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MO 5/21

PS/PUS

CAPABILITIES OF THE ARGENTINE CARRIER

The attached copy of a minute from the Attorney-General to the Prime Minister has just been received. The Secretary of State has not yet seen it, but he will return from the House of Commons later this afternoon and will want, I am sure, to minute the Prime Minister himself setting out the capability of the carrier as we see it. It will presumably be necessary to make clear that we cannot rely on having intelligence at the critical moment of exactly which aircraft, equipped with which weapons, are on board, nor guaranteed continuous monitoring of her position: leading to a conclusion that "she can fairly be regarded as then posing an actual threat to our own forces" when she is within a very large part of the South Atlantic.

2. PUS reported briefly to the Secretary of State at lunchtime on the Attorney-General's part in the discussion at OD(SA) this morning, and I ~~would~~ be grateful if you could show him the attached minute and arrange for an urgent draft to be prepared.

6th May 1982

(D B OMAND)
 PS/S of S



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PRIME MINISTER

5/21

1. Since we met at O.D.(SA) this morning I have seen the Foreign and Commonwealth Secretary's minute to you (PM/82/84) of 5 May about the circumstances in which we should permit an attack on the Argentine carrier. Any advice that I give is not made easier by the conflicting reports of the capability of the carrier. If, in fact, she carries only 6 aircraft able to fly not more than a radius of 200 miles, the situation is transformed. I have been advising, as I did this morning, on the basis that she had a considerable number of aircraft with a strike range of 500 miles.

2. It is not for me to comment on the political considerations discussed in that minute. I can confirm, however, that an attack on the carrier north of ⁴⁴⁰47°s and close to the coast would be extremely difficult to justify, with any plausibility, as an exercise of an inherent right of self-defence - and, unless we are at war, the justification for any attack on Argentine vessels must be brought within the limitations which attach to the exercise of that right and which were covered by our warnings, especially that made on 23 April.

mandate
passed by
Homey General's
Office.

3. This leads me to make one comment on what is said in paragraph 5 of the Foreign and Commonwealth Secretary's minute. If the

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fighting has to continue, and particularly if we find ourselves engaged in making an opposed landing on the Falkland Islands, the political considerations clearly change. The legal considerations, however, do not. We shall still have to justify any attack on the carrier by reference to the right of self-defence and this means that we must be satisfied - and preferably be able to satisfy Parliament and reasonable public opinion elsewhere - that, at the time of the attack, the Argentine carrier unless she was within the exclusion zone was in such a position and such a posture that, having regard both to her own speed and mobility, which might enable her to escape surveillance for a vital period, and to the capacity of her aircraft to launch stand-off weapons, she then represented a direct, imminent threat to our own forces. This means, I think, that even in the circumstances contemplated in paragraph 5 of the minute, we shall still not be free to try to pick the carrier off wherever we may find her: she must still have approached our forces in such circumstances as to make her a threat and therefore a legitimate target.

4. As to the instructions now to be given to the submarine concerned, I recognise of course that what is said in paragraph 6 of the Foreign and Commonwealth Secretary's minute is not intended to convey the precise terms of those instructions. But I hope that when they are issued they will make clear, first, that there can be no question of an attack on the carrier when she is within what we

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would recognise as the territorial sea which the Argentine could legitimately claim, ie twelve nautical miles from the coast, and, secondly, that the mere fact that she has "changed course in a direction which clearly implies hostile intent" is not enough to warrant an attack: she must have brought herself, by the time of the attack, into a position where, on the grounds I have indicated above, she can fairly be regarded as then posing an actual threat to our own forces.

5. I am copying this minute to the Foreign and Commonwealth Secretary, the Home Secretary, the Defence Secretary, the Chancellor of the Duchy of Lancaster and Sir Robert Armstrong.

MH