

FALKLAND ISLANDS: ANGLO-ARGENTINE TALKS (NEW YORK,
26/27 FEBRUARY 1982)

STEERING BRIEF

Introduction

1. The last round of Anglo-Argentine talks on the dispute took place in February 1981 in New York. The British side, at the request of the Island Councillors, proposed that the dispute should be 'frozen' for a period of years, during which economic cooperation could be pursued without prejudice to the sovereignty position of either side. The Argentines rejected this proposal.

2. Since then, the Argentine Government have changed twice. Although there have been no formal rounds of negotiations, Mr Ridley met Sr Ros (the head of the Argentine delegation at the New York talks) in Paris in June 1981 and the Secretary of State met the then Foreign Minister, Sr Camilion, in New York last September (see brief no 15 for details). While continuing to press for an early next round of talks and for a generally accelerated tempo of negotiation (circulating a Note to that effect in the United Nations in July), the Argentines tacitly accepted our position that no progress could be made until after the elections to the Islands Legislative Council in the autumn.

3. The new Island Council was elected in October and agreed to be represented at a further round of talks. Councillors took the view that there was no need for a prior agenda but, if sovereignty were discussed, Island representatives should 'listen and report, not negotiate'. The talks were arranged for December 1981, but were postponed at the Argentines' request, following their second change of Government.

Argentine Intentions

4. A clear picture of Argentine intentions is contained in the paper they presented to our Ambassador in January (see brief no 2).

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In essence, the Argentines want to see comprehensive and rapid progress made towards a solution of the dispute, which for them means the transfer of sovereignty over the Falkland Islands and their Dependencies to Argentina. They are frustrated at the lack of progress over the years the talks have been held, and if they cannot force a swifter pace on us at the negotiating table they are prepared to turn to more direct means of applying pressure. The immediate Argentine proposal, which will be the basis of their position at the talks, is for the establishment of a 'permanent negotiating commission' to meet monthly in capitals to consider all aspects of the dispute and to conclude its work within one year. The Argentines continue to regard the sovereignty problem as central and are most unlikely to agree to progress on economic cooperation without corresponding progress on sovereignty. It is some advance that they seem prepared to look at the dispute across the board, not just at the narrow sovereignty issue. But there is no doubt that the dispute has now reached a critical stage. If the Argentines conclude that there is no real prospect of meaningful negotiations leading to a solution on their terms, they will see little option but to move from dialogue to confrontation.

The Islanders' Position

5. This will be essentially negative. Their main reason for agreeing to be represented at New York is to avoid any blame for a breakdown in the dialogue attaching to them. The two Island Councillors (both of whom are attending such talks for the first time) will wish to ensure that no substantive discussion on sovereignty takes place: and that in general no commitments are made or agreements reached on the content of future negotiations for which they might be criticised on their return home. While subscribing to the principle of greater economic cooperation, they will see this on their own terms; and any step which might lead to an increased Argentine presence or influence in the Islands will be unacceptable to them. They will find great difficulty with the inclusion of sovereignty in the remit of a

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'permanent negotiating commission' and are likely to insist that any decision should be ad referendum to the full Legislative Council.

Objectives

6. Against this background, the overriding British objective is to ensure that the way is kept open for a continuation of negotiations, while keeping the Islanders with us. Specifically our aims are:

- (i) to make clear to the Argentines that the Islanders' wishes are paramount for us; that we are negotiating on the strict understanding that it is without prejudice to our sovereignty position; but that we genuinely wish to work towards an overall solution of the dispute;
- (ii) to demonstrate to the Island Councillors our concern to act only in accordance with the wishes of the Islanders; and to ensure that a situation does not arise where Councillors feel constrained to walk out;
- (iii) to avoid the talks breaking down or ending in a climate prejudicial to a continuation of negotiations: or to our wider relations with Argentina;
- (iv) therefore to work towards agreement, ad referendum to Ministers, to a future negotiating framework under which the scope for joint economic cooperation may be fully explored, ideally without parallel consideration of sovereignty;
- (v) to ensure that, when the issue of sovereignty is raised, the Argentines are seen by the Councillors to be making the running; but at the same time to encourage Councillors to participate; and
- (vi) to ensure that the Councillors are exposed to the full range of Argentine thinking on the various issues.

7. Argentine objectives can be expected to be:

- (i) to secure agreement to make substantive and rapid progress towards a solution of the dispute based on a transfer of sovereignty, for reasons both of foreign policy and domestic prestige;
- (ii) to convince us (and the Islanders) that the dispute has to be resolved soon if the Islands are not to decline further and the Islanders themselves are not to be inconvenienced.
- (iii) to maintain that the principal issue is sovereignty over the Islands, but to agree that other matters (primarily fish and oil) may be discussed as well; and
- (iv) therefore to secure agreement to their proposal for a 'permanent negotiating commission'.

Tactics

8. This will be a difficult meeting and the Argentine position is likely to be tightly circumscribed by the terms of their proposal for a negotiating commission. Mr Luce's opening statement (brief no 1) will provide an opportunity to give our view on the realities of the dispute, and on the nature of the talks. This includes a request for details about the Argentines' proposal. There would therefore be advantage in Mr Luce making the statement before Sr Ros speaks. Mr Luce should also seek the Argentines' formal confirmation that the talks are being held without prejudice to either side's position on sovereignty.

9. The Argentine proposal for a negotiating commission (brief no 2) will form the basis of the talks. They will be expecting a definite reply to the proposal. We shall not however be able to do more than reach agreement in principle to future negotiating mechanisms ad referendum to Ministers. We shall also need to take an uncompromising line on certain aspects of the proposal.

10. In discussing the agenda for a negotiating commission, the Argentines can be expected to make clear at the outset that for them sovereignty is the central issue which underlies all other aspects of the dispute. For our part, we should emphasise the importance to us of progress on the economic aspects of the dispute, but avoid getting into the detail of possible solutions. Our aim should be to concentrate on discussing an inventory of the various elements of the dispute and on methods of carrying consideration of them further. To protect our position with the Island Councillors, we should start from the standpoint that there is no need for sovereignty to be specifically included in the remit of further negotiating machinery, on the grounds that the two sides are far apart on this issue, that it should not be allowed to hinder the solution of practical problems where progress is urgently needed, and that the scope for a sovereignty solution may prove easier to determine in the light of progress in other areas. The Argentines can be expected to reject such arguments and to insist on at least parallel consideration of sovereignty. If this becomes a breakpoint, we should try and persuade Councillors that any further consideration of sovereignty would be without prejudice and that the advantages of keeping talks going with the Argentines and of making progress on practical issues outweigh the damaging consequences of a breakdown of the dialogue.

11. It will be important for the British side in New York not to take part in a detailed discussion of possible sovereignty solutions, as we must show to the Island Councillors that there is no weakening of our commitment to the status quo. However, the brief on sovereignty options (brief no 3) provides material for any discussion that could develop. The Councillors must accept that we cannot refuse to listen to the Argentines' views.

12. We should seek to impress upon the Argentines our wish to end the dispute; but leave them in no doubt that any solution must be acceptable to both the Islanders and the British Parliament. We should then try to persuade the Argentines of

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the mutual advantages of solving problems such as the development of resources and economic cooperation quite separately from a resolution of the sovereignty dispute on the grounds that:

- (i) there are direct benefits to be had for all concerned from a regime on oil (brief no 4) and fish (brief no 5);
- (ii) there are other economic development issues (brief no 6) where the Argentines could help to the benefit of both Islanders and Argentines;
- (iii) in general, if the Islanders are to be persuaded of the advantages of any closer political association with Argentina, it is necessary to demonstrate to them that the Argentines are genuinely concerned about their future and willing to help them overcome their problems.

13. The only other issue which it will be necessary for the Minister to raise is Southern Thule (brief no 7), where it is important both for legal and presentational reasons to repeat our position on sovereignty. Officials could, as necessary, be asked to discuss other more technical subjects, eg the 1974 YPF Agreement (brief no 8); the 1971 Communications Agreement (brief no 9); and the role of the Falkland Islands Company (brief no 10). Only if the Islanders specifically ask the Minister to raise any point concerning these issues, would it seem necessary for him to do so.

Publicity

14. We shall have to agree a communique and the terms of the customary report to the UN (brief no 11). This again will depend largely on the substance of the talks, but we can expect the Argentines to seek agreement to the announcement of a more rapid negotiating process, which we shall not be able to give.

/Tactics

Tactics with the Islanders

15. The brief on Islander participation (brief no 17) gives a general steer on the line to take with Islanders and briefs nos 18 to 24 give a line to take on specific issues which the Islanders may raise.

Future Arrangements

16. While we can endorse the principle of further talks, we should avoid any firm commitment as to their exact form until British Ministers and Island Councillors have been able to take stock of the position reached at New York.

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OPENING STATEMENT

1. Islander presence

Introduce Councillors. It is Islanders' future we are discussing and, as you recognise, it is right that their representatives should take part. Wishes of Islanders are paramount to HMG. No solution unacceptable to them could ever be agreed. This is the reality for any British Government and needs to be clearly understood.

2. General

Have no doubt about British sovereignty over Falklands and Dependencies. But persistence of dispute is harmful to all the parties. Need to break deadlock preventing development of economic resources of the region. Above all, need to guarantee Islanders a secure future: and to remove this longstanding source of friction in Anglo-Argentine relations.

3. Talks

That is why present Government have held two previous rounds of talks with Argentines. Both provided opportunity for useful exchange and better understanding of each side's views. Welcome a continuation of this dialogue.

4. Freeze

At last round British side proposed a freeze to the dispute. Your delegation rejected this, despite the opportunity it might have provided to resolve our difficulties.

5. Argentine proposal

We have studied the paper you handed to our Ambassador in January and we should be grateful to hear now in detail how you propose we should proceed. We consider it of utmost importance that natural resources of the area should be developed in a controlled way and that the Islands' economy should be allowed to develop so that the Islanders' prosperity may increase.

6. Sovereignty umbrella

Grateful for formal confirmation of Argentines' understanding that talks are being held without prejudice to the sovereignty position of either side.

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PROPOSAL FOR A NEGOTIATING COMMISSION

POINTS TO MAKE

1. Can take positive view of proposal to establish a 'negotiating commission' to study the various aspects of the dispute. Ready to try and reach agreement in principle on modalities. But this will need to be ad referendum to Ministerial colleagues in London. Islanders will also wish to consult their colleagues.
2. Want to hear Argentine views on level of participation, timetable, venues and agenda.
3. Level Meetings should be at official level. Composition of delegations should reflect subject matter: economic issues will require expert technical participation. Ready to consider meetings at Ministerial level to review progress and tackle difficult sticking points. Islanders should be represented at meetings if they so wish.
4. Timetable Impractical to hold meetings as often as monthly. Those involved will be busy people. Also need to ensure that all meetings are carefully prepared to allow best chance of making progress. Realistically, quarterly meetings more appropriate. Wrong to impose time limit on work of 'negotiating commission'. This would not help atmosphere or be conducive to success. Need is to make serious and careful attempt to resolve this very difficult issue without imposing unhelpful pressures.

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5. Place Can accept alternate meetings in Buenos Aires and London.
6. Agenda Provided all meetings will be held without prejudice to either side's position on sovereignty, see no need to limit range of discussion (ready to work out terms of reference). However, would be mistake to try to tackle more contentious issue (sovereignty) first. Best means of making progress will be to explore scope for resolving problems preventing development of resources in the area.

Offshore hydrocarbons (see brief no 4)

7. First step must be to agree a form of administration to identify and then exploit any hydrocarbons on the Falklands continental shelf and to agree the area which it would cover. A licensing regime would benefit all.

Fish (see brief no 5)

8. Experts should meet to discuss problems in detail. First step will be to agree on declaration of a 200-mile fishery zone around the Islands and Dependencies: only workable framework for control of third country fishing.

Other economic development issues (see brief no 6)

9. Useful to discuss what help Argentina may be able to provide.

PROPOSAL FOR A NEGOTIATING COMMISSION

ESSENTIAL FACTS

Annex A 1. The Argentine proposal for a 'permanent negotiating commission' was contained in a bout de papier handed to our Ambassador in Buenos Aires on 27 January.

2. The Argentine paper is a tough restatement of their view that the sole purpose of the negotiations is to cede sovereignty over the Falklands and the Dependencies to them and that all other matters are secondary. None of this is new. The main elements are:

- (i) a demand that Argentine sovereignty should be acknowledged;
- (ii) a reference to the various UN resolutions as a basis for the negotiations;
- (iii) an insistence that there has been no real progress during the last 16 years of negotiations, and that a solution must be reached soon;
- (iv) a rejection of our position that the Islanders' wishes rather than their interests must be respected;
- (v) a reminder of the practical assistance the Argentines have given the Islanders (and an expression of regret that it has not helped persuade the Islanders in the direction of accepting the Argentines);
- (vi) an offer to make progress on economic cooperation (but only in the context of early British recognition of Argentine sovereignty);
- (vii) an assertion that as long as the Falklands are not under Argentine control there is a threat to the Argentine national interest in terms of South Atlantic security.

3. The paper is couched in hectoring terms. It accuses both the Islanders and HMG of deliberate prevarication and assumes not only that the Argentines are in the right, but also that they have the

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support of the international community for their position. It asserts that Argentina knows best where the Islanders' interests lie. Again, none of this is new, although the language is more suitable for a press communique than for a confidential government-to-government message. What is new, however, is the proposal at the end of the paper that a 'permanent negotiating commission' be set up to work out a solution to the dispute: this should meet in regular monthly sessions in capitals with a view to reaching a full settlement within one year. The paper concludes with the implied threat that, unless this proposal is accepted, Argentina will have to review its attitude to the negotiating process.

- Annex B
4. We replied quickly to the Argentine paper to reiterate our position on the dispute, while confirming our continued wish to achieve a workable and peaceful settlement. We debated whether to reserve our reply for the New York talks but concluded that it would be best not to leave the Argentines under any illusions about our views. The Island Councillors have been told in general terms about the exchange, but have not been shown the papers (see brief no 17).
5. Our response at New York will depend in part at least on the Argentine exposition of their proposal. But the line to take indicates our preferences and stresses that nothing can be agreed at New York: all discussion must be ad referendum to Ministers.