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CABINET

DEFENCE AND OVERSEA POLICY COMMITTEE

SUB-COMMITTEE ON THE SOUTH ATLANTIC AND THE FALKLANDS ISLANDS

FALKLAND ISLANDS: WASHINGTON DISCUSSIONS WITH MR HAIG

Memorandum by the Foreign and Commonwealth Secretary

1. I visited Washington on 22 and 23 April. Almost all the time was spent in discussion with Mr Haig and his officials about the draft of an Argentine/UK Agreement to ensure Argentine withdrawal from the Falklands: the US would not sign, but would be deeply involved. The text which Haig had brought back from Buenos Aires on 19 April, and our own comments on this, formed the basis of our discussions.

2. Haig maintained that, given the movements of British and Argentine armed forces and the likelihood of early hostilities, our discussions constituted the last chance to reach a political solution. The programme which he outlined to me was that we should give him our final comments and answer on his latest draft (Annex A) by noon Washington time on Sunday, 25 April (now advanced to this evening Washington time). He would then put this draft as his own final

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proposal to the Argentine Foreign Minister on 25 April in Washington where Costa Mendez will be for the OAS meeting on 26 April. He would simultaneously send the text to President Galtieri in Buenos Aires. (He would also - for form's sake - formally submit the proposals to us, to avoid giving an impression that they were an Anglo-US concoction.) He would intend giving the Argentines 48 hours to accept these proposals as they stood, making it clear that further delays or discussions were not possible. He would add that if the Argentines rejected the proposals the US would consider its peace-making role had ended and would from then on give political, economic and - he suggested - military support to the UK.

3. Haig maintained that his proposed settlement would get the Argentines off the Islands, avert hostilities, establish a workable interim regime and pave the way for a longer term settlement. He argued that we need not be too concerned about the details of the provisions on Argentine withdrawal: the real guarantee would be the substantial US involvement; any Argentine violation of the withdrawal provisions would leave them 'looking down the barrel of a US gun'. I gave him a suggested text (Annex B) for an American letter of assurance, and his personal reaction was sympathetic.

4. On the other hand, if the diplomatic solution failed not because the Argentines had rejected the text but because we had not agreed to a text which he could put to them, Haig implied that we might be on our own. Although he did not agree with them, many in Washington would argue that the United States should keep itself in reserve to play a role in a subsequent peace-making effort. He was sceptical about the prospects of Britain achieving a quick and satisfactory military solution. He thought that international political
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support would start to evaporate quickly after any British military action. Moreover victory would still leave us with the requirement either to maintain a permanent military presence in the area or else to seek a further political solution which would be no easier than that currently proposed.

5. President Reagan was consulted on a number of occasions by Haig during my visit and the current proposals were described as enjoying Reagan's backing. Haig assured me that no other political scheme - such as the idea of United States trusteeship briefly floated by Judge Clark - would be as likely as the present proposals to bring about a peaceful solution in the brief time still available.

6. In discussion Haig laid great emphasis on the need to present to the Argentines a text which, were they to reject it (in his view by far the most likely outcome), would leave the world in no doubt as to where the blame lay. He was not willing to put to them a text of which he did not believe this to be true. Although I was able to persuade him to modify his position in some important respects during our two days of talks, his final draft still falls short in several places of what we have regarded as acceptable, notably in respect of Argentine representation on the Island Councils (paragraph 6), Argentine scope for influence in the economic and related fields (paragraph 7), and in precluding continuation of the present colonial status (paragraph 8).

7. I pressed Haig strongly on these points. He resisted further amendments on the grounds that in practice the US involvement, combined with the British presence, would be sufficient to prevent Argentine mischief making. He stressed that the proposals would have to be presented to the
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Argentines as an integrated whole, including the incorporation of the Dependencies within the scope of the Agreement. Annex C comments in more detail on features of the new draft. I made it clear that paragraph 2 of the draft, which deals with the arrangements for withdrawal, needs to be scrutinised by the military experts.

RECOMMENDATIONS

8. Notwithstanding the obvious objections of principle and the problem which these will create with Parliament and public opinion, I believe that the arrangement proposed by the US offers the best chance of a peaceful solution, is clearly preferable to the military alternative and should be accepted. I therefore recommend that I be authorised to inform Mr Haig that, having consulted my colleagues here, I can concur in the plan and draft which he put to me in Washington subject to:

- a. the changes to paragraphs 6 and 7 of the draft shown in Annex D;
- b. confirmation that the intentions of the United States Government are as described in paragraph 2 above;
- c. a positive response from President Reagan to the suggestion for a letter of assurance on the lines of the British draft at Annex B.

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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:

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

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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' S
LONG, 59 DEG 30' W

B) LAT. 54 DEG 20' S
LONG, 36 DEG 40' W

C) LAT. 57 DEG 40' S
LONG, 26 DEG 30' W

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

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

2.2.1. Within seven days from the date of this agreement, Argentina and the United Kingdom shall have withdrawn one-half of their military and security

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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 ⁽⁷⁾~~(X)~~ 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 armament in less than ⁷~~(same-X)~~ days.

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2.2.2. Within 15 days from the date of this agreement, Argentina shall remove all of its remaining forces and redeploy them to their usual operating areas or normal duties. Within the same period the United Kingdom naval task force and submarines shall redeploy to their usual operating areas or normal duties.

2.3. The United States, depending on its acceptance, shall verify compliance with provisions 2 through 2.2.2.

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Paragraph 3: dropped

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PARAGRAPH 4

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 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.

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PARAGRAPH 5

The United Kingdom and Argentina shall each appoint, and the United States has indicated its agreement to appoint, a representative to constitute a Special Interim Authority which shall provide observers to verify compliance with the obligations in this agreement. Each representative may be supported by a staff of not more than 10 persons on the islands.

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Paragraph 6

6.1

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 Special Interim Authority, except in the event that the Special Interim Authority deems such decisions, laws or regulations to be inconsistent with the purposes and provisions of this Agreement or its implementation. The traditional local administration shall continue, 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

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

6.2

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

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PARAGRAPH 7

7.1 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 an equal basis, be promoted and facilitated. The Special Interim Authority shall propose to the two signatories for adoption appropriate measures on such matters. Such proposals shall simultaneously be transmitted to the Executive and Legislative Councils for their views. The two signatories undertake to respond promptly to such proposals. The Special Interim Authority shall monitor the implementation of all such proposals adopted.

7.2 The provisions of paragraph 7.1 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.

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8. December 31, 1982 will conclude the interim period during which the signatories 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 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.

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PARAGRAPH 9

9. 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 signatories, including proposals and recommendations on:

9.1. The manner of taking into account the wishes and interests of the islanders, insofar 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;

9.2. 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

9.3. Such other matters as the two signatories 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.

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9.4 The signatories have agreed on the procedure in sub-paragraph 9.1 without prejudice to their respective positions on the legal weight to be accorded such opinion in reaching a definitive settlement.

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PARAGRAPH 10

10. Should the signatories nonetheless be unable to conclude the negotiations by December 31, 1982, the United States has indicated that, on the request of both signatories, 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 signatories on the basis of procedures that it shall formulate. The two signatories agree to respond within one month to any formal proposals or recommendations submitted to them by the United States.

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PARAGRAPH 11

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

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POINTS FOR INCLUSION IN A LETTER FROM PRESIDENT REAGAN TO
THE PRIME MINISTER

- i. Glad that it looks as if we shall be able to reach agreement.
- ii. Understand in the light of recent events that the British Government should require some assurance that the Argentine Government will respect its obligations in good faith and, in particular, refrain from any further use of force against the Islands.
- iii. Have no doubt that the US presence on the Islands during the interim period will serve as an effective guarantee of the implementation of the agreement and against any use of force to frustrate it. We shall leave the Argentinians in no doubt that any challenge by them to the provisions of the agreement, particularly those relating to the withdrawal of Argentine forces and their non-reintroduction, will be seen as a challenge to the Government of the United States and responded to accordingly.
- iv. Once negotiations between the parties have been concluded and the definitive settlement has been achieved, the United States will have only such responsibilities in respect of the implementation of that definitive settlement as it shall have specifically accepted in response to the requests of the two signatories. It will, however, be prepared to respond positively to any such requests; and, notwithstanding the above, it will continue to regard any use of force to frustrate or overturn the provisions of the definitive settlement as a challenge to the United States government to be responded to accordingly.

COMMENTARY ON US DRAFT AGREEMENT OF 23 APRILPreamble and paragraph 1

These are unchanged from the Buenos Aires text of 19 April. We ourselves made no counter-proposals.

Paragraph 2

This is essentially unchanged from previous texts. It is an amalgam of the Haig text of 13 April (paragraph 2 and the first sentence of paragraph 3) and the Buenos Aires text of 19 April. The introduction of the phrase 'and pending a definitive settlement' has made it possible to dispense with paragraph 3 of the previous texts.

Paragraph 2.1

Our counter-proposal has been accepted, but a further modification has been made to impose a corresponding obligation on Argentina. (The possibility of Argentina continuing operations around South Georgia and the South Sandwich Islands should be excluded by paragraph 2.)

Paragraph 2.2

Unchanged from Buenos Aires text. We made no counter-proposals ourselves.

Paragraph 2.2.1

This constitutes a radical change from previous texts in the direction of parity of timing and distance of withdrawal. As compared with the Buenos Aires text, both the UK and Argentina are now under an obligation to withdraw one half of their forces from the zones in the first period of seven days; in the Buenos Aires text, the UK had to withdraw all their forces from the zones in this period, whereas Argentina was only obliged to withdraw one-half of their forces. The distance of withdrawal is not now expressed (so far as the UK is concerned) in terms of an absolute figure but in terms of so many days sailing time. This is balanced on the Argentine side by a reference to the
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umber of days it would take the Argentines to reinsert their forces on the Falkland Islands, making allowance for loading time.

Paragraph 2.2.2

This is an amalgam of the corresponding provision in the Buenos Aires text and our counter-proposals. Again an attempt has been made to move more in the direction of equality of obligations. While the notion of redeployment 'to their usual operating areas or normal duties' is confessedly ambiguous, the phrase does at any rate preserve freedom of movement for the Task Force.

Paragraph 2.3

This is new. The United States undertakes the commitment to verify compliance with the withdrawal provisions. No details are given. Tentatively it is envisaged that US observers may have to make regular visits to ports on the Argentine mainland and that (assuming the Argentines insist on equality of treatment) US aircraft may have to make occasional overflights of the Task Force.

Paragraph 4

This has been re-drafted to take some (but not full) account of our proposals. The obligation is one which runs from the date of signature but is nonetheless only an obligation 'to initiate the necessary procedures to terminate simultaneously, and without delay' the economic and financial measures. This language would give us control in practice over the date on which we would in fact terminate the measures.

Paragraph 5

Our counter-proposal to have a ceiling of 10 persons on the staff of each representative has been in principle accepted. The words 'on the islands' have however been added. The Americans clearly envisage that each representative will have to be supported by a somewhat larger staff to fulfil the additional tasks put on the Authority elsewhere in the draft Agreement (eg paragraph 9), but have accepted the point that the Authority should have a limited presence on the islands.

/Paragraph

Paragraph 6.1

The first sentence remains as it was in the Buenos Aires text which, on this point, was substantially unchanged from the earlier Haig text. The second sentence has been improved in one respect from the corresponding provision in the Buenos Aires text; the concept of the traditional local administration continuing 'through' the Executive and Legislative Councils has disappeared. However the number and method of appointment of Argentine members to the Councils is still open to objection. The Argentine Government will be entitled to appoint two representatives to serve in the Executive Council; and there will be a third Argentine member in the Executive Council to be nominated by the Authority from among the local Argentine population. Notwithstanding the overweighting of Argentine representation in the Executive Council, there will still be a clear majority of UK and islander representatives in the enlarged Council (6 out of 9). There is an improvement on the Buenos Aires text so far as the Legislative Council is concerned since it will only be enlarged to include one representative of the local Argentine population to be nominated by the Authority. Our counter-proposal to delete the objectionable sentence in the Buenos Aires text about the police has been accepted.

Paragraph 6.2

Unchanged from Buenos Aires text. We made no counter-proposals.

Paragraphs 7.1 and 7.2

These have to be read together. The first sentence of paragraph 7.1, read in isolation, is objectionable, particularly with the reference to 'residence and ownership and disposition of property' governed by the phrase 'on an equal basis' (which, it was explained, meant on a non-discriminatory basis). However, paragraph 7.2 has now been re-drafted as a clear safeguard for the rights of the islanders. Note that the phrase 'on an equal basis' does not appear in paragraph 7.2 and that, for this reason, the references to property and teaching have been reinstated.

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Reverting to paragraph 7.1, the two Governments still have to approve measures proposed by the Authority, so that the UK can still exercise a right of veto over objectionable proposals. Note also that the provision in our counter-proposals for the Executive and Legislative Councils to be consulted on such proposals has been incorporated into the draft.

Paragraph 8

Retains most of the basic concepts in the Buenos Aires text but in language which does not tilt in the direction of a solution involving Argentine sovereignty over the islands. 'Removal of the islands from the list of non-self-governing territories under Chapter XI of the UN Charter' would exclude the status quo ante as the definitive solution, but would not exclude any other option eg independence or association with the UK (the West Indies Associated States were removed from the list when they attained the status of 'associated statehood'). There is a balance drawn between 'the rights of the inhabitants' and 'the principle of territorial integrity' (but, significantly, it is not stated, as it was in the Buenos Aires text, that the principle of territorial integrity is 'applicable to this dispute'). The references in previous texts to specific (and objectionable) General Assembly Resolutions have now been dropped in favour of a more anodyne reference to 'the relevant resolutions of the United Nations General Assembly'. It is still not entirely clear what is meant by the 'islands' in this paragraph, although the clear implication is that the phrase covers both the Falkland Islands and the Dependencies; nevertheless, the definitive settlement could involve differing arrangements for the Dependencies - the language used does not exclude this.

Paragraph 9

This is entirely new and is designed on balance to be helpful to us (although there are some rather unhelpful provisions). Paragraph 9.1 relates to the sounding of local opinion and is distinctly helpful as a gloss upon paragraph 8. Paragraph 9.2

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is less helpful, particularly the reference to the role of the Falkland Islands Company. The reference to 'possible arrangements for compensation of islanders' in paragraph 9.3 is unwelcome; but it is expressed in general terms and is not confined to islanders who do not wish to remain. Paragraph 9.4 is designed to preserve the position of both parties on the relevance of a sounding of local opinion in the context of the dispute.

Paragraph 10

This is again entirely new and envisages a US conciliatory or mediatory role for a further period of six months beyond 31 December 1982 if the negotiations have not been completed by that date. The interim period arrangements would continue to operate during this period since they are expressed to apply 'pending a definitive settlement'.

AMENDMENTS TO BE PROPOSED TO THE UK DRAFT AGREEMENT OF 23 APRILPARA 2

Any changes considered essential on military grounds.

PARA 6.1.

Point (a) to read:

"(a) two representatives appointed by the Special Interim Authority on the nomination of the Argentine representative on the Authority from among the Argentine population resident on the islands to serve on the Executive Council."

PARA 7.1.

First sentence after "mainland" to read:

"mainland and islands shall be promoted and facilitated on the basis of non-discriminatory measures to be proposed to the two signatories by the Special Interim Authority."