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QUESTION OF THE FALKLAND ISLANDS (MALVINAS)

Letter dated 13 March 1985 from the Permanent Representative 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 18 February from the Permanent Representative of Argentina to the United Nations (A/40/132) transmitting the text of a statement by the Government of the Argentine Republic and wish, on instructions from my Government, to state the following.

Article 73 of the Charter of the United Nations obliges the United Kingdom, as the Administering Power for the Non-Self-Governing Territory of the Falkland Islands, to promote to the utmost the well-being of the inhabitants of that Territory and, inter alia, to ensure their political, economic, social and educational advancement. The United Kingdom is also bound by its obligations under the International Covenant on Civil and Political Rights, adopted by the United Nations General Assembly in 1966 and ratified by the United Kingdom in 1976, to promote the realization of the right of self-determination and to respect that right in conformity with the provisions of the Charter. The intention of the Government of the United Kingdom to promulgate a new constitution for the Falkland Islands is thus entirely consistent with the United Kingdom's international obligations. It is a matter of regret that the International Covenant on Civil and Political Rights has not yet been ratified by Argentina, but this is not relevant to the international obligations of the United Kingdom.

\* A/40/50 and Corr.1.

Falkland Islands Councillors had taken the first steps towards a review of the present constitutional arrangements in the Falkland Islands before the Argentine invasion took place in 1982. A Select Committee of the Islands' Legislative Council resumed its work after the invasion and submitted a report in July 1983 after a full consultation of the electorate. Drafts of new constitutions for the Falkland Islands and for South Georgia and the South Sandwich Islands were approved on 16 January 1985 by the Falkland Islands Legislative Council, subject to further consideration of a few detailed points. The British Government intends that the new constitutions should be promulgated in the spring and enter into force at the time of the general election to be held in the Falkland Islands this autumn.

The new Falkland Islands constitution will replace the existing Constitution which dates from 1948. It is designed, in accordance with Article 73 of the United Nations Charter, to develop the Islanders' political institutions. For example, it will provide for the abolition of nominated members in the Executive Council, an increase in the number of elected members in both Legislative and Executive Councils, and removal of the right to vote from the two ex officio members of each Council.

The new constitution includes for the first time a chapter on human rights, the preamble to which reflects the provisions regarding self-determination in article 1 of the International Covenant on Civil and Political Rights.

The Argentine Government seeks to deny to the Falkland Islanders the right of self-determination. But the Islanders are a peaceful and homogeneous community which has developed democratic institutions over more than 150 years of continuous settlement. There was no indigenous population of the Falkland Islands when the British Captain, John Strong, made the first recorded landing on the islands in 1690. A British settlement was established in 1776, before Argentina had come into existence. Nor was there a settled Argentine population on the islands in 1833. Many Falkland Island families have been established there far longer than many Argentines in Argentina. That the Islanders enjoy British citizenship cannot deprive them of their right to self-determination or of their right to live in peace and security under a government of their own choosing. The British Government has consistently defended the Islanders' right of self-determination and will continue to do so.

The Argentine Government claims that introduction of the new constitution disregards General Assembly resolution 31/49, in which the Assembly called upon the United Kingdom and Argentina to refrain from taking decisions that would unilaterally modify the then existing situation. The United Kingdom voted against that resolution. What the Argentine Government's claim ignores entirely however are the events of 1982, when Argentina invaded the Falkland Islands in breach of the fundamental principles of the United Nations. The Argentine Government must recognize that it was that brutal attempt to modify the situation unilaterally which caused a profound change in the situation in the south Atlantic.

The Argentine statement seeks to argue that, under the new constitution, the people of the islands "could exercise the right to veto potential decisions of the United Kingdom Parliament." The provisions in the constitution do not confer any

such veto, nor do they derogate from the sovereignty of the British Parliament. These provisions recall the Islanders' right of self-determination, but any significant proposal regarding the future of the islands would be a matter for Parliament to decide.

The Argentine statement refers to guarantees to protect the interests of the Falkland Islanders which were offered during earlier negotiations between the Governments of the United Kingdom and Argentina. The people of the Falkland Islands have made quite clear that they do not seek guarantees from third parties, but look to the Government of the United Kingdom, as the Administering Power, to defend their rights under international law and the United Nations Charter. The British Government is firm in its resolve to fulfil these obligations.

The British Government has publicly welcomed the restoration of democratic government in Argentina and the re-establishment of human rights and the rule of law there. It notes that the Argentine constitution has established a system of rights and guarantees "for all people of the world who wish to live on Argentine soil". Many people of British descent have freely chosen to settle in Argentina and have prospered and been content to live under the political, economic and social system of that country. But the people of the Falkland Islands have clearly expressed the wish to live on British soil in the Falkland Islands, and have no wish to become subject to Argentina. Their wishes merit respect by a country which has so recently recovered its own democratic freedoms.

The Argentine statement refers to British refusal to enter into negotiations on the question of sovereignty. But it is implicit in this statement, and has regularly been made explicit in other statements by the Argentine Government, that such negotiations could, in the Argentine view, have only one pre-determined outcome - the transfer of sovereignty over the Falkland Islands to Argentina irrespective of the wishes of the Falkland Islanders. The British Government regrets that the Argentine Government makes it a pre-condition of progress on any aspect of our bilateral relations that the British Government must first commit itself to negotiations which have the aim of securing the absorption of the Falkland Islands by Argentina. Such a course is unacceptable to the British Government. It looks to the Government of Argentina to respond positively to the British initiatives which have been put forward with the aim of gradually rebuilding confidence in relations between Argentina and the United Kingdom. It hopes that the Argentine Government will come to recognize that the way ahead lies through patient efforts to rebuild the traditionally good relations between the two countries by discussion of practical measures of mutual benefit on which agreement should be feasible in the short term.

I request you to have the text of this letter given the same distribution as the Argentine letter under reference.

(Signed) J. A. THOMSON

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