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PS/EUS

THE GENEVA CONVENTIONS AND THE TREATMENT OF PRISONERS OF WAR

26 At this morning's meeting of the Chiefs of Staff, there was some discussion of the attached paper produced by the Defence Secretariat (in consultation with FCO Legal Advisers) on the application of the Geneva Conventions on prisoners of war. The most significant conclusion of the paper (paragraph 7c) is that the Chiefs of Staff should agree that the captured marines, who have now been repatriated by the Argentines, should be allowed to participate in the Amphibious Force.

2. In response to a question, I confirmed that our Legal Advisers did not dissent from the legal analysis set out in paragraph 5 of the paper, but that we thought that the arguments adduced would be extremely difficult to sustain if we were publicly accused of being in breach of Article 117.

3. The Chief of Defence Staff said that he was unwilling to place any limitation on the freedom of the Fleet Commander to use his forces as he thought best, and that he was therefore inclined to agree with the conclusion of the paper. He doubted whether Ministers need consider this in OD(SA), but proposed to put a slightly updated version of the attached paper to Mr. Nott for his information.

4. In the light of this discussion, the Secretary of State should be aware of how the Ministry of Defence intend to proceed. If, as I understand, the Legal Advisers' view is that we could just get away with the legal argument, I doubt whether we need press the MOD to make exceptional arrangements to keep the marines away from the action. The CDS has made the point, which has some validity, that in returning the prisoners to us, the Argentines have not drawn our attention to the requirement not to re-employ them.

(P.R.H. Wright)
28 April, 1982.

- cc Private Secretary
- Sir I. Sinclair
- Mr. Giffard
- Mr. Gillmore
- Mr. Fenn
- Mr. Weston
- Mr. Williams

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