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20 April 1982

CABINET

DEFENCE AND OVERSEA POLICY COMMITTEE

SUB-COMMITTEE ON THE SOUTH ATLANTIC AND
THE FALKLAND ISLANDS

COMPARISON OF THE DRAFT AGREEMENTS
OF 13 AND 19 APRIL 1982

Note by the Secretaries

Foreign and Commonwealth Office officials have compared the draft proposals agreed between Mr Haig and the Sub-Committee on 13 April before his recent visit to Buenos Aires (OD(SA)(82)10) and the draft proposals received from Mr Haig after his visit on 19 April (OD(SA)(82)16). Their comparison is attached.

Signed ROBERT ARMSTRONG
R L WADE-GERY
D H COLVIN

Cabinet Office

20 April 1982

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THE FALKLAND ISLANDS: COMPARISON OF THE DRAFT AGREEMENTS OF
13 AND 19 APRIL 1982

Note by Foreign and Commonwealth Office Officials

1. The provisions of the draft Anglo/Argentine agreement, as it stood when Mr Haig left London on 13 April, are summarised in Annex A. The provisions of the draft which he sent us on 19 April are summarised in Annex B.
2. The differences between the two are indicated in Annex B. The most important of them are:-
 - a) Withdrawal. In the earlier draft, this would be carried out by both the UK and Argentina within two weeks. In the later draft, Argentina would have two weeks to withdraw but the UK would have only one. Moreover our Task Force, but not our submarines, would be required, from the seventh day, to stand off at least 1750 nautical miles away. After 15 days 'units of' our Task Force and submarines would be required to return to 'usual operating bases or areas'. The UK would also be required to lift the MEZ within 24 hours of the agreement.
 - b) Administration. The later draft provides for the introduction of two nominees of the Argentine Government into the Legislative and the Executive Councils, in addition to at least one representative in each Council of the Argentine inhabitants of the Islands. This enlargement would give

Argentina/

Argentina effective control over 3 out of 9 members of the future Executive Council and 3 out of 12 members of the future Legislative Council. (Moreover it should be born in mind that two members of the Executive Council are at present appointed by the Governor; Argentina might in the future be able through the Special Interim Authority to determine the selection of either of these.)

- c) Economic Sanctions. The later draft requires that 'steps' be taken to lift these as soon as possible. This means that they could be lifted before Argentine withdrawal was complete. However the provision that they should be lifted simultaneously should give the UK some control over the actual timing.
- d) Relations with the Mainland. The provisions in the later draft for economic and other relations with Argentina are far broader than before. They would enable Argentina to claim that her nationals should have equal rights to purchase property, establish businesses, live on the islands and so on. The purpose of this is underlined by the introduction into the same paragraph of a mention of the possibility of compensation for islanders wishing to leave.
- e) Future Negotiations. The subject for future negotiations is stated in a way that excludes a return to the status quo ante the invasion and is heavily slanted in favour of

a transfer of sovereignty to Argentina.

3. The main reasons why the later draft is far more difficult for the UK to consider accepting than the earlier one are:-

- a) Withdrawal. The proposed arrangements are unequal and heavily favour the aggressor. For the second week after the signature of the agreement Argentina would have several thousand troops with equipment in the Falkland Islands, while the nearest UK forces, our submarines, would be seven hours away. The provision about our forces 'returning to usual operating bases or areas' after 15 days would seem to exclude most deployments in the South Atlantic.
- b) Administration. The introduction of nominees of the Argentine Government into the Councils in the Falklands would be undemocratic in the case of the Legislative Council and disproportionate in the case of the Executive Council. Government at the administrative level, as well as in the Special Interim Authority, would in effect be shared between the UK and Argentina. The degree to which British administration would be re-established would be far less than under the earlier draft agreement.
- c) Economic Sanctions. The prospect of their being lifted before the completion of Argentine withdrawal goes against the position of HMG that withdrawal is the first requirement.

d)/

- d) Relations with the Mainland. The later draft opens the possibility of an influx of Argentine people and businesses and encourages Falkland Islanders to depart. (HMG would apparently still have the right to block proposals in this field from the Special Interim Authority, but the principle of facilitating contacts is conceded independently of this in the later draft.)
- e) Future Negotiations. The exclusion of the status quo ante the invasion from the possible outcomes of negotiations does not preserve the complete freedom of choice of the islanders. Although the UK would be free to refuse agreement to any outcome in the negotiations which was unacceptable to the islanders, our freedom to press for an outcome not involving an early transfer of sovereignty would be constrained by the bias in the relevant paragraph of the later draft agreement.
4. For the draft agreement to be acceptable to the UK, amendments taking account of the previous paragraph, and some kind of US guarantee of the security of the islands from further Argentine aggression, would probably be needed.

ANNEX A

THE DRAFT ANGLO-ARGENTINE AGREEMENT: THE VERSION OF 13 APRIL

1. When he left London on 13 April, Mr Haig took to Buenos Aires a draft agreement between the UK and Argentina which took account of his 11 hours of talks with the Prime Minister. The essence of the arrangement foreseen in the draft then was:

- (a) Withdrawal of Argentine and British forces within two weeks from areas of 150 nautical miles radius from the Falkland Islands, South Georgia and the South Sandwich Islands. On completion of the withdrawal all forces to return to normal duties.
- (b) De-militarisation. No forces to be introduced into the areas pending a definitive settlement of the Falkland Islands problem.
- (c) A Special Interim Commission consisting of one representative each from the UK, Argentina and the US to verify withdrawal and de-militarisation.
- (d) Administration. 'Traditional local administration' including the executive and legislative Councils to continue but:

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- (i) all decisions, laws and regulations adopted in future by the local administration to be submitted to the Special Interim Commission and expeditiously ratified by it unless deemed inconsistent with the agreement.
- (ii) the Executive and Legislative Councils to be enlarged to include at least one representative of the Argentine population of the Islands having the normal residence qualification.
- (iii) the flags of all three participating governments to fly over the Commission's headquarters.
- (e) Relations with the Mainland. The Special Interim Commission to make recommendations to the British and Argentine governments to facilitate travel, transportation, communications and trade with Argentina.
- (f) Economic Sanctions. 'Steps' to be taken to terminate them within two weeks.
- (g) Future Negotiations. During the interim period, defined as ending on 31 December 1982, the definitive status of the Islands to be negotiated consistently with the purposes and principles of the UN Charter; these include the principle and self-determination and therefore safeguard the wishes of the Islanders. (Before Mr Haig left London on 13 April he provided an alternative version of this part of the text which introduced references to decolonisation

and to UN documents which, inter alia, stress decolonisation generally and its claimed relevance to the Falklands.

ANNEX B

THE VERSION OF 19 APRIL

1. The revised draft agreement between the UK and Argentina sent by Mr Haig to us when he left Buenos Aires on 19 April included the following main provisions and changes:-

(a) Withdrawal.

(i) There is a new provision that within 24 hours of the agreement, the UK is to rescind the MEZ and Argentina is not to conduct military operations in the three zones of 150 nautical miles radius from the Falklands, South Georgia and the South Sandwich Islands.

(ii) Within 24 hours of the agreement British and Argentine withdrawal to begin (this is also new).

(iii) Argentina to withdraw half its forces in 7 days and all its forces in 15 days (different).

(iv) UK to withdraw all its forces from the zones in 7 days (different). The Task Force to stand off at least 1750 nautical miles away (new). Within 15 days 'units of the UK naval Task Force and submarines' to redeploy to 'usual operating bases or areas' ('normal duties' in the earlier version, which also referred to Argentine forces).

(b) De-militarisation.

(i) From the day after the agreement is signed, no introduction of British or Argentine forces into the three zones. No forces

to be introduced into the zones pending a definitive settlement of the Falklands problem (as (b) in Annex A).

(c) Special Interim Authority. As in the earlier draft but name changed to 'Authority', and task to verify compliance with all the obligations in the agreement, not just withdrawal and de-militarisation.

(d) Administration. As in the previous draft except that:

(i) the exercise of traditional local administration is to be 'through' the Executive and Legislative Councils, a formulation which emphasises the disappearance of the office of Governor.

(ii) the Argentine Government is to appoint two representatives each to the Legislative and Executive Council, in addition to the representative of the Argentine population of the Falklands foreseen in the earlier draft.

(iii) there is a new provision about the police. They are to continue under the administration of the two Councils 'with a representation of the resident Argentine population' and to be subject to the supervision of the Special Interim Authority.

(e) Relations with the Mainland. This is much expanded. Movement of persons, and 'residence and ownership and disposition of property' are added to travel, transportation, communications and trade. All these are now to be promoted and facilitated on an equal basis. The Special Interim Authority, as in the earlier draft, is to make recommendations, but on this wider range of subjects and also on

possible arrangements for compensation of Islanders wishing to depart. Two other new points are that the UK and Argentina undertake to respond promptly to such proposals and that the Special Interim Authority is to monitor the implementation of adopted proposals.

(f) Economic Sanctions. 'Steps' to end them are to be taken 'from the date' of the agreement, while in the earlier version the time limit was two weeks. Sanctions are to be terminated 'simultaneously, and without delay'.

(g) Future negotiations. It is made explicit that negotiations shall start within 15 days of the signature of the agreement and be concluded by 31 December. Their subject is stated as 'modalities for the removal of the Islands from the list of non-self-governing territories' established in the UN. The principle of self-determination and therefore the wishes of the Islanders, are still implied by a reference to the purposes and principles of the UN Charter. But there is much other imprecise language about the rights of the inhabitants and the principle of territorial integrity 'applicable to this dispute', which Argentina would interpret as either not excluding or implying a transfer of sovereignty. The US is stated to be prepared to assist in the negotiations.