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ZZ BRASILIA

~~14 JUN 1982~~
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SECRET

FM FCO 050235Z JUNE 82

TO FLASH BRASILIA

TELEGRAM NUMBER 166 OF 5 JUNE

INFO FLASH UKDEL VERSAILLES (FOR S OF S PARTY) MODUK AIR (SIC 19F)

IMMEDIATE DESKBY 051300Z WASHINGTON



YOUR TEL NO 247: VULCAN DIVERSION

1. YOU SHOULD SEEK MEETING WITH FOREIGN MINISTER TO EXPRESS KING'S SURPRISE AND DISAPPOINTMENT AT THE DELAY IN ALLOWING THE VULCAN AIRCRAFT TO DEPART. WHILE WE WOULD NOT WISH YOU TO GET INVOLVED IN MORE THAN NECESSARY IN LEGAL ARGUMENT YOU MIGHT WISH TO DRAW ON SOME OF THE FOLLOWING.

2. THE HAGUE RULES WERE DRAWN UP AS A DRAFT, (IN FACT BY A COMMISSION OF JURISTS OF THE LEAGUE OF NATIONS) BUT WERE NEVER TRANSFORMED INTO A LEGAL TREATY INSTRUMENT AND SO ARE NOT BINDING. (BUT, FOR YOUR OWN INFORMATION, THE RULE REQUIRING THE INTERNMENT OF MILITARY AIRCRAFT WHICH ENTER A NEUTRAL STATE REFLECTS GENERAL PRACTICE.)

3. IF THEY CONTINUE TO ARGUE THAT THE AIRCRAFT SHOULD BE INTERNED UNDER THE NORMAL PRACTICE IN TIME OF WAR THE BEST ARGUMENT SEEMS THEREFORE TO BE THAT THE PARTIES TO THE HOSTILITIES ARE NOT AT WAR AND NO ONE IS OBLIGED TO APPLY THE LAWS OF WAR. THE PARTIES HAVE NOT IN FACT APPLIED THEM IN THEIR FULL RIGOUR. THEY HAVE NOT RETAINED PRISONERS OF WAR.

4. THERE IS NO REASON WHY BRAZIL SHOULD NOT IN THIS CASE APPLY THE RULES WHICH WOULD APPLY UNDER THE LAW OF PEACE, NAMELY, TO RELEASE THE AIRCRAFT. THIS WOULD NOT BE OPEN TO

OBJECTION BY THE ARGENTINES PROVIDED THAT BRAZIL APPLIED THE SAME RULE TO THEM. IN THE INTERESTS OF NOT EXACERBATING THE SITUATION, BRAZIL SHOULD NOT AGGRAVATE THE HOSTILITIES OR RENDER THEM MORE GRAVE BY TREATING THEM AS IF THEY AMOUNTED TO A WAR.

5. YOU SHOULD HOWEVER MAKE IT CLEAR THAT WE DO NOT SEE THIS AS A LEGAL MATTER BUT AS A POLITICAL ONE. THAT IS THE REAL POINT AT ISSUE.

6. WE HAVE CONSTANTLY STRESSED THAT OUR QUARREL IS NOT WITH LATIN AMERICA NOR INDEED WITH THE ARGENTINE PEOPLE BUT WITH THE ACTIONS OF AN ARGENTINE GOVERNMENT. IT IS A QUARREL WHICH WE DID NOT SEEK AND ONE IN WHICH WE WOULD CERTAINLY NOT WISH TO INVOLVE BRAZIL.

7. WHAT WE BELIEVE WE COULD REASONABLY EXPECT IN THE LIGHT OF OUR LONG STANDING BILATERAL RELATIONS WITH BRAZIL IS EVEN HANDED TREATMENT. IN THIS CONTEXT HMG IS WELL AWARE THAT ARGENTINE AND OTHER AIRCRAFT HAVE USED AND STILL ARE USING BRAZILIAN AIRFIELDS WHEN TRANSPORTING MILITARY EQUIPMENT FOR USE BY ARGENTINA IF THEY TAKE ACTION AGAINST US. IT WOULD THEREFORE BE EQUALLY APPROPRIATE FOR BRAZILIANS TO IMPOUND SUCH AIRCRAFT AND THEIR CARGOES.

8. IN THE CIRCUMSTANCES BRAZILIANS SHOULD BE IN NO DOUBT THAT HMG CONSIDER ^{REVEALING} RENEWAL OF THE DECISION ANNOUNCED YESTERDAY AS HAVING VERY SERIOUS CONSEQUENCES, WHICH YOU WOULD NOT CARE TO REHEARSE, FOR OUR BILATERAL RELATIONS WITH BRAZIL WHICH WE VALUE THESE GREATLY.

9. IF YOU CONSIDER THAT IT WOULD HELP BRAZILIANS TO REACH FAVOURABLE DECISION YOU COULD OFFER TO GUARANTEE THAT BOTH THE AIRCRAFT AND THE MISSILE WOULD BE RETURNED TO THE UK AND PUT IN BOND, SUBJECT TO INSPECTION, AND NOT USED IN PRESENT CONFLICT. THIS COULD BE INTERPRETED AS MEETING THE REQUIRE-

MENTS OF POINT 7 OF THE RIO TREATY RESOLUTION OF 29 MAY IN THAT THEY WOULD BE WITHDRAWN FROM THE HOSTILITIES.

0. IN THE LIGHT OF FOREIGN MINISTER'S RESPONSE YOU MAY WISH TO CONSIDER LOBBYING PRO-BRITISH PERSONALITIES PARTICULARLY IN THE ARMED SERVICES, PRESS, COMMERCE AND BANKING.

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