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Foreign and Commonwealth Office

London SW1A 2AH

3 June 1982

Dear John,

Lt Commander Astiz

You will have seen a copy of Mr Pym's minute of 3 June to the Secretary of State for Defence about the repatriation of Lt Cmdr Astiz. It referred to the French Government's reaction to our informing them of the refusal of the Argentine Government and of Astiz personally to allow French (and Swedish) questions to be put to him.

The French made a further approach to us on the subject on 2 June. I attach a copy of Sir J Fretwell's reporting telegram. No new legal arguments were adduced for pursuing the French request, but the Ambassador disturbingly commented that M Gutmann came close to making a direct and overt link between the sort of help we are seeking from the French on such matters as the supply of arms to Argentina by third parties and the co-operation they are seeking from us on Astiz.

French refusal to take no for an answer is awkward. Their latest response is a rather crude attempt to pressure us (and unjustified in its accusations that we have been dilatory and not taken their request seriously). But we continue to need French assistance over the supply of arms to Argentina. Against that, the arguments for early repatriation of Astiz remain valid.

President Mitterrand may raise this with the Prime Minister at Versailles. I therefore enclose a brief in the form of Points to Make on which the Prime Minister could draw. As you will see, a Parliamentary statement is offered. If it is decided that the French Embassy could be offered access to Astiz, this would obviously help in presenting our case to them.

Yours ever

J E Holmes
(J E Holmes)
Private Secretary

A J Coles Esq
10 Downing Street

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VERSAILLES ECONOMIC SUMMIT: FALKLANDS: LT CMDR ASTIZ

POINTS TO MAKE

1. Fully understand your need to convince French public opinion that everything possible done to pursue Astiz. An odious man; public opinion rightly enraged.

2. Have spent great deal of time on French request to put questions to Astiz. Fact is that Astiz (and Argentine Government) unwilling to answer questions. Further attempt (either by UK or France) not only unproductive but bound to lead to accusations by Argentina of coercion under Article 17 of Third Geneva Convention. Need for UK to be free to criticize Argentina for breaches of Convention.

3. Number of considerations:
 - i) no jurisdiction in UK to try Astiz. Could not be handed over to France for trial because crimes not committed there.
 - ii) need to ensure UK is scrupulously fulfilling international legal obligations. We are defending international law over Falklands: cannot abuse it over POWs.
 - iii) continued detention of Astiz - and, by extension, further attempts to get him to answer questions - could be used by Argentina as excuse for retaliation against British POWs and other British subjects. Argentines continue to hold Harrier pilot.

/iv) as numbers



- iv) as numbers of Argentine POWs rise, need to retain cooperation of ICRC. They have said further questioning of Astiz would oblige them to criticise UK publicly.
- v) UK decision to detain Astiz has already generated good deal of publicity and support for French case. This presumably helpful to French government.

4. See no point in further questioning: most unlikely he would cooperate. Could have very unwelcome repercussions for UK. How hard would this really be for French opinion to understand? Would a Parliamentary statement (discussed beforehand with the French if they wish) help?

Foreign and Commonwealth Office

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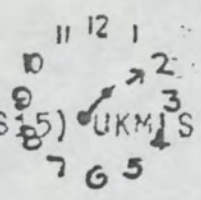
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FM PARIS 021132Z JUN 82

IMMEDIATE FCO

TELEGRAM NUMBER 572 OF 2 JUN 82

INFO BRAZILIA TRIPOLI WASHINGTON MODUK (DS11 AND DS15) UKM/S GENEVA STOCKHOLM



x2

YOUR TELNO 151 TO BRAZILIA AND MY TELNO 562 (NOT TO ALL): FALKLANDS

1. GUTMANN, SECRETARY GENERAL AT THE QUAI, TELEPHONED THIS MORNING TO MAKE TWO POINTS.

2. HE SAID THAT IN RESPONSE TO OUR DEMARCHE ON 31 MAY (MY TELNO 566) ABOUT THE POSSIBLE SUPPLY OF LIBYAN ARMS TO ARGENTINA CHEYSSON HAD SPOKEN FORCEFULLY TO GADHAFI WHO HAD CATEGORICALLY DENIED THAT ARMS WERE BEING SUPPLIED BY LIBYA.

3. GUTMANN WENT ON THAT HE HAD BEEN GLAD TO BE ABLE TO GIVE US THIS POSITIVE RESPONSE, BUT WE WOULD FIND HIS SECOND POINT LESS AGREEABLE. HE HAD BEEN FRANKLY SHOCKED TO FIND THAT BRITAIN WAS BEING SO DILATORY IN THE MATTER OF CAPTAIN ASTIZ. THIS WAS NOW A MATTER OF SERIOUS CONCERN TO THE FRENCH GOVERNMENT. THEY DID NOT CONSIDER THAT OUR LEGAL ARGUMENTS HELD WATER. IT SEEMED TO THEM THAT THEIR VIEWS WERE NOT BEING TREATED SERIOUSLY. THE MATTER WAS A VERY IMPORTANT ONE TO THEM. I RECALLED TO HIM MY CONVERSATION WITH DUFOURCQ ON 29 MAY AND SAID THAT THE POINTS RAISED ON THAT OCCASION WERE NO DOUBT BEING CONSIDERED IN LONDON. THERE WOULD BE NO DOUBT THAT HIS RESTATEMENT OF FRENCH CONCERN WAS TRANSMITTED TO LONDON.

4. GUTMANN CAME CLOSE TO MAKING A DIRECT AND OVERT LINK BETWEEN THE SORT OF HELP WE ARE SEEKING FROM THE FRENCH ON SUCH MATTERS AS THE SUPPLY OF APMS BY THIRD PARTIES AND THE COOPERATION WHICH THEY ARE SEEKING FROM US ON ASTIZ.

FRETWELL

NNNN

SENT AT 021153Z SM/JEG



FCS/82/78

SECRETARY OF STATE FOR DEFENCE

Lt Cmdr Astiz

1. Thank you for your minute of 28 May. I am grateful for all the trouble that your Department has taken over this man since his capture in South Georgia last month. I agree that the arrangements you have made to hold him at Chichester after his arrival from Ascension Island should prove satisfactory insofar as continued custody is required.

2. As you will know, we informed the French and the Swedes that neither the Argentine Government nor Astiz personally was prepared to have questions put to him about his earlier alleged misdeeds. There has now been a strong reaction from Paris and Stockholm. Both governments have urged us to reconsider the possibility of putting their questions to Astiz, arguing that the Geneva Convention does not explicitly prevent this. The Swedish Foreign Minister has appealed personally to me through our Ambassador and has undertaken to give me in writing the Swedish legal interpretation of the Geneva Convention on this score. French representations have been equally forceful and may be renewed in Versailles (we are providing separate briefing for the Prime Minister).

3. I nevertheless recognise that our own legal advice points to early repatriation and that the Attorney General recommended this in the event that Astiz did not wish to answer further questions, as has proved to be the case. We need to bear in mind, particularly at a time when the Argentine Junta may increasingly see defeat staring them in the face, that the continued detention of Astiz may encourage, or be used as an excuse for, retaliation against British prisoners-of-war and other British subjects. I am very aware of their continued

/detention



detention of our Harrier pilot, Flt Lt Glover. There have been other reports of possible Argentine action against British subjects in Argentina.

4. Moreover, as the numbers of Argentine POWs in our hands may rise still more sharply in the immediate future, we shall need to retain the goodwill and cooperation of the ICRC. The ICRC have told us that they lost credibility with the Argentines when we held back Astiz. From recent contacts with them it is clear that if we were to question Astiz further they would feel bound to criticise us publicly. I am therefore inclined to agree that we may have now exhausted the public relations possibilities of the Astiz case; and that, since extradition of Astiz to France or Sweden is in any case excluded, it would make sense on balance to repatriate him soon after his arrival in the UK. However, clearly no decision should be taken until after Versailles. Moreover the Attorney General is now considering whether the French Embassy could be given access to him first. Finally, we need to make sure that a formal decision is not carried out before we have replied to the Swedish legal memorandum to which I have referred above. I should be grateful therefore if our people could keep in touch about the repatriation arrangements.

5. I am copying this minute to OD(SA) colleagues, Sir Robert Armstrong and Sir Michael Palliser.

A handwritten signature in black ink, appearing to be 'F. Pym', written in a cursive style.

(FRANCIS PYM)

Foreign and Commonwealth Office
3 June 1982

SECRET