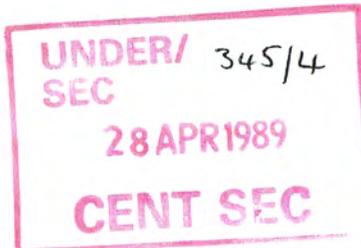


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PS/6088/89/DR

FROM: PRINCIPAL SECRETARIAT
28 APRIL 1989



cc PS/Secretary of State (B&L) - B
PS/Minister of State (B&L) - B
PS/Sir K Bloomfield - B
Mr Stephens - B
Mr Burns - B
Mr Miles - B
Mr Spence - B
Mr A Wilson - B
Mr Thomas - B
Mr Masefield
Mr Blackwell - B
Mr Bell - B
Mr Kirk - B
Mr J McConnell - B
Mr F G McConnell - B
Mr George, RID - FAX

PS/PUS (B&L) - B

CONFERENCE MEETING IC(89)2

I attach a final record of the plenary Conference discussion in Belfast on 5 April which takes account of comments received on the first draft circulated on 10 April. Copies of the joint statement go to non-BLIS recipients only.

2. I am sending copies to Mr Weston, Mr Kennedy and Mr Manning in the Cabinet Office, Mr Fergusson in Dublin and Mr Cowper-Coles in Washington.

[signed]

Principal Secretariat

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IC(89)2

ANGLO-IRISH INTERGOVERNMENTAL CONFERENCE

NOTE OF THE PLENARY DISCUSSION HELD IN STORMONT CASTLE, BELFAST,
ON 5 APRIL 1989

Present:

	<u>British Side</u>	<u>Irish Side</u>
Ministers:	Mr King Mr Stewart	Mr Lenihan Mr Collins
Officials:	Sir J Blelloch Sir K Bloomfield Sir N Fenn Mr Stephens Mr Thomas Mr Blackwell	Mr Dorr Mr Mathews Mr Gallagher Mr Brosnan Ms Anderson
Secretariat:	Mr Miles Mr Masefield Mr Canavan	Mr O hUiginn Mr Collins Mr Ryan

INTRODUCTION

1. The Ministers began the Conference with private discussions at 10.40 am and then joined officials for a plenary session at 11.20 am. It was agreed to adjourn this at 12.15 pm, to allow officials to progress drafting work on the proposed Final Review Communique. Meanwhile the Ministers were joined by the Chief Constable, the Garda Commissioner and Messrs Stephens, Mathews, Masefield and Ryan for a restricted discussion on security. This concluded at 1.50 pm and, following lunch, the plenary session resumed at 3.15 pm.

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DISCUSSIONS ON ARTICLE 11 REVIEW DRAFT COMMUNIQUE

2. Mr King informed officials that Ministers had had some discussion during their private session on the finalisation of the Review. There had been considerable activity at official level in drafting a Review Communique. A fairly rough joint paper highlighting areas of contention had been produced and, following consideration of it with British officials on the previous day, he had suggested a number of amendments. On the morning of the Conference the Irish side had tabled a new text. In view of the detailed consideration which would be required, he proposed, and it was agreed by the meeting that the issues which had emerged should be discussed in principle for about an hour, after which the plenary session would adjourn to allow officials to work on the texts.

3. Turning to the general issues which had concerned him about the texts to date, Mr King began by referring to the need, seen also by the Irish side, to adhere to the Agreement. Certain sentences in the earlier drafts were paraphrases of language in the Agreement and the original phraseology should be reverted to for the sake of accuracy. Both parties had to be seen to be standing by the Agreement. Therefore careful attention had to be paid to those references, and in particular to those which sought to encourage political dialogue. There was a danger that they would be interpreted as undermining the Agreement. Second, there were references to the two Governments which might be taken as implying that they both had a similar responsibility for the internal affairs of Northern Ireland. These would have to be amended to make clear the constitutional position.

4. The other point which he wished initially to register concerned the proposed recommendations on the mechanics of the Conference. Both sides were probably agreed on the frequency of meetings, but too firm a target could give their opponents grounds for criticism if it was not met, for whatever reason. The proposal for annual informal meetings was not an issue of contention, but the idea of expanding Conference meetings to include other Ministers gave him

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ome concern. He had already spoken to Irish Ministers on this in the private discussion. There was a risk in the Conference embracing areas of successful cross-border co-operation simply to claim credit. Some areas of co-operation could be damaged if they were politicised, recognising that hostility to the Agreement still existed. He was in favour of a non-public, systematic review of economic and social co-operation by the Conference to identify areas where links could be enhanced, and also those where involving the Conference could be counter-productive.

5. Mr Lenihan responded to the points Mr King had made. Their private discussion had been pertinent. It was also his concern not to diminish the language of the Agreement. Any departure from it would be picked up by hostile commentators. In examining the text of the communique he hoped the Conference would bear in mind the need to keep the language precise and in accordance with the Agreement. He accepted Mr King's reasoning on the issue of economic and social co-operation. If subject to a systematic review, these matters could be examined privately and the Governments could screen developments internally. Sir Kenneth Bloomfield added the proviso that, apart from areas where co-operation could be safely brought under the Conference umbrella, and those where co-operation was possible but public attribution sensitive, there were also areas where the economic interests of Northern Ireland and the Republic remained competitive.

6. Mr Lenihan mentioned public bodies as another area of concern to the Irish side. It was wrong that local authorities should weight their representation unfairly on public bodies and he thought this should be noted in the Review communique. Mr King replied that this was a thorny political issue in Great Britain as well as Northern Ireland. Sir Kenneth Bloomfield drew a distinction between a robust declaration of principle on this issue and committing the British Government prematurely to a course of action which could pose serious political and practical difficulties. In particular, there was a risk of Sinn Fein representatives achieving representation on many public bodies through enforced proportionality. Mr Lenihan said 'balance' was a better word than 'proportionality'.

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● Mr Lenihan also expressed an interest in highlighting the International Fund in the communique. In the US most sensible Irish-American politicians were supporters of the Fund and the opportunity of boosting it should be taken. Mr King, in turn, stressed the need to have an early reference to security cooperation in the communique.

8. Mr Miles suggested that the Irish text tabled that morning should be used as the working document for the Conference's detailed consideration. This was accepted and, after a cursory preliminary examination, some initial comments were made on this draft. At Mr Collins' suggestion, a reference to meetings of officials was removed from the paragraph dealing with security cooperation. Mr King objected to an explicit reference to a Bill of Rights in the text. Many of the specific subjects mentioned in Article 5 of the Agreement had already been addressed; a Bill of Rights for Northern Ireland could only be enacted in the context of the United Kingdom as a whole. The issues had been examined and the suggestion of a Declaration of Rights for all Ireland had been put forward by the British side during the lifetime of the previous Irish administration. A reference to a Bill of Rights in the communique could only raise unjustified expectations and lead in the end to further contention. Mr Lenihan suggested that the sentiments of that particular section of the communique could be conveyed without actually mentioning a Bill of Rights. Mr King was also concerned about a sentence dealing with the cessation of 'supergrass' trials. There could be no guarantees that a prosecution would not be launched in the future on the uncorroborated evidence of an accomplice. If this happened against a background of the proposed reference in the Review communique, it would be seen as a setback for Anglo-Irish relations. Mr Lenihan agreed to the reference being dispensed with.

9. The general handling of the conclusion of the Review was discussed. Mr King said it was awkward that the SDLP had not yet contributed to the consultation process. He thought both Governments should be giving the message to the media that, though moving towards a conclusion, they were still willing to take account

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submissions. Mr Lenihan stressed the importance of concluding the Review well in advance of the Northern Ireland local government elections in May. Consultation with Ministerial colleagues would be required before the next Conference. Mr King agreed that there was a very narrow window for the next meeting. Sir Nicholas Fenn added that the time factor made it imperative to reach some form of agreement on the communique at the present Conference.

10. At that point it was agreed to adjourn the plenary session until the afternoon, allowing officials of both sides to work on the new Irish communique text. When the Conference convened in plenary session at 3.15 pm officials had reached a substantial measure of agreement on a joint text and had identified areas where further discussion was needed.

11. When discussion on the review communique was resumed in the afternoon plenary session, it was decided to defer consideration of the introductory paragraphs and initially to concentrate on the substantive sections which followed the order of the Agreement. Minor drafting amendments were made throughout and it was agreed that officials would subsequently look critically at the paragraphing and structure of the text. Substantive issues raised by the joint draft text were also discussed and these are summarised below.

12. Mr King queried a reference to the development of the Secretariat's role and was assured by Mr Dorr that this related to the more efficient performance of its functions of servicing the Secretariat and providing a channel of communication between the Governments set out in the communique. (Mr Gallagher added that it could involve conveying texts earlier than at present.) It was agreed that the communique would deal with the issue of the desirable frequency of Conference meetings by reference to the 10 meetings of 1988 as the pattern to be followed. There was discussion on a reference to the two Governments' response to proposals in the external submissions for information on Conference meetings. It was decided to modify the joint text, which had proposed providing 'the fullest practicable information' to read 'fuller information', in view of security and other considerations.

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13. A reference, in the paragraph dealing with fair employment, to the establishment of 'fair patterns of employment' was amended at the suggestion of the British side to 'employment practices'. It was also decided to retain an Irish reference to the Conference's role in closely following developments in fair employment.

14. The paragraph dealing with Northern Ireland public bodies (Article 6 of the Agreement) was amended to remove the implication that both Governments had executive responsibility in this field. The formula that public bodies should be so constituted as to enjoy the widest possible respect and acceptance was agreed in preference to an Irish proposal that they should be 'as representative as possible'.

15. An extended section of the draft Review communique dealt with confidence in the security forces and the system of justice. It was decided that the paragraphing of this section needed to be reordered to make it more coherent. In the paragraph dealing with measures already taken to improve confidence in the security forces, there was discussion on whether to include a reference, proposed by the British side, to improvements in the law relating to the protection of individual rights under the Emergency Provisions legislation. Mr O hUiginn argued that by addressing these improvements in the protection of suspects' rights, the communique would draw attention to other recent legislative changes with which the Irish side was less happy. Although Mr Blackwell argued that the legislative changes of autumn 1988 were unrelated to the Emergency Provisions Act, the reference was deleted. The draft communique also noted that further work, which would be reviewed regularly by the Conference, remained to be done in the field of confidence in the security forces and the system of justice.

16. There was some discussion on an explicit reference in the communique to the UDR in the context of the principle of police accompaniment of military patrols. Mr King suggested the deletion of the reference. Mr Dorr pointed out that this was the last vestige of earlier stronger references to the UDR in Irish texts.

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Mr Lenihan, however, agreed with Mr King that mention of the armed forces, which comprehended the UDR, was sufficient. The paragraph dealing with extradition and extraterritorial prosecution was abbreviated for the sake of conciseness.

17. The meeting progressed to the section of the draft text dealing with cross-border economic and social co-operation. An implicit reference to attacks on the cross-border railway link (and electricity interconnector) was deleted, as was a sentence on the role of officials in co-ordinating work on co-operation.

Sir Kenneth Bloomfield drew the Conference's attention to an amendment, agreed earlier by officials, to the paragraph on the Single European Market which introduced the proviso that proposals from the Conference in this area would be consistent with national policies.

18. Mr King argued strongly for the concluding paragraph of the text to end with a reaffirmation of co-operation against terrorism, and put forward a sentence.

19. The Conference then reverted to the more contentious introductory paragraphs of the text. Sir John Blelloch suggested that at an early stage the communique should state explicitly that its text followed the sequence of subjects covered by the Agreement and this was accepted. He also pointed out that, though the introduction did not contain an explicit reaffirmation of the principles of consent in Article 1 of the Agreement, it did commit both Governments to all the Agreement's provisions, which would include Article 1. Mr Dorr pointed out that Article 1 did not fall within the working of the Conference which was the subject of the Review. Mr King thought this was an important issue; the tone of the communique would give little satisfaction to unionists.

Sir Kenneth Bloomfield commented that if some of the Article 1 provisions (those in relation to the consent of a majority of people in Northern Ireland being required for any change in status) were explicitly reaffirmed, that which envisaged a united Ireland by consent would also have to be restated. Mr Lenihan and Mr Collins thought this would complicate matters unduly. It was agreed not to reaffirm the principle of consent explicitly.

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20. Discussion then turned to a particularly sensitive paragraph in the introduction which the Irish side proposed to include and which envisaged that future modifications to the Conference might be made to accommodate political change. This could be interpreted as an encouragement to political dialogue, not only within Northern Ireland but also between the unionists and the Irish Government, and Mr King did not accept the locus of the Irish Government in relation to political dialogue with the unionists. Mr O hUiginn claimed that similar language had been used in an earlier Conference communique and Mr Dorr pointed out that it both echoed the preamble of the Agreement and encouraged the SDLP to engage in dialogue.

21. Sir Nicholas Fenn thought that an unqualified reference to 'the two major traditions' might be a satisfactory formula which remained ambiguous on whether it referred to Northern Ireland or the island as a whole. Sir Kenneth Bloomfield saw the paragraph as carrying several levels of meaning, many of them welcome, including a signal that the Conference was prepared in principle to accommodate the unionists. Mr King concluded that this paragraph would require further detailed consideration, both among the British officials and then between the two sides. It was important to phrase the paragraph accurately as the text would be of particular interest to his colleagues. Mr Lenihan re-emphasised the significance of the paragraph for the Irish Government; it was central to the text and contained key concepts.

FAIR EMPLOYMENT

22. Apart from consideration of the Article 11 Review draft communique, several other agenda items were considered by the Conference. Mr King updated the Irish side on the progress of the new fair employment legislation. The Committee Stage in the Commons had been completed and Report Stage was scheduled for early May. Thereafter the Bill would progress through the Lords and it was hoped to obtain Royal Assent by the end of the summer. The Government had already moved some way on the issue of goals and timetables, as Mr Lenihan recognised.

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23. Mr Lenihan asked about the possibility of making more generous provision for compensation of individuals who in future were able to sustain a complaint of religious discrimination before the Tribunal. Mr King replied that he was constrained by the need to keep fair employment in line with sanctions for sex and race discrimination which applied also in Great Britain. Mr Blackwell was sure that if the threshold was altered in the GB discrimination laws, the Northern Ireland fair employment legislation would remain in line with it. Mr King warned that the best must not be allowed to become the enemy of the good. He also referred to current American interest in fair employment. The Irish side would continue to be kept in touch through officials.

PRISONS

24. In reference to the reviews of special category life sentence prisoners, Mr King thanked the Irish side for their support for what the British Government was doing. Mr Lenihan thought that the development was putting PIRA under serious pressure and that it might be mentioned in the joint statement in that day's Conference. Sir John Blelloch thought this might be premature as it might seem to be anticipating the views of the judiciary on those cases that had been referred to them.

ACCOMPANIMENT OF ARMY PATROLS

25. Mr King said he had asked at the previous Conference that the Irish side keep him informed of what they had learnt from nationalists about the progress on the ground of the policy of police accompaniment of military patrols. He understood that there had been a very significant drop in unaccompanied patrols on arterial roads leading to West Belfast, an observation with which the Irish side concurred. He admitted, though, that applying the policy to border permanent vehicle checkpoints was a separate problem, on which a British paper had just been put to the Irish side.

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INQUESTS

26. Mr Lenihan asked about the timing of the inquests into the deaths which had been investigated by the Stalker/Sampson inquiry. Mr King replied that the British Government was considering sensitive issues which had arisen from the Appeal Court's decision on attendance by witnesses. These included witnesses' security and how to prevent the inquest turning into a trial. He noted in this context that the coroner at the inquest into the death of O'Hare's driver had been meticulous about the questions put to witnesses. Steps might have to be taken to restore the position to what it had been before the recent judgment. The result of an application for leave to appeal to the House of Lords was awaited. Mr Lenihan asked to be kept informed of developments and Mr King agreed to do so; when the Lord Chancellor had come to a decision, the Irish would be informed as soon as possible.

BELFAST INITIATIVE

27. Mr King referred the Irish side to the recent announcement of further expenditure for 1989-90 on the 'Making Belfast Work' initiative. Mr Gallagher commented that people in other deprived areas outside Belfast such as Newry were anxious that they too should benefit. Mr King reminded him that, though efforts would continue to be made in other areas, resources were not unlimited.

COMMUNIQUE

28. The Conference considered a draft joint statement prepared by officials earlier in the day. This was approved, subject to a number of amendments, and was issued to the press as the Conference communique at the conclusion of the meeting. A copy is attached.

NEXT CONFERENCE

29. The Conference provisionally decided to hold its next meeting on 26 April 1989 with the conclusion of the Article 11 Review as the main item on the agenda. The meeting ended at approximately 5.30 pm.

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