

10/96

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31 MAY 1996  
NC/108/S

From: D J Watkins  
D/Cent Sec  
31 May 1996

cc PS/Sir John Wheeler (B,L&DFP) B  
PS/Michael Ancram (B,L&DENI) - B  
PS/PUS (B&L) - B  
PS/Sir David Fell - B  
Mr Thomas - B  
Mr Bell - B  
Mr Blackwell - B  
Mr Leach - B  
Mr Wood (B&L) - B  
Mr Beeton - B  
Mrs Brown - B  
Mr Carson - B  
Mr Hill - B  
Mr Lavery - B  
Mr Maccabe - B  
Mr Stephens - B  
Mr Clayton, HOLAB - B  
Mr McCartney, DFP Sols  
Mr Campbell-Bannerman - B

- 75% of voting members  
to be calculated.  
- Rules of the balance of  
parties in Forum. What  
are there in relation to  
the 10 members.

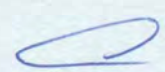
PS/Secretary of State (B&L) - B

Part

NORTHERN IRELAND FORUM: LETTER TO PARTIES

For our records pl

Introduction

  
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1. In the course of the debate on the Northern Ireland (Entry to Negotiations, etc) Act 1996 Ministers undertook to consult the parties on a number of points. In any case there is, I suggest, merit in consulting parties on a wide range of issues related to the Forum, although not necessarily in expectation of achieving a consensus. I attach a draft letter and annexes for the purpose of such consultation.

First meeting of Forum

2. This is the first matter covered in the draft letter (tab A). There is of course a tension between leaving sufficient space for the delicate and essential matter of the plenary of the negotiations on the one hand and foreseeable Unionist

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pressure for an early meeting of the Forum on the other. Allowing for these the draft letter suggests a first meeting of the Forum around 21 June, but this has been suggested to allow some room for negotiation with the Unionists who can be expected to seek an earlier start. (Ministers may of course prefer not to mention a date at this stage.) As you know, we aim to be ready for the first meeting of the Forum by 14 June. Once, taking account of the product of consultations, we have agreed upon a date, it is under the terms of the Act for the Secretary of State to decide the time of the first meeting. The Act of course sets out parameters for that time, ie after the start of negotiations and within four weeks of the election, or in other words (unless the start of negotiations were to be delayed) between 11-26 June. I suggest that, once Ministers have settled on a time for a first meeting taking account of all the relevant factors, this should be notified by means of a public notice in the Belfast Gazette and a letter to the nominated interim Chairman.

### Rules of procedure

3. The Act provides that the Secretary of State will notify initial rules of procedure. These are attached at tab B (legal advisers have seen them and are broadly content).\* I am deeply indebted to Peter Smyth and John Kennedy for their work in preparing these. It would be possible to envisage initial rules covering merely the initial business - election of a Chairman and the establishment of a Rules Committee. But we recommend that they make much more extensive provision. This is because it is well conceivable that it will take some considerable time for the Forum to reach a 75% majority in favour of adopting substantive rules for approval

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\*Note: tab B is annotated for the benefit of Ministers. The copy to be issued to parties should be without annotations (tab C).



by the Secretary of State; and if frustration and gridlock are not to be the outcome, then it would seem wise to provide for a mechanism which allows the body to conduct business on a sensible basis. But the substantial added benefit of this is that it guides the Forum (especially in Rules 3(2) and 8(1)) towards substantive rules of procedure which promote dialogue, understanding and consensus across the communities; and it helps provide guidance (especially in Rule 13) as to the notion of consensus which should be applied to the workings of the Forum and which, of course, the Act requires the Secretary of State to make every effort to promote in exercising his powers by way of both interim and substantive rules of procedure. It may be that Unionists will jib at this, alleging that we are seeking to fetter the Forum. (They may also criticise the more extensive nature of the rules as compared to 1973 and 1974 - when both the political and statutory backgrounds were of course different). But these are merely interim rules applying only until substantive rules are formally adopted, and can be defended as such.

4. Underlying this is the key issue of the measurement of consensus, an issue which goes beyond the Forum into the negotiations. We know that nationalists are unhappy with the 75% threshold on the basis that they fear that, in the absence of Sinn Fein, the SDLP could be out-voted by a Unionist majority on this basis. At the same time it would be highly contentious to increase the threshold from that specified in the Act for election of a Chairman and adoption of procedural rules. We have looked at a number of options. Initially, we sought simply to replicate the 75% threshold provided in the Act for election of a chairman and determination or alteration of rules of procedure. But HOLAB advised that this could be vulnerable to challenge in the courts on the grounds that Parliament had limited this threshold to those issues and that it was not for the

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Secretary of State in effect to expand the extent of that threshold. On the other hand a higher threshold is probably too contentious and impracticable. As an alternative we have examined ways of avoiding the 75% threshold while replicating as closely as is appropriate the requirement for sufficient consensus in the negotiations laid down in para 24 of Ground Rules ("a clear majority in both the unionist and nationalist communities in Northern Ireland"). So Rule 13 applies, for substantive business, a 66% majority and also a requirement that, in the opinion of the chairman, the decision in question can reasonably be deemed to command support across the main communities in Northern Ireland. This undoubtedly leaves much weight on the chairman, but is not so prescriptive as to lead to protracted wrangling.

5. Lastly on this point, the draft initial rules of procedure would be preceded by a memorandum from the Secretary of State to the interim Chairman (tab D). This would not in law form part of the rules, but I suggest it as a useful device to set out the powers and limitations on the powers of the Forum; and also to put on formal record, perhaps in a rather more subjective way than in the rest of that text, a statement of the Government's hopes for the Forum, and in particular our aim that it should operate by developing as much consensus as possible. Ministers should however consider whether that memorandum should accompany the rules of procedure to be sent out with the draft letter to the parties. Our advice is that it should not: there would be merit in keeping it fresh for issue to the interim Chairman shortly before the first notified meeting of the Forum itself, so that it retains impact at that point and is not debunked in advance.

Interim Chairman

6. My submission of 22 May sought to open up this subject. The options for the draft letter to the parties seem to be to table the names preferred by Ministers; or alternatively to

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invite parties to suggest names to us, encouraging them to look beyond party confines, so that we could then choose from a short-list. Our preference is clearly for the latter, and this is reflected in the draft letter.

Recording/Hansard

7. We are dealing with (1) companies who can record proceedings (for feeding to media etc) and (2) the editor of the Official Report in the 1982 Assembly. At this stage Ministers can undertake to provide a written record of early meetings of the Forum, but leave subsequent arrangements to the body itself.

Timing

8. Clearly this letter cannot issue until the results of the election are known. But I suggest that, if Ministers are content, it should issue quickly thereafter (though after issue of invitations to nominate teams for the negotiations) in order to give the parties as much time as possible, in a busy period for them, to consider the matter and respond. The draft seeks a response by Friday, 7 June as a balance between giving the parties that time and allowing us time to reflect on the view expressed by parties.
9. Officials are ready to discuss these matters if Ministers so wish, but hopefully without putting at risk the early issue of the letter following the election results.

Attachments to letter

10. Subject to the Secretary of State's agreement, the letter to party leaders should be accompanied by the procedural rules

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without annotation and without the covering memorandum (ie as at tab C).

[Signed: D J Watkins]

D J WATKINS

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DRAFT 31 MAY 1996

LETTER FROM SECRETARY OF STATE TO PARTY LEADERS

NORTHERN IRELAND FORUM

1. Your party has been successful in the recent elections and is now entitled to participate in the forthcoming negotiations [check Sinn Fein position] and take its seats in the Northern Ireland Forum. I am writing to you now to set out the arrangements we propose to make for the Forum and to seek your views on them.

First Meeting

2. The Forum's first meeting is to be at a time determined by me. The Northern Ireland (Entry to Negotiations, etc) Act 1996 specifies that this shall be after the commencement of negotiations but within, or as soon as possible after the expiry of the period of, four weeks from the date of the elections. In determining this date I shall want to have regard to the possible duration of the plenary session of the negotiations, while at the same time not wishing unduly to postpone the first meeting of the Forum. [In that light, I intend to convene a first meeting of the Forum around [21] June.]

### Procedure

3. The Act requires me to notify to the chairman initial rules of procedure. A draft of these is attached. Their purpose is to sustain the proceedings of the Forum until substantive rules are determined by its members and approved by me, as provided for in the Act.
  
4. These rules reflect the statutory purpose of the Forum to promote dialogue and understanding within Northern Ireland, and it is my sincere hope that this objective will be shared and promoted by parties and members in the Forum, and expressed in its rules of procedure. I shall of course, as required both by the Act and by what I see as the Forum's major potential for contributing to a more harmonious society, be making every effort, in exercising my powers of approving substantive rules of procedure, to secure that those rules facilitate the promotion of dialogue, understanding and consensus across the communities of Northern Ireland.

### Interim Chairman

5. The Act also authorises me to nominate a member of the Forum to act as chairman until the Forum elects its own Chairman. This person should, I suggest, command broad respect across parties in the Forum so as to conduct its initial business, as set out



in the initial procedural rules, with authority, efficiency and decorum. On the basis of those successful in the recent election I shall be glad to have your suggestions as to a fit person or persons, irrespective of party affiliation, to fulfil this task.

#### Premises

6. As you know, for a variety of reasons provision of accommodation for the Forum has not proved easy. Arrangements have however now been made for the Forum to meet in the Interpoint Centre, 20-24 York Street, Belfast. This building currently offers suitable temporary facilities for the early meetings of the Forum. But we are arranging with its owners for the urgent refurbishment of a complete floor of the building, providing spacious accommodation, public access and supporting facilities. This should be available in late July, and would become the venue for the duration of the Forum.

#### Reporting of Proceedings

7. Arrangements are in hand to provide facilities for early meetings, although the Forum will doubtless have its own views on this which I shall wish to consider in due course.

### Staffing

8. I have provided the services of a small staff team, headed by Mr Nigel Carson, a member of the senior civil service in the Department of Finance and Personnel. He and his team have been engaged in planning for the Forum and expect to work closely with the interim chairman upon his nomination and thereafter.

### Conclusion

9. As we said in the debate in Parliament, although the Forum is not a Parliamentary body and shall not have trappings appropriate to such a body, we are anxious to hear your views on the matters concerned in this letter and to accommodate them wherever appropriate. Given the constraints of time, I shall be glad of a reply by Friday, 7 June.