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TO IMMEDIATE CERTAIN MISSIONS AND DEPENDENT TERRITORIES
GUIDANCE TELEGRAM NUMBER 124 OF 10 JUNE 1982

GUIDANCE TELNO 94: LT CDR ASTIZ

1. ON 10 JUNE LT CDR ASTIZ WAS REPATRIATED VIA BRAZIL. HE WAS BROUGHT BACK TO THE UNITED KINGDOM BECAUSE WE WISHED TO RESPOND SYMPATHETICALLY TO APPROACHES FROM THE FRENCH AND SWEDISH GOVERNMENTS TO PUT QUESTIONS TO HIM ABOUT HIS PAST (SEE GTUR). QUESTIONS RECEIVED FROM THESE TWO GOVERNMENTS WERE PUT TO HIM ON 8 JUNE BY THE SUSSEX CONSTABULARY AT THE REQUEST OF THE HOME OFFICE. (FOR YOUR OWN INFORMATION: ASTIZ REFUSED TO ANSWER ANY OF THE QUESTIONS - AS HE WAS ENTITLED TO DO UNDER ARTICLE 17 OF THE THIRD GENEVA CONVENTION). SINCE THERE WAS NO POINT IN DETAINING HIM FURTHER IT WAS AGREED THAT HE SHOULD BE RETURNED TO ARGENTINA.

POSITION UNDER UK LAW

2. THE UK HAD NO JURISDICTION TO TRY HIM FOR ANY OF THE ALLEGED OFFENCES, WHICH WERE NOT COMMITTED ON BRITISH TERRITORY. EVEN IF A CRIME HAD BEEN COMMITTED AGAINST A BRITISH SUBJECT, THIS WOULD NOT IN ITSELF HAVE PROVIDED OUR COURTS WITH JURISDICTION. NOR COULD ASTIZ HAVE BEEN EXTRADITED UNDER THE UK'S BILATERAL EXTRADITION AGREEMENTS WITH FRANCE AND SWEDEN, SINCE THE ALLEGED CRIMES HAD NOT BEEN COMMITTED IN THESE COUNTRIES.

POSITION UNDER THE THIRD GENEVA CONVENTION

3. WE WERE ENTITLED TO HOLD ASTIZ AS A POW UNTIL THE CESSATION OF ACTIVE HOSTILITIES BUT WE DECIDED TO REPATRIATE HIM BEFORE WE WERE OBLIGED TO (AS WE HAVE DONE WITH OTHER PRISONERS FROM

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SOUTH GEORGIA AND THE FALKLAND ISLANDS). ASTIZ WAS TREATED FULLY IN ACCORDANCE WITH THE THIRD GENEVA CONVENTION AND WAS VISITED SEVERAL TIMES BY RED CROSS REPRESENTATIVES. NO PRESSURE WAS BROUGHT TO BEAR ON HIM TO OBTAIN INFORMATION OF ANY KIND.

POSSIBILITY OF AN EXCHANGE WITH OTHER PRISONERS

4. IT HAS BEEN SUGGESTED THAT ASTIZ SHOULD HAVE BEEN EXCHANGED FOR THE THREE BRITISH JOURNALISTS OR THE HARRIER PILOT AT PRESENT IN ARGENTINE CUSTODY. WE EXCLUDE THIS ON THE GROUNDS THAT

A. THE JOURNALISTS ARE NOT IN A COMPARABLE CATEGORY AND SHOULD BE RELEASED ANYWAY.

B. OUR PRESENT POLICY IS TO REPATRIATE POWS ON HUMANITARIAN GROUNDS AS SOON AS THE NECESSARY ARRANGEMENTS CAN BE MADE.

C. ASTIZ WAS NOT A HOSTAGE. THE TAKING OF HOSTAGES IS BANNED BY THE CONVENTION.

5. YOU MAY DRAW FREELY ON THE ABOVE, UNLESS OTHERWISE INDICATED.

PYM