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Efforts to start talks
of return to me.
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CONF SA/204

Mr. Eamonn O Tuathail,
Assistant Secretary,
Anglo-Irish Division,
Department of Foreign Affairs.

Dear Eamonn,

A few New Year thoughts in the light of the forthcoming Departmental consideration of the present situation.

The basic short term elements in the present situation here seem to me to be the following:

- 1) There is no willingness on the part of unionists, either OUP or DUP, to get into serious negotiations either with the British or with the SDLP or both - let alone the Irish Government - and there will not be, until the possibility, for which some unionists have hopes, that a hung parliament result in the British general election would give them leverage for the removal of the Agreement has been eliminated by the election itself.
- 2) To promote the possibility of talks involving moderate unionists at this stage would be, in my opinion, an unwise move by the Irish Government for two reasons:
 - (a) the British would not want us to do this, and
 - (b) it would be unwise to create a momentum, to my mind, before such talks would have a real chance of success. Premature talks on devolution which failed would make it more difficult to get such talks going at a later stage when there may be a real interest in them.
- 3) To a certain extent unionists are looking at the political situation in the South, but I believe that they have by now abandoned any real hope that a possible change in Administration in Dublin would create an opportunity for them to undermine the Agreement.

- 4) I do not detect in the reports that I see any keen desire on the part of the SDLP to pursue talks with the unionists at the moment. In fact their concern, like that of the unionists, is fixed on the forthcoming Westminster election and their hopes to add to their present lot of two seats.

It seems to me that this objective should also be taken very seriously by the Irish Government, not merely for the purpose of defeating Sinn Fein (particularly Adams in West Belfast, if possible), or building up the SDLP, but in order to entrench the Agreement in the nationalist community. It follows from this that we should now give priority, in our approach to the British, to proposals which could be quickly implemented and which would have an effect on the lives of ordinary people in a tangible way. Here my own view would be to make rapid progress on the "ground" under Article 7(c) in particular and, in the economic and social area, to get expenditure decisions as quickly as possible under the Fund for areas such as West Belfast. Another important area is the prisons where a good deal of progress is being made and on which, I have suggested in a separate note today, we might both draw attention to the new elements in Scott's statement in the House of Commons of 7 December and, in our contacts here, seek to build on them.

Longer Term

The following is a longer term view and it might in certain respects, seem to a certain extent "heretical". Nevertheless it is, I think, completely compatible with the Agreement itself.

The achievement of devolution is a central, if not the central, political objective of the Agreement. Hitherto, a number of tentative efforts both by the British and by ourselves have aimed at securing a situation whereby we could promote talks between unionists and the SDLP which would lead to a system of devolution which could co-exist with the Conference as it now operates. These efforts have envisaged a situation whereby a certain number of "matters" would be devolved to a devolved authority in Northern Ireland, but in which the issues covered by Articles 5, 6, 7 and 8 (cultural and identity matters, human rights matters, electoral matters, certain public appointments, security policy and the administration of justice) would remain formally within the sphere of the Conference itself.

It seems to me that there are two strong reasons why we should review this shared Irish/British assumption:

- 1) The objective seems to me to be politically unattainable; in other words, it is not realistic to expect unionist politicians to go into devolution, as envisaged under the Agreement (which critically involves the possibility of the Conference resuming its role in relation to the matters devolved to that authority if devolution breaks down), in a situation where the Conference would continue to work as it does at the moment in a high profile way on

all the basic issues internal to Northern Ireland.

- 2) This very Irish/British assumption, namely that we should work for a limited system of devolution, while at the same time maintaining the role of the Conference in all the politically most significant issues in Northern Ireland, has itself inhibited the British from making progress on those important issues. In other words, the main reasons why the British have been so nervous about making concessions is because of their likely "impact on the unionists"; and the British concern about this "impact" is, in turn, related substantially to their fear that it would inhibit the unionists from going into talks with the SDLP about devolution.

I would like to suggest a different and, in many ways, a "simpler" way of looking at the Agreement. That is to say that the Agreement is strategically a means for achieving devolution. This is provided for specifically in the Agreement which encourages unionists to get into devolution by the "carrot and stick" of (i) excluding the Conference from those matters that would be devolved and, (ii) at the same time threatening a "re-invasion" by the Conference, if devolution were not "sustained" (in other words if the unionists misbehaved within devolution). This concept also involves a substantial "carrot" for the SDLP to go confidently into devolution: i.e. the "safety net" of a renewed intrusion by the Conference if the unionists abused their majority position in devolution.

The Agreement however, contains a number of specific objectives in relation to the internal affairs of Northern Ireland (which would of course be the main concern of a devolved administration). These are set out in Articles 4, 5, 6, 7 and 8 of the Agreement and they constitute a specific "agenda". Most of the elements of this agenda, e.g. reforms of human rights legislation and reforms of the police, are such that it would be unrealistic to expect that they could ever be the subject of agreed policies arrived at by the SDLP and the unionists sitting together in a devolved administration.

In other words, for reasons completely intrinsic to the political situation here, I would argue that that "agenda" should be completed before devolution talks place.

To my mind this approach, namely that the Conference should complete its own agenda as specified in Articles 4 - 8 of the Agreement before devolution, is realistic and, moreover, contains advantages for everybody:

- for the Unionists: it would mean that devolution could take place on a wide range of issues, including security, at a point when the specific agenda of the Conference had been completed and when there was no further objective need for the Conference to operate in the way that it does now;

- for the Irish Government and for nationalists in Northern Ireland: this approach, if agreed by the British, would involve giving priority now to the specific achievement of the full agenda of the Conference which would mean a quick achievement of all the major requirements we want to see happen in the North in the short to medium term;
- for Northern nationalists: it would mean that they could contemplate devolution against a background of substantial reforms in the areas of security, human rights and administration of justice and with a continuing "safety net" for the reinvolvement of the Conference, and thus the Irish Government, in the event that devolution broke down; (this, long term, is the strategic assense of the Agreement);
- for the British Government: it would involve the real prospect of devolution rather than a pious aspiration which, I suspect, they would increasingly appreciate (with possible consequences for the Agreement) is itself chimerical and likely to increase rather than diminish unionist-nationalist conflict.

The question that suggests itself in the context of this approach is of course: what happens to the Agreement and to its machinery? As I see it, the answer is that the Agreement remains the framework of all North-South development in Ireland and all political developments in Northern Ireland. The Conference (it would no longer be involved in internal Northern Ireland matters) is transformed into the "special machinery" envisaged in Article 10(c) of the Agreement and deals exclusively with North-South cooperation, while the Conference itself is placed in abeyance as the ultimate guarantor against any abuse of devolution by the unionists, in which event it would, of course, replace the devolved authority and resume its full role in all human rights, security, social and economic matters, both internal to Northern Ireland and in North-South cooperation.

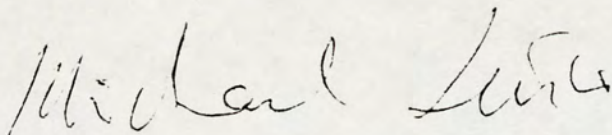
The immediate political question to ask about this approach is whether it should (a) be put to the British side and (b) if agreed by the two sides, should be announced as the objective of both Governments. This would involve the two Governments saying "We are now setting out to give priority to completing the work of the Conference in relation to Articles 4, 5, 6, 7 and 8 of the Agreement; we hope to complete this within, say, 18 months;; we will then aim to establish a devolved system of government in Northern Ireland which, if successful, can replace the Conference on all its specific roles as laid down in the Agreement."

My personal view is that this public approach would, for the first time since the Agreement, both expedite "progress" in relation to the specific objectives of the Agreement and hold out both to nationalists and unionists a real prospect of political progress in the fairly near future, but not "too soon"

for the timetables of either side. Such an approach would, moreover, "make sense" of the Agreement itself for all concerned. As a procedure it could be associated with the required review in November 1988 as laid down in Article 11 of the Agreement and also provide an opportunity for all constitutional political interests in Ireland to come together for the purposes of that review within that specific timescale.

Note:- There are several problems, including at least one change in the 1973 Constitution Act as well as SDLP attitudes including security in devolution (in which Hume and Mallon seem to differ) involved here. None of the problems that I can foresee seem to be insurmountable.

Yours sincerely,

A handwritten signature in cursive script, appearing to read "Michael Lillis".

M. J. Lillis