

020  
CONFIDENTIAL



Foreign and Commonwealth Office

London SW1A 2AH

7 May 1982

Prime Minister

To note

A.C.C. 3/5

W.L.G.

f.a.

Dear David,

Death of Prisoner of War on South Georgia

As you will know, the Board of Inquiry into the death of the Argentina Marine who was killed after being captured in South Georgia has been held. Although a summary of its findings has been received, we understand that your lawyers have advised that until the full report and the statements of the witnesses have been considered in London it will not be possible for any decision to be taken on whether or not the evidence justifies a prosecution. The report and statements are too long to be telegraphed and they cannot be forwarded to London until the vessel carrying the POWs has arrived at Ascension Island.

Although we understand that, as a matter of law, the decision whether or not to prosecute before a court martial rests with the Commanding Officer, we also understand that in practice in serious cases such as this he will seek advice from his superior authorities. Given the stringency of the provisions of the Third Geneva Convention of 1949 regarding the death of POWs and the degree of international interest, not least on the part of the ICRC, which the decision will inevitably attract, the Foreign and Commonwealth Secretary considers it highly desirable that no such advice should be given to the Commanding Officer without the benefit of the opinion of the Attorney General.

I am therefore writing to ask you to seek confirmation from your Secretary of State that the Commanding Officer will be advised not to take any decision regarding a prosecution until he has received considered advice from London and that that advice will be given only after consultation with the Attorney General.

/I am copying

CONFIDENTIAL

CONFIDENTIAL



I am copying this letter to John Coles at No 10 and to Henry Steel at the Law Officers' Department.

*Yours ever,*  
*[Signature]*

B J P Fall  
(Private Secretary)

David Omand Esq  
Ministry of Defence

CONFIDENTIAL

17 Nov 1902

17 NOV 1902

