

SUBJECT: DRAFT TEXT WORKED OUT IN BUENOS AIRES

There follows draft of Agreement on South Atlantic crisis worked out in Buenos Aires April 19 1982.

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:

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

2. Beginning at 0000 hours of the day after the day on which this Agreement is signed, the Republic of Argentina and the United Kingdom shall not introduce nor deploy forces into the zones (hereinafter, "zones") defined by circles of 150 nautical miles radius from the following co-ordinate points (hereinafter, "co-ordinate 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 resind its zone of exclusion and Argentina will not conduct operations in the zones.

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

2.2.1. Within seven days from the date of this Agreement, Argentina shall have withdrawn one half of its military and security forces

/ present

present in the zones on the date of this Agreement, including related equipment and armaments.

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

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

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

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

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

6. A) Pending a definitive settlement, all decisions, laws and regulations hereafter adopted by the local administration on the Islands shall be submitted to and expeditiously ratified by the special interim authority, except in the event that the special interim authority deems such decisions, laws or regulations to be inconsistent with the purposes and provisions of this

/ Agreement

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

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

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

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

8. A) December 31, 1982, will conclude the interim period during which the signatories shall conclude negotiations on modalities for the removal of the Islands from the list of non self governing territories under Chapter XI of the United 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 applicable to this dispute, in accordance with the purposes and principles of the Charter of the United Nations and Resolution 1514 (XV) and 2065 (XX) and in the light of relevant resolutions of the General Assembly of the United Nations on the "Question of the Falkland (Malvinas) Islands". The negotiations hereabove referred to shall begin within fifteen days of the signature of the present Agreement.

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

Haig

ANNOTATIONS OF DRAFT TEXT WORKED OUT IN BUENOS AIRES

Preamble:

This is a merger of texts we carried from London and received from the Argentines. It contains clear reference to UNSC Res. 502 as the basis for the agreement, and retains the important concept that the text is an integral whole.

Paragraph 1 (Cessation of Hostilities).

This implements operative paragraph 1 of the UNSC Resolution.

Paragraphs 2 and 3 (withdrawal and separation of forces). These provide the essential elements of withdrawal and non-introduction of forces. We were unable to get Argentine agreement to forego freedom of movement except for the three specified 150 NM withdrawal/non-introduction zones. The statement that Argentina will not operate its forces in the zones is designed to make clear that their so-called "theatre of operations" does not apply. The withdrawal schedule permits UK naval forces to remain within the zone for seven days, at which time Argentina must have withdrawn half of their forces. The idea of requiring the UK naval Task Force seven days to be at 1750 NM from the co-ordinates provides flexibility. The position of UK forces at the time of agreement will of course determine the closest point of approach of those forces to the co-ordinate points before having to turn back in order to be at 1750 NM on day seven. The UK will of course want to look very closely at the treatment of the submarines, which was a major point of controversy here. At the last minute, we detected a drafting issue in para 2.2.1 (text of draft agreement being sent Septel flash). We suggested that the two sentences regarding UK actions be combined by word "and" to make clear our intent that 1750 NM limit applies only "within the same time period". And therefore is not applicable until one week after agreement. At this writing, change is being reviewed by GOA.

Paragraph 4 (Economic Sanctions).

The basic concepts have been retained from the draft we carried from London. The timing, however, has been altered at Argentine insistence. Steps are to be taken to terminate bilateral sanctions simultaneously and without delay, rather than any time in the two-week period we previously discussed. The operative commitment remains "to take steps". Simultaneity implies bilateral coordination, which would obviously bear on the timing of the actions in both sentences. We assume "without delay" includes time necessary to make such arrangements, a reasonable amount of time to complete domestic requirements, and the time necessary to consult the EC and third countries.

Paragraph 5 (Authority)

The concept of a tripartite special commission survives, with a change of name to special "interim authority". While the Commission's functions have not changed materially from the text we worked out in London, the change of name with its connotations is optically more appealing to Argentina. The authority is now to verify compliance with all obligations in the agreement. Awkwardly, the draft retains reference to "observers" to accomplish these tasks; in our London text, observers were intended to monitor force withdrawal and separation only. Staff limitations would be handled in the separate protocol creating the authority.

Paragraph 6 (Local Administration)

Here and elsewhere, we have attempted to divorce substantive provisions "pending a definitive settlement" from the interim period for negotiations, to promote a basis for continuing arrangements should negotiations not meet this deadline. This text retains the concept of automatic ratification of local administration actions, except where deemed inconsistent with

/the agreement

the agreement by the special interim authority. (The authority, as provided in the separate protocol, would decide by majority vote.) Local administration is to continue "through" the councils, underlining the termination of the office of Governor. While UK appointments to councils would continue, in this text Argentina would also have two official appointees who would serve in each council. Elected representation of the resident Argentine population would be provided for also, using the text worked out in London. All other links, administrative and legal to the UK which form the basis of the local administration, would also continue. This draft gives the special authority a supervisory role over the local police, who would be administered by the council's day-to-day, with "a representation" of the local resident Argentine population on the force contemplated. The flag provision is unchanged. Argentine concern at possible UK decisions or laws inconsistent with the agreement but not subject to special authority ratification has been met by a new sub-paragraph (b) which is intended to restate the obvious UK obligation to respect its commitments under the agreement.

Paragraph 7 (Travel, rights of inhabitants)

Paragraph 7(a) expands upon the subject covered in paragraph 6 of the text worked out in London, including residence and movement of persons and related property questions, and contains a general obligation to promote and facilitate such links on an equal basis. Specific measures however remain in the form of recommendations from the special authority. The scope of such recommendations would include possible arrangements for compensation of islanders wishing to depart. The text adds a requirement for governments to reply promptly (but not necessarily affirmatively) to such recommendations, and further empowers the authority to monitor implementation of proposals adopted.

Paragraph 7(b) had no counterpart in the text we discussed in London. It derives from an Argentine desire to document support of protection

/of islander

of islander rights (presumably under a future Argentine administration resulting from the agreement but the timing was unclear in their draft). It refers to various rights enjoyed by the inhabitants heretofore on the islands. And secures them pending a definitive settlement on an equal basis to both UK and Argentine residents.

Paragraph 8 (Negotiations)

This paragraph has seen a number of changes. The "interim period" has now been clearly linked to the negotiation process in an attempt to permit other substantive provisions to potentially survive December 31. The text describes the objective of an agreement on "modalities" by which the Islands might be removed from the list under Chapter XI of the UN Charter (following a UK suggestion), and on mutually agreed conditions for their definitive status. The "decolonization" reference theoretically would not preclude any kind of future status for the Islands, except perhaps the status quo ante. Mutual agreement was viewed as an important element by the Argentines to preclude unilateral steps. The conditions are stated to include "due regard" - which will obviously vary in weight in the eyes of the two signatories - for the right of the inhabitants and the principle of territorial integrity "applicable to this dispute". The Argentines will argue that the rights of the inhabitants refers only to individual rights, and not a "collective" right of self-determination. The Argentines will argue that a principle of territorial integrity with the mainland applies; the reference could equally be argued to mean the Islands should not be partitioned or dismembered in the process of change of status. These references in effect recall the differing positions of the two parties throughout this dispute. Self-determination is reinforced by UN Charter and Resolution 1514 references; the Argentines cite territorial integrity language in 1514 and insisted on reference to UNGA Resolutions on the Islands. Explicit reference to 2065 is retained (the UK accepted such a reference in the 1971 agreement with Argentina on the Islands), but there is a subordinate general

SECRET

-5-

reference to the others (including Resolution 31/49 which the UK opposed). These Resolutions are described by the UN agenda heading under which they appear, within quotation marks and including the alternative names of the Falklands.

Paragraph 8(b) responds to Argentine concern that good faith negotiations may not occur to produce a result by the deadline. US assistance to the negotiations would be conditional on a request from both governments.