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DESKBY 090800Z

FROM UKMIS NEW YORK 082301Z APR 82

TO IMMEDIATE F C O

TELEGRAM NUMBER 430 DATED 8 APRIL 82

YOUR TELNO 236: MARITIME EXCLUSION ZONE

1. WE TAKE THESE POINTS, BUT WOULD LIKE TO SUGGEST THAT THE DRAFT LETTER SHOULD READ AS FOLLOWS:

"I HAVE THE HONOUR, ON INSTRUCTIONS FROM THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, TO INFORM YOU OF THE FOLLOWING:

1. NOTWITHSTANDING THE REPRESENTATIONS MADE BY MEMBERS OF THE COUNCIL INCLUDING YOURSELF, AS WELL AS BILATERALLY BY A NUMBER OF MEMBER STATES, ARGENTINA HAS STILL NOT BEGUN TO COMPLY WITH RESOLUTION 502 (1982) ADOPTED BY THE SECURITY COUNCIL ON 3 APRIL 1982.
2. ARGENTINA HAS BEEN STEADILY REINFORCING ITS ARMED FORCES WHICH ARE OCCUPYING THE FALKLAND ISLANDS FOLLOWING THE INVASION ON 2 APRIL 1982, CONTRARY TO THE CHARTER, RESOLUTION 502(1982) AND INTERNATIONAL LAW.
3. IT HAS BEEN CLEAR SINCE AT LEAST 7 APRIL THAT ARGENTINA HAS BEEN IN VIOLATION OF THE DEMANDS OF THE SECURITY COUNCIL CONTAINED IN RESOLUTION 502 (1982).
4. THE UNITED KINGDOM HAS PROMULGATED THE FOLLOWING NOTICE:

....."

2. THE USE OF THE WORDS "WHICH ARE OCCUPYING" IN PARAGRAPH 2 IS INTENDED TO LAY A FOUNDATION FOR OUR CHARGING THE ARGENTINES WITH BEING IN MILITARY OCCUPATION OF THE ISLANDS, CONTRARY TO THE CHARTER, 502 AND CUSTOMARY INTERNATIONAL LAW (CF FRIENDLY RELATIONS DECLARATION, NON-USE OF FORCE, 10TH PARA).

3. THE NEW PARA 3 IS INTENDED TO STRENGTHEN OUR CASE IF (AS IS PROBABLE) ARGENTINA OR PANAMA ARGUES THAT "THE SECURITY COUNCIL HAS TAKEN MEASURES NECESSARY TO MAINTAIN INTERNATIONAL PEACE AND SECURITY" WITHIN THE MEANING OF ARTICLE 51 BY ADOPTING RESOLUTION 502. THE NEW PARA WOULD PROVIDE A BASIS FOR OUR REPLY THAT SUCH MEASURES HAVE NOT IN FACT BEEN TAKEN BY THE COUNCIL BECAUSE ARGENTINA HAS TOTALLY FAILED TO COMPLY WITH RESOLUTION 502 AND THE SECURITY COUNCIL HAS NOT REACTED UNDER ARTICLES 39, 41 OR 42, E.G. BY IMPOSING SANCTIONS OR TAKING ACTION BY AIR, SEA OR LAND FORCES.

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4. WE HAVE BEEN TOLD THAT ARGENTINE LAWYERS ARE WORKING IN THE SECRETARIAT LIBRARY ON ARGUMENTS THAT:-

A) WE HAVE TIED OUR HANDS BY GOING INTO CHAPTER VII BECAUSE ONLY THE COUNCIL CAN TAKE ACTION TO ENFORCE ITS RESOLUTIONS THEREUNDER:

B) THE RN WOULD NOT BE EXERCISING THE RIGHT OF SELF-DEFENCE BECAUSE THE ARMED ATTACKS ON THE ISLANDS HAVE CEASED, THE UK REPRESENTATIVES SURRENDERED, AND ANY FUTURE USE OF FORCE WOULD BE ARMED REPRISALS AND SO ILLEGAL.

WE ARE WORKING ON REBUTTALS ON A CONTINGENCY BASIS.

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**ADDITIONAL DISTRIBUTION**

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