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CABINET

DEFENCE AND OVERSEA POLICY COMMITTEE

SUB-COMMITTEE ON THE SOUTH ATLANTIC AND THE FALKLAND ISLANDS

FALKLAND ISLANDS: THE NEW YORK NEGOTIATIONS

Memorandum by the Foreign and Commonwealth Secretary

1. At today's meeting of OD(SA) I was asked to prepare a document setting out our final position, which might be given to the Secretary-General next week by Sir A Parsons. It could also subsequently be published. In my view this document must keep faith with what we have discussed with the Secretary-General if his good will is to be retained and he is not to denounce us as not having negotiated in good faith. It must also, if published, demonstrate: a) to British Parliamentary and public opinion that the Government's position had properly safeguarded British interests; and b) to our American and European partners, to the Commonwealth and to the international community in general that we had negotiated reasonably and in good faith.
2. I attach, to serve as such a document, the draft of an interim agreement between Britain and Argentina. It incorporates the decisions taken by OD(SA) up to and including its meeting on 13 May. The marginal notes are designed to explain the text for public consumption; they would of course be omitted when the text was given to the UN Secretary-General.

FP

Foreign and Commonwealth Office

14 May 1982

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DRAFT INTERIM AGREEMENT

Explanatory Notes

The Government of the Republic of Argentina and the Government of the United Kingdom of Great Britain and Northern Ireland,

Responding to Security Council Resolution 502 (1982) adopted on 3 April 1982 under Article 40 of the Charter of the United Nations,

Having entered into negotiations through the good offices of the Secretary-General of the United Nations for an Interim Agreement concerning the Falkland Islands (Islas Malvinas), hereinafter referred to as 'the Islands',

Having in mind the obligations with regard to non-self governing territories set out in Article 73 of the Charter of the United Nations,

The expression 'Falkland Islands (Islas Malvinas)' refers to the Falkland Islands themselves and excludes the Dependencies. This exclusion was unacceptable to Argentina.

Article 73 of the UN Charter says that the interests of the inhabitants of non-self-governing territories are paramount and refers to the need to take due account of the political aspirations of the peoples.

Have agreed on the following:

ARTICLE 1

(1) No provision of this Interim Agreement shall in any way prejudice the rights, claims and positions of either Party in the ultimate peaceful settlement of their dispute over the Islands.

(2) No acts or activities taking place whilst this Interim Agreement is in force shall constitute a basis for asserting, supporting or denying a claim to territorial sovereignty over the Islands or create any rights of sovereignty over them.

The effect of Article 1 is to exclude any undermining of British sovereignty by the Interim Agreement or while it is in force. This Article was not accepted by Argentina.

ARTICLE 2

(1) With effect from a specified time, 24 hours after signature of this Agreement (hereinafter referred to as time 'T'), each Party undertakes to cease and thereafter to refrain from all firing and other hostile actions.

(2) Argentina undertakes:

- (A) To commence withdrawal of its Armed Forces from the Islands with effect from time 'T';
- (B) To withdraw half of its Armed Forces to at least 150 nautical miles away from any point in the Islands by time 'T' + 7 days; and,
- (C) To complete its withdrawal to at least 150 nautical miles away by time 'T' + 14 days.

(3) The United Kingdom undertakes:

- (A) To commence withdrawal of its Armed Forces from the Islands with effect from time 'T';
- (B) To withdraw half of its Armed Forces to at least 150 nautical miles away

Article 2(3)(A) merely balances 2(2)(A).

from any point in the Islands by time

'T' + 7 days; and,

- (C) To complete its withdrawal to at least 150 nautical miles away by time 'T' + 14 days.

ARTICLE 3

With effect from time 'T', each Party undertakes to lift the exclusion zones, warnings and similar measures which it has imposed in the region.

ARTICLE 4

On the completion of the steps for withdrawal specified in Article 2, each Party undertakes to refrain from reintroducing any Armed Forces into the Islands or within 150 nautical miles thereof.

Article 5

Each Party undertakes to lift with effect from time

Argentina wanted the British Task Force to withdraw to its usual operating areas.

'T' the economic measures it has taken against the other and to seek the lifting of similar measures taken by third parties.

ARTICLE 6

(1) Immediately after the signature of the present Agreement, Argentina and the United Kingdom shall jointly sponsor a draft Resolution in the United Nations under the terms of which the Security Council would take note of the present Agreement, acknowledge the role conferred upon the Secretary-General of the United Nations therein, and authorise him to carry out the tasks entrusted to him therein.

(2) Immediately after the adoption of the Resolution referred to in paragraph (1) of this Article, a United Nations Administrator, being a person acceptable to Argentina and the United Kingdom, shall be appointed by the Secretary-General and will be the officer administering the government of the Islands.

A Security Council Resolution is a necessary procedure to enable the Secretary-General to appoint a UN Administrator.

(3) The United Nations Administrator shall have the authority under the direction of the Secretary-General to ensure the continuing administration of the government of the Islands. He shall discharge his functions in consultation with the Executive and Legislative Councils in the Islands and shall act through the competent officials and institutions of the traditional local administration. The Executive and Legislative Councils on the Islands will each be enlarged by the addition of one representative from among the Argentine population resident on the Islands, to be appointed by the United Nations Administrator. The Administrator shall exercise his powers in accordance with the terms of this Agreement and in conformity with the spirit of the laws and practices previously observed by the traditional local administration.

Article 6(3), except the first sentence, was unacceptable to Argentina, which wanted to remove the whole structure of the traditional administration and to make provisions allowing Argentine people and businesses to settle in the Islands without limit.

There would thus be 10 Members of the Executive Council and 7 of the Legislative Council, one member of each being from among the Argentine population of the Islands.

The last sentence of Article 6(3) would ensure that the character of government and society in the Islands could not be changed while the Interim Agreement was in force, for instance by an influx of people or businesses from outside.

- (4) The United Nations Administrator shall verify the withdrawal of all armed forces from the Islands, as well as their non-reintroduction.
- (5) The United Nations Administrator shall have such number of staff as may be agreed by Argentina and the United Kingdom to be necessary for the performance of his functions under this Agreement.

ARTICLE 7

Except as may be otherwise agreed between them, the Parties shall, during the currency of this Agreement, reactivate the Exchange of Notes of 5 August 1971, together with the Joint Statement on communications between the Islands and the Argentine mainland referred to therein. The Parties shall accordingly take appropriate steps to establish a special consultative committee to carry out the functions entrusted to the special consultative committee referred to in the Joint Statement.

The method of verification was discussed with the Secretary-General. The UK was willing to accept that surveillance aircraft from third countries, such as the United States, might be used.

Article 7 opens the way for reestablishing the arrangements that existed before the Argentine invasion for travel, transport, postage, etc. A new Special consultative committee is needed because the old one was staffed by the British Embassy in Buenos Aires, now closed.

ARTICLE 8

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. These negotiations shall be initiated without prejudice to the rights, claims or positions of the Parties and without prejudgement of the outcome.

ARTICLE 9

This Interim Agreement shall enter into force on signature and shall remain in force until a definitive agreement about the future of the Islands has been reached and implemented by the Parties. The Secretary-General will immediately communicate its text to the Security Council and register it in accordance with Article 102 of the Charter of the United Nations.

The second half of the first sentence would have kept the interim arrangements in being after 31 December 1982 even if a final settlement had not been agreed by that date. This position was unacceptable to Argentina.

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Done in
in the English and Spanish languages, in a single
copy.

For Argentina

For the United Kingdom

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