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D *AND 062/3* *The Hills*

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Mr Gillmore

ATTACKS ON ARGENTINIAN FORCES

1. I attach a copy of the letter of 9 June which should have reached you.

2. Sir I Sinclair said that in OD(SA) the question of mining was also raised. Sir Ian suggested that the reply to this letter should therefore take the form of a legal note which could be shown to the Attorney-General early next week. Obviously there is a very substantial political input on this point and you should consider whether you would want this to be combined with the legal argument or taken separately. The involvement of the Attorney-General might make it easier to handle if they were taken separately.

3. I am preparing a first draft of the legal note for discussion with Sir I Sinclair, Mr Freeland and yourself.

HGDarwin

H G Darwin
Deputy Legal Adviser

10 June 1982

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From: R C Mottram, Acting Head of DS11



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H G Darwin Esq
Deputy Legal Adviser
Foreign and Commonwealth Office
Room 159
King Charles Street
SW1A 2AH

D/DS11/10/6

9 June 1982

c Mr Steel
law of D

cc Sir I Sinclair ✓
Mr Freedland

I will propose a
draft for the reply
after consulting
Mr Gillmore.

HGD
9:vi

Dear Darwin,
ATTACKS ON ARGENTINIAN FORCES

We have been giving some further thought here to possible operations against Argentine forces, once Port Stanley has fallen and would be grateful for some further legal advice on these.

As a general issue, we wonder whether the position on the legal justification for operations within Argentinian territorial waters would be affected by the recapture of Port Stanley and our repossession in full of the Falkland Islands. Could it then be argued that attacks by Argentinian forces on British units within 12 miles of the Falklands could justifiably be met with attacks on Argentinian forces within 12 miles of their coastline?

We are also concerned about the possibility of Argentinian forces dropping mines to disrupt the British supply chain into the Falklands, as a possible way of continuing hostilities after Port Stanley has fallen. Would there be legal justification in threatening the Argentine that any attempt by them to mine the approaches to Port Stanley, Falkland Sound or any other territorial waters around the Falklands would be met by our mining the approaches to principal Argentinian mainland ports?

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I appreciate that, as always, these points may not be formulated in a way to which you can readily respond and I should of course be happy to consider quickly any supplementary information you required. Needless to say, we should be very grateful for your early advice.

I am copying this letter to David Gillmore. We should of course be glad of any comments he may wish to make on the political aspects of possible operations of this kind.

Yours sincerely,

Richard M. Munn

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