

ANGLO/ARGENTINE NEGOTIATIONS: FALKLAND ISLANDS: NEW YORK:
21/23 MARCH 1979

Present

Mr Hall	Sr Oliveri Lopez (Head of Malvinas Department, MFA)
Mr Wilkes (MAFF)	
Mr Chamberlain	Sr Garcia Pinto (Malvinas Department, MFA)
Mr Cowling	Sr Pfirter (Argentine Mission to the UN)
Mr Styche (UKMIS New York)	Sr Tesón (Malvinas Department, MFA)

First Day, Wednesday, 21 March: Afternoon Session at Argentine Mission

1. Sr Oliveri Lopez referred to the recent decision to resume relations at Ambassadorial level and said that although there was no direct connection between that decision and progress in the negotiations nevertheless he hoped it would serve as a good omen for the meeting. Mr Hall agreed. He said that when the Argentines had put forward the idea that they might send an Ambassador there had been a quick acceptance by British Ministers. Their view was that the Argentine Government had withdrawn their Ambassador and if they now wanted to replace him this was to be welcomed. Mr Rowlands, indeed, had had the opportunity recently to convey this message personally to the Argentine Foreign Minister. We were also looking forward to the visit which Dr Martinez de Hoz was to make to London in May. He was a welcome figure and his visit would contribute to closer relations.

Organisation of Discussion

2. Sr Oliveri Lopez suggested that the talks should continue from those of December 1978 in Geneva, in particular they should deal with:

- a) the agreement on scientific co-operation in the Dependencies; and
- b) a regime covering the territory of the Dependencies and their maritime areas.

He also said that this meeting should be regarded as a formal one. Mr Hall agreed that the discussions should be formal and could cover anything which fell within the terms of reference for the negotiations. But on (b) he recalled that the UK proposal covered only the maritime zones and not the territory, though he would be willing to hear any proposals from Sr Oliveri Lopez on a regime covering territory.

/Argentine Questionnaires

Argentine Questionnaires

3. Sr Oliveri Lopez said that the Argentine Government did not view HMG's dismissive response to the Co-Administration scheme (for the Falkland Islands) as helpful and said that the UK ideas drawing a distinction between inhabited and uninhabited areas had not been sufficiently clarified to allow negotiations to go forward substantially. He reminded Mr Hall that the Argentine Delegation in Geneva had presented two questionnaires, one relating to the proposals put by Mr Rowlands in December 1977; and the other to the questions tabled by the British side in Lima.
4. Mr Hall said that he had written responses to the Argentine questionnaires which he would be glad to hand over. A major difficulty HMG had experienced in relation to the Argentine proposals had been the basic Argentine premise that the end result of negotiations over the Falkland Islands must necessarily be eventual full Argentine sovereignty over them. That was not our point of view at all. No proposals which stemmed from that basis could be accepted by us. Mr Hall said that one of HMG's main aims in these negotiations must be to persuade the Argentines to give up their full claim. This absolute difference of view made it difficult to comment in any serious way on the Argentine proposals for Joint Administration leading to eventual Argentine sovereignty. Mr Hall stressed that in Mr Rowlands' "Mixed Approach" there could be no solution to side issues which touched on sovereignty if there were no overall solution to the sovereignty problem. Mr Hall then handed over the British response to the Argentine questionnaires. (Annex A).
5. Sr Oliveri Lopez said that before the Geneva meeting his Government had expected that partial progress on sovereignty issues could continue but now realised their mistake. Nonetheless it was possible to explore bases for some limited agreements which might have their own "internal balance". Sr Oliveri Lopez expressed his Government's concern at what Mr Hall had just said about persuading the Argentines to give up their claim. He said this cast a bleak outlook on the negotiations for the Argentines. He found it difficult to reconcile Mr Hall's statement with Mr Callaghan's message (Annex B) of March 1976 to the then Argentine Foreign Minister and with Mr Rowlands' proposals of December 1977, which spoke of reconciling the Argentine and British positions.
6. Mr Hall said that the individual aspects of Mr Rowlands' proposals were mutually inseparable. But it was possible to discuss internally balanced proposals under the sovereignty umbrella. He found the terms of reference for the negotiations completely valid. But the Argentine interpretation of them illustrated a one-sided approach. The Argentine side assumed that sovereignty negotiations must lead to a solution in Argentina's favour. But negotiations on sovereignty could in logic equally lead to the maintenance of British sovereignty. Mr Rowlands' proposals did indeed present an approach distinguishing between inhabited and uninhabited territories. But they made it clear that sovereign rights over the Falkland Islanders were not negotiable and any eventual solution would need to take this

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into account. We had never said anything different. The link between fresh sovereignty arrangements in the Dependencies and the maintenance of British sovereignty over the Falkland Islanders had been clarified in Geneva. Mr Rowlands' point was fundamental and not negotiable unless the Falkland Islanders themselves were to determine otherwise.

7. Sr Oliveri Lopez asked whether sovereignty over the Falkland Islanders implied sovereignty over territory as well and whether there was a possibility of Argentina having sovereignty over the land. Mr Hall said that these points were covered in our answers to the Argentine questionnaires.

Joint Arrangements for a Fisheries Regime

8. Mr Wilkes said that under the joint arrangements for administration of the fisheries regime, that headings for discussion might fall in three main areas:-

- (a) control of access by fishing vessels of third states to jointly administered waters;
- (b) assessment of fish stocks;
- (c) methods of controlling fishing operations.

Sr Oliveri Lopez intervened to say that he was ready to listen to what Mr Wilkes had to say but that it should be made clear that this was without commitment to the sovereignty framework for a fisheries regime. Mr Wilkes continuing said that under (a) relationship with the EEC was an important subject and he handed over a paper (Annex C) setting out the EEC implications. Then there would be negotiations under the joint arrangements with third countries other than EEC countries. We should need to discuss the price we expected to get and to give in such negotiations. A good example of the question that might arise was how we might treat historic rights. He said that there were no binding precedents on recognition of historic rights although the practice in other waters was that historic rights had generally been recognised. It might not be entirely correct to draw a direct parallel with experience in the North Atlantic and Arctic Oceans whose waters had been intensively exploited over many years. As part of the price to be secured there might be financial benefits. Further benefits might include the securing of scientific information and the control of exploitation - each linked with the two succeeding areas of headings for discussion.

9. On (b) Mr Wilkes said that our knowledge of the extent of fish stocks within the area was incomplete and that it was, therefore, necessary to investigate the extent of the stocks and possible catch rates as a preliminary measure in order to regulate exploitation. In fact, we had recently commissioned the White Fish Authority to undertake a desk study drawing together existing information about resources in the area. Sr Oliveri Lopez mentioned that he had heard that the size of certain types of fish caught had decreased by one-third over the last year and agreed that joint arrangements as to control of exploitation would be desirable in principle. Mr Wilkes

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went on to say that stock assessment depended in part on purely scientific activities eg the results of scientific research voyages. But additionally a great deal of information had to be secured from the fishing operation itself in order that accurate population assessments might be made. This requirement provided a link with the area of discussion on conditions which might be imposed on vessels fishing in the jointly administered areas.

10. Turning to (c) Mr Wilkes said that all of the conditions imposed on vessels fishing in the jointly administered areas for the purpose of securing data for stock assessment purposes would have to be imposed on all vessels irrespective of nationality. As examples of these kinds of measures he quoted the conditions imposed on vessels licensed to fish in the waters around Kerguelen. Quite apart from the collection of stock assessment statistics there was the question of how the rate of exploitation of the fisheries resource had to be controlled. Broadly speaking, there was the approach of effort control or fishing plans. Here a specific number of vessels would be authorised to fish with only a specific, lower number allowed on the grounds at any one time. This was the method of control used for the UK effort in Icelandic waters after the latter state had extended their fisheries limits. One of the advantages of the method lay in its ease of enforcement. The alternative approach lay in limiting the catch itself without limiting the number of vessels. But this involved all the paraphernalia of catch quotas, close seasons, the need to close fisheries at short notice and gear regulations. This approach was useful when attempting to impose controls in an already intensively exploited fishery but was clearly cumbersome and costly in practice. Moreover it gave wide scope for evasion.

11. Mr Hall then took up the remaining points set out in the Speaking Note relating to a possible fishing co-operation scheme (Annex D). The meeting then adjourned to give the Argentine delegation a chance to digest what had been said and the material that had been handed over.

Second Day: Thursday, 22 March: Afternoon Session at British Mission

12. Sr Oliveri Lopez said that he had had a chance to read the papers handed over in the previous session but that he would need to refer them to Buenos Aires before giving even a preliminary reaction. He said he would, however, like to clarify certain points in the papers. In particular he would like to comment on our response (Annex A) to question 4.2 of the Argentine questionnaire relating to other types of arrangements intended to resolve the sovereignty dispute over the territory of the Falkland Islands. He said he was mystified by the British reference to the "two sets of criteria" and asked what was behind the "Mixed Approach". He quoted Mr Hall as having said when they met in New York on 14/15 September 1978, that different arrangements for people and territory implied a distinction between people and territory and not between different geographical areas. Sr Oliveri Lopez also said in relation to the British response to question 3.1 of the Argentine proposals that the Argentine Government

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were not ruling out a proposal which would leave sovereign rights in respect of Islanders with the British Crown. He then set out his understanding of what he believed to be the British position:

- a) our essential requirement was that British sovereignty over Falkland Islanders must be preserved; and that
- b) this implied no change in the present system of government and administration in the Falkland Islands including the competence, manner of election and functions of the existing Island Councils and the existence of a Governor and other officials appointed by the British Crown; the continuation of the existing Falkland Islands institutions, and the preservation of the Falkland Islanders way of life;
- c) that (a) and (b) did not rule out fresh arrangements with regard to sovereignty over the territory of the Falkland Islands in favour of Argentina.

Mr Hall said that Sr Oliveri Lopez's interpretation of (a) was absolutely correct: that Sr Oliveri Lopez was essentially correct on (b), though the possibility of change could not be excluded, but it must not be made necessary by any solution. Mr Hall also remarked that Sr Oliveri Lopez's conclusion (c) was logically correct. But the problem was not one of logic but of practice.

13. Sr Oliveri Lopez returned to the charge by quoting our answer to question 2 in questionnaire 2: (Annex A): "Any method of implementation which preserved British exercise of these rights absolutely could be considered". He said that HMG seemed to be suggesting the possibility of a solution in terms of nominal Argentine sovereignty over the territory of the Falkland Islands. As far as the Argentine delegation were aware such a solution would be very difficult if not impossible for the Argentine Government to accept. But it seemed that there was a very narrow and difficult path between the essential British requirement and the essential Argentine interest in sovereignty over the territory of the Falkland Islands.

Agreement on Scientific Activities in the Dependencies

14. Mr Hall spoke from Brief No 1 (Annexe E) explaining why HMG was unable at present to sign the draft Agreement.

15. Sr Oliveri Lopez said that this attitude created difficulties for Argentina and the British side would clearly understand the implications from the Argentine Government's point of view. The Argentine delegation had welcomed the British proposal to try and solve the problem. They had felt a sense of achievement at the outline agreement reached in Geneva. Although it was true that Captain Allara had been unable to give absolute assurances about further Argentine scientific activities in the Dependencies, the agreement would have made a repetition of the Thule incident virtually impossible. The initial British draft took into account the perspective of the Antarctic Treaty. The concept of free scientific investigation had no implications for sovereignty. They considered it impossible that this

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interpretation could not have been given over the Thule base set up in 1976. It was also the firm intention of the Argentine Government not to set up a further base. The agreement would have been a valuable contribution to mutual co-operation in the area. The agreement would have provided a framework within which any scientific activities by the Argentine Government, or by the British Government, or both, could have taken place with full consultation. Sr Oliveri Lopez considered it impossible for problems to have arisen which could have prejudiced negotiations. There would be no more South Thule.

16. Sr Oliveri Lopez was grateful to Mr Hall for having explained so clearly the nature of the difficulties caused by Falkland Islands Councillors. But HMG was fully aware of the Argentine position concerning their participation in these negotiations. He stressed that the negotiations were bilateral; the involvement of the Falkland Islanders was purely a British affair so far as the Argentine Government was concerned. The Argentine delegation were bound to show disappointment at our inability to sign the agreement. They did not wish to disguise the impact of this decision on the Argentine Government in relation to its attitude towards the negotiations. It was clear that they would have to refer this matter back to their Government. The first solution put forward by Mr Hall would not be acceptable to the Argentine Government [i.e. re-introduction of paragraph III 4 in the original draft agreement which would formally have restricted the area of application of the agreement so far as the Argentines were concerned to Thule Island]. They had already made their point of view clear in Geneva. The second possible solution remained open [this was a reference to the possibility of the draft agreement being made acceptable to Councillors if, at some future stage in the negotiations, the Argentines would agree to give Islanders absolute security that sovereign rights in respect of them would continue to rest with the British Government].

17. Sr Oliveri Lopez emphasised that he did not wish to minimize the effect of this development on any proposals which the British Government might advance in the context of the negotiations. He said that views held by the Falkland Islanders, as demonstrated in this case, caused him to fear for the fate of any future agreement which might be reached between the British and Argentine Governments. They would therefore need to consider most carefully the validity of any co-operation agreements they might discuss with us before Island opinion had been consulted.

18. Mr Hall said that he too deeply regretted the attitude of the Falkland Islanders in this context. He was disappointed that the Falkland Islanders had not recognised the overriding benefit to them of this Agreement. Nevertheless lessons could be drawn from this exercise. We accepted responsibility to intensify efforts to ensure that HMG in conducting the negotiations were fully aware of Islander opinion. It would also be necessary to educate the Islanders as to what HMG thought was in their best interests. Nevertheless Mr Hall stressed that the Falkland Islanders were, and had to be, the ultimate arbiters of their fate. It was their wishes not our view of their best interests which were paramount. The Falkland Islands Councillors had agreed that the Scientific Agreement

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should be left on the table and that there should be no open breach between HMG and the Councillors (which would have made it impossible for the negotiations to continue). Mr Hall agreed that the position was unsatisfactory. But he hoped that the Agreement could be left on the table and that both Governments could act in accordance with it as far as possible. He hoped that this set-back would not be a barrier to the negotiations.

19. Sr Oliveri Lopez hoped that HMG would continue to try to persuade the Falkland Islanders to accept the Agreement and to educate them to recognise what was to their benefit. For the Argentines, this Agreement had been a positive "dynamic" step. He regretted strongly that HMG could not sign it. Mr Hall reaffirmed British intentions to continue to educate the Falkland Islanders and asked for Argentine help in changing Island public opinion so as to inspire more confidence in the Islands in the Argentine Government. (In this respect Argentine ham radio transmissions and the setting up of lessons did not help to quiet the fears of the Falkland Islanders.) Sr Oliveri Lopez said that the Argentine Government would have been ready to go ahead with the Agreement but that for the sake of the negotiations they should agree to accept as a fact of life that HMG could not sign the Agreement. He, therefore, agreed that it should be left on the table and that we should, in consultation with each other, conduct our scientific activities in the Dependencies in the spirit of the draft.

Fisheries

20. Sr Oliveri Lopez sought clarification on the EEC implications of a jointly administered fisheries scheme. Mr Hall said that essentially this was a problem for the British. But the Argentines should be aware of these constraints operating upon HMG. On the question of non-discrimination, this was again a constraint upon the British negotiating position and not a direct consideration for the Argentines. Sr Oliveri Lopez asked about the rôle the Falkland Islanders might play in the bilateral negotiations between the UK and Argentina over the joint fisheries administration scheme, observing that the Argentine Government would find it difficult for an agreement to be dependent on Falkland Islands Government legislation. Mr Hall said that a distinction should be made between negotiating and licensing and that the Falkland Islands Government might need to be involved in the licensing process. We would be looking into the powers of the Falkland Islands Government regarding the licensing of fishing operations and would hope to let the Argentine side have a clearer picture for the next meeting. Sr Oliveri Lopez said that the Joint Commission should work out the details.

Third Day, Friday, 23 March: Morning Session at Argentine Mission*

Co-Administration of the Maritime Zones of the Dependencies

21. Sr Oliveri Lopez suggested that the two delegations should take up the theme of Co-Administration of the maritime zones of the Dependencies. He identified the following as the major areas of agreement:

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*Mr Chamberlain was unable to attend this session on account of another official prior commitment. CONFIDENTIAL

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- (a) that it was urgent and desirable to come to an agreement to control the fishing activities of third parties;
- (b) that this area was affected by the provisions of the Draft Antarctic Conservation Convention and that the coastal State had competence for the area [i.e. could exercise within an area of extended maritime jurisdiction all the powers available to it under international law].
- (c) that some Co-Administration regime should be set up to control fishing activities in the area.

He said there were also certain areas of disagreement:

- (a) the fundamental difficulty was the relationship between progress in implementing this scheme and the British insistence that it must come under the sovereignty umbrella (he wondered whether the umbrella could be closed sufficiently to allow progress in this area);
- (b) the UK proposal for Co-Administration of the maritime areas excluded Co-Administration of territory;
- (c) the Argentine Government does not agree that the scheme should extend to the Continental Shelf.

22. Sr Oliveri Lopez hoped there was a possibility of progress in specific areas as long as "internal balance" consistent with progress towards an overall solution was maintained. He also now had a clearer understanding of why Britain was opposed to fresh sovereignty arrangements in respect of the Dependencies. His Government was prepared to be flexible over the timing of the transfer of sovereignty over the territory of the Dependencies which was an essential part of the Argentine proposal. The time scale could be linked to the type of fisheries exploration and exploitation proposed and to the timing of the global solution. He emphasised that the Argentine Government would now find it impossible to make further progress in discussions of economic and maritime co-operation under the sovereignty umbrella if there were to be exclusion of territory.

23. Mr Hall said that the British side agreed fully with Sr Oliveri Lopez's description of the stage reached in Geneva, both with regard to the areas of agreement and disagreement. After yesterday's discussion, he felt that there was no need to go into the reasons for the aims and objectives of our sovereignty discussions. He said that the British delegation agreed with what Sr Oliveri Lopez had said about our proposals. We also agreed with the Argentine view that discussions relating to the draft Antarctic Conservation Treaty made it even more urgent to reach a common position on fisheries. He welcomed the notion as to flexibility of timing in the Argentine proposals with regard to sovereignty over Dependencies and, more specifically, the flexibility of timing with regard to an overall solution. We had reached a position where both sides agreed that it was urgent to achieve solutions (on fishing) for both de facto and de jure reasons. But the British side could see no quick way forward

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unless the proposals were considered under the sovereignty umbrella. However, we recognised that the Argentine side could see no prospect of rapid progress unless it was at least possible to "fold the umbrella up half-way". He felt that there was no need to repeat why Falkland Islands' public opinion obliged HMG not to enter into any commitments in relation to fresh sovereignty arrangements in respect of the Dependencies without receiving a simultaneous guarantee from the Argentine side that sovereign rights in respect of the Falkland Islanders would continue to remain with Britain. He had one comment to put forward regarding the question of the continental shelf. He did not think it necessary, at this stage, to consider practical arrangements for the management of continental shelf resources. But he emphasised that the British side believed that, in principle, the Co-Administration scheme should cover such resources. He suggested that since both Governments recognised the urgency of coming to an agreement to conserve the resources of the area, given the impasse reached on the question of principle, the two delegations should proceed to discuss the characteristics of a hypothetical regime.

Joint Declaration of 200-mile Fishing Zone

24. Mr Hall said that British participation in the Co-Administration scheme covering fisheries would require a declaration of a British 200-mile zone. The Argentine delegation in Geneva had accepted that it would be necessary for the British Government to take action of this kind but had said that the Argentine Government had considered the possibility of some form of a joint declaration linked in some way to the powers of the organisation which would co-administer the fishing scheme. Had the Argentine delegation any further ideas as to how this might be accomplished?

25. Sr Oliveri Lopez indicated that he would be interested in listening to the British side's ideas and Mr Hall continued, drawing on the appropriate Speaking Note (Annex F). He emphasised that if the Argentine Government, in talking of a joint declaration, had in mind a single legislative instrument then he foresaw major juridical problems. Under British legislation, the declaration of a 200-mile zone could only be made either by a British Order in Council or by a proclamation issued by the Falkland Islands' Governor. From the constitutional point of view, it would not be possible for the Argentine Government to be a co-signatory of either piece of legislation. We presumed also that it would not be feasible for us to be a co-signatory of any Argentine presidential decree. From the British standpoint, any joint legislation which theoretically might be considered would prejudice each side's sovereignty position with regard to the other. We had therefore concluded that the way forward lay in the purely temporal coincidence in which each Government would under its own separate powers declare a 200-mile zone and thus lay the juridical basis on which the fisheries regime would operate. Third parties would be put on notice by a Memorandum of Understanding or Exchange of Notes which would make the position quite clear. In order to preserve the sovereignty position of both sides, the British side would like to suggest that the legal documentation establishing the regime should include a non-prejudice clause based on Article IV of the raft Antarctic Conservation Convention. It would also be important to ensure that the British side of the legislation declaring

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the 200-mile zone should be linked (for purposes of Argentine public opinion) as far as timing was concerned to the entry into force of the fisheries regime. He also suggested that the Memorandum of Understanding should refer to respective British/Argentine instruments relating to the declaration of the 200-mile zone. We could thereby create a linkage between legislation establishing the zone and the management of the zone. He recognised that there might be juridical problems regarding each side's sovereignty positions but these could probably be overcome on the basis of the non-prejudice clause which he had suggested. This method of proceeding was based on the British view that the whole scheme should be under the sovereignty umbrella. We were aware of the position of the Argentine delegation in this respect but we had nonetheless thought it worthwhile putting forward these ideas in order to illustrate how we felt the positions of both Governments could be preserved in an arrangement concluded under the sovereignty umbrella. Indeed, some of these points would remain valid no matter what method was used to arrive at a solution to the problem.

26. Sr Oliveri Lopez thanked Mr Hall for setting out the British side's position but said that the whole matter would have to be looked at by legal experts in Buenos Aires. But as the British proposals concerning the declaration of a 200-mile zone were based on the assumption that progress be made under the sovereignty umbrella, this made the proposal totally unacceptable to Argentina.

27. Mr Wilkes then dealt with the subject of statistics and fish resources in the Southern Ocean. He pointed out that revised methods of recording catches were now in use and that FAO Fish Circular No 648 contained up to date information on the Southern Ocean catch. He handed over Appendix G, summarising the FAO circular and commented that it compared very well with the estimated statistics handed over in Geneva.

28. Mr Wilkes then went on to talk about the revenue that might be secured from vessels fishing in the Southern Ocean. He said that his information was based on the costs/earnings which would be applicable to vessels from the Western economies. But for the sake of argument he was going to assume that a similar ratio between costs and earnings also applied to Eastern Bloc vessels. On the assumption that one of these vessels could freeze 50 tonnes of fish per day and that it could sell the catch for £300 per tonne on world markets and that its daily operating costs were £4,000, Mr Wilkes concluded that the revenue would amount to £11,000 per day. But this would take no account of transport costs to European markets. It was also assumed that each vessel would fish for 180 days each year. On this basis, a fleet of 100 vessels might earn profits in the region of £198 million per year. If 10 per cent of the profit were creamed off as licence fees, this would indicate a revenue of £20 million (US dollars 40 million) per year. In Mr Wilkes' opinion, this estimate was an absolute maximum. In his personal judgment the figure was likely to be closer to US dollars 20 million per year. But he emphasised that in making these calculations he recognised that there was bound to be a wide margin of error since he had applied Western economic costings and standards to the hypothetical Soviet fleet.

29. Mr Wilkes went on to discuss the methods by which revenue might be drawn from Soviet and other vessels wishing to operate in the jointly administered areas. It might be possible to impose charges on

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the basis of catch tonnages but this would entail the need to check the catch tonnages perhaps, as part of the reporting process. Again administration might be costly and an alternative method might be to collect a licensing fee from each vessel at the beginning of each season. That had the merit of administrative simplicity. Some combination of both methods was not ruled out.

30. Sr Oliveri Lopez wound up the talks for the Argentine side by describing them as a cordial exchange between professionals. But he emphasised the concern of the Argentine side that the talks had not been positive. He stressed that it would be totally unacceptable for the Argentine Government ever to renounce its sovereignty claim to the Falklands and regretted the weight given by the British Government to Falkland Islander opinion. He deplored the fact that the wishes of the Falkland Islanders conditioned the position of the British Government not only with regard to sovereignty but also in relation to other possible agreements under the sovereignty umbrella.

31. Mr Hall agreed that as befitted their profession the exchanges had been conducted in a cordial fashion. He also agreed that the results could not be described as positive. But, speaking personally, he was not altogether surprised. We knew when we began the negotiations that it was not going to be easy. We had known in advance the position of the Argentine Government. But we had made absolutely clear the fundamental position of the British Government, namely that any solution had to be acceptable to the Falkland Islanders. Mr Hall made it clear that he was referring not only to the question of sovereignty over the Falkland Islands themselves but also to the whole range of issues with which the negotiations were concerned - including matters relating to the Dependencies, both political and economic. So it was not surprising that our discussion ab initio should have been conditioned by the wishes of the Islanders. Following the meeting in Geneva, we had had a very vivid illustration of this condition which set an example for both the British and Argentine sides. He made it clear that he personally was convinced that the Scientific Co-operation Agreement would have been in the interests of the Islanders although we had had to concede that it was not in accordance with their wishes. Faced with this difficulty, we were glad to see that the Argentine side were able to accept our view that the best way forward was to leave the Scientific Co-operation Agreement on the table and that both sides should continue to act, as far as we could, in accordance with what was agreed in principle; and also in accordance with what both sides had said across the negotiating table in Geneva. The situation was clearly unsatisfactory and the British delegation hoped for some future improvement. For our part we would try to continue the educational process which we now regarded as an essential part of the negotiations. He appealed to the Argentine delegation and through them to the Argentine Government to do their best to help us in this process by avoiding all measures which, however much the Argentine Government might feel them within their sovereign discretion, might create obstacles in the way of our continuing our negotiations over much larger questions than individual activities or acts. He said that there was no need to go into these points in any detail since they had already been discussed thoroughly in Geneva.

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32. He agreed that we had come closer to identifying a possible opening in the talks which could be taken up in further discussion. The Paper put forward by Mr Rowlands in December 1977 was the basis on which we had worked and it remained full of meaning (although perhaps a little obscure in places). He hoped that we had clarified the position in our discussions. If both sides were carefully to study the interpretation of the position, they might conclude that although the way forward was narrow and difficult it nevertheless might be possible to make progress towards an overall solution. He reminded Sr Oliveri Lopez about the internal political situation in the United Kingdom. Indeed, Dr Owen had explained the position last September in New York to the then Argentine Foreign Minister when it seemed that we might have had a General Election in the United Kingdom. This uncertainty continued and it took political courage for Dr Owen to decide, in these circumstances, that this present meeting should go ahead with both sides committed to exploring the possibilities for a solution. So it had been evident for some time that on the British side there were certain difficulties in going very far.

Next Meeting

33. Mr Hall said we would not want there to be any specific reference to the timing of a further meeting in the communiqué but, between ourselves, we might think in terms of another meeting at official level in June or July. So far as a meeting at Ministerial level was concerned, we could not commit ourselves to any such meeting for the moment. But if Dr Owen were still in Office, Mr Hall had no doubt that he would wish to look forward to a meeting with the Argentine Foreign Minister at the time of the UN General Assembly Meeting in New York in the early autumn.

34. Sr Oliveri Lopez said that he knew that Sr Cavardoli had been looking forward to an early meeting with Mr Rowlands but he realised that this was unlikely to be possible. He welcomed the possibility of a September meeting of the two Foreign Ministers. He said that in view of the way the talks had gone he would not be able to agree that the Joint Communiqué should describe the talks as "positive". Mr Hall agreed. Sr Oliveri Lopez also attached importance to the agreed communiqué not committing the Argentine side to any further meeting. The agreed communiqué is at Annex H.

LIST OF ANNEXES

- Annex A
(para 4 of record) - Answers to Argentine Questions on the British Questionnaire.
- Annex B
(para 5 of record) - Mr Callaghan's message of March 1976 to Argentine Foreign Minister.
- Annex C
(para 8 of record) - Co-Administration Agreement for Maritime Areas: EEC Implications of a Fisheries Regime.
- Annex D
(para 11 of record) - Fisheries Co-operation Scheme: Speaking Note on Establishment of Joint Commission.
- Annex E
(para 14 of record) - Agreement on Scientific Activities in the Dependencies: Speaking Note.
- Annex F
(para 25 of record) - Joint Declaration on 200-mile fishing zones: Speaking Note.
- Annex G
(para 27 of record) - Southern Ocean Marine Fish Resources.
- Annex H
(para 34 of record) - Joint Press Communiqué.

ANSWERS TO ARGENTINE QUESTIONS ON THE BRITISH QUESTIONNAIRE
RELATING TO THE ARGENTINE PROPOSAL FOR JOINT ADMINISTRATIONQuestion 1

The co-administration scheme proposed by Argentina was thought of as applying to the territory of the Falkland Islands. Does the United Kingdom believe that it would be appropriate to extend this also to their maritime areas?

Answer

We have already indicated that we do not consider the Argentine proposal meets our criteria for settlement. Since we cannot accept the scheme for the Falkland Islands, the question of extending it to their maritime areas does not arise. The way to tackle these was outlined in the British Working Paper on Sovereignty of 13 December 1977.

Question 2

The United Kingdom has said that the period of 8 years suggested by Argentina for co-administration is unsatisfactory. What period would the United Kingdom consider to be acceptable and why?

Answer

The issue is not the period of years under which the Islanders might be co-administered but the fact that the Argentine proposals are irreconcilable with our criteria.

Question 3

What is to be understood by "economic and other rights", which should be reserved in favour of the United Kingdom, following the transfer of sovereignty, in the maritime areas and continental shelf?

Answer

Question number 7 in the British Questionnaire referred to the full range of economic and other rights which under international law and custom a state enjoys with respect to the maritime zones

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and continental shelf generated by its territory. The question was thus intended to establish which of these rights the Argentine Government might contemplate reserving to Britain under the Argentine proposal.

Question 3.1

Does the United Kingdom consider that the period leading to transfer of sovereignty should be different in relation to territory and to maritime areas?

Answer

As the British Government has made clear, it does not consider that the purpose of our negotiations is to decide the timing of a transfer of sovereignty to Argentina. We seek a solution to the dispute which satisfies the requirements of both parties, not of one only.

Question 3.2

Would it also be appropriate to distinguish between types of resources?

Answer

We would expect any mutually agreed settlement to the dispute to take account of the particular arrangements which, by their character, various types of resources might require.

Question 4

At the meeting of Working Groups in Lima, the British delegation, although it presented a questionnaire, declared that the Argentine proposal for co-administration was unacceptable. Could the British side indicate what elements make the Argentine proposal unacceptable or, alternatively what aspects are acceptable?

Answer

We believe that the Argentine scheme is incompatible with our requirement that sovereign rights in respect of the Falkland Islanders should continue to rest with Britain. The Argentine proposals would completely alter the Islanders' way of life since they entail radical changes to the whole of the Islands' present system of Government.

ANSWERS TO ARGENTINE QUESTIONS ON THE BRITISH WORKING PAPER
ON SOVEREIGNTY TABLED IN NEW YORK, DECEMBER 1977

Question 1

What is the significance of the requirement that "laws shall be substantially as they have been until now"?

Answer

The significance of this is, as Mr Rowlands said in New York in 1977, the requirement that "the Islanders' own system of administration and government, their institutions and their way of life should in practice be maintained". Any move away from the laws currently in force in the Falklands would only erode this requirement. The substitution of Argentine legislation, however qualified and with whatever safeguards, would not meet this requirement.

Question 2

What is the significance of the demand that "sovereign rights over the inhabitants should continue to rest with Britain" and how would this be implemented in practice?

Answer

The significance is the same. If Britain did not continue to exercise sovereign rights in respect of the Falkland Islanders, it would not be possible for the requirement set out above to be adequately satisfied. Any method of implementation which preserved British exercise of these rights absolutely could be considered.

Question 3

What powers would be included within the concept of "Argentine sovereignty over the territories" or what practical dimension would these have?

Answer

The British paper of 13 December 1977 did not contain the words "Argentine sovereignty over the territories". If the reference is to the suggestion that a possible overall settlement might involve

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fresh sovereignty arrangements in favour of Argentina in the Dependencies and their maritime zones, the powers and practical dimensions to be included would be for negotiation within an overall settlement [which would meet the British requirement that sovereign rights in respect of the Falkland Islanders should rest with Britain.]

Question 3.1

Would the United Kingdom wish to consider exploring a régime of the "capitulations" type (territory and Argentine inhabitants under Argentine jurisdiction; British inhabitants under British jurisdiction)? If not, for what reasons would the United Kingdom reject this?

Answer

The British Government have indicated that they would be prepared to consider any type of régime which would satisfy the requirement that sovereign rights in respect of the Falkland Islanders should continue to rest with Britain. Mr Rowlands drew attention in New York in 1977 to the potential difficulties of a "capitulations" scheme. But if the Argentine Government wished to put forward more detailed proposals on such a concept, the British Government would give these close study.

Question 4

What does the United Kingdom mean by "special arrangements" which would be concerned with the seabed and subsoil beyond the territorial sea of the islands?

Answer

This relates to the British concept of a "mixed approach" as set out in paragraph 3 of the British Working Paper. It is a recognition of the fact that arrangements governing the populated territory would need to be different from arrangements governing the regulation of maritime resources. In considering arrangements for areas beyond the territorial sea of the islands the concept of economic co-operation, one of the twin themes of our negotiations, would be of particular relevance. The discussions we are currently holding on measures to regulate economic activity in the maritime zones of the Dependencies will, hopefully, point the way to the sort

of special arrangements around the Falklands which would be of most benefit to all parties concerned.

Question 4.1

Would these arrangements be independent of an arrangement over territory?

Answer

These arrangements could be independent in the sense of being different as is shown by the answer to the previous question. But arrangements for territory and for marine and continental shelf resources could not be considered in isolation from each other. The nature of their inter-relationship would need to be explored further as our negotiations proceed.

Question 4.2

What arrangements does the United Kingdom envisage for the territorial sea?

Answer

We have not thought about this yet.

Question 4.1

What changes to this proposal does the United Kingdom suggest in order to make it viable?

Answer

Since, in our view the concept which underlies the Argentine scheme is incompatible with the British criteria for a settlement we believe that the way forward is to reconsider the concept itself. Changes to any particular mechanisms or safeguards would not achieve this.

Question 4.2

If it is the case that the United Kingdom has in mind some other type of arrangement intended to resolve the sovereignty dispute over the territory of the Falkland Islands could it say what this is?

Answer

In the negotiations we have set out our criteria. We think the best way for these to be met is for the Argentine Government to drop its claim to the Falkland Islands. However, we have taken due note of the Argentine criteria. We believe that the task of the negotiations is to explore how these two sets of criteria might be reconciled. We believe the way forward may be the pursuit of our mixed approach.

Question 5

The questions put by the United Kingdom relating to safeguards suggest that the United Kingdom considers that the guarantees offered by Argentina for the Islanders are insufficient. What important additions or modifications might be made in order to satisfy British requirements?

Answer

See answer to question 4.1.

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FROM F C O 201118Z

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DESKBY 201400Z

TO IMMEDIATE BUENOS AIRES TELEGRAM NUMBER 150 OF 20 MARCH 1976.
 INFO PRIORITY PORT STANLEY UKMIS NEWYORK WASHINGTON.
 INFO SAVING BRASILIA MONTEVIDEO.

M. I. P. T. 148

MY DEAR FOREIGN MINISTER.

IN THIS MESSAGE I AM REPLYING TO YOUR PREDECESSOR'S MESSAGE OF 2 JANUARY AND TO YOURS OF 10 FEBRUARY, FOR WHICH I WAS GRATEFUL. I AM GLAD THAT YOU WERE ABLE TO MEET MR ROWLANDS IN NEW YORK ON 11/12 FEBRUARY. I BELIEVE THAT THE DISCUSSIONS YOU HAD WITH HIM HELPED BOTH TO CLARIFY MATTERS ON WHICH THERE HAVE BEEN SOME MISUNDERSTANDINGS AND TO SET OUR RELATIONSHIP ON A MORE HEALTHY COURSE WHICH WILL, I HOPE, LEAD TO THE RESTORATION OF THE TRADITIONAL FRIENDSHIP BETWEEN OUR TWO COUNTRIES.

I ENTIRELY SHARE YOUR CONVICTION THAT IT IS IMPORTANT THAT OUR TWO GOVERNMENTS SHOULD MAINTAIN A CONSTANT DIALOGUE AT ALL POSSIBLE LEVELS. IN THIS SPIRIT, I BELIEVE THAT WE SHOULD SET THE RECENT PAST ON ONE SIDE, AND CONCENTRATE BOTH OUR EFFORTS ON A DETERMINED JOINT ATTEMPT TO FIND A WAY ROUND THE BASIC PROBLEM WHICH UNDERLIES THE DIFFICULTIES BETWEEN OUR TWO COUNTRIES. THIS IS OF COURSE THE QUESTION OF SOVEREIGNTY OVER THE FALKLAND ISLANDS. NEITHER SIDE HAS BEEN ABLE TO ACCEPT THE OTHER'S APPROACH TO THIS QUESTION, FOR REASONS WITH WHICH BOTH OF US ARE WHOLLY FAMILIAR. HOWEVER, AS I SAID IN THE HOUSE OF COMMONS ON 14 JANUARY, I FEEL SURE THAT, GIVEN GOODWILL ON BOTH SIDES, BRITAIN AND ARGENTINA SHOULD BE ABLE TO TRANSFORM THE AREA OF DISPUTE CONCERNING SOVEREIGNTY OVER THE ISLANDS INTO A FACTOR MAKING FOR CO-OPERATION BETWEEN OUR TWO COUNTRIES

WHICH

WHICH WOULD BE CONSONANT WITH THE WISHES AND INTERESTS OF THE
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FALKLAND ISLANDERS.

I THEREFORE THINK THAT WE NEED TO FIND A NEW APPROACH WHICH WILL ENABLE US TO OPEN A NEW DIALOGUE. MY SUGGESTION IS THAT, RATHER THAN ATTEMPTING TO FORMULATE AT THE OUTSET A DETAILED AGENDA (WHICH COULD EASILY LEAD US BACK INTO DEADLOCK), WE MIGHT PROCEED IN THE FIRST INSTANCE ON THE CLEAR UNDERSTANDING THAT WE WOULD BOTH BE READY TO DISCUSS AND EXAMINE IN DEPTH ALL ASPECTS OF THE FALKLAND ISLANDS DISPUTE, INCLUDING DISCUSSION OF THE POSSIBILITIES OF ANGLO/ARGENTINE ECONOMIC CO-OPERATION IN THE SOUTH WEST ATLANTIC AND OF THE NATURE OF A HYPOTHETICAL FUTURE CONSTITUTIONAL RELATIONSHIP BETWEEN THE FALKLAND ISLANDS AND ARGENTINA. YOU WILL I AM SURE UNDERSTAND THAT I MUST ADD TWO PROVISOS. FIRST, IF WE WERE ABLE TO AGREE ON SUCH AN APPROACH, IT WOULD BE ESSENTIAL THAT THIS UNDERSTANDING BETWEEN US, AND OUR SUBSEQUENT DIALOGUE, SHOULD BE WITHOUT PREJUDICE TO EITHER GOVERNMENT'S KNOWN POSITION WITH REGARD TO TERRITORIAL SOVEREIGNTY OVER THE ISLANDS. SECONDLY, IF OUR DIALOGUE WERE TO SHOW SIGNS OF BEARING FRUIT, AS I HOPE IT WOULD, I SHOULD OF COURSE WISH TO INVOLVE REPRESENTATIVES FROM THE FALKLAND ISLANDS AT THE APPROPRIATE STAGE.

IF A DIALOGUE ON THE BASIS WHICH I AM NOW PROPOSING IS TO BE EFFECTIVE, I THINK WE SHALL BOTH NEED TO HAVE AMBASSADORS IN EACH OTHER'S CAPITALS IN ORDER TO CARRY FORWARD DETAILED DISCUSSIONS. IN NEW YORK YOU TOLD MR ROWLANDS THAT, AFTER RECEIVING A MESSAGE FROM ME, YOU WOULD CONSIDER SENDING YOUR AMBASSADOR TO LONDON, TOGETHER WITH ANY PROPOSALS THAT YOUR GOVERNMENT MAY WISH TO MAKE ABOUT THE FALKLAND ISLANDS. HE WILL BE WELCOME HERE AND WE STAND READY TO GIVE CAREFUL CONSIDERATION TO ANY SUCH PROPOSALS, EITHER IN LONDON OR IN BUENOS AIRES, EITHER NOW OR AT A LATER STAGE IN OUR DIALOGUE. FOR MY PART, I AM WILLING TO SEND MR ASHE BACK TO BUENOS AIRES SOON AFTER EASTER. HE WOULD BE AUTHORISED TO DISCUSS MATTERS IN DEPTH, IN PREPARATION FOR SUBSTANTIVE AND, I HOPE, CONSTRUCTIVE MINISTERIAL MEETINGS.

YOU WILL, I AM SURE, AGREE THAT IT WOULD BE IN THE FIRM INTERESTS OF ALL THE PARTIES CONCERNED IF WE WERE BOTH TO TREAT OUR INITIAL EXCHANGES INCLUDING THIS MESSAGE AND YOUR REPLY

HOPE YOU WOULD ACCEPT THAT ANY PREMATURE PUBLICITY COULD BE HIGHLY DAMAGING TO OUR PROPOSED DIALOGUE. MEANWHILE, I CONSIDER THAT WE SHOULD DO OUR UTMOST TO AVOID ANY FRICTION IN OTHER ASPECT OF OUR RELATIONSHIP WHICH COULD AFFECT PUBLIC OPINION IN OUR COUNTRIES AND HAVE A CONSEQUENTIAL IMPACT ON THE CENTRAL PROBLEM.

HOWEVER, THERE IS ONE POINT, ARISING FROM YOUR TALK WITH MR ROWLANDS, WHICH I UNDERSTAND YOU WOULD LIKE TO PUBLICISE FAIRLY SOON. AS MR ROWLANDS TOLD YOU, IT IS OUR VIEW THAT EXPLORATION OR DEVELOPMENT OF ANY OIL RESOURCES ON THE FALKLAND ISLANDS CONTINENTAL SHELF COULD BE CARRIED OUT ONLY WITH THE GREATEST DIFFICULTY UNLESS WE AND THE ARGENTINE GOVERNMENT WORKED TOGETHER IN CLOSE CO-OPERATION. HE GAVE YOU AN ASSURANCE THAT THE BRITISH GOVERNMENT ARE NOT UNDERTAKING AND HAVE NO PLANS TO UNDERTAKE ANY OIL EXPLORATION AROUND THE FALKLANDS. IF THIS SITUATION WERE TO CHANGE, AND THE BRITISH GOVERNMENT WERE SUBSEQUENTLY TO CONSIDER PLANS FOR OIL EXPLORATION, THE ARGENTINE GOVERNMENT WOULD BE INFORMED. I CONFIRM THAT THIS REMAINS MY GOVERNMENT'S POSITION AND THAT I WOULD HAVE NO OBJECTION TO YOUR REFERRING TO IT PUBLICLY. IT WOULD BE HELPFUL, HOWEVER, IF, IN SO DOING, YOU COULD TREAT MY COMMENTS ON OIL AS A WHOLE.

WITH WARM PERSONAL REGARDS,

JAMES CALLAGHAN.

CALLAGHAN.

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CO-ADMINISTRATION AGREEMENT FOR THE MARITIME AREAS AROUND THE FALKLAND ISLANDS

DEPENDENCIES: EEC IMPLICATIONS OF A FISHERIES REGIME

1. In the course of the discussions in Geneva, the Argentine Delegation enquired what the legal position would be vis-à-vis the EEC if the British and Argentine Governments were to agree on a fisheries co-administration scheme covering the maritime areas around the Dependencies of the Falkland Islands.
2. There are two aspects to this question:
 - a) The relationship of the Falkland Islands and their Dependencies to the Community is established by Articles 117 to 119* of the Act of Accession and, except to the extent that the Act of Accession provides otherwise, by Articles 131 to 136* of the Treaty of Rome. These Articles do not mention fisheries. Thus rules of the Common Fisheries Policy would not apply to any fisheries régime established in respect of the Falkland Islands' Dependencies, or to any jointly administered co-administration scheme which the British and Argentine Governments might establish covering the maritime areas around the Dependencies of the Falkland Islands. .
 - b) Community Rules on Discrimination

There is a distinction between the Common Fisheries Policy, as it applies to Community waters, and requirements deriving from Part Four of the EEC Treaty which governs relations with Overseas countries and Territories (OCTs). The Council of Ministers of the European Community decided in 1976 that bilateral agreements may be negotiated between any Member State and the competent authorities of the Overseas Countries and Territories (OCT) in order to guarantee satisfactory conditions in sea fishing activities. In the conclusion of such agreements there shall be no discrimination between or against Member states of the Community. This means in practice that in any joint administration with the Argentine Government we would not be able to grant more preferential access to the waters off the Dependencies of the Falkland Islands for UK vessels than we could allow for vessels from other Community countries; and we could not discriminate against EEC vessels in favour of other third countries. Both these points relate to the management of the maritime resources in the area covered by an eventual Co-administration Agreement, rather than to the establishment of that area in international law as a fishery zone. The latter question is entirely for the UK to decide; this is not a question where there is any EEC competence or involvement.

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3. So that is the way our membership with the EEC would affect any fisheries co-administration scheme set up around the waters of the Dependencies of the Falkland Islands. If the British and Argentine Governments were, at some future stage, to decide to extend a fisheries co-administration scheme to the waters around the Falklands themselves, the position regarding the Common Fisheries Policy and Community rules on Discrimination would be exactly the same.

Article 117

1. The association of the non-European territories maintaining special relations with the United Kingdom and of the Anglo-French Condominium of the New Hebrides, listed in Article 24 (2), shall take effect on 1 February 1975 at the earliest upon a decision of the Council taken under Article 136 of the EEC Treaty.*

2. The new Member States need not accede to the Agreement on trade with overseas countries and territories in products within the province of the European Coal and Steel Community, signed on 14 December 1970.

Article 118

The provisions of the third part of Protocol No 22 on relations between the European Economic Community and the Associated African and Malagasy States and the independent developing Commonwealth countries situated in Africa, the Indian Ocean, the Pacific Ocean and the Caribbean shall apply both to the overseas countries and territories referred to in Article 117 and to the non-European countries and territories maintaining special relations with the original Member States.

Article 119

1. The arrangements resulting from the Council Decision of 29 September 1970 on the association of the overseas countries and territories with the European Economic Community shall not apply in relations between those countries and territories and the new Member States.

2. Products originating in the countries and territories associated with the Community shall, on importation into the new Member States, be subject to the arrangements applied to those products before accession.

Products originating in the non-European territories maintaining special relations with the United Kingdom and in the Anglo-French Condominium of the New Hebrides, listed in Article 24 (2), shall, on importation into the Community, be subject to the arrangements applied to those products before accession.*

Articles 110 to 114 shall apply.

3. This Article shall apply until 31 January 1975. If Article 115 (3) is applied, this date may be deferred in accordance with the procedure and under the conditions laid down in that Article.

4. For investments financed by the Community, participation tenders and supplies shall be open on equal terms to all natural or legal persons who are nationals of a Member State or of one of the countries and territories.

5. In relations between Member States and the countries and territories the right of establishment of nationals and companies or firms shall be regulated in accordance with the provisions and procedures laid down in the Chapter relating to the right of establishment and on a non-discriminatory basis, subject to any special provisions laid down pursuant to Article 136.

PART FOUR

ASSOCIATION OF THE OVERSEAS COUNTRIES AND TERRITORIES

Article 133

1. Customs duties on imports into the Member States of goods originating in the countries and territories shall be completely abolished in conformity with the progressive abolition of customs duties between Member States in accordance with the provisions of this Treaty.

2. Customs duties on imports into each country or territory from Member States or from the other countries or territories shall be progressively abolished in accordance with the provisions of Articles 12, 13, 14, 15 and 17.

3. The countries and territories may, however, levy customs duties which meet the needs of their development and industrialisation or produce revenue for their budgets.

The duties referred to in the preceding subparagraph shall nevertheless be progressively reduced to the level of those imposed on imports of products from the Member State with which each country or territory has special relations. The percentages and the timetable of the reductions provided for under this Treaty shall apply to the difference between the duty imposed on a product coming from the Member State which has special relations with the country

or territory concerned and the duty imposed on the same product coming from within the Community on entry into the importing country or territory.

4. Paragraph 2 shall not apply to countries and territories which by reason of the particular international obligations by which they are bound, already apply a non-discriminatory customs tariff when this Treaty enters into force.

5. The introduction of or any change in customs duties imposed on goods imported into the countries and territories shall not, either in law or in fact, give rise to any direct or indirect discrimination between imports from the various Member States.

Article 134

If the level of the duties applicable to goods from a third country on entry into a country or territory is liable, when the provisions of article 133 (1) have been applied, to cause distortions of trade to the detriment of any Member State, the latter may request the Commission to propose to the other Member States the measures needed to remedy the situation.

Article 135

Subject to the provisions relating to public health, public security or public policy, freedom of movement within Member States for workers from the countries and territories, and within the countries and territories for workers from Member States, shall be governed by agreements to be concluded subsequently with the unanimous approval of Member States.

Article 131

The Member States agree to associate with the Community the European countries and territories which have special relations with Belgium, France, Italy, the Netherlands and the United Kingdom. These countries and territories (hereinafter called the "countries and territories") are listed in Annex IV to this Treaty.

The purpose of association shall be to promote the economic and social development of the countries and territories and to establish close economic relations between them and the Community as a whole.

In accordance with the principles set out in the Preamble to this Treaty, association shall serve primarily to further the interests and prosperity of the inhabitants of these countries and territories in order to lead them to the economic, social and cultural development to which they aspire.

Article 132

Association shall have the following objectives:

Member States shall apply to their trade with the countries and territories the same treatment as they accord each other pursuant to this Treaty.

Each country or territory shall apply to its trade with Member States and with the other countries and territories the same treatment as that which it applies to the European State with which it has special relations.

* First sentence as amended by Article 24 (1) of the Act of Accession, modified by Article 13 of the Adaptation Decision.

Article 136

For an initial period of five years after the entry into force of this Treaty, the details of and procedure for the association of the countries and territories with the Community shall be determined by an Implementing Convention annexed to this Treaty.

Before the Convention referred to in the preceding paragraph expires, the Council shall, acting unanimously, lay down provisions for a further period, on the basis of the experience acquired and of the principles set out in this Treaty.

BRIEF NO 1

ANGLO-ARGENTINE MEETING ON THE FALKLAND ISLANDS:
NEW YORK 21-23 MARCH 1979

SPEAKING NOTE ON THE AGREEMENT ON SCIENTIFIC ACTIVITIES
IN THE DEPENDENCIES

A. If the Argentines say that they are not yet in a position to sign the agreement:

We do not want to press you on this but if there are any points ~~about~~ which we ought to discuss we would be happy to do so. In the meantime I should be grateful for your confirmation that the Argentine Government will continue to act in accordance with the principles of the Agreement and that the assurance that Captain Allara gave to Mr Rowlands in Geneva that the Argentine Government had no intention of setting up any further stations like that in Southern Thule still stands. I ask this only because, as Mr Rowlands made clear in Geneva, any such action on the part of the Argentine Government would make it extremely difficult, if not impossible, for us to continue with the negotiations.

B. If the Argentines make it clear that they are ready to sign the Agreement:

As you know, Mr Rowlands met with some of the Falkland Islands Councillors in Rio in January to inform them about our meeting in Geneva and to get

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their reactions to this. These Councillors then returned to the Falkland Islands where they reported on the discussions to their colleagues and discussed the existing situation at some length. I must tell you that their considered reaction was one of the greatest suspicion with regard to the intentions of the Argentine Government with respect to this agreement. They saw it as the thin end of a wedge which might be driven inexorably towards the heart of their determination to remain British and never to agree in any way to coming under Argentine sovereignty or administration. Mr Rowlands did his utmost to persuade them that the signature of the agreement was in their own interests and that rather than endangering their position on sovereignty it placed Argentine scientific activities in the Dependencies under the sovereignty umbrella and was a step forward in Anglo-Argentine co-operation in the area which could have fruitful results for the Islanders themselves. He told them that although Captain Allara had been unable to give any formal promise that the Argentine Government would not use the agreement to set up further scientific stations in the Dependencies, that they had ~~at the time~~ ^{As said} no intention of doing so and would in any case consult us. In spite of this, the Slander Councillors were not persuaded. They could not see why the British Government should allow any Argentine activity in the Dependencies or if they did by this should not be formally confined in the agreement to the existing activity in Southern Thule. All in all, as I have said, they showed a marked loss

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of confidence in the intentions of the Argentine Government, a loss of confidence caused by the ~~undisclosed~~ undisclosed Argentine presence in Southern Thule and by the failure to fulfil the undertaking given to Mr Rowlands ^{in February 1977 in Buenos Aires} that this activity would come to an end. The non-scientific activities, such as the ~~ham~~ ham radio stations and the beacons, carried out in conjunction with the scientific activity were further causes for suspicion.

Finally, the most that we could get the Councillors to agree to was not to express rejection of the agreement publicly or otherwise but to leave it lying on the table for further consideration. We said that we would tell you what their reaction was and see whether it might be possible to do something to meet their preoccupations. That is where we now stand.

As far as I can see there are only two ways in which the draft agreement could be made acceptable to the Councillors. The first would be the re-introduction of paragraph III 4 of the draft which we originally presented at Geneva. The other would be the conclusion between us of further agreements, in the negotiations as a whole which would give the Islanders absolute security that sovereign rights with respect to them would continue to lie with the British Government. You will undoubtedly wish to consider this, but if you, like the Island Councillors, wish to leave the draft agreement lying on the table we, for our part, believe that it would be wise to

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agree that in practice both Governments will continue to act in accordance with the Agreement and with the assurances given and understandings reached at our Geneva meeting.

I think I should add that this experience of the attitude of the Island Councillors illustrates vividly what we have always said to you about the absolute necessity for anything that we do to be acceptable to the Islanders. Without their acceptance the negotiations could not continue or be successfully concluded and we must feel our way gingerly at all times towards such acceptance. Having met such resistance to our scientific agreement, a proposal put forward by the British side and agreed by them with Argentine amendments, it is not difficult to see what would happen if we ever tried, for instance, to put to the Islanders the Argentine proposals for an interim administration of the Falkland Islands themselves.

NOTHING TO BE WRITTEN IN THIS MARGIN

CO-ADMINISTRATION OF THE DEPENDENCIES' MARITIME ZONE:
FISHING CO-OPERATION SCHEME

SPEAKING NOTE

Joint Commission: Establishment

1. We tabled a paper in Geneva covering an outline administration scheme for the maritime areas around the Falkland Islands' Dependencies. Where fishing arrangements are concerned, we believe that if the two sides are able to agree, in principle, to co-operate in a fisheries arrangement which includes waters falling within the 200-mile zone around the Dependencies, a Joint Commission should be established to administer the fishery area in question.
2. There was some discussion in Geneva as to the nature of the legal personality of the organisation which would control fishing activities in the area. The Argentine view was that if the Commission's activities were to include the licensing of fishing by third parties, it would need an international juridical personality. We therefore need to decide what its function should be. Would it be scientific, supervisory or with executive powers delegated to it by the two governments? Have the Argentines reached any further views on this? We are still considering the question and think it deserves close study but are inclined to consider that the Commission should have full powers.
3. We believe the Joint Commission should be composed of nominated representatives of the Governments of Argentina and the United Kingdom. Perhaps the need could be determined in the light of experience, but our working assumption is that it should meet twice a year, once in each of the capitals of the two countries. The Chairman for each Meeting could

/be

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be nominated by the Government of the host country.

Commission: Function and Powers

4. If it is agreed that the Commission should be given executive powers, its major functions would be to:

- (a) license or otherwise control fishing activities within the designated area; negotiate on access to such waters
- (b) co-ordinate all action concerned with initial and continuing stock assessment; administer and enforce all consequential arrangements (e.g. acquisition of catch statistics on harvested populations)
- (c) Establish the Total Allowable Catch
- (d) formulate and adopt conservation measures on the basis of the best scientific evidence available
- (e) ensure harmonization between these conservation measures and those that may be adopted under Article VIII of the Convention for the Conservation of Antarctic Marine Living Resources.

5. We believe, but would welcome Argentines views, that even though the Joint Commission might meet only twice a year, it would need to be able to carry out its supervisory and executive functions on a continuous basis. How could this be achieved? Our tentative view is that it might be necessary to set up a Secretariat to execute the Commission's decisions. But how would the Secretariat be staffed? Where would it be housed? Need it have an identity of its own? We would welcome Argentine views. We think it might be best to plan on the assumption that, at least initially, the Joint Commission could be serviced by "Secretariat" staff working in close liaison in their respective offices in London

/and

London and Buenos Aires.

Total Allowable Catch - Administration problems

6. The Joint Commission would need to establish the total allowable catch (TAC). Presumably individual TACs should be set for each species. And licences, as appropriate, issued in response to applications. In more accessible waters, a system of management would require monitoring of catches so that when individual quotas are reached all fishing must stop. This is usually achieved by withdrawal of licences. Do the Argentines think such a method would be workable in the waters of the South Atlantic? A further problem would relate to the criteria which the Secretariat should apply in deciding on the number of vessels and the countries of origin of those vessels which would be allowed within the designated area. We would need to decide whether historic performance was relevant and lay down some means of assessing catching power so that an appropriate number of vessels for the quantity of fishing available could be determined. (There may be some difficulty here since information about historic catches may be somewhat inadequate for the purposes of fair and effective administration). Our tentative view is that at least initially, we should seek to limit the number of vessels involved given the obvious difficulties with detailed surveillance.

Licensing

7. A system of licensing would be required which would need to ensure that the TAC was not exceeded. We would need to decide how the Joint Commission should negotiate with those countries wishing to fish within the designated area. The first priority would appear to be to determine what quotas needed to be set aside for Argentine and Falkland interests. Our preliminary view is that the Argentine Government should authorise the Joint Commission to issue Argentine vessels with
/licences

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licences to fish within the designated area and that the Falkland Islands' Government should similarly authorise the Joint Commission to license vessels from the Falkland Islands. So far as those member states of the EEC are concerned (and this would include the UK) who wished to fish within the designated area, the European Commission would need to negotiate with the Joint Commission on behalf of all member states who wished to fish within the area. In our view, vessels carrying third country flags (i.e. non-EEC), would also need to apply to the Joint Commission who should have the authority to issue licences under a quota system agreed by both sides (perhaps there should also be provision for making available to third countries quotas set aside for Argentine and Falklands interests which are not taken up). But would licence applications be considered only at meetings of the Joint Commission - or should the Secretariat be empowered to process them at any time during the course of the year? There may be something to be said for starting the scheme on as flexible a basis as possible. Our tentative view is that the Secretariat should process licence applications throughout the year having regard to the different categories of applicants discussed above.

Enforcement

8. Clearly the Joint Commission should co-ordinate measures to ensure that fishermen from Argentina, the Falklands and from the United Kingdom as well as fishermen from third countries observe the catch quotas and fishing regulations promulgated by the Joint Commission. But detailed work would be necessary on the actual enforcement measures to be adopted. Is there, in fact, any need for regular enforcement on the water? The organisation of regular patrols by fishery protection vessels might not be simple and consideration could be given to a requirement in the first instance that vessels call at ports on the Argentine mainland and/or in the Falklands or South Georgia to report on their fishing activities. We

/would

would also need to decide whether each of the parties should abstain from enforcing fishery regulations regarding ships carrying the other country's flag. What is the Argentine view on this?

Licensing Revenue

9. Do the Argentines have any view as to how much potential revenue from licensing fees we are losing by our failure to reach agreement on a fisheries scheme? [Sr Manrique told our Chargé in Buenos Aires last January that in a conversation with the Argentine Foreign Minister, the latter had said that Britain and Argentina were losing some \$500m annually in licensing fees through our failure to supervise the 100-strong Soviet fleets.]

10. Such a scheme will clearly involve administrative costs, and it is reasonable that these should be met through charges on those who seek licences. But we shall also need to consider whether our two Governments should seek to raise significant revenues from the scheme, how those revenues might be calculated (a flat rate per fishing day, or a levy per tonne of fish caught or an arbitrary but substantial fee for a season) and how any surplus might be allocated between the two Governments. It would of course be a major concern of HMG that the Falkland Islands themselves should benefit substantially from any such revenues. Has the Argentine side any views on these issues?

CO-ADMINISTRATION OF THE DEPENDENCIES' MARITIME ZONE:
FISHERIES CO-OPERATION SCHEME

Joint declaration of 200-mile fishing zones

Speaking Note

1. In Geneva, the British side said that our participation in a jointly administered fisheries' regime would require us to declare a British 200-mile fishing zone around the Dependencies. The Argentines accepted this and told us that the Argentine Government were thinking of some "joint declaration" for the 200-mile fishing zone, linked to the powers of the organisation which would administer fishing operations. We should be interested to hear any further ideas on this subject which the Argentine side may now be able to offer. We have also given some further thought to this question and it may be helpful to let you have our views.

2. If by "joint declaration" the Argentine Government has in mind some single legislative instrument establishing a fishing zone then we foresee major juridical problems. Under British legislation the declaration of a 200-mile zone could only be achieved either by a UK Order in Council or by a proclamation by the Governor of the Falkland Islands. It would not be constitutionally possible for the Argentine Government to be a co-signatory of such a British legislative instrument. And we presume that it would, equally, not be feasible for the British Government to be a co-signatory of an Argentine Governmental or Presidential Decree. Moreover, joint signature of a single legislative instrument could, in our view, prejudice each side's sovereignty position vis-a-vis the other. We have therefore concluded that it must be for each of our two Governments, under its own separate legislative powers, to declare a 200-mile zone and thus lay the juridical basis on which a fisheries' regime

/would

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would operate.

3. We therefore believe that the concept of "joint declaration" should apply to the declaration of the regime itself and not to the legislation establishing the zone. We recognise the need together to put third parties on notice that such a regime has come into existence. We believe that the publication of a Memorandum of Understanding or an Exchange of Notes would be sufficient for this purpose. In order to preserve the sovereignty position of each side we suggest that the legal documents establishing the fisheries' regime might include a non-prejudice clause perhaps along the lines of Article IV of the Convention on the Conservation of Antarctic Marine Living Resources. [We would also be prepared to consider linking the timing of our own declaration of a 200-mile zone to the date on which the agreement establishing a fisheries' regime was signed. It is also for consideration whether the agreement should contain reference to the respective British and Argentine instruments by which 200-mile zones were declared; this would provide some linkage between the legislation establishing the zone and the setting up of the fisheries' regime. Reference to each Government's legislation should not present problems if the agreement included, as we suggest, a non-prejudice clause.]

SOUTHERN OCEAN MARINE FISH RESOURCES

<u>Season</u>	<u>Country</u>	<u>Reported Catches (tonnes)</u>			
		<u>Region</u>	<u>Krill</u>	<u>Fish</u>	
70/71	USSR	48	NIL	410,900	
	USSR	58	NIL	21,000	
71/72	USSR	48	NIL	17,100	
	USSR	58	NIL	229,500	
72/73	USSR	48	NIL	2,500	
	USSR	58	NIL	112,800	
73/74	USSR	48	NIL	400	
	USSR	58	NIL	13,100	
	Japan	58	643	NIL	
74/75	USSR	48	21,700	4,500	
	USSR	58	NIL	101,600	
	Japan	58	1081	NIL	
75/76	USSR	48	38,900	300	
	Poland	48	21	NIL	
	USSR	58	NIL	25,000	
	Japan	58	2266	NIL	
76/77	USSR	48	500	55,700	
	Poland	48	6966	10,083	
	GDR	48	NIL	1468	
	USSR	58	NIL	17,400	
	Japan	58	10517	NIL	

TEXT OF JOINT PRESS COMMUNIQUE ISSUED AT END OF ANGLO/ARGENTINE
NEGOTIATING ROUND IN NEW YORK: 21/23 MARCH, 1979.

In accordance with the announcement made simultaneously by British and Argentine Governments on 16 March 1979, delegations representing the two countries met in New York from 21/23 March 1979 in order to conduct a fourth round of negotiations on the Falkland Islands, South Georgia and the South Sandwich Islands in accordance with the terms of reference for these negotiations announced on 26 April 1977. The two delegations were led respectively by Mr George Hall, Assistant Under Secretary of State at the Foreign and Commonwealth Office, and by Sr Oliveri Lopez, Head of the Antarctic and Falklands department at the Argentine Ministry of Foreign Affairs.

There was a wide exchange of views and the two delegations discussed the main issues with which the negotiations are concerned.

The date, place and level of a further meeting were left to be discussed through the diplomatic channel.

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