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OD(SA) (82) 31

COPY NO: 16

27 April 1982

CABINET

DEFENCE AND OVERSEA POLICY COMMITTEE

SUB COMMITTEE ON THE SOUTH ATLANTIC AND THE FALKLAND ISLANDS

FALKLAND ISLANDS: AMENDED TEXT OF THE DRAFT 'MEMORANDUM OF
AGREEMENT'

Note by Foreign and Commonwealth Office Officials

1. On 27 April, the State Department gave to us and to the Argentines the draft text of the proposed Anglo-Argentine agreement, together with the draft Protocol constituting the Special Interim Authority and the draft of an American letter accepting the verification function.
2. The draft of the Anglo-Argentine agreement (Annex A) is very similar to the one brought back by the Foreign and Commonwealth Secretary from Washington and attached to OD(SA)(82)25 of 24 April. The only changes of any significance are:
 - a) In paragraph 2.2.2. the wording is changed to take account of the presence of British forces on South Georgia. The final sentence of the paragraph now speaks of the UK removing 'all of its remaining forces' from the three zones and redeploying 'such forces' as well as the naval Task Force and submarines to their usual operating areas of normal duties. The additional effect of paragraphs 2.2.1 and 2.2.2 is that half the UK force on South Georgia would have to be withdrawn within 7 days and the remainder within 15 days. The text does not specify where outside the Zones the first half of the South Georgia force would have to be within 7 days. Within 15 days the whole South Georgia force would have to redeploy to 'their usual operating areas or normal duties'.
 - b) In Para 2.3, the US role of verifying compliance with the withdrawal provisions in paragraph 2 is brought out more clearly. And in paragraph 4 it is made more clear that the Special Interim Authority will not verify withdrawal. These two paragraphs

taken together emphasise that the US alone will verify compliance with paragraph 2.

- c) In paragraph 6.1, the promotion and facilitation of travel, transportation etc between the mainland and Islands is to be on a 'non-discriminatory' instead of 'equal' basis. This is marginally helpful since the word 'equal' might have implied equal shares in the various named activities for Argentines and Islanders, whereas the present text says only that neither shall be discriminated against.
3. The draft US letter accepting the verification function under paragraph 2 of the agreement (Annex B) contains one point of note: that Argentina and the UK should each reimburse the US for 1/3 of the costs incurred in this verification function.
4. The Secretaries are circulating a note about the draft Protocol constituting the Special Interim Authority.

MEMORANDUM OF AGREEMENT

PREAMBLE

On the basis of United Nations 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:

PARAGRAPH 1

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

PARAGRAPH 2

2. Beginning at 0000 hours local time of the day after the day on which this Agreement is signed, and pending a definitive settlement, the Republic of Argentina and the United Kingdom shall not introduce or 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 min S
Long. 59 deg 30 min W
- B) Lat. 54 deg 20 min S
Long. 36 deg 40 min W
- C) Lat. 57 deg 40 min S
Long. 26 deg 30 min W

2.1. Within 24 hours of the date of this Agreement, the United Kingdom will suspend enforcement of its "zone of exclusion" and Argentina will suspend operations in the same area.

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.

2.2.1. Within seven days from the date of this Agreement, Argentina and the United Kingdom shall each have withdrawn one-half of their 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 naval task force will stand off at a distance equivalent to seven days' sailing time (at 12 knots) from any of the coordinate points, and Argentine forces that have been withdrawn shall be placed in a condition such that they could not be reinserted with their equipment and armaments in less than seven days.

2.2.2. Within fifteen days from the date of this Agreement, Argentina shall remove all of its remaining forces from the zones and redeploy them to their usual operating areas or normal duties. Within the same period, the United Kingdom shall likewise remove all of its remaining forces from the zones and shall redeploy such forces and the naval task force and submarines to their usual operating areas or normal duties.

2.3. In accordance with its Letter of Acceptance of even date, the United States shall verify compliance with the provisions of this paragraph, and the two Governments agree to cooperate fully with the United States in facilitating this verification.

PARAGRAPH 3

3. From the date of this Agreement, the two Governments will initiate the necessary procedures to terminate simultaneously, and without delay, the economic and financial measures adopted in connection with the current controversy, including restrictions

/relating

relating to travel, transportation, communications, and transfers of funds between the two countries. The United Kingdom at the same time shall request the European Community and third countries that have adopted similar measures to terminate them.

PARAGRAPH 4

4. 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 (hereinafter, "the Authority") which shall verify compliance with the obligations in this Agreement (with the exception of Paragraph 2), and undertake such other responsibilities as are assigned to it under this Agreement or the separate Protocol regarding the Authority signed this date. Each representative may be supported by a staff of not more than ten persons on the Islands.

PARAGRAPH 5

5.1. 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 Authority, except in the event that the 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, except that the Executive and Legislative Councils shall be enlarged to include:

- (A) two representatives appointed by the Argentine Government to serve in the Executive Council: and
- (B) representatives in each Council of the Argentine population whose period of residence on the Islands is equal to that required of others entitled to representation, in proportion to their population, subject to there being at least one such representative in each Council. Such representatives

of the resident Argentine population shall be nominated by the Authority.

The flags of each of the constituent members of the Authority shall be flown at its headquarters.

5.2. 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.

PARAGRAPH 6

6.1. 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 a non-discriminatory basis, be promoted and facilitated. The Authority shall propose to the two Governments for adoption appropriate measures on such matters. Such proposals shall simultaneously be transmitted to the Executive and Legislative Councils for their views. The two Governments undertake to respond promptly to such proposals. The Authority shall monitor the implementation of all such proposals adopted.

6.2. The provisions of Paragraph 6.1. shall in no way prejudice the rights and guarantees which have heretofore been enjoyed by the inhabitants on the Islands, in particular rights relating to freedom of opinion, religion, expression, teaching, movement, property, employment, family, customs, and cultural ties with countries of origin.

PARAGRAPH 7

7. December 31, 1982, will conclude the interim period during which the two Governments shall complete negotiations on removal of the Islands from the list of non-self-governing territories under Chapter XI of the United Nations Charter and on mutually agreed conditions for their definitive status, including due regard for the rights of the inhabitants and for the principle

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of territorial integrity, in accordance with the purposes and principles of the United Nations Charter, and in light of the relevant Resolutions of the United Nations General Assembly. The negotiations hereabove referred to shall begin within fifteen days of the signature of the present Agreement.

PARAGRAPH 8

8. In order to assist them in bringing their negotiations to a mutually satisfactory settlement by the date stipulated in the preceding paragraph, the Authority shall, after consultation with the Executive Council, make specific proposals and recommendations as early as practicable to the two Governments, including proposals and recommendations on:

- 8.1. The manner of taking into account the wishes and interests of the Islanders, in so far as islands with a settled population are concerned, based on the results of a sounding of the opinion of the inhabitants, with respect to such issues relating to the negotiations, and conducted in such manner, as the Authority may determine;
- 8.2. Issues relating to the development of the resources of the Islands, including opportunities for joint cooperation and the role of the Falkland Islands Company; and
- 8.3. Such other matters as the two Governments may request, including possible arrangements for compensation of Islanders, or matters on which the Authority may wish to comment in light of its experience in discharging its responsibilities under this Agreement.
- 8.4. The Governments have agreed on the procedure in sub-paragraph 8.1. without prejudice to their respective positions on the legal weight to be accorded such opinion in reaching a definitive settlement.

/PARAGRAPH 9

PARAGRAPH 9

9. Should the Governments nonetheless be unable to conclude the negotiations by December 31, 1982, the United States has indicated that, on the request of both Governments, it would be prepared at such time to seek to resolve the dispute within six months of the date of the request by making specific proposals for a settlement and by directly conducting negotiations between the Governments on the basis of procedures that it shall formulate. The two Governments agree to respond within one month to any formal proposals or recommendations submitted to them by the United States.

PARAGRAPH 10

10. This Agreement shall enter into force on the date of signature.

LETTER ACCEPTING VERIFICATION FUNCTION

The United States hereby agrees to verify compliance with the provisions of Paragraph 2 of the Memorandum of Agreement between the United Kingdom and Argentina.

It is understood that the Governments of Argentina and the United Kingdom will extend to the United States and its personnel all necessary assistance, including facilities, for the fulfilment of this Undertaking and will ensure that United States personnel and equipment can transit and move freely throughout their territory, and move freely throughout the zones described in Paragraph 2 of the Memorandum of Agreement.

The Governments of Argentina and the United Kingdom shall each reimburse the United States for one-third of the costs incurred in the fulfilment of this Undertaking, in accordance with statements of costs submitted by the United States.

The Government of the United States and its personnel and equipment shall be immune from all civil, criminal, judicial, tax and customs jurisdiction in the fulfilment of its responsibilities.

The United States may withdraw its personnel in the event it concludes that their safety is jeopardised or that continuation of their role is no longer necessary.