

FROM: TONY BEETON
REL
6 JUNE 1996

DESK IMMEDIATE

cc PS/Secretary of State (L&B) - B
PS/Sir John Wheeler (L&B) - B
PS/PUS (L&B) - B
PS/Sir David Fell - B
Mr Thomas - B
Mr Bell - B
Mr Leach - B
Mr Steele - B
Mr Watkins - B
Mr Wood (L&B) - B
Mr Hill - B
Mr Lavery - B
Mr Maccabe - B
Mr Stephens - B
Ms Marson
Mr Clayton - B

PS/MICHAEL ANCRAM (L&B) - B

PUP - AN URGENT REQUEST

I understand from Chris Maccabe that the PUP's David Ervine contacted him yesterday with a problem. Although he would not go into detail about the reasons on the telephone, the essential point he made to Mr Maccabe was that PUP needed to be able to include a third person, Billy Hutchinson, in its team for the negotiations. He wondered whether a sympathetic interpretation of the ENE Act might allow a route in. The thought he'd had was that if, for example, Hugh Smyth stood down in accordance with schedule 1, paragraph 18 (1), he would be "treated" as removed from the list under 18 (2), Billy Hutchinson would be returned as a delegate in his place according to 19 (3), and either process could be repeated to allow Smyth back in because one could read the "treated" in 18 (2) only as an administrative step and not as having actually removed someone from the list - and hence the negotiating team (I hope that I have understood the suggestions he was making properly).

2. In an initial reaction last night I said to Mr Maccabe that I could see no grounds for such an interpretation. Once removed from the list a person was off it and there would be no route back on since the process of list making is now definitively ended. Groundrules offers no comfort either in that it is quite clear that the members of negotiating teams must be delegates - although parties are free to bring others to support the teams in the negotiations (I understand Mr Ervine said that would not answer the PUP's need).

2. I have checked the position with Mr Clayton who confirms that the legislation cannot be read in such a way as to allow the kind of arrangements apparently hoped for by the PUP. Although this will offer them no comfort, Mr Maccabe's view is that a speedy definitive answer will allow them to make the best out of the real position rather than hankering after impossible changes. Mr Ervine had wondered whether a party might have an urgent meeting with your Minister on this subject, but Mr Maccabe's and my judgement is that an early letter picking up the point that was made, and giving a firm answer will probably suffice.

3. I attach a suitable draft for the Minister's signature. It would be desirable if this would be dealt with urgently.

(signed)

TONY BEETON
RIGHTS AND EUROPEAN DIVISION

RN/ESL/26014

FILE NUMBER:

DRAFT LETTER

ADDRESSEE'S REFERENCE:

To	Enclosures	
David Ervine PUP		
(Full Postal Address)		(Full Address, if necessary)

LETTER DRAFTED FOR SIGNATURE BY: MICHAEL ANCRAM
(Name of Signatory)

Chris Maccabe has told me about your telephone conversation with him yesterday. I understand the difficulties the PUP feels, but I have to say that the Entry to Negotiations Act (and indeed Command 3232, the Groundrules for Negotiations) offers no scope for an interpretation to produce the position you would prefer.

The Act would allow you to change either of the two elected delegates and members of your party's negotiating team, but this can only be done by an elected delegate being withdrawn from your party's list. He would then be replaced by the next person on the appropriate list (in the case of the PUP, that would be the regional list) but there would be no subsequent way of restoring that individual to the list and recycling him as an elected delegate and member of the team.

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We had hoped that the ability to support the negotiating teams with other non-delegates would give sufficient flexibility for all the parties including those like yourselves who might only have two delegates from the regional section of the poll. (Personal)

I am sure that this is not the response you would have liked to have, but I thought it would be helpful to give you a clear and definitive response to the points you raised with Chris Maccabe as quickly as possible.

PUBLICATION OF "SCENARIO": DRAFT SPEAKING NOTE

Thank you for your minute of 3 June. I think the draft Statement reads very well.

2. My only suggestion is to add the following passage after the first sentence of paragraph 6, to illustrate how the Agenda and Procedural Rules are intended to provide reassurance that a meaningful and inclusive process of dialogue is genuinely on offer:

"We therefore also envisage the Opening Plenary Session will adopt and commit the participants to negotiate a comprehensive agenda covering the substantive political issues which arise in each of the three main sets of relationships concerned. To that end, we [have today also circulated] [intend very shortly to circulate] an outline agenda for the parties' considerations. Additionally, we are proposing a set of procedural rules which we trust will help the whole negotiation to run smoothly."

3. The rest of paragraph 6 might then become a new paragraph.

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