

C O N F I D E N T I A L

RW/229/11

FROM: PRINCIPAL SECRETARIAT

19 JANUARY 1989

PS/4593/89/JEC

UNDER/ 218/11
SEC
20 JAN 1989
CENT SEC

cc Mr Burns - B
Mr Thomas - B
① Mr Spence - B *20/11*
Mr Masefield
Mr Bell - B *misspelled*
Mr R Wilson
Mr Hallett - B
Mr George, FCO - FAX

*② Mr Hallett - to see
& return pl.*

Mr Miles - B

ARTICLE 11 REVIEW: JOINT MEETINGS ON ARTICLES 2, 3 and 6

I enclose the minutes of the two meetings held last week in the Secretariat to initiate joint work on the Review of Articles 2, 3 and 6.

(Signed)

PRINCIPAL SECRETARIAT

19 January 1989

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ARTICLE 11 REVIEW

JOINT MEETING TO DISCUSS ARTICLE 6, HELD IN THE SECRETARIAT AT
11.00 AM, 11 JANUARY 1989

Present:

Mr Miles	Mr O hUiginn
Mr Spence, Central Secretariat	Mr Collins
Mr Masefield	Mr Gaffey
Mr R Wilson, Central Secretariat	Mr Corcoran, DFA
Mr Canavan	Mr Canniffe, DFA

1. Before dealing with Article 6 in the specific context of the Review, the meeting recapitulated progress on its ongoing consideration of policy on public appointments. The Irish side had submitted a paper in September 1988 which had expressed concern at the low rate of success of Irish suggestions for places on public bodies and generally at the proportion of nationalists appointed to run bodies, criticised the criteria applied by Government in making appointments, pointed out that many NI bodies with nomination rights exercised them with a bias towards Unionists, and made proposals for change. It had been anticipated that a joint paper for discussion at Conference could be developed.

2. Mr Spence recounted progress on the British side since the Irish submission. There had been a meeting with the SDLP on 20 December. A statistical analysis of Category A appointments and those filled by district council nomination had been completed (a copy was passed to the Irish side). A more formal response was being proposed to the Irish submission but for the present he reiterated the British position:

- that the criteria used by Ministers in making appointments are the individual's ability and potential, and the public body's requirement for a range of experience and skills;
- that lack of experience in itself is not a handicap to appointment;

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- that Ministers by and large accept that a cross community balance is being achieved on public bodies, but that there is a difference of definition with the Irish;
- that Government on principle could not accept the aim of appointing persons to public bodies on their political allegiances, which are in any case usually difficult to establish;
- that British officials would discreetly attempt to persuade external nominating bodies to widen the basis of their nominations;
- that Government would explore further the potential for a workable scheme of proportionality between the constitutional parties in local government to provide balance in district council nominations.

This meant there was still a considerable gap between the British and Irish/SDLP positions.

3. On the issue of proportionality in district council nominations, the Irish side agreed to supply information on the system used in the Republic. Mr O hUiginn noted that the proposed anti violence oath might actually make it more difficult to exclude Sinn Fein Councillors from public bodies. He wondered if a proportionality system would increase their numbers on such bodies significantly. Mr Spence could not foresee Unionists agreeing to any system which guaranteed places to Sinn Fein as of right.

4. Discussion reverted to the issue of the definition of representative nationalists. Mr O hUiginn saw little real difficulty in identifying an individual's political allegiances in a small tightly-knit society like Northern Ireland. The SDLP was a good guide to their acceptability to the nationalist community. The object of the exercise was the broadening of the institutions of state. He saw no legal obstacle to this, only a lack of political will on the British side. It was possible to get the religious

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balance right but still make marginal impact on the political issue. Mr Spence recognised the importance of placing a number, not necessarily large, of nationalists in high profile posts, citing John McEvoy, the new NIHE Chairman, as an example. He also repeated his suggestion that the Irish side seek to widen the pool of available candidates held by CAU, rather than concentrating on the filling of specific posts.

5. He referred to the SDLP's approaches to individuals about specific positions and how this had created difficulty and embarrassment for the party if they were not successful.

Mr Canniffe explained that many well qualified nationalists were initially unwilling to participate on public bodies. The SDLP had often to apply much persuasion. Politicians and party activists had themselves gone forward to give a lead to their own community.

6. It was agreed that the British side would submit a formal response to the initial Irish paper with a view to early consideration of the issue at Conference. The Irish side also argued for a more detailed statistical breakdown of public bodies, including Category B appointments.

7. Turning to the Article 11 Review of this part of the Agreement, it was agreed that the appropriate section should cite the intentions of Article 6; note that the Irish side had put forward suggestions on the membership of public bodies, but that they did not consider the success rate of their suggestions to be satisfactory; explain the problems encountered; and state that ongoing efforts had been made to resolve differences between the two sides.

8. Mr Spence wondered whether the fact that the Irish side had successfully suggested particular people to certain bodies should ever be disclosed publicly, given the difficulties this could make for those office holders and the ease with which their identities might be guessed. Mr O hUiginn replied that he did not wish to pinpoint individuals, but some sort of data would be needed to substantiate comment.

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9. Mr Masefield mentioned that Article 6 also referred to the role of public bodies and that there had been close consultation with the Irish side on the constitution of the successor bodies to the Fair Employment Agency and the Police Complaints Board.

10. It was agreed that the drafting of this section of the Review ought not to present many difficulties and could be carried out within the Secretariat without too much formality.

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11. It was agreed that the Review should submit a formal response to the Irish side as early as possible. This would be for consideration of the Irish side and would be a response to the Irish side's request for a response from a public body, including the Review.

12. Turning to the Article 6 Review, it was agreed that the Review should submit a response to the Irish side as early as possible. This would be for consideration of the Irish side and would be a response to the Irish side's request for a response from a public body, including the Review.

13. Mr Spence mentioned that the Irish side had successfully suggested that the Review should submit a response to the Irish side as early as possible. This would be for consideration of the Irish side and would be a response to the Irish side's request for a response from a public body, including the Review.

C O N F I D E N T I A L

ARTICLE 11 REVIEW

JOINT MEETING TO DISCUSS ARTICLES 2 AND 3, HELD IN THE SECRETARIAT
AT 2.45 PM, 10 JANUARY 1989

Present: Mr Miles
 Mr Masefield
 Mr Bell
 Mr Canavan
 Mr George, FCO
 Mr O hUiginn
 Mr Collins
 Mr Ryan
 Mr Gaffey
 Mr Russell, DFA

1. Mr O hUiginn began by commenting that Articles 2 and 3, which established the institutions of the Agreement, had two dimensions - the substantive and the mechanical. The substantive aspects impinged on the subsequent Articles and had been referred to in the Irish paper passed across the previous week. Particularly, the Irish side was interested in:

- consultation;
- the Agreement committing both Governments rather than just the NIO and DFA;
- the determined efforts made to resolve differences, which had been variable; and
- the attribution of results to the Agreement.

However, he hoped to bracket out these substantive areas from the current meeting and to concentrate on the bureaucratic aspects of the Conference and its organs.

2. Mr Miles agreed with this approach and welcomed the Irish preliminary submission as a helpful document which clarified the way forward. His aim was an agreed joint report. He now agreed with the Irish that it could adopt an article-by-article approach with the mechanics of the Conference and Secretariat subsumed in the sections on Articles 2 and 3. He hoped, with Mr O hUiginn's

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concurrence, that the meeting would commission a draft passage for the final report. Both were now agreed that any draft of the report would be ad referendum to Ministers.

3. Mr Miles thought that, unlike the subsequent Articles, the expertise on Articles 2 and 3 lay with the Secretariat. Both sides knew that aspects of the Conference and Secretariat were unsatisfactory. However, Ministers seemed generally content with the way things worked and would probably reject ambitious proposals. Mr O hUiginn considered this a counsel of despair and did not think Irish Ministers would block radical proposals.

The Conference

4. Mr O hUiginn identified a number of aspects of the Conference which were worth examining:

- a forward look at forthcoming events (Parliamentary business, PQs, etc) bringing Ministers into a process currently conducted in the Secretariat;
- Conferences to be held on a more regular basis, say 10 per annum, perhaps even on a set day of each month (subject to security considerations);
- greater preparation for each Conference.

5. Mr O hUiginn went on to analyse the tripartite structure of the Conference.

- (a) The tete a tete, though useful for developing relationships between Ministers, had many administrative drawbacks. The absence of officials created a fertile ground for misunderstanding and discussion of items of substance detracted from the status of the plenary session. He proposed that the Joint Chairmen brief the Joint Secretaries at the conclusion of the tete a tete.
- (b) The restricted session worked reasonably well and the particular requirements for its format were recognised.

- (c) The plenary session had become quite disorganised with too much discussion on the communique and little time for non-urgent, though important issues such as education. This erosion of the plenary session's status had to be redressed. He suggested more preparation, a more ordered agenda, and more formalism.

The Agreement envisaged the Conference meeting as a significant administrative event with results emanating from it. The current structure tended to unbalance the agenda by compressing non-security items into an often perfunctory plenary session.

6. On the communique, Mr O hUiginn was concerned at its growing tendency to dominate the plenary session. A drafting exercise with over 20 participants was bound to be chaotic. One way to improve matters would be to prepare and agree in advance paragraphs on subjects for discussion to be included in the communique.

7. In reply, Mr Miles registered his agreement with much of what had been said, though he doubted if Ministers would accept a regular calendar of meetings. He also thought that the tete a tete could play a role in transacting serious business with minimal bureaucratic involvement. Some of the non-security issues discussed at the plenary session would also be appropriate for bilateral ministerial meetings (though the Irish side thought that on politically contentious non-security matters, such as West Belfast, Conference discussions would be necessary). The communique was probably about right in length and substance. At present a draft and counter draft were in existence before the Conference.

8. It was noted that the Secretary of State had declared his willingness to discuss Conference proceedings with NI parties, though only the Alliance Party had accepted the offer. It was agreed that, though attractive in theory, further development of this practice would be difficult, given political realities.

The Secretariat

9. Mr O hUiginn re-emphasised the symbolism of the Secretariat. It was seen as a line of direct access to the NI administration so

that nationalists would feel reassured. On a practical level he thought it could be involved more in preparatory work for a Conference. Ideally he would like to see its role developing into that of a clearing house between the two Governments, but he was conscious of a more minimalist approach from the British side. In the long term he hoped that the present accommodation and security arrangements at Maryfield could change, though this was not of direct relevance to the Review. Mr Miles thought that consideration should be given to the demythologising of the Secretariat, though recognising the practical obstacles to greater openness.

Mr O hUiginn commented that too much openness could also lead to further marginalisation of the Agreement among nationalists.

Mr Masefield mentioned some technical matters where there was room for improvement in the Secretariat's procedures, including telecommunications.

Working Groups

10. It was agreed that over the coming weeks, in examining subsequent articles, the scope for establishing new Working Groups would be considered.

11. The British side stated their intention to prepare a brief draft section for the Report based on the discussion. This would be subject to amendment at a later stage.

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17 January 1989

JEC/4554