



PM/82/37

PRIME MINISTER32
discussed at ODSA.

MR 20/5

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Falklands: New York Initiative

1. This minute summarises developments since yesterday evening and the new proposals put forward by the UN Secretary-General during the night.

Developments in New York

2. Sir A Parsons asked the Secretary-General at lunch (New York time) yesterday to inform Argentina that HMG found the Argentine response to our proposals of 17 May totally unacceptable. There was no hope of reaching agreement. We had therefore drawn a line, following the Argentine failure to accept our draft interim agreement by the deadline of 5 pm London time yesterday.

3. The Secretary-General spoke by telephone to General Galtieri and yourself. He was delighted with his conversation with you, although he appears to have misunderstood your expression of willingness to look at totally fresh proposals. Galtieri told the Secretary-General that the British were being inflexible and that Argentina was prepared to continue negotiating under the Secretary-General's auspices. At an informal (ie private) meeting of the Security Council, Sir A Parsons said that our proposals of 17 May had represented our final position. The Argentine response was unacceptable. In order to avoid provoking wider debate and possibly a public session of the Council, Sir A Parsons thought it better not to say explicitly in the Council that the present round of negotiations had ended as far as we were concerned. The Secretary-General said that urgent efforts for peace must continue. The other members of the Council who spoke encouraged the Secretary-General to continue his efforts and expressed the hope, with varying degrees of emphasis, that the parties would meanwhile exert restraint. This

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appeal for restraint is echoed in the summing up by the President of the Council at the end of the meeting.

4. In a public statement after the meeting, the Secretary-General said that substantial progress had been made in the last two weeks and that he had suggested "certain ideas" which might be of assistance in overcoming the remaining points of difference.

The Secretary-General's Proposals

5. Senor Perez de Cuellar has asked for a reaction to his new proposals as early as possible today, New York Time. His paper, which is attached, argues that there is a great deal of common ground in the negotiations. It identifies four major problems where agreement has not been achieved:

- (a) Certain aspects of the interim administration;
- (b) Provision for the extension of the target date for completion of negotiations and the related duration of the interim administration;
- (c) Certain aspects of withdrawal;
- (d) The geographic area to be covered by the interim agreement.

6. On interim administration, the Secretary-General borrows language from our draft interim agreement to say that the UN Administrator "shall discharge his functions in consultation with the representative institutions in the Islands" and provides, also like our draft, for the addition to each of the councils of one representative from the Argentine population of the Islands. The Secretary-General's paper uses the same language as we did in our draft agreement to avert an influx of Argentine people and businesses, namely to say that the UN Administrator "shall exercise his powers in accordance with the terms of this agreement and in conformity with the laws and practices traditionally obtaining in the Islands". This provision is partially balanced by a statement that communications and cooperative arrangements with the mainland in economic and other fields shall continue as before the invasion "and be



promoted further as appropriate"; and by a provision for consideration to be given to the "relaxation of restrictions on residence and acquisition of property", but only "keeping in mind the necessity to respect and safeguard the customs, traditions and way of life of the inhabitants of the Islands". There is also a sop to Argentina in a provision that the two parties shall establish small liaison offices which can fly their flags.

7. On the question of what happens if no definitive agreement can be implemented by 31 December, the Secretary-General adapts our position. Instead of saying that the interim agreement will remain in effect until a definitive settlement can be implemented, he says that Argentina and Britain would be bound by the interim agreement until a negotiated settlement came into effect. While this avoids saying directly that the UN administration would remain in place until a final settlement could be implemented, it binds Argentina to observe all of the interim agreement, ie including the provisions about withdrawal, until a final settlement is implemented.

8. On withdrawal, the Secretary-General skirts around the issue by suggesting that the UN should be entrusted with the modalities of withdrawal within the framework that the withdrawal should be simultaneous and phased and with a view to its completion within a two-week period. However, the Secretary-General's list of points on which agreement exists confirms that the initiation of the various parts of an agreement, including ceasefire and mutual withdrawal, shall be simultaneous. There seems to be a loophole in that the Secretary-General does not provide for non-reintroduction of forces to the Islands in the interim period.

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9. On the dependencies, the Secretary-General suggests that they be included in long-term negotiations but not be covered by the provisions of the interim agreement on withdrawal and administration. We were at one time willing to do this (paragraph 5 of FCO telegram No 391 to UKMIS New York).

RECOMMENDATION

10. These proposals are close to the position in our draft interim agreement. The significant problems are the omission of a requirement about non-reintroduction of forces and the vague suggestions of relaxation of restrictions on residence etc. Assuming that we could get the Secretary-General to reinstate a provision about not reintroducing forces, it would be impossible for us to argue convincingly that the proposals were intrinsically unacceptable to us: they are close in wording and very close in substance to what we ourselves proposed on 17 May. To argue that they were unacceptable because we could not hold back military action in the South Atlantic would of course be to invite strong international criticism and, I should have thought, considerable criticism in Britain.

11. My immediate recommendation therefore is that we should decide in principle to accept the substance of the Secretary-General's proposals. One of the advantages of this would be that it should greatly increase our chances of getting an American guarantee of the Falkland Islands in the interim period, and we should probably address the Americans on this today. The difficulty is that the Secretary-General's proposals do not cover in treaty language many of the elements in an agreement. I therefore recommend that I should be invited by OD(SA) to have prepared this morning a draft telegram to Sir A Parsons which would deal with this aspect as well as the others. One of the purposes in working this

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out will be to ensure that no delay is unnecessarily caused to our military options. We should certainly set a deadline of a matter of hours for Argentine acceptance of whatever we now advance.

12. I am copying this minute to all members of OD(SA).

(FRANCIS PYM)

Foreign and Commonwealth Office

20 May 1982

AIDE MEMOIRE FROM THE SECRETARY-GENERAL OF THE UNITED NATIONS

The Secretary-General believes that, at this critical point in the exchanges which he has been having with the parties concerning the continuing crisis, it is useful to set down those issues on which agreement seems to exist and those on which differences remain.

In the Secretary-General's judgement, the two parties are in essential agreement on the following points:

1. The agreement being sought is interim in nature and will be without prejudice to the rights, claims or position of the parties concerned.
2. The agreement will cover (a) a cease-fire, (b) the mutual withdrawal of forces, (c) the termination of exclusion zones and of economic measures instituted in connexion with the conflict, (d) the interim administration of the territory and, (e) negotiations on a peaceful settlement of their dispute.
3. The initiation of these various parts of an agreement will be simultaneous.
4. Withdrawal of forces will be phased and will be under the supervision of the United Nations observers.
5. The interim administration of the territory will be under the authority of the United Nations. The United Nations flag shall be flown. Argentina and the United Kingdom will establish small liaison offices, on which their respective flags may be flown.
6. The parties will enter into negotiations in good faith under the auspices of the Secretary-General of the United Nations for the peaceful settlement of their dispute and seek, with a sense of urgency, the completion of these

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negotiations by 31 December 1982, taking into account the Charter of the United Nations and the relevant resolutions of the General Assembly. These negotiations shall be initiated without prejudice to the rights claims or position of the parties and without prejudgement of the outcome. The negotiations shall be held in New York or at a mutually acceptable location in the vicinity thereof. Those points on which full agreement must still be achieved, in the Secretary-General's judgement, are the following:

1. Certain aspects of the interim administration of the territory.
2. Provision for the extension of the time frame for completion of negotiations and the related duration of the interim administration.
3. Certain aspects of mutual withdrawal of forces.
4. The geographic area to be covered by the terms of the Interim Agreement

It is evident from this review that the extent of agreement is substantial and important. If it can be incorporated in the text of an Interim Agreement, the requirements of Security Council Resolution 502 would be met. The Secretary-General is deeply concerned, however, that unless the remaining points are resolved in the very immediate future, all that has been accomplished will be lost and prospects for the early restoration of peace will be frustrated.

In the desire to be of assistance to the parties in overcoming these differences, the Secretary-General is appending to this Aide Mémoire two informal papers containing formulations which, in the Secretary-General's view, might satisfactorily meet the objectives of the parties with regard to an Interim Agreement. These formulations deal with the time frame of diplomatic negotiations and the form which the interim

administration of the territory under the authority of the United Nations might take.

With regard to the question of the geographic area covered by the terms of an Interim Agreement, the Secretary-General would suggest, as a practical approach, that the status of the Dependencies be included within the scope of the negotiations foreseen on a diplomatic settlement on the same basis as was provided in the Joint Communiqué issued by Argentina and the United Kingdom on 26 April 1977. In this understanding, and without prejudice to the issue of the status of these islands, the force withdrawal and interim administration provisions would not be applicable with regard to the Dependencies.

The Secretary-General would suggest that the United Nations be entrusted with the modalities of mutual force withdrawals in the framework of the agreement between the parties that the withdrawals will be simultaneous and phased. This responsibility would be undertaken with a view to completion of the withdrawals within a two-week period.

The Secretary-General wishes to emphasise that the time left for agreement must be measured now in hours. It is, therefore, his earnest hope that the parties will find it possible to agree to the proposed formulations and suggestions as a means of reaching the agreement which cannot, without great peril, be longer delayed.

The Secretary-General feels obligated, in the interest of peace and the preservation of human lives, to make clear that this may be the last chance for agreement through negotiations.

19 May 1982

FORMULATION OF TERMS OF REFERENCE FOR NEGOTIATIONS ON A
DIPLOMATIC SETTLEMENT

The parties undertake to enter into negotiations in good faith under the auspices of the Secretary-General of the United Nations for the peaceful settlement of their dispute and to seek, with a sense of urgency, the completion of these negotiations by 31 December 1982, taking into account the Charter of the United Nations and the relevant resolutions of the General Assembly. These negotiations shall be initiated without prejudice to the rights, claims or position of the parties and without prejudgement of the outcome. The negotiations shall be held in New York or at a mutually acceptable location in the vicinity thereof.

Should the Secretary-General, after taking account of the course of negotiations and the views of the parties, determine that the achievement of a negotiated settlement will not be possible within the time frame envisaged, he may establish a new target date which will be in keeping with the urgency of a diplomatic solution to which the parties are committed by this Agreement.

The Government of Argentina and the Government of the United Kingdom of Great Britain and Northern Ireland shall be bound by the provision of this Agreement until the negotiated settlement provided for above comes into effect.

AN INTERIM ADMINISTRATION FORMULATION

The United Nations Representative shall assume, on behalf of the United Nations, full and exclusive authority to administer the territory. He shall discharge his functions in consultation with the representative institutions in the Islands with the exception that one representative from the Argentine population normally resident on the Islands shall be appointed by the Representative to each of the two institutions. The United Nations Representative shall exercise his powers in accordance with the terms of this Agreement and in conformity with the laws and practices traditionally obtaining in the Islands.

The United Nations flag shall be flown in the territory.

The Government of Argentina and the Government of the United Kingdom will, in consultation with the United Nations Representative, establish small liaison offices to maintain contact with the Representative. The flags of the Republic of Argentina and of the United Kingdom may be flown on their respective liaison offices.

During the period of interim administration, all communications and other cooperative arrangements in the economic, social, cultural and scientific-technological fields in effect on 31 March 1982 shall continue and be promoted further, as appropriate.

Relaxation of restrictions on residence and acquisition of property will be considered, keeping in mind the necessity to respect and safeguard the customs, traditions and way of life of the inhabitants of the Islands.