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cc: PS/PUS

Mr Wright

Mr Weston, Defence Dept

Mr Freeland, Legal
Advisers

ATTACK ON ARGENTINE AIRCRAFT CARRIER

1. Following the decision in ODSA yesterday to authorise an attack on the Argentine carrier without warning and in sea areas outside the TEZ, I have, in consultation with the Legal Advisers, been considering what line Ministers might take in public following the crippling or sinking of the Argentine ship.
2. I submit a draft minute from the Secretary of State to the Prime Minister to which is attached a draft of a statement by Ministers.
3. As the draft minute to the Prime Minister makes clear, I think we can expect strong criticism both at home and abroad for this action. Such criticism is likely to focus on the fact that we have, contrary to our practice hitherto, acted without giving warning; and that, because the attack took place well outside the TEZ when the carrier's aircraft were well beyond the range at which they could attack British ships, we cannot justify our action as legitimate self-defence under Article 51 of the United Nations Charter.
4. The draft statement attempts to deal with criticism on both points. But our case, in my view, is flimsy. I therefore believe that it would be advisable to seek the concurrence of Mr Pym's colleagues in ODSA as soon as possible.
5. The acting Legal Adviser will be seeing the Attorney General later this morning. I recommend that he should show the Attorney General the draft statement, since the Attorney General may have views on its substance.

30 April 1982

D H Gillmore
Emergency Unit

Registry No.

DRAFT

Type 1 +

SECURITY CLASSIFICATION

Top Secret.
Secret.
Confidential.
Restricted.
Unclassified.

To:-

PRIME MINISTER

FROM

SECRETARY OF STATE

Telephone No. Ext.

Department

PRIVACY MARKING

..... In Confidence

cc: Secretary of State for Defence
Home Secretary
Sir R Armstrong

ATTACK ON ARGENTINE AIRCRAFT CARRIER

1. Following our decision in ODSA yesterday afternoon to authorise an attack at the earliest possible moment and without further warning on the Argentine aircraft carrier in waters outside the Exclusion Zone, I have been giving some thought to the line we should take in a public statement following the crippling or sinking of the Argentine vessel.

2. I attach a draft statement which I believe might go some way to meet the criticism that we shall probably face.

3. This criticism will, I anticipate, be based on two elements:

a. the fact that, although we have systematically given specific warnings to the Argentines over the last four weeks, on this occasion action was taken without any warning whatever outside the area of our Exclusion Zone;

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b. that while we can justify the establishment of our Zone, and military action within it, on the basis of self-defence under Article 51 of the United Nations Charter, our action against the aircraft carrier goes beyond the legitimate exercise of our rights and constitutes of itself ^{the use} ~~an act~~ of disproportionate belligerence. *force.*

3. The attached draft statement attempts to deflect criticism on ~~both~~ (a) by drawing attention to the threat our forces ^{from a mobile,} ~~by a modern~~ platform, ^{long-range} carrying aircraft ~~of long range~~ armed with stand-off weapons. As regards (b) we can recall the warnings we gave to the Argentine Government about the response they could expect if their warships or aircraft constituted a threat to interfere with the mission of our forces in the South Atlantic.

NOTHING TO BE WRITTEN IN THIS MARGIN

TOP SECRET

DRAFT STATEMENT FOLLOWING CRIPPLING OR SINKING OF
ARGENTINE AIRCRAFT CARRIER

(It is assumed the aircraft carrier will be crippled or sunk, without advance warning, on the high seas in a position where its aircraft are well outside the range of the TEZ (ie about 500 miles))

1. The United Kingdom is entitled, in the exercise of its inherent right of self-defence as recognised in Article 51 of the United Nations Charter, to take appropriate measures to protect its forces as well as its territory.
2. The Argentine carrier, the 25th May, was a dangerous threat to British naval units in the South Atlantic. It carried sophisticated modern aircraft, some equipped with modern air-to-surface missiles.
3. The range of carrier-borne aircraft and their ability to launch stand-off weapons, as well as the carrier's own speed and mobility, meant that its presence on the high seas in the South Atlantic posed an imminent and grave threat to British units not only in the TEZ but to our vital sea lines of communication on which the Task Force is ~~entirely~~ dependent.
4. On 23 April we gave a warning to the Argentine Government that any approach by Argentine warships or military aircraft which could amount to a threat to interfere with the mission of British forces in the South Atlantic would encounter the appropriate response. Subsequently, on 28 April, the Government declared a

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TOP SECRET

Total Exclusion Zone in the area of 200 nautical miles around the Falkland Islands.

5. The Argentine Government chose to ignore these warnings. On 29 April the Argentine Military Junta issued a communiqué declaring that it would treat as hostile all British shipping within 200 miles of the Argentine coast, and within a 200 mile radius of the Falkland Islands, South Georgia and the South Sandwich Islands. ^{Moreover,} Argentine naval vessels, including the carrier, have been manoeuvring at sea for several days.

6. In the face of this threat, and of Argentina's declared intention to submit British forces to attack, the Government's duty was clear, as was its right to act as it did. We are entitled and obliged to protect the lives and safety of our officers and men on the Task Force, which is there in defence of our rights and our people in the Falkland Islands. We are not prepared to tolerate military actions by the Argentine Government which perpetuate its armed aggression against the Falkland Islands ^{while it continues} and the build-up of its forces there in flagrant defiance of Security Council Resolution 502.

7. The Junta should be in no doubt that we do not, and will not, shirk our responsibilities.