

17. Oct. 1997 14:43

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No. 4994 P. 6

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**FROM: D J R HILL  
CONSTITUTIONAL & POLITICAL DIVISION  
17 OCTOBER 1997**

**IMMEDIATE**

cc: (see attached)

PS/Mr Murphy (L&amp;B)

**PAPER FOR STRANDS ONE AND TWO: CONSTITUTIONAL ISSUES**

All participants have been asked to submit papers on "Constitutional Issues" in respect of strand one and strand two respectively by this afternoon, for consideration next week. With apologies for the short deadline, I should be glad to know by 4.30 pm that the Minister was content for the attached draft to be circulated as the British Government's contribution to the exercise.

**Detail**

2. This is a central issue in the negotiations and is of great significance to both the Unionist and Loyalist parties on the one hand and Sinn Féin on the other.

3. Equally, it is an issue on which Sinn Féin is effectively isolated and where it should be possible to draw out the existence of a consensus around the propositions reflected in the relevant parts of the Downing Street Declaration and the Joint Framework Document. That would boost the confidence of the UUP, but if it is done too crudely it would cause problems for the Sinn Féin leadership. There is a fine line to be drawn and some risk of a row with the Irish and the SDLP, who may wish to "protect" Sinn Féin from being isolated on these key constitutional questions at this stage (although they had no compunction about isolating them on this point in the Dublin Forum for Peace and Reconciliation in January 1996).

4. In relation to the attached draft, the "safe" option might be to circulate only the first two paragraphs, simply reiterating the Government's support for the positions set out in the Downing Street Declaration and the Joint Framework Document.

**CONFIDENTIAL**

1

**CPL/3220/CAO**



17. Oct. 1997 14:44

IPL NIO LONDON

No. 4994 P. 7

**CONFIDENTIAL**

5. I would, however, be inclined to go further and circulate the whole draft. That would help the Unionists in that it

- avoids total reliance on the Joint Framework Document as a statement of our position;
- enables us to table a relatively crisp summary of the key points, without incorporating the "Anglo-Irish" rhetoric of the Joint Framework Document;
- enables us to include
  - a clear statement that Northern Ireland is a part of the UK (paragraph 3)
  - a comprehensive commitment to the principle of consent in its various aspects (paragraph 4), using language agreed with the Irish in the context of the joint strand three consultation paper
  - a more positive reference to the need to change Articles 2 and 3 of the Irish Constitution (paragraph 7)
  - an indication (paragraph 8) that any new Agreement would need to incorporate the principle of consent.

6. On the other hand, the draft should be proof against Irish/SDLP criticism and give Sinn Féin some comfort because it

- expressly recommits HMG to all the elements of the Downing Street Declaration and Joint Framework Document (paragraph 2);
- acknowledges the right of Irish national self-determination - "on the basis of consent freely and concurrently given, North and South" etc - and reiterates HMG's commitment to abide by the will of the people of Northern Ireland in respect of the constitutional status of Northern Ireland (paragraph 5);
- restates HMG's readiness to reflect this approach in changes to British constitutional legislation (paragraph 6);
- reasserts HMG's full commitment to the "equality" agenda in Northern Ireland for so long as it remains part of the UK.

**CONFIDENTIAL**



, 17. Oct. 1997 14:44.

IPL NIO LONDON

No. 4994 P. 8

**CONFIDENTIAL**Conclusion

7. I recommend that the full draft be circulated this afternoon to the other participants and the Independent Chairmen. I hope there would be time for Mr Bell to pass a copy to the Irish side before it is circulated to the other participants.

Press

8. The paper may leak over the weekend or on Monday, with people trying to read something into it. Our line should be that the paper simply refers to and reiterates existing positions, as set out in the Downing Street Declaration and the Joint Framework Document.

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**CONFIDENTIAL**

3

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