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OD(SA)(82) 20

COPY NO 16

20 April 1982

CABINET

DEFENCE AND OVERSEA POLICY COMMITTEE

SUB-COMMITTEE ON THE SOUTH ATLANTIC AND
THE FALKLAND ISLANDS

MR HAIG'S NEGOTIATIONS IN BUENOS AIRES
COMMENTARY ON THE DRAFT AGREEMENT

Note by the Secretaries

1. At the Sub-Committee's meeting on 19 April (OD(SA)(82) 10th Meeting, Conclusion 4) the Foreign and Commonwealth Secretary was invited to prepare
 - (a) a commentary on Mr Haig's proposals which could be sent to him in Washington;
 - (b) a commentary which might be used if the proposals were published.
2. Attached is a note prepared by Foreign and Commonwealth Office officials on the first of these remits. In column A are suggested counter-proposals on the draft agreement. In column B are comments on these counter-proposals and notes on points where we may anticipate pressure from the United States for further concessions.
2. A copy of the draft agreement is also attached, for ease of reference. (This has also been circulated as Annex A to OD(SA)(82) 16).
3. The "comparisons" paper by Foreign and Commonwealth Office officials already circulated at OD(SA)(82) 18 might be suitable for use in the context of remit (b) above.

Signed ROBERT ARMSTRONG
R L WADE-GERY
R L L FACER

Cabinet Office

20 April 1982

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DRAFT OF AGREEMENT ON SOUTH ATLANTIC CRISIS
WORKED OUT IN BUENOS AIRES APRIL 19 1982

COUNTER-PROPOSALS FOR CONSIDERATION

A.

COUNTER-PROPOSALS

The preamble and paragraphs 1 and 2 seem acceptable.

Paragraph 2.1. Delete 'rescind' and substitute 'suspend enforcement of'.

Paragraph 2.2.1 (second sentence)
Delete and substitute the following:-
'Within the same time period the United Kingdom naval task force will stand off at a distance of at least [] nautical miles from any of the co-ordinate points.'

Paragraph 2.2.2.

(a) Re-draft first sentence as follows:-

'Within fifteen days from the date of this Agreement, Argentina and the United Kingdom shall have removed all their forces, equipment and armaments from the zones'.

(b) In the same sentence, delete 'shall redeploy to their usual operating bases or areas' and substitute 'shall revert to normal duties'.

B.

COMMENT

Paragraph 2 is similar in purpose to paragraph 2 of the text provisionally agreed with Mr Haig on 13 April. It would preclude introduction or deployment of UK force into the zones around South Georgia and the South Sandwich Islands after signature of the Agreement.

We take it that 'not conduct operations in the zones' means that Argentina will be precluded from using the forces she has there.

There should, so far as possible, be parity on timing and distance of withdrawal. The requirement for the UK to withdraw all its forces from the zones has therefore been deleted. The principle of parity on distance of withdrawal might suggest an opening bid of 200 nautical miles, although Argentina is likely to have withdrawn some of her forces at least to the mainland, which is approximately 350 miles from the Falklands.

Consequential upon the amendment to paragraph 2.2.1. (provision has to be made for the withdrawal of UK force).

Redeployment to usual operating areas would presumably involve not only the turning back but also the dispersal of the Task Force.

A.

Paragraph 3 seems acceptable

Paragraph 4

Delete 'from the date of this agreement, steps' and substitute 'on completion of the steps specified in paragraphs 2, 2.1, 2.2, 2.2.1 and 2.2.2 above, the two Governments shall take measures to terminate'

Second sentence. Delete 'without delay' and insert 'at the same time' after 'shall'.

Paragraph 5

Add 'Each representative may be supported by a staff of not more than [] persons'.

Paragraph 6(A)

Delete third sentence and substitute:-

'The traditional local administration shall be re-established, including the Executive and Legislative Councils, which shall be enlarged to include, on the nomination of the Special Interim Authority, representatives of the Argentine population whose period of residence on the Islands is equal to that of others entitled to representation, such representatives to be in proportion to that population, subject to there being at least one such representative in each Council'.

Paragraph 6(A)

Delete fourth sentence

B.

It is highly desirable that the removal of sanctions should follow completion of withdrawal and not precede it. As a fall-back we might be able to accept 'Before completion' given that the obligation is only to take measures to terminate sanctions 'simultaneously, and without delay'.

In the final analysis, we could accept the existing text.

It is highly desirable to set a staff limitation in the agreement itself, if only to avoid a major dispute on this subject in negotiating the separate protocol creating the Authority.

This is a reversion to the 13 April text subject to the inclusion of the phrase 'on the nomination of the Special Interim Authority'. We would not want the nominations to be made by the Government of Argentine and it would seem absurd to have an election. It should be noted that the latest Haig text refers to the continuance of traditional local administration 'through the executive and legislative councils'. This could be taken to imply the non-return of British administrators (not just the Governor).

We could if necessary consider substituting 'the local police shall be re-established and shall be subject to the supervision of the Special Interim Authority, which is authorised to make proposals to the two Governments for its enlargement to include a representative of the resident Argentine population'.

A.Paragraph 7(A)

Delete and substitute:-

'Pending a definitive settlement, the Special Interim Authority shall make proposals to the two Governments to facilitate and promote travel, transportation, communications (including the movement of persons) and trade between the mainland and the Islands. Such proposals shall simultaneously be transmitted to the Executive and Legislative Councils. The two Governments undertake to respond promptly to such proposals. The Special Interim Authority shall monitor the implementation of all such proposals agreed by the two Governments'.

Paragraph 7(B)

Delete 'property'.

Paragraph 8(A)

Delete and substitute:-

'December 31, 1982, will conclude the interim period during which the signatories shall conclude negotiations on mutually agreed conditions for the definitive status of each of the three groups of Islands in accordance with the purposes and principles of the Charter of the United Nations and bearing in mind relevant General Assembly Resolutions. The negotiations shall begin within fifteen days of the signature of the present Agreement.'

B.

This is an essential counter-proposal. We could if necessary offer to discuss the subjects of residence ownership and disposition of property in the negotiations for a definitive settlement.

We must insist that possible arrangements for compensation of Islanders who do not wish to remain is a matter for us.

Our proposed text here is basically a reversion to the first Haig text, but with some modifications. The first Haig text permitted recommendations to be made to the two Governments 'or to the Executive and Legislative Councils'. Under the text now suggested, proposals would be made to the two Governments but transmitted simultaneously to the Executive and Legislative Councils. The reference to 'movement of persons' has been included because movement of persons is covered by the 1971 communications agreement. The last two sentences, taken from the second Haig text, seem fundamentally unobjectionable.

As noted on the comment on 7(A) above, we could if necessary offer to discuss this subject in the definitive negotiations.

This paragraph is fundamentally flawed, in that, when read in conjunction with the remainder of the text, it seems to envisage integration with Argentina as the only final solution for the Falklands. There is a basic difficulty in constructing an alternative formula which might just, in the final analysis, be acceptable to Argentina. Any specific reference to the 'wishes' of the Islanders would encounter Argentinian insistence that it be balanced by a reference to the principle of territorial integrity. The phrase 'bearing in mind relevant General Assembly Resolutions' would probably be the absolute minimum that Argentina would be prepared to accept by way of reference to UN activity; but that phrase would, in our view, include more favourable Resolutions, such as 2625 (XXV) as well as the less favourable ones.

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DRAFT OF AGREEMENT ON SOUTH ATLANTIC CRISIS WORKED
OUT IN BUENOS AIRES APRIL 19 1982

On the basis of United National Security Council Resolution 502, and the will of the Argentine Republic and of the United Kingdom to resolve the controversy which has arisen between them renouncing the use of force, both Governments agree on the following steps, which form an integrated whole:

1. Effective on the signature of this agreement by both Governments, there shall be an immediate cessation of hostilities.

2. Beginning at 0000 hours of the day after the day on which this agreement is signed, the Republic of Argentina and the United Kingdom shall not introduce nor deploy forces into the zones (hereinafter, 'zones') defined by circles of 150 nautical miles radius from the following coordinate points (hereinafter, 'coordinate points'):

- A) Lat. 51 deg 40' S
Long. 59 deg 30' W
- B) Lat. 54 deg 20' S
Long. 36 deg 40' W
- C) Lat. 57 deg 40' S
Long. 26 deg 30' W

2.1 Within 24 hours of the date of this agreement the United Kingdom will rescind its zone of exclusion and Argentina will not conduct operations in the zones.

2.2 Within 24 hours of the date of this agreement Argentina and the United Kingdom will commence the withdrawal of their forces in accordance with the following details.

2.2.1 Within seven days from the date of this agreement, Argentina shall have withdrawn one half of its military and security forces present in the zones on the date of this agreement, including related equipment and armaments.

Within the same time period, the United Kingdom will have completed the withdrawal of all of its forces from the zones and the United Kingdom naval task force will stand off at a distance of at least 1750 nautical miles from any of the coordinate points.

2.2.2 Within 15 days from the date of this agreement, Argentina shall remove all of its remaining forces, equipment and armaments from the zones. Within the same time period, units of the UK naval task force and submarines shall redeploy to their usual operating bases or areas.

3. After fifteen days after the date of this agreement and pending a definitive settlement, no military or security forces shall be introduced by the signatories into any of the zones defined by circles of 150 nautical miles radius from the coordinate points.

4. From the date of this agreement, steps shall be taken by the two Governments to terminate simultaneously, and without delay, the economic and financial measures adopted in connection with the current controversy, including restrictions relating to travel, transportation, communications, and transfers of funds between the two countries. The United Kingdom without delay shall request the European Community and third countries that have adopted similar measures to terminate them.

5. The United Kingdom and Argentina shall each appoint, and the United States has indicated its agreement to appoint a representative to constitute a special interim authority which shall provide observers to verify compliance with the obligations in this agreement.

6. A) Pending a definitive settlement, all decisions, laws and regulations hereafter adopted by the local administration on the islands shall be submitted to and expeditiously ratified by the special interim authority, except in the event that the special interim authority deems such decisions, laws or regulations to be inconsistent with the purposes and provisions of this agreement or its implementation. The traditional local administration shall continue through the executive and legislative Councils which shall

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be enlarged in the following manner: the Argentine Government shall appoint two representatives, who shall serve in each Council; the Argentine population whose period of residence on the islands is equal to that required of others entitled to representation shall elect representatives to each Council in proportion to their population, subject to there being at least one such representative in each Council. The local police shall be continued under the administration of the Councils, with a representation of the resident Argentine population, and shall be subject to the supervision of the special interim authority. The flags of each of the constituent members of the special interim authority shall be flown at its headquarters.

B) Pending a definitive settlement, neither Government shall take any action that would be inconsistent with the purposes and provisions of this agreement or its implementation.

7. A) Pending a definitive settlement, travel, transportation movement of persons and as may be related thereto, residence and ownership and disposition of property, communications and commerce between the mainland and the islands shall, on an equal basis, be promoted and facilitated. The special interim authority shall propose for adoption appropriate measures on such matters, including possible arrangements for compensation of islanders who do not wish to remain. The two signatories undertake to respond promptly to such proposals. The special interim authority shall monitor the implementation of all such proposals adopted.

B) Pending a definitive settlement, the rights and guarantees which have heretofore been enjoyed by the inhabitants on the islands will be respected, on an equal basis, in particular rights relating to freedom of opinion, religion, expression, teaching, movement, property, employment, family, customs, and cultural ties with countries of origin.

/8. A)

8. A) December 31, 1982, will conclude the interim period during which the signatories shall conclude negotiations on modalities for the removal of the islands from the list of non-self governing territories under Chapter XI of the United National Charter and on mutually agreed conditions for their definitive status, including due regard for the rights of the inhabitants and for the principle of territorial integrity applicable to this dispute, in accordance with the purposes and principles of the charter of the United Nations and Resolution 1514 (XV) and 2065 (XX) and in the light of relevant Resolutions of the General Assembly of the United Nations on the 'Question of the Falkland (Malvinas) Islands'. The negotiations hereabove referred to shall begin within fifteen days of the signature of the present agreement.

B) The United States Government has indicated that, at the request of the two Governments, it would be prepared to assist them in bringing their negotiations to a mutually satisfactory settlement by the date stipulated in subparagraph (A).