



Prime Directive
 Agree that publicity should
 emphasize Argentine
 irresponsibility rather than
 a breach of law?

MINISTRY OF DEFENCE
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MO 5/21

13th July 1982

A.J.C. ¹³/₇.Yes
mf

Dear John,

POSSIBLE BREACHES OF INTERNATIONAL LAW:
PLASTIC MINES

PT 9
 OD(SA), at its 62nd Meeting on June 24th, invited my Secretary of State in consultation with the Foreign and Commonwealth Secretary, to arrange for appropriate publicity to be given to Argentine contraventions of the relevant international Conventions in respect of minelaying by Argentine forces in the Falkland Islands. It had been suggested that Argentina might have breached both the UN Weaponry Convention and the Geneva Conventions.

Officials from MOD, the FCO and the Law Officers Department have examined the relevant treaty texts. Their conclusion is that it would be preferable to stress Argentine irresponsibility rather than accuse them of actually breaching International Law. So far as the individual Conventions are concerned the position is as follows:

a. The Weaponry Convention has been signed by both Argentina and the UK but it has not been ratified by them or by the requisite 20 states to bring it into force. It is not, therefore, binding on Argentina or the UK.

b. Signature does not bind a state to observe a treaty but merely to "refrain from acts which would defeat its object and purpose" such as legislating in a way incompatible with the Treaty.

c. When in force, Protocol 1 of the Convention will prohibit the use of any weapon "the primary effect of which is to injure by fragments which in the human body escape detection by x-rays". However, in relation to the plastic-cased mines used by the Argentines:



(i) The primary effect of the mines in question is to injure by blast, not fragmentation.

(ii) While plastic fragments are not as readily detectable by x-ray as are metal ones, it is not necessarily impossible to detect them.

d. When in force, Protocol II to the Convention will ban the indiscriminate use of mines, particularly in so far as civilians would be put at hazard; it will require retention of records of all pre-planned minefields, and will commit parties to "endeavouring" to ensure the recording of other minefields placed by them. The Argentines would probably have contravened this Protocol had it been binding upon them.

e. Most of the anti-personnel mines found in the Falklands are made in Italy or Spain, and do not differ widely in plastic or explosive content from our own and other Allied weapons. It would therefore be unwise to criticise Argentina on grounds related to the nature or construction of the mines.

f. The Geneva Conventions of 1949 concern the protection of "war victims". They do not deal with the lawfulness of means and methods of combat.

g. The 1977 Protocols Additional to the Geneva Conventions do cover means and methods of combat, but generally, not in relation to specific weapons. They do not address the question of minelaying practice. The UK has signed but not ratified the Protocols; Argentina has not signed them. The Protocols are therefore binding on neither state, although UK forces would seek to abide by them.

In view of these considerations my Secretary of State would be grateful for his colleagues' agreement that publicity should concentrate on Argentine irresponsibility in the casual sowing and improper recording of mines, which, whoever had won the war, would have constituted a serious hazard to the Islanders, troops and livestock for years to come. We should emphasise that this contravenes normally accepted standards, in particular those adopted by our forces. We should not allege contravention of or disregard for any specific agreement.

I am copying this letter to the Private Secretaries of other members of OD(SA), the Attorney General and to David Wright in Sir Robert Armstrong's office.

*Yours ever
Mike Evans*

(N H R EVANS)



13 JUL 1962



COMMUNIST