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INDEX	PA	Action Taken

310 AND 311

YOUR TELNOS 728 AND 729: FALKLAND ISLANDS

1. THE ARGENTINE FORMULA ON SOVEREIGNTY IS A CONSIDERABLE IMPROVEMENT, SUBJECT TO AGREEMENT ON WHAT HAPPENS AFTER THE TARGET DATE IF NO DEFINITIVE SOLUTION IS REACHED. THE ARGENTINES HAVE ALSO MOVED ON SOME OTHER POINTS. BUT SERIOUS PROBLEMS REMAIN, PARTICULARLY, AS YOU SAY, THE QUESTIONS OF THE DEPENDENCIES AND OF INTERIM ADMINISTRATIVE ARRANGEMENTS. WE ARE CONCERNED THAT THE ARGENTINES, HAVING APPARENTLY GIVEN WAY ON 'NON PREJUDGING', MAY TRY TO ENGINEER CHANGES IN CONDITIONS ON THE ISLANDS DURING THE INTERIM PERIOD SO AS CONSIDERABLY TO REDUCE THE CHANCES OF ANY OUTCOME UNFAVOURABLE TO THEM.
2. IN FURTHER DISCUSSIONS WITH THE SECRETARY GENERAL YOU SHOULD BE GUIDED BY THE FOLLOWING POINTS:
 - A. 'NON PREJUDGING'. WE COULD PROBABLY ACCEPT THE ARGENTINE TEXT AT THE END OF THE DAY, IF IT WERE THE ONLY MAJOR POINT LEFT TO RESOLVE AND PROVIDED SOUTH GEORGIA IS EXCLUDED FROM THE SCOPE OF THE AGREEMENT. WE WOULD PREFER THE REFERENCE TO THE UNGA RESOLUTIONS TO BE DELETED. FURTHERMORE ALTHOUGH THE LAST SENTENCE OF THE FORMULA IS LEGALLY SOUND IT MAY CAUSE US DIFFICULTIES IN PRESENTATION. THERE IS NO MENTION OF SELF-DETERMINATION. YOU SHOULD TELL THE SECRETARY GENERAL THAT IT WOULD HELP TO REMOVE CONTINUING DOUBTS IN OUR

C O N F I D E N T I A L

MINDS ABOUT ARGENTINE INTENTIONS IN THE NEGOTIATIONS, IF THEY WERE TO CEASE MAKING STATEMENTS IN PUBLIC WHICH SUGGEST THAT SOVEREIGNTY IS NOT NEGOTIABLE.

B. POSITION AFTER 31 DECEMBER 1982, IF NO DEFINITIVE SOLUTION IS AGREED BY THEN (UNDERLINED). THIS IS A KEY POINT. WE CANNOT ALLOW A VACUUM, WHICH MIGHT TEMPT THE ARGENTINES TO INVADE AGAIN. NOR CAN WE ACCEPT ANY ARRANGEMENT WHICH WOULD REQUIRE THE SECURITY COUNCIL TO APPROVE THE CONTINUATION OF THE INTERIM PERIOD, SINCE THE RUSSIANS MIGHT VETO IT, THUS LEADING TO THE VACUUM WE MUST AVOID. ARTICLE 8 IN YOUR TELNO 713 IS ACCEPTABLE. BUT ARTICLE 7(3) IS NOT.

C. DISTANCE OF WITHDRAWAL (UNDERLINED). WE DO NOT LIKE AHMED'S IDEAS, THOUGH IT IS NOT ENTIRELY CLEAR EXACTLY WHAT HE MEANS. HE APPEARS TO BE INCLUDING SOUTH GEORGIA, WHICH IS UNACCEPTABLE (SEE SEPARATE TELEGRAM). YOU SHOULD STRENUOUSLY FOR THE LANGUAGE IN ARTICLE 2 OF YOUR TELNO 713.

D. VERIFICATION OF WITHDRAWAL AND NON-INTRODUCTION OF FORCES (UNDERLINED). A MAJOR ANXIETY IS HOW THESE ARE TO BE GUARANTEED. OUR STRONG PREFERENCE WOULD BE FOR A MULTILATERAL VERIFICATION ARRANGEMENT, WITH US INVOLVEMENT. WE NEED NOT STOP THE SECRETARY GENERAL FROM PURSUING THE MATTER WITH THE CANADIANS, BUT PLEASE ASK HIM FOR A FULL ACCOUNT OF HIS LATEST INTENTIONS AND DO ALL YOU CAN TO INFLUENCE THEM TOWARDS SOME KIND OF US INVOLVEMENT.

E. INTERIM ADMINISTRATIVE ARRANGEMENTS (UNDERLINED). THE ARGENTINE PROPOSALS ARE CLEARLY UNACCEPTABLE. THE ABSOLUTE MINIMUM WE COULD ACCEPT WOULD BE THE REVISED VERSION OF ARTICLE 6(4) OF YOUR TELNO 713 SUGGESTED BELOW THOUGH EVEN THIS, REFERRING AS IT DOES ONLY TO 'CONSULTATION' WITH THE EXECUTIVE AND LEGISLATIVE COUNCILS, HAS VERY CONSIDERABLE DIFFICULTIES FOR US.

WE SEE A REAL DILEMMA OVER THE ROLE OF THE UN ADMINISTRATOR. IF WE ALLOW HIM WIDE TERMS OF REFERENCE THERE IS A RISK THAT HE WOULD ASSUME POWERS AND RESPONSIBILITIES WHICH WOULD BE QUITE UNACCEPTABLE TO US. BUT IF WE TRY NOW TO NEGOTIATE DETAILED TERMS OF REFERENCE IT COULD SPIN OUT NEGOTIATIONS AND LEAD TO FURTHER MAJOR DIFFICULTIES.

PLEASE TELL THE SECRETARY GENERAL THAT WE ASSUME THAT

ARGENTINE WITHDRAWAL WILL INCLUDE WITHDRAWAL OF ANY ADMINISTRATION WHETHER MILITARY OR SUPPOSEDLY CIVIL, THAT MAY HAVE BEEN INSTITUTED ON THE ISLANDS SINCE THE INVASION. OUR VIEW IS THAT THE UN ADMINISTRATOR WOULD THEN ASSUME THE ROLE OF OFFICER ADMINISTERING THE GOVERNMENT IN THE MANNER PREVIOUSLY CONDUCTED BY THE GOVERNOR, IE ACTING THROUGH THE ADMINISTRATIVE PERSONNEL REMAINING SINCE BEFORE THE INVASION PLUS SOME OFFICERS, WHO WILL RETURN.

THESE IDEAS MUST BE CONTAINED IN THE AGREEMENT, PERHAPS BY REVISED VERSIONS OF PARAGRAPHS 3 AND 4 OF ARTICLE 6 OF YOUR DRAFT ON THE FOLLOWING LINES:

(3) A UN ADMINISTRATOR, BEING A PERSON ACCEPTABLE TO ARGENTINA AND THE UK, WILL BE APPOINTED BY THE SECRETARY-GENERAL AND WILL BE THE OFFICER ADMINISTERING THE GOVERNMENT OF THE ISLANDS.

(4) THE UNITED NATIONS ADMINISTRATOR WILL HAVE AUTHORITY UNDER THE DIRECTION OF THE SECRETARY-GENERAL TO ENSURE THE CONTINUING ADMINISTRATION OF THE GOVERNMENT OF THE ISLANDS. HE SHALL DISCHARGE HIS FUNCTIONS IN CONSULTATION WITH THE EXECUTIVE AND LEGISLATIVE COUNCILS IN THE ISLANDS AND SHALL ACT THROUGH THE COMPETENT OFFICIALS AND INSTITUTIONS OF THE TRADITIONAL LOCAL ADMINISTRATION. HE SHALL EXERCISE HIS POWERS IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT AND IN CONFORMITY WITH THE SPIRIT OF THE LAWS AND PRACTICES PREVIOUSLY OBSERVED BY THE TRADITIONAL LOCAL ADMINISTRATION.

WE ASSUME THAT BEFORE THE UN ADMINISTRATOR TAKES UP HIS DUTIES HE WILL NEED DETAILED TERMS OF REFERENCE MORE CLEARLY DEFINED THAN SUCH A FORMULATION. WE SHOULD BE GRATEFUL IF YOU COULD ASK THE SECRETARY GENERAL WHAT HIS PLANS ARE ON THIS, MAKING CLEAR TO HIM THAT WE COULD NOT AGREE TO THE ADMINISTRATOR HAVING AUTHORITY TO MAKE CHANGES WHICH MIGHT LEAD TO A SIGNIFICANT ALTERATION IN THE CHARACTER OF LIFE ON THE ISLANDS DURING THE INTERIM PERIOD. F. FREEDOM OF TRANSIT, RESIDENCE ETC (UNDERLINED). THE ARGENTINE REQUIREMENTS SET OUT IN PARAGRAPH 5 OF YOUR TELNO 704 ARE UNACCEPTABLE (FOR THE REASONS EXPLAINED IN MY PARA 1 ABOVE). WE CANNOT GO BACK TO THE COMPLICATED FORMULAE IN THE HAIG DRAFTS WHICH WERE UNACCEPTABLE TO MINISTERS. WE COULD HOWEVER ACCEPT

C O N F I D E N T I A L

4920 - 1

WORDING TO THE EFFECT THAT, DURING THE PERIOD OF INTERIM ADMINISTRATION, THE PROVISIONS OF THE 1971 COMMUNICATIONS AGREEMENT SHOULD CONTINUE TO APPLY, EXCEPT AS MAY BE OTHERWISE AGREED BETWEEN THE PARTIES. THE 1971 AGREEMENT DOES NOT OF COURSE GIVE ANY GENERAL RIGHTS TO RESIDENCE OR TO ACQUISITION OF PROPERTY BY ARGENTINES: OUR POSITION SHOULD BE THAT THIS ASPECT SHOULD BE DEALT WITH IN THE NEGOTIATIONS FOR A DEFINITIVE SETTLEMENT. THE AGREEMENT REQUIRES THAT DECISIONS RELATING TO THE AGREEMENT SHOULD BE TAKEN BY A JOINT CONSULTATIVE COMMITTEE (OF REPRESENTATIVES OF THE ARGENTINE MFA AND THE BRITISH EMBASSY). SINCE THIS COMMITTEE NO LONGER EXISTS, SPECIAL ARRANGEMENTS WOULD HAVE TO BE MADE TO RECONSTITUTE IT: MIGHT THIS POSSIBLY BE DONE BY USING THE BRITISH AND ARGENTINE OBSERVERS? (YOU SHOULD BEAR IN MIND ARGENTINE ASSERTIONS DURING THE SOUTH GEORGIA INCIDENT THAT THE COMMUNICATIONS AGREEMENT COVERED THE DEPENDENCIES: THIS, HOWEVER, HAS NO BASIS.)

G. DEPENDENCIES: SEE SEPARATE TELEGRAM.

3. FURTHER COMMENTS ON THE DRAFT AGREEMENT IN YOUR TELNO 713 FOLLOW SHORTLY.

PYM

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HD/PUSD
DEP HD/PUSD
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4
C O N F I D E N T I A L