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DJW/3/10

NORTHERN IRELAND OFFICE
- 5OCT 1993 4
SIL DIVISION

FROM: D J WATKINS
US CENT SEC
DATE: 4 OCTOBER 1993

CC: PS/PUS (B&L) - B
PS/Mr Fell - B
Mr Thomas - B
Mr Bell - B
Mr Williams - B
Mr Brooker - B
Mrs Collins - B
Mr Cooke - B
Mr Morrow - B
Mr Archer, RID - B
HMA, Dublin - B

Immediate
cc Ms Lodge *
✓ Ms Beeton

* Advice, pl, on x/. pl.
have a word if you
like.

Mr Quinn - B

LIAISON GROUP, 1 OCTOBER 1993

JALC 5/10

1. Graham Archer will doubtless in due course be producing a full note of the Liaison Group meeting in Dublin on Friday. However, having talked briefly with Mr Thomas this morning, I wonder whether we should not get ahead now with two pieces of further work which might provide a framework within which to judge any counter-proposals or refinements tabled by the Irish in advance of the next meeting of the Group in London on 14 October. (The Irish have been invited to provide alternative text or comments on our own draft framework paper well in advance of that meeting.)
2. The first aspect for further work relates to North/South bodies. One of the three main Irish concerns relates to source of authority (the others being mandate, by which they mean political salience; and remit, by which they mean functions). The Irish, unsurprisingly, are concerned to provide for some level of entrenchment for a new body

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or bodies. One suggestion they made was based on Section 2 of the Government of Ireland Act 1920 which, as I understood their point, provided the statutory authority for the powers of the Council of Ireland directly, and not simply through the Dail or Stormont - or so they read the reference to functions which "by virtue of this Act are so administered". Although they found attractive such a direct source of power in Westminster legislation, they later signalled that it would be necessary to think of ways in which new local institutions in the North might have Westminster's authority remitted to them in terms of powers of scrutiny over the work of a North-South body.

3. It would be helpful if you, together with Mr Brooker and Mr Cooke, could examine the language and purpose of Section 2 of the GoI Act, and in particular to see whether the language and purpose used therein could be helpful now. We have already acknowledged in principle the need for entrenchment in Westminster legislation, but in a way consistent with a new North-South body drawing its authority and finance from the Dail and new local institutions here. The Irish wheeze seems to focus on entrenchment with the merest acknowledgement of new local institutions being the source of authority; and at face value, there is the risk that the Unionists would see a new body based on Westminster legislation as an embryonic government of all Ireland (a possibility they have explicitly rejected). On the other hand, it may be that the Irish simply expressed themselves none too precisely and that what they were really angling for was the sort of entrenchment in Westminster legislation that we already envisage. We ought therefore, I suggest, in the first instance to approach the language of the GoI Act as positively as possible.
4. The second area for further work concerns the question of a default mechanism. Mr Archer's note will doubtless

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record such details as the Irish provided. Again, I suspect that the Irish had not thought through their position particularly carefully, nor necessarily used careful language in expressing themselves. But the essence of their suggestion was that the IGC should have powers of guarantee and monitoring of new local institutions and that in the event of complete deadlock in new local institutions, then the exercise of the powers in question (and conceivably all the powers at the disposal of new local institutions) should revert to the IGC. There are two ways of reading this. First, that could be shorthand for describing deadlock as being resolved by reversion to direct rule, with Irish influence but not authority exercised as at present through the IGC. On the other hand - and perhaps particularly if specific functions were to revert - it could be a rather clumsy attempt to suggest a form of joint authority - that is, default would result not in reversion to direct rule but in the adoption of an adjusted form of direct rule which would give the Irish genuine locus. (As both you and Mr Thomas have pointed out to me, if they intend the latter, it does not represent a particularly hopeful assessment of convergence.)

5. I suggest that you and Mr Cooke may wish to refresh our work on default options. The Irish proposal, it seems to me, makes very negative assumptions about the extent to which our Strand I scheme is already designed to ensure the maximum disincentive to blocking; and then there is the Panel, to which the SDLP and Irish have attached a lot of importance, which is designed as a further means to prevent breakdown. But we should have a clear view as to what would happen in the event of gridlock, and it is this that we should devote our attention to. In undertaking further work, colleagues may wish to note a suggestion from Mr Fell that one possibility might be that the IGC could have the role envisaged by the Irish if (and

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presumably only if) at least two members of the Panel agreed that deadlock was such that this reserved power for the IGC needed to be invoked. The attractions are obvious in this, although our aim to see the reserved power tightly circumscribed might not be consistent with Irish ambitions for it. An alternative might be to build on the (occasional) presence of representatives of new local institutions at IGCs - a form of tripartite solution.

6. I am not sure who would be in the lead in the latter work - it has clear SIL overtones to it. Perhaps, as Mr Thomas has suggested to me, the best way forward would be for you to take on the North/South bodies point and for Mr Cooke to take on board the default aspect. | X
7. Since the Irish have been asked for their proposals preferably by Friday for discussion on Thursday 14 October, it would be best if our thinking was advanced as quickly as possible.

[Signed DJW]

D J WATKINS

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