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Foreign and Commonwealth Office

London SW1A 2AH

16 January 1987

Dear Charles

CDP 16/1

Relations with Argentina: Falklands Fisheries

You asked to see some details of the proposals for cooperation on fisheries recently made by the Argentines.

The background is that a delegation led by the Director-General of the Argentine Foreign Ministry, Garcia del Solar, went to Washington in late December to give the Argentine response to an American suggestion that the Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR) should be adapted to cover waters in the South West Atlantic. That American idea of adapting CCAMLR was a non-starter - although Article IV (copy enclosed) does show how a sovereignty dispute need not preclude a multilateral cooperation agreement.

The Argentines then put forward via the Americans some ideas of their own. We have explored these in contacts with US officials. I enclose Washington telnos 3212, 3213, 38 and 39 and FCO telno 2241, which give the details.

FCO Ministers are giving careful thought to how we should respond to these new developments.

Yours ever

(R N Culshaw)  
Private Secretary

C D Powell Esq  
PS/10 Downing Street

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EXTRACT FROM THE CONVENTION ON THE  
CONSERVATION OF ANTARCTIC MARINE LIVING  
RESOURCES.

ARTICLE IV

1. With respect to the Antarctic Treaty area, all Contracting Parties, whether or not they are Parties to the Antarctic Treaty, are bound by Articles IV and VI of the Antarctic Treaty in their relations with each other.

2. Nothing in this Convention and no acts or activities taking place while the present Convention is in force shall:

(a) constitute a basis for asserting, supporting or denying a claim to territorial sovereignty in the Antarctic Treaty area or create any rights of sovereignty in the Antarctic Treaty area;

(b) be interpreted as a renunciation or diminution by any Contracting Party of, or as prejudicing, any right or claim or basis of claim to exercise coastal state jurisdiction under international law within the area to which this Convention applies;

(c) be interpreted as prejudicing the position of any Contracting Party as regards its recognition or non-recognition of any such right, claim or basis of claim;

(d) affect the provision of Article IV, paragraph 2, of the Antarctic Treaty that no new claim, or enlargement of an existing claim, to territorial sovereignty in Antarctica shall be asserted while the Antarctic Treaty is in force.

ARTICLE V

1. The Contracting Parties which are not Parties to the Antarctic Treaty acknowledge the special obligations and responsibilities of the Antarctic Treaty Consultative Parties for the protection and preservation of the environment of the Antarctic Treaty area.

2. The Contracting Parties which are not Parties to the Antarctic Treaty agree that, in their activities in the Antarctic Treaty area, they will observe as and when appropriate the Agreed Measures for the Conservation of Antarctic Fauna and Flora and such other measures as have been recommended by the Antarctic Treaty Consultative Parties in fulfilment of their responsibility for the protection of the Antarctic environment from all forms of harmful human interference.

3. For the purposes of this Convention, "Antarctic Treaty Consultative Parties" means the Contracting Parties to the Antarctic Treaty whose Representatives participate in meetings under Article IX of the Antarctic Treaty.

ARTICLE VI

Nothing in this Convention shall derogate from the rights and obligations of Contracting Parties under the International Convention for the Regulation of Whaling<sup>(3)</sup> and the Convention for the Conservation of Antarctic Seals.

ARTICLE VII

1. The Contracting Parties hereby establish and agree to maintain the Commission for the Conservation of Antarctic Marine Living Resources (hereinafter referred to as "the Commission").

<sup>(3)</sup> Treaty Series No. 5 (1949), Cmd. 7604 as amended by Treaty Series No. 68 (1959), Cmd. 849.



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FM WASHINGTON  
TO IMMEDIATE FCO  
TELNO 3213  
OF 241848Z DECEMBER 86

MIPT: FALKLANDS FISHERIES  
TEXT OF NON-PAPER  
GROUP OF EXPERTS

1. THE GROUP OF EXPERTS WILL BE COMPOSED OF THREE EXPERTS IN CONSERVATION AND MANAGEMENT OF FISHERIES. THEY WILL BE INDIVIDUALS OF DIFFERENT NATIONALITIES, CHOSEN AFTER THEIR PERSONAL COMPETENCE AND WILL PERFORM THEIR DUTIES IN AN INDEPENDENT MANNER.
2. THE EXPERTS WILL BE APPOINTED BY THE SECRETARY GENERAL OF THE UNITED NATIONS AND THEIR NAMES WILL BE PREVIOUSLY APPROVED BY THE TWO PARTIES CONCERNED, ARGENTINA AND THE UNITED KINGDOM.
3. THE GROUP OF EXPERTS WILL HAVE THE MANDATE TO STUDY THE STOCKS OF FISHES AND THEIR EVENTUAL EVOLUTION, IN RELATION WITH FISHING ACTIVITIES, WITH THE VIEW TO THE CONSERVATION OF THE SPECIES AND THEIR RATIONAL EXPLOITATION AND THE PRESERVATION OF THE MARINE ENVIRONMENT.  
THE GROUP WILL PROPOSE A SYSTEM OF CONSERVATION AND MANAGEMENT, INCLUDING AN INSTITUTIONAL STRUCTURE FOR TAKING MANAGEMENT DECISIONS AND THEIR ENFORCEMENT.
4. THE MANDATE OF THE GROUP OF EXPERTS WILL BE SUBMITTED TO THE TWO PARTIES CONCERNED, FOR THEIR APPROVAL, BY THE SECRETARY GENERAL OF THE UNITED NATIONS.
5. THE GROUP OF EXPERTS WILL SUPPORT ITS STUDIES ON STATISTICAL AND SCIENTIFIC DATA AND OTHER INFORMATION PROVIDED BY THE PARTIES CONCERNED, BY THE FISHERMEN AND BY FAO.
6. THE SECRETARY GENERAL OF THE UNITED NATIONS WILL SUBMIT TO THE TWO PARTIES CONCERNED, FOR THEIR ADOPTION, THE SYSTEM OF CONSERVATION AND MANAGEMENT PROPOSED BY THE GROUP OF EXPERTS IN ACCORDANCE WITH 3. ABOVE.

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7. IT IS HIGHLY DESIRABLE THAT ONCE THE CONSTITUTION OF THE GROUP OF EXPERTS IS AGREED UPON BY THE TWO PARTIES CONCERNED, IT WILL BE READILY APPOINTED AND WILL START ITS WORK AS SOON AS POSSIBLE.

8. FROM THE MOMENT THAT THE GROUP OF EXPERTS STARTS ITS WORK, THE TWO PARTIES CONCERNED WILL EXERT RESTRAINT IN THE AREA IN ORDER TO PREVENT UNDUE TENSIONS TO DEVELOP.

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FALKLAND ISLANDS - FISHERIES

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MR GILLMORE  
MR FEARN  
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OF 301550Z DECEMBER 86  
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MONTEVIDEO FOR PRECIOUS  
YR TELNOS 3212 AND 3213: FALKLANDS FISHERIES

1. WE ARE GLAD THE ARGENTINES HAVE EFFECTIVELY RULED OUT CCAMLR AS A SUITABLE VEHICLE FOR A MULTILATERAL SOLUTION TO THE FISHERIES PROBLEM IN THE SOUTH WEST ATLANTIC. THE AMERICANS ARE AWARE THAT WE TOO HAD DOUBTS BUT IT IS USEFUL FOR OUR RELATIONS WITH THE US ON FALKLANDS - RELATED MATTERS THAT THE ARGENTINES SHOULD PLAY THE LEAD ROLE IN SCUPPERING AN AMERICAN-INSPIRED PROPOSAL.
2. ON THE OTHER HAND, THE ARGENTINE COUNTER-PROPOSAL, WHICH APPEARS TO HAVE THE TACIT SUPPORT OF NEGROPONTE AND GELBARD, IS SCARCELY MORE TO OUR LIKING. WE SEE NO REASON WHY A GROUP OF EXPERTS SHOULD BE SET UP IN LARGE PART TO DUPLICATE THE WORK ALREADY DONE BY THE FAO, ITSELF A UN AGENCY AND ONE WITH THE DIRECT TECHNICAL COMPETENCE TO TACKLE FISHERY ISSUES. NOR WOULD WE SEE IT AS THE DUTY OF FISHERIES EXPERTS TO DRAW UP ARRANGEMENTS FOR A CONSERVATION AND MANAGEMENT REGIME THAT WOULD NEED TO TAKE ACCOUNT OF THE COMPETING AND SOMETIMES CONFLICTING CLAIMS OF THE UK, ARGENTINA, THE OTHER COASTAL STATES WITH AN INTEREST IN THE FISHERIES, AND THE FISHING



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NATIONS. IF, AS APPEARS TO BE THE CASE, THE EXPERTS ARE OBLIGED ONLY TO CONSULT THE GOVERNMENTS OF THE UK AND ARGENTINA, THE PROPOSAL OFFERS NEITHER A MULTILATERAL SOLUTION NOR IS IT LIKELY TO BE GENERALLY ACCEPTED. EVEN ASSUMING THESE HURDLES CAN BE OVERCOME, WE MIGHT ULTIMATELY FIND OURSELVES IN A POSITION WHERE WE HAD TO REFUSE ARRANGEMENTS ENDORSED BY THE UN SECRETARY-GENERAL.

3. THESE ARE ONLY A FEW OF THE PROBLEMS WE HAVE WITH THE ARGENTINE PROPOSAL. WE CONSIDER THE ARGENTINES THEMSELVES WOULD FACE SIMILAR IF NOT GREATER DIFFICULTIES IN ALLOWING AN INDEPENDENT INTERNATIONAL BODY TO PRESCRIBE ON MATTERS AFFECTING WATERS WHICH THEY CLAIM AS THEIRS. IT IS THIS WHICH LEADS US TO QUESTION WHETHER THE ARGENTINE INITIATIVE IS SOUND. EVEN IF NOT INTENDED AS A PROPAGANDA PLOY, THE PROPOSAL READS LIKE A HASTILY-DRAFTED RESPONSE TO OUR CRITICISMS OF ARGENTINA'S FAILURE TO SUPPORT A MULTILATERAL SOLUTION. ALTHOUGH THE ARGENTINES HAVE APPARENTLY RECOGNISED THAT THEY CANNOT NOW PREVENT THE INTRODUCTION OF THE FICZ, THEY MAY STILL HOPE THAT THIS INITIATIVE WILL LEAD TO THE EARLY DISMANTLING OF OUR ZONE WITHOUT TOO MUCH COST TO ARGENTINA'S PRESENT POLICY ON FISHERIES OR THE FALKLANDS.

4. THAT SAID, WE DO NOT WANT TO ALLOW THE ARGENTINES FREE CREDIT WITH THE AMERICANS BY REJECTING THE PROPOSAL OUT OF HAND. MOREOVER, EVEN THOUGH THERE MAY BE LITTLE PROSPECT OF AN AGREEMENT ON FISHERIES, IT WOULD BE USEFUL TO DRAW THEM OUT ON THEIR PROPOSAL IN OTHER AREAS. ALTHOUGH THE EXCHANGE IN YOUR FIRST TUR PARA 5(III) HAS BEEN SUGGESTED BY THE ARGENTINES BEFORE, IT HAS ALWAYS BEEN CONDITIONAL ON NEGOTIATIONS ON SOVEREIGNTY. THERE IS NO MENTION OF SOVEREIGNTY IN THE PRESENT PROPOSAL. IT WOULD INDEED BE WELCOME IF WE COULD BREAK THIS LINKAGE.

5. AGAINST THIS BACKGROUND, WE WOULD WISH YOU TO TAKE THE FOLLOWING LINE IN REPLYING TO THE AMERICANS.

(I) IN VIEW OF ARGENTINE OBJECTIONS, WE ASSUME THE AMERICANS HAVE ABANDONED THEIR PROPOSAL FOR A MULTILATERAL SOLUTION ON CCAMLR LINES.

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- (II) IT IS ENCOURAGING THAT THE ARGENTINES HAVE AT LAST RESPONDED TO THE SEVERAL PROPOSALS WE AND OTHERS HAVE MADE IN TRYING TO ESTABLISH A FRAMEWORK FOR MULTILATERAL ARRANGEMENTS. WE REMAIN READY TO WORK FOR A FAIR AND PRACTICABLE MULTILATERAL REGIME.
- (III) UNFORTUNATELY, THE ARGENTINE PROPOSAL APPEARS TO BE DEFECTIVE IN A NUMBER OF IMPORTANT RESPECTS EG.
- (A) WHY IS THERE A NEED FOR A STUDY BY A GROUP OF UN- APPOINTED EXPERTS WHEN AN EXISTING UN AGENCY, THE FAO, IS DUE TO COMPLETE ITS REPORT ON THE FISHERIES IN THE NEXT FEW MONTHS AFTER CLOSE ON TWO YEARS RESEARCH?
- (B) THE PROPOSAL APPEARS ONLY TO CALL FOR THE GOVERNMENTS OF THE UK AND ARGENTINA TO APPROVE THE CONSERVATION AND MANAGEMENT ARRANGEMENTS. SURELY THIS WILL PROVE UNACCEPTABLE TO OTHER INTERESTED PARTIES?
- (C) THE PROPOSAL GIVES NO INDICATION OF THE SORT OF MULTILATERAL ARRANGEMENTS THAT WOULD BE ACCEPTABLE TO THE ARGENTINE GOVERNMENT. THERE IS NO POINT IN GOING DOWN THIS ROAD IF ARGENTINA, WHICH HAS SHUNNED PREVIOUS PROPOSALS, ULTIMATELY FINDS ITSELF UNWILLING TO AGREE TO THE RECOMMENDATIONS. WE WOULD BE GRATEFUL FOR ANSWERS TO THESE POINTS AND FOR ANY FURTHER CLARIFICATION THE ARGENTINES ARE PREPARED TO OFFER.
- (IV) WE WELCOME THE INDICATIONS THAT ARGENTINA IS KEEN TO REDUCE TENSION. IN THE PAST THE ARGENTINE GOVERNMENT HAVE ALWAYS MADE PROGRESS TOWARDS MORE NORMAL RELATIONS CONDITIONAL ON NEGOTIATIONS ON SOVEREIGNTY. ARE THEY NOW READY TO RESPOND TO OUR INITIATIVES EG. ON TRADE, AIR SERVICES AGREEMENTS AND NEXT OF KIN VISITS?

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MR GILLMORE  
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INFO ROUTINE UKHIS NEW YORK, MONTEVIDEO

FCO TELNO 19 (NOT TO ALL): FALKLANDS FISHERIES

SUMMARY

1. NEW ARGENTINE NON-PAPER ON FALKLANDS FISHERIES. AMERICANS SEE ARGENTINE THINKING EVOLVING IN A HELPFUL WAY AND HOPE THAT WE WILL BE ABLE TO ENCOURAGE IT FURTHER.

DETAIL

2. GILLMORE DISCUSSED FALKLANDS FISHERIES WITH GELBARD AND SCULLY ON 9 JANUARY. THE AMERICANS HANDED OVER AN ARGENTINE RESPONSE (TEXT IN MIFT) TO THE QUESTIONS THEY HAD PUT ON OUR BEHALF (FCO TELNO 2241). THEY ATTRIBUTED THIS NON-PAPER TO SABATO.

3. COMMENTING ON THE ARGENTINE TEXT, GELBARD ARGUED THAT ARGENTINE THINKING WAS EVOLVING POSITIVELY. THERE WERE NOW NO PRE-CONDITIONS, NO REFERENCES TO SOVEREIGNTY AND NO OVERT LINKAGE OF THE FISHERIES ISSUE WITH WIDER PROBLEMS (ALTHOUGH THE ARGENTINES HAD CLEARLY NOT LOST SIGHT OF THE FIPZ/CESSATION OF HOSTILITIES EQUATION). THE ARGENTINES ALSO STILL APPEARED RESIGNED TO THE INTRODUCTION OF THE FICZ FROM 1 FEBRUARY, AND WERE INSTEAD KEEN TO SEE THAT ITS IMPLEMENTATION POSED AS FEW TENSIONS AS POSSIBLE. IN SHORT, THE ARGENTINES SEEMED INTERESTED IN FINDING A PRAGMATIC WAY OF MANAGING A DIFFICULT PROBLEM.

4. GILLMORE SAID THAT WE WOULD STUDY THE NEW ARGENTINE PAPER VERY CAREFULLY. BUT IN THE LIGHT OF THE BERNE EXPERIENCE, WE WOULD BE BOUND TO PROCEED WITH CAUTION. THE WORST OUTCOME WOULD SURELY BE TO PROCEED SOME WAY DOWN THIS PATH ONLY TO FIND THAT UK AND ARGENTINE OBJECTIVES WERE IN FACT IRRECONCILABLE.

5. GELBARD SAID THAT THE US AMBASSADOR IN BUENOS AIRES HAD JUST REPORTED A DISCUSSION WITH A SENIOR ARGENTINE (UNIDENTIFIED), WHO HAD HIMSELF REGRETTED THE BERNE FIASCO AND HAD GONE ON TO INDICATE THAT ALFONSIN WAS READY TO TRY TO DETACH THE FISHERIES QUESTION FROM THE SOVEREIGNTY ISSUE. GELBARD SUGGESTED THAT THE APPROACH NOW ADVOCATED BY THE ARGENTINES SEEMED IMPLICITLY TO ACCEPT THE UK AS A COASTAL STATE, TO OFFER THE PROSPECT OF SOME MOVEMENT TOWARDS THE NORMALISATION OF BILATERAL RELATIONS, AND TO ADDRESS THE QUESTION OF FISHERIES CONSERVATION. THERE THEREFORE SEEMED TO BE A STRONG CASE FOR NOT REJECTING IT OUT OF HAND.

6. GILLMORE REPEATED THAT THE PAPER WOULD RECEIVE CLOSE CONSIDERATION. ONE ASPECT WHICH MIGHT GIVE US PAUSE WAS THE ROLE OF THE UN SECRETARY-GENERAL: WHY WERE THE ARGENTINES SO ATTRACTED BY THIS? GELBARD IMAGINED THAT THE SECRETARY-GENERAL'S INVOLVEMENT COULD OFFER ALFONSIN SOME VALUABLE POLITICAL COVER.

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BUT THE PROPOSED GROUP OF EXPERTS WOULD OF COURSE DO THE REAL WORK - AND THE ARGENTINES WERE PROBABLY NOT WEDDED TO THE SECRETARY-GENERAL IF ANOTHER CHANNEL COULD BE FOUND. GILLMORE ADDED THAT THE ARGENTINE PAPER STILL DID NOT SEEM TO ANSWER THE CENTRAL QUESTION ABOUT EVENTUAL MULTILATERAL ARRANGEMENTS. SCULLY AGREED THAT ARGENTINE THINKING ON THIS WAS NOT CLEAR. THEY HAD EVIDENTLY FEARED THAT THE FAO OR CCAMLR APPROACHES WOULD HAVE DILUTED THE RIGHTS OF COASTAL STATES. THEY PRESUMABLY SAW THEIR APPROACH AS REDRESSING THE BALANCE. COULD THIS BE RECONCILED WITH THE UK'S COMMITMENT TO A MULTI-LATERAL MECHANISM?

7. IT WAS AGREED THAT, BEFORE PROCEEDING TOO MUCH FURTHER, IT WOULD BE IMPORTANT TO ESTABLISH WITH MORE CLARITY WHAT PRACTICAL OUTCOMES BOTH PARTIES WERE SEEKING. GILBARD WARNED AGAINST PRESSING THE ARGENTINES TOO HARD AT THIS FORMATIVE STAGE IN THEIR THINKING TO COME UP WITH DEFINITIVE ANSWERS.

GILLMORE AGREED THAT IT WOULD BE HELPFUL IF THE UK COULD AT LEAST EXPLORE MORE CLOSELY WHAT WOULD HAVE BEEN AN ACCEPTABLE OUTCOME UNDER THE FAO APPROACH: IT WOULD THEN BE EASIER TO SEE WHETHER THE CURRENT TRACK OFFERED ANY PROSPECT OF SATISFYING ORIGINAL UK OBJECTIVES. GILLMORE ALSO AGREED THAT IT WOULD BE HELPFUL IF SCULLY WAS TO DISCUSS DETAILED FISHERIES ISSUES WITH THE APPROPRIATE UK EXPERTS.

8. GILBARD ADDED THAT THE LONDON CORRESPONDENCE OF CLARIN HAD CLAIMED THAT ACCORDING TO BRITISH SOURCES THE AMERICANS WERE MEDIATING ON THIS ISSUE. THAT WAS NOT THE US INTENTION, AS THE AMERICANS WOULD BE MAKING CLEAR IN PUBLIC.

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FALKLAND ISLANDS - FISHERIES

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FM WASHINGTON  
TO IMMEDIATE FCO  
TELNO 3212  
OF 241644Z DECEMBER 86

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FALKLANDS FISHERIES  
SUMMARY

1 NEW ARGENTINE IDEAS FOR MANAGEMENT OF THE SW ATLANTIC FISHERY PUT TO THE US FOR TRANSMISSION TO THE UK. TO BE BASED ON PROPOSALS FROM A GROUP OF EXPERTS REPORTING TO THE SECRETARY GENERAL OF THE UN, THE LATTER ACTING IN A PERSONAL CAPACITY.

DETAIL

2 NEGROPONTE (ASSISTANT SECRETARY FOR OCEANS AND THE ENVIRONMENT IN THE STATE DEPARTMENT) ASKED MINISTER TO CALL TODAY TO CONVEY TO HIM SOME NEW IDEAS FOR THE MANAGEMENT OF THE SW ATLANTIC FISHERY WHICH HAD BEEN PUT TO THE US BY A TEAM OF ARGENTINE OFFICIALS THAT HAD VISITED WASHINGTON THIS WEEK FOR THIS PURPOSE. THE TEAM HAD BEEN LED BY GARCIA DEL SOLAR, THE DIRECTOR GENERAL OF THE ARGENTINE FOREIGN MINISTRY.

3... NEGROPONTE SAID THAT THE ARGENTINIANS HAD FIRST MADE CLEAR THEIR STRONG RESERVATIONS ABOUT USING CCAMLR AS A VEHICLE FOR A MULTILATERAL SOLUTION. THEY MENTIONED THE LACK OF CCAMLR MANAGEMENT COMPETENCE FOR THE AREAS CONCERNED, MEMBERSHIP OF CCAMLR BY COUNTRIES NOT INVOLVED IN FISHERIES IN THE AREA, AND THE JURIDICAL IMPLICATIONS OF THE CCAMLR MODEL. THEIR CONCLUSION WAS THAT THE APPROACH WAS QUOTE POLITICALLY UNACCEPTABLE UNQUOTE.

4 THE ARGENTINIANS THEN PUT FORWARD AN ALTERNATIVE APPROACH WHICH WOULD INVOLVE THE USE OF THE GOOD OFFICES OF THE UN SECRETARY GENERAL. THE SECRETARY GENERAL WOULD BE INVITED TO APPOINT A GROUP OF EXPERTS TO ACT UNDER HIS AUSPICES TO MAKE RECOMMENDATIONS TO HIM ON A SYSTEM TO REGULATE FISHING ACTIVITIES IN THE AREA. THE SECRETARY GENERAL WOULD CONVEY THE RECOMMENDATIONS TO ARGENTINA AND THE UK FOR IMPLEMENTATION. FURTHER DETAILS OF THE SCHEME WERE ELICITED FROM THE ARGENTINIANS AS A RESULT OF QUESTIONING BY THE US, AND ARE CONTAINED IN THE TEXT OF MIFT, WHICH WAS HANDED TO MINISTER AS A NON-PAPER.

5 IN RESPONSE TO QUESTIONS BY JENKINS, NEGROPONTE ADDED THE FOLLOWING POINTS:

(I) THE ARGENTINIANS HAD MADE CLEAR THAT THE AREA TO BE CONSIDERED WAS NOT JUST THE FICZ BUT THEIR OWN WATERS AND WATERS ADJACENT TO THOSE CLAIMED BY EACH SIDE

(II) THE ARGENTINIANS WERE NOT CALLING FOR THE SUSPENSION OF THE FICZ AND PRIVATELY ACCEPTED THAT THE UK MEASURES WOULD COME INTO OPERATION AS FROM 1 FEBRUARY. THEY HOPED HOWEVER THAT THE UK WOULD MANAGE THE FICZ IN A LOW PROFILE WAY IN ORDER TO AVOID PROVOKING UNDUE TENSION WITHIN ARGENTINA. WHEN PRESSED, THEY WERE NOT SPECIFIC AS TO WHAT THEY MEANT BY THIS

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BUT VOLUNTERED THAT THEY WOULD OPERATE THEIR OWN BILATERAL AGREEMENTS IN A WAY WHICH AVOIDED ANY CONFRONTATION WITH THE UK OVER THE FICZ

(III) THE ARGENTINIANS EXPRESSED AN INTEREST IN FINDING OTHER WAYS IN PARALLEL TO REDUCE TENSION BETWEEN THE UK AND ARGENTINA. THEY MENTIONED THE POSSIBILITY OF AN ARGENTINE DECLARATION OF A CESSATION OF HOSTILITIES IN EXCHANGE FOR THE ABOLITION OF THE EXCLUSION ZONE OR FOR SOME VARIANT OF THIS IF ABOLITION WAS UNACCEPTABLE. THEY EMPHASISED HOWEVER THAT SUCH IDEAS DID NOT CONSTITUTE A PRE-CONDITION FOR THE PROPOSALS THEY WERE NOW MAKING.

(IV) THE ARGENTINIANS HAD NOT CLARIFIED THEIR THINKING FURTHER ABOUT WHO WOULD MANAGE THE SYSTEM OF CONSERVATION. THEY HAD NOT GONE BEYOND SAYING THAT THIS WOULD BE FOR THE EXPERTS TO RECOMMEND.

6 GELBARD (DEPUTY TO ABRAMS), WHO WAS ALSO PRESENT, EMPHASISED THAT CAPUTO WAS CLOSELY INVOLVED IN THE IDEAS PUT FORWARD BY THE ARGENTINIANS. CAPUTO HAD PRESSED FOR A VISIT TO BUENOS AIRES BY US OFFICIALS THIS WEEK. WHEN THIS HAD NOT PROVED POSSIBLE FOR THE US SIDE HE HAD RESPONDED BY SENDING GARCIA. THE ARGENTINE TEAM HAD CONSTANTLY CONSULTED CAPUTO BY TELEPHONE DURING THEIR TALKS IN WASHINGTON. GELBARD ADDED THAT THE ARGENTINIANS STRESSED THEIR WISH TO KEEP BOTH THE FACT OF THEIR CURRENT APPROACH AND ITS CONTENT STRICTLY CONFIDENTIAL TO THE US AND OURSELVES AT THIS STAGE.

7 NEGROPONTE RECOGNISED THAT WE MIGHT NOT BE IN A POSITION TO MAKE A VERY EARLY REACTION TO THE ARGENTINE IDEAS. BOTH HE AND GELBARD HOPED THAT WE WOULD STUDY THEM CAREFULLY. THEY BELIEVED THAT THE ARGENTINE APPROACH WAS SERIOUS AND NOT PROPAGANDISTIC. NEGROPONTE RECOGNISED THAT WE MIGHT FIRST WISH TO RAISE SOME FURTHER QUESTIONS ABOUT THE SUBSTANCE OF WHAT WAS BEING SUGGESTED. HE AND HIS DEPARTMENT WOULD BE HAPPY TO RESPOND TO THIS. HE WOULD BE GRATEFUL TO KNOW BY THE END OF NEXT WEEK HOW WE WOULD WISH TO PROCEED.

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FALKLAND ISLANDS - FISHERIES  
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OF 100110Z JANUARY 87  
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MIPT: FALKLANDS FISHERIES

1. FOLLOWING IS TEXT OF ARGENTINE NON-PAPER:

QUOTE SOME CLARIFICATIONS SHOULD BE MADE CONCERNING THE CONTEXT IN WHICH THE IDEAS ABOUT WHICH WE ARE BEING ASKED HAVE DEVELOPED.

1. THE ARGENTINE GOVERNMENT HAS NOT MADE ANY FORMAL PROPOSALS. IT HAS SIMPLY LIMITED ITSELF TO OFFERING SOME IDEAS BASED ON THE DEPARTMENT OF STATE'S INITIATIVE. THESE IDEAS MAY BE FURTHER DEVELOPED THROUGH A PROCESS OF CONSULTATIONS UNTIL THEY CONSTITUTE AN ACCEPTABLE BASIS FOR ARGENTINA AND THE UNITED KINGDOM.

2. OUR IDEAS REST ON ACKNOWLEDGING THE EXISTENCE OF ONE LIMITATION AND TWO MAJOR PROBLEMS.

THE LIMITATION IS THAT NO FORMULA THAT MIGHT REPRESENT AN IMPROVEMENT FOR THE POSITION OF ONE PARTY TO THE DISPUTE WOULD BE ACCEPTABLE TO THE OTHER, AND VICE VERSA.

THE TWO MAJOR PROBLEMS ARE TO:

(A) AVOID CREATING INCIDENTS,

(B) PREVENT THE DEPREDACTION OF RESOURCES AS A CONSEQUENCE OF THE COEXISTENCE OF UNRELATED ADMINISTRATIVE REGIMES REGULATING THE SAME ECOLOGICAL AREA.

3. CONSEQUENTLY, A REGIME MUST BE FOUND THAT IS VIABLE (IE. THAT AVOIDS THE LIMITATION) AND USEFUL (IE. THAT SOLVES THE PROBLEM).

4. JUST AS HUMANITARIAN LAW IS APPLIED IN CONFLICTS IN ORDER TO LIMIT THEIR NEGATIVE EFFECTS, A REGIME CAN BE FOUND TO LIMIT THE NEGATIVE EFFECTS OF THE DISPUTE, UNDESIRABLE FOR BOTH PARTIES. IN THIS CASE, INCIDENTS AND DEPREDACTION OF RESOURCES.

SUCH A REGIME WOULD APPLY AS LONG AS THE DISPUTE LASTS, EXCEPT, AS MENTIONED ABOVE, FOR THE LIMITATIONS OF EITHER PARTY.

NOTE THAT THE MECHANISM DIFFERS WITH RESPECT TO POSSIBLE MULTILATERAL ARRANGEMENTS. IN OUR VIEW, THE PARTIES, ADVISED BY A THIRD PARTY, FOR EXAMPLE THE SECRETARY GENERAL OF THE UNITED NATIONS, WOULD AGREE BEFORE THAT THIRD PARTY TO CERTAIN REGULATIONS, NOT AS CONTRACTING PARTIES TO AN AGREEMENT BUT RATHER AS PARTIES THAT ARE ENGAGED IN A DISPUTE AND WITH THE SOLE PURPOSE OF LIMITING ITS NEGATIVE EFFECTS.

CONSEQUENTLY, AND WITH RESPECT TO THE QUESTIONS RAISED:

1. THE FAO STUDY CAN SERVE AS BACKGROUND FOR THE GROUP OF EXPERTS, WHO CAN USE IT FOR THEIR RECOMMENDATIONS.

2. THE THIRD PARTY AGREED UPON THE BASIS OF THE RECOMMENDATIONS BY THE GROUP OF EXPERTS WOULD SUBMIT A PACKAGE OF PROPOSALS TO

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THE PARTIES WHICH, IF THEY ACCEPT THEM, WOULD UNDERTAKE TO APPLY THEM. THIS WOULD BRING ABOUT A COORDINATED REGIME THAT WOULD BE APPLICABLE TO THIRD FLAGS.

3. THE IDEAS ADVANCED IN WASHINGTON DO NOT INCLUDE ANY TYPE OF MULTILATERAL REGIME.

THE COORDINATED REGIME WOULD BE A CONSEQUENCE OF THE THIRD PARTY'S PROPOSAL AND THE COMMITMENT OF THE TWO PARTIES TO THE DISPUTE TO APPLY IT TO THIRD FLAGS.

FINALLY, WE SHOULD LIKE TO MAKE IT CLEAR THAT THE PATH WE HAVE OUTLINED IS THE ONE WE CONSIDER TO BE APPROPRIATE FOR THE LIMITATION AND THE PROBLEMS. NEVERTHELESS, ANY OTHER MECHANISM THAT DOES NOT VIOLATE THAT LIMITATION AND MIGHT HELP TO SOLVE THE PROBLEMS CAN BE EXPLORED.

JENKINS

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FALKLAND ISLANDS -FISHERIES

LIMITED

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PS  
PS/LADY YOUNG  
PS/MR EGGAR  
PS/PUS  
MR GILLMORE  
MR FEARN  
MR WILSON  
MR SAMUEL ODA  
MR AINSCOW ODA

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