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JUN03 – SCSA NOTE – ARGENTINE PRISONERS OF WAR (cab 148/212)

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CABINET

DEFENCE AND OVERSEA POLICY COMMITTEE

SUB-COMMITTEE ON THE SOUTH ATLANTIC AND
THE FALKLAND ISLANDS

ARGENTINE PRISONERS OF WAR

Note by the Secretaries

The attached note has been prepared by the Ministry of Defence at official level in consultation with the Foreign and Commonwealth Office. It is circulated for the Sub-Committee's consideration at their meeting on 4 June.

Signed R L WADE-GERY
A D S GOODALL
R L L FACER

Cabinet Office

3 June 1982

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Note by Officials

1. With the recapture of Darwin and Goose Green, about 1400 Argentine prisoners have fallen into our hands. Following a general surrender of Argentine forces on the Islands, even larger numbers of prisoners - perhaps up to 10,000 - will be taken. Decisions are urgently required on whether prisoners should continue to be repatriated prior to a general surrender; and whether prisoners should be returned following a surrender but before the end of hostilities. There are legal, military and political considerations.

2. The Geneva Conventions of 1949 did not envisage the immediate repatriation of able-bodied prisoners. There is a requirement only to repatriate prisoners of war 'after the cessation of hostilities'. This is itself open to interpretation: it seems clear, however, that the surrender of Argentine forces on the Islands in the absence of a more general settlement of the dispute - particularly if the Argentines continued to mount air or sea attacks from the mainland - could not be regarded as a 'cessation of hostilities'. In these circumstances, there is not a requirement under the Convention to repatriate prisoners.

3. If Argentine prisoners are to be detained over any length of time, the very stringent provisions of the Geneva Conventions will need to be complied with. Prisoners must be evacuated as soon as

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possible to camps far enough from a combat zone to be out of danger; they may not be held aboard ships except in transit. In such camps, they are entitled to conditions as favourable as those in which our own forces are accommodated and they must be clothed, fed and given medical attention. These and other main provisions of the Conventions present considerable difficulties. There are at present no facilities on the Falkland Islands which would adequately meet the requirements; and with the approach of the Southern winter, it will become increasingly difficult to hold large numbers of prisoners on the Islands in humane conditions.

4. These considerations point to early repatriation of prisoners; but there are military arguments against this course. Evacuation by sea, particularly if hostilities were continuing on the Islands, would tie up Task Force ships. Early repatriation and the return to active service of certain categories of prisoners - for example, pilots and special forces - would also be unwelcome from the military point of view. Early repatriation of prisoners could also give the Argentines useful intelligence about our own deployments and strength. And by reducing the scope for interrogation (to the extent allowed by the Geneva Conventions), it would deny us a potentially useful source of information.

5. There are also conflicting political considerations. The previous practice of early repatriation of British and Argentine prisoners

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has to a certain extent established a norm. We could face international criticism if we were the first to detain prisoners over an extended period; and we could expect the Argentines as a result to delay the return of British prisoners. There are also political arguments in favour of early repatriation: it could be presented as a humanitarian gesture; and the return of the prisoners - with the information they would take with them about the extent of British control of the Islands - could have a useful influence on public opinion in Argentina. On the other hand, it would not be difficult to defend a decision to hold Argentine prisoners for longer than we have done so far. The holding of prisoners against a general ceasefire could exert some salutary pressure on the Argentines, although it would require careful presentation. We could argue that while hostilities were continuing, to move prisoners in large numbers in British ships would inevitably put them at some risk; we were therefore holding them prisoners for their own safety. It would not in any case be difficult to justify the continued detention of Argentine prisoners if the Argentines were holding any of ours.

6. To sum up: the Geneva Conventions do not require the repatriation of prisoners during hostilities; but the stringent requirements for their detention could probably not be met by holding them on the Falkland Islands without the construction of special detention facilities. Although early repatriation

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would reduce the logistic problems, the military interest would be served by delaying their repatriation long enough to allow interrogation en route; and by not repatriating those who would be of particular intelligence or operational use to the Argentines. Such differential treatment would not be excluded by the Geneva Conventions. The balance of political advantage is not altogether clear; but we should expect the Argentines to delay the return of British prisoners if we were to hold their prisoners for longer periods than hitherto.

7. Attached at Annex is a note on the mechanics of detaining prisoners and alternatively repatriation.

RECOMMENDATION

8. Ministers are invited to:

- a. Agree that Argentine prisoners should continue to be repatriated prior to a general surrender of Argentine forces on the Islands, subject to intelligence or other operational requirements in particular cases;
- b. Agree that we should hold on to a number of prisoners until there has been a complete cessation of hostilities between Britain and Argentina;
- c. Accept the arrangements proposed by the Chiefs of Staff for the return of prisoners.

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Ministry of Defence
3 June 1982

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ANNEXARGENTINE PRISONERS OF WAR

1. The detention of large numbers of Argentine prisoners on the Falkland Islands poses a serious logistics and security problem: food and accommodation would be difficult to provide particularly since the loss of tentage for 4,500 in Atlantic Conveyor; and the task of guarding and administering Argentine prisoners is already proving a major burden for the Commander of Land Forces on the Islands. There are thus strong practical arguments for evacuating the prisoners from the Falkland Islands and, if necessary, detaining them elsewhere.

2. Detention of large numbers of prisoners elsewhere also presents considerable difficulties. One possibility would be to intern them on Ascension Island. But although at present up to 150 prisoners could be staged through for a period of up to a week, to exceed this number or duration would place a considerable strain on the logistic supply chain. There is also the risk that the prisoners could pick up intelligence about the scale of activity at Wideawake Airfield.

3. The use of the other two British Islands in the South Atlantic (Tristan da Cunha and St Helena) would not pose security difficulties, but both would have other drawbacks. Neither has an airfield and suitable accommodation which does not at present exist on the islands, would have to be brought

by ship. This would take some time. In the case of Tristan da Cunha there is an additional problem. Because it does not have a large harbour, it would be very difficult to disembark large numbers of prisoners and to bring supplies ashore. But both of these islands might be suitable for the long term detention of small numbers of the prisoners.

4. There is also the possibility of detaining prisoners in the UK. Facilities for holding them could be made available without too much difficulty and the administrative problems would be reduced. But the distance would be a considerable problem and the costs could be substantial. There would also be presentational problems: and there might be some risk of reprisals against the British community in Argentina.

5. The Chiefs of Staff have considered a number of ways in which prisoners could be repatriated to Argentina if Ministers were to agree that this was desirable. Much would depend on the military and political situation. The Chiefs propose that prisoners taken before a general surrender of Argentine forces on the Islands should be transferred to support ships and moved slowly towards Ascension Island, or other islands, prior to being moved to a third country as and when shipping became available. If cross-decking could be arranged there would be no need to disembark the prisoners on to the islands and this would ease the considerable logistics and security problems. This would be similar to the arrangements made for the return of Argentine prisoners taken on South Georgia. There also remains the possibility, in the light of Uruguay's

willingness to accept repatriated prisoners in transit, of using Task Force support shipping to return prisoners through Montevideo. Guarantees of safe conduct would clearly need to be given by the Argentines.

6. Following a general surrender and total ceasefire, the Chiefs of Staff propose that prisoners should be detained in a transit camp or camps pending their evacuation. They could also be detained in off-lying ships, although under the Geneva Conventions this could only be a temporary arrangement. Repatriation in these circumstances would be direct to Argentina, possibly using third party shipping or if that were not available, by Task Force ships to a neutral country. It might also be possible to use Argentine merchant shipping for this purpose.

7. The ICRC have already been asked to supervise any such arrangements and to assist us in securing the use of third party shipping. Although third parties have not yet been approached, there would now be no objection to doing so. It is likely that Uruguay and Brazil would be prepared to help. Secretary Haig has already indicated that US contingency planning for this purpose is in hand.