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DRAFT LETTER FROM PS/SECRETARY OF STATE

John Holmes Esq
 Private Secretary to the
 Prime Minister
 10 Downing Street
 London
 SW1A 2AA

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 AC

NORTHERN IRELAND: MEETING WITH MR TRIMBLE, 27 FEBRUARY

In preparation for the Prime Minister's meeting with Mr Trimble on Friday, this letter analyses the UUP's negotiating position as expressed both publicly (in the UUP papers published in mid February and in the talks) and privately, particularly in Mr Trimble's memorandum to the Prime Minister of 2 February and in his conversation with the Prime Minister on 12 February.

We found your letter of 15 February, giving an account of the conversation on 12 February, relatively encouraging. We agree that there do not appear to be any absolute show stoppers.

North/South arrangements

We would need to explore the possibilities with the Irish but they might well see attractions in a package which incorporated

- acknowledgement that there was no theoretical limit to the scope of North/South co-operation (other than that imposed by the scope of the responsibilities of new political institutions in Northern Ireland)
- acceptance of the principle of implementation bodies/agencies flowing from co-operation
- an agreed "work programme" identifying priority areas for co-operation which could be expected to lead to the establishment of North/South implementation bodies.

The most difficult issue will be the question of whether any such implementation bodies should be established or at least very clearly identified at the outset.

In a Strand II meeting on 24 February, Donaldson went further than Trimble's memorandum in accepting in principle that some implementation bodies might operate on an all-island, not simply a "cross border", basis. That meeting also saw encouraging signs of SDLP and Irish Government readiness to address Unionist concerns that any North/South

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arrangements should not be "dynamic" in the sense of leading inevitably towards a de facto united Ireland. Liz O'Donnell the Irish Minister of State spoke of the North/South structures having "the capacity to evolve by agreement". She also emphasised that the North/South Council and any implementation bodies would not be autonomous in the sense of representing a third source of authority on the island and that accountability would run through the Northern Ireland Assembly and the Oireachtas.

All in all, there seem to be the makings of a deal here although several points will no doubt be fiercely contested:

- the Irish and SDLP would like the North/South Council to be established by legislation in each jurisdiction with independent legal standing, but they may settle for a clear specification in the text of any agreement, and in the new British/Irish Agreement, if satisfied about Unionist good faith
- they may also hanker for default arrangements and scope for the two Governments to intervene, eg to overcome failure to reach agreement. These will be unacceptable to Unionists, although perceived as necessary reassurances by nationalists. The best hope lies in building mutual confidence that both the Assembly and the North/South Council will be operated in good faith, in the knowledge that if either side reneged there would be mutually assured destruction
- the extent to which Heads of Department in Northern Ireland could participate relatively freely within the North/South Council will be important. The UUP proposals on the table provide layers of restrictions to prevent any Head of Department "making a solo run", and that is likely to prove unacceptable to nationalists. If the UUP could agree to an "executive" in Northern Ireland bound by collective responsibility (see below) the need for such restrictions would diminish
- the length, depth and timescale of any "work programme" will be a crucial part of the negotiation, with the Irish and SDLP (let alone Sinn Fein) wanting to secure the upfront establishment of several implementation bodies and needing to secure at least very firm commitments if they are to win support from their respective constituencies in the referendums.

East/West structures

Trimble will be helped in all this by the nationalists' relatively relaxed attitude to the development of new East/West arrangements. The relationship between the North/South Council and the Intergovernmental Council should be capable of being expressed in a generally acceptable way. Trimble has been careful to avoid suggesting that the North/South Council would be subordinate to the Intergovernmental Council, which would be an anathema to nationalists. The key may be to present the

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North/South Council as a more developed instance of an institutional relationship which could in principle occur along any of the axes linking the participants in the Intergovernmental Council.

Constitutional Issues

These seem to be moving in the right direction but the precise wording of any new agreement and of draft constitutional changes will be crucial.

New Northern Ireland Assembly

possible

The major remaining area of difficulty is the UUP's proposals for devolution in Northern Ireland, which envisage something closer to the arrangements proposed for Wales than those envisaged for Scotland and effectively provide for majority domination. The SDLP will not accept a settlement on these lines and the Irish Government would similarly resist anything which would give Unionists a veto over North/South co-operation. There would be technical problems anyway in delivering administrative - only devolution, given the extent of Northern Ireland's separate statute book and its different administrative arrangements. It is also not clear that the UUP's proposals would be workable given the apparent absence of any arrangements for securing collective commitment to a broad programme. This would be essential to enable the system to establish policy priorities and to make effective resource allocation decisions: the UUP proposals envisage the rather unlikely scenario of Sinn Fein and DUP Heads of Department working together to settle resource allocations.

Other parties, especially the SDLP and Alliance party but also the PUP and UDP, favour maximum devolution and something closer to a "Cabinet - style" executive, in which a loose coalition would reach broad agreement on the key elements of a policy programme and commit resources accordingly, subject to achieving weighted majority support in the Assembly on key matters (portfolio allocation, public expenditure etc). It may well be that if they can be reassured about the scope of any North/South arrangements the UUP will be happier to agree to more ambitious arrangements for devolution in Northern Ireland, including a considerable degree of legislative devolution, and something closer to an Executive.

Other issues

A key element of any settlement will be evidence of significant movement in a range of areas which would address underlying concerns on both sides - decommissioning, prisoner releases, demilitarisation, changes to policing arrangements and measures to ensure full equality of opportunity and parity of treatment for all sections of the community. Some of these will be difficult for the UUP. It is of course helpful that Trimble is prepared to contemplate prisoner releases and seemed ready to consider

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the establishment of a Commission to consider future policing arrangements.

Process

The UUP remain keen to do a deal before Easter and it was encouraging that Trimble and Donaldson were prepared to contemplate an intensive phase of negotiation away from Belfast, in the relatively near future. Others in the party are nervous of that, recalling the Sunningdale precedent in which Unionist leaders were "isolated from their supporters and put under pressure to accept a deal" which ultimately failed to win support in the Unionist community.

Dr Mowlam's clear view is that an intensive phase of negotiation around the elements of an overall deal would be highly productive and help to re-establish the credibility of the talks process. The other parties, the Irish Government and Senator Mitchell are all very keen on the idea and it would be unfortunate if the UUP were cast as the obstacle. Dr Mowlam therefore believes it would be helpful if the Prime Minister could encourage Mr Trimble to view the idea positively. The Prime Minister's involvement would no doubt be a great reassurance for them. They can also be assured that we do not see it as the final stage of the negotiation, leading immediately to signature, but perhaps a penultimate phase, with opportunities for further consultations with party colleagues before a final decision. We have made provisional arrangements with a couple of venues, one in Jersey (direct flight from Belfast) and one in North Wales (probably less convenient) for the week beginning 23 March.

As to the production of a draft overall paper for consideration, it is useful that the UUP appreciate the difficulties of producing any further substantive paper through a Propositions type exercise, but there is realistically little choice. The UUP suggestion of a paper identifying areas of disagreement to be played in by Senator Mitchell as a basis for substantial engagement is an interesting one, which could have had a role to play if we had more time available. As it is, the Prime Minister might conclude the discussion by undertaking to reflect on the substantive points covered in the conversation and consider how best to proceed.

We can consider separately the tactics of developing an agreed position with the Irish and with at least the main parties. A key date for Trimble, which we should bear in mind, will be the meeting of the Ulster Unionist Council on 21 March.

Meanwhile it would be appropriate for the Prime Minister to congratulate the UUP on the positive engagement they have shown in the negotiations over the past few weeks and to encourage them to maintain that approach and build up their relationships with the Irish Government and SDLP through further bilaterals.

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Sinn Fein's re-entry

In public Trimble has forcefully expressed the case for Sinn Fein's permanent exclusion from the negotiations. Recent bombings of towns in UUP heartlands, including Portadown in Mr Trimble's constituency, have had a hardening effect on attitudes in the UUP and wider Unionist community, especially given suspicions that the Continuity IRA has been "helped" by the Provisional IRA. Trimble may be more realistic in private, although confirmation of IRA involvement (albeit not necessarily fully authorised) in the murder of Kevin Conway may encourage him to mount a vigorous argument.

I am sending a copy of this letter only to Jan Polley at the Cabinet Office.

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