



CABINET OFFICE

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

Ref. A08187

21st April, 1982

Sir Roger Bannister, who is an acquaintance of mine, has just arrived back from the United States, where he has been talking to Professor Roger Fisher (Professor of International Law at Harvard University). He has given me a document which is Professor Fisher's idea for a possible solution to the Falkland Islands crisis.

I attach copies of an article by Professor Fisher in yesterday's New York Times and of a draft Security Council resolution embodying the idea.

I must say that, with its proposal to partition the Falkland Islands, and leave us with West Falkland (which is relatively sparsely inhabited) and the Argentines with East Falkland (where most of the British settlers live), does not seem to be very attractive. But I suppose a partition the other way round could be slightly less unattractive. So I pass the paper to you for what it is worth.

I am sending copies of this letter to John Coles and David Omand.

ROBERT ARMSTRONG

B. J. P. Fall, Esq.

Falklands and the U.N.

By Roger Fisher

CAMBRIDGE, Mass. — Within a few days, young Britons and Argentines may start killing each other. It is high time to get to work on a cease-fire resolution for the contested islands, whether they are called the Malvinas or Falklands.

The unwillingness of both Britain and Argentina to reach agreement while the British fleet sails southward is to be expected. It is not only that mediation is difficult for a Secretary of State who speaks officially, may look coercive, and represents the United States with all its political concerns and inhibitions. So long as Argentina and Britain do not face a fading opportunity to say "yes," the arguments for each to say "no" to any proposal are persuasive: "It is less than we want." "If we act tough, we may get more." "By saying 'no' we keep our options open." And, "If the worst comes to the worst, we can always accept these terms later." Faced with such a choice, why say "yes"?

In addition, Alexander M. Haig Jr.'s shuttle diplomacy, by attracting press and public attention, increases the political rewards for looking tough and the political costs of making concessions. Therefore, so long as each side sees the possibility of avoiding collision later on, the best course is full steam ahead.

In this situation, to ask each government what it is willing or unwilling to do, and to press for commitment, is to engage in a process that rewards stubbornness. To offer each government a series of choices in which the best way to keep options open is to engage in bellicose non-cooperation is almost certain to produce bellicose non-cooperation.

A more promising road is to talk not about declared positions but rather about underlying interests, and to offer

each government a new choice in which the best way to keep options open is to engage in peaceful cooperation.

Although the declared positions of Argentina and Britain are directly opposed, their underlying interests are potentially compatible.

Britain wants to avoid rewarding naked military aggression against territory that has been British for 149 years. It would like the concerns of the Falklanders to be taken into account. And the British Government would like to be seen to be acting firmly, wisely, and successfully.

The Argentine Government wants to rally the country in support of a long-standing national goal. It, too, wants something that it can call a success.

Each government has a comparable political problem that it defines for itself as "adhering to principle," and for its adversary as "saving face."

In these circumstances, a United Nations resolution could help.

It could provide a framework for quiet work, for participation by Falklanders themselves, for clarification of interests, and for developing ways of reconciling as well as possible the diverse legitimate interests involved. And it could effectively change the choice that each government faced.

It would be a mistake for a mediator to ask either Argentina or Britain for advance acceptance of a resolution, or to treat seriously advance rejection or threat of veto. However, a draft resolution could be subjected to repeated criticisms and revisions until it became the best that a mediator could recommend to the Security Council.

The first draft of such a resolution should not be difficult. Some points almost write themselves.

The resolution might order the two

governments not to shoot for a fixed number of days; it could reaffirm the Security Council's April 3 resolution requiring the prompt withdrawal of all Argentine forces; it could establish a United Nations officer on the islands to help deal with practical interim problems; by shifting the talks from the London-Buenos Aires shuttle to New York City, it would introduce a more efficient process of political mediation; and it could make clear that both countries' claims to sovereignty over the islands would remain unaffected by the resolution or by action taken under it.

Other points would require creativity. Permitting Britain after, say, 10 days to re-establish (by force if necessary) a British presence and flag on one island as a symbol of its claim to them all would give London an interim success to talk about and photograph. Allowing Argentina (if it withdrew its forces) to maintain a civilian presence and flag on some other island as a symbol of its claim to them all would give Buenos Aires, too, an interim success.

But whatever the precise terms, an interim cease-fire resolution would give each government a good excuse for not shooting.

Most important, the United Nations is thus able to confront each government with a simple choice in which defiance means war and compliance provides both peace and the best way to keep options open.

Roger Fisher, professor of law at Harvard University and director of the Harvard Negotiation Project, is the author, with William Ury, of "Getting to YES: Negotiating Agreement Without Giving In."

Rough Draft
April 18, 1982

The Security Council:

Deeply disturbed at the risk of armed conflict between Argentina and the United Kingdom;

Convinced that it is in the interest of all parties to settle differences over the Islas Malvinas (or Falkland Islands) by peaceful means and without loss of life;

Recalling and reaffirming its resolution of April 3rd;

1. *Orders* the governments of Argentina and the United Kingdom to refrain from firing military weapons in the region of the Falkland Islands for a period of _____ days, except to the extent that this Resolution may authorize them to do so;

2. *Renews* its demand for the prompt withdrawal of all Argentine forces from the Islands;

3. *Insists* that the government of Argentina shall have completed the withdrawal of its military forces from West Falkland Island within four days from the adoption of this Resolution;

4. *Authorizes* the government of the United Kingdom, beginning on the fifth day following the adoption of this Resolution, to use such military force, if any, as may reasonably be necessary to establish and maintain a civilian presence and the British flag on West Falkland Island as a symbol of Britain's continuing claim of sovereignty over all the Falkland Islands;

5. *Authorizes* the government of Argentina, pending a settlement of the dispute and provided that all its military forces are being withdrawn from all the Falkland Islands, to maintain a

civilian presence on East Falkland Island, and to continue to fly the Argentine flag there, as a symbol of Argentina's continuing claim to sovereignty over all the Islas Malvinas;

6. *Requests* the government of the United Kingdom not to interfere with the withdrawal of Argentine forces from the Islands, nor with the maintenance and supplying to an Argentine civilian presence on the Islands pending the settlement of the dispute;

7. *Requests* the Secretary General promptly to send to the Falkland Islands a Local Representative acceptable to the governments of Argentina and the United Kingdom to work with them and with the local residents in dealing with practical interim arrangements, and to make such recommendations as he or she may deem appropriate to avoid conflict or hardship, pending the settlement of the dispute;

8. *Invites* the government of the United States to continue in New York its efforts to achieve a longer term solution to the dispute over the Falkland Islands, and invites representatives of the United Kingdom, of Argentina, and of the local population to participate at the United Nations in those efforts;

9. *Decides* that compliance with this Resolution and with the interim recommendations of the Secretary General's Local Representative is wholly without prejudice to the rights of any person or state or to sovereignty or claims of sovereignty over any or all of the Falkland Islands;

10. *Requests* the Secretary General to report to the Security Council on this matter whenever he deems it appropriate and to recommend such further action by the Security Council as may appear desirable.