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SECRETARY OF STATE

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17 March 2003

PJHQ - Dep Hd Pol/Ops(ME)

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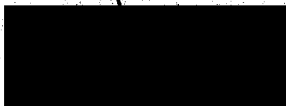
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IRAQ: PRISONERS OF WAR

1. Thank you for your minute (D/PJHQ/10/5341) of 14 March 2003 on the role of British forces in handling Prisoners of War.
2. The Secretary of State notes the arrangements for handling Prisoners of War, in particular that:
 - a. UK planning is designed to ensure that we meet our legal obligations;
 - b. the arrangements for the transfer of UK captured Prisoners of War to the United States do not compromise this position.



M J WILLIAMS
Cdr RN
APS/Secretary of State

CHOTS: SOFS-Private Office
SOFS-Private Office-S

SECRET UK EYES ONLY

Self 19/11
para 4 has the
key points
etc

D/PJHQ/10/5341

14 March 2003

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Sec(O)1

Sec(O)

IRAQ: PRISONERS OF WAR

References:

A. D/Sec(O)/2/37/8 dated 10 March '03.

B. D Sec(O)/2/37/8 dated 10 March '03.

Issue

1. The role of British forces in handling Prisoners of War (PW); practical, legal and presentational considerations.

Recommendations

2. That Secretary of State notes the arrangements for handling PWs, in particular that:
 - a. our planning is designed to ensure we meet our legal obligations; and
 - b. the arrangements for the transfer of UK captured EPW to the US do not compromise this position.

and further notes that additional advice will be provided to Ministers in respect of possible war crimes, crimes against humanity and crimes against peace, and individuals judged to be of high value intelligence interest.

Timing

3. Routine.

Background

4. The paragraphs below set out the practical, legal and presentational considerations in respect of PW handling. Given the length of this minute, and that no decisions are required by Ministers, the key points in summary are:

- Planned arrangements are designed to ensure compliance with Geneva Convention obligations [paras 5-6].
- HQ 1 UK Div anticipate having to hold around 14,000 PWs in the early days of the campaign, with PWs subsequently being transferred to US facilities [para 8].
- An MOU under consideration by the Attorney General would preserve UK jurisdiction over all UK PWs transferred into US custody in respect of acts committed prior to their transfer, and preclude their transfer outside Iraq without UK consent [paras 10-12].
- Separate advice will be put to Ministers in respect of war (and similar) crimes, and detainees of potentially high value intelligence interest [paras 15-16].
- In extremis, it may be necessary to transfer wounded PWs to RFA ARGUS, which will have a 100-bed role 3 capability. RFA ARGUS will have a dual role, and as such will not be afforded the protection of the red cross [para19].

Legal Obligations

5. Enemy personnel in the power of the military of a particular nation are the responsibility of that nation (the Detaining Power), which is obliged to ensure their rights and status as PW, as governed by the Geneva Convention Relative to the Treatment of Prisoners of War (GC III). Even though responsibility for the treatment of PWs rests with the Detaining Power, they may be transferred to the custody of another party to the Convention and even, in some circumstances, to a neutral power (the Accepting Power). PWs must not be exposed to the dangers of the combat zone, and they must be evacuated to a safe location as soon as is possible. They must be protected from physical violence or torture and must not be exposed to conditions likely to be detrimental to their health. In addition, they are entitled to respect for their persons and honour and must be allowed to exercise the rights attaching to their civil capacity to the extent that the captivity permits. As well as the physical aspect to the protection of the rights of PWs, there is a moral aspect that covers their rights to religious and intellectual freedom and protection against acts, other than the mere fact of captivity, that might demoralise them.
6. The UK will be required to treat combatants who fall into our power as a PW. All members of Iraq's armed forces will be classed as combatants.