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From the Secretary of the Cabinet: Sir Robert Armstrong KCB, CVO

Plus (DST-AB)
Hd DSII

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14th June 1982

Falkland Islands: Civil/Military Relationship

Sir Antony Acland will recall that at a recent meeting chaired by Sir Robert Armstrong, it was agreed that it would be useful to have available a short study of the relationship between the civil and military authorities in the Falkland Islands. The Defence and Overseas secretariat here have now drafted a note about this which has been agreed with both the Foreign and Commonwealth Office and the Ministry of Defence. I enclose a copy. As you will see, this note is based upon the assumption that the Governor would also be Commander in Chief. The note could, however, be modified if necessary to take account of a situation in which there were both civil and military commissioners, rather than a Governor and a local military commander. The essential features of the civil/military relationship described in this note would remain in a situation in which there were two commissioners.

I am sending a copy of this letter and of the note to Simon Webb, the Chief of the Defence Staff, Sir Michael Palliser and Mr. Goodall.

D. J. WRIGHT

D. J. Wright

R. A. Burns, Esq

RELATIONSHIP BETWEEN THE CIVIL AND MILITARY AUTHORITIES
IN THE FALKLAND ISLANDSBackground

As soon as British civil administration is restored to the Falklands, or to any significant part of them, it will be necessary to define the relationship between the Governor, or the Officer Administering the Government in the absence of the Governor, and the local military commander. After Port Stanley has been retaken and the bulk of Argentine forces in the Islands have surrendered, active military operations could well continue in parts of the Islands for some time. Even when hostilities have ended in the Falklands themselves, there is likely to be a period of tension with Argentina during which active operations could flare up again.

2. This paper addresses the position only in the immediate period after repossession when there is a British Governor or Special Commissioner and an active threat from Argentina. It is assumed that there is no period of 'military government' and that the military commander is not appointed as interim Governor, but the Financial Secretary, Mr Rowlands, is sworn in as Officer Administering the Government as soon as this is practicable. There will be a sizeable garrison in the Islands, probably outnumbering the civilian population by 4 or 5 to 1, commanded by a Major-General answerable to the Commander-in-Chief Fleet at Northwood. This situation will require the military commander - to be called Commander British Forces (CBF) Falklands - to have a major influence on the allocation of resources. Many services, including external and internal communications, would at least initially be under the physical control of the forces.

Responsibilities of the Governor

3. The Governor would resume his position and status as the Queen's Representative. Until he arrives his powers would be exercised by Mr Rowlands,

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assuming that he has been duly sworn in. — Initially, the State of Emergency declared by the Governor when the Argentine invasion was imminent would have to continue, enabling him or the Officer Administering the Government to issue Regulations; but as soon as possible the functions of the Executive and Legislative Councils would be restored pending longer term changes in the administration of the Islands.

4. Under the present constitution of the colony the Governor is also Commander-in-Chief. Although the office of Commander-in-Chief is essentially titular, the Governor as supreme authority in the colony does nevertheless have ultimate responsibility for its defence. These arrangements need not be amended, provided there is a clear understanding between him and the CBF as to how this responsibility is to be discharged. It would need to be made clear in writing that in exercising his responsibility for the defence of the colony the Governor would act on the advice of the CBF. The Governor would be expected to cooperate closely with the CBF and would normally comply with whatever requests the CBF might make for action which the CBF considers necessary: — for the defence of the colony. He should, however, have the right to refer to the Foreign and Commonwealth Secretary any request from the CBF which he feels is inconsistent with his responsibility for the government of the Islands. The issue would then have to be resolved between the FCO and the MOD.

5. The Directive issued to the CBF by the Chief of the Defence Staff would need to include a statement on his relationship with the Governor: a draft of the relevant paragraphs is attached at Annex.

Jurisdiction

6. The pre-invasion arrangements for jurisdiction over British forces should apply: that is, there would be concurrent jurisdiction, with offences by British servicemen against civilian persons or property being tried either in Falkland courts, or with the agreement of the civil authority, in military courts.

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U.K. EYES A

ANNEX

THE GOVERNOR/CBF RELATIONSHIP

1. The aim of HMG is the return of the Islands to civil administration and the rehabilitation of the civil community at the earliest opportunity.

You are to assist the Governor in his task of rehabilitation and the restoration of essential public services providing that this assistance does not affect your primary task.

2. As Commander British Forces you are tasked with the defence of the Falkland Islands and its Dependencies and as such are to liaise closely with the Governor keeping him informed of any known enemy activity and your intentions to counter the threat. In addition, you are to keep him informed of any major military redeployments within the Falkland Islands and its Dependencies and any roulement of Forces. You will be advised by him on the likely political implications of such activities. In the event of any major disagreement with the Governor you are to inform CTF 317 and me immediately.

3. The Governor is also Commander-in-Chief of the colony and as supreme authority in the colony has ultimate responsibility for its defence. In exercising this responsibility the Governor acts on your advice. He has instructions to cooperate closely with you and will normally comply with whatever request you might make for action which you consider necessary for the defence of the colony.

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UK EYES A
U.K. EYES A