

The Exchanges of Notes of 11 October 2001 and of 3 August 2006 between the United Kingdom and the Argentine Republic apply to this document

**FINAL REPORT OF THE JOINT
WORKING PARTY FOR THE CARRYING
OUT OF A FEASIBILITY STUDY ON THE
CLEARANCE OF LAND MINES IN THE
FALKLAND ISLANDS
(ISLAS MALVINAS)**

3rd October 2007

Version for public dissemination

Use of geographical names in the English and Spanish versions of the Cranfield University report and the JWP Final Report does not imply agreement between the United Kingdom and the Argentine Republic on the toponymy of the Falkland Islands (Islas Malvinas).

I. INTRODUCTION

Article 5 “Destruction of anti-personnel mines in mined areas” of the Ottawa Convention on antipersonnel mines of 10 December 1997 establishes that:

“1. Each State Party undertakes to destroy or ensure the destruction of all anti-personnel mines in mined areas under its jurisdiction or control, as soon as possible but not later than ten years after the entry into force of this Convention for that State Party”.

“3. If a State Party believes that it will be unable to destroy or ensure the destruction of all anti-personnel mines referred to in paragraph 1 within that time period, it may submit a request to a Meeting of the States Parties or a Review Conference for an extension of the deadline for completing the destruction of such anti-personnel mines, for a period of up to ten years”.

The United Kingdom of Great Britain and Northern Ireland and the Argentine Republic signed the Ottawa Convention upon its adoption. The United Kingdom ratified it on 31 July 1998 and the Argentine Republic ratified it on 14 September 1999 along with respective interpretative declarations.

In the light of the provisions of this Convention, the Governments of the United Kingdom and the Argentine Republic decided to carry out a joint feasibility study on the clearance of landmines in the Falkland Islands (Islas Malvinas). This decision was expressed through the following agreements:

- On 7 May 1998, Argentina and the United Kingdom started negotiations on this matter under the sovereignty formula and, as a consequence, the Governments of the United Kingdom and Argentina signed on 11 October 2001 in Buenos Aires an Agreement by Exchange of Notes for the carrying out of a feasibility study on the clearance of landmines in the Falkland Islands (Islas Malvinas) (Attachment I), under the sovereignty formula, and in the light of the obligations of the Ottawa Convention of 1997 on antipersonnel mines.

- On 3 August 2006, the Governments of the United Kingdom and the Argentine Republic signed, under the sovereignty formula, an Agreement by Exchange of Notes (Attachment II) which included unexploded ordnance still remaining in the mined areas within the scope of the 2001 Agreement and established a mechanism for contracting a third party to perform certain tasks set forth in the Main Study of the Feasibility Study, including a field survey on the Falklands Islands (Islas Malvinas). This Exchange of Notes had the following Annexes: Annex 1 - Draft contract (including Part 1 – Statement of Requirement and Attachment 1 – Joint Working Party Notification to the Contractor on Operative Aspects regarding the Performance of the Contract), Annex 2 – Criteria for the Awarding of the Contract and Annex 3 – Invitation to Tender.

This report is submitted by the Joint Working Party (JWP) to both Governments in compliance with the provisions of paragraph 3.3. of the 2001 Agreement, which establishes that the JWP shall be responsible for:

“A Final Report, which will set out the conclusions reached after carrying out the Preliminary and Main Studies and which will make recommendations to both Governments regarding future action”.

And of paragraph 3.G of the 2006 Agreement which sets out:

“The JWP shall submit the Final Report to both Governments, which it must prepare pursuant to paragraph 3.3. of the Exchange of Notes of 11 October, 2001 together with a detailed report on expenditures applying all the agreements and understandings reached on financial issues by the Governments and the JWP. It shall conclude its functions once it receives the approval by both Governments to those documents”.

II. DEVELOPMENT OF THE TASKS ENTRUSTED TO THE JOINT WORKING PARTY

1. General considerations on the work carried out by the JWP

As both Governments are aware, the two agreements by exchange of notes which regulated the work of the JWP were entered into under the sovereignty formula contained in the Joint Statement of 19 October 1989, according to which:

1. The Government of the United Kingdom of Great Britain and Northern Ireland (hereinafter the “United Kingdom”) and the Government of the Argentine Republic agree that the following formula on sovereignty, based on the formula contained in the Joint Statement of 19 October 1989, applies to this Exchange of Notes and to the arrangements made therein, as well as to their results:

(1) Nothing in the content of this Exchange of Notes and the arrangements made therein, or in the outcome thereof, shall be interpreted as:

a) a change in the position of the United Kingdom with regard to sovereignty or territorial and maritime jurisdiction over the Falkland Islands (Islas Malvinas), South Georgia and the South Sandwich Islands and the surrounding maritime areas;

b) a change in the position of the Argentine Republic with regard to sovereignty or territorial and maritime jurisdiction over the Falkland Islands (Islas Malvinas), South Georgia and the South Sandwich Islands and the surrounding maritime areas;

c) recognition of or support for the position of the United Kingdom or the Argentine Republic with regard to sovereignty or territorial and maritime jurisdiction over the Falkland Islands (Islas Malvinas), South Georgias and the South Sandwich Islands and the surrounding maritime areas.

(2) No act or activity carried out by the United Kingdom, the Argentine Republic or third parties as a consequence or in application and/or interpretation of this Exchange of Notes and the arrangements made therein, or of their results, shall constitute a basis for affirming, supporting, denying or undermining the position of the United Kingdom or the Argentine Republic regarding the sovereignty or territorial and maritime jurisdiction over the Falkland Islands (Islas Malvinas), South Georgia and South Sandwich Islands and the surrounding maritime areas.

The agreement contained in the text quoted above made it possible for the JWP to develop the tasks entrusted to it by the Governments. However, during the process

towards achieving its objectives, the JWP had to resolve situations deriving from the circumstances inherent in the sovereignty dispute to which the foregoing clause refers to.

One of those circumstances was the need faced by the JWP to contract private companies for carrying out certain tasks involved in the feasibility study. Another resulted from the fact that both parties to the dispute seek to comply with their obligations under the Ottawa Convention with regard to a territory which is a part of that very dispute.

In this context, it was necessary for the JWP to design and put into practice appropriate mechanisms to make it possible to select and contract companies suitable for rendering the requested services, avoiding the contract and the legal relationships consequently entered into being subject to a particular national legislation or a specific national jurisdiction. Designing these mechanism presented challenges for both delegations which demanded a significant number of meetings of the JWP in order to explore the different alternatives. As both Governments are aware, the progress made always entailed permanent consultations of both delegations with their respective authorities, which consumed a considerable amount of time.

In compliance with the mandate conferred upon by the two Governments, the Joint Working Party held 17 meetings, the dates and locations of which are contained in Annex A.

The JWP is pleased to confirm that the efforts made have been fruitful. The tasks entrusted by the two Governments have been completed, having safeguarded the respective positions regarding the sovereignty dispute referred to in the first paragraph of the 2001 Agreement. The JWP expresses its gratitude for the excellent disposition of the two Governments on having devoted all necessary time and resources to the JWP to settle the difficulties faced since 2001.

2. Application of the contracting mechanism agreed in 2006

A. Invitation to Tender and reception of offers

Pursuant to the provisions of the Agreement of 3 August 2006, the invitation to tender was carried out according to the following time schedule:

On 4 August 2006, the JWP agreed on the list of companies to be invited to tender in accordance with the instructions received from both Governments, and on 7 August of the same year issued the invitations to tender to the selected companies.

The time granted to potential tenderers to inform on their willingness to participate in the invitation to tender expired on 11 August 2006 and five companies replied positively.

Offers from three companies were received on 18 September 2006, which were assessed by the JWP which, in accordance with the "Criteria for the awarding of the contract" (Annex 2 to the 2006 Agreement) concluded that the best overall offer was the one submitted by Cranfield University. Paragraph 3.C of the 2006 Agreement sets out:

“The JWP shall propose to the respective Governments to contract the company or companies or non-governmental organization(s) selected by the JWP on the basis of the “Criteria for the Awarding of the Contract”.

In order to comply with this rule, the two delegations informed their respective Governments on the conclusions made by the JWP.

B. Selection and contracting of Cranfield University

During the JWP Twelfth Meeting in Paris on 2 and 3 November 2006, both delegations confirmed the conformity of their respective Governments regarding the proposed contracting and, consequently, notified Cranfield University on the acceptance of its offer. They also informed the rest of the companies which had replied to the Invitation to Tender on the results of the selection.

In pursuance of the procedure established by the Exchange of Notes of 3 August 2006, on 3 November 2006 the Head of the Argentine Delegation and the Representative of Cranfield University signed the contract at a ceremony at the Quai d’Orsay, seat of the French Ministry of Foreign Affairs.

The contract included a declaration signed by the Head of the British Delegation witnessing that the signature was carried out in compliance with the Agreements by Exchange of Notes under sovereignty formula between the Argentine Republic and the United Kingdom on 11 October 2001 and 3 August 2006.

C. Contract performance by Cranfield University

Between 2 and 22 December 2006, Cranfield University carried out the field survey necessary to comply with the contract, monitored by two British experts and two Argentine experts in accordance with the provisions of the 2006 Agreement. The survey performed by Cranfield University met the JWP expectations.

Cranfield University further submitted a draft report to the JWP which was considered by it and received comments from it. While considering the draft report, the suitability of contracted company regarding the subject matter of the contract was evident and it satisfactorily replied to all consultations made by both delegations.

The JWP concludes that Cranfield University has satisfactorily and adequately complied with the tasks required of it.

D. JWP approval of Cranfield University report

At the meeting held in Buenos Aires on 2, 3 and 4 October 2007, the JWP considered and approved the English and Spanish versions of Cranfield University report, which are enclosed as attachments III and IV respectively, and it adopted this report for submission to the British and Argentine Governments.

3. Common information submitted by the United Kingdom and Argentina to the Ottawa Convention bodies

During the JWP Second Meeting (London, 27 and 28 October 2004), the British and Argentine Delegations agreed to suggest to both Governments that both countries submitted common information to the Ottawa Convention States Parties regarding the progress achieved in the implementation of the 2001 Agreement. Upon this recommendation by the JWP, since the Ottawa Convention Revision Conference (Nairobi, 29 November to 3 December 2004) both Governments submitted a regular update of that common information before all the Convention meetings and later extended that practice to the information sent in their respective national reports in compliance with Article 7 of the Convention.

III. FINANCIAL ASPECTS

Pursuant to paragraph 3.G. of the 2006 Agreement which states: *“all the agreements and understandings reached on financial issues by the Governments and the JWP. It shall conclude its functions once it receives the approval by both Governments to those documents”*, the JWP submits for the analysis and consideration of both Governments a copy of the contract entered into between the Representative of the Argentine Republic, on behalf of the JWP, and the Representative of Cranfield University, and which was also signed by the Representative of the United Kingdom to witness that the said contract was entered into in compliance with the Exchanges of Notes under the sovereignty formula of 11 October 2001 and 3 August 2006. As set out in the contract itself, this is proof that the contractor received the agreed sum.

IV. JWP CONCLUSIONS ON THE FINAL REPORT

1. Cranfield University report

The Cranfield University report provides elements which both Governments may use to have an opinion on the issues set out in paragraphs 3.2.1. to 3.2.4. and 3.2.7. of the 2001 Agreement.

The information gathered and the field survey carried out in accordance with the 2001 and 2006 agreements identified one hundred and seventeen (117) mined areas in the Falkland Islands (Islas Malvinas) which cover a total area of 13.15 km² or 1,314.9 Ha. This represents approximately 0.1% of the area of the Falkland Islands (Islas Malvinas).

It is assessed that 44 % of that area contains no mines and that, after applying a combination of mechanical, manual methods and mine detection dogs, could be reclassified as “no known mines”. 51 % of the area represents a reduced threat to human life and can be cleared with some environmental impact.

4% of the area represents the greatest threat to human life and can be also cleared with some environmental impact. The rest of the affected area (1%) cannot be cleared easily and any clearance operation of mines and unexploded ordnance could have a significant environmental impact.

In conclusion, the clearance of mines and unexploded ordnance from all mined areas in the Falkland Islands (Islas Malvinas) is challenging, including from the organizational point of view, but technically feasible. The clearance work will have some environmental

impact and some remediation will be required. The severe weather conditions in this area -temperature, rain and visibility- limit the annual working period to a maximum of ten (10) months each year and would lead to the establishment of a compulsory stand down of two (2) months during which the completed tasks can be assessed, staff leave can be granted and reorganisation/reprogramming for the following annual period can take place.

Finally, the report concluded that the landmines buried in the peat areas on the islands would now be at a depth of approximately 7 – 9 cm beneath the surface. This is considered of major importance, and should allow clearance of peat areas to be carried out using normal procedures.

The Cranfield University study concludes by proposing “*strategic clearance options*” to be implemented through different “*scenarios*” subject to the outcome of the recommended trials phase.

The “*First Scenario*”, estimated to take 20 months [*text deleted for commercial confidentiality*], contemplates conducting trials of all existing current clearance methods with appropriate remediation measures in all seasons. Only after conclusion of these trials would it be possible to plan the detailed clearance programmes, the time necessary to perform the tasks and, also, the final cost of the operations.

[*Text deleted for commercial confidentiality*]

2. Order of priority among minefields for the clearance of land mines:

In compliance with paragraph 3.2.5. of the 2001 Exchange of Notes which requires to determine an order of priority among minefields for the clearance of land mines, taking into account nearness to centres of population, based on the most efficient use of the human, material and financial resources required to perform the task, the order of priority set out in Annex B is suggested.

3. Identification of the institutions or organizations for performing the task of land mine clearance:

Regarding the identification of the institutions and organizations for performing a possible future task of landmine clearance as set out in paragraph 3.2.6. of the 2001 Agreement, the JWP considers that such an identification can only be made upon decision to carry out a possible future demining operation. Given the scale and complexity of the task, ever changing commercial capabilities, and the continuous progress of technological innovation in humanitarian demining, the identification of institutions or organizations to carry out the task should involve assessment of state-of-the-art technologies and cost efficient means at the time at which such a decision could be made. On the basis of the valuable experiences acquired by the JWP, it is judged that there would have to be a formal tender, bidding and selection process, the latter based on relevant criteria, in order to select a company or consortium to undertake the demining task.

V. FINAL COMMENTS

The JWP considers that the information contained in this report will make it possible for both Governments to evaluate future action.

The JWP members express their gratitude to the two Governments for the provision of the necessary means to conclude the feasibility study set out in the 2001 and 2006 Exchanges of Notes. The JWP managed to overcome the difficult circumstances imposed on this initiative by the sovereignty dispute existing between the United Kingdom and Argentina, and always safeguarded the positions of both parties in this respect.

Should the two Governments agree with the contents of this Final Report, the Joint Working Party will consider its functions concluded in accordance with paragraph 3.G of the 2006 Agreement. The JWP suggested that bilateral contact should be maintained in order to enable further common submissions to the Ottawa Convention States Parties informing them of the completion of its work.

Guillermo Rossi
Head of Argentine Delegation to JWP

Phil Tissot
Head of British Delegation to JWP

ANNEXES

- A. List of JWP Meetings
- B. Order of Priority among Minefields for the Clearance of Landmines

ATTACHMENTS

- I. Agreement by Exchange of Notes of 11 October 2001
- II. Agreement by Exchange of Notes of 3 August 2006 (Main body of text)
- III. Cranfield University report in English *
- IV. Cranfield University report in Spanish *

* Expurgated versions for commercial confidentiality

DATES AND LOCATIONS OF JWP MEETINGS

JWP Meeting Number	Date	Location
1	3 and 4 December 2001	Buenos Aires
2	27 and 28 October 2004	London
3	27 and 28 April 2005	Buenos Aires
4	7 and 8 July 2005	London
5	4 to 6 October 2005	Buenos Aires
6	21 to 23 November 2005	London
7	27 to 29 March 2006	Buenos Aires
8	17 to 19 May 2006	London
9	27 to 29 June 2006	Buenos Aires
10	20 and 21 July 2006	London
11	26 to 28 September 2006	Buenos Aires
12	2 and 3 November 2006	Paris
13	17 to 19 February 2007	London
14	28 to 30 March 2007	London
15	17 to 19 April 2007	Buenos Aires
16	4 to 6 July 2007	London
17	2 to 4 October 2007	Buenos Aires

**ORDER OF PRIORITY AMONG MINEFIELDS FOR THE CLEARANCE OF
LANDMINES**

In accordance with paragraph 3.2.5. of the 2001 Agreement, the following order of priority among minefields for the clearance of landmines is suggested:

1. Most of Murrell Peninsula
2. Stanley Areas 2 and 3 and Fitz Roy Bridge
3. Stanley Area 4
4. Goose Green and Darwin
5. Fox Bay and Port Howard
6. Stanley Area 1 and the five coves of Murrell Peninsula

The above suggested order of priority is based on the information provided in Cranfield University's report taking into account the categories of the mined areas, the significance of area reduction and cost of clearance as well as the nearness to centres of population which would facilitate the necessary logistical arrangements for a possible future demining operation. This order of priority can only be considered preliminary and subject to the outcomes of the recommended trial phase contemplated in Scenario 1 of Cranfield University's report.

Agreement by Exchange of Notes of 11 October 2001

“11 October 2001

Mr. Minister,

I have the honour to refer to your Note of the 11 October 2001, which reads as follows:

Your Excellency,

I have the honour to refer to the shared commitment of our two Governments to carry out a feasibility study on the clearance of land mines in the Falkland Islands (Islas Malvinas), as referred to in the Joint Statement of 14 July 1999, and in the light of the obligations in the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (hereinafter the “Ottawa Convention”), to make the following proposals:

1. The Government of the United Kingdom of Great Britain and Northern Ireland (hereinafter the “United Kingdom”) and the Government of the Argentine Republic agree that the following formula on sovereignty, based on the formula contained in the Joint Statement of 19 October 1989, applies to this Exchange of Notes and to the arrangements made therein, as well as to their results:

(1) Nothing in the content of this Exchange of Notes and the arrangements made therein, or in the outcome thereof, shall be interpreted as:

a) a change in the position of the United Kingdom with regard to sovereignty or territorial and maritime jurisdiction over the Falkland Islands (Islas Malvinas), South Georgia and the South Sandwich Islands and the surrounding maritime areas;

b) a change in the position of the Argentine Republic with regard to sovereignty or territorial and maritime jurisdiction over the Falkland Islands (Islas Malvinas), South Georgia and the South Sandwich Islands and the surrounding maritime areas;

c) recognition of or support for the position of the United Kingdom or the Argentine Republic with regard to sovereignty or territorial and maritime jurisdiction over the Falkland Islands (Islas Malvinas), South Georgias and the South Sandwich Islands and the surrounding maritime areas.

(2) No act or activity carried out by the United Kingdom, the Argentine Republic or third parties as a consequence or in application and/or interpretation of this Exchange of Notes and the arrangements made therein, or of their results, shall constitute a basis for affirming, supporting, denying or undermining the position of the United Kingdom or the Argentine Republic regarding the sovereignty or territorial and maritime jurisdiction over the Falkland Islands (Islas Malvinas), South Georgia and South Sandwich Islands and the surrounding maritime areas.

Feasibility Study

2. A feasibility study (hereinafter “the Study”) shall be carried out regarding clearance of land mines in the Falkland Islands (Islas Malvinas).

Phases and Content of the Study

3. The Study will be carried out in three phases:

3.1. A Preliminary Study, which will consist of an initial assessment to determine, *inter alia*: the objectives, methodology, stages of implementation, timetable and resources required for the work needed during each implementation phase of the Main Study. In this phase, both Governments will provide any documentation and information at their disposal needed for carrying out the Study, in particular records of minefields.

3.2. A Main Study, which will include execution of the work for which the Preliminary Study has established a need, and which may include:

3.2.1. conducting an analysis of minefields in order to determine their location, composition and density and the distribution of the land mines which they contain;

3.2.2. conducting an analysis of soil conditions in the minefields, including its composition and vegetation, where the Joint Working Party considers it to be necessary;

3.2.3. assessing the availability and suitability of the methods and techniques normally used to detect, clear and dispose of land mines;

3.2.4. establishing procedures for clearing land mines which are consistent with the International Standards for Humanitarian Mine Clearance Operations applicable at the time this Exchange of Notes takes effect;

3.2.5. determining an order of priority among minefields for the clearance of land mines, taking into account nearness to centres of population, based on the most efficient use of the human, material and financial resources required to perform the task;

3.2.6. identifying the institutions or organisations which satisfy the necessary criteria for performing the task of land mine clearance, duly complying with the parameters laid down for such work, and evaluating the information technology requirements for handling that task;

3.2.7. evaluating the costs and risks -including environmental risk- of each option viewed as technically feasible and producing a cost-benefit analysis, establishing an order of preference for the various options.

3.3. A Final Report, which will set out the conclusions reached after carrying out the Preliminary and Main Studies and which will make recommendations to both Governments regarding future action.

Carrying out the Study

4.1. The Study will be carried out by both Governments by means of a joint British-Argentine working party (hereinafter “the Joint Working Party”). The Joint Working Party will be made up of Delegations appointed by each Government, and will

meet at the request of either Government at a time and place convenient to both. The Joint Working Party will act by common accord and in accordance with the provisions of this Exchange of Notes.

4.2. Two project managers could be appointed by the Joint Working Party to manage the conduct of the Study, one of them to be appointed by the Government of the United Kingdom and the other by the Government of the Argentine Republic. The Joint Working Party will retain overall control of the feasibility study at all times and for all phases of the Study.

5. The Joint Working Party will determine the timetable and manner of carrying out the Preliminary Study, and any work which is necessary in the Islands as well as its scope.

6. The Joint Working Party may recommend commissioning any experts which it considers necessary to advise it on substantive matters which arise while the Study is being carried out.

7. The Joint Working Party may recommend consulting organisations which specialise in land mine clearance and asking them for opinions and advice.

8. The Joint Working Party will approve successively

8.1. the conclusions of the Preliminary Study;

8.2. the conclusions of the various phases of the Main Study, in accordance with the timetable and methodology laid down by the Preliminary Study;

8.3. the conclusions of the Final Report.

Financing the Study

9. The Government of the Argentine Republic shall bear the costs entailed by the Study with respect to land mines which were laid by the Argentine Armed Forces in the Falkland Islands (Islas Malvinas).

10. The Government of the United Kingdom shall bear the appropriate proportion of the costs entailed by the Study with respect to land mines which were laid by the British Armed Forces in the Falkland Islands (Islas Malvinas).

11. The Joint Working Party will prepare the budgets for the various phases of the Study, and the Government of the Argentine Republic shall approve them as a pre-requisite for releasing the funds for carrying out the work. The Government of the United Kingdom shall do likewise to the appropriate extent.

12. The Joint Working Party will produce accounts for expenditure actually incurred during each phase of the work of the Study, and the Government of the Argentine Republic shall approve them. The Government of the United Kingdom shall do likewise to the appropriate extent.

The Applicable Law

13. *The applicable law will be the international rules and standards in force. If acts or activities relating to the practical implementation of the Study indicated that other rules were to be applied, such rules and their application shall have an ad hoc nature, a necessary consequence of this Exchange of Notes and as such shall be subject to the formula of sovereignty agreed above.*

Communication

14. *Both Governments will jointly send the text of this understanding to the Secretary-General of the United Nations for distribution as an official document of the General Assembly, under the heading "Question of the Falkland Islands (Malvinas)" of the agenda for the 56th Session. The Final Report will be similarly forwarded.*

15. *Both Governments will submit the relevant reports, in the light of requirements under the Ottawa Convention.*

If the foregoing proposals are acceptable to the Government of the United Kingdom, I have the honour to propose that this Note together with Your Excellency's reply in that sense should constitute the understanding reached between our two Governments in this matter, which will take effect on the date of your reply.

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

I have the honour to confirm that the Government of the United Kingdom accepts the arrangements proposed in Your Excellency's Note and that Your Excellency's Note and this reply record the understanding of our two Governments with regard to this matter.

(Signed:) Robin Christopher
HM Ambassador

To the Minister of Foreign Affairs, International Trade
And Worship of the Argentine Republic
H.E. Mr. Adalberto Rodríguez Giavarini
Buenos Aires."

Agreement by Exchange of Notes of 3 August 2006 (Main body of text)

“3 August 2006

Minister,

I have the honour to refer to your Note of 3 August 2006, which reads as follows:

Excellency,

I have the honour to refer to some aspects related to the implementation of the Exchange of Notes for the carrying out of a feasibility study on the clearance of land mines in the Falkland Islands (Islas Malvinas) signed on 11 October 2001 by the United Kingdom of Great Britain and Northern Ireland and the Argentine Republic under the sovereignty formula.

In this regard, I have the honour to make the following proposals:

1. The sovereignty formula agreed in paragraph 1 of the Exchange of Notes of 11 October 2001 shall apply to this Exchange of Notes and to all its consequences.

2. Unexploded ordnances (UXO) existing in the mined areas on the Falkland Islands (Islas Malvinas) shall be considered included within the scope of the Exchange of Notes for the carrying out of a feasibility study on the clearance of land mines in the Falkland Islands (Islas Malvinas) of 11 October 2001. In accordance with IMAS 4.10 (Glossary, Second Edition), an unexploded ordnance is an explosive munition that has been primed, fused, armed or otherwise prepared for use or used. It may have been fired, dropped, launched or projected yet remain unexploded either through malfunction or design or for any other reason.

3. The Joint Working Party (JWP) shall take the necessary steps in order to award contracts to third parties for carrying out the tasks identified by this Party in Point 4 of the Actions Agreed at its Tenth Meeting, in accordance with the following procedure:

A. The JWP shall invite companies and non-governmental organizations which it deems eligible to tender for the carrying out of the above mentioned tasks included in the Main Study of the Feasibility Study. Not less than five prospective tenderers shall be identified, which shall be informed about the draft contract including the “Statement of Requirement” and the “Notification of the JWP about operative aspects of the contract” (Annex 1), the “Criteria for the Awarding of the Contract” (Annex 2), and the “Invitation to Tender” (Annex 3).

B. These tenders shall include all costs implicitly or explicitly involved in the carrying out of the said tasks, including all insurances necessary in order to perform them.

C. The JWP shall propose to the respective Governments to contract the company or companies or non-governmental organization(s) selected by the JWP on the basis of the "Criteria for the Awarding of the Contract".

D. Once the JWP has received the consent of both Governments to the proposal referred to in Paragraph 3.C. above, the Government of the Argentine Republic shall proceed to enter into the contract with the company or companies or non-governmental organization(s) selected, according to the terms stated in Annex 2. Both Governments recognise that the "Convention on the Recognition and Enforcement of Foreign Arbitral Awards" adopted in New York on 10 June, 1958 shall apply to any outcome of the dispute settlement mechanism contained in this contract, and that in accordance with what is set out in that contract, claims about the enforcement or recognition of the aforementioned awards shall exclusively be brought before the jurisdiction of the defendant's State. No other types of claims related to the arbitral award shall be brought before any national courts. The same dispute settlement mechanism, including negotiations between the JWP and the company, shall be applied, in all its aspects, to any dispute arising out of the invitation to tender and the awarding of the contract.

E. The JWP shall monitor and assess the fulfilment of the contract and shall inform both Governments about the results of the tasks performed.

F. The contractor's report and any document resulting from the contract shall become the intellectual property, including copyright, of both Governments to use in any manner they respectively see fit. Nevertheless, the publication or the partial or total quotation other than to the British Parliament or the Argentine National Congress of that report or documents will require the agreement of both Governments.

G. The JWP shall submit the Final Report to both Governments, which it must prepare pursuant to paragraph 3.3. of the Exchange of Notes of 11 October, 2001 together with a detailed report on expenditures applying all the agreements and understandings reached on financial issues by the Governments and the JWP. It shall conclude its functions once it receives the approval by both Governments to those documents.

If the foregoing proposals are acceptable to the Government of the United Kingdom, I have the honour to propose that this Note together with Your Excellency's affirmative reply should constitute an agreement reached between our two Governments, which shall enter into force on the date of your reply.

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

I have the honour to confirm that the Government of the United Kingdom accepts the arrangement proposed in Your Excellency's Note and that Your Excellency's Note and this reply record the understanding of our two Governments with regard to this matter.

(Signed:) Dr John Hughes
Ambassador

To the Minister of Foreign Affairs, International Trade
And Worship of the Argentine Republic
H.E. Mr. Jorge E. Taiana,
Buenos Aires."

Cranfield University report in English

Cranfield University report in Spanish

