

Prime Minister

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FM UKMIS NEW YORK 201627Z AUG 82
TO IMMEDIATE FCO
TELEGRAM NUMBER 1302 OF 20 AUGUST
AND TO COI.

Wm
23/8

MS

YOUR TEL NO 675: INCIDENTS IN THE PROTECTION ZONE.

1. FOLLOWING IS FULL TEXT OF LETTER DESPATCHED TODAY (20 AUGUST) TO PRESIDENT OF SECURITY COUNCIL (INCORPORATING ADDITIONAL PASSAGE AGREED IN TELECONS AMBASSADOR/GIFFARD AND GIFFARD/BERMAN):

QUOTE

YOUR EXCELLENCY

I HAVE THE HONOUR TO INFORM YOU THAT THE ACCOUNT GIVEN IN THE NOTE OF 13 AUGUST 1982 FROM THE CHARGE D'AFFAIRES A.E. OF THE PERMANENT MISSION OF ARGENTINA CONCERNING CERTAIN INCIDENTS INVOLVING ARGENTINE FISHING VESSELS IN THE VICINITY OF THE FALKLAND ISLANDS (S/15361) IS INACCURATE.

ENCOUNTERS HAVE INDEED TAKEN PLACE IN THE PERIOD IN QUESTION BETWEEN BRITISH FORCES AND ARGENTINE FISHING BOATS, INVOLVING PRINCIPALLY THE IDENTIFICATION BY THE BRITISH FORCES OF THE VESSELS IN QUESTION AND OF THEIR PURPOSE, BUT THE DETAILS OF THESE ENCOUNTERS DO NOT MATCH THE STATEMENTS IN THE ARGENTINE LETTER. THE FACTS ARE AS FOLLOWS. ON ONCE OCCASION (ON 5 AUGUST) AN ARGENTINE FISHING BOAT (THE 'HARENGUS') WAS FOUND WELL WITHIN THE 150 MILES PROTECTION ZONE NOTIFIED TO THE SECURITY COUNCIL IN MR WHYTE'S LETTER OF 22 JULY 1982 (S/15307). ON THIS OCCASION THE 'HARENGUS' LEFT THE PROTECTION ZONE WITHOUT PROTEST AFTER IT HAD BEEN ASCERTAINED THAT SHE WAS CLAIMING TO VISIT TRADITIONAL ARGENTINE FISHING GROUNDS, BUT THAT SUCH TRADITIONAL FISHING GROUNDS DID NOT EXIST IN THE AREA. ON 7 AUGUST 'HARENGUS' WAS FOUND JUST OUTSIDE THE PROTECTION ZONE AND CHANGED COURSE SHARPLY AFTER BEING OVERFLOWN BY A HELICOPTER FROM HMS 'DANAE'. SHE WITHDREW. ON THE NIGHT OF 9/10 AUGUST THE 'AP III' WAS FOUND JUST OUTSIDE THE PROTECTION ZONE. HMS 'BIRMINGHAM' ASKED HER FOR IDENTIFICATION. THIS WAS GIVEN AND THE BOAT WENT ON TO USHAIA. ON THE NIGHT OF 10/11 AUGUST THE 'USURBIL' WAS SEEN JUST OUTSIDE THE PROTECTION ZONE BY HMS 'DIOMEDE' AND ASKED TO STAY CLEAR. ON NONE OF THESE OCCASIONS WAS THERE ANY THREAT OR USE OF FORCE BY BRITISH NAVAL VESSELS. IT WAS HOWEVER CLEAR THAT NEITHER THE 'HARENGUS' NOR THE OTHER FISHING VESSELS IN QUESTION HAD TAKEN HEED OF THE REQUEST COMMUNICATED IN MR WHYTE'S LETTER OF 22 JULY NOT TO ENTER THE PROTECTION ZONE UNLESS BY PRIOR AGREEMENT WITH THE BRITISH GOVERNMENT. I AM INSTRUCTED THEREFORE STRONGLY TO URGE THAT THE BRITISH GOVERNMENT'S REQUEST SHOULD BE OBSERVED, IN ORDER (AS WAS STATED IN THE LETTER OF 22 JULY) TO MINIMISE THE RISK OF MISUNDERSTANDINGS OR INADVERTENT CLASHES.

/THE ARGENTINE

THE ARGENTINE LETTER ALSO CLAIMS THAT THE UNITED KINGDOM SEEKS TO INTERFERE WITH THE EXPLOITATION OF THE NATURAL RESOURCES IN AREAS WHICH ARE SUBJECT TO ARGENTINA'S JURISDICTION. THE GOVERNMENT OF ARGENTINA IS HOWEVER WELL AWARE THAT THE UNITED KINGDOM HAS NEVER ACCEPTED ANY ARGENTINE CLAIM TO FISHERIES OR CONTINENTAL SHELF JURISDICTION BEYOND THE MEDIAN LINE BETWEEN THE FALKLAND ISLANDS AND ARGENTINA, AND THAT THE UNITED KINGDOM GOVERNMENT HAVE ON REPEATED OCCASIONS RESERVED THE RIGHTS OF THE FALKLAND ISLANDS OVER THEIR OWN MARITIME RESOURCES UNDER INTERNATIONAL LAW. THERE IS ACCORDINGLY NO BASIS FOR THE ALLEGATION THAT THE UNITED KINGDOM HAS SOUGHT TO INTERFERE WITH LEGITIMATE ARGENTINE JURISDICTION OVER MARITIME RESOURCES. HOWEVER, IN VIEW OF THE ALLEGATION IN THE ARGENTINE LETTER THAT THE UNITED KINGDOM IS RESPONSIBLE FOR ANY INCREASE OF TENSION IN THE AREA, IT IS NECESSARY FOR THE UNITED KINGDOM ONCE AGAIN TO DRAW ATTENTION TO THE REASONS FOR THE MAINTENANCE OF THE 150 MILE PROTECTION ZONE. THE UNITED KINGDOM HAS A CLEAR RIGHT AND DUTY UNDER INTERNATIONAL LAW, REINFORCED BY THE TERMS OF ARTICLE 73 OF THE UNITED NATIONS CHARTER, TO DEFEND THE TERRITORY OF THE FALKLAND ISLANDS AGAINST AGGRESSION. IN THIS CONTEXT, IT IS IMPOSSIBLE SIMPLY TO BRUSH ASIDE THE FACT THAT THE ISLANDS WERE INVADDED AND OCCUPIED BY ARGENTINA ON 2 APRIL AND HAD TO BE LIBERATED BY FORCE OF ARMS. SINCE THE RE-ESTABLISHMENT OF BRITISH AUTHORITY ON 14 JUNE, THE ARGENTINE GOVERNMENT HAS GONE NO FURTHER THAN TO STATE THAT THERE IS A DE FACTO SUSPENSION OF HOSTILITIES. IT HAS BEEN UNWILLING TO DECLARE HOSTILITIES DEFINITELY AT AN END OR TO RENOUNCE THE POSSIBILITY OF FURTHER UNLAWFUL USE OF FORCE. IN THE CIRCUMSTANCES, THE PROTECTION ZONE REMAINS NECESSARY TO ENSURE THE DEFENCE OF THE ISLANDS. IF ARGENTINA GENUINELY WISHES TO REDUCE THE TENSION SHE SINGLE-HANDEDLY BROUGHT INTO THE AREA IN APRIL, THEN HER AGREEMENT TO A DEFINITIVE CESSATION OF HOSTILITIES WOULD BE AN OBVIOUS FIRST STEP. MEANWHILE, COMPLIANCE BY ARGENTINE CIVIL SHIPPING WITH THE UNITED KINGDOM'S REQUEST NOT TO ENTER THE PROTECTION ZONE UNLESS BY PRIOR AGREEMENT WOULD BE TO EVERYONE'S BENEFIT IN THE CURRENT AND REGRETTABLE ATMOSPHERE OF TENSION. IT IS THEREFORE OPEN TO ARGENTINE CIVILIAN SHIPPING AND AIRCRAFT WHICH HAVE LEGITIMATE REASON TO ENTER THE PROTECTION ZONE TO SEEK BRITISH AGREEMENT IN ADVANCE. WITHOUT SUCH PRIOR AGREEMENT ANY ARGENTINE CIVILIAN SHIPPING OR AIRCRAFT FOUND WITHIN THE PROTECTION ZONE WILL BE ASKED TO LEAVE.

/THE DEMANDS

THE DEMANDS IN THE ARGENTINE LETTER FOR A WITHDRAWAL OF BRITISH FORCES FROM THE AREA AND FOR NEGOTIATIONS IN GOOD FAITH TOWARDS A FINAL SOLUTION OF THE SOVEREIGNTY DISPUTE BETRAY AN EXTRA-ORDINARY DISREGARD FOR THE IMPLICATIONS OF RECENT EVENTS. THEY IGNORE THE PRINCIPAL CAUSE OF TENSION IN THE SOUTH ATLANTIC WHICH IS ARGENTINA'S PROVEN WILLINGNESS TO USE MILITARY AGGRESSION TO PURSUE HER TERRITORIAL PRETENSIONS TOWARDS THE FALKLAND ISLANDS AND THE DEPENDENCIES. NEGOTIATIONS IN GOOD FAITH WERE IN FACT IN TRAIN WHEN ARGENTINA BROKE THEM OFF BY HER UNPROVOKED MILITARY INVASION. AS IS WELL KNOWN, ARGENTINA CYNICALLY AND PERSISTENTLY DEFIED A MANDATORY DEMAND BY THE SECURITY COUNCIL FOR HER WITHDRAWAL. THE ARGENTINE OCCUPATION HAS BEEN ENDED BUT AT A VERY GREAT COST. THE LIVES OF THE ISLANDERS HAVE BEEN GREATLY DISTURBED AND ARGENTINA'S CONDUCT SINCE 2 APRIL, INCLUDING HER REFUSAL NOW TO ACCEPT AN END TO HOSTILITIES, DEPRIVES THEM OF THE CONFIDENCE THEY NEED TO CONSIDER THEIR FUTURE AND DEPRIVES BRITAIN AND THE INTERNATIONAL COMMUNITY OF ANY CERTAINTY THAT ARGENTINA CAN BE TRUSTED TO NEGOTIATE IN GOOD FAITH. THE REFERENCE IN THE LETTER TO THE 'EXISTING UNJUST AND WRONGFUL COLONIAL SITUATION' IS PRESUMPTUOUS, GIVEN ARGENTINA'S RECENT ATTEMPTS TO SUBJECT THE FALKLAND ISLANDERS TO ALIEN DOMINATION. THE LETTER SEEKS TO OBSURE, BY SPECIOUS ARGUMENTATION, ARGENTINA'S DISREGARD OF THE RIGHT OF SELF-DETERMINATION, NOT TO MENTION ARGENTINA'S WANTON RESORT TO THE USE OF FORCE IN BLATANT DISREGARD OF THE UNITED NATIONS CHARTER, IN DEFIANCE OF A DIRECT APPEAL BY THE SECURITY COUNCIL, AND IN CONTEMPT OF THE PRINCIPLES TO WHICH THE OVERWHELMING MAJORITY OF MEMBER STATES HAVE DEDICATED THEMSELVES IN THE CONDUCT OF THEIR INTERNATIONAL RELATIONS.

IT IS ASTONISHING THAT ARGENTINA, AS THE AGGRESSOR, SHOULD ATTEMPT TO LAY DOWN UNILATERALLY THE CONDITIONS FOR THE ESTABLISHMENT OF AN 'EFFECTIVE AND JUST PEACE', AND MOREOVER CONDITIONS WHICH PREJUDGE THE OUTCOME IN HER FAVOUR. THIS ATTITUDE SYMBOLISES ARGENTINA'S FAILURE TO RESPECT THE PRINCIPLES OF THE UNITED NATIONS CHARTER, INCLUDING THE PRINCIPLE OF SELF-DETERMINATION. IT CAN ONLY GIVE RISE TO SUSPICION ABOUT HER TRUE INTENTIONS. IT MUST BE OBVIOUS THAT THE UNITED KINGDOM'S RESPONSIBILITIES TOWARDS THE PEOPLE OF THE FALKLAND ISLANDS UNDER THE UN CHARTER, INCLUDING THE NEED TO RESPECT THE PRINCIPLE OF SELF-DETERMINATION, MAKE IT QUITE UNREALISTIC TO EXPECT BRITAIN TO ENTER INTO NEGOTIATIONS WITH ARGENTINA OVER SOVEREIGNTY. THE ARGENTINE INVASION HAS RADICALLY ALTERED THE SITUATION. IT WILL BE A LONG TIME BEFORE CONFIDENCE IN ARGENTINE INTENTIONS CAN BE RE-ESTABLISHED TO THE POINT WHERE THE PROSPECT OF SUCH NEGOTIATIONS COULD RESPONSIBLY BE ENTERTAINED.

I HAVE THE HONOUR TO REQUEST THAT THIS LETTER BE CIRCULATED AS A DOCUMENT OF THE SECURITY COUNCIL.

SIGNED J A THOMSON

UNQUOTE

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