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*Billings*  
*ms*  
 Secretary of State (8)  
*Alvey papers*

Private Secretary

P.A.

*Dr Williams*  
*Tranby*  
*16/4*

OD(SA) 16 APRIL:

RULES OF ENGAGEMENT FOR RECAPTURE OF SOUTH GEORGIA

1. I understand that OD(SA), which is meeting at 1200 on 16 April, may consider an MOD paper on the rules of engagement for Operation Paraquet (the recapture of South Georgia). Sir R Armstrong's group of PUS' will take a preliminary look at these papers at 1100. (These rules of engagement are a different matter from those applying to the Maritime Exclusion Zone (MEZ) on which Mr Weston has minuted to you this afternoon.)

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2. The rules of engagement for Paraquet were discussed in detail at the Chiefs of Staff meeting earlier this evening. I attach a summary record. The MOD papers for tomorrow's meeting have not yet been circulated. Since they may not be available until shortly before the PUS's meeting at 1100, the Secretary of State and the PUS may welcome a preliminary brief which I will up-date as necessary when the MOD papers have reached us.

3. The two main issues are:

- (a) the possibility that the rules of engagement will lead to the sinking without warning by RN vessels of merchant ships; and
- (b) the risk that, because RN vessels have inadequate means of distinguishing conventional from nuclear powered submarines, they may attack a Soviet vessel shadowing our Task Force.

Sinking of Merchant Ships Without Warning

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4. Mr Freeland's minute of 15 April sets out the legal position. It is clear that there is a risk that the sinking of merchant ships without warning would be construed as a war crime. Leaving aside the question of legality, however, the political consequences could be extremely serious. Indeed, an action of this kind could remove at a stroke much of the support and sympathy that we have had from our partners, allies and friends. I therefore recommend that the Secretary of State and the PUS should argue strongly against rules of engagement of instructions which could involve the

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/ sinking



sinking of merchant vessels without warning.

Attacks on Submarines

5. It is clear from the discussion at the Chiefs of Staff meeting today that surface ships do not possess any completely reliable means of distinguishing between conventional and nuclear powered submarines. The CNS indeed admitted that he could not give a guarantee that, if the rules of engagement allowed for attacks on all submarines assessed to be conventional, there would be no risk of an attack on a Soviet nuclear powered submarine shadowing the Task Force. If this was to occur, as it were through inadvertence, the consequences could be catastrophic. I therefore recommend that we should not accept a rule which allowed for this unacceptable level of risk.

D H Gillmore

15 April 1982

cc: PS/PUS  
Mr Wright  
Sir I Sinclair  
Mr Weston

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RECORD OF CHIEFS OF STAFF MEETING: 15 APRIL 1982

1. The main item for discussion at the Chiefs of Staff meeting this evening was the set of rules of engagement for Operation Paraquet (the recapture of South Georgia).

2. The Operation is designed in three phases:

- (a) transit towards South Georgia on the High Seas outside the declared zone;
- (b) transit within the declared Argentine "defence zone" around South Georgia;
- (c) execution of Operation Paraquet within the Argentine "defence zone".

3. The rules of engagement for the first phase do not give rise to any particular problems. HM ships will use minimum force and then only in response to a clear intent by Argentine vessels to engage or in self defence. The rules of engagement for phases (b) and (c) give rise to significant and potentially dangerous problems:

- (a) in the view of the CNS it was vital for the success of the operation that in phase (b) all vessels (including merchant ships) positively identified as Argentine should be attacked. In phase (c) the instruction to attack would be widened to include all aircraft (including civil aircraft) positively identified as Argentine. As regards RN submarines any vessel (including merchant ships) or any submarine detected could be attacked, the latter on the assumption that submarines in the area would be presumed to be Argentine. Sir F Cooper and I pointed out that discretion to attack merchant shipping without warning (and in the case of RN submarines there was no way in which warning could be given) might be construed as a war crime. Both Sir F Cooper and I made it clear that our view was subject to more detailed scrutiny of the point by the legal adviser. [I had not at the time seen Mr. Freeland's minute of 15 April.];

- (b) in the case of both phases the CNS's recommendation was that all submarines detected which were assessed to be conventional could be presumed to be Argentine and therefore sunk. I pointed out that these rules appeared to be based on two assumptions: first, that both RN surface ships and RN submarines were capable of making an assessment as to whether a submarine was conventional or nuclear powered; secondly, that all conventional submarines in the area could be presumed to be Argentine. Under cross-examination the CNS said that as far as RN surface ships were concerned, they could only make this

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assessment on the basis of the observed modus operandi of hostile submarines. I pointed out that in the South Atlantic a Soviet submarine was unlikely to manoeuvre at high speeds (risk of icebergs) and might therefore have an operating pattern similar to that of conventional submarines. In this case there was a risk that a false assessment could be made and that through inadvertence a Royal Navy vessel could attack a Soviet submarine.

4. There was a lengthy discussion on these points. I think it was generally accepted that both should be drawn clearly to the attention of ministers. Sir F Cooper said that he would be reluctant to see issuing from the MOD a rule of engagement which could be held to constitute a war crime. I insisted on the risks of an inadvertent attack on Soviet nuclear submarines shadowing the Task Force. The CNS stuck to his guns, maintaining that if the rules of engagement were changed substantially from the draft he had submitted, the Operation could be significantly prejudiced.

5. It was agreed that the MOD would draft two short papers. The first would set out in summary form the rules of engagement proposed for the three phases. The second would highlight the two difficulties described on paragraph 3 above. The latter would be designed to draw specifically to ministers' attention the serious risks involved.

D H Gillmore

15 April 1982