

FROM: M J WILLIAMS  
US(POL)

25 February 1994

cc PS/Secretary of State (L&B) - B  
PS/Michael Ancram (L&B) - B  
PS/Sir John Wheeler (L&B) - B  
PS/PUS (L&B) - B  
Mr Legge - B  
Mr Bell - B  
Mr Watkins - B  
Mr Wood (L&B) - B  
Mr Brooker - B  
Mr Daniell - B  
Mr Maccabe - B  
Mr Quinn - B  
Mr Kyle - B  
Mr Caine - B  
HMA, Dublin - B  
Mr Archer, RID - B

Mr Thomas - B

MEETING OF LIAISON GROUP: LONDON, 24 FEBRUARY 1994

Summary

The meeting revealed differences over what kind of paper the two sides were supposed to be producing. The British side suggested that the group should aim to build on previous discussions, but modified to take account of the agreements set out in the Joint Declaration; the Irish side thought a new approach was required, making clear that its starting point was the Joint Declaration. The Irish side thought the main task was for the two Governments to reach agreement on matters within their responsibility, and point the way towards agreement in areas where the agreement of the other parties was required; the British side thought that the entire settlement would need to be acceptable to the parties as well as the two governments, and the two governments should be aiming to identify possible areas of convergence. Regarding Strand II, the Irish side suggested that the two governments should agree on which subject areas should be devolved to North/South institutions on an all-Ireland basis, while it could be for the bodies in Northern Ireland to agree with Dublin on the precise structure of those institutions; the British side thought that the Northern

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Ireland parties would need to agree both the structures and the subject areas if they were to be expected to work the North/South institutions effectively.

2. Both sides agreed that a paper would be needed very soon, and the Irish side, while not agreeing to produce it, took delivery of your request that they should do so. You welcomed Mr O'Donovan's suggestion that it should be a fairly brief document, setting out the various elements with questions which would need to be considered, and possibly indicating pitfalls. It was agreed to hold a further meeting of the group on Wednesday 2 March in Dublin, beginning at 11.00 am.

#### Detail

3. At the Liaison Group meeting on 24 February, on the Irish side Mr O hUiginn was accompanied by Mr O'Donovan, Mr Donoghue, Mr Finlay and Mr Joe Hayes from the Irish Embassy in London. You were accompanied by Mr Watkins, Mr Archer, Mr Daniell, Mr Dew from the British Embassy Dublin, and me.

4. After welcoming the Irish side, you noted that following the meeting between the Prime Minister and the Taoiseach at Downing Street on 19 February, both governments were re-committed to the 3-Stranded Talks process, based upon the agreement of 26 March 1991. Both governments were agreed that the principles set out in the Joint Declaration were a defining point of departure, that the Joint Declaration did not have a limited shelf-life, and that no party had a veto on political progress. You thought also that both sides wanted a settlement that was deep, but also wide. On that basis the task for the group was to work on a Joint Framework document to be agreed between the two governments in preparation for the Intergovernmental Conference.

5. Mr O hUiginn agreed with this statement. He thought the Downing Street Statement had been helpful, in removing any suspicions between the two governments. The Irish side was reassured that we

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saw the task as that of building on the Joint Declaration, which represented a new departure. The Taoiseach had pointed out that if there was any hold up in this process, it would not be the fault of the Irish side. He thought a reasonable goal was to make a first report to the IGC on 10 March, and get a political mandate from the Conference for further work.

6. Mr O hUiginn said he had always doubted the ability of the Northern Ireland political parties to take sufficient risks to produce a settlement. Since the two governments had responsibility for the two parts of Ireland, and a mandate from their electorates to resolve the problem, it was for the two governments to agree in the Joint Framework document on all matters which were for the two governments alone, and to agree on goals, objectives and principles in other areas, eg human rights which also involved the parties. You thought it might be difficult to demarcate between these two classes of subject matter; even matters for the two governments were subject to the 26 March ground rules about the need to secure general acceptability, and in the second area the governments ought to be looking for the sorts of goals etc which were likely to be acceptable to the parties, not simply ones which they thought they could agree between themselves. The group's task was to pursue not so much Utopia as convergence.

7. Mr O hUiginn thought the difficulty was that there was no convergent position between the parties at present; it was the task of the governments to move the parties from their existing positions. However it was inconsistent for the DUP to say that there was now no Talks process, but to claim a continuing veto over any agreement on the basis of the 26 March document. The rule of "nothing agreed until everything agreed" existed within the Talks, and was not of universal application. You responded that there might be a difference between the judgements of the two governments about the position of the parties; in our view it might not be so much a matter of getting the parties to move towards a point of convergence, as getting them to expose areas which could be convergent but which they were otherwise keeping hidden.

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8. Mr O hUiginn said that the group should be aiming at a shared understanding between the two governments, which would need to be kept to that; it could not serve as a jumping off point for a new process of dilution by unionists. It would also need to be detailed, and in writing. However a prior question was what package was envisaged as coming out of the Talks process. Were we still aiming for a settlement in accordance with the 26 March statement? If so, what was its broad shape? What would be the form of its component parts? And what would its relationship be with the existing Anglo-Irish Agreement? In response, you emphasised that the discussions should be kept confidential on both sides. However, if we were engaged in a Talks process which involved other parties, we needed to secure all round agreement. If the parties were simply presented with an agreement worked out by the two governments, they would regard it with suspicion, or might reject it outright. Precisely what form the new agreement should take was a technically difficult question. There could either be a single document which all participants would sign, or separate documents agreed by all but which only the parties directly involved would sign. However we did not need to settle that point now.

9. You recalled that we had given the Irish side a paper last September. Since then the Joint Declaration had been agreed. Those two documents appeared to set the parameters of the Group's work. Would we need also to have regard to the Irish draft paper which had been leaked to Emily O'Reilly of the Irish Press? Mr O hUiginn responded that the Emily O'Reilly paper had been kicked over the London roof tops by the Prime Minister and perhaps should be left there. As we knew, the Irish side had had several problems over our September paper. The Joint Declaration, as a paper agreed by the two Prime Ministers and with massive electoral support, was a different matter, and should serve now as the basis for building on. When you asked what he had in mind, Mr O hUiginn suggested that there should be a general introduction with a reference to the Joint Declaration and other germane documents. He then identified a

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number of key elements of the Joint Declaration should be picked out; from paragraph 1, that the objective was to remove the cause of conflict; from paragraph 2, that there was a solemn commitment to promote co-operation at all levels; from paragraph 3, the European dimension; from paragraph 4, that HMG had the role of securing agreement, and also HMG's recognition of the right of self-determination; from paragraph 5, the principle of consent; from paragraph 6-8, the recognition that respect for both traditions should be entrenched. The purpose was to give operational effect to the Joint Declaration.

10. You pointed out that there were several operational elements which Mr O hUiginn had left out, including the constitutional guarantee in Articles 2 and 4, and various elements in paragraph 6. However it was not clear where all this was heading, and it might be a better approach simply to have a reference to the fact that both governments remained committed to the principles set out in the Joint Declaration, which was repeated as an annex to the new document. Mr O hUiginn said that the Irish side thought it was necessary to show that the new document built on the Joint Declaration. You invited the Irish side to produce a draft for a further meeting of the Liaison Group next week.

11. Mr O'Donovan commented that agreeing a complete new document would take time. For the IGC on 10 March it might be better to try to produce a simple statement of the elements of the document. You agreed that the full document would not be completed by 10 March, but it would be useful to have endorsement from the IGC that the scope of the task which the Liaison Group was undertaking was correct. It would need to contain some statement of overall goals and principles, much informed by the Joint Declaration. It would have to have something on the criteria for internal institutions (which might be about the length of the subject matter being dealt with in our September document or the Emily O'Reilly document, which were not in fact too far apart). It would have to have something on North/South institutions. These raised difficult issues, and would

need to have the right kind of aspirational surrounding. Again the Emily O'Reilly document might give a pointer. It would need to deal with constitutional issues in the way in what the Joint Declaration handled them. It would also need to deal with other issues in the Joint Declaration, for instance paragraph 6 about the Taoiseach's plans about creating a new era of trust within the Republic. However you repeated that you thought the Irish had a clearer idea than we did about how the Joint Declaration should inform such a document; we did not see that our 24 September document would need to be too violently transmuted.

12. Mr O hUiginn thought that the Joint Declaration would need not so much to "inform" as to "suffuse" the new document. He also thought it would need to reaffirm the principles of the Anglo-Irish Agreement. Presentationally, he thought that a document produced by the two governments should begin with Strand 3 (which was for the two governments themselves, then on to Strand 2 and Strand 1. You reminded Mr O hUiginn of the need to seek areas of convergence, and that "nothing was agreed until everything was agreed" but said that otherwise you were happy with this approach.

13. Mr O hUiginn said that the Strand 2 chapter would be complicated. It was partly Intergovernmental but also involved the Northern pillar, without whom it would be difficult to implement. He thought that the two governments should decide the subjects which should be covered by North/South institutions. You said that the role of Northern Ireland institutions and Westminster in regard to North/South matters was a subject for discussion. It was not for the governments alone to decide either the design of North/South institutions or their remit, since they must involve the Northern Ireland bodies. The governments could suggest solutions, but not settle them. Mr O hUiginn persisted that since North/South institutions were seen as the counterpart to constitutional change in the Republic, it was necessary to avoid their content being filtered through the very inhospitable filter of the Northern Ireland body; besides the Northern Ireland pillar might collapse or

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prove unworkable; and in any case if the remit of North/South institutions was not agreed until after the assembly had been set up, this would be after the constitutional change had come about in the Republic. For all these reasons, he persisted in believing that the two governments, who had the power to do so, should determine the remit of the North/South institutions in advance; this would give the Northern pillar an incentive to make the North/South institutions work effectively. You continued to sustain that the agreement of the Northern parties was essential, as it could not be guaranteed that they would feel bound to work the new North/South institutions simply because their remit had been determined in advance. You thought that the remit could conceivably be determined by Westminster legislation, provided that the Northern Ireland parties had at first agreed to this.

14. You again asked whether the Irish would now produce a paper setting out their ideas. Mr O hUiginn said that the request could be left with their side. He recognised that a text would be needed fairly soon. After you had asked whether they needed a further meeting of the Group before putting pen to paper, it was agreed that the Group would meet again in Dublin on Wednesday 2 March at 11.00 am; this would leave just over a week before the next IGC on 10 March. Mr O'Donovan again suggested that for the IGC it would be far better to have a fairly brief piece of paper, setting out a series of elements for the new framework document, noting the questions which would need to be considered in each element, and perhaps also the pitfalls. You commented that this was a good idea, and suggested that the paper might invite the IGC to approve the Group's general approach, and instruct them to carry out further work.

#### Comment

15. The Irish side seemed to take far more literally than we the idea that the Joint Declaration should serve as a "foundation" on which to construct a new Joint Framework document. Mr O hUiginn

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seemed to want to regard the JD as the only real authority, virtually disregarding the substance of the 1992 Talks and the 1993 contacts and discussions. Mr O'Donovan, whose main purpose, as so often, seemed to be to differ from Mr O hUiginn rather than to pursue a common Irish objective, at least recognised that the Joint Declaration did not cover all the elements needed, and was in any case framed in the nature of a set of principles rather than operational guide. Despite your pressing, Mr O hUiginn avoided any commitment to produce either the first draft for a new Joint Framework document founded on the Joint Declaration, or to draft a short "Elements" paper to be considered by the next IGC, as suggested by Mr O'Donovan and endorsed by you.

[signed MJW]

II. FOUNDATIONS

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