

NO. 10 C/O + 70 W/HALL COMCH  
0046 674877  
DAVID KIDDER P.C.

NO. 107 000

0046 674877

P. 01

*File  
(if not a file  
already)*

- 1) agree who talks it
- 2) agree what it is
- 3) go to press file  
eventually rephrase.

Ulster Unionist Party

Memo on Heads of Agreement  
3 January 1998

*John 14/1*

The Prime Minister's draft of Heads of Agreement as understood at the last conversation on the subject is set out in Annex 1 below.

Our principal concerns on that draft relate to the north/south axis where it has to be clear that any north/south forum will not have executive powers, will not be a "dynamic" body capable of evolving towards an All Ireland state, and will be located within a British Isles wide umbrella within which all relationships are on a equal basis with consistent procedures.

Recent contacts with the Irish government have been promising. Subject to elucidation of how north/south matters would relate to other aspects they appear receptive to the concept of a British-Irish Council. Interestingly they responded warmly to the suggestion that the umbrella be very flexible with a minimum of bureaucracy. The senior member of the Irish delegation said that he always deletes the word "secretariat" from any Irish draft on the matter. Subject to the points mentioned in annex 2, their proposals on constitutional matters seem acceptable as a basis for further discussion.

On north/south matters their concept was that "ministers" should meet to discuss matters of mutual interest, and if co-operation was agreed it would, if it required joint action, be carried forward by an appropriate vehicle established for that purpose. They made it clear that they did not see the North/south forum itself exercising any executive powers.

(4)



An example given was that if it was agreed that promotion of the island of Ireland as a tourist destination was desirable then an agency would be created for that purpose and the relevant aspects of the functions of Bord Fáilte and the NITB would be transferred to it.

We have a number of reservations about the above.

First, co-operative action should be carried out through the most appropriate means and only through a cross border agency if that was the most effective and economic method.

Secondly, the detailed lines of financial and political accountability must be clarified.

Thirdly we need to explore precisely what is meant by "mandate". The Irish are keen on prior mandate. We prefer the procedures to include subsequent ratification. In practice the two will be similar as the NI Assembly is unlikely to grant a mandate unless it has a pretty clear idea of what is proposed to be agreed. It would be unacceptable if mandates were defined or could be manipulated to deny the Assembly control over decisions.

Fourthly, there must be clarity about subsequent change. This is a significant problem as the Irish Constitution defines how executive functions will be discharged within that state and we cannot be in a position where any changes to these matters require a referendum in the Republic.

Fifthly there is the question of just how the north/south forum will be located within the British-Irish umbrella. The Irish talked of a body with two pillars. We talked of variable geometry. We are certain that there must be equality: that whatever happens east/west, (or north west/north east or south west/south east or any other variable) should be along similar lines with the same procedures and the same range of possible outcomes as north/south.

Finally, the Irish desire to have, say, half a dozen co-operative ventures built into any agreement, irrespective of the circumstances, is trying to go too far too soon and, frankly, is not do-able politically.



We do not expect that all these matters can be resolved immediately: but it is important that others are aware of our views and that as much as is possible of the above can be reflected in the Heads of Agreement.

What is needed immediately is that the draft heads of Agreement are tweaked to signal that we are headed in the above direction. Specifically, we need to get the term "consultative" into the paragraph on north/south co-operation and we need to emphasise the overall significance of the umbrella and that no one element within it is more important than the others.

As to the way forward, there are a number of possibilities. The paper could be published as a basis for discussion by HMG. Ourselves and hopefully other parties could indicate that they found it a useful basis for detailed negotiation. Or it could be published jointly as a paper from the British and Irish Governments or by the principal parties - (the governments, ourselves and the SDLP).

It would be negative from our point of view if it came forward as a joint paper by both governments. Unionist nerves are still so raw over the Frameworks and the Anglo-Irish Agreement that many would immediately damn it simply because it was a joint paper and much time and effort would have to be spent on trying to persuade people to consider it objectively. The ideal would be if it could also be endorsed by ourselves as well as ourselves. We could explore that possibility but to avoid possible embarrassment, before starting, we would need to know how much they know already about it.

The time scale is as soon as possible - at least before 12 January. I and one or two close colleagues will hold ourselves ready to meet at any time after your return.

(6)