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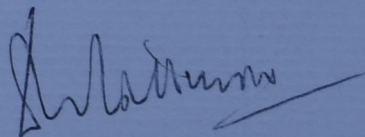
Mr Wright

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

TOP SECRET

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.

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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 to our forces ^{from a mobile} ~~by a modern~~ platform, carrying ^{long-range} 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.

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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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(This statement has been drafted on a contingency basis to cover the eventuality of)

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.

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E. MEASURES TO NEUTRALISE ARGENTINE AIRCRAFT CARRIER

ESSENTIAL FACTS

1. The ODSA paper lists 5 possible options for dealing with aircraft carrier:
 - a. to sink the carrier as soon as possible wherever she is on the high seas. No warning;
 - b. to sink the carrier immediately our own naval/air forces were attacked by Argentine forces, regardless of whether or not the carrier was involved in the attack. A prior warning of our intention to adopt a generalised retaliatory posture of this kind could be given. The CNS would like the ROEs for the submarine outside the TEZ to be changed (at present it can only attack other conventional submarines) in order that the submarine could carry out this task;
 - c. to issue a warning to the Argentines that the carrier should be returned to port and remain there. If they did not do this, the carrier would be sunk;
 - d. to issue a warning that the carrier should remain within the Argentine internationally recognised territorial waters (ie 12 miles) and north of 43°S;
 - e. to issue a warning that the carrier should be kept within a demarcated sea boundary for which co-ordinates would be given (see attached map). This would keep its aircraft out of range of the British task force both in transit on the high seas and within the TEZ.
2. Option b. is tantamount to a challenge to the Argentines. It is not a strict interpretation of self-defence, in the sense that the sinking of the carrier eg by an SSN could well occur in circumstances wholly removed in time and place from the Argentine action regarded as precipitating it. A prior warning of our general intention to act in ~~two ways~~ would only partially mitigate the difficulty. Sir I Sinclair considers Option b. would expose us seriously to criticism for departing from Art.51. The merit of Option e. is that it ensures our attack on the carrier could occur only in relation to an immediate threat, even though this threat could be present at 500 nm range (the reach of Argentine carrier based aircraft).
3. Recourse to the Attorney General would be necessary before FCO agreement could be given to Option b.

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