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*by Hare Mr. Mahony 16.7.98
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Steering Group on the Implementation of the Good Friday Agreement

Iveagh House, 10 July 1998

*Dr. Mandelgh
15-7-98*

Attendance:

Dept. of Foreign Affairs: Dermot Gallagher (Chairman), David Donoghue, David Cooney, Paul Murray, Colm Ó Flainn, Tim O'Connor, Ray Bassett, Dermot Brangan, Rory Montgomery, Stephen Dawson.

Dept. of the Taoiseach: Wally Kirwan, Simon Hare

Department of Justice: Dermot Cole, Brendan Callaghan

Attorney General's Office: James Hamilton, Richard Barrett

1. The minutes of the previous meeting were agreed.

North/South Subgroup: Interim Report

2. Gallagher said it was opportune to meet before the summer break to catch up on developments. The North/South Subgroup had held an intensive round of meetings with Departments, and there had been meetings with the British and the parties. The Subgroup had now produced an interim Report, which was the basis for today's meeting.
3. Kirwan said the initial meeting with the British had shown that we were ahead of them in our work. The Subgroup's first round of meetings with Departments had also been completed. There were no great surprises in the report: what were emerging as the primary candidates for implementation bodies were the ones we had in view at the time of the Agreement. The Report contained notes on all of the potential areas identified.
4. Although some of the areas e.g. trade promotion and business development, would be major operations and raised significant questions, the Subgroup had found a very positive attitude in Departments; this, in turn, reflected the strong political impetus behind the work. In terms of organisational size, areas ranged from those such as inland waterways, which involved perhaps 250 people in the South alone, to the EU programmes body, which might only employ 25. However, some areas with a less striking profile could involve quite a lot of people on the ground.
5. Kirwan continued that the Subgroup had tried to widen out areas from the somewhat narrow definitions in the Agreement; for instance, Health could involve a lot more than just accident and emergency cover. They had found some openness to this approach at official level on the Northern side, but it remained to be seen if this continued once political interests became involved. At a meeting that morning with Austen Morgan, who

claimed to be representing David Trimble's views, he said that the 12 areas in the Agreement actually encompassed 22 functions. They would envisage conceding 12 of these 22 - i.e. trying to restrict and box in what was in the Agreement.

6. Gallagher and Kirwan said we needed now to form Working Groups in each of the potential areas, linking the Steering Group and the relevant line Departments. These Working Groups would seek both to specify in detail the areas concerned and also begin writing what might be called the "founding charters" of these bodies. Departments had of course raised questions of resources, and there probably would be a need for some sort of launch fund for the next few months.
7. Kirwan said the Secretaries General had been told there would be another meeting after the round of bilaterals with Departments - this might take place in September, allowing more work on horizontal issues first. There had been a good Finance paper on some of these. In contacts with the British, where we had suggested bringing together experts in the various areas to identify common elements in our régimes and to work up intermediate models, he had found them to be very cautious. In many ways, they gave the appearance of not having taken horizontal issues forward very far. Gallagher agreed that Northern Ireland officials were nervous and tentative, reflecting the uncertainty they felt as they moved between their outgoing and incoming political masters. With David Trimble preoccupied with Drumcree, there had been little political direction as yet.
8. O'Connor reported that we had kept the SDLP and Sinn Féin briefed on our thinking on the North/South bodies. He suggested that the Annexes in the Interim report might now be shared with them. Kirwan said one thing the Annexes would make clear to them was the sheer volume of work required. Gallagher agreed that not everything could be done at the start; but a firm framework needed to be in place by 1 February, with a clear timetable also in place for building up to full potential.
9. Gallagher noted the decision which the Steering Group was asked for in the Interim Report: to approve the broad thrust of the Report and present it to the Taoiseach and the Minister for Foreign Affairs, with the work to be taken forward in Working Groups in each of the priority areas and reexamined at a full meeting at Secretary General level in early September.
10. On horizontal issues, O'Connor said the Attorney General's Office might have comments. He understood D/Finance were broadly happy with the direction of the Report, but had observed that there was a great deal of work to be done, and that there was a need to get down as soon as possible into a working format with the Northern side. Hamilton said the AGO were happy with the section on horizontal issues in the Report; they had not, however, started work on conflict resolution issues, as seemed to be indicated. They would be happy to look at this, and do a short paper, although they could not take it too far at this early stage, before a clearer picture of the likely bodies emerged. Kirwan said there was a key trade off to be made in this area. On the one hand the bodies would have to have some degree of sovereign immunity, to protect them from malicious attempts to disrupt their work. On the other hand, the Opposition in the Dáil had already voiced

concern that citizens not be denied redress from decisions made by these bodies. Gallagher said the proposed paper from the AGO would be very helpful.

11. Montgomery said that the Subgroup had not found any of the contemplated bodies to be technically impossible. Equally, however, few if any of them had an absolutely overwhelming technical or economic case. The case for most of the bodies would still be in significant part a political one. Gallagher emphasised the importance of a strong economic dimension. Kirwan suggested using a consultancy, such as John Bradley, to marshal the practical arguments - economies of scale, etc. O'Connor said the Subgroup had included remarks about the practical benefits of each body where it was discussed in the Report.
12. Donoghue noted that in their round of meetings with Northern Heads of Department in the Secretariat, the Permanent Secretaries, while awaiting political instructions, had not stuck pedantically to the narrow definitions of bodies in the Agreement, but had been willing to look for sensible, wider areas. Kirwan said the same approach had come across in a meeting with David Ferguson, although of course officials might well be pulled back at political level. Gallagher said that as a general point we should share as much as possible with the parties: this had served us well in negotiating the Agreement. Hare recalled that Austen Morgan had stressed it was important for Trimble to be able to hit the ground running on the bodies: it would be good to keep all the pro-Agreement parties briefed. Kirwan said that if we encouraged Mallon to lead on the Northern Ireland Executive side (ie get in ahead of Trimble) it might help to move things to higher ground. Hamilton noted that even before the Agreement was signed, the UUP (principally Morgan) had been interested in serious detailed discussions on the implementing bodies. They had, for instance, looked at issues such as dispute resolution before signing off on it, and had seemed willing to confront these issues.
13. Gallagher concluded that the Steering Group endorsed the overall thrust of the Interim Report by the Subgroup, that Working Groups would be set up to take forward the proposals, and that the Secretaries General would meet in September.

Northern Ireland Bill

14. Donoghue said the latest indication from the British was that they might introduce the Bill on Wednesday 15 July. Because of the 12th, this was actually the very next working day in the North, so it would be important to draw together our observations/suggested amendments and present them on Monday morning. The British wanted the Bill through the Commons by 31 July, and it would go to the Lords in October. They were reasonably optimistic it would be passed by the first week in November, beyond which it could not be carried over. They had stressed they were open to suggestions before tabling the Bill, and had taken on board our ideas on human rights, for instance. They also expected to be bringing in amendments themselves as the Bill went through the Commons. There would seem to be effectively therefore 2 - 3 weeks to suggest changes. Bassett said we had already passed some observations to the SDLP and Sinn Féin. Hamilton said he was broadly happy with it on a quick reading. There were a few technical points which

Caitlín Ní Fhlaitheartaigh had circulated in a note.

- 15. Kirwan asked about the human rights sections of the Bill, about which the Women's Coalition had expressed some dissatisfaction to the Taoiseach the previous day. Bassett drew a distinction between *human rights* issues, where the British had taken on board our ideas, and *equality*, where the Bill was not yet fully satisfactory. Some of the Women's Coalition's objectives were not achievable, being beyond the Agreement.
- 16. Donoghue said that British Ministers had now decided in favour of a single Equality Commission, whose ethos it was said would reflect those of the present sectoral agencies - obviously a fudge. Bassett said the civil servants on the human rights side were fully engaged; the equality people were more difficult to move. Making an announcement about the Commission four days before publishing the Bill, for instance, was clearly intended to pre-empt discussion. The main problem on equality was that the statutory obligation was being watered down. We should get back to what was in the Agreement, instead of adding a rider about community relations, which could neuter the statutory duty in the new legislation. Hamilton said, in view of our commitment to a parallel body, that it would cause problems to stray too far from the Agreement. The AGO would need to be kept closely advised on this area. Bassett said our proposed approach had been to bed down the Agreement and provide for a review to look at other areas at more leisure.
- 17. Montgomery said one area of the Bill that might need to be looked at was the funding of the North/South bodies. In the Agreement these were to be funded as a necessary public function. There was a question of whether the Bill was strong enough on this - did there need to be a more explicit obligation laid on the Assembly?

Legislation in this jurisdiction

- 18. Hamilton said we had agreed legislation would be needed for the implementing bodies, but it was difficult to go much further until the bodies were specified. He could start looking at horizontal issues. He suggested including the question of necessary legislation in the remit of the Working Groups. As regards the Ministerial Council itself, while he doubted that it needed legislation to set it up, he recognised that there would be a political desire to do so. This could be a fairly short provision, either on its own or perhaps along with some of the horizontal issues. Kirwan made the point that the same political logic as in the case of the Prisoners Act applied in regard to the Council - to ensure, and give good example of, strict adherence to the terms of the Agreement there would have to be legislation for the Council in our jurisdiction.
- 19. There was some need for clarification on whether the British would be relying solely on Orders by the Secretary of State to legislate for the bodies. Hamilton had thought they would need more than Orders but the British, at a recent meeting, had thought not (although at that meeting they had been less than full and frank).
- 20. Cole noted that the regulations under the Decommissioning Act had been made, and the Prisoners Act had been passed. The Employment Equality Act had gone through, and a

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PO had been appointed to oversee the transition from the Employment Equality Agency to the new Employment Authority. A Memorandum was being prepared on citizenship questions.

21. Kirwan said there had been a meeting about victims with John Wilson the previous day. The British Prisoners Bill provided that victims' relatives be informed of any early release. Cole said there was not an equivalent provision here, but the Minister had given an undertaking to provide notice, so far as was possible (in some cases the relatives were not in this country). In answer to questions, Cole said in only two cases of victims of terrorist crimes in our jurisdiction were the known perpetrators in custody in our jurisdiction. (There is a total of about 30-35 qualifying prisoners under our Act.)

Implementation of Human Rights provisions

22. Gallagher noted that this had already been discussed, and had been the subject of a recent meeting with the British in London.

Contacts with the British Government

23. Donoghue said the Secretariat was coming to the end of its round of meetings with Permanent Secretaries. No other contacts beyond the ordinary were planned before the summer: all the players were simply exhausted.

Contacts with the parties

24. Gallagher said there had been recent meetings with the SDLP, Sinn Féin, UUP (Austen Morgan), Women's Coalition and Alliance, of which colleagues were aware. Kirwan said it would be useful if contacts provided an opportunity to assess to what extent Austen Morgan really reflected Trimble's thinking. Cooney said that he would be circulating DFA's observations on the Northern Ireland Bill to D/Taioseach and the AGO, and following up directly.

Stephen Dawson
Anglo-Irish Division
13 July 1998