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Se refiere a:

17ABR82 – Minuta de FCO a Pym. Asesoramiento legal sobre el enfrentamiento de fuerzas británicas a fuerzas argentinas.

(PREM 19/644) (desclasificado DIC2012)

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PS/Secretary of State

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AUS D Staff

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FALKLAND ISLANDS

1. We have consulted the FCO Legal Adviser about whether some further Notice to Mariners or Public Announcement is necessary before British Forces engage Argentine Forces either in one of the zones announced (but not formally promulgated) by the Argentine Government or on the High Seas.

2. S of S will recall that the final sentence of the Notice which announced the establishment of a Maritime Exclusion Zone around the Falkland Islands reserved HMG's right to take further action in exercising its right of self defence under Article 51 of the United Nations Charter. Sir Ian Sinclair has advised us that our rights under the Charter, and the notice we have given of our intention to exercise those rights, provide sufficient legal cover for the contingencies which S of S was concerned about. The Argentines have already committed aggression against British Territory and British people. The aim of the Naval Task Group is to counter that aggression which our inherent right of self defence enshrined under Article 51 entitles us to do. Argentine Forces encountered en route could be presumed to be operating in support of the illegal invasion of the Falklands, and in opposition to our efforts to combat that invasion. Our Force would, therefore, be entitled to deal with them as the situation required. This would be the case on the High Seas, in one of the Argentine zones, or, of course, within our own MEZ around the Falklands.

3. It is a separate question whether any further announcement of our intentions would be desirable either in an attempt to dissuade the Argentine Navy from approaching our Forces, or to put ourselves in a better position politically to defend post hoc any action we may take if they did so. So far as I know CDS has not taken a view about the possible deterrent value of an announcement, but it seemed to AUS D Staff and I that the argument cut both ways. On the one hand an announcement might deter, on the other it might be perceived as a challenge which national pride, required should be taken up. The Naval Staff have made the point that some form of announcement would help to underline HMG's resolve, and would be a fillip to the morale of those serving with the Task Group. All other things being equal the Naval Staff would prefer an announcement to be made, and to be made some time in advance of when British and Argentine Forces are likely to meet.

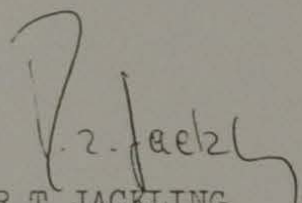
4. As to the possibility that an announcement would put us in a better position politically in the aftermath of any engagement between British and Argentine Forces, S of S will have his own views. On balance, we believe that it would. We have, therefore, prepared the attached draft of an announcement which we have cleared with Sir Ian Sinclair.

5. As to the timing of such an announcement the FCO have argued strongly that it should not be made while the Haig negotiations are in a delicate and decisive phase. FCO officials are content with the terms of the announcement, but have suggested that it should be held on the stocks while the Haig negotiations unfold over the next day or so, and until Ministers take decisions on rules of engagement for our Forces entering the South Atlantic, which would give them discretion to engage Argentine Forces in the way the draft announcement anticipates.

6. If S of S is content with the terms of the attached announcement, and that it should not be released pro tem, he may nevertheless wish to circulate it to his colleagues in the next day or so for their comments.

7. I should be very ready to prepare the draft of a minute with which he might do so.

17 Apr 82


R T JACKLING
Head of DS11
MB 9326 3287 MB

ANNOUNCEMENT

In announcing the establishment of a Maritime Exclusion Zone around the Falkland Islands, HMG made it clear that this measure /out was with/prejudice to the right of the UK to take whatever additional measures may be needed in the exercise of its right of self defence under Article 51 of the United Nations Charter. In this connection, HMG now wishes to make clear that any attempt on the part of the Argentine war ships, including submarines, naval auxiliaries or military aircraft to interfere with the mission of British Forces in the South Atlantic will encounter the appropriate response.

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