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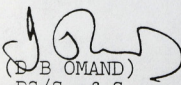
ATTACKS ON ARGENTINE FORCES : LEGAL POSITION

You are aware of the discussion there has been in OD(SA) about the possible extension of Rules of Engagement for our forces to allow them to attack Argentine targets within 12 nautical miles of the Argentine coast. To date the Attorney General has argued that there is no legal justification for operations within what Britain herself regards as Argentinian territorial waters unless war had first been declared (OD(SA)82 46th meeting).

2. The Secretary of State has been giving further thought to what the situation will be when Port Stanley has fallen, the land battle is over and our forces are once again in full possession 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 Argentine forces within 12 miles of their coastline since there could then be no question that Argentine forces were operating near the Falklands in support of an occupying garrison. The Secretary of State would be grateful if thought could be given to this now and if you could work up a paper in consultation with the legal advisers.

3. There is one specific area of operations which the Secretary of State would like your paper to cover. He is aware, as you are, of the possibility that air dropped mines could be used by Argentinian forces to disrupt the British supply chain into the Falklands, say as a way of continuing hostilities after Port Stanley has fallen. Would we, he wonders, be justified legally 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 the principal Argentinian mainland ports. Perhaps you could cover this in your paper.

8th June 1982


(P. B. OMAND)
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