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ROINN

Fó-Roinn

An Uimhir

An Gnó

An Uimhir ag Roinn
Eile

ANGLO IRISH SECTION
WEEKLY BRIEF
WEEK ENDING 26/10/90

Cuireadh chun	Dáta	Cuireadh chun	Dáta	Cuireadh chun	Dáta

TRANSFERABLE

START of file

Minister of State.

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SECRET

ANGLO-IRISH SECTION

WEEKLY BRIEF

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AN ROINN GNÓTHAÍ EACHTRACHA
Department of Foreign Affairs

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Prospects for Political Progress

Ministerial Meeting, London, 25 October, 1990.

1. Minister Collins and Mr. Brooke, accompanied respectively by Minister Burke and Minister Cope, met en marge of the Intergovernmental Conference to discuss prospects for political progress. Officials present on the British side were John Chilcot, Joe Pilling, Quentin Thomas (NIO), Ken Bloomfield (head of the Northern Ireland Civil Service), Robert Alston (Secretariat) and Ambassador Fenn. Irish officials present were Noel Dorr, Ambassador O' Rourke, Dermot Gallagher, Declan O' Donovan and Anne Anderson. The meeting lasted shortly over an hour.

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Opening Presentations by the Secretary of State

2. **Mr. Brooke** said that when the Conference discussed the issue on 14 September, the main obstacle to talks had been identified as a difference of view on the starting date of North/South talks. Ministers had instructed officials to meet and engage in "lateral thinking"; since then there had been a good constructive meeting of officials on 27 September followed by two further meetings and an exchange of papers.

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3. The British paper of 11 October, **Mr. Brooke** said, offered a high level of assurance that North/South talks would take place. In his meeting with Unionist leaders on 5 October, the Secretary of State had tested their reactions to the kind of package outlined in the 11 October paper. Their reaction was "not wholly unfavourable" and he was confident they could be persuaded to accept something along the lines suggested; however, the task of persuading them had probably become more difficult since the leakage and publication of the July texts. The basic point, Mr. Brooke emphasised, was that Unionists would only move to the North/South strand when there had been some "meeting of minds" on the internal talks.

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4. Mr. Brooke said he is looking for a basis for talks which will address all the dimensions of the problem. He is conscious of the different and conflicting needs of the various participants. He has been encouraged by the "enormous progress" made to date and indeed feels that, after the July texts were published in the Irish Times, there was considerable public surprise at the amount of progress already made. Mr. Brooke added that he is very conscious of the concessions made on the Irish side - it would have been impossible to achieve the progress to date if initial positions had been maintained in an undiluted form.

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5. Mr. Brooke said that the British paper of 11 October was designed as a package to meet the needs of all involved in the process. He had of course read our 'Non-paper' presented at the meeting on 19 October. He was disappointed to see that, on the central issue, our paper "did not represent movement". The British side were prepared to include a number of the amendments we had suggested - as well as a number of other changes, they were ready (as a substitute for "substantial progress") to try phrases such as "substantial discussion of the issues" or "when the issues are sufficiently talked through"; however, Mr. Brooke's own view was that the Unionists are more likely to be responsive to the phrase "sufficiently worked through".

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6. Mr. Brooke said that it was not for him to rehearse the arguments in favour of Irish Government support for the talks process; the ground has been traversed often enough and some of the arguments made can point either way. He fears that, if we are unable to proceed to formal talks soon, the prospect will fade away. He would regret this for its own sake (a great deal of energy has been committed to the effort on all sides) and because of possible recriminations subsequently. There was a disagreement

between the British and Irish sides as to whether the Agreement would be more at risk if talks did not get off the ground at all, or if they broke down at an early stage; he knew and respected our position on this issue.

7. Mr. Brooke said that, if talks do not get off the ground "you must be the judge of what prospects there would be of bringing the Unionists into conversation with you subsequently, or in any way other than that on which we are presently engaged". For his part, Mr. Brooke said, he is concerned that, if we cannot demonstrate that it is possible to move matters forward along the constitutional path, we will be "handing a trick" to Sinn Fein and the IRA. (He accepted that there is also a difference of opinion between us as to when and how the Provisionals might gain most propaganda benefit from a breakdown in the process).

8. Mr. Brooke added that he is concerned that, at the recent Tory Party Conference, there was a significant number of motions from Conservative Associations in **Britain** (as opposed to Northern Ireland) in favour of an integrationist posture. If it proves impossible to move the talks process forward, then these integrationist pressures will mount and will become more difficult than hitherto to resist. Not all Tory party members understand the niceties of the situation - some can be easily moved by emotional appeals. "The hazards of creeping integration - and the forms it would take - are familiar to us both". Mr. Brooke concluded that both sides are aware that we are "moving towards a crux".

Response by Minister Collins

9. Minister Collins began by conveying thanks to officials on both sides; a lot of effort had gone into trying to clear the ground. However, the reality is that we are still faced with the same two problems; the question of "substantial

progress" and the description of Unionist participation in the North/South talks (whether as members of the UK delegation or in their own right). The Minister said that the leakage of the texts into the public domain was probably inevitable sooner or later. We should not be unduly preoccupied with the public and media reaction to these texts; for our part, we have been conscious from the outset that we are dealing with "core issues" - fundamental matters of principle - and media comment, whether critical or supportive of our stand, is largely irrelevant.

10. The Minister went on to say that, as Mr. Brooke was aware from meetings of officials, we see three possible ways forward:

(a) an <u>agenda/timetable</u> approach, on which the Irish side had handed over a paper. The particular merit and attraction of this approach is that it would remove the decision on the timing of North-South talks from the participants and instead would have the talks triggered through an agenda and timetable which would be agreed in advance;

(b) the second approach is based on the <u>exercise of the Secretary of State's judgement</u>. We would be happy to accept a binding assurance from the Secretary of State that he would exercise his judgement in a manner that ensured the opening of North-South talks within a definite framework. We accept, of course, that the Unionist leadership would have to acquiesce in this assurance; and

(c) the final option, which had also been discussed previously, would involve a direct assurance from the Unionists to us - a <u>gentleman's agreement</u> - that they would come to North-South talks within a specified framework.

11. The **Minister** reiterated the fundamental importance we attach to the substantial progress issue. The possibility of a new arrangement transcending the Anglo-Irish Agreement must be based on an acceptance by all of the need to address the three sets of relationships, and a willingness to do so within structures which will properly reflect the inter-dependence of these relationships. In short, the discussion of relationships on the island, and between the two islands, is an essential ingredient in the achievement of progress - therefore any attempt to achieve substantial progress in the internal talks, in the absence of such discussion, would be doomed to failure from the start. It would mean moreover a return to the failed idea that the Northern problem can be addressed as an issue in its own right and subsequently - and only then - fitted into the wider relationship.

12. The **Minister** said that the Government and the SDLP have - at the risk of political criticism - made extensive concessions from the beginning of this process with a view to encouraging Unionists to enter into dialogue. We now feel that the time is very definitely here for the Unionists to reconsider their position. We have repeatedly made clear that we would have preferred that talks had opened without pre-conditions; however, we quite understand that, from the viewpoint of their own electorate, the Unionists needed to set down some obstacles if only to ensure that they could subsequently claim they had succeeded in having these obstacles overcome. The fact that the three original Unionist pre-conditions are no longer an issue speaks for itself about the flexibility of both Governments.

13. The **Minister** said that our view is that the objective requirements of the process mean that we cannot agree to a framework which would require substantial progress in one set of talks as a condition for moving to the two other sets. To do so - apart from the inevitable breakdown which

would quickly occur - would be to reject both the accumulated wisdom of the past and our assessment of the requirements of the present process; from our viewpoint it is not an option therefore which we can consider. If we are to take matters forward it is imperative that Mr. Brooke speak again at a very early date to the Unionist leaders, let them know exactly where matters stand, and see if they cannot reconsider their position and stop preventing these talks becoming a reality.

14. Commenting on the package approach which Mr. Brooke had suggested, Minister Collins said he understood and fully appreciated what the Secretary of State was trying to do; however, the kind of package approach being suggested simply did not give us the certainty we need. We had obviously taken very careful note of what the Unionist leaders are saying to the Secretary of State. But there is absolutely no doubt that the Unionists have maintained - to say the least - an ambiguity in their approach. Only a couple of weeks ago, Peter Robinson - always regarded as the most forthcoming among the Unionists where this initiative is concerned - spoke on RTE of the need to have "heads of agreement" in the internal talks before proceeding to North-South talks. Earlier this week, Frank Millar - who is known to be very close to the Unionist leaders - was quoting them in a way which suggested that they have no serious commitment to the North-South strand. There is, in short, both a lack of clarity as to Unionist intentions and an unwillingness of Unionist leaders to go on record with the kind of statement which would clear up these ambiguities and remove the obstacle of conditionality from the process.

15. In conclusion, the Minister said, bearing in mind all the circumstances, it was simply not possible for us to settle for a formula which essentially gives us hope rather than certainty - the issues involved are far too serious for us

to take such a risk. He would again urge Mr. Brooke very strongly to have a serious "heart-to-heart" with the Unionist leaders. The Irish side had advanced very far - "we are at the end of our tether".

Discussion of Issues

16. Mr. Brooke said that he was prepared to put anything to anyone; however he was certain that there was no hope of Unionist agreement on the terms we were proposing. Indeed, the suggestion of putting a precise agenda/timeframe to Unionists was at variance with what the Irish side had accepted on 13 July (a reference to the Ministerial meeting in London on that date); a great deal of time had been spent at the 13 July meeting on devising formulae which would facilitate Unionist participation in the process.

17. Minister Collins said that the SDLP cannot accept the description of Unionist participation in North/South talks as part of a UK delegation; he added that the SDLP has been informed that this suggestion had originally came from the British. Mr. Brooke replied that he could categorically assure us that this was not true. The SDLP, he said, are making a non-point: they are alleging that they would be bound by any formula that might be devised to facilitate Unionists (i.e. that they too would have to participate in North/South talks as members of a U.K. delegation) - this is not correct; the SDLP could of course participate in whatever form they wished.

18. Minister Collins said we had just recently heard of another Unionist pre-condition: that the North/South talks would be held in London - we understand that the Secretary of State was also aware of this new condition. Mr. Brooke replied that he "had assumed that the talks would be here" (i.e. that he had assumed that the talks would be here" (i.e. London). Minister Collins said he could not understand how

Mr. Brooke could have assumed this; in all the Minister's previous references to North/South talks, he had invariably spoken of Dublin as the venue - Mr. Brooke had never mentioned London. Mr. Brooke responded: "I have just now said London".

19. Mr. Brooke reverted to his earlier point that the timetable proposal made on the Irish side was a "change from where we were on 13 July". A series of exchanges followed on the status and content of the 13 July text (i.e. the text drawn up on the British side after the 13 July meeting, reflecting what they saw as the thrust of the discussion on that date). Mr. Brooke said his understanding was that there had been agreement between the two Governments on 13 July but that the text enshrining that agreement had "fallen down with the SDLP". Minister Collins emphasised that the text in question was a British text (it would, he said, have been differently worded if it had been drawn up on the Irish side), which was given by the British to the SDLP before it was made available to the Irish side. The only agreed text between the two Governments was that of 19 April; he had no authority to agree to - and had not agreed to - any other text.

20. Mr. Brooke said he saw a real difficulty with an agenda/timetable approach which sought to settle everything in advance - "I take the view that a timetable makes it less likely rather than more that we will make progress" (Mr. Brooke added that it was ironic that he was "chastised" for setting a 5 July deadline for launching the talks when we were now proposing a deadline for the entire talks process. Minister Collins said there was no comparison between the two issues - the 5 July date was a self-imposed and artificial Parliamentary deadline). The Irish side emphasised that the agenda/timeframe approach was not designed to represent a hardening of our position - its

purpose was to give Unionists a way forward if they wished to avail of it.

21. Minister Collins referred again to Peter Robinson's public remarks about requiring "heads of agreement" in the internal talks before moving to North/South talks; we had heard also of motions at next weekend's OUP Conference calling for the removal of Articles 2 and 3 of our Constitution as a pre-condition to agreeing to new arrangements. (Mr. Brooke dismissed such motions as having little significance). Minister Collins continued that, since Mr. Brooke was the one talking to Unionists, he must now go back and "lean on them" - showing them the 19 April text to illustrate the degree of movement on the Irish Government's part. Mr. Brooke said that, in going back to Unionists, he would want to bring a proposal that had some chance of "being brought into harbour" and not a proposal that had no chance of success.

22. Reverting to the earlier suggestion that our position had hardened by comparison with 13 July, Minister Collins read out the crucial paragraph 3 in the 13 July text (the key sentence refers to North/South talks "within weeks"); he asked if Mr. Brooke could in fact give him a solemn assurance that discussions would start-as the document stated - "within weeks". Mr. Brooke responded that "no one can be forced to do anything".

23. Minister Collins said he accepted this; the real question that this brought into focus was the seriousness of Unionist commitment to this process. We had heard from a variety of reliable sources that Molyneaux is not in fact serious but simply dragging out the process, hoping for a hung Parliament after the next election. One of the problems is that Mr. Brooke, in being able to talk to all the potential participants, is in a privileged position - "you only tell

us what you want us to hear from the Unionists". Mr. Brooke replied that "this is not a Utopian world" - the only reason he had the exclusive privilege of talking to Unionists is that they refused to talk to the Irish Government. Minister Collins referred to the Taoiseach's remarks in the Dail the previous day (in an exchange with Deputy de Rossa) to the effect that Unionists should be willing to talk to Dublin.

24. Mr. Brooke said that the heart of the problem is Unionist mistrust of the SDLP (the fear that the SDLP will "sit on their hands" in the internal talks) and reciprocal SDLP mistrust of Unionists; that mutual mistrust is a legacy with which both Governments have to deal. Minister Collins said that, having regard to the existence of that legacy, the Irish side has come a very considerable distance since 19 April. Mr. Brooke said that, intellectually, he totally understood the Irish governments position; however, in practical terms, North/South talks will only happen "under the momentum of the internal talks going forward". Minister Collins said it was to try to get over the mutual mistrust that we had suggested the agenda/timeframe approach. If an agenda/timeframe is agreed in advance, then the decision is removed from participants and neither party will have to place too much trust in the other.

British Proposal

25. Following an adjournment of about fifteen minutes (at the British request), **Mr. Brooke** resumed the discussion. Referring back to the earlier discussion about the status of the 13 July text, he said there was no point in arguing about history - both sides could reserve the right to different views about the text. That said, if he were to take the Irish 'Non-Paper' to Unionists as the next step, "I have to say that I think it would constitute the end of the process". Events in Derry and Newry the previous day (the

killings at the border posts) meant that this would not be the best moment for that to happen. The British continue to believe that it is possible to create a structure for talks in which all the parties can have confidence. They wished to put a new paper to us (text at Annex A was then circulated - essentially a revision of the 11 October text with a number of amendments to take account of some of the points we had made).

26. Mr. Brooke said that if the Irish side was able to consider this new text - "which could be the subject of discussion between us hereafter" - then he would be happy to show it to the Unionist leadership. He would need, however, to have our reaction **before** showing it to the Unionists. He does not know if the Unionists could be persuaded to buy it "but I would have a damn good try". He would also be willing to show Unionists the Irish 'Non-paper' of 19 October (text at Annex B attached) to demonstrate to them what the "optimal" Irish position is. If, on the other hand, the Irish Government's reaction was that this document "would not fly", " in this case, frankly, we will all be out of gas". The British side would have to conclude that the current Irish requirement of certainty was "the bedrock of your position" and the talks process would have to break off.

27. Minister Collins said he agreed with the remarks about different views of history - "history depends on who writes it". He thanked Mr. Brooke for the document; he felt it would be unwise to react straight away but said we would take it away, study it, and come back with our views as soon as possible. A decision as to the appropriate next step could be taken at that stage.

AA.

Anne Anderson.
26 October, 1990.

c/c P.S.T., P.S.M., Mr. Nally, P.S.S., Mr. Gallagher, Ambassador London, Joint Secretary, Counsellors A-I, Box

Annex A.

A POSSIBLE BASIS FOR TALKS

1. Any public statement should

(a) announce that agreement had been reached on a basis for political talks which would address the three relationships;

(b) contain the agreed forms of words for responding to the Unionist leaders' second and third preconditions;

(c) set out in general terms the basis on which any talks should broaden from discussions involving the Northern Ireland parties and the British Government to discussions about the wider North/South and UK/Republic relationship, involving the Irish Government. In particular, it might say that this would happen once the issues for discussion in the internal talks had been "sufficiently worked through" and that the Secretary of State would make the judgement as to when this point had been reached, taking account of the basis on which all concerned had entered the talks;

(d) record an expectation that this point would be reached "within weeks";

(e) confirm that North/South (and East/West) talks would enable participants to consider the interaction of relevant constitutional provisions in each jurisdiction.

2. The other elements of the package of measures proposed as a means of getting round the impasse over the circumstances in which North/South talks should start would feature in a statement of common understandings which all the participants would be committed

to, but which need not be published. The elements include:

(a) confirmation that no agreement would be possible in any one strand of discussion in isolation;

(b) underlining the interlinked nature of the three strands of discussion in order to illustrate the reality that points discussed at earlier stages of the talks process will need to be re-examined, refined and confirmed in the light of progress in the later stages;

(c) an outline framework for the agenda, timing and handling of the talks process which would indicate an expectation that North/South talks would start by about halfway through the interval before the next Conference. This would provide further opportunities to set out in objectively measurable terms the ground which the interparty talks would aim to cover before the launch of North/South talks would be required.;

(d) a reaffirmation of the assurances:

(i) that all participants accept that the talks will be intensive;

(ii) that all will participate actively and directly in the various strands;

(iii) that all the Northern Ireland parties will participate directly (as members of a team led by the Secretary of State for Northern Ireland in the case of the leaders of the two main Unionist parties) in the North/South strand of discussion once it is opened.

Annex B.

Non-Paper

A Possible Basis for Talks

1. As suggested, the talks might be launched on the basis of

   - a short public statement, accompanied by

   - a private document of understandings common to all participants.

Both documents would have equal status: all participants would be equally committed by the content of both.

2. The proposed public statement would contain the agreed form of words for responding to the Unionists' second and third preconditions. It would also set out in a general way the basis on which the talks would address the three main relationships (within Northern Ireland, North-South and East-West).

3. The continuing concerns of the various potential participants would be addressed as follows:

(a) an agenda and timetable along the lines attached would be accepted by all participants;

(b) there would be a commitment to a "substantial discussion of the issues" in the opening weeks of the internal talks;

(c) the interlinked nature of the three strands of discussion would be underlined;

(d) it would be emphasised that talks, once underway, would be intensive; all involved in the various strands of discussion would commit themselves to participate actively and directly from the outset;

(e) detailed arrangements in regard to designation of delegations will be made by agreement in due course.

4. The above points would be reflected in the public statement and set out in more detail in the private document. If considered helpful, any public statement could also make clear that the talks process would be without preconditions.

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Agenda/Timetable

Item No.	Title	Forum	Timetable
1.	Presentation of positions by the parties and discussion of themes emerging	Internal talks.	Weeks one, two and three.
2	Discussion of these themes with other signatory of Anglo-Irish Agreement.	North/South talks.	To begin in week four; if desired, to continue concurrently with item 3.
3.	Initial discussion of possible new arrangements (taking account of discussions on items 1 and 2).	Internal talks.	To begin in week six; if desired, to continue concurrently with item 4.
4.	Discussion of possible new arrangements with other signatory of Anglo-Irish Agreement.	North/South talks.	To begin in week eight.

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AN RÚNAÍOCHT ANGLA-ÉIREANNACH

BÉAL FEIRSTE

ANGLO-IRISH SECRETARIAT

BELFAST

CONFIDENTIAL

22 October 1990

Mr. Dermot Gallagher
Assistant Secretary
Anglo-Irish Division
Department of Foreign Affairs

Dear Assistant Secretary

A Talk with Sir John Blelloch

John Blelloch invited me for an hour's talk in Stormont today which is his last effective day in office (John Chilcot takes over as Permanent Under-Secretary of State on Wednesday). There was no-one else present. He was in a relaxed mood, looking forward to his retirement and naturally enough tending to stress on this occasion the positive developments in his tenure of office.

Irish Times' publication of July documents

He mentioned a couple of times that he was not fully briefed but he offered the view with hindsight and subject to developments, that the leak to Frank Millar had not been such a bad thing. (Note: This evening's Belfast Telegraph gave brief inside page treatment to the story under the heading "NIO unruffled over leaked talks plans".) The documents would not have come as a surprise given that their outline and much of the content was already known; but their publication could help to cement the progress that had been made over the last year and might act as a spur to everyone to take the final step necessary to get the talks started. He felt that the muted reaction here to the Irish Times story might itself indicate to the Unionist leaders that they had less to worry about than they thought; and he repeated the standard NIO view that if only the talks could be started, difficulties could be got over and a great opportunity for progress could be seized.

He noted that the Irish Times had described the degree of consensus which the documents revealed as "remarkable" and he himself felt that there had been very substantial "convergence" in the last year. (I did not mention the Irish Times' comment that the Government and the SDLP have "a great deal of justification on their side in hesitating, so far, in getting

down to talks with the Unionist parties". This was, of course, very helpful from our point of view here and supports the argument we have been making since the Summer that the British side might be misreading likely political reaction in the South.)

Reflecting on the past year, Sir John suggested that he would have been astonished in October 1989 if he had been told where we would be in October 1990. He regarded it as an important advance in everyone's interest that Unionists were returning to normal politics. Their relations with the British Government were still some way from normal, but the situation was much changed and Ministers seemed likely to be invited to the forthcoming Remembrance Day Ceremony for the first time in several years. He also believed that the Unionists were genuine in recognising the three sets of relationships and the need to talk to Dublin, which could hardly have been anticipated a year ago granted especially the Unionist public commitments of which there had been far too many.

He conceded quite readily that the Irish side had been correct in the judgement that the talks process could be taken more slowly and that the ground should be tested and prepared more fully before proceeding; and he agreed with my comment that the British arguments earlier in the year about "a narrow window of opportunity", a "half-life" for the initiative and a "serious danger of unravelling" had not been borne out. He thought the Eastbourne by-election result would push back the date of a General Election but agreed with my suggestion that the negative impact of an impending British Election on the prospects for political progress might have been exaggerated in any case. He was encouraged by indications of a bipartisan approach at Westminster, relying in particular and perhaps excessively on remarks made by Kevin McNamara at the BIA.

Meeting of Officials in London

He was aware of the results of last Friday's meeting of officials in London. I asked specifically if he had any comment on the three options which would satisfy our requirements, i.e., an agenda/timetable which would automatically trigger the start of North/South talks at a definite time, a binding assurance by the Secretary of State to the Irish Government, to be given with the acquiescence of Unionists, that he would use his discretion to start the North/South talks at a definite time and a direct oral assurance from the Unionist leaders that they would agree to the start of North/South talks at a definite time. He gave it as his personal view that the Unionist leaders would not be prepared to give a direct oral assurance, mentioning that the Unionists lacked confidence in their ability to negotiate with us; and he expressed concern about the possible role of the Secretary of State. He did see some prospect of the agenda/timetable approach working although not in the form we proposed. He recalled that the Unionist leaders had agreed to meet NIO officials prior to the gap to establish a programme for the talks - the inference

being that if we could only swallow the "substantial progress" pill, a starting time, although perhaps not a definite one as we wanted, might be worked out.

I asked if there was not a contradiction in the British approach to the option involving Mr. Brooke. On the one hand, they were telling us that Mr. Brooke had such confidence in Unionist preparedness to enter North/South talks that we should trust his judgement of when to start them and, on the other, that he did not trust the Unionists enough to give a definite assurance. Sir John did not accept there was a contradiction. What was required was a political judgement of how the talks could be started and of what the risks were; he did not think there could be a guarantee. Moreover, he was clearly worried that Mr. Brooke might find himself in a position where we had merely an expectation, less than a guarantee, that he would commence the North/South talks at a particular time and that he might not be able to do this for whatever reason. In those circumstances, he could foresee a feeling on our side that there had been "a breach of faith" and he commented "that is not what we are about".

The Anglo-Irish Relationship

You will recall that Sir John sent me a note after he had been at dinner here two weeks ago (letter of 9 October) pulling back a bit from critical comments he had made at dinner about Anglo-Irish co-operation. He mentioned his analogy of two ships passing in the night "each on different radio wavelengths" a little ruefully. He did not pursue it and dwelt instead on his view that the Agreement had strengthened the London/Dublin relationship enormously. He seemed to be impressed by the steady and low-key approach we have brought to the political talks and to respect the soundness of our judgement even if he could not agree with us in all matters - a far cry from the Burns/Fenn approach which persisted until recently. Contrary to the suggestions of future recrimination I was getting here in August, he gave every sign that the two Governments should go forward or "pause" together. He made no mention of the "I shall not shirk my responsibility" remark in the Ballymena speech, which I think from various indications was not seriously thought through. Finally, he thought our relations with the NIO would prosper and he wanted us to know that in his view the new top tier of the NIO in the persons of Chilcot, Pilling, Ledlie, Alston, Thomas and Wilson was "as good as any there has ever been and considerably better than some I have known".

Yours sincerely

Declan O'Donovan
Joint Secretary

AN RÚNAÍOCHT ANGLA-ÉIREANNACH

BÉAL FEIRSTE

ANGLO-IRISH SECRETARIAT

BELFAST

CONFIDENTIAL

24 October 1990

Mr. Dermot Gallagher
Assistant Secretary
Anglo-Irish Division
Department of Foreign Affairs

Dear Assistant Secretary,

Discussion with Danny McNeill, Assistant Secretary for Political Affairs, Northern Ireland Office

Danny McNeill recently came to lunch in the Secretariat in the company of Robert Alston and Marcus Dodds. McNeill is a Catholic, raised in west Belfast, and was an Assistant Secretary at the Northern Ireland Department of Education before being transferred recently to Stormont House where he now heads the Political Affairs Division under Alston.

MacNeill commented in relaxed manner on a number of aspects of the current political scene, although he kept to the official line on the talks process in the company of Alston and Dodds. A number of points of interest arose during the discussion.

On the prospects for progress in the political talks, he expressed very strong doubts about unionist willingness to give any ground. We emphasised that the Government (and the SDLP) had not only accepted the unionist preconditions, but had made further concessions in relation to the timing of the talks. McNeill spoke in response of deep suspicion of the process on the part of unionists and their rather simplistic attitudes to many of the issues involved. In particular, he referred to a strong unionist fear of the influence of the SDLP (notably Hume and Mallon) as backed up by the Irish Government. We repeated our scepticism about these concerns as well as our strong view about the inherent danger (if they were given any credence) of opening the way to further unionist demands. Under pressure, he accepted that the concerns were largely irrational.

Following from this, we queried McNeill on the state of relations between the NIO and the unionist parties. He replied that the period of unionist boycotting of contacts with Ministers and the reciprocal refusal of civil servants to meet with unionists representatives was effectively over. Relations had not "returned to normal", but this was not far away. Trust was another matter - he first said that unionists shared the dual attitude of the public in other countries to the civil service (on the one hand disparaging it for its cosy inefficiency and on the other, suspecting it of all kinds of deviousness). He went on, however, to offer the personal view that unionists would view him little differently from the Irish members of the Secretariat.

He accepted that an educational process would be desirable to wean people away from more irrational viewpoints but felt that progress in dealing with attitudinal as well as other more deep-rooted problems (especially in the social and economic areas) would only be made if there was movement towards a devolved administration. A devolved administration would also be more effective in countering the paramilitaries.

We expressed doubts about this suggestion pointing out i) that any devolved administration would not have control of key security areas such as the Army or Emergency provisions and might have doubtful control of the RUC, and ii) that the past few years had seen a weakening of the paramilitaries in some areas as, for example, Derry where a broad coalition of forces such as the SDLP, the local Council and the IDB had all contributed to a significant improvement in the situation. No doubt feeling the presence of his colleagues, McNeill countered unconvincingly by suggesting that Derry had always been a different case to west Belfast with its smaller community and division by the Foyle.

We asked for his views on the leaking of the texts relating to the talks process to Frank Millar and the comparative lack of reaction to this to date within Northern Ireland. McNeill appeared unperturbed in relation to this development and suggested that it could prove to be beneficial in that it might serve to remove some suspicions about the talks process from the minds of the unionist public, a point with which Alston concurred. He did not comment on the leak concerning the anticipated discussion of Energy matters at the forthcoming Conference.

Yours sincerely

E. Brian Nason

AN RÚNAÍOCHT ANGLA-ÉIREANNACH

BÉAL FEIRSTE

ANGLO-IRISH SECRETARIAT

BELFAST

24 October 1990

Mr. Dermot Gallagher
Assistant Secretary
Anglo-Irish Division
Department of Foreign Affairs

Dear Assistant Secretary,

Amendment to Fair Employment legislation
Discussions with officials of the Department of Economic Development, 24 October 1990

Following the recent Fair Employment Tribunal ruling which has halted its work, we have obtained information on the current state of play in relation to the Tribunal from the Department of Economic Development.

You will recall that the Tribunal ruled that the current wording of the 1989 Fair Employment Act [essentially section 30(3)(b)] makes it unlawful to reveal information about an individual's religious background, inhibiting, inter alia, an individual wishing to bring a case before the Tribunal from obtaining the necessary evidence to do so, and the employer from answering a complaint. The ruling, which made it impossible for the Tribunal to proceed with any case, was characterized to us as deliberate. The resulting situation, as conveyed to us, is as follows.

As the ruling applies to the confidential monitoring information which the Fair Employment Commission (FEC) has been gathering since it began its operations early this year, it affects not only the Tribunal but also the Equal Opportunities Commission and possibly also the Department of Health and Social Services and Inland Revenue (i.e. anyone requiring confidential monitoring information from an employer). The ruling does not prevent the continuing provision of monitoring information to the FEC (which has gathered information from over 1800 firms so far) or disclosure to the Criminal Courts. Individuals can also give consent to disclosure.

Three options for rectifying the situation have been under consideration.

i) dropping section 30 from the Act. This has been ruled out as it would remove the protection given by the section to the monitoring information as well as to those who supplied it.

ii) a Bill formally amending the 1989 Act. Apart from the fact that the Parliamentary schedulers say that there is no possible slot for a Bill before the next general election, it would mean that the legislation would be opened up once more to debate and adversarial comment (and perhaps worse) from unionists. There is apparently no available provision for emergency processing of a Bill in such a case.

iii) an Order in Council. Most legislation in Northern Ireland is put through by this method but it takes 64 weeks to complete. It may be possible to shorten this procedure to 44 weeks by eliminating the consultation component and this is the favoured course of action at present. Even so, it will mean that it will be Easter at the earliest before the situation can be put right. (There are other minor amendments to be made to the Act which it would be difficult to include under this procedure, necessitating perhaps a further Order in Council in due course).

Not only is the FET unable to process cases in the meantime, but there is a concern that it may not be possible to make the rectifying legislation retroactive. This may oblige the FEC and others to have to re-submit cases to the FET. A final view on this question and its implications for the FEC and FET has not yet been formed. To conclude on perhaps the only positive-sounding note, as this was the first case before the Tribunal, the question of invalidating previous judgements does not arise.

Yours sincerely,

E. Brian Nason

3

Confidential

Meetings with SDLP Representatives in Co. Derry

Conversation with Mark Durkan, SDLP, Derry, 22 October 1990

I The Talks

1. Mark Durkan summed up the views of local nationalists as being not overly optimistic on the prospects for the current talks. There are two strands of opinion, neither strongly held - these who feel that the Government and SDLP line is correct and those who feel that further efforts should be made to meet Unionist demands.

2. Durkan, himself, believes that the DUP are more interested in the talks than are the Official Unionists. The DUP, as Ulster Nationalists, have little time for English politicians. Peter Robinson can measure himself against the British Ministers with whom he comes in contact and has the ambition and confidence to know that he could do the job as well as they. In the event of a redrawing of Belfast parliamentary constituencies, Robinson could find himself with a more moderate electorate (the constituency expanding to include either part of North Down or of Strangford). Robinson, he believes, is positioning himself to cover this eventuality.

3. Durkan saw little evidence of a capacity to compromise amongst OUP politicians with the possible exception of John Taylor who is " his own man".

4. Should the talks fail, Durkan believes that greater prominence must be given to the unfinished business of the Anglo-Irish Agreement, especially social and economic issues. He referred to the desirability of having more meetings of Economic Ministers in the context of the Conference. Unionists would not remain immune indefinitely to involvement in practical areas of cross border economic co-operation.

5. Durkan was opposed to any suggestion of increased local government powers in present circumstances. He had said as much

to the new Permanent Under-Secretary, John Chilcot, whom he had met earlier in the day. He had explained that in present circumstances District Councils are forced to co-operate if they wish to increase their level of influence. If real power were to be devolved to local authorities, then parties would be expected to seek effective control in the interests of their own constituents. Durkan had also pointed out to Chilcot the irony of Ministers making public statements on the need for greater local involvement in decision making while, at the same time, efforts were underway to reduce local representation on Health Boards.

6. On the proposals for a reappraisal of the manner in which legislation relating to Northern Ireland is dealt with at Westminster, Durkan had suggested that those advocating a departure from present practice would not necessarily be the most active participants in Westminster discussions on legislation.

Security Concerns

7. Durkan expressed concern to Chilcot about recent reports which he had heard of ill-treatment at Castlereagh Holding Centre. Chilcot noted this point. In general Durkan had been impressed by the manner in which Chilcot had listened with an apparently open mind to the points raised. This contrasted with his predecessor's tendency to defend the Authorities against any apparent criticism.

Electoral Boundaries

8. Durkan spoke at some length on the revision of local government and parliamentary electoral boundaries which is likely to get underway next year. In particular, he focussed on the situation of the four Belfast Westminister constituencies. It is possible that Belfast West might be redrawn. Durkan speculated that the British might in the process take the opportunity to try and undercut Gerry Adams' support.

4

Interreg

9. In relation to Interreg, local politicians were extremely annoyed by what they perceived as the less then total commitment of the Department of Economic Development to the involvement of local groups. He was especially critical of the negative attitude of the DED towards the establishment of any new cross border institutional arrangements to implement the Interreg initiative. Durkan felt that Dublin should be pushing the NIO on this. If present attitudes were maintained, nationalists would infer that either Dublin had not got sufficient influence to convince the NIO of the merits of such arrangements or else chose for its own reasons not to use its influence. Durkan did not elaborate on the latter point.

II **Meeting at Strabane District Council**

10. I met with Cllr Joe Mc Elroy, the leader of the SDLP group on Strabane District Council, on 22 October. Although only elected to the Council eighteen months ago Mc Elroy spoke of resigning his seat because of his sense of frustration in trying to achieve anything on the Council, which is Unionist controlled. However, from the obvious enthusiasm with which he spoke of his political activities, it would be surprising if he were to follow up on this threat.

11. He was concerned at any move to increase local authority powers. The unionists on Strabane Council were already trying to restrict access to recreational facilities and this did not augur well for any such increase.

12. Mc Elroy felt that there was a sense that the Brooke initiative was going nowhere. He was deeply distrustful of unionists, especially the DUP, and was afraid of any developments which could undermine the Agreement.

III **Meeting with Cllr Arthur Doherty, Leader of SDLP Group on Limavady District Council, 23 October 1990**

13. Councillor Doherty commented on the positive effect which

the previous Unionist Chairman of the Council, Cartwright, had exercised over the atmosphere in the Council in his period of office. His successor, a more hardline politician, was attempting to maintain this atmosphere. However, this exercise did not extend to the inclusion of nationalists on any of the bodies or working groups of the Council.

14. Doherty was concerned about a recent case of blatant discrimination in filling the post of Chief Technical Officer to the Council. A very well qualified Catholic candidate, Kevin O'Gara from Omagh, failed to be appointed to the post which went to a much less qualified local Protestant. Cartwright, the former Chairman, attempted unsuccessfully to get the unionist councillors to split their votes between two local Protestant candidates so as to ensure that the best person (i.e. O'Gara) got the job. In the event the Council split on a strict denominational basis to ensure that one of the Protestant was selected. O'Gara will now bring a case to the Fair Employment Tribunal.

The Talks

15. Cllr. Doherty, stating that he was an optimist by nature, expressed the view that talks would get under way. While he was generally in agreement with the line adopted by the Government and the SDLP leadership, he argued against going far to meet unionist concerns' - "at times one would get the impression that nationalists have no concerns".

16. In relation to the Agreement generally, Doherty believes that Unionists are beginning to appreciate the benefits that might be derived from cooperation with the South on economic issues; for unionists this was a new perspective and one which should be allowed to develop.

Mary Whelan
25 October, 1990.
c.c. Asst Sec Gallagher, Counsellors A-I, Secretariat, Box

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Confidential

15 October 1990

Mr. Dermot Gallagher
Assistant Secretary
Anglo-Irish Division

Dear Assistant Secretary

A conversation with Seamus Mallon

The following points of interest arose in a conversation which I had with Seamus Mallon last night:

The Brooke initiative

- Mallon expressed the view that the initiative is "effectively over". Brooke has moved his position perceptibly towards the Unionists (Edward Gorman of the Times was right to make this observation in relation to the 16 July draft) and this has seriously compromised the initiative.

- Regarding the Irish Times disclosures this week, "it is good that everything is now out in the open". People can now see clearly that the position taken by the Irish Government and the SDLP was the right one. The Irish Times leader was very welcome.

- The very fact that Unionist sources divulged the 16 July draft, Mallon observed, is an indication that they, at least, consider the initiative to be over.

Yesterday's bombings

- As you are aware, Mallon strongly condemned the bombings in his intervention in the Commons debate and asked that anyone with any information about those responsible should make it available to the police. He described the murders as particularly cynical, cowardly and evil. In response, Brooke expressed particular gratitude to Mallon for the vehemence of his condemnation and suggested that the whole House would endorse this gratitude.

- It is worth mentioning that John Chilcot, who was present in the House for the debate, told a journalist afterwards that he was greatly impressed by Mallon's intervention.

- In private, Mallon was worried about the possible repercussions of his remarks in his constituency. On previous occasions when he has made such appeals for information, posters have appeared denouncing him as an informer and warning of the fate which awaits informers. He expected, therefore, "an uncomfortable weekend".

- He saw no reason for Brooke to promise John Taylor (as he did in the debate) that extradition would feature prominently at today's Conference meeting. There was no justification for this and it was clearly "a sop" to the Unionists.

- On the complaint by Taylor that he and David Trimble were recently denied access to major roads leading to the Republic, Mallon suggested that Taylor's underlying objective was to secure official cars and personal protection for Unionist MPs. There was nothing surprising about the RUC advising the two MPs, on security grounds, not to travel South by road. Taylor and Trimble were merely trying to exploit yesterday's incidents to their own advantage.

- Whether or not it is true that the men used to ferry yesterday's bombs had connections with the security forces (and Mallon knew nothing of the man involved in the Killeen attack), the prospect now arises of entirely unconnected individuals being used by the Provos for such attacks and of attempts being made to "excuse" this with phoney rumours of involvement with the security forces.

Emergency Provisions Act

- Mallon has received no indication of the content of the new EPA. Regarding speculation about a possible "guilt by association" offence, he said he would be strongly opposed to this on various grounds.

British-Irish Parliamentary Body

- The main items on the agenda at Tuesday's meeting of the Body's Political and Security Sub-Committee were UDR accompaniment and extradition.

- Mallon found the extradition discussion inconsequential. On accompaniment, Michael Mates read from a note supplied from the NIO which suggested that the Irish Government is satisfied with the progress made on this issue. Garret FitzGerald challenged this, Mallon supported him, suggesting that the NIO's line was disingenuous. Naturally any progress, even if it is only a single extra accompanied patrol, will cause some satisfaction. However,

there remains considerable dissatisfaction with the level of implementation of this undertaking. He himself, living in NI, has yet to encounter an accompanied UDR patrol. The discussion concluded with a request to the Secretariat to seek statistical details on this issue.

The See of Armagh

- Mallon commented that Bishop Cathal Daly would be the wrong choice for Armagh. While the late Cardinal's credentials as an Armagh nationalist were impeccable, the translation of Cathal Daly to Armagh would undoubtedly cause tensions in this respect with Fr Denis Faul and Fr Raymond Murray. Mallon favoured a neutral Southerner who would not have a divisive effect locally (and who ideally, he added with a grin, might find comfortable parishes in the South for Fr Faul and Fr Murray!).

Yours sincerely

David Donoghue
Press and Information Officer

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22 October 1990

Dear Assistant Secretary

Following our meeting with John Chilcot and his officials at the NIO on Friday last, I had lunch, arranged some time ago, with Len Appleyard of the Cabinet Office.

I told Appleyard how the meeting in the NIO had gone, explaining in detail the position the Secretary had presented. Appleyard, while expressing the fervent hope that we will find it possible to accept his side's view that what is important is to get the talks going after which the process should work, readily accepted that we also have a legitimate point of view. He several times said that they (i.e. the British side) are quite relaxed about the situation. It was the objective of both Governments to get the parties to talk together. It would be a pity if the talks did not get off the ground or if they did not succeed, but not a disaster. If they fail, they fail and we shall have to manage the situation and get on to something else.

Appleyard told me that the Prime Minister is kept informed by Peter Brooke of what is going on, in frequent conversations and by minute. She is happy with what he is doing. She has full confidence in him and this, Appleyard said, is shown by the fact that she is not constantly breathing down his neck on what is a sensitive subject.

Appleyard also said that from his viewpoint the relationship between the two countries is at present very good - indeed never better, in his view! He added, as is to be expected, that we have to be alert for issues - like extradition - which can disturb the calm. I mentioned the Ellis hunger strike; Appleyard's reaction was an acceptance that the extradition question is an extraordinarily sensitive one - for us.

Appleyard has been deeply involved in work in regard to the Gulf crisis and he also follows Eastern European and other current foreign policy issues, in addition to his duties on Anglo-Irish affairs. His views are therefore those of someone who is standing back a bit from the day-to-day work on Northern Ireland and Anglo-Irish relations and presumably reflect the broad view which reaches the Cabinet Office from Whitehall. All in all, his assessment of the relationship is a very positive and encouraging one. You will see from Mr Lyons's report of a conversation in the Foreign Office that the assessment there is also positive.

Yours sincerely

Andrew O'Rourke
Ambassador

Mr Dermot A Gallagher
Assistant Secretary
Anglo-Irish Division
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Confidential

22 October 1990

Mr. Dermot Gallagher
Assistant Secretary
Anglo-Irish Division

Dear Assistant Secretary

Lunch with Alan Perceval, NIO

Perceval is the NIO's press officer in London.

The following points of interest arose:

The Irish Times disclosures

- There has been a muted reaction in the NIO to the disclosure by the Irish Times of documents relating to the Brooke initiative. The general view is that, in a process involving the circulation of texts in various directions, leaks at some stage are inevitable. It is nonetheless a regrettable development, particularly as the two Governments have been largely successful so far in keeping details of the discussions out of the public domain. (I mildly disputed the equivalence between the two Governments here, pointing out that the Irish Government's record of reticence has generally been better than the British Government's; Perceval did not demur).

- Perceval went on to observe that any journalist publishing such texts must realise that they do not necessarily reflect agreed positions. It is risky to venture conclusions about the process from selected texts of uncertain status.

- Having said that, however, Perceval noted that the disclosures have had a beneficial spin-off for the Irish Government, prompting an Irish Times leader which is strongly supportive of the Government's and SDLP's positions on the talks.

- The impact of today's disclosures, he suggested, has been lessened both by the positioning of the story in today's edition and by Frank Millar's low-key commentary. In strict terms, the texts contained nothing which could not have been inferred by close observers of the

initiative from public comments by the various parties. Assuming that the texts reached Millar from Unionist and SDLP sources respectively, Perceval anticipated that there could well be further disclosures.

- Molyneaux's reaction to the NIO line on the disclosures was based on a misunderstanding. The OUP leader said he was puzzled by a suggestion that the "process of exchanging documents" is continuing. In fact, the NIO merely said that the process as a whole (not the exchange of documents) is continuing.

Overall prospects for the Brooke initiative

- Perceval's private view is that the initiative's prospects of success are ebbing away. He compared the outstanding difficulties to a chasm in the snow: "we can see the other side but we don't know how to get there - and we could fall in at any moment".

- The Secretary of State is now acutely conscious of the seriousness of the remaining problems from Dublin's point of view. In private, "and not yet in public" (though Perceval hinted that a public admission might be made at some point), Brooke concedes that he misjudged the seriousness of the concerns voiced by Dublin and the SDLP last July about the timing of the North/South talks. He also acknowledges that the pressure on him to report to Parliament was unhelpful to the process.

- Responding to my reiteration of the Irish Government's objections to the Unionist precondition of "substantial progress", Perceval said that Brooke accepts that we need "certainty" about the point at which Dublin becomes involved. His hope is that he can "talk the Unionists away" from their demand or, at least, from this specific wording. He wants to press them to accept a definition of "substantial progress" which would entail less a complete agreement with the SDLP than an intensive discussion of the issues aiming at some form of limited understanding on how to proceed.

- As regards the suggestion that it might be left to Brooke to judge whether "substantial progress" has been made, Perceval commented that he would understand if Dublin had difficulties with this. If Dublin accepted this, and Brooke then found that his assessment was resisted by the Unionists, the process would be brought to a halt and only the IRA would benefit. At the end of the day, however, "it all comes down to trust, doesn't it?". Brooke must force the Unionists to give an advance undertaking that they would accept his judgement on the question of "substantial progress". The Irish Government, in turn, armed with this assurance, must have sufficient faith in Brooke to go ahead on this basis.

- Perceval reported rumours that John Hume may shortly take up a position with an international organisation; he suggested that any consequent handover of the leadership to Seamus Mallon would result in a lessened SDLP commitment to talks. I replied that I was unaware of any such rumours. Furthermore, the SDLP is completely united in

its approach to the initiative, as recent speeches by Mallon and Hume have shown. I also underlined the complete identity of approach between the SDLP and the Irish Government.

- Perceval elaborated on Brooke's recently expressed hope that he would know where he stood on the initiative by the end of this year. At a recent internal meeting, Brooke indicated that the positions of the various parties on the talks and on the remaining difficulties are by now fairly clear. He expects that, by the end of the year, their respective fall-back positions (or "bottom line") on the difficulties should also be clear. There is, in his view, a limit to what he can still usefully do. "People" will either agree to the others' "bottom line" or they won't. By the end of 1990, therefore, everything will be as clear as it is ever going to be.

- Within the NIO, there is growing concern about the effects of a possible election in 1991. (Perceval's own guess is that October 1991 is likely). If election speculation mounts, the Unionists may be expected to "sit back", hoping to reap benefits from a hung Parliament, and to resist all overtures from Brooke.

- I noted a renewed emphasis by Brooke, in recent public statements, on the economic side of his brief. Perceval's explanation of this was that there are two "pillars" to the Government's campaign against terrorism in NI, the political and the economic. Brooke is already actively engaged on the political front. He wished, however, to remind people (not least because of the uncertainty of political progress) that there is also an economic front. In this respect, he wished to highlight progress being made towards the economic regeneration of West Belfast (for which he gives Richard Needham considerable credit). He also wished to highlight action being taken to stifle funding for terrorist activity.

Emergency Provisions Act

- The major piece of NI legislation for Parliament's new term will be the revised EPA. The NIO hopes that it will reach a first reading before the end of November and that it will receive the Royal Assent by next spring. They are not expecting any great difficulties with it.

- Perceval indicated that speculation in yesterday's Sunday Times about the introduction of a "guilt by association" offence and about wire-tapping is wide of the mark. Neither measure will feature in the Bill. He implied, however, that there was some casual consideration of the former idea some months ago but that it was since rejected.

Yours sincerely

David Donoghue.

David Donoghue
Press and Information Officer

END of file