



Foreign and Commonwealth Office

London SW1A 2AH

26 April 1982

*Spoken.  
Paper issued.*

*RWG*  
R.L. Wade-Gery, Esq, CMG  
Cabinet Office  
London SW1

*27/4*  
CABINET OFFICE  
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26 APR 1982  
FILING INSTRUCTIONS  
FILE No. 486/1

*Dear Robert,*

FALKLAND ISLANDS: PROTOCOL CONSTITUTING THE SPECIAL INTERIM AUTHORITY PURSUANT TO THE AGREED MEMORANDUM

You prepared for ODSA a Secretary's Note on the second draft of this Protocol which was telegraphed to us on 15 April. Your Note simply drew attention to the significant points in the draft.

I now attach a copy of an internal minute which I circulated on 24 April covering a copy of the third US draft of this Protocol which was handed over to me in Washington. I think (and you agreed) that it might be as well if you were to prepare a further Secretary's Note drawing attention to the main significant point of difference between the second and third drafts - namely, the provision relating to flags. It should perhaps also be indicated in the Note that we have been promised a further (i.e. fourth) draft which will presumably be geared more closely to the new and very unwelcome Haig text of the main Agreement which we brought back from Washington.

*Yours  
Ian Sinclair*

Ian Sinclair  
Legal Adviser

cc PS  
PS/PUS  
Mr Giffard  
Mr Mallaby  
Mr Fearn

Mr Ure

FALKLAND ISLANDS: PROTOCOL CONSTITUTING THE SPECIAL INTERIM  
AUTHORITY PURSUANT TO THE AGREED MEMORANDUM

1. When I was in Washington, Mr Gudgeon (of the Haig team) handed over to me the attached third draft of the Implementing Protocol. Simultaneously, I handed over to him the comments which I had prepared on the second US draft of 15 April (these comments are attached to my submission to the Private Secretary of 17 April).
2. In the time available in Washington, there was no opportunity for any detailed discussion of the proposed Implementing Protocol. When I left, Mr Gudgeon indicated to me that the American side would be preparing a further revision which would take into account the comments which I had made on the second US draft and which would also be related more closely to the text of the proposed main Agreement handed over to us in the course of 23 April.
3. Accordingly, the attached draft is circulated more for information than for action. I have compared the third draft with the second draft. There are considerable differences of language, but the substance is fairly similar to what was in the second draft.
4. I would, however, draw attention particularly to paragraphs 3 and 6 of the third draft. Paragraph 3 of the second draft provided that "The flags of each Party to this Protocol shall be flown at the Headquarters building in such a fashion that no flag permanently occupies a position of precedence". The third draft, as you will see, states only that "The flags of each Party shall be flown at the Principal Office in accordance with procedures to be determined by the Authority". This is clearly a change of substance, or, at the very least, of presentation. The question is whether it is better to have a substantive rule (as in the case of the second draft) or simply to leave it to the Authority to determine the procedures for the flying of flags. This is a sensitive issue. If we have any specific views on the matter, such as a preference for the substantive rule, I could of course convey them immediately to Mr Gudgeon.
5. Paragraph 6 of the third draft seems to me to be an improvement on the corresponding paragraph 7 of the second draft. You will however note that there is an obligation on each Party to make immediately available to the Authority a sum of \$250,000 to meet the Authority's initial expenses.
6. I think that these are the main substantive points of difference between the third US draft and the second draft. The third US draft has already anticipated some of the comments which I made on the second draft. However, as indicated above, we will now have to expect a fourth draft. If there are any points that you think I should feed in to Mr Gudgeon at this stage, perhaps you could let me know.

*Ian Sinclair*

24 April 1982

Ian Sinclair  
Legal Adviser



PROTOCOL CONSTITUTING THE SPECIAL AD INTERIM  
AUTHORITY PURSUANT TO THE AGREED MEMORANDUM

1. In order to carry out the responsibilities assigned to it pursuant to the Agreed Memorandum between the United Kingdom and Argentina of (Date), (hereinafter "the Agreement ") and such other responsibilities as may be conferred upon it by the Parties to this Protocol (hereinafter "Parties"), a Special ~~Ad~~ Interim Authority (hereinafter, "Authority") is hereby established by the Parties.

2. The Authority shall be composed of three Commissioners, one appointed by each party upon the entry into force of this Protocol. Each Party shall also appoint an Alternate Commissioner who shall act for the Commissioner whenever the latter is absent or otherwise unable to perform Authority business, or such position is vacant.

3. The Authority shall have its principal office on the Islands. The flags of each Party shall be flown at the Principal Office in accordance with procedures to be determined by the Authority.

4. Each Commissioner may be assisted by a small civilian staff provided by that Commissioner's appointing Government, subject to a staff ceiling which the Authority shall establish.

5. The Authority is authorized to engage necessary staff, to contract, to establish internal procedures, and to take those other actions necessary and proper to discharge its responsibilities.

6. Each Party shall be responsible for the expenses and salary of its Commissioner and staff. Other expenses approved by the Authority shall be borne equally by the Parties. Each Party shall make immediately available to the Authority a sum of \$250,000, to meet the Authority's expenses until the Authority determines its budgetary procedures. The Parties may establish a ceiling on expenses approved by the Authority.

7. The Authority shall commence functioning immediately upon the appointment of commissioners. It shall immediately arrange for the publication and dissemination of official charts of the zones defined in paragraph 2 of the Agreement. The Parties agree to assist the Authority by providing necessary information and the services of appropriate experts.

8. The Authority shall establish appropriate liaison and procedures with the local administration to discharge its responsibilities in accordance with paragraph \_\_\_\_ of the Agreement.

*[Handwritten signature]*

*[Handwritten signature]*



9. The Authority shall determine immediately procedures for the fulfillment of its monitoring responsibilities pursuant to paragraph \_\_\_\_\_ of the Agreement.

10. The Authority shall issue frequent reports to the Parties during the initial month after this Protocol enters into force, and as necessary thereafter, in the form of an agreed minute. Such reports shall include a full accounting of costs. Any dissenting view may be appended to the agreed minute. The Authority shall make public information concerning its activities as it deems appropriate.

11. The Authority shall attempt to reach decisions by consensus. It may decide all matters by majority vote.

12. The Parties shall cooperate with the Authority in the discharge of its responsibilities and shall facilitate the necessary activities of the Authority within their respective territories.

13. Commissioners and staff shall not be accorded diplomatic status, but shall enjoy immunity from judicial and other legal process with respect to actions performed in their official capacity. Vessels, aircraft and other vehicles performing Authority functions, and all other property and supplies of the Authority shall not be subject to inspection, seizure, or the payment of taxes, duties, tolls or other charges. The Authority, its members, its employees and its associated staffs shall be granted

privileges and immunities analogous to those accorded to international organizations or similar entities by the Parties to the Protocol under their domestic laws.

14. The Parties, the Commissioners and their staffs shall not act in any manner inconsistent with purposes of the Agreement or of this Protocol.

15. The official languages of the Authority shall be English and Spanish.

16. This Protocol shall enter into force upon the date of signature.

FOR ARGENTINA

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FOR THE UNITED KINGDOM

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FOR THE UNITED STATES

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