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DJW/31/10

FROM: D J WATKINS  
US CENT SEC  
DATE: 20 OCTOBER 1993

CC: PS/PUS (B&L) - B  
PS/Mr Fell - B  
Mr Bell - B  
Mr Williams - B  
Mr Brooker - B  
Mrs Collins - B  
Mr Cooke - B  
Mr Maccabe - B  
Mr Quinn - B  
Mr Beeton - B  
Ms Lodge - B  
Mr Morrow - B  
Mr Archer, RID - B  
HMA, Dublin - B  
Mr Hallett - B  
Mr Caine - B

Mr Thomas - B

AMENDMENT OF ARTICLES 2 AND 3 : JOINT FRAMEWORK DOCUMENT

1. I was grateful for your 18 October minute and the possible revise of the Constitutional Issues section of the Joint Framework Document. Since we seem to be very close in our assessment of what might be achievable in the context of Irish political realities, it is not surprising that I found your suggested text to have a great many attractions. Among these are:

- (a) the contribution which a "mutual recognition formula" such as this would demonstrably make to the parity of esteem element of any package;
- (b) the tactical advantage of seeking to bring the Irish further forward on the fulcrum points of the NI unit of determination, without requiring them to sacrifice deeply-held conceptions of the Irish nation and Irish unity.

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2. Some comments and queries:

(a) in the preambles paras 2 and 3, I wonder if "validity" is necessary and appropriate as well as "integrity". It has connotations of legality which might not fully consist with UK domestic and international law (or the Irish Constitution - even if amended?). We have sought alternatives which inject a similar element of warmth, but without success. Suggest simple omission. If "validity" were removed or replaced with something vaguer, the section in square brackets could be retained, which would help the Irish. (I make the latter point on the basis that the term "Island" can be left ambiguous as to whether it relates to land or people.) If however "validity" remained, the section in square brackets should be deleted;

(b) we noted the minor but significant difference between 2(vi) and 3(vi), the second of which refers to the Irish Government's wish to exercise a consultative role on all aspects of the Government of NI. If devolution took transferred matters outside the scope of a successor-IGC, even if a relevant right of regard was built into North/South institutions, then 3(vi) when applied in a situation of deadlock could be problematical - either because HMG could not "deliver" without rendering local institutions impotent or because the provision gave the Irish a line of appeal that would prove irritating and destructive. I think you have argued this line or something like it in Liaison Group;

(c) on 3(ii), might we not usefully and tactically add "and provided that at the same time the full and free consent of a majority of the people of the Republic of Ireland is given"?

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3. In terms of Liaison Group tactics, I think I can see how (paras 27-30 of the Group's minutes) you were manoeuvring the Irish to a point where, despite our prompting and cajoling, they might "fail" to deliver an explicit recognition that NI is part of the UK; and the inevitable consequence of this "failure" would be that less could be expected of the unionists and HMG on Strands II and III. If this was your tactical line of development, I would support it - simply because requiring either the Irish or the unionists or both to concede too much is likely to result in stalemate. Your "mutual recognition" formula is expertly constructed to avoid this, but the success of the tactic would depend on our maintaining firm pressure on the Irish on the "present status" issue, and on insisting that the dilution in the recognition of NI as part of the UK must have a counterbalancing price in terms of less forward Strand II (? and III) arrangements. This suggests strongly to me that it could well be premature to offer our concessionary balance formula tomorrow unless they clearly have a counterbalancing concession to offer.
4. We will only know whether my admiration for your judgements will be shared by the Irish when we see if they have picked up your prompt in their suggested text. I hope (rather than confidently expect) that we will see their text in good time before the 21 October Liaison Group.

[Signed DJW]

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