

## ANTARCTIC CLAIMS—RECENT DIPLOMATIC EXCHANGES BETWEEN GREAT BRITAIN, ARGENTINA AND CHILE

[The texts of the Notes reproduced below were released by the Foreign Office News Department, with an explanatory note, on 7 February 1948 (Argentina) and 13 February 1948 (Chile).]

During the Antarctic summer seasons of 1946–47 and 1947–48 Argentina and Chile each sent naval expeditions into the British territory of the Falkland Islands Dependencies, over the greater part of which these countries claim territorial sovereignty. The Argentine and Chilean claims largely overlap with one another.

The British claim to the Dependencies is based on innumerable acts of occupation and administration, particularly during the last 40 years. A brief summary of British administrative activities in the South Shetland Islands is given in the third paragraph of His Majesty's Ambassador's Note of 23 December 1947 (see below) protesting against Argentine acts of trespass on Deception Island. These activities extended to a greater or lesser degree over the whole of the Dependencies during the period under review. Formal expression was given to the British rights so acquired by the issue of Letters Patent in 1908 and 1917 providing for the government of these territories as Dependencies of the Falkland Islands (see pp. 241–43).

Apart from South Georgia, which has a small resident population, there are at present seven permanently occupied British posts in the Dependencies. Each of these posts was visited this year by the Governor of the Falkland Islands, who carried out his annual tour of inspection of the Dependencies on board H.M.S. *Snipe*. These posts are situated on Signy Island (South Orkneys), Admiralty Bay and Deception Island (South Shetlands), Hope Bay (Graham Land), Port Lockroy (Palmer Archipelago), Argentine Islands (off west Graham Land) and Stonington Island (in Marguerite Bay). Each post is in charge of a resident Magistrate.

On 17 December 1947 His Majesty's Ambassadors at Buenos Aires and Santiago, acting on instructions, delivered formal Notes of protest against Argentine and Chilean acts of trespass on territory under British sovereignty during the 1946–47 Antarctic season and in particular against the establishment of occupied posts by Argentina on Gamma Island in the Melchior group of the Palmer Archipelago off west Graham Land and by Chile on Greenwich Island in the South Shetland Islands. On 23 December 1947 His Majesty's Ambassador in Buenos Aires addressed a further Note of protest against the setting up a few weeks previously of a new Argentine post on Deception Island in the South Shetland Islands.

All the above acts of trespass had already formed the subject of local protests by the British Magistrates administering the territories where they were committed. The three Notes reasserted British sovereignty over the Dependencies and invited the Argentine and Chilean Governments, should they be disposed to challenge the British title, to refer the dispute to the International Court of Justice at The Hague, whose jurisdiction His Majesty's

Government bound themselves in advance to accept, and with whose decision they would be bound under the Charter of the United Nations Organisation to comply.

The Argentine and Chilean Governments replied to these Notes of protest in communications dated 28 January 1948 and 31 January 1948 respectively.

The texts of these Notes are appended. Both the Argentine and Chilean Governments reject the British offer to accept the arbitration of the International Court of Justice at The Hague.

No. 521

BRITISH EMBASSY,  
BUENOS AIRES  
17th December 1947

Monsieur le Ministre,

On the 3rd January 1947, I communicated to Your Excellency, on instructions from His Majesty's Principal Secretary of State for Foreign Affairs, a reply to a Note addressed to me by Dr Juan I. Cooke, dated 3rd June 1946. Dr Cooke's Note had conveyed the views of the Argentine Government on the issue by the United Kingdom authorities of a new series of postage stamps for the Falkland Islands and their Dependencies. In my Note No. 3 in reply I informed Your Excellency that His Majesty's Government did not consider that the Argentine claim to the Falkland Islands was justified on any grounds whatsoever and, as regards the Falkland Islands Dependencies, that His Majesty's Government considered the Argentine claims to be unfounded.

2. On the 3rd January, I also communicated to Your Excellency a Note, No. 2, in which, as various statements had appeared in the press to the effect that an Argentine scientific expedition was to leave for the Antarctic, I informed Your Excellency of the places where the parties of the Falkland Islands Dependencies Survey were carrying out their routine functions in British possessions in the Antarctic. I added that these parties would be happy to help Argentine visitors to the extent of their available resources.

3. Receipt of my Notes Nos. 2 and 3 of the 3rd January was acknowledged in Your Excellency's Note of the 15th February 1947, in which Your Excellency reserved the Argentine claims to the territories in question.

4. I now have the honour, under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, to make the following communication to the Argentine Government.

5. His Majesty's Government have viewed with concern the activities in British Antarctic territory of the Argentine Naval expedition which visited parts of the Falkland Islands Dependencies including Graham Land, South Shetlands and South Orkneys during the course of the last Antarctic summer, landed parties at various points on British territory without making prior arrangements with the competent British administrative authorities and in certain cases actually erected what presumably purported to be Argentine marks of sovereignty. These visits were made the occasion for formal protests to the Argentine officers concerned by the local British Magistrates at the occupied posts visited by them, and on the 9th April 1947 a British Magistrate, acting on the authority of the Governor of the Falkland Islands, delivered personally an official Note to the officer in charge of the Argentine post on Gamma Island in the Melchior group of the Palmer Archipelago informing him that he had perpetrated an act of trespass on territory committed to the Magistrate's charge by His Majesty's Government. No reply appears to have been returned to this Note.

6. The general position under international law of the Falkland Islands Dependencies as seen by His Majesty's Government is set out in my Note No. 3 of the 3rd January 1947 to Your Excellency and this position can in no way be affected by the contents of Your Excellency's Note of the 15th February referred to above. His Majesty's Government therefore consider that the Argentine claims to territorial sovereignty over the Falkland Islands Dependencies are unfounded; that in the case of the greater part of these territories an initial British right of sovereignty was first acquired by virtue of discovery; and that this right was confirmed on the 21st July 1908 and on the 28th March 1917 by the issue of Letters Patent formally reciting the title of the British Crown to the whole of these territories and providing for their administration.

In this connection Your Excellency in Section 2, paragraph 3, of your Note of the 15th February, appears to be under a misapprehension regarding the effect of the Letters Patent issued on the 21st July 1908. The relevant passage of the preamble to these Letters defined the Falkland Islands Dependencies as certain specifically named territories "situated in the South Atlantic Ocean to the South of the fiftieth parallel of south latitude and lying between the twentieth and eightieth degrees of west longitude". These geographical co-ordinates are merely a general description of where the named places lie and there is no basis for the interpretation placed on the passage by Your Excellency that His Majesty's Government also claimed that section of the American Continent which happens to be contained within these co-ordinates. Moreover, Argentina failed to protest at the time against this alleged inclusion of Argentine territory under British jurisdiction; and in any case the Letters Patent issued in March 1917 modified the definition of the Dependencies by substituting a set of geographical co-ordinates specifically excluding any part of the South American Continent.

7. His Majesty's Government have hitherto refrained from communicating officially with the Argentine Government on the subject of the recent Argentine activities in the Falkland Islands Dependencies because they did not wish to seem to be impeding any scientific or survey work being carried out by Argentine expeditions in the Antarctic and because they hoped that the local protests would be reported to the Argentine Government by the naval officers to whom they were addressed and result in the necessary permission being applied for through normal channels for any further visits of this nature. The establishments, however, of an apparently permanent Argentine meteorological station on Gamma Island without any previous reference to or authorisation from His Majesty's Government has rendered it impossible to postpone action any longer. I have accordingly been instructed to record a formal protest on behalf of His Majesty's Government against the establishment and continued maintenance of this unauthorised Argentine post on territory which is, and has for more than 40 years been openly administered as a British possession.

8. I must emphasise to Your Excellency that although His Majesty's Government feel that the time has come once more to make their attitude on this matter plain it is no part of their intention to exclude from British Antarctic territories scientific parties either from Argentina or from any other friendly country. Having regard therefore to the legal position set out above I am instructed to suggest that the Argentine Government should apply forthwith to His Majesty's Government for the lease on terms to be agreed of the base which their nationals have occupied on Gamma Island. Such an application, which would readily be granted, would have the effect of permitting the work undertaken by the Argentine party there to continue without interruption and would open the way to closer and more friendly co-operation between British and Argentine expeditions in the future. If on the contrary the Argentine Government are unwilling to admit the validity of His Majesty's Government's title to Gamma Island or any other region included in the Falkland Islands Dependencies

and consider that their own title is a good one, it is suggested that their correct course is not to maintain without the consent of His Majesty's Government an occupied post in a territory to which His Majesty's Government's claim of title is universally known and which His Majesty's Government have for long actively administered; but, to invoke the jurisdiction of the International Court of Justice at The Hague. If the Argentine Government are prepared to adopt the latter procedure, in respect of the whole or part of the area in question, His Majesty's Government would undertake to accept the jurisdiction of the Court and to abide by its decision.

9. In making the suggestion to the Argentine Government that they should bring their claim to sovereignty in the Antarctic before the International Court of Justice, His Majesty's Government are guided by the following considerations:

- (i) They are most anxious to preserve unbroken the long tradition of friendship and co-operation which has characterised Anglo-Argentine relations ever since the inception of the Argentine Republic.
- (ii) They desire in co-operation with the Argentine Government to set an example to all the nations of the world of the manner in which differences of opinion can and should be resolved in a spirit of amity and respect for international law. In this connection His Majesty's Government recall the Argentine Government's striking and admirable declaration of the 6th July 1947, quoted once again in an address to the General Assembly of the United Nations by the Representative of Argentine, Dr Arce, on the 19th September in which it is stated that "peoples and Governments must promote the factors leading to world balance which they must base on mutual respect, juridical equality, obligatory arbitration, economic co-operation and permanent peace". His Majesty's Government are willing to demonstrate their practical support for the principles enunciated by the Argentine Government in this declaration by undertaking in the most solemn and unequivocal manner to accept the decision of the International Court of Justice on the validity of His Majesty's Government's title to the area in question in the event of the Argentine Government laying their claim before that court.
- (iii) His Majesty's Government desire to give the utmost practical encouragement to the exploration and scientific development of Antarctica by removing all possibility of friction between the expeditions of different nationalities.

10. Should, however, the Argentine Government be unwilling either to apply to His Majesty's Government for a lease of the base occupied by their nationals on Gamma Island or to submit to the International Court for arbitration any claim to this territory which they may assert, His Majesty's Government would be reluctantly compelled to request the withdrawal of the Argentine post from Gamma Island. In the meantime His Majesty's Government must naturally reserve all their rights to take such action as they may consider appropriate in due course to ensure that their sovereignty is respected.

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

[Signed] R. A. LEEPER

His Excellency,  
 Dr Juan A. Bramuglia,  
 Minister for Foreign Affairs and Worship,  
 Palacio San Martin,  
 Buenos Aires

No. 528

BRITISH EMBASSY,  
BUENOS AIRES  
23rd December 1947

Monsieur le Ministre,

With reference to my Note No. 521 of the 17th December regarding Argentine activities in the Falkland Islands Dependencies during the course of the last Antarctic summer, I have the honour to inform Your Excellency that I have been instructed by His Majesty's Principal Secretary of State for Foreign Affairs to make the following further communication to the Argentine Government.

2. His Majesty's Government in the United Kingdom have noted with surprise the continued acts of trespass which are at present being committed by Argentine ships in British territory and British territorial waters in the South Shetland Islands, and in particular the recent landings effected without the permission of His Majesty's Government by Argentine naval personnel on Deception Island.

3. British sovereignty over Deception Island has been established by innumerable acts of administration since its discovery by a British naval officer in 1819 and by several periods of continued occupation since the formal annexation of the South Shetlands group by Letters Patent issued in 1908. For example in 1912 there were 12 whaling factory ships and 32 whale catchers engaged in fishing in the South Shetlands under British licence. In that year the Hektor Whaling Company took a twenty-one years lease from His Majesty's Government of a shore station on Deception Island, and by 1914 one British, one Chilean and eight Norwegian whaling companies were operating in the South Shetlands area under British licences renewable annually. Between 1908 and 1930 a British Stipendiary Magistrate was in permanent residence on the island each summer, and was in effective control of all whaling operations in the South Shetlands and Graham Land area. Between 1927 and 1938 regular annual visits to Deception Island were paid by ships sent out by the Discovery Committee and engaged in surveying, marine research and scientific work. In 1941 His Majesty's Ship *Queen of Bermuda* visited Deception Island in order to see to the destruction of fuel left by the Hektor Whaling Company. In 1943 His Majesty's Ship *Carnarvon Castle* landed at Deception Island and left a writ at the shore whaling station taking over on behalf of His Majesty's Government the buildings and plant of the Hektor Whaling Company, whose lease had then expired. In 1944 His Majesty's Ship *William Scoresby* established a permanently occupied post on the island with a fully equipped meteorological station, and magistrates for the South Shetlands group were sworn in by the Governor of the Falkland Islands. In February 1946 Deception Island was once more constituted a public telegraph office. On 3rd January 1947 the Argentine Government were officially informed, in my Note No. 2 to Your Excellency, of the presence of a Falkland Islands Dependencies Survey party on Deception Island.

4. The Argentine Government will appreciate from these and other examples of the exercise of British sovereignty that His Majesty's Government possess an incontrovertible legal title to Deception Island. In these circumstances His Majesty's Government cannot any longer condone the unauthorised presence on this island of Argentine parties, and must request that the Argentine Government should either apply forthwith to His Majesty's Government for a grant of the facilities desired or else send instructions for the early departure of their nationals from the island.

5. As in the case of Gamma Island, and any other part of the Falkland Islands Dependencies, His Majesty's Government are prepared to accept the jurisdiction of the International Court of Justice at The Hague should the Argentine Government wish to dispute His Majesty's Government's title to Deception Island, and are

therefore willing that the Argentine Government should institute proceedings at The Hague. Unless, however, the Argentine Government are prepared to adopt one of the three courses indicated above, His Majesty's Government must reserve all their rights to take such action as they may consider appropriate in due course to ensure that their sovereignty is respected.

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

[Signed] R. A. LEEPER

His Excellency,  
Dr Juan A. Bramuglia,  
Minister for Foreign Affairs and Worship,  
Palacio San Martin,  
Buenos Aires

*Translation:*

MINISTRY OF  
FOREIGN AFFAIRS AND WORSHIP  
D.R.E.

28th January 1948

Monsieur l'Ambassadeur,

I have the honour to acknowledge receipt of Your Excellency's Note 521 of the 17th December last and your supplementary Note 528 of the 23rd December, in which, in the name of your Government, you set forth a series of considerations regarding the activities carried out by the Argentine Navy in the Antarctic sector of the Republic, and especially in the permanent bases installed on Gamma Point and on Deception Island.

In view of the complexity of the questions set out in both notes, it has been considered convenient to analyse by separate chapters each of the particular aspects thus presented, in order that the Argentine point of view, inspired by the desire to reach a just solution, may be clearly expressed.

1. *Latest notes exchanged with the Embassy.*

In the first paragraphs of your Note 521, Your Excellency mentions the communications exchanged on the 3rd June 1946, the 3rd January 1947 and the 15th February of the same year. In the last Note, my Government indicated that the situation could be summed up in the following affirmations, which I repeat:

"1. *The Falkland Islands are Argentine.* This Ministry once more reiterates the claims which have been invoked so many times, and rejects the British Government's views on this subject. Argentina's right over these islands is incontestable and, in order that Justice may be done there only remains that the rightful sovereignty exercised over the islands be completed by that possession which has been uninter-ruptedly claimed.

"2. *The Antarctic sector belongs to the Republic, is Argentine without the need of any declaration of annexation.* The only problem to be settled—regarding which there is the best good-will between both parties—is that of the Antarctic frontier between Argentina and Chile."

2. *Base installed on Gamma Point and Note delivered to an Argentine officer by a person which Your Excellency calls an "English Magistrate".*

In the same Note 521, paragraph 5, Your Excellency refers to the "concern" with which your Government has viewed the activities carried out by the Argentine Naval Expedition in territory which it considers British "without making prior arrange-

ments with the British administrative authorities"; and states that on the 9th April 1947, "a British Magistrate, acting on the authority of the Governor of the Falkland Islands", delivered a note to the official in charge of the Argentine post on Gamma Island, "informing him that he had perpetrated an act of trespass on territory committed to the Magistrate's charge by His Majesty's Government".

The operations carried out by the Argentine Naval Expedition, which acted at all times within the Antarctic sector which legitimately belongs to the Republic, were made in their own right, and in consequence, cannot be subjected to any prior arrangement with any foreign authority.

In regard to the note delivered by the person Your Excellency calls "a British Magistrate, acting on the authority of the Governor of the Falkland Islands", this was not answered as a matter of principle: no Argentine will ever recognise any sovereignty over the Falkland Islands which is not that of his own country. In consequence, any authority which any foreigner may try to exercise over the archipelago will be considered illegal.

### 3. *Base installed on Deception Island.*

With regard to Argentine activities in the Antarctic during the present season, Your Excellency states in your Note 528 that your Government "have noted with surprise the continued acts of trespass which are at present being committed by Argentine ships in British territory and in British territorial waters in the South Shetland Islands, and in particular the recent landings effected without the permission of His Majesty's Government by Argentine naval personnel on Deception Island".

As in the previous case, it should be stated here that the Argentine Naval Expedition was operating within the Argentine Antarctic Sector and that its operations, like all those made in its own right, are not subject to prior authorisation of any kind.

### 4. *Protest regarding the installations on Gamma Point and Deception Island and rights invoked for their foundation.*

Your Excellency states that you have received instructions to make a formal protest in the name of your Government against the establishment of an Argentine meteorological station on Gamma Point and against the presence of "Argentine parties" on Deception Island.

In referring to Gamma Point, Your Excellency states that this territory "is, and has for more than 40 years been openly administered as a British possession". The British Government considers Gamma Point as included in what it calls "the Falkland Islands Dependencies" and considers that "in the case of the greater part of these territories an initial British right of sovereignty was first acquired by virtue of discovery; and that this right was confirmed by Letters Patent of 1908 and 1917".

Apart from the fact that the territories which comprise the Argentine Antarctic Sector cannot "depend" on any particular territory, Argentine, whose rights to the Falkland Islands are irrefutable, has not accepted, nor will accept, any "dependency" in relation to the said archipelago.

On the other hand discovery unaccompanied by effective and permanent occupation is insufficient for the acquisition of sovereignty as it would show—in the most favourable hypothesis—only the existence of an inchoate title, which cannot prevail against the rights which the Republic can put forward and which are based on unquestionable geographical, historical and juridical title, perfected by the only effective and permanent occupation lasting half a century which can be invoked in those regions.

As regards the "confirmation" of that discovery which the Letters Patent of the 21st July 1908 and 28th March 1917 attempt to establish, my country, in accordance

with the most sound international doctrine, has constantly expressed its view that unilateral declarations have in themselves no validity when applied to this or that territory, as it cannot be considered that mere administrative acts of an internal nature can be a substitute for real acts which must be carried out on the terrain itself in order to acquire effective possession.

Your Excellency refers to the Letters Patent of 1908 and to the reference to same which was made in the Note from this Ministry of the 15th February 1947, expressed as follows: "In this connection, Your Excellency, in Section 2 paragraph 3 of your Note of the 15th February, appears to be under a misapprehension regarding the effect of the Letters Patent issued on the 21st July 1908."

Without wishing to indulge in polemics, as there can be no application thereof to the interpretation of a document to which my country attaches no importance whatsoever, I deem it necessary to make clear the reason for the paragraph mentioned, which I transcribe: "With regard to the Letters Patent of the 21st July 1908 (preceding those above-mentioned) it should be added that, besides meeting with the same situation as in the foregoing paragraph, it regarded Patagonia as belonging to the British."

This statement is founded on the following paragraph in the Letters Patent of 1908: "Whereas the group of islands known as South Georgia, the South Orkneys, the South Shetlands and the Sandwich Islands, and the territory known as Graham's Land, situated in the South Atlantic Ocean to the south of the fiftieth parallel of south latitude, and lying between the twentieth and eightieth degrees of west longitude, are part of Our Dominions, and it is expedient that provision should be made for their Government as Dependencies of Our Colony of the Falkland Islands."

The fiftieth parallel of south latitude cuts the continent above the city of Santa Cruz (National Territory of Santa Cruz) and in consequence the "general description" to which the Note from Your Excellency refers, covers the sector indicated in the map attached as Annex 1, which includes Argentine Patagonian territory.

The previous interpretation is precisely the one which gave rise to the second Letters Patent, of the 28th March 1917, which clarifies it in the following terms: "Whereas doubts have arisen as to the limits of the groups of islands known as South Georgia, the South Orkneys, the South Shetlands, and the Sandwich Islands and the territory of Graham Land otherwise known as Graham's Land; . . ."

With regard to Deception Island, Your Excellency invokes, apart from title by discovery, various acts of administration and "periods of continued occupation since the formal annexation of the South Shetlands group by Letters Patent issued in 1908".

The views expressed in the first part of this Chapter apply also to the antecedents by which the British Government seeks to establish its rights to Deception Island.

It may be added that in the Memorandum which this Ministry sent to the Embassy on the 15th February 1943, it was stated that "the Argentine Government makes its most formal reservations against the jurisdictional acts carried out by British officials within the above-mentioned territory. In particular, the Argentine Government regrets that His Majesty's Government have considered it opportune to take such measures as the removal of national emblems and signs from Deception Island, where previous to the placing of such emblems, there was no effective element of occupation or possession belonging to the British Government."

##### 5. *Great Britain's Proposal.*

The rights which Your Excellency invokes as a basis for those protests have at no time been recognised by my country. The Argentine Expeditions which are carrying out their activities in the Argentine Antarctic Sector are acting, as stated above, in their own right and, in consequence, any protest which may be presented will be considered as without foundation.



For the same reasons, my Government cannot take into account the suggestions conveyed by Your Excellency as regards the grant of leases or concessions for the bases occupied by Argentines. The military detachments which occupy those bases, on which the national flag is flown, know that they are stationed on Argentine territory. The entire nation is conscious of this and in consequence the Government—interpreting the feeling of the whole population—rejects the request to withdraw its nationals from the bases installed by the Republic on Gamma Island and Deception Island.

As an alternative, Your Excellency, in the name of your Government, proposes that the Argentine Republic should present its claim of sovereignty over the Antarctic to the International Court of Justice.

Among the considerations which inspired this proposal by the British Government, it is stated that the British Government “desire in co-operation with the Argentine Government to set an example to all the nations of the world of the manner in which differences of opinion can and should be resolved in a spirit of amity and respect for international law”. The British Government will remember, in this respect, the declaration made by the President of the Nation, General D. Juan D. Peron, on the 6th July 1947.

It is with its viewpoint based on the integral features of that declaration that the Argentine Government receives the proposal that its request for sovereignty over the Antarctic should be submitted to the International Court of Justice.

On the 12th July 1947 the Argentine Republic signed with Chile the declaration which is attached as Annex 2, in which both countries “convinced as they are of the unquestionable rights of sovereignty of the Argentine Republic and Chile over the South American Antarctic”, declare that “it is their desire to arrive as soon as possible at the conclusion of a Treaty between Argentina and Chile regarding the demarcation of boundaries in the South American Antarctic”.

Argentina has always honoured her word. It would be a breach of this practice if she were now to apply on her own to the International Court of Justice to present her request for sovereignty over the Antarctic.

In consequence, whilst recognising the praiseworthy spirit which inspired the proposal made by the British Government with a view to attaining an aim entirely shared by the Republic, it is believed that the solution of this problem should be brought about by other means which international law indicates as more efficacious for solving problems in which, as in the case of the Antarctic Continent, several other countries may be interested.

On the other hand, and apart from the views expressed in the previous paragraphs, reference to the International Court of Justice on the lines proposed by the British Government, has no relationship—in this Ministry’s view—with the real state of the problem.

Were Argentina, which exercises sovereignty *de jure* and *de facto* over its Antarctic sector, to petition the International Court she could appear in the position of a state requesting something which belonged to her but over which she did not exercise effective possession. And the situation is otherwise, as is shown by the permanent installations which consolidate our rights.

#### 6. *Argentine Republic’s Proposal.*

For the reasons expressed in the previous chapter, especially those which refer to my country’s undertaking with Chile, this Government reiterates once more its belief that the problem presented by the boundary delimitation of the whole of the Antarctic Continent could find a just solution by means of an International Conference, convened with that object, for which it has pleasure in offering the City of Buenos

Aires as seat—and whose primary aim would be to determine the juridico-political status of that region.

I avail myself, . . .

JUAN A. BRAMUGLIA

To His Excellency,  
The British Ambassador,  
Sir Reginald A. Leeper

#### ANNEX 2

The Argentine Ministry of Foreign Affairs have released the following joint declaration regarding the South American Antarctic region:

“The Ministers for Foreign Affairs of Argentina and Chile, at a meeting in Buenos Aires, have agreed, in view of their desire to carry out a friendly policy regarding the determination of the frontiers of both countries in the Antarctic region, to declare that, being convinced of the unquestionable rights of Argentina and Chile over the South American Antarctic, both Governments favour the execution of a harmonious plan of action for the better scientific knowledge of the Antarctic zone by means of explorations and technical investigations; that, at the same time, they consider desirable a joint study of matters relating to the exploitation of the wealth of this region; and that it is their desire to arrive as soon as possible at the conclusion of a Treaty between Argentina and Chile, regarding the demarcation of boundaries in the South American Antarctic.

In witness whereof, two examples of this declaration are signed in the City of Buenos Aires, on the twelfth day of the month of July in the year nineteen hundred and forty-seven.”

No. 128

BRITISH EMBASSY,  
SANTIAGO

17th December 1947

Your Excellency,

His Majesty's Government have viewed with concern the activities in British Antarctic territory of the Chilean Naval expedition which visited parts of the Falkland Islands Dependencies including Graham Land and the South Shetlands during the course of the last Antarctic summer, landed parties at various points on British territory without making prior arrangements with the competent British administrative authorities, and in certain cases actually erected what presumably purported to be Chilean marks of sovereignty. These visits were made the occasion for formal protests to the Chilean officers concerned by the local British Magistrates at the occupied posts visited by them, and on the 14th April 1947, a British Magistrate, acting on the authority of the Governor of the Falkland Islands, delivered personally an official Note to the officer in charge of the Chilean post at Greenwich Island in the South Shetlands, informing him that he had trespassed on territory committed to the Magistrate's charge by His Majesty's Government. This Note formed the subject of Your Excellency's Notes of the 16th May and 3rd June last.

2. The general position under International Law of the Falkland Islands Dependencies as seen by His Majesty's Government is set out in earlier correspondence with the Chilean authorities and in particular in the Prime Minister's letter of the 11th November 1946, to the Chilean Ambassador in London, and this position is in no way affected by the contents of the above-mentioned Notes from the Chilean Ministry of Foreign Affairs, nor by the Chilean Note of the 14th January. That is to say that for the reasons given in Mr Attlee's letter His Majesty's Government consider that the Chilean claims to territorial sovereignty over any part of the British Antarctic

territory known as the Falkland Islands Dependencies are unfounded; and that the British title to sovereignty over this region is not merely based on rights acquired by virtue of discovery or on the issue of the Letters Patent formally reciting the title of the British Crown on the 21st July 1908 (with a boundary readjustment effected on the 28th March 1917), but derives also from the measures taken by His Majesty's Government for the necessary administration of these British territories. As was pointed out in Mr Attlee's letter, the British acts of administration in this area include provision for the equitable control of whale and seal fishing in the general interest, for the accumulation of scientific and meteorological data, and for the despatch of numerous expeditions to the Antarctic over a period of many years.

3. His Majesty's Government have hitherto refrained from communicating officially with the Chilean Government on the subject of the recent Chilean activities in the Falkland Islands Dependencies, because they did not wish to seem to be impeding any scientific or survey work being carried out by Chilean expeditions in the Antarctic, and because they hoped that the local protests which were reported to the Chilean Government by the Naval Officers to whom they were addressed would result in the necessary permission being applied for through normal channels for any further visits of this nature. The establishment however of an apparently permanent Chilean Meteorological Station at Discovery Bay on Greenwich Island in the South Shetlands group without any previous reference to or authorisation from His Majesty's Government has rendered it impossible to postpone action any longer.

4. I have therefore been instructed to record a formal protest on behalf of His Majesty's Government against the establishment and continued maintenance of this unauthorised Chilean post on territory which is, and has for more than 40 years been, openly administered as a British possession.

5. Although His Majesty's Government feel that the time has come once more to make plain their attitude on this matter it is no part of their intention to exclude from British Antarctic territories scientific parties either from Chile or any other friendly country. Having regard therefore to the legal position set out above, I am to suggest that the Chilean Government should apply forthwith to His Majesty's Government for the lease on terms to be agreed of the post which their nationals have occupied on Greenwich Island. Such an application, which would readily be granted, would have the effect of permitting the work undertaken by the Chilean party there to continue without interruption, and would open the way to closer and more friendly co-operation between British and Chilean expeditions in the future. If on the contrary the Chilean Government are unwilling to admit the validity of His Majesty's Government's title to Greenwich Island and consider that their own title is a good one, their correct course is not to maintain without the consent of His Majesty's Government an occupied post in territory to which our claim of title is universally known and which we have for long actively administered; but, to invoke the jurisdiction of the International Court of Justice at The Hague. If the Chilean Government are prepared to adopt the latter course, His Majesty's Government are for their part prepared to undertake in the most solemn and unequivocal manner to accept the jurisdiction of the Court and to abide by its decision.

6. In making the suggestion to the Chilean Government that they should bring their claim to sovereignty in the Antarctic before the International Court of Justice, His Majesty's Government are guided by the following considerations:

- (i) they are most anxious to preserve unbroken the long tradition of friendship and co-operation which has characterised Anglo-Chilean relations ever since the inception of the Chilean Republic;
- (ii) they desire in co-operation with the Chilean Government to set an example to all the nations of the world of the manner in which differences of opinion can and should be resolved in a spirit of amity and respect for international law;

(iii) they desire to give the utmost practical encouragement to the exploration and scientific development of Antarctica by removing all possibilities of friction between the expeditions of different nationalities.

7. Should however the Chilean Government be unwilling either to apply to His Majesty's Government for a lease of the post occupied by their nationals on Greenwich Island or to submit to the International Court for arbitration any claim to the territory in question which they may assert, His Majesty's Government would be reluctantly compelled to request the withdrawal of the Chilean post from Greenwich Island. In the meantime His Majesty's Government must naturally reserve all their rights to take such action as they may consider appropriate in due course to ensure that their sovereignty is respected.

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

[Signed] J. H. LECHE

His Excellency,  
Senor don German Vergara Donso,  
Minister for Foreign Affairs,  
Santiago

Enclosure in Santiago despatch No. 58 of 3rd February 1948

*Translation*

MINISTRY OF FOREIGN AFFAIRS  
No. 1036

Santiago, 31st January 1948

Your Excellency,

I have paid the most careful attention to Your Excellency's Note No. 128 of 17th December last, in which His Britannic Majesty's Government express their concern at the activities of my country's Naval Expedition which visited the Chilean Antarctic Territory a year ago. Your Excellency adds that the British Government have hitherto refrained from communicating officially with the Chilean Government on this subject because they did not wish to appear to be impeding any scientific research which that expedition might be carrying out and because they hoped that "the local protests which were reported to the Chilean Government by the Naval Officers to whom they were addressed would result in the necessary permission being applied for through normal channels for any further visits of this nature". But in view of the establishment and maintenance of a Chilean base on Greenwich Island in the South Shetlands Archipelago, His Majesty's Government, in Your Excellency's words, have instructed you to record a formal protest owing to the fact that the territory in question has been publicly administered as British territory.

In the same communication, and in consequence of His Majesty's Government's claim that that region forms part of the so-called Dependencies of the Falkland or Malvinas Islands, it is suggested that the Chilean Government should apply to His Majesty's Government for the lease of the zone containing the above mentioned Chilean base. Your Excellency suggests moreover that if my Government is not ready to admit the validity of the British title over Greenwich Island, its correct course would be to invoke the jurisdiction of the International Court of Justice. Your Excellency ends by stating that if both these methods of procedure are rejected by my Government, His Majesty's Government would be reluctantly compelled to request the withdrawal of the Chilean base.

In reply I must first inform Your Excellency that the Chilean Government considers that the protest registered against the establishment and maintenance of the Chilean base in an island such as Greenwich which is situated within the limits of national

territory lacks all justification; and is obliged to reject it, in the same form as the protest which British officials under the Governor of the Falkland or Malvinas Islands thought fit to present to the Chief of the Chilean Naval Detachment at Sovereignty Bay was rejected through this Ministry's Note No. 5208 of 16th May of last year.

My Government has already had occasion to inform Your Excellency—in particular in Notes dated 11th November 1940 and 23rd January 1946—that they consider Graham Land and the South Shetlands to be an integral part of Chilean territory, basing this claim on titles which they consider clearly defined and irrevocable, and for this same reason maintain their refusal to recognise any juridical force in the Letters Patent of 21st July 1908 and of 28th March 1917, by which His Majesty's Government declared that a large portion of my country's territory belonged to them.

In the circumstances Your Excellency will recognise that it is not possible for the Chilean Government to entertain the suggestion contained in your Embassy's Note to the effect that they should apply to the British Government for the lease of that zone of Chilean national territory in which they have established and maintained a Naval base in the exercise of the most basic rights of sovereignty.

Nor can I admit the suggestion put forward by Your Excellency that if the Chilean Government is not prepared to accept the validity of the British titles to Greenwich Island the correct procedure would be not to maintain a naval base there but to have recourse to the jurisdiction of the International Court of Justice.

While we have always maintained the principle that controversies of a juridical nature which may arise between states should be submitted to international jurisdiction and we have in this respect a tradition of which we may well be proud, I cannot in this case share the point of view of Your Excellency's Government since, in the first place, there would be no logical justification in Chile having to approach the International Court of Justice, before effecting acts of sovereignty within a territory over which she holds irrefutable juridical, political, historical, geographic, diplomatic and administrative titles; and secondly, because, as Your Excellency well knows, the basic problem which His Majesty's Government has seen fit to put forward in the Note to which I am replying, has other aspects which cannot be solved by Anglo-Chilean arbitration.

In view of the considerations which I have outlined above and of the traditional good relations which have linked our respective Governments, relations which the Chilean Government will strive to continue cultivating, we are sure that His Majesty's Government will admit that a request for the withdrawal from the Chilean base at Greenwich Island such as Your Excellency insinuates could have no effect but that of causing a needless deterioration in that happy tradition of friendship.

In conclusion I must inform Your Excellency that the Chilean Government feels that its rights in the American Antarctic are securely bound to the principles of Continental security and that in defending them unhesitatingly they are merely carrying out the obligations which they have contracted in respect of these principles. Nevertheless I am very pleased to add that it is not our intention to hamper in any form the activities of any expeditions with scientific or exploratory aims which might be sent to the Chilean Antarctic territory and I sincerely hope that in this light it will be possible for our two countries to meet in the future on a plane of co-operation far removed from all unfriendliness.

I take this opportunity to renew to Your Excellency the assurance of my highest and most distinguished consideration.

[Signed] GERMAN VERGARA D.

His Excellency

John Hurlleston Leche, Esq., C.M.G., O.B.E.,

His Majesty's Ambassador,

Santiago