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cc. Counsellors A1
A/Secretary Gallagher
Mr O'Higgins

A/Sec Gallagher

As I told you I dictated these notes on the Friday night of the meeting in an effort to recapture some of the ideas which emerged. It might be of assistance to whoever is doing the overall note list. I hope it will not be taken as definitive or as constraining the news to be expressed in that note. D

19/1/88

M)

SECRET

Northern Ireland Review Meeting -
DFA, Friday 8 January 1988

An all-day policy review meeting at official level was held today at the Department of Foreign Affairs. The aim of the meeting was to assess the present state of play in relation to the Agreement and to work towards some policy proposals and ideas to be submitted for consideration to the Tánaiste and the Taoiseach.

Those present were

DFA

Secretary
A/Secretary Gallagher
the four Counsellors from the Anglo-Irish Division
(Messrs. Corcoran, O'Donovan, Lyons and Ms. Anderson)
Dick O'Brien (Counsellor, Press)

Embassy, London

Ambassador O'Rourke
Messrs. O'Connor, Ryan and Smyth

Anglo-Irish Secretariat

Messrs. Ó hUiginn, Ryan and Collins; and

Washington

Ambassador MacKernan

The meeting was opened by the Tánaiste who made an initial presentation and stayed for some of the subsequent opening discussion before leaving for the Cabinet meeting. Thereafter the Secretary, DFA chaired the meeting.

A series of papers had been prepared in advance and submitted as background. Discussion, however, was more flexible and informal. The agenda, which was broadly followed, is attached. No specific conclusions were identified formally at the end of the meeting; and in order to allow a free and flexible discussion no formal record of the meeting was kept. It is intended however that, on the basis of the discussion and the ideas which emerged a policy paper will be drafted by the Anglo-Irish Division and submitted for consideration at Ministerial

level.

Because of the extensive and detailed character of the discussions it is not easy to offer a succinct account of the meeting and of the themes which emerged. The following should be read rather as a series of notes on points which seem to be of particular interest or importance. They are not so much an organised account of the meeting as notes, in no particular order, for reference.

General

1. The main broad theme of the meeting was what lines of approach should be taken to the agreement and the working of the Conference in the year ahead, taking into account that, under Article 11 of the Agreement, there is to be a review of the working of the Conference by November 1988.
2. The main question underlying much of the discussion was which of the two following broad approaches the Irish Government should take in the year ahead leading up to the review.
 - (a) what was assumed to be the underlying British approach at present - to see the existence and continued operation of the Agreement as in itself a success for Nationalists; and therefore to concentrate as a priority over the next year on bringing the recalcitrant Unionists aboard even if this meant taking a "softly softly" approach to the implementation of the agenda for Nationalists as set by the Agreement; or
 - (b) a more vigorous and stepped-up approach by the Irish Government which would accept - or even possibly seek from time to time - a measure of confrontation with the British Government on specific issues of interest to Nationalists. The underlying idea here would be that even if it is true that the Agreement in itself is of great symbolic value to Nationalists, that symbolic value will last only so long as it is not contradicted by an evident failure of the Agreement to "deliver" in practice on the agenda which has been set.

A strong feeling emerged from the meeting that of these two possible approaches the Irish Government had no real option but to take the second - that is to say to adopt over the year ahead a higher profile, more assertive, approach to the working of the Conference. No doubt "siren voices" - possibly from the British but certainly from well-meaning religious leaders like Archbishop Eames - would be directed to us during the year urging us to adopt a low profile approach or agree to a suspension in order to allow a lull which would permit the British Government to draw

the Unionists into some accommodation and acceptance of the Agreement. There was a strong feeling from the discussion however that a deliberately low-profile approach and an unassertive working of the mechanisms of the Conference would not achieve the desired aim; it would reduce the Agreement to something banal and of little account and it might possibly allow it to unravel; and removing the pressures which it has imposed on the Unionists would not be helpful in bringing them to an accommodation.

3. On the other hand it was argued that there was a good deal to be said for a more frank and open presentation of the work of the Conference; and a more explicit public identification of issues on which there had been disagreement. This could, it was suggested, be coupled with a better public presentation of the Agreement to both the Nationalist and Unionist constituencies. The Unionists could perhaps accept this more readily than the present bland presentation of agreed positions after a Conference meeting which arouses more suspicions than it should; and this proposed more open presentation of what is being sought and achieved under the Conference could be coupled with an effort to take account of Unionist susceptibilities in our rhetoric in relation to the agreement. (It is for consideration, however, whether the different elements of this approach could be made wholly compatible?)

Specific points

Tánaiste

4. The Tánaiste opened the meeting with a presentation in which he said that on the plus side the Agreement had been very successful in offering a kind of symbolic safeguard for the Nationalists and had produced a good impact on the British establishment and in the USA and EEC countries. On the other hand a good number of questions had been raised about its practical achievements.

5. After touching on the issues of fair employment and the administration of justice and security co-operation, the Tánaiste went on to identify the following points on which he thought we should be particularly active in the immediate future

(a) The RUC Code of Conduct

We need to press to have this published.

(b) The Parliamentary Tier or Body

He said he would like to see it made meaningful and structured with representatives of the two communities in Northern Ireland and representatives from this State and from Britain. It should be something more than the typical inter-Parliamentary (IPU) exchange. It could meet twice or more a year and should meet with the Conference (i.e. the Joint Chairman) in attendance. The Parliamentary body could then hear, in public, what the two chairmen had to say in regard to North/South and East/West relations.

(c) The International Fund

There are other bodies to promote commercial enterprises - what the Fund should address itself to is infrastructure. The Tánaiste said he intends to take up with the British again in an active way after the settlement of the British rebate problem at the February European Council, the question of a joint approach to the EEC for a contribution. He would also consider the question of Japan.

(d) Meetings of the Conference

Must be put on a more regular basis. They should take place every six weeks as a rule and each meeting should have a tight limited agenda with some primary matter selected for discussion and decision each time.

(e) The question of devolution must arise and we would want to push this. Obviously, however, the Conference and the Secretariat must occupy a central role and there can be no interference with that until there is firm devolution. What he heard from Séamus Mallon and the SDLP would suggest that devolution is a long way off. We need to assess that and he proposes to ask Tom King for an account of what is happening in the talks about talks with the Unionists.

(f) The Secretariat at Maryfield must continue and must be expanded. The presence of a Political Secretariat in Belfast has its own practical and symbolic importance. The Tánaiste proposes to make clear to Tom King that he wishes this continued and developed - in case there is any danger that King would want to down play it in order to reach out to the Unionists.

Other points

The following are scattered points which emerged from the discussions which followed (after the Tánaiste's departure) and they do not purport to be a coherent account of the discussions.

6. The Agreement is still regarded as a success in the USA although there is some sceptism in regard to the implementation of fair employment proposals. Critics of the Agreement have focussed on this and caused Congress to focus on it too. If we now concentrate publicly, fairly heavily, on fair employment, this will cause echoes in the USA. The British Government, as distinct from the British Embassy in Washington, do not seem to have focussed enough yet on the extent to which there is trouble ahead for them in this field among friends of Ireland in Congress who are vulnerable in an election year.

7. Have the British recruited us to their agenda more than we have recruited them to ours over the past year or two?

8. The British "selling" of their proposed new approach in regard to fair employment measures and structures has started badly. When legislation does come the British side will try to maintain publicly that it has no real connection with the Agreement or the Conference. It will be very important to ensure that they get it right in so far as the personnel they appoint to operate it are concerned.

9. Appointments (Article 6 of the Agreement)

We have put forward thirty seven names to date. Of these, eleven have been appointed to something but only four of those to Boards for which we nominated them. The criteria applied by the British narrow the field greatly as they seek "sanitized" candidates. Should we push at political level our nomination of Kit Napier which has received a negative reception from the British so far on grounds which we feel amount to little more than the accusation that he is a Nationalist?

10. There may be some serious weaknesses in our contact work with the Unionists at present and we need to try to develop this.

11. Rhetoric which portrays in a strong and assertive way the view that the South is a protector of the minority in Northern Ireland infuriates the Unionists. We might therefore consider ways of toning down this rhetoric.

12. The Unionists are probably much more angry with Britain than with the South.

13. The present approach after Conference meetings to issuing a communiqué which makes no reference to disagreements unnerves the Unionists and contributes to their paranoia vis-a-vis the Secretariat. It might be well to be more open about the work of the Conference and allow information to be given on differences.

14. It may be necessary from time to time to have a good old-fashioned argument with the British.

15. The track record and "delivery" on a number of issues - administration of justice, prisoners, marching season, policing/UDR and courts - may be a good deal better than we have allowed in our papers. We need internally in our assessment of progress or lack of progress to be fair and objective in our briefing of Ministers to ensure that as far as possible an honest balance sheet can be drawn up.

Security Co-operation; Administration of Justice

16. We have tended at times in the past to see security co-operation (Article 9 of the Agreement) as a British interest whereas it is properly in the interest of all on the island. The Government here and the Minister for Justice have brought this out well.

17. The British and the RUC now say that the structures and the goodwill for good co-operation are in place; but that they are concerned to see results which requires, they say, a greater commitment of resources and training.

18. The methods of surveillance etc. which the RUC have been pressing on the Gárdaí are recognised police methods which are already in use here to some extent. The issue is whether Gárdaí use of these techniques can be made more professional and whether resources are adequate.

19. Should we press on the Stalker affair? Do we want the full consequences which might follow from a zealous presentation of the issue by the British? (for RUC, Hermon etc.) In any case we must face the issue since Stalker's book will be published within the next few weeks and will probably contain revelations which will focus public attention again on the case. He is to appear on the Late Late Show on 5 February (?).

20. There is a pervasive tendency on the part of the British side to present virtually all changes or successes as not arising from the Agreement but rather as something which would have been happening in any case.

21. King's presentation of the positive developments under the administration of justice heading in November last at the height of the concern about the terrorism convention has the good consequence that it is an acknowledgement on the British side in public that the issue of increasing public confidence in the administration of justice is a British responsibility.

22. We have been left virtually without language to draw on to present our case in relation to Northern Ireland to the media abroad, and otherwise, over the past nine months and we have been forced to draw on a small repertory of statements etc. which are now rather threadbare. There seems to be a need for some kind of major speech or public presentation at Ministerial level which we could draw on presenting policy over the following months. The Taoiseach's interview with RTE radio on Sunday next might meet this need in part.

Extradition

23. There is now a very serious impasse on extradition between the two Attorneys General. The British view is that we have painted ourselves into a corner. The Irish position, however, must rest strongly on the fact that the role given to our Attorney General is now a matter of legislation and that the British must try to work the new procedure in a sensible way, relying on the Taoiseach's assurance that he will review it if it is found not to work well. There is now a great focus on the British side on the different understandings of what transpired at the meeting between the Taoiseach and Dermot Nally on the one hand and Ambassador Fenn and Burns on the other on 24 November. The British alleged that the Taoiseach said that the Irish requirement would be limited at most to a certificate from the British Attorney General. This is disputed by Mr. Nally (backed up by his notes). Would it be desirable for Mr. Nally at this stage to call in Ambassador Fenn and set the record straight? It might also be desirable, if the Taoiseach is not after all to write to Mrs. Thatcher, to set out our position in a letter from the Tánaiste to Tom King in reply to King's letter to him before Christmas.

24. It could be desirable to set out clearly our whole position on extradition in a paper which could be sent as briefing material to the Embassy, London, to Washington and to the Secretariat. On the other hand it is extremely important that we take account of the Attorney General's personal sensitivities on confidentiality at present - a sensitivity which is justified by the fact that he may, when the first case comes up, find himself answering in Court about what he has sought from the British side.

25. The prospects for progress on fair employment are relatively favourable at present. In honesty, however, we must recognise that 80% of the impetus comes from the MacBride campaign in the USA. The campaign is virtually unstoppable in the USA since there is no real down-side for those who join it.

Fair employment

26. The British may publish a White Paper in the Summer and announce legislation in the Queen's Speech in the Autumn. We need to be vigorous, however, in pressing on the new institutions and on the people who are appointed to run them. We have some good leverage in that the British hope ultimately that the Taoiseach will endorse their legislative proposals to a degree which they can use in combatting the McBride campaign in the United States. We could exact a relatively high price for any such statement of this kind which they might hope would suggest that the new legislation subsumes the McBride principles.

27. The McBride campaign is a focus of attention for our missions in the US when issues arise about specific pieces of legislation. So far five states have passed legislation while Bills are under consideration in six others. It might be of interest to consider where the main headquarters of US corporations in Northern Ireland are situated i.e. in states where MacBride legislation has already passed?

28. So far legislation in Congress i.e. at federal level is dormant but the issue may become more active as candidates for re-election are vulnerable over this year. There may be need to watch lest the campaign affect investment in our own jurisdiction since many Americans might not make a clear distinction?

29. Cross-border co-operation primarily benefits the two Governments. However there are limits to it in that border areas are not central to either Government's economic policies or allocation of resources; North and South are competitors in some respects; association with Northern Ireland sometimes taints the Southern "product"; Northern Ireland is within UK legislative jurisdiction and follows the overall UK position in many matters.

Economic

30. As to internal Northern Ireland economic issues, while there has been some success, there is a tendency not to give credit to the Agreement. There is no movement in some areas as the British say either it is "not necessary" or "the resources are not available". At present it seems that new resources directed to one area must be drawn from some other area within an overall budget ceiling. Could we take up with London the possibility of increasing resources?

International Fund

31. The International Fund has been thirteen months in existence. Programmes are in place and projects are beginning to appear. There should be a steady flow of announcements over the coming months. The balance sheet shows pluses and minuses. The pluses are that the Fund has generated a good level of co-operation which spills over into other intergovernmental contacts between North and South; it has brought in the US in a positive way in support and there has been some limited success in directing projects to particular areas in Northern Ireland. On the negative side the Nationalist community see the Fund as extremely slow in delivery; the Tánaiste feels that it should be directed more to infrastructure; and the SDLP in particular are very uncomfortable in that, because the board itself has no executive staff, programmes must be administered through existing bodies in Northern Ireland and through Government agencies which have handled such issues previously. So they feel they are dealing with the same old people as before in trying to get something from the Fund.

32. It is possible that the British genuinely do not know what to do about West Belfast. The Fund however may now be more sympathetic and Brett himself may be willing to look seriously at West Belfast.

33. The lack of an EEC contribution is a major problem however. There are also serious dilemmas in the negotiation of the Delors package (a) whether we should go for the new "fourth resource/GNP related" approach to funding which we want in principle but which in French and German eyes should virtually abolish the need for a rebate to Britain or (b) whether we should, contrary to our basic position, and in order to maintain British goodwill, support the British claim to maintain the advantageous rebate system agreed at Fontainbleu. A second problem is our attitude to the concentration of the structural funds in so far as Northern Ireland is concerned.

34. We need to keep in mind that there is no guarantee that the United States money for the Fund will continue. This is something we cannot presume on and it may be very much against our interest to have criticisms of the Fund taken up by news media or Irish sources in the USA since this may dry up the money which has to be fought for and lobbied for by our Embassy.

Parliamentary Body

35. We should proceed now with ideas on the Parliamentary body, getting political clearance at home and preparing well for the return IPU visit from a Westminster delegation to Dublin which begins on 2 May and lasts for two and a half days. This

might lead to a draft paper to be submitted to the British side which could lead, after the IPU visit, to the setting up of a committee to work out details which could be submitted to the two Parliaments in the middle of the year.

36. Could we associate movement on the Parliamentary body with new moves towards a more assertive Irish role at the Conference?

Review (Article 11)

37. We need to do a lot of thinking about the proposed review which is due in November under Article 11 of the Agreement. The view from the London Embassy had been that this should be channelled and limited to a few weeks in November; and that it is in our interest to preempt the British by putting forward our ideas perhaps as soon as Easter to them. The Secretariat view from Belfast on the other hand made the point that a low-key review could be an anti-climax, granted public perception; and that with a vacuum in politics to an increasing extent in Northern Ireland, the review could be an occasion for new movement, via a Consultative Assembly, on the devolution issue.

38. If our policy for the year ahead were to be a more assertive approach within the Conference and more openness in public about it (directed particularly to the Unionists?) there must be a question as to what cards, if any, we have, granted that security co-operation may have gone as far as is practicable and that neither constitutional change nor devolution appear very realistic prospects at present?

39. A question arises whether public opinion in the South attaches higher priority to smooth relations with London than to any single item on the agenda for reform in Northern Ireland?

40. It can be argued that our agenda, even that established by the Agreement, is very narrow and that as part of the review process we should be thinking of a new range of activities for the Conference.

41. It would be well not to take a rigid position now on what should happen in relation to the review since much will depend on what happens in between.

42. Even if we see risks and dilemmas on our own side in all fields we should also remember that for Britain the gains under the Agreement have been fairly considerable and the cards in their hands in their continuing negotiation with us are not impressive.

43. Should we press on the Bill of Rights issue?

44. The Birmingham Six verdict is likely to go badly (and soon) and this will have an important impact on public opinion here on the extradition issue.

Devolution?

45. There is a British view (Ingham) that it is necessary to "freeze out" the Unionists for three years more but public opinion in Britain is very different. For tactical reasons we might not want to rule out devolution. On the other hand Unionist isolation may not have gone far enough and they may have to work things out for themselves over a longer period. If we develop a "tendency to devolution" as one might put it, we will end up with very little.

46. The Unionists may be moving soon on proposals for an upper tier of local government and this presents problems for us. It is all very well saying that the Unionists must be kept on the hook for another few years but is there really a hook there?

47. Notwithstanding some talk about devolution it seems doubtful that the Government would wish to put forward proposals as distinct from acquiescing should something emerge from the parties in Northern Ireland by way of an agreed approach.

48. In the year ahead we will need to distinguish between the review of the Agreement under Article 11 and the implementation of the Agreement.

49. The British are not monolithic and we should not talk to ourselves as if they are. Just as during the negotiation of the Agreement, our approach should always be to get past what at first appears to be a single British position and try to encourage more positive approaches which some in the British Administration may be willing to consider. Where difficulties are reached we should not give up too easily, but should seek to show the British ways out of their difficulty in meeting that we propose.

ND

8 January 1988

Agenda for Policy Review Conference, 8 January 1988

I - Critical Appraisal

- 09.30 Introduction
- 10.00 Political (e.g. talks about talks, attitudes of Northern parties, appointments to public bodies, Irish language)
- 10.20 Legal (e.g., administration of justice, extradition)
- 10.40 Security (e.g., cross-border cooperation, relations between the security forces and the nationalist community)
- 11.00 Coffee
- 11.20 Social (e.g., fair employment)
- 11.40 Economic (e.g., IFI, cross-border economic cooperation)
- 12.00 Institutional (e.g., roles of Conference, Secretariat, Embassy London)
- 12.20 Overview
- 13.30-14.45 Lunch

II - Conference Review and Possible Policy Issues for 1988

- 15.00 Devolution (and dialogue with unionists)
- 15.45 Strengthening of Conference and Secretariat
(including range of policy issues to be pursued)
- 16.30 Coffee
- 16.45 Review of the working of the Conference