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GRS 351
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FM FCO 131500Z MAY 82
TO FLASH UKMIS NEW YORK
TELEGRAM NUMBER 399 OF 13 MAY
INFO IMMEDIATE WASHINGTON

MY TELNO 396: FALKLAND ISLANDS

1. PARAGRAPH 5 OF MY TUR PROMISED A FURTHER TELEGRAM ON THE CONSTITUTIONAL POSITION OF THE DEPENDENCIES.
2. IT IS INDEED THE CASE THAT, UNDER OUR CURRENT CONSTITUTIONAL AND ADMINISTRATIVE ARRANGEMENTS, THE DEPENDENCIES ARE FORMALLY DEPENDENCIES OF THE COLONY OF THE FALKLAND ISLANDS. IN THAT SENSE THE POSITION IS AS DESCRIBED IN HALSBURY'S LAWS OF ENGLAND, TO WHICH YOU REFER IN PARAGRAPH 2(G) OF YOUR TELNO 731. ON THE OTHER HAND, THE ROOT OF OUR TITLE TO THE DEPENDENCIES, AND IN PARTICULAR TO SOUTH GEORGIA, IS QUITE DISTINCT FROM THE ROOT OF OUR TITLE TO THE FALKLAND ISLANDS THEMSELVES. AS FAR AS SOUTH GEORGIA IS CONCERNED, WE CLAIM TITLE BY VIRTUE OF DISCOVERY BY CAPTAIN COOK IN 1775 AND THE TAKING OF FORMAL POSSESSION BY HIM THEN, COUPLED WITH THE ACTS OF BRITISH OCCUPATION AND ADMINISTRATION FROM THE EARLY PART OF THE 20TH CENTURY AND PARTICULARLY FROM 1908 ONWARDS WHICH HAVE CONSOLIDATED THAT ORIGINAL ROOT OF TITLE.
3. THE POSITION WAS WELL STATED IN THE UNITED KINGDOM'S APPLICATION INSTITUTING PROCEEDINGS BEFORE THE ICJ IN 1955 (WHEN THE ARGENTINES OF COURSE DECLINED TO ACCEPT THE JURISDICTION OF THE COURT). THAT APPLICATION INCLUDED THE FOLLOWING PASSAGE:

'IT WILL BE UNDERSTOOD THAT ALTHOUGH, FOR REASONS OF CONVENIENCE, THE TERRITORIES TO WHICH THE PRESENT APPLICATION RELATES WERE CONSTITUTED DEPENDENCIES OF THE FALKLAND ISLANDS FOR ADMINISTRATIVE PURPOSES, THE BRITISH TITLE TO THEM IS A SEPARATE AND INDEPENDENT

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ONE, WHICH IN NO WAY DERIVES FROM OR DEPENDS ON THE TITLE TO THE FALKLANDS THEMSELVES'. (FOOTNOTE 2 AT PAGE 9 OF ANTARCTICA CASES: PLEADINGS, ORAL ARGUMENTS, DOCUMENTS).

4. THIS PASSAGE MAKES CLEAR THE DISTINCTION WHICH WE REGARD AS FUNDAMENTAL - THAT, ALTHOUGH FOR REASONS OF CONVENIENCE THE DEPENDENCIES HAVE BEEN CONSTITUTED DEPENDENCIES OF THE FALKLAND ISLANDS FOR ADMINISTRATIVE PURPOSES, THE TITLE OF THE UNITED KINGDOM TO THEM IS WHOLLY SEPARATE AND INDEPENDENT FROM OUR TITLE TO THE FALKLAND ISLANDS THEMSELVES.

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FALKLANDS SELECTIVE
LIMITED
HD/S AM D
HD/DEF D
HD/PLANNING STAFF
HD/UND
HD/NEWS D
HD/ERD HD/EC(D)(E)
HD/PUSD
DEP HD/PUSD
PS
PS/MR HURD
PS/MR ONSLOW
PS/PUS
MR BULLARD
SIR I SINCLAIR
MR GIFFARD
MR WRIGHT
MR GILLMORE
MR URE
MR BARRETT

COPIES TO:

PS/HOME SECRETARY
PS/S OF S DEFENCE

PS/CHANCELLOR DUCHY OF
LANCASTER

PS/SIR R ARMSTRONG

PS/SIR M PALLISER

PS/SIR A DUFF

MR WADE-GERY

MR FULLER

MR O'NEILL HD/ASSESSMENTS
STAFF

DIO

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