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FROM: D J R HILL
CPL DIVISION
3 SEPTEMBER 1996

Introduction

The purpose of this paper is to promote agreement on a comprehensive political negotiations.

HM's objectives

2. These are to

promote rapid agreement

the launch of the substantive three-stranded political

PS/Michael Ancram (L&B)

cc: PS/Secretary of State (L&B) -B
PS/PUS (L&B) -B
PS/Sir David Fell substantive -B
Mr Thomas -B
Mr Leach -B
Mr Bell -B
Mr Watkins -B
Mr Maccabe -B
Mr Lavery -B
Mr Stephens -B
Ms Mapstone/Ms Bharucha -B
Mr Whysall -B
Mr Lamont, RID -B
Ms Collins (Cab Office) via IPL -B

TALKS: NEGOTIATING BRIEF ON COMPREHENSIVE AGENDA

In preparation for the resumption of the Talks I attach a self explanatory "negotiating brief" which sets out a recommended approach to the handling of the comprehensive agenda.

fides and in the viability of the talks process

2. The Minister may wish to have this in mind when he sees the UUP tomorrow; and it might inform any discussion of the issue at the following day's Adare.

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(signed) any participating delegation to raise any issue of concern to it.

D J R HILL
CPL DIVISION
OAB 210 6591

1. HM has (with the Irish Government in respect of strands 2 and 3) tabled proposed agendas - copies attached - covering issues likely to arise under each of the three strands; and we have since signalled (see General de Chastelain's letter of 30 July) our readiness to see a general reference to "constitutional issues" on

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COMPREHENSIVE AGENDA: NEGOTIATING BRIEF

Introduction

The purpose of this paper is to provide advice on how best to promote agreement on a comprehensive agenda for the substantive political negotiations.

HMG's objectives

2. These are to
 - promote rapid agreement on a comprehensive agenda so that the launch of the substantive three-stranded political negotiations is not further delayed
 - avoid a prolonged wrangle between, in particular, the UUP and the Irish Government/SDLP over the comprehensive agenda, particularly as any such wrangle will further undermine Irish Government/SDLP confidence in UUP bona fides and in the viability of the talks process
 - preserve the balance struck in drafting the rules of procedure between agreeing a comprehensive agenda with relatively broad headings which participants would be required to "negotiate" on and creating opportunities for any participating delegation to raise any issue of concern to it.

Background

3. HMG has (with the Irish Government in respect of strands 2 and 3) tabled proposed agendas - copies attached - covering issues likely to arise under each of the three strands; and we have since signalled (see General de Chastelain's letter of 30 July) our readiness to see a general reference to "constitutional issues" on

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the agenda for strand one in place of "the constitutional position of Northern Ireland". Those draft agendas were based very closely on those agreed in 1991 and 1992. We have no particular commitment to those agendas and could probably agree with any revisions which commanded "sufficient consensus".

4. Difficulties can be expected in respect of

- (a) the extent to which the Irish Government is involved in the agreement of a comprehensive agenda which includes "strand one" issues. They have been punctilious on this and signalled a readiness to be flexible when it comes to making arrangements to adopt the comprehensive agenda; but, with SDLP support, will refuse to be treated as "second class members" of the plenary. The rules of procedure say that, "the negotiations will be on the basis of a comprehensive agenda for the negotiations as a whole, adopted by agreement in the opening plenary, as it relates to the participants' area of competence";
- (b) the extent to which the Northern Ireland parties' views on the strand 3 agenda should be taken into account. The purist Irish line is that the strand 3 agenda is a matter for the two Governments alone and they have already agreed one. However, there is a clear (1992) precedent for discussing the strand 3 agenda with the Northern Ireland parties and taking account of their views; and the Unionist parties will wish to test and if possible extend the limits on their ability to influence strand 3 discussions;
- (c) Mr Trimble's oft-repeated intention to seek to move away from the "three stranded" approach to the negotiations and establish an "holistic" agenda. His main objective in doing this will be to put more emphasis on the need, as he sees it, to reshape the UK-Republic relationship, and the Irish and SDLP will resist any such efforts for

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equal and opposite political reasons. In fact, the general understanding that anybody can raise anything and the specific acknowledgement, given during the "conferring" on the rules of procedure, that many issues of concern to the Unionists could be raised in "strand two" should enable Mr Trimble to achieve his objective of being able to secure a debate on the nature of the UK-Republic relationship in a format which involves all the parties and both Governments. Indeed, it is arguably better from Mr Trimble's point of view to have that debate in "strand two", where all participants have equal standing under the Independent Chairman, than in "strand three", which is co-chaired by the two Governments and the parties' participation is on sufferance. Moreover, the UUP (like everyone else) have effectively signed up for a three-stranded approach to the negotiations by agreeing the rules of procedure: any attempt to re-open that would be likely to irritate everyone else and would, in particular, be seized upon by the Irish Government and SDLP as evidence of UUP bad faith and procrastination;

- (d) the existence of a number of "cross-strand" issues which do not fit neatly into any single "strand". The principle of consent could, for example, arise in strands one, two or three. The protection of human rights and various aspects of security and EU matters are other examples. The "strands" are in many ways an artificial creation but the distinctions between the various formats are politically important and will need to be preserved. The common sense solution is to acknowledge that some issues can indeed be raised in any or indeed all of the strands. [This point reinforces the argument in the original "talks handling plan" for seeking to move into "strand two" immediately after the opening plenary; virtually every significant issue can be raised there, with all the talks participants present];

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- (e) the likely tension between the (SDLP?) desire to secure the adoption of a reasonably specific and comprehensive agenda which all participants would then be required, under the rules of procedure, to "negotiate" and the Unionist concern (most vigorously expressed by the DUP and UKUP) to limit the agenda to broad headings so that there could be no risk of their being required to negotiate "the Union" (or, probably, other issues they do not like, such as "all-Ireland executive institutions").

Suggested Handling

5. Against this background, HMG's approach might be to
- exert pressure on Mr Trimble to agree the comprehensive agenda without any fuss or delay. We should take an early opportunity to point out to him the ways in which his declared objectives can be met under the currently envisaged agenda structure; emphasise the damage which persistence with his original views could do to Irish Government/SDLP confidence in UUP good faith; and leave him in no doubt of HMG's own firm desire to avoid a protracted debate on the comprehensive agenda;
 - promote the idea that the agenda could be settled in a sub-committee or in the Business Committee (as an unresolved procedural issue) following an exchange of written proposals. This approach was launched in July and General de Chastelain attempted to take it forward under his Business Committee hat, but the parties were, for various reasons, not prepared to go along with it at that stage. It may be easier in September. There are probably two options

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- the work could proceed, in the Business Committee or a special sub-committee, alongside the opening statements, or

- if it is argued that agenda proposals should flow from the opening statements, the work might proceed alongside the opening plenary's address to decommissioning, with a requirement to report before that address is completed

- encourage the incorporation in the proposed agenda of broad headings which cover whatever any participant wishes to include. We must, however, aim to preserve the balance struck in the debate on the rules of procedure between having broad agenda headings (which participants would be required to "negotiate") and giving every participant scope to raise whatever concerns they may have on an issue.

POLITICAL DEVELOPMENT TEAM
SEPTEMBER 1996

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PROPOSED AGENDA FOR STRAND ONE ISSUES

This list is not comprehensive and other issues may emerge in discussion.

1. Discussion of requirements for a new beginning for relationships within Northern Ireland.
2. Consideration of possible principles and criteria for new arrangements within Northern Ireland.
3. The question of institutional and other practical implications of these discussions.

Topics likely to arise include:

- [The constitutional position of Northern Ireland] constitutional issues;
- The nature of institutional arrangements for and within Northern Ireland, which meet any criteria, including, nature and extent of powers eg legislative, executive, administrative; structures for exercising these powers; safeguards to main cross-community confidence and financial arrangements;
- The extent to which present or proposed arrangements attract the assent and support of both sides of the community and ensure equity of treatment;
- Relationships with other institutions eg Westminster Parliament, any new North/South relationships, any new Intergovernmental arrangements and the European Union;
- Consideration of arrangements for the protection of rights;
- Law and order matters.

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This list is not comprehensive and other issues may emerge in discussion.

4. **Report to Plenary.** The Commission will submit a report to the Plenary on the progress of its work and on the results of its studies. The report will be presented in the form of a written document and will be discussed in the Plenary.

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PROPOSED AGENDA FOR STRAND TWO ISSUES

This list is not comprehensive and other issues may emerge in discussion.

1. Discussion of requirements for a new beginning for relations within the island of Ireland, including fundamental aspects of the problem; underlying realities; identity; allegiance; constitutional.
2. Common interests (including matters such as economic co-operation and development, security co-operation and law enforcement co-operation) and themes.
3. The question of institutional arrangements and any other practical implications to meet agreed requirements (including principles to govern any such arrangements).
4. Relationship of such new institutional arrangements to other structures - eg UK Government and Parliament; Irish Government and Parliament; Northern Ireland structures; Irish-UK intergovernmental structures; the European Union.
5. Measures for the guarantee and protection of rights.
6. Consequential measures need to implement, support and underwrite such new structures.
7. Report to Plenary.

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PROPOSED AGENDA FOR STRAND TWO ISSUES

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4. Relationship of such new institutional arrangements to other structures - eg UK Government and Parliament; Irish Government and Parliament; Northern Ireland structures; Irish-UK intergovernmental structures; the European Union.
5. Measures for the guarantee and protection of rights.
6. Consequential measures need to implement, support and underwrite such new structures.
7. Report to Plenary.
8. Consideration of arrangements for the protection of rights.
9. Arrangements for the approval and implementation of a comprehensive agreement.
10. Report to Plenary.

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30 July 1996

PROPOSED AGENDA FOR STRAND THREE ISSUES

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1. Opening presentations by the two Governments.
2. Establishment of necessary mechanisms to provide a meaningful role for the political parties in respect of Strand Three issues.
3. Examination of the causes of the conflict in Northern Ireland, its impact and its implications for the two Governments.
4. Principles and criteria which should underpin new arrangements, including requirements to acknowledge and recognise and rights of the two major traditions that exist in Ireland.
5. The question of institutional arrangements and provisions of any new agreement or structure.
6. Arrangements needed to implement, support and underwrite any new agreement or structure.
7. Constitutional issues.
8. Consideration of arrangements for the protection of rights.
9. Arrangements for the approval and implementation of a comprehensive agreement.
10. Report to Plenary.

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