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INDEX/ Mr Luce	<i>[Signature]</i>

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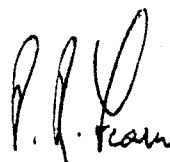
ARGENTINA/CHILE: BEAGLE CHANNEL DISPUTE

- A (4) 1. On my submission of 5 February, Mr Luce has asked further questions on both the Beagle and Falklands disputes.
2. The Beagle Channel dispute centres on the ownership of three islands at the north-eastern end of the Channel - Picton, Nueva and Lennox - which the Chileans occupy. It is not, however, the land itself which is important to the Argentines. Whoever has sovereignty over the islands would normally also exercise sovereignty over their territorial waters and continental shelves. Their fishery zone, for example, would extend 200 miles into the South Atlantic. While we believe that Argentina might be prepared to acquiesce in Chilean possession of the islands, they will not accept that the Chileans have any rights to Atlantic waters. Their contention is that historically Chile is a Pacific power, while Argentina holds sway in the Southern Atlantic: they are not prepared to accept a breach of that principle. In addition, the continental shelf off southern Argentina has already been shown to be potentially rich in hydrocarbons: both parties will therefore have in mind the possibility of oil beneath the sea-bed to the east of the three islands.
- B 3. The primary reason for the Argentine abrogation of the 1972 Buenos Aires Treaty is that they do not wish to find themselves in a position where, if the Papal mediation were to fail, they would in theory be obliged by the Treaty to submit the dispute to a court (the ICJ) whose decisions they do not accept as mandatory and which would be almost certain to endorse the earlier findings in favour of Chile. I say 'in theory' because the existence of the 1972 Treaty did not prevent Chile and Argentina nearly going to war in 1978 and I have no doubt that, even if it were to remain in force, the Argentines would not carry out their obligations under it. The Argentines have a long history of accepting only those mandatory obligations which suit them, viz their refusal to accept the International Court of Arbitration award, despite earlier agreement to adhere to its findings. A secondary motive for the abrogation may be to blur and protract the mediation by including in the Pope's remit the working out of an alternative general mechanism for the settlement of disputes.
4. Chile's objectives are straightforward. The Chileans were awarded the islands by the International Court of Arbitration in 1978 and that decision has since been effectively upheld by the Papal mediator. They see no reason why they should give in to the Argentines, whose position has no valid legal basis. At the same time, the Chileans are uncomfortably aware that, militarily, Argentina is much the stronger. Chile has already

/had

C had difficulty in dealing with the high incidence of Argentine harassment of Chilean territory and shipping. But there may come a stage when Chilean national pride is insulted to such an extent that the Government would be obliged to retaliate.

D 5. The tougher Argentine line towards both the Beagle and Falklands disputes reflect President Galtieri's more muscular and forceful approach. In both cases, if confrontational tactics are pursued, the risk of eventual military action will increase. Our assessment (which our Ambassador shares) is that the Argentines would consider such action against the Falklands only as a last resort. On the Beagle dispute, the Argentines' preferred course would be to allow the Papal mediation to find a solution acceptable to them, But when it eventually becomes clear, as it must, that no progress is possible along the lines demanded by the Argentines, there must be a far higher likelihood of their attempting to seize the disputed islands by force (as was nearly the case in late 1978).



P R Fearn  
South America Dept

17 February 1982

cc Mr Day  
Mr Ure  
Defence Dept