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OS(Misc)167/742/1

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THE GENEVA CONVENTIONS OF 1949 AND THE TREATMENT  
OF PRISONERS

The attached paper by the Defence Secretariat will be tabled for consideration by the Chiefs of Staff at their meeting at 1030 on Wednesday 28 April 1982.

Attachment:

AUS(D Staff) Paper - The Geneva Conventions of 1949 and The Treatment of Prisoners.

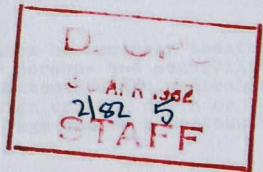
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27 April 1982



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ATTACHMENT TO  
COS(Misc)167742/1

THE GENEVA CONVENTIONS OF 1949 AND THE  
TREATMENT OF PRISONERS

A note by the Defence Secretariat

Application of the Geneva Conventions

1. The 4 Geneva Conventions of 1949, covering the conduct of war, to which both Argentina and the UK are parties, apply not only when a state of war exists, but also when any other armed conflict arises between parties to the Conventions. They do not depend for their application on the existence of a formal state of war. They have therefore been applicable since 2 April 1982 when Argentina occupied the Falkland Islands and they will remain applicable until all hostilities, and the occupation, have ceased and all prisoners have been repatriated.
2. Under the terms of the 3rd Geneva Convention, prisoners taken by either side, who are members of the armed forces or civilians accompanying them (except medical and religious) are "prisoners of war" and should be accorded all the benefits of the Conventions.

Main Provisions

3. The Geneva Conventions provide a comprehensive guide to the treatment of prisoners. Their main provisions of relevance to Operation CORPORATE are as follows:
  - a. Entitlement: If there is doubt about the status of captured persons, they should be treated as PoWs until their status has been determined by a specially appointed Board of Enquiry;
  - b. Notification: On capture, particulars of PoWs should be taken down and transmitted through a neutral state (the "protecting power"), designated for that purpose, to their country of origin;
  - c. Protection: PoWs must at all times be humanely treated. They are entitled to respect for their persons and sensibilities and they must be provided with free maintenance and medical attention. Any unlawful act or omission causing death or seriously endangering health would be regarded as a serious breach of the convention.
  - d. Evacuation: PoWs must be evacuated as soon as possible from a danger zone. The evacuation must be carried out humanely and sufficient food, water, clothing and medical attention provided. If PoWs, during evacuation, pass through transit camps (such as on Ascension Island) their stay should be as brief as possible.

e. Internment: Usually POWs are interned in properly designated and equipped POW camps (although in the case of the Marines captured by the Argentines and the Argentinian prisoners taken in South Georgia they have been or are being repatriated). If, subsequently, it is decided to intern Argentinian POWs for the duration of hostilities, they must be accommodated on land (the Conventions prohibit internment on board a ship as distinct from carriage on board a ship to some place on land). The standard of accommodation should equate to that of our own forces billeted in the same area.

f. Work: Officers are not to be required to work and NCOs may be required only to do supervisory work. Other ranks may be required to undertake certain tasks specified in the convention. They may not be of a military nature.

g. "Protecting Power": The protecting power has the right to inspect POW camps and to deal with prisoners' appeals against any violation of the Convention. If no protecting power is appointed the ICRC can exercise its functions with the approval of all concerned. The practice is for one side to propose a protecting power, but this is subject to the acceptance of its adversary. (This step has not yet been taken).

4. In short, the provisions of the Conventions concerning the treatment of prisoners are designed to ensure that POWs receive no less favourable treatment than would our own forces. These provisions are summarised in detail in an Army booklet "The Law of Armed Conflict" which has been sent to each ship in the Task Force together with a copy of the 4 Geneva Conventions.

#### Implications for Repatriated UK Prisoners

5. Article 117 of the 3rd Geneva Convention states that:

"No repatriated person may be employed on active military service".

Taken in isolation, this restriction would appear to disallow the redeployment of the UK Marines captured on the Falkland Islands and South Georgia, many of whom have now joined the Amphibious Force. Director of Army Legal Services' view is that this Article must be interpreted in conjunction with Articles 109 to 116 (Part IV Section I) which apply only to sick, wounded and long term POWs - an interpretation which is fully supported by the principal international commentaries. The FCO legal advisers, while not dissenting from the legal analysis which would be used to justify this conclusion, have pointed out, however, that the legal arguments are complicated and that there are real difficulties in countering any Argentinian claim that we were in breach of Article 117.

6. Although this is inevitably a risk, in our view the balance of operational advantage - particularly intelligence and morale aspects - appears to outweigh the potential difficulties in presenting our case if challenged. And although, therefore, it would be unwise to give further publicity to the return to service of the repatriated Marines, MOD legal advice is that their return would not amount to a breach of the Convention.

Conclusions:

7. The Chiefs of Staff are invited to:
- a. Note that the provisions of the 1949 Geneva Conventions apply to Operation CORPORATE, and that instructions have been sent to the Task Force to this effect;
  - b. Recommend CINCFLEET to instruct that the booklet "The Law of Armed Conflict" be brought to the attention of all units involved in the operation, and in particular the provision that PoWs should not be required to do military work;
  - c. Agree that the repatriated Marines be allowed to participate in the Amphibious Force.

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Ministry of Defence

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OPERATION CORPORATE - SPEAKING BRIEF FOR UKMILREP

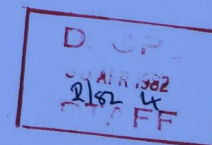
1. Attached at Annex A is a joint assessment by SACLANT and CINCHAN on the effects upon their maritime missions in peace and war of the UK Task Force deployment to the South Atlantic. The assessment will be an agenda item at the MC/PS meeting on Thursday 29 April when SACLANTREPEUR will make a detailed statement to which UKMILREP will then be required to reply.

2. The MNC's assessment is considered to be a factual and fair appraisal. It is notably uncritical. In order that UKMILREP should maintain the very considerable support of his MC colleagues, it is proposed that he should stress the positive aspects of Operation CORPORATE. At the same time it would be prudent for him to set down a marker that additional NATO-declared forces are being considered for the operation.

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(Concluded)

3. Unless the Secretary, Chiefs of Staff Committee hears to the contrary by telephone (Ext 6347) by 1200 Wednesday 28 April it will be assumed that the Chiefs of Staff have agreed the draft speaking note.

27 April 1982

J E S RAYMOND  
Deputy Secretary  
Chiefs of Staff Committee

Attachment:

Draft Speaking Note for UKMILREP. (3 pages)

Annex:

A. SACLANT/CINCHAN Assessment. (2 pages)

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FILE NUMBER.....

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ANNEX A TO  
COS 10657742/1  
DATED 27 APRIL 1982

FILE NUMBER.....

JOINT SACLANT AND CINCHAN EVALUATION - MILITARY EFFECTS OF  
OOA OPERATIONS BY UK TASK FORCE

- A. SACLANT/CINCHAN EVALUATION ON UK MARITIME FORCE REDUCTIONS  
DATED 1 SEP 80
- B. CINCFLLEET LAW 180937Z APR 82 (ORBATSEA NOTAL)
- C. MODUK NAVY FVG/220835Z APR 82 (3 CDO BRIGADE)  
(NOTAL)

INTRODUCTION

1. THE UK HAS ANNOUNCED AN OOA OPERATION BY A SUBSTANTIAL  
NAVAL TASK FORCE, AND HAS CHANGED THE READINESS AVAILABILITY  
TO SACLANT/CINCHAN OF THE UNITS IN THAT FORCE. THESE CHANGES  
AFFECT THE ABILITY OF SACLANT AND CINCHAN TO CARRY OUT THEIR  
NATO MISSION IN CRISIS OR WAR. THIS MSG CONTAINS, IN ACCORDANCE  
WITH MILITARY COMMITTEE DIRECTIVES COVERING SUCH CIRCUMSTANCES,  
A JOINT SACLANT/CINCHAN ASSESSMENT OF THE EFFECTS. THERE IS  
A SIMILARITY TO THE ASSESSMENT GIVEN TO YOU BY SACLANT/CINCHAN  
IN SEPT 81 FOLLOWING THE UK DEFENCE REVIEW (REF A) IN THAT  
THE ASW PROTECTION WHICH CAN BE GIVEN TO THE STRIKE FLEET  
APPROACHING THE NORWEGIAN SEA IS NOW INADEQUATE AND MORE SOVIET  
SUBMARINES COULD REACH THE ATLANTIC SLOCS.
2. THE DPC AND MC WERE INFORMED ON 8 APRIL THAT THE TASK  
FORCE INCLUDED THE FOLLOWING VESSELS WHICH ARE ASSIGNED TO  
CINCHAN AND SACLANT.
  - A. NUCLEAR PROPELLED ATTACK SUBMARINES - UNSPECIFIED
  - B. CARRIER - TWO CVS WITH HARRIERS AND HELOS EMBARKED
  - C. AMPHIBIOUS ASSAULT SHIPS - ONE
  - D. ESCORTS - TWELVE
  - E. LANDING SHIPS - FIVE
  - F. FLEET AUXILIARIES - SEVEN
3. REVIEW OF REF B INDICATES THE FOLLOWING MAJOR REDUCTIONS  
IN AVAILABILITY OF FORCES FOR SACLANT:
  - A. SSN: AN UNSPECIFIED NUMBER OF CATEGORY A-1 SSN MAY  
BE EMPLOYED FROM TIME TO TIME TO MEET UK COMMITMENTS  
OUTSIDE THE NATO AREA WITH A CONSEQUENT FALL IN THEIR  
AVAILABILITY FROM A-1 TO A-3.
  - B. THE AVAILABILITY OF THE FOLLOWING FORCES HAS ALREADY  
DROPPED TO A-2 AND WILL DROP FURTHER TO A-4.

A - 1

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ANNEX A TO  
COS 1065/742/1  
DATED 27 APRIL 1982  
(Concluded)

1. TWO CVS
  2. ONE LPD
  3. FIVE DDH (G)
  4. FOUR FF (H) (GS)
  5. TWO FF (HP)
  6. AN ELEMENT OF UK/NL LANDING FORCE (3 COMMANDO BRIGADE)
4. IMPACT OF CHANGES IN READINESS AVAILABILITY.
- A. ASW. THE OOA OPERATION MEANS THAT A SUBSTANTIAL REDUCTION IN CVS, SSN and DD/FP AVAILABILITY HAS TAKEN PLACE. CONSEQUENTLY, ASW FORCES AVAILABLE IMMEDIATELY TO SACLAN/CINCHAN HAVE BEEN REDUCED AND THE MNCS ABILITY TO REACT EARLY TO A CRISIS HAS BEEN DEGRADED.
- B. AMPHIB. THE OOA MOVEMENT BY A SUBSTANTIAL FORCE OF UK MARINES AND AMPHIBIOUS LIFE CAPABILITY PRECLUDES THEIR BEING READILY AVAILABLE TO SACLAN. REPLACEMENTS ARE NOT AVAILABLE AT SHORT NOTICE. EXECUTION OF CONTINGENCY PLANS (OPLAN 108 AND 109) BY THE UK/NL AMPHIBIOUS FORCES IS THEREFORE IN JEOPARDY. THUS A SACLAN OPTION FOR CRISIS MANAGEMENT IS NO LONGER AVAILABLE.
5. CONCLUSIONS.
- A. WHILE THE DIRECT EFFECT ON CINCHAN IS SMALL, THE INDIRECT EFFECT OF THE WITHDRAWAL OF FORCES FROM NATO AREAS IS OF COURSE AS GREAT TO ACCHAN AS IT IS TO ACLANT/EASTLANT BECAUSE OF THE PRESSURE THAT WILL BE BROUGHT TO BEAR ON CINCHAN TO MAKE FORCES AVAILABLE TO EASTLANT.
- B. THE ASSETS WHICH HAVE BEEN WITHDRAWN ARE ESSENTIAL ELEMENTS IN SACLAN'S ASW, MIX AND AMPHIB LIFT. THE REDUCTION OF TWO CVS ASW TASK GROUPS, THE LPD, ASSAULT SHIPS AND COMMANDOS MEANS THAT UK FORCES ARE UNABLE TO CONTRIBUTE TO THE PROTECTION OF THE STRIKE FLEET AND CANNOT PROVIDE MARINES AND AMPHIB SHIPS. THEIR ABILITY TO ASSIST IN PROTECTION OF REINFORCEMENT SHIPPING HAS BEEN IMPAIRED. NO OTHER NATIONAL FORCES ARE AVAILABLE TO REPLACE THEM.
- C. DESPITE THE SERIOUS REDUCTION OF ASSETS IN ACLANT AS A RESULT OF THE UK OOA DEPLOYMENT IT IS NOTEWORTHY THAT THERE HAS BEEN A FORTUITOUS INCREASE IN THE OVERALL DEFENCE READINESS POSTURE OF THE UK BECAUSE OF THE ACTIVENESS IN SUPPORT OF THIS DEPLOYMENT.
- D. IT IS ACCEPTED THAT NATIONS CANNOT RAPIDLY UPGRADE THE STATE OF READINESS OF FORCES. HOWEVER ALREADY FORCE POOR WE NOW HAVE EVEN LESS FORCES AVAILABLE AT EARLY READINESS AND IT BEHOVES ALL TO SEE THAT CATEGORY A UNITS ARE IN AS GOOD A SHAPE AS POSSIBLE.



SPEAKING NOTE FOR UKMILREP AT MC/PS THURSDAY 29 APRIL

JOINT SACLANT/CINCHAN ASSESSMENT OF THE EFFECTS OF UK TASK  
FORCE DEPLOYMENT TO SOUTH ATLANTIC

1. Mr Chairman. I welcome this opportunity to make a statement on the deployment of UK units out of the NATO area in the South Atlantic. First, may I comment upon the joint SACLANT/CINCHAN assessment by saying that my authorities in London consider it to be a very fair and accurate paper. We are appreciative of the sympathy and understanding shown by the MNCs and, indeed, all our NATO colleagues during this difficult period. I can assure you that the UK will restore its NATO assigned forces to their previously declared status as soon as operational circumstances permit.
2. I should like to add my own thanks to you for not pressing me for information over and above that which I have been authorised to give. You will have seen press and other media statements and I have within the constraints imposed upon me, endeavoured to differentiate for you between those which are fact and those which constitute press speculation.
3. I will also take this opportunity to inform you that we are having to consider bringing forward units additional to those already announced to NATO in order to sustain our operations at such a great distance from the UK. To this end we are sailing and preparing up to a dozen more ships of various types. You will also have read that we are preparing certain aircraft for contingency use in the South Atlantic. For

These aircraft, as for the ships, changes in NATO status will be forwarded to the appropriate MNCs and such notification could be made quite shortly in respect of some units.

4. You will, of course, understand that I am unable to give you any assessment of the likely duration of our operations in the South Atlantic. Our objective remains the achievement of a peaceful solution, and my Government is continuing to bend its every effort towards that end. While, naturally, we wish for a speedy and diplomatic solution to the problems we are, nevertheless, prepared, if necessary, to sustain military operations for a significant period; my authorities are therefore taking the necessary contingency measures which will cater for such a situation.

5. Mr Chairman, despite the gravity of the situation, there are I believe many positive aspects of this operation for the Alliance. First, as the MNC's assessment mentioned, there has been a significant increase in the overall readiness posture of certain UK forces. Also there have been instances, and there may be more, of ships in low readiness categories being brought to operational status very much more quickly than their NATO declared availability would imply. We have been particularly encouraged by the speed at which ships can be taken up from trade and in some cases converted to war roles. I refer particularly to the cruise liner UGANDA, now a hospital ship, and the container ship ATLANTIC CONVEYOR, now converted for the transport of aircraft. (Some will be familiar with the ARAPAHO concept). There will undoubtedly

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be a number of useful lessons for all military services to be learned from this operation and I would hope that in due course we shall be able to share these with our NATO Allies.

6. I believe that many of our achievements in putting the UK Task Force to sea in such numbers and with such speed bode well for NATO and I hope that the Soviets have noted it.

7. Thank you Mr Chairman.

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OS 32ND MEETING/82

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MINISTRY OF DEFENCE  
CHIEFS OF STAFF COMMITTEE

CONFIDENTIAL ANNEX

TO

COS 32ND MEETING/82 HELD ON  
TUESDAY 27 APRIL 1982 AT 10.30 am

OPERATION CORPORATE

ITEM 1. INTELLIGENCE

1. SIR TERENCE LEWIN invited the Deputy Chief of the Defence Staff (Intelligence) to update them on current intelligence.
2. LIEUTENANT GENERAL GLOVER (Deputy Chief of the Defence Staff (Intelligence)) reviewed the intelligence published in the latest summary (1). In subsequent discussion the following points were made:
  - a. The Foreign and Commonwealth Office intended to summon the Israeli Ambassador to make a formal protest about the supply of arms and equipment by Israel to Argentina.
  - b. US Secretary of State Haig had already been asked to warn the Argentines informally that their submarines would be considered hostile by our forces and therefore not to approach them. He could be reminded that the Argentines should try to avoid contact while diplomatic negotiations were still under way, but it would be impractical and dangerous to cancel the SSN Rules of Engagement.

ITEM 2. OWN FORCES

3. The situation was set out in the Force Tote Sitrep (2). The Committee were informed that OD(SA) had agreed that morning to authorise Rule of Engagement 5 for all our SSNs involved in Operation CORPORATE.
4. In discussion the following points were agreed:
  - a. They would instruct the Assistant Chief of the Defence Staff (Operations) to inform the Task Force Commander of the British Antarctic

Notes:

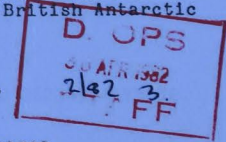
1. INTSUM No 46, 270600Z April 1982.
2. Force Tote Sitrep Issue 33.

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Survey (BAS) agreement to all BAS personnel being concentrated at Grytviken and then being evacuated from South Georgia, under arrangements to be made by the Task Force.

b. In the light of legal advice from the Foreign and Commonwealth Office that a state of hostilities existed between UK and Argentina, all prisoners should be classified under the Geneva Convention as Prisoners of War, contrary to their agreement at their previous meeting (3).

c. They would wish to invite the Assistant Under Secretary (Defence Staff) to prepare a brief for the Secretary of State about the incident (4) involving an Argentine Prisoner of War the previous night. While the incident should be played in as low a key as possible, the Geneva Convention obliged us to provide the names of all Prisoners of War and also to report any such incident to the Protecting Power as soon as possible. There were also questions of the type of work which Prisoners of War could be ordered to undertake, which should also be covered in the brief.

d. They would wish to invite the Defence Secretariat to circulate the legal advice received from the Foreign and Commonwealth Office on the position of the repatriated Royal Marines in relation to their future participation in the Operation.

ITEM 3. PUBLIC RELATIONS

5. MR McDONALD (Deputy Chief of Public Relations) reported on press coverage. In discussion the need to maintain a satisfactory balance in statements by members of the Armed Forces was stressed. While an embargo on such statements might be superficially attractive it was unlikely to be effective and could be counter-productive.

6. In discussion the following points were agreed:

a. They would wish to invite the Defence Secretariat to prepare a brief for Ministers on the latest situation regarding Chile, since it was likely that some details would soon become known to the Press.

Notes:

3. COS 31st Meeting/82, Item 5.
4. CTG 317.9 signal AAA/19J/WSC dated 262345Z APR 82.

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b. They would wish to invite the Deputy Chief of Public Relations to coordinate with the Foreign and Commonwealth Office the release of sufficient facts about the task and equipment of the submarine Santa Fe, in order to counter suggestions that she had been on a peaceful resupply mission.

ITEM 4. ACTIONS AND DECISIONS REQUIRED

7. The Committee noted the summary of Actions in Hand (4) and the Forecast of Decisions Required (5).

8. In discussion the following points were made:

a. It would be essential, before the Carrier Battle Group arrived in the Exclusion Zone, to resolve the intelligence, legal and presentational problems involved in declaring as naval auxiliaries any vessels identified as conducting surveillance operations. A warning period of at least 24 hours would be required after suitable Rules of Engagement had been agreed.

b. OD(SA) would decide the next day whether to announce the creation of a Total Exclusion Zone, and whether to order the Amphibious Force to sail from Ascension Island.

c. If a serious threat to Ascension Island were to develop, an Exclusion Zone around it could only be enforced by an unacceptable diversion of resources from the main Task Force.

ITEM 5. THE ARGENTINE AIRCRAFT CARRIER

9. The Committee had before them a Note (6), examining the threat posed by the Argentine aircraft carrier.

10. Sir HENRY LEACH said the carrier posed the greatest threat to our Amphibious Force before that force came under the air cover which the Carrier Battle Group could provide. The 500 nautical miles operating range of Super Etendards would, once they were embarked, make

Notes:

4. Annex A to COS 31st Mtg/82.
5. D/Ops 7/10/2 262100Z APR 82.
6. COS(Misc) 163/742/1 dated 26 April 1982.

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