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QUESTION OF THE FALKLAND ISLANDS (MALVINAS)

Letter dated 28 October 1982 from the Permanent Representative
of the United Kingdom to the United Nations addressed to the
Secretary-General

I have the honour to refer to agenda item 135 (Question of the Falkland Islands (Malvinas)), which is scheduled for debate in the plenary commencing on 2 November. In view of the fact that the document circulated at the request of the Permanent Representative of Argentina under the symbol A/37/553 and Corr.1 repeats numerous tendentious claims which have been refuted in earlier documents, I have the honour to attach copies of letters dated 28 April 1982 (annex I) and 13 August 1982 (annex II) addressed to the President of the Security Council and the Secretary-General, respectively.

I should like to emphasize one point in particular. The annex to the letter from the Permanent Representative of Argentina, under the heading "Background", claims in three places that the General Assembly has "ruled out the applicability of the right of self-determination to this particular special case". The decisions in question are the Committee of 24's conclusions and recommendations of 13 November 1964 and the General Assembly's resolutions 2065 (XX) of 16 December 1965 and 3160 (XXVIII) of 14 December 1973. However, it will be seen from the texts themselves (reprinted in annex II to the Argentine document) that none of them contains anything to support the Argentine allegation. In fact, all three decisions draw their inspiration from resolution 1514 (XV), which declares in its operative paragraph 2 that: "All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development". The same part of the Argentine document refers also to the Declarations of the Movement of Non-Aligned Countries. Significantly, however, it fails to draw attention to the fact that the

most recent communiqué of the meeting of the Ministers for Foreign Affairs and heads of delegation of the non-aligned countries, held in New York earlier this month, made specific mention in the context of the Falkland Islands dispute of the principles of the non-aligned movement: as everyone knows, the non-aligned principles include the non-use of force, the settlement of disputes exclusively by peaceful means, and self-determination.

There are no doubt the reasons why the Argentine document seeks to obscure the essential facts by insisting that the dispute is exclusively about sovereignty and that there are only two parties to it, the Islanders being excluded. The position of the United Kingdom does not depend on sophistry of this kind, but on basic Charter principles, notably the United Kingdom's clear obligation under Article 73 to recognize the interests of the inhabitants of the Falkland Islanders as paramount.

I have the honour to request that this letter and its attachments be circulated as a document of the General Assembly under agenda item 135.

(Signed) J. A. THOMSON

ANNEX I

Letter dated 28 April 1982 from the Permanent Representative
of the United Kingdom of Great Britain and Northern Ireland
to the United Nations addressed to the President of
the Security Council

I have the honour, with reference to the letter from the Permanent Representative of Cuba dated 26 April 1982 to which was attached a communique by the Coordinating Bureau of the Movement of Non-Aligned countries, to state the following.

The United Kingdom shares the concern of the Coordinating Bureau over developments in the region of the Falkland Islands. As resolution 502(1982) adopted by the Security Council on 3 April 1982 makes clear, the Argentine invasion of the Falkland Islands in defiance of the Security Council's call on 1 April that force should not be used, caused the current breach of the peace in the region. This breach of the peace will not be brought to an end before Argentina can be seen to have complied with operative paragraph 2 of that resolution by withdrawing all its forces from the Falkland Islands. Argentina's use of force was not only contrary to the principles of the Movement of Non-Aligned countries, as the communique notes, but also to paragraphs 3 and 4 of article 2 of the Charter of the United Nations - the fundamental principles of peaceful settlement of disputes and non-use of force.

With regard to the question of self-determination, I wish to draw Your Excellency's attention to the following points. Self-determination is usually referred to these days in the United Nations not as a principle, but rather as an "inalienable right": in other words, it is a right which cannot be taken away. This right derives principally from the Charter and the Covenants on Human Rights. Article 1(2) of the Charter refers to self-determination of "peoples" and article 73 recognises "that the interests of the inhabitants" of territories such as the Falkland Islands are paramount. Article 1 of the two International Covenants on Human Rights contains the following provision:

"1. All peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development." (emphasis added)

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Paragraph 3 of the same article establishes that the duty to promote the realisation of this right is imposed upon all states parties and not only upon those administering territories.

The Falkland Islanders are a people. The United Kingdom ratified both the Human Rights Covenants on their behalf. They are a permanent population. Over half of the people can trace back their roots on the Island to 1850. They have no other home. They have as is well known expressed their wishes regarding their political status in free and fair elections, the last having been held as recently as October 1981. The consistent practice of the United Nations shows that there is no minimum figure for a population to qualify for the right to self-determination: it suffices to cite the case of St Helena, another South Atlantic island with about 4000 people whose right to self-determination has been consistently upheld. The United Kingdom cannot accept that the right of self-determination as enshrined in the Charter and the Human Rights Covenants is subject to a special exception in the case of the Falkland Islands. This conclusion is confirmed by the Friendly Relations Declaration, adopted by consensus in 1970.

Turning to the question of sovereignty, the United Kingdom, whilst fully maintaining its position, acknowledges that its sovereignty has been disputed by Argentina on the basis of certain events in 1833. Attached to this letter is a memorandum setting out the history of settlement of the Falkland Islands. This shows that France has maintained a colony for about 3 years, Spain for at most about 41 years, the United Kingdom 158 years and Buenos Aires about at most 6 years. In particular, the present population of the Falkland Islands has been there, generation after generation, for the last 149 years, maintaining a viable pastoral economy and distinctive way of life. And whereas the French, Spanish and Buenos Ayrean colonies were very small (under 100 people), the only significant permanent population has been that from the mid-19th century to the present day, averaging just under 2000 persons.

Whilst no doubt much time and energy could be spent in reviewing the history of the Falkland Islands between the first settlement in 1764 and 1833, and whilst the United Kingdom is confident about the strength of its legal case over that period, these factors cannot be allowed to override the right of self-determination. In 1833, the age of the railway was just opening in Europe and it hardly seems appropriate to decide issues involving the welfare of people alive in the latter part of the 20th century on the basis of (disputed) events in the early part of the 19th century or even the 18th century. If the international community were to discount 149 years of history, there would hardly be an international boundary which did not immediately become subject to dispute.

I should be grateful if you would arrange for this letter and the enclosure to be circulated as documents of the Security Council.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

(Signed) A D PARSONS

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Appendix

History of the settlement of the Falkland Islands

- 14 August 1592** The English ship *Desire*, captained by John Davis, was driven off course in a storm to "certaine isles never before discovered lying 50 leagues or better from the ashore east and northerly from the (Magellan) Straits".
- 27 January 1690** Captain John Strong of the British ship *Welfare*, made the first recorded landing on the island. He gave the name "Falkland" to the sound between the two main islands in the group, after Viscount Falkland who was the treasurer of the British Royal Navy. The islands were uninhabited.
- 1700 - 1710** The Falkland Islands were visited by French seal hunters, from St Malo (hence the French name of Les Isles Malouines). No settlements were established.
- 31 January 1764** A Frenchman (Louis Bougainville) established a settlement at the west end of Berkely Sound (northwest of modern Stanley). The settlement was called Port Louis.
- June 1764** A British expedition left to found a settlement.
- August 1764** Formal possession of the islands was announced in the name of King Louis XV of France.
- January 1765** The British expedition surveyed West Falkland and established a post at Port Egmont. Commodore Byron took formal possession of all the Islands for King George III.
- June 1765** Commodore Byron reported that he had "coasted the islands for 70 leagues and saw no evidence of anyone being there".
- January 1766** A second British expedition, led by Captain Macbride completed the settlement at Port Egmont and erected a block house for the defence of the settlement. In December 1766, he discovered the existence of the Bougainville settlement and gave the settlers formal notice to leave British territory.

- April 1767 France relinquished its claim to the islands to Spain in return for a financial indemnity. Spain re-named Port Louis as Puerto de la Soledad.
- November 1769 The Captain of a British frigate ordered a Spanish ship to move away from Port Egmont. The Governor of the Spanish colony called on the British settlers to leave and the British captain warned the Spaniards to leave within 6 months.
- 4 June 1770 A Spanish frigate entered Port Egmont and was joined two days later by 4 Spanish ships to expel the British settlers.
- 10 June 1770 The British settlers capitulated and set sail for the United Kingdom. The United Kingdom protested to the Government of Spain.
- 22 January 1771 Spain issued a declaration in response to the British protest, agreeing to restore to the United Kingdom the possession of Port Egmont. The Spanish declaration stated that the restoration of Port Egmont to British possession "cannot nor ought in any wise to affect the question of the prior right of sovereignty to the Malouines Islands, otherwise called Falkland's Islands". The British accepted this declaration, together with full performance of the Spanish undertakings, as satisfaction for the injury done to the United Kingdom on 10 June 1770.
- September 1771 Port Egmont was formally restored to the United Kingdom.
- May 1774 The British establishment at Port Egmont was closed for reasons of economy. The British commanding officer left the British flag flying and a plaque declaring the Falkland Islands "to be the sole right and property" of King George III.
- 1777 The buildings at Port Egmont were destroyed by the Spanish.
- 1784 Spanish colony had 82 inhabitants (including 28 convicts).
- June 1806 The Spanish settlement at Soledad was abandoned. Islands uninhabited.

- 9 November 1820 Col. Jewett paid a brief visit and took formal possession of the Falkland Islands on behalf of the newly independent government in Buenos Aires, without establishing a settlement. He found many vessels engaged in sealing including several British and US vessels.
- 1823 An attempt by Don Jorge Pacheco of Buenos Aires to establish a settlement failed.
- 5 January 1828 The government in Buenos Aires issued a decree establishing a colony at Soledad. Mr Vernet, a Hamburg merchant of French descent, and naturalised citizen of Buenos Aires was given three years to establish a colony and provision was made in case the population should extend to other islands.
- 10 June 1829 A decree was issued by the government of Buenos Aires asserting sovereignty, as successor to Spain, over the Falkland Islands.
- 30 August 1829 Mr Vernet established the colony, with only 20 men in whom he had confidence, according to his own account.
- 19 November 1829 The British Charge d'Affaires at Buenos Aires delivered a formal protest against the above decree on the grounds that "an authority has been assumed, incompatible with His Britannic Majesty's rights of sovereignty over the Falkland Islands. These rights founded upon the original discovery and subsequent occupation of the said islands, acquired an additional sanction from the restoration by (Spain) of the British settlement in the year 1771"
- 25 November 1829 The Minister of Foreign Relations of Buenos Aires acknowledged receipt of the protest.
- 1831 Vernet's colony numbered about 100 persons.
- July 1831 Three US sealing vessels were seized by Mr Vernet, who subsequently took one of them, the schooner "Harriet" to Buenos Aires where it was declared a prize by the government.
- November 1831 The US consul denied that Mr Vernet had any right to capture and detain US vessels engaged in the fisheries at the Falkland Islands and remonstrating against all measures, including the decree of 10 June 1829, asserting a claim to the

Falkland Islands. A formal protest was made in respect of the "Harriet" and two other vessels, the "Superior" and the "Breakwater".

December 1831

The Minister at Buenos Aires replied that an enquiry was being undertaken, but that the protest could not be admitted because the US consul did not appear to have been specially authorised.

June 1832

The US ship "Lexington" under Captain Silas Duncan arrived at the Falkland Islands and destroyed the colony set up by Buenos Aires. The colonists fled. Some were captured and taken by the "Lexington" to Montevideo. Duncan declared the islands free of all government.

20 June 1832

The US Charge d'Affaires in Buenos Aires addressed a Note to the Minister responsible for foreign affairs about the seizure of the three US vessels. On instructions, the Charge denied "the existence of any right in this Republic to interrupt, molest, detain or capture any vessels belonging to citizens of the United States" The US government demanded restitution of all captured property and an indemnity, pointing out "that the citizens of the United States have enjoyed the rights of free fishery in these regions unmolested"

September 1832

Governor appointed ad interim by Buenos Ayrean government.

December 1832-3 January 1833

Captain Onslow of HMS Clio occupied Port Egmont. On reaching Soledad, Captain Onslow found a detachment of 25 Buenos Ayrean soldiers and their schooner "Sarandi". A mutiny had previously occurred at Port Louis while the "Sarandi" was at sea and the mutineers had killed the Governor. The Commander of the Argentine schooner had placed the mutineers in irons aboard a British schooner and they were, at his request, taken to Buenos Aires. Most people elected to be repatriated: 18 were persuaded to stay behind. Not a shot was fired on either side. Captain Onslow re-asserted British sovereignty, by raising the flag.

22 January 1833

The Minister at Buenos Aires protested to the British Charge d'Affaires.

- May 1833** The United Kingdom rejected the protest and affirmed that the Falkland Islands belonged to the Crown.
- 1833** Buenos Aires presented a claim to the US government in respect of USS Lexington's action. Diplomatic correspondence continued until at least 1886 but the US government rejected the claim for compensation on the grounds that it depended on the question of sovereignty.
- 1841** British Lieutenant Governor appointed and civil administration organised in Port Louis.
- 1841-2** Further protests about British settlement rejected.
- 1844** Capital moved to Stanley.
- 1845** Governor appointed. Legislative Council and Executive Council set up.
- 1851** Population estimated at 287 (see below).
- 1884-88** Further Argentine protests made and rejected.
- 1949** Elections to the Legislative Council instituted on the basis of universal adult suffrage.
- 1977** Voting age lowered to 18.
- September/October 1981** General elections held for the Legislative Council.

Since the first census in 1851, the population has increased substantially, reaching a peak in the mid-1930s of some 2,400 inhabitants. Censuses have been taken every ten years and full details are in the annex to this account. The community thus established has set up its own social, economic and cultural structures within a framework which evolved in accordance with the wishes of the islanders themselves. They have freedom of expression and all of the basic rights guaranteed to them under the United Nations Charter. The United Kingdom, as administering authority, has submitted comprehensive information on the territory annually under Article 73(e) of the Charter and an up to date account based on this information is readily available in the Committee of 24's most recent working paper on the islands (document A/AC109/670 of 5 August 1981).

Table

The population in the Census years 1851-1980

Year	Population
1851	287
1861	541
1871	811
1881	1,510
1891	1,789
1901	2,043
1911	2,272
1921	2,094
1931	2,392
1946	2,239
1953	2,230
1962	2,172
1972	1,957
1980	1,813

ANNEX II

Letter dated 13 August 1982 from the Chargé d'Affaires a.i.
of the Permanent Mission of the United Kingdom of Great
Britain and Northern Ireland to the United Nations addressed
to the Secretary-General

I have the honour to refer to the letter of 23 July 1982 from the Chargé d'Affaires a.i. of the Permanent Mission of Argentina concerning the Falkland Islands (A/37/353). Many of the points made in the Argentine representative's letter have already been answered in earlier correspondence, and it is unnecessary for me to rehearse my Government's position in full. However, the letter asserts that the situation of the Falkland Islands is a special one "which differs from the typical case of colonialism". It goes on to claim that the principle of self-determination "is not applicable for the benefit of the occupants of a territory that is part of an independent State, from which it has been separated, against the will of its inhabitants, through an act of force by the occupying colonial Power".

The assertion that the case of the Falkland Islands differs from the typical case of colonialism may be intended as an oblique acknowledgement of the fact that the Falkland Islanders have consistently, and democratically, expressed their clear wish to remain British. This fact, which lies at the very heart of the matter, must not be lost sight of and is of crucial importance for evaluating the situation in terms of the Charter of the United Nations. The United Kingdom is justifiably proud of its record in responding to the freely expressed wishes of the peoples of non-self-governing territories by bringing the territories in question to independence or such other status as may be freely chosen by the people concerned. This policy corresponds directly to the purposes and principles

enunciated in the Charter, and the United Kingdom has no intention of varying in that policy now.

The claim to set aside the right of self-determination in the case of the Falkland Islanders, on the grounds given in the Argentine letter, is therefore tendentious in the extreme and cannot be allowed to pass unchallenged.

A full statement of the history of settlement on the Falkland Islands is given in the letter of 28 April 1982 from Sir Anthony Parsons to the President of the Security Council (S/15007). Sir Anthony Parsons' letter also contains a detailed account of the right of self-determination and its place in the contemporary international system. It is noteworthy that the Argentine letter under reply not only fails to address the sovereignty question, but makes no reference at all to the Charter of the United Nations, or to documents adopted by the General Assembly by consensus, notably the Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations (resolution 2625 (XXV)), which contains an important section entitled "The principle of equal rights and self-determination of peoples". Nor does the Argentine letter acknowledge contemporary documents in the field of human rights, which give a leading place to the right of self-determination. Instead, it contents itself with selective quotations from General Assembly resolutions 1514 (XV) and 1654 (XVI). Although the United Kingdom did not vote in favour of either resolution, its sympathy with their general objectives was made clear at the time of their adoption; moreover, so far as the specific issue of the Falkland Islands is concerned, the United Kingdom's position was made clear as far back as 1964, when the United Kingdom representative drew the attention of the Committee of 24 to the fact that resolution 1514 (XV) stated specifically that "all peoples have the right to self-determination", and that no fair-minded observer could construe its paragraph 6 as imposing a limitation on the universal application of the principle of self-determination, which was guaranteed under the Charter itself (A/AC.109/SC.4/SR.24).

The Argentine letter strives to create the impression that British settlement in the Falkland Islands in 1833 and thereafter took place against the will of a settled population who were forcibly displaced. In so doing it seeks to suggest that any rights of the present inhabitants stand in opposition to the rights of a dispossessed Argentine population. However, no evidence of any kind has been produced by the Government of Argentina to justify this. On the contrary, the historical evidence marshalled in Sir Anthony Parsons' letter (S/15007) shows that such occupation as there may have been of the Falkland Islands before 1833 was scattered, impermanent, almost entirely of non-Buenos-Airean origin, and did not in any sense constitute a settled population. There is no basis for seeking arbitrarily to set aside the rights of the present population of the Falkland Islands who (as was noted in Sir Anthony Parsons' letter of 30 June 1982 (A/S-12/31)) have been settled in the Islands in many cases to the seventh generation and have been conducting a peaceful and orderly existence under British authority for the past 150 years, that is to say, since well before the vast majority of contemporary international boundaries were established.

In conclusion, may I once again draw attention to the International Covenants on Economic and Social Rights and on Civil and Political Rights. Both of these Covenants have been ratified by the United Kingdom and this ratification extends also to the Falkland Islands. The common article 1 of the two Covenants declares that all peoples have the right of self-determination, and that by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. The last paragraph of article 1 requires all States Parties, not merely those responsible for the administration of non-self-governing territories, to promote the realization of the right of self-determination, and to respect that right, in conformity with the provisions of the Charter of the United Nations. The Government of the United Kingdom looks forward to a similar endorsement by the Government of Argentina of those widely recognized principles, rather than an attempt to insinuate, as in the letter under reply, that the General Assembly has endorsed the idea of setting aside the wishes of the inhabitants of the Falkland Islands in favour of an externally-imposed interpretation of their interests. The specious argumentation about colonialism in the Argentine letter seeks to obscure Argentina's disregard of the right of self-determination, not to mention Argentina's wanton resort to the use of force in blatant disregard of the Charter, in defiance of a direct appeal by the Security Council, and in contempt of the principles to which the overwhelming majority of Member States have dedicated themselves in the conduct of their international relations.

I should be grateful if you would arrange for this letter to be circulated as a document of the General Assembly under item 133 of the provisional agenda.

(Signed) Hamilton WHYTE
Deputy Permanent Representative
