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FROM: WILLIAM KEOWN
INTERNATIONAL & PLANNING DIVISION
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MR JEFFREY

NORTHERN IRELAND BILL: MEETING WITH THE IRISH

u Mr Brown
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This note records the meeting with the Irish on 28 July to discuss their concerns about aspects of the Northern Ireland Bill. The two sides were represented as follows:

British Side

Mr Jeffrey
Mr Bell
Mr Stephens
Mr Beeton
Mr Brooker
Mrs Evans, HOLAB
Mr O'Meara, HOLAB
Mr Brett, RID

Irish Side

Mr Gallagher
Mr Donoghue
Mr Cooney
Mr Montgomery
Mr Bassett
Mr Barrington

2. Mr Stephens outlined the stance which Ministers had taken thus far during the Commons stages of the Bill, namely that its purpose was to implement the Agreement in full and that the Government would look sympathetically at any amendments which would help to meet that objective. A number of amendments were to be tabled at Report Stage and commitments had been given to consider other areas over the summer.

3. Mr Gallagher opened by thanking Mssrs Bell and Donoghue for the work they were doing to promote consultation between the two Governments on the Bill. Whilst recognising the Bill as a legal underpinning of the Agreement, it was also a political exercise and it was critically important that the political balance of the Agreement was carried through into the Bill. The equality area was one area where there was widespread support and it was important that strength was not drawn away from it.

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North-South Arrangements

4. Mr Gallagher emphasised the importance of Ministers' duty of service to participate in North-South arrangements. It was one of their "essential responsibilities" which ought to be reflected in the Bill. Funding for the North-South Ministerial Council was also vital, with paragraph 15 of Strand Two obliging the two Administrations to provide funding for a necessary public function.

5. Mr Stephens noted that Mr Murphy had dealt with amendments on both issues in the House the previous evening and had agreed to consider them further. Participation was an essential responsibility, but it was also the case that the First Minister and deputy First Minister were to be able to make alternative arrangements if a Minister did not do so. Mrs Evans noted that where the Assembly had been given provision to legislate, it would be able to provide any necessary funding.

6. Mr Gallagher suggested that on both sides of the community there was concern about the other's intentions and that in certain areas it would be safest to include wording from the Agreement. Mr Cooney noted that provision for funding of the Civic Forum, not mentioned in the Agreement, was included in the Bill. The reverse was true for the North-South Ministerial Council. Mr Montgomery suggested that the "alternative arrangements" in paragraph 2 of Strand Two did not carry the same weight as the duty of service - they were not intended to provide for continual non-participation.

7. Mr Stephens noted that Mr Murphy had also indicated some sympathy with a Trimble amendment dealing with the defined authority of Ministers attending the North-South Ministerial Council. Mr Cooney acknowledged that accountability may need to be dealt with more explicitly but that the words "in advance" in Trimble's amendment went beyond the Agreement.

8. Mr Gallagher, moving on to the interpretation clause 79, queried the absence of any definitions of the bodies to be set up under Strands Two and Three bodies.

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Mr Donoghue suggested that a move away from a legally minimalist approach could meet the need for political reassurance in this respect. Mrs Evans noted that all the bodies defined in clause 79 were defined for a specific reason. For example, the Assembly had to be clearly defined to distinguish it from other bodies of the same name. It was clear from clause 66 that the North-South Ministerial Council and British-Irish Council were the bodies set out in Strands Two and Three of the Agreement. Whilst recognising political realities, it was important to remember that the Bill was creating law which must be capable of withstanding scrutiny in the courts.

9. Mr Cooney noted the debate about draft clause 26 and that Ministers now considered it to be unnecessary. Mr Stephens said that legal points were being checked to ensure that clause 66 was sufficient. Consideration was also being given to moving the North-South clauses further up the Bill.

Equality

10. Mr Gallagher said that the Irish Government had received a considerable volume of representation about the Equality Commission. It had not been part of the SACHR report and the political parties seemed to be against it, with some describing it as a "civil service invention".

11. Mr Jeffrey noted that Mr Trimble favoured a single Commission although he thought it may be premature in the Bill. The consultation process on the matter had not been one-way and the Secretary of State was keen to make progress in this area.

12. Mr Bassett said that the Irish had been clear that the Agreement did not sign them up to an Equality Commission. He suggested that the Commission's power to enforce the statutory duty on public authorities should be given to the Secretary of State acting through the CCRU or a Department of Equality.

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13. Mr Stephens noted the contradiction between this argument and Mr Gallagher's opening comment that the equality section should not be changed. The strength of the proposed arrangements was that they combined internal and external responsibilities. Internally, there was a clear statutory duty on all public authorities to produce schemes for promoting equality. Externally, the Commission represented a quality control mechanism which moved us away from the criticised position of having civil servants checking on other civil servants. Furthermore, if the Commission considered that it was not getting a satisfactory response to its recommendations, it could refer the matter to the Secretary of State.

14. Mr Bassett responded that the existing practitioners did not agree with this analysis. They wanted to see equality enforced within the mainstream of Government. Mr Gallagher noted his main concern that the system should work successfully. Whilst acknowledging that there were a number of vested interests, he was concerned as to why there was so much opposition to the Commission.

15. Mr Bassett suggested that the wording of the paragraph 3 of the Rights, Equality and Equality section of the Agreement be incorporated more fully in Schedule 10 of the Bill. For example, public access to "information and services" in the Agreement was reduced to "services" in the Bill. Mr Stephens agreed to consider this section further.

Human Rights

16. Mr Gallagher acknowledged that there was a good story to tell on the Bill's provisions on human rights. He suggested that the Bill should provide for a formal review of the Commission's remit and functions after two or three years. This would have some political value. Mr Jeffrey noted that clause 55(1) already provided for the Commission to keep matters under review. Mr Beeton suggested that this could be picked up in the Memorandum of Understanding.

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17. Mr Gallagher noted that, in advance of internal consultation, the Irish Government was not strongly inclined to support calls for the Commission to have strong investigative powers

Miscellaneous

18. Mr Cooney asked whether there was any possibility of the Assembly Commission taking decisions on symbols or emblems associated with the Assembly. Decisions on these areas should be taken on a cross-community basis. It was agreed to consider the point.

19. Mr Gallagher asked about junior Ministers, to which Mr Jeffrey responded that the issue was with the parties for consideration. There was no clear view on how such appointments might be made.

20. Mr Cooney asked about the title "Executive Committee of the Assembly" used in clause 16 of the Bill. Mr Stephens noted that the title assisted with the overall balance of the Bill by giving some cover to the residual executive authority resting with the Assembly.

21. Mr Donoghue raised a concern as to whether clause 36 permitted the Assembly to summon Ministers or officials from the Irish Government. Mrs Evans noted that the legislation did not have power over another jurisdiction. State immunity meant that the clause did not extend to Irish Ministers or officials.

22. Mr Cooney asked about the Government's intentions for commencement of the Bill. Mr Stephens said that the transfer of power to the Assembly, the coming into effect of the British-Irish Agreement and constitutional changes were all planned to take place on the same day.

23. Mr Montgomery raised a technical point in relation to the audit of implementation bodies. Clause 68, in conjunction with Schedule 8, may imply that

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these bodies would be audited as internal bodies. It was agreed to consider the matter further.

William Keown

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PS/Mr Pilling

PS/Mr Semple

Mr Bell

Mr McCusker

Mr Stephens

Mr Beeton

Mr Brooker

Mr Whysall

Mr Canavan

Mr McIlroy

Mrs Sear

Mr Banim

Mr Brett, RID

Mrs Evans, HOLAB

Mr O'Meara, HOLAB

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