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CONFIDENTIAL



10 DOWNING STREET

From the Private Secretary

20 May 1982

PH

Future of the Falkland Islands

As I told you on the telephone yesterday, I think it would be useful, in view of the Prime Minister's interest in independence as a possible solution for the Falkland Islands problem, if the paper which I understand is under preparation in the Foreign and Commonwealth Office could reach Mrs Thatcher with the least possible delay. It would be particularly convenient if it were available for her weekend box.

I am sending a copy of this letter to Sir Michael Palliser.

answered as 00/54/56

J. COLES

John Holmes, Esq.,
Foreign and Commonwealth Office.

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THE FALKLAND ISLANDS: NEGOTIATIONS FOR A PEACEFUL SETTLEMENT

Argentine Aggression

1. It is now almost 7 weeks since Argentina invaded the Falkland Islands. This unlawful use of force in unprovoked aggression threatened not only to destroy the democratic way of life freely chosen by the Falkland Islanders but also the basis on which international order rests. The invasion was also a singular act of bad faith: it took place when Britain and Argentina were engaged in negotiations in accordance with requests from the United Nations.

2. On 1 April the President of the United Nations Security Council had formally appealed to Argentina not to invade the Falkland Islands. Yet on 2 April Argentina invaded. On 3 April, the United Nations Security Council passed its mandatory resolution 502, demanding a cessation of hostilities and an immediate withdrawal of all Argentine forces from the Islands. The same day, Argentina took South Georgia. In the ensuing weeks she has shown no sign of complying with the Security Council Resolution: on the contrary, she has continued a massive build up of the occupying forces on the Falkland Islands. There could hardly be a clearer demonstration of disregard for international law and for the United Nations itself.

The British Response

3. Britain need have done nothing more than rest on the mandatory resolution of the Security Council. Indeed Britain's inherent right of self-defence under Article 51 of the United Nations Charter would have justified the Government in adopting



a purely military policy for ending the crisis. But in pursuit of a peaceful settlement, Britain adopted a policy, frequently explained by the Government in Parliament, of building up pressure on Argentina. Military pressure was exerted by the rapid assembly and despatch of the British naval task force. Diplomatic pressure, first expressed in Security Council Resolution 502, was built up by the clear statements of condemnation of Argentine aggression which were made by many countries across the world. It was widely recognised that aggression could not be allowed to stand, since otherwise international peace and order would be dangerously prejudiced in many regions. The members of the European Community, Australia, New Zealand, Canada and Norway joined Britain in rapidly imposing economic measures against Argentina, as did the United States a little later.

Efforts for a Negotiated Settlement

4. Britain dedicated her maximum diplomatic efforts to the search for a negotiated solution, and the Government kept Parliament as fully informed as the confidentiality of difficult negotiations would allow. Efforts for an interim agreement to end the crisis were first undertaken by the United States Secretary of State, Mr Alexander Haig. His ideas for an interim agreement were discussed repeatedly with Argentina and Britain. The Government expressed their willingness to consider Mr Haig's final proposals, although they presented certain real difficulties. Argentina rejected them. The next stage of negotiations was based on proposals originally advanced by President Belaunde of Peru and modified in consultations between him and the United States Secretary of State. As the Foreign and Commonwealth Secretary

/informed



informed Parliament on 7 May, Britain was willing to accept the final version of these proposals for an interim agreement. But Argentina rejected it.

5. Since then, the Secretary-General of the United Nations, Senor Perez de Cuellar, has been conducting negotiations with Britain, represented by our Permanent Representative at the United Nations, Sir Anthony Parsons, and Argentina, represented by the Deputy Foreign Minister, Senor Ros. In these negotiations, as in earlier ones, Britain made repeated efforts to establish whether Argentina was willing to be sufficiently flexible to make a reasonable interim agreement possible. But it became increasingly clear that Argentina was not seeking an agreement but was playing for time in the negotiations in the hope of holding on to the fruits of aggression, with all that this would imply for the international rule of law. There was an important meeting of British Ministers, attended by Sir Anthony Parsons and the British Ambassador in Washington, Sir Nicholas Henderson, on Sunday 16 May. On the following day, Sir Anthony Parsons returned to New York and handed to the United Nations Secretary-General two documents:

- a draft interim agreement between Britain and Argentina which set out the British position in full;
- a letter to the Secretary-General making clear the British position that the Falkland Islands Dependencies were not covered by the draft interim agreement.

The draft agreement is in Annex A to this Paper and the letter is in Annex B.



6. Sir Anthony Parsons made clear to the Secretary-General that the draft agreement represented the furthest that Britain could go in the negotiations. He requested that the Secretary-General should give the draft to the Argentine Deputy Foreign Minister. The Secretary-General did this, and asked for a response within two days. Argentina's response, which the Government received on the evening of 19 May, represented a hardening of the Argentine position and amounted to a rejection of the British proposals.

Britain's Fundamental Principles in Negotiations

7. The Government's approach in all the negotiations has been based on important principles, which Ministers have set out repeatedly in Parliament:

- a. International Law. Argentina's unlawful aggression must end and Security Council Resolution 502 must be implemented. Aggression must not be rewarded, or small countries across the world would feel threatened by neighbours with territorial ambitions.
- b. Freedom. The Falkland Islanders are used to enjoying free institutions. The Executive and Legislative Councils were established with their agreement and functioned with their participation. Britain insisted that any interim administration in the Falkland Islands must involve democratically elected representatives of the Islanders, so as to enable the latter to continue to participate in the administration of their affairs and to ensure that they could express freely their wishes about the future of the Islands, in accordance with the principle of self-determination.



c. Sovereignty. Britain has no doubt of her sovereignty over the Falkland Islands, having administered them peacefully since 1833. Nevertheless, successive British governments have been willing, without prejudice, to include the question of sovereignty in negotiations with Argentina about the future of the Falkland Islands. In the recent negotiations, the Government have been willing that an interim agreement should provide for new negotiations about the future of the Islands, which likewise could discuss sovereignty in good faith, so long as there was no prejudgement as to the outcome of negotiations.

8. Britain upheld these principles in the draft agreement which we presented on 17 May to the United Nations Secretary-General:

- The agreement provided for complete Argentine withdrawal from the Falkland Islands within 14 days, thus terminating the aggression and upholding international law.
- It provided that the Legislative and Executive Councils representing the Falkland Islanders would continue in existence and be consulted by the UN interim Administrator, thus maintaining the democratic structure of the Administration.
- It provided explicitly that the outcome of negotiations about the future of the Islands was not prejudged, thus safeguarding the British position on sovereignty.

9. In the Secretary-General's negotiations, Britain has insisted that the Falkland Islands Dependencies should not be

/covered



covered by an interim agreement to end the crisis. South Georgia and the South Sandwich Islands are geographically distant from the Falkland Islands themselves. They have no settled population. The British title to them of which the Government have no doubt, does not derive from the Falkland Islands, and these territories have been treated as Dependencies of the Falkland Islands only for reasons of administrative convenience.

10. Throughout the negotiations, Britain, while being firm on the essential principles, has been willing to negotiate on matters where these principles were not breached. In particular:

- a. In return for Argentine withdrawal from a zone of 150 nautical miles radius around the Falkland Islands and an undertaking in the agreement that no forces would return, Britain was willing (Article 2(3)) to withdraw her Task Force from the zone and not return during the interim period. She proposed international verification (Article 6(4)) of the mutual withdrawal, in which the United Nations might have made use of surveillance aircraft from third countries.
- b. Britain was willing that the exclusion zones (Article 3) declared by herself and Argentina, and the economic measures (Article 5) introduced during the present crisis, should be lifted from the moment of ceasefire, although these actions would give more comfort to Argentina than to Britain.

/c.



- c. Britain was prepared to accept the appointment of a UN Administrator (Article 6(3)) to administer the Government of the Falkland Islands. Britain wanted him to discharge his functions in consultation with the representative institutions in the Islands - the Legislative and Executive Councils - which have been developed in accordance with the terms of Article 73 of the UN Charter. (This makes clear that the interests of the inhabitants of non-self-governing territories are paramount and refers to the need to take due account of the political aspirations of the peoples.) It is inconceivable that Britain, or any other democratic country, could accept that her people should be deprived of their democratic rights. Britain was nevertheless willing to accept that one representative from the Argentine population of the Islands (some 30 people out of 1800) should be added to each of the Councils. Additionally, Britain was willing to accept the presence of up to 3 Argentine observers on the Islands in the interim period.
- d. Britain was willing (Article 7) to agree to re-establishment of communications, travel, transport, postage, etc, between the Falkland Islands and the Argentine mainland, on the basis existing before the invasion.
- e. Britain was willing to enter into negotiations (Article 8) under the auspices of the UN Secretary-General for a peaceful settlement of the dispute with Argentina about the Falkland Islands and to seek the completion



of these negotiations by the target date of 31 December 1982. Our position was that no outcome to the negotiations should be either excluded or predetermined.

11. Argentina's final position in the negotiations speaks for itself. In particular:

- a. Argentina insisted that South Georgia and the South Sandwich Islands be covered by the interim agreement. One effect of this would be that British forces would have to withdraw from the British territory of South Georgia.
- b. Argentina wanted thirty days for the completion of the withdrawal of forces. She wanted all forces to return to their normal bases and areas of operation, thus requiring British forces to be enormously further away than Argentine ones.
- c. Argentina wanted the Administration of the Islands to be exclusively the responsibility of the United Nations. There would have been Argentine and British observers. The Administration would have been free to appoint advisers from the population of the Islands, in equal numbers from the Argentine population and from the population of British origin. The flags of Britain and Argentina would have flown, together with that of the United Nations.
- d. Argentina wanted free access for her nationals to the Islands, with respect inter alia to residence, work and property. Argentina also opposed a provision in the

/British



British draft agreement (end of Article 6(3)) about the UN Administrator exercising his powers in conformity with the laws and practices traditionally observed in the Islands. It was evident that Argentina hoped to change the nature of Falklands society and its demographic make-up in the interim period, and thus prejudice the future.

- e. Argentina proposed a formula about negotiations on the future of the Islands which stated that they should be 'initiated' without prejudice to the rights and claims and positions of the two parties. Argentina would not accept an additional phrase stating also that the outcome would not be prejudged. Argentine leaders continued in public to say that Argentina insisted on having sovereignty. In the negotiations Argentina also resisted a provision in the British draft (beginning of Article 9) which would have ensured that the interim arrangements should stay in place until a definitive agreement about the future of the Islands could be implemented. Argentina's evident aim in resisting this was that, if no definitive agreement had been reached by the target date of 31 December 1982, the interim administration would cease to exist and a vacuum be created which Argentina could hope to fill.

12. The present crisis was brought about by Argentina's unlawful act of aggression. In their subsequent attitude the Argentine government showed that they had no respect either for democratic principles nor for the rule of law. Britain stands firmly for both.

FALKLAND ISLANDS: PROPOSED INTERIM AGREEMENT

The Government of the Republic of Argentina and the Government of the United Kingdom of Great Britain and Northern Ireland,

Responding to Security Council Resolution 502 (1982) adopted on 3 April 1982 under Article 40 of the Charter of the United Nations,

Having entered into negotiations through the good offices of the Secretary-General of the United Nations for an Interim Agreement concerning the Falkland Islands (Islas Malvinas), hereinafter referred to as 'the Islands',

Having in mind the obligations with regard to non-self-governing territories set out in Article 73 of the Charter of the United Nations, the text of which is annexed hereto,

Have agreed on the following:

Article 1

(1) No provision of this Interim Agreement shall in any way prejudice the rights, claims and positions of either Party in the ultimate peaceful settlement of their dispute over the Islands.

(2) No acts or activities taking place whilst this Interim Agreement is in force shall constitute a basis for asserting, supporting or denying a claim to territorial sovereignty over the Islands or create any rights of sovereignty over them.

Article 2

(1) With effect from a specified time, 24 hours after signature of this Agreement (hereinafter referred to as Time 'T'), each Party undertakes to cease and thereafter to refrain from all firing and other hostile actions.

(2) Argentina undertakes:

(a) to commence withdrawal of its armed forces from the Islands with effect from Time 'T':

(b) to withdraw half of its armed forces to at least 150

/nautical

nautical miles away from any point in the Islands by Time 'T' plus 7 days; and

- (c) to complete its withdrawal to at least 150 nautical miles away by Time 'T' plus 14 days.

(3) The United Kingdom undertakes:

- (a) to commence withdrawal of its armed forces from the Islands with effect from Time 'T';
- (b) to withdraw half of its armed forces to at least 150 nautical miles away from any point in the Islands by Time 'T' plus 7 days; and
- (c) to complete its withdrawal to at least 150 nautical miles away by Time 'T' plus 14 days.

Article 3

With effect from Time 'T', each Party undertakes to lift the exclusion zones, warnings and similar measures which have been imposed.

Article 4

On the completion of the steps for withdrawal specified in Article 2, each Party undertakes to refrain from reintroducing any armed forces into the Islands or within 150 nautical miles thereof.

Article 5

Each Party undertakes to lift with effect from Time 'T' the economic measures it has taken against the other and to seek the lifting of similar measures taken by third parties.

Article 6

(1) Immediately after the signature of the present Agreement, Argentina and the United Kingdom shall jointly sponsor a draft Resolution in the United Nations under the terms of which the Security Council would take note of the present Agreement, acknowledge the role conferred upon the Secretary-General of the United Nations therein, and authorize him to carry out the tasks entrusted to him therein.

(2) Immediately after the adoption of the Resolution referred to in paragraph (1) of this Article, a United Nations Administrator, being a person acceptable to Argentina and the United Kingdom, shall be appointed by the Secretary-General and will be the officer administering the government of the Islands.

(3) The United Nations Administrator shall have the 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 representative institutions in the Islands which have been developed in accordance with the terms of Article 73 of the Charter of the United Nations, with the exception that one representative from the Argentine population normally resident on the Islands shall be appointed by the Administrator to each of the two institutions. The Administrator shall exercise his powers in accordance with the terms of this Agreement and in conformity with the laws and practices traditionally obtaining in the Islands.

(4) The United Nations Administrator shall verify the withdrawal of all armed forces from the Islands, and shall devise an effective method of ensuring their non-reintroduction.

(5) The United Nations Administrator shall have such staff as may be agreed by Argentina and the United Kingdom to be necessary for the performance of his functions under this Agreement.

(6) Each Party may have no more than three observers in the Islands.

Article 7

Except as may be otherwise agreed between them, the Parties shall, during the currency of this Agreement, reactivate the Exchange of Notes of 5 August 1971, together with the Joint Statement on Communications between the Islands and the Argentine mainland referred to therein. The Parties shall accordingly take appropriate steps to establish a special consultative committee to carry out the functions entrusted to the Special Consultative Committee referred to in the Joint Statement.

/Article 8

Article 8

The Parties undertake to enter into negotiations in good faith under the auspices of the Secretary-General of the United Nations for the peaceful settlement of their dispute and to seek, with a sense of urgency, the completion of these negotiations by 31 December 1982. These negotiations shall be initiated without prejudice to the rights, claims or positions of the Parties and without prejudgement of the outcome.

Article 9

This Interim Agreement shall enter into force on signature and shall remain in force until a definitive Agreement about the future of the Islands has been reached and implemented by the Parties. The Secretary-General will immediately communicate its text to the Security Council and register it in accordance with Article 102 of the Charter of the United Nations.

Done in
in the English and Spanish languages, in a single copy.

For the Republic of Argentina

For the United Kingdom of
Great Britain and Northern
Ireland

ARTICLE 73 OF THE UNITED NATIONS CHARTER

Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants of these territories, and, to this end:

- a. to ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment, and their protection against abuses;
- b. to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement;
- c. to further international peace and security;
- d. to promote constructive measures of development, to encourage research, and to co-operate with one another and, when and where appropriate, with specialized international bodies with a view to the practical achievement of the social, economic, and scientific purposes set forth in this Article; and
- e. to transmit regularly to the Secretary-General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social, and educational conditions in the territories for which they are respectively responsible other than those territories to which Chapters XII and XIII apply.

TEXT OF LETTER DATED 17 MAY 1982 FROM THE UNITED KINGDOM
PERMANENT REPRESENTATIVE TO THE UNITED NATIONS TO THE
SECRETARY-GENERAL OF THE UNITED NATIONS

You will note from the text of the Interim Agreement which I have given you on behalf of the United Kingdom that it concerns "the Falkland Islands (Islas Malvinas) hereinafter referred to as 'the Islands' ".

I wish to confirm the understanding of the British Government that this description excludes the Dependencies. I should be grateful if you would be good enough to acknowledge receipt of this letter and its terms.