



WITH
THE COMPLIMENTS OF THE
PRIVATE SECRETARY

Please substitute attached minute
for minute MO 5/21 dated 11th June
1982

MINISTRY OF DEFENCE, WHITEHALL

Telephone: 01-218 9000
01 218



MO 5/21

Foreign and Commonwealth Secretary

Prime Minister
 Agree with the action proposed
 in para. 6 (The Foreign Secretary
 and the Attorney agree - see attached
 minutes)?

Yes Mr A. J. C. 16.
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DEATH OF AN ARGENTINE PRISONER OF WAR ON SOUTH GEORGIA

You are already aware of the outlines of this case. I have now received the report of the Board of Inquiry together with the preliminary views of C-in-C Fleet and in view of the serious nature of the case the Attorney-General has been consulted. We now need to decide on the way ahead and how we should handle the international and public relations aspects.

2. In brief the Board of Inquiry reveals that the Argentine prisoner (Artuso) was shot on the day following the reoccupation of South Georgia during the move of the Argentinian submarine SANTA FE across Grytviken Harbour. The SANTA FE was moved because it was blocking the main jetty in the harbour and in danger of sinking from the damage sustained when it was attacked during the operation on the previous day. The Argentine CO and five of his crew were used for the move, guarded by Royal Marines and under the general command of an RN Captain assisted by another officer. The guards were instructed that under no circumstances were the crew to be allowed to touch the main vent levers which would cause the submarine to sink immediately. Unfortunately the control levers which were pointed out to the guards were the low pressure air tank blowing levers. During the move the submarine started to list and lose buoyancy and the Argentine Captain passed orders to blow tanks. Artuso jumped across the control room to reach for the tank blowing levers but was shot dead by the guard who believed he was attempting to open the main vents.



3. The Attorney-General is satisfied that there are no grounds for instituting a prosecution in a civil court against the marine who shot Artuso and he endorses the view of CINCFLEET that he should not face a court-martial. All the evidence indicates that the marine honestly and reasonably believed that he was using the only means of defence available in what he believed were the circumstances.
4. The Attorney-General is equally satisfied that there are no grounds for instituting criminal proceedings in a civilian court against the two RN officers in charge of the operation and he also endorses CINCFLEET's view that they should not face a court martial. As far as possible disciplinary proceedings are concerned the Attorney-General considers that while there were certainly some unsatisfactory features about the way in which the operation was organised and supervised he accepts the view of CINCFLEET that the conduct of the two officers did not fall short of the expected standards to such an extent as to constitute a disciplinary offence.
5. This leaves the question of a possible breach of Articles 50 and 52 of the Third Geneva Convention which prohibit the use of POW's on dangerous work, unless they are volunteers, and limits the categories of work they can be compelled to undertake. The evidence of the Board of Inquiry is not as revealing as we could wish on the question of how far the prisoners were volunteers but there is certainly no evidence pointing unmistakably in the other direction. In these circumstances, and unless further evidence emerges to indicate compulsion, the Attorney-General accepts that there has been no breach of Articles 50 or 52.
6. I believe that the next step is to inform CINCFLEET of the Attorney-General's views and invite him to take the necessary action. Under Article 121 of the Third Geneva Convention we need



to send a report, together with statements from the prisoners, to the protecting power. This report will obviously be based on the Board of Inquiry but will, for example, exclude names of UK personnel and will also include a section dealing with the consideration given to the report. I would suggest that the ICRC should receive a copy of the report. In parallel I propose to inform the House of the outcome of the case by means of a written PQ and by placing a copy of the report made available to Brazil and the ICRC in the Library. Copies would also be available to the press.

7. I am copying this letter to members of OD(SA), the Attorney-General and Sir Robert Armstrong and I would be grateful for any comments my colleagues may have as soon as possible since we are under some pressure from the ICRC to issue the report.

SW

Ministry of Defence

15th June 1982

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[Handwritten signature]

SECRETARY OF STATE FOR DEFENCE

DEATH OF AN ARGENTINE PRISONER OF WAR
ON SOUTH GEORGIA

Thank you for sending me a copy of your minute of 15th June to the Foreign and Commonwealth Secretary. Given the views which I have previously expressed, as described in your minute, I endorse your conclusions and agree with the procedure which you suggest we should follow. I think that it might be prudent if I were given the opportunity to cast my eye over the draft of our report to the Brazilian Government before its terms are finally settled.

I am copying this minute to the members of OD(SA) and to Sir Robert Armstrong.

M.H.

Law Officers' Department
15th June, 1982

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