

Argentina



MINISTRY OF DEFENCE
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MO 5/21

18th May 1982

Prime Minister

The Foreign Secretary may have
 views.

A.P.C. 19/5.

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 Dear John,

LIEUTENANT COMMANDER ASTIZ

My Secretary of State believes that we need for a number of reasons to take a decision very quickly about the future of Lieutenant Commander Astiz.

Astiz is currently being held on board the Ascension guard ship, HMS DUMBARTON CASTLE, guarded by an RM detachment. He is a difficult prisoner (he has already assaulted a guard and made a primitive dagger from a bed spring) and the authorities at Ascension have requested that he should be moved from the ship and the island as soon as possible.

If he is to be moved the options are to hand him over to the French or Swedish authorities, to return him to the UK, or to repatriate him to Argentina. As to the first the Attorney-General's advice is that whatever offences Astiz may have committed in Argentina they are (strictly) irrelevant to his status as a Prisoner of War which entitles him to the substantial rights and privileges of the Third Geneva Convention of 1949. Under this Convention he cannot be handed over to another country and I understand that our Extradition Treaties with France and Sweden would not be applicable in this case. The English courts do not have any power to try Astiz.

If Astiz is to be returned to the UK we will have to provide all the necessary facilities to which he is entitled as an officer under the Geneva Convention. He cannot, for example, be held in any form of jail, POW pay and recreation facilities will need to be provided and the military custody will need to be extensive and stringent in view of his aggressive behaviour since he has been in captivity.

In view of these considerations my Secretary of State concludes that, at the earliest opportunity, Astiz should be asked whether he is prepared to see French and Swedish representatives. The Brazilian authorities, as the protecting power, have already been approached to see whether they are willing to put the question to him. If as seems likely, the Brazilians will refuse to do so then we should ask Astiz ourselves. He will presumably refuse. That will then be the end of the matter since under the Geneva Conventions he need

A J Coles Esq



not answer any questions and we have no right to put pressure on him in any way. The way would then be clear for him to be repatriated direct from Ascension. We should, of course, make the maximum play possible publicly and internationally out of his refusal to help French and Swedish enquiries.

My Secretary of State's main concern is that we have already steered very close to the wind in our treatment of Astiz - his custody on board ship is a breach of Article 22 of the Geneva Convention and there is of course the point that we have shown discrimination in our handling of him as compared with the treatment given to his men. We must avoid giving the Argentines any opportunity to claim that our treatment of Astiz justifies breaches of the Geneva Convention in treating any UK POW they may capture. They have very recently indicated to the ICRC that unless Astiz is released they will retaliate against any British POWs they might hold. In all the circumstances Mr Nott feels that the only course is to get him off our hands as soon as possible.

I am copying this minute to the Private Secretaries to other members of OD(SA), the Attorney-General and Sir Robert Armstrong.

Yours ever

Nick Evans

(N H R EVANS)



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