

S E C R E T

ALQ 050/16

cc PS
PS/FUS
Mr Wright
Mr Weston

Mr Gillmore

Copy for me
+ ps.
(Return Capt.) 19/6

POSSIBILITY OF ARGENTINE ACTION AGAINST THE RN TASK FORCE

- 36
1. Thank you for your minute of 16 April. We discussed some of the points raised in that minute with MOD officials this evening.
 2. The inherent right of self-defence under Article 51 of the Charter has, in this particular context, two facets which are closely inter-related. There is first of all the immediate right of any naval force at sea to take action in exercise of its right of self-defence if attacked or threatened by hostile naval or air elements. There is then the broader concept of our inherent right of self-defence of the Falkland Islands and Dependencies themselves, this aspect of the right of self-defence providing the necessary basis for the despatch of our Task Force to the South Atlantic.
 3. As far as the MEZ is concerned, full and adequate warning has been given of our intentions vis-à-vis Argentine naval vessels, submarines and naval auxiliaries present or entering the zone.
 4. As far as movement to South Georgia is concerned, I cannot see any legal necessity to declare an exclusion zone around South Georgia, given that the Argentine authorities have already declared a so-called "war zone" around this Island. In any event, we did, in the original announcement of our MEZ, make it clear that this measure was without prejudice to our right to take whatever additional measures might be needed in exercise of our right of self-defence under Article 51 of the Charter. In this context, I agree generally with the views expressed by Mr Stewart as recorded in paragraph 2(b) of your minute. At the meeting this evening, we did discuss the need for a public announcement in the event that Argentine naval vessels or naval auxiliaries were seen to be heading to intercept the Task Force in the South Atlantic outside our own MEZ and any so-called "war zone" declared by Argentina. As a matter of law, that aspect of the inherent right of self-defence which relates to a naval force at sea would, in my view, be applicable and would be broad enough if necessary to comprehend certain measures which might be taken by way of anticipatory self-defence, provided that the threat to the Task Force was clear and apparent. Strictly speaking, I do not think that, as a matter of law, any public announcement of our intention to take certain measures in anticipatory self-defence if there was a clear and apparent threat to the Task Force from Argentine naval units would be necessary. Nonetheless, we did consider together and agreed, on a wholly contingency basis, the text of an announcement which could be made at very short notice if Intelligence indicated that Argentine naval forces were putting to sea or had put to sea to intercept the Task Force as it moved south. You will recall that we both made it clear that the need for any such statement would have to be considered by Ministers simultaneously with any proposal which might be put to them for modification of the ROEs in the circumstances contemplated. You will no doubt be submitting a copy of the text we have agreed with MOD official tonight against the contingency which we discussed.

Ian Sinclair

16 April 1982

S E C R E T

Ian Sinclair
Legal Adviser