

CONFIDENTIAL

THIS DOCUMENT IS THE PROPERTY OF HER BRITANNIC MAJESTY'S  
GOVERNMENT

OD(SA)(82) 43

COPY NO 16

8 May 1982

CABINET

DEFENCE AND OVERSEA POLICY COMMITTEE

---

SUB-COMMITTEE ON THE SOUTH ATLANTIC AND THE FALKLAND ISLANDS

FALKLAND ISLANDS: UN TRUSTEESHIP AND ADMINISTRATION

Note by Foreign & Commonwealth Office officials

---

INTRODUCTION

1. This paper considers UN Trusteeship and UN Administration as possible elements in a solution of the Falkland Islands question.

TRUSTEESHIP

2. The Charter provides for dependent territories being voluntarily placed under the trusteeship system by states responsible for their administration. This provision has never been used. The only trust territories have been former League of Nations mandated territories and territories detached from enemy states following the Second World War. Micronesia is the only trust territory left. (It is also the only territory ever designated as a 'strategic' trust territory, the principal effect of which is to bring it under the ultimate control of the Security Council rather than the General Assembly.) There is a wealth of trusteeship lore, but no exact precedent for what we would be doing.

3. Most UN Member States would be attracted by so 'UN-minded' a proposal as trusteeship status for the Falkland

/Islands

CONFIDENTIAL



CONFIDENTIAL

Islands. But Argentina, if still determined to insist on a transfer of sovereignty, would probably be able to induce the numerous states that support her position on sovereignty to back her in resisting trusteeship.

4. The provisions of the UN Charter about the purposes of trusteeship are satisfactory from our point of view. The Charter lays down that trusteeship shall promote the political, economic, social and educational advancement of the peoples of trust territories, and their progressive development towards self-government or independence, as may be appropriate to the circumstances of each territory and its peoples and the freely expressed wishes of those peoples, and as may be provided for in each trusteeship agreement. However, the Charter also provides that all members of the UN and their nationals shall have equal treatment in trusteeship territories in social, economic and commercial matters. Argentina could seek to exploit this in order to flood the Falkland Islands with Argentine people and businesses.

ADMINISTRATION OF THE TRUSTEESHIP

5. A trusteeship agreement would be negotiated among what the UN Charter calls 'the states directly concerned'. These would certainly include Britain and Argentina. Others might be brought in. The Soviet Union would bid for inclusion, but this could be resisted. The negotiations about the trusteeship agreement could be difficult and protracted. The agreement would have to be approved by the General Assembly or, if the trust were made strategic, by the Security Council.

6. Trust territories have usually been administered by a single member state, but two or more could be designated or (though this has never been done before) the UN itself (ie the Secretariat). There is one case (Nauru) where three member states were designated but only one, by agreement, exercised day-to-day authority. It is probably unrealistic to suppose that the UK could obtain designation as the sole, or the sole effective, administering authority, but an arrangement whereby the UK,

CONFIDENTIAL

/Argentina



## CONFIDENTIAL

Argentina and a third country were joint trustees with the third country exercising the effective administration is conceivable.

7. The administration of the territory would be supervised by the Trusteeship Council of the UN. The members are the five Permanent Members of the Security Council. Argentina would become a member if she were designated as a trustee of the territory. The Trusteeship Council meets annually for up to a month (extraordinary meetings can also be held) and would discuss in detail an extensive report by the administering power or powers. The Trusteeship Council in its turn would report annually to the General Assembly or, if the Falklands were designated a 'strategic' trust territory, to the Security Council. In the former case, the Third World majority in the General Assembly would have the opportunity for a critical debate. In the latter case, Britain, but also the Soviet Union, would have a veto on decisions. The most important decision would concern termination of the trusteeship, and the subsequent disposition of the territory.

### TERMINATION OF TRUSTEESHIP

8. Once in force, the trusteeship agreement would continue indefinitely until the General Assembly/Security Council agreed that the conditions existed for its termination. This has usually occurred on the recommendation of the Trusteeship Council and with the concurrence of the administering authorities concerned. In many cases the United Nations supervised a test of the wishes of the inhabitants through elections or a plebiscite. As it happens, all trust territories have so far become independent or have, with the consent of the inhabitants, been merged with neighbouring independent States. It is clear however that the Charter does not exclude other arrangements, eg a degree of self-government in association with neighbouring States.

### UN ADMINISTRATION

9. Direct administration by officials of or seconded to the Secretariat is not provided for in the Charter. But a UN



CONFIDENTIAL

Temporary Executive Authority was set up to run West Irian for a few months on the basis of an agreement between (and at the expense of) the Netherlands and Indonesia. Proposals for UN administration of Jerusalem and Trieste were agreed, but never carried into effect.

10. The appointment of a UN Administrator would have to be approved by either the General Assembly or the Security Council on the nomination of the Secretary-General, who would clear his nomination with the interested States. He could also be asked to propose general guidelines for the conduct of the administration. This could be got through much more quickly than a Trusteeship Agreement, since nothing would be said or implied about the ultimate destiny of the territory. The Assembly or Council would expect to receive reports from time to time from the Administrator but its supervision would be much less detailed than that of a trusteeship by the Trusteeship Council. The Administrator would need some assistants, whom the Secretary-General would appoint. It is not clear how long the Administration could function without seeking a renewal of its mandate. There is a clear convention that peace-keeping forces must have their mandates renewed every six months, but an administration might be set up initially for a rather longer period.

EFFECTS OF THE TWO SYSTEMS ON BRITISH INTERESTS

(a) Sovereignty.

Not affected by either system. Exercise of sovereignty could in principle be resumed after termination of either system.

(b) Administration

It should be possible for officials who are resident Islanders to continue in employment under either UN system, but it would probably be difficult to get any British expatriates included in the Administration.

(c) Long-term Future of the Islands

UN Administration would not prejudge this in any way. UN Trusteeship would do so, by creating a presumption in favour of the implementation of the wishes of the Islanders.



## CONFIDENTIAL

### (d) Guarantees

A US guarantee could not be built into either UN system. But we could obtain a bilateral guarantee and, by virtue of our continuing sovereignty, call upon the US to honour it, in the event of an Argentine re-invasion and the collapse of the UN administration or trusteeship. A UN Administration could be accompanied by a UN Peacekeeping or Observer Force, but it would be unlikely that such a force could be much more than a tripwire. The power administering a Trusteeship could maintain forces on the Islands under the terms of the Trusteeship Agreement. If this power were the US that would be sufficient.

### RUSSIAN INFLUENCE

12. Any UN arrangement would give the Russians certain opportunities. But they would be unlikely to obstruct arrangements agreed between us and Argentina.

(a) Trusteeship. The Russians could be a nuisance in the Trusteeship Council, but we should be able to ensure that they would always be outvoted. If the trust were 'strategic' the veto would be available to them when the terms were approved by the Security Council, and again when the time came to approve termination. On the precedent of Micronesia, and on the assumption that the period of trusteeship was peaceful, the Council might not be actively involved in between.

(b) Administration. The Russians could veto the setting up of the Administration if they wished, unless this were done by the Assembly rather than the Council. Russian concurrence would be required for the establishment of a peacekeeping force and for six-monthly renewals of its mandate, if necessary, and perhaps for the renewal of the mandate of the Administration if this remained in being for a long time.

### CONCLUSIONS

13. UN Administration would be easier to negotiate. It could be entirely without prejudice to the claims of either side and is more suitable as an interim arrangement pending a negotiated long-term solution than is Trusteeship. It would

CONFIDENTIAL

be difficult to negotiate a Trusteeship Agreement in time for it to form part of an interim arrangement, and it might be inconsistent to attempt to do so if we were proceeding on the basis that the interim arrangements should not be prejudicial to the position of either side on the long-term status of the Islands. Trusteeship is probably best viewed as a possible long-term solution (or longish term, since it would be in principle need ultimately to be wound up), and left for negotiation after interim arrangements are in place. The emphasis in the Charter on the wishes of the inhabitants makes it quite attractive. But it would be important to get the terms right and the implications of close supervision by UN organs would need to be carefully weighed.

CONFIDENTIAL