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OPA



Telny <sup>was used by</sup> <sup>3</sup> <sup>see 4</sup>  
 Lorne  
 Lorne  
 7/1/4

Sir Antony Acland  
 Private Secretary

ALQ 50/16  
 22 APR 1982

c.c. PS/PUS  
 Mr Wright  
 Mr Giffard  
 Mr Bullard  
 Mr Gillmore  
 Mr Ure  
 Mr Fearn  
 Sir Ian Sinclair

FALKLANDS : NOTICE OF AN EXCLUSION ZONE

Problem

1. Is Mr Nott's wind-up speech in the debate tonight the place to announce that HMG is declaring a maritime exclusion zone around the Falklands?

Recommendation

2. I recommend that the Secretary of State, in further Ministerial discussion this evening, should resist the announcement of such a declaration during the debate tonight.

Background and Argument

3. I understand it was agreed at ODSA this morning to have further work done quickly on the notice of an exclusion zone, since this could have a part to play in any military plan Ministers might decide to employ in the South Atlantic. A draft notice is attached, which has been prepared by MOD and FCO officials including an FCO Legal Adviser. The date on which such a zone would come into force is shown as Monday 12 April.

4. I may not be fully informed about this morning's discussion in ODSA, but it had been my understanding that Ministers had some reservations about the draft plan put before them by the Defence Secretary. Even if these are cleared up as a result of further discussion this evening, I wonder whether it is advisable to move quite so rapidly to the point of public announcement. The question arises whether Mr Nott would



merely announce the exclusion zone or whether he would set it in the context of a wider military plan. Naturally Ministers wish to convince the House in specific terms that the Government means what it says about firm action. On the other hand public presentation of HMG's military dispositions will be a crucial element, both as to timing and substance, in our overall strategy. If we do not get it absolutely right, there may not be a second chance. Is the heat of a Commons debate, on the eve of a visit by the American Secretary of State, the best moment to do this? Will it not convey an impression of Ministers being swayed by the tides of Parliamentary feeling rather than the note of cool and measured determination which the Prime Minister has so far struck?

5. There is a practical objection to the timing at which a zone would come into force as set out in the draft. By 12 April only one SSN will have arrived in the Falklands area. All three SSNs will not be there until 21 April. Since each SSN is carrying torpedoes sufficient only to guarantee sinking four Argentine ships (until resupplied), it is far from obvious that the effective enforcement of such a zone could be assured by one SSN from that date. It might therefore be prudent to rephrase the final sentence of the draft notice to read more modestly 'From the time indicated any Argentine warship ..... found within this zone .....

6. If Ministers were to decide in favour of an announcement this evening, urgent action through the diplomatic channel would be necessary formally to notify the Governments of Argentina, Uruguay and Brazil (at the very least), and to give guidance to our friends and Allies via HM Embassies about how the announcement related to HMG's wider strategy for re-asserting British sovereignty. The department have not



initiated drafting on this yet, since further guidance to officials from Ministers would first be required. It would also be necessary to notify international shipping more generally via a Notice to Mariners, because third country shipping might otherwise inadvertently become involved: the Department of Trade are looking into how best this could be done. Finally, the FCO Legal Advisers need to consult the Law Officers.

7. All in all it would seem much preferable to avoid rushing this particular fence. The issues at stake are too important, as perhaps (though this is for Ministers to judge) the House itself can be expected to recognise.

P J Weston  
Defence Department

7 April, 1982

- \* In practice we shall need to inform all non land-locked Governments with whom we have diplomatic relations to ensure the widest possible dissemination.

PJW

As you know, I share these views. There is also the point which we discussed about the effect on Mr Haig, & how he & the President will react. I think they will feel they have been bounced.

S E C R E T

Anthony Adland  
2/4

NOTICE OF AN EXCLUSION ZONE

'From 0400 Greenwich Mean Time on Monday 12 April 1982, a maritime exclusion zone will be established around the Falkland Islands. The outer limit of this zone is a circle of 200 nautical mile radius from Latitude 51 degrees 40 minutes South, 59 degrees 30 minutes West, which is approximately the centre of the Falkland Islands. From the time indicated <sup>0400</sup> [all] Argentine warships and Argentine naval auxiliaries [entering or] found within this zone will be treated as hostile and are liable to be attacked by British forces. This measure is without prejudice to the right of the UK to take whatever additional measures may be needed in exercise of its right of self-defence under Article 51 of the UN Charter.'

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Sir I Sinclair

FALKLAND ISLANDS: MARITIME ZONES FOR HOSTILITIES

1. Miss Cox (DS5, MOD) consulted me urgently this morning about the content of a background note and speaking note for the Falkland Islands debate in Parliament tomorrow for Mr Nott. DS5 had been asked to prepare a reply to the suggestion of Dr Owen in the earlier debate for the declaration of a 200 mile zone around the Falkland Islands.
2. I gave her the basic facts that we have a 3 mile territorial sea, that an intention to extend it, it is hoped in the context of UNLOSC, to 12 miles had been referred to in Parliament, that there was a continental shelf around the Falkland Islands, but that we had not taken a 200 mile fishery zone there when we did elsewhere. I added that there were precedents in war or circumstances approaching war for declaring a "war zone", but that the precise area and the measures to be taken in it have to depend on the circumstances of the case.
3. She told me that the wording for the speaking note itself would be completely non-committal, along the lines that the appropriate steps would be taken.
4. She subsequently asked me further about war zones and asked what kind of zone we could establish. I said that I was not prepared to discuss what are the possible policy options in the context of a background note for Parliament. This matter had been gone into in the policy discussions but I did not know what conclusions were reached. We were here involved in the law of self defence and the crucial criterion was proportionality to the circumstances of the case. She said she thought that Ministers had been advised at the weekend that war zones were illegal. She had not seen this advice. I said I also did not know exactly what advice had been given. If we were making concrete plans for policy options involving zones, it might be desirable to consult the Law Officers because of the controversial character of the matter.

Not  
by me!  
8/10  
4/4

H G Darwin

H G Darwin  
Deputy Legal Adviser

6 April 1982

cc Mr Freeland  
Mr P Wright (DUS)  
Mr J Weston (Defence Dept)  
Mr R Fearn (SAMD)

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PS Miss Cox has now told me that the main speaking note, as it leaves her, will now say that Mr Nott is not prepared to discuss military options. There had to be a defensive Note, for use in case Dr Owen reverted to his suggestion; she proposed:

"Declaration of an exclusive zone is one of the options open to us."

I suggested it would be better to avoid "exclusive" and also "open to", as the latter comes too near to implying a possible option. We agreed that the Note should say:

"Declaration of some kind of zone around the Falkland Islands enters-into our consideration of the matter."

Whether these wordings will survive the process of submission in the MOD, I do not know.