of this honourable Tribunal, as we can see on the screen and it is all the details in your folder, that each time it took

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[97] *Delimitation of the Maritime Boundary in the Atlantic Ocean (Ghana/Côte d'Ivoire), Provisional Measures, Order of 25 April 2015, ITLOS Reports 2015*, p. 146, at p. 166, para. 108(1)(a).
[98] *Ibid.*, at p. 163, paras. 88–90.
[99] Order of 25 April 2015, paras. 99–100 and 108(1)(a).

months, not weeks, and understandably, so in order to become fully operational. And I will not read out the details of all these cases to you. They are all documented in our folder. But the facts of the formation of this Tribunal run that it is not realistically possible that this can be done within a very short span of time.

So the United Kingdom has given us for the start of drilling, 21 March 2027. That is only four months and eleven days from today. So on every precedent before you, the arbitral tribunal will at best have been constituted by then, but, as the evidence put before you makes clear, it will not be functioning. A request for provisional measures addressed to such a Tribunal also has to be briefed, heard and decided. And on the screen you can see that that, of course, also takes time for each of these tribunals. And in the meantime, according to the United Kingdom's own timetable, the development wells would have been drilled and the first oil would be approaching. And this is precisely, Mr President, the situation for which article 290, paragraph 5, ITLOS, was written and about which we are respectfully asking you to pronounce.

There appears to be a contradiction in the manner the UK and the companies introduce the situation. On the one hand, the UK seeks to assure the Tribunal and Argentina there is no urgency because drilling will start only in March 2027, extraction in 2028. On the other hand, their witnesses state that the costs of suspension now would already be incommensurable, and that, in the words of Mr Ramsay, the CEO of Navitas, "the Project would not survive a suspension" and that "[e]ven the shortest of suspensions ordered by ITLOS would have a terminal effect".[100] However, Mr President, the cost of suspension would be much higher if the companies are permitted to prepare everything to start drilling on 21 March or the extraction in March 2028 and then the decision of suspension arises just before those scheduled dates.[101]

Unfortunately, the United Kingdom made it clear to us that it is not willing to halt the commencement of the preparation of the exploitation of the hydrocarbons pending the constitution and functioning of the Tribunal. Instead, only a few weeks ago on 21 September, it extended for the Sea Lion project every production licence for five years, with two years more on their discretion. Faced with the impossibility of restoring the damage once it has occurred, as demonstrated in our pleading, the sooner the provisional measures are ordered and in place, the less prejudice they will cause to the rights and duties of the Argentine Republic under UNCLOS as well as to those companies carrying out these unlawful activities.

In conclusion of my presentation, Mr President, six conclusions:

1. The announced drilling and further exploitation of hydrocarbons poses a serious risk of irreparable prejudice to the rights that Argentina intends to defend in the arbitral proceedings;

2. The ongoing preparatory work for development drilling and new drilling announced for March 2027 demonstrates that there is urgency for the adoption of all the provisional measures requested;

[100] Witness Statement of Ian Ramsay, 2 November 2026, para. 10.4; see also para. 10.14.
[101] Ibid., para. 4.9 and 4.10.

3. The rights relating to the protection of the marine environment included in articles 192, 193 and 194 of UNCLOS are plausible;

4. Exploitation of non-renewable hydrocarbons in the North Malvinas Basin runs the risk of causing significant and serious harm to the marine environment in violation of Argentina's rights under UNCLOS;

5. Consequently, the second and third requested provisional measures, in combination with the first and last ones, are indispensable and proportional; and, last and not least

6. The granting of a provisional measure limited exclusively to the preservation and protection of the marine environment of the concerned area would be insufficient to preserve the Argentine rights at stake. These rights of Argentina can only be duly preserved if the Tribunal also prescribe the first provisional measure requiring the United Kingdom to prevent the commencement of the exploitation of hydrocarbons on the continental shelf in the North Malvinas Basin pending the arbitration.

Mr President, distinguished members of the Tribunal, I thank you for your kind attention. May I request you to pass the floor to our Agent for his concluding remarks.

THE PRESIDENT: (*Interpretation from French*) Yes. Thank you, Mr Schrijver, for your statement. I now give the floor to the Agent of Argentina, His Excellency, Mr Oyarzabal. You have the floor, Sir.

MR OYARZÁBAL: *(Continued in English)* Mr President, members of the Tribunal, for more than fifty years, the two States have been in dispute concerning the exploration and exploitation of the hydrocarbon resources of the continental shelf surrounding the Islands.[102] Since the General Assembly called upon the parties, in resolution 31/49, to refrain from unilateral modifications,[103] not a single barrel of oil has been extracted from that continental shelf. For its part, Argentina has complied with that call and has granted no licences in the disputed areas, unlike the United Kingdom.

That situation is now on the verge of being irreversibly altered. On the evidence before the Tribunal, a mobile offshore drilling unit is due to arrive in the area, and the drilling of 23 wells is due to begin, within a matter of months.

Mr President, Argentina asks the Tribunal to do what its Special Chamber did in *Ghana/Côte d'Ivoire* by its Order of 25 April 2015: to ensure that no new drilling takes place in a disputed area pending the arbitral award.

[102] Letter dated 28 March 1975 from the Permanent Representative of the Argentine Republic to the United Nations to the Secretary-General, including the government press release of 19 March 1975 (doc. A/AC.109/42); Statement of the Argentine Permanent Representative, Ambassador Carlos Ortiz de Rozas, General Assembly, Thirtieth Session, 2431st plenary meeting, 8 December 1975, A/PV.2431, paras. 109-111, Official Records, pp. 1175-1176.
[103] United Nations, General Assembly, Resolution 31/49 of 1 December 1976.

The balance of consequences could not be clearer. If the measures requested are prescribed, neither Party will lose any right: the resources will remain in place, available to whichever State is entitled to them upon the settlement of the dispute. If they are not prescribed, one of the two Parties will be permanently deprived of its rights over the continental shelf and over a non-renewable resource which, once extracted, can never be restored; an irreversible *fait accompli* will have been created; and the process of decolonization mandated by the United Nations will be gravely jeopardized. As the Special Chamber observed, "any compensation awarded would never be able to restore the *status quo ante* in respect to the seabed and subsoil".[104]

Argentina reiterates here today before you its long-standing offer to the United Kingdom to resume negotiations with a view to settling all aspects of the dispute. Pending that settlement, Argentina calls upon the United Kingdom to refrain from any unilateral action in respect of the non-renewable natural resources of the continental shelf, and undertakes to do likewise. It invites the United Kingdom to comply with its obligation not to take measures that would render the settlement of the dispute more difficult or impossible, to refrain from any actions that might jeopardize or hamper the reaching of a final agreement and to make every effort to enter into provisional arrangements of a practical nature pending such settlement.

Mr President, members of the Tribunal, for the reasons set out in its Request of 13 October 2026 and developed in the course of this hearing, the Argentine Republic respectfully requests the Tribunal, pending the constitution of the arbitral tribunal under Annex VII of the Convention, to prescribe the provisional measures set out in that Request, in particular the first one, that the United Kingdom shall refrain from authorizing, undertaking or permitting any new drilling activities in the disputed continental shelf, in brief, no new drilling, pending the decision of the Annex VII tribunal, and which are necessary to preserve Argentina's rights.

This concludes, Mr President, the first round of oral arguments of the Argentine Republic. I thank you for your very kind attention.

THE PRESIDENT: (*interpretation from French*) Thank you, Mr Oyarzabal, for your statements. That brings us to the end of this morning's hearing, as well as to the end of Argentina's first round of pleading.

We shall resume the hearing this afternoon at 3 p.m. to hear the UK's first round of statements. This sitting is adjourned.

(Lunch adjournment)

[104] Delimitation of the Maritime Boundary in the Atlantic Ocean (Ghana/Côte d'Ivoire), Provisional Measures, Order of 25 April 2015, ITLOS Reports 2015, p. 146, at p. 163, paras. 89-90.