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SECRET

20 October 1998

Mr. Paddy Teahon,
Secretary General,
Department of the Taoiseach.

The N.I. Impasse - A Possible Alternative Approach

Dear Paddy,

Herewith the draft I spoke to you about last night. A summary is attached at the end. I have also received Tim's helpful text.

With best wishes.

Yours sincerely,

Dermot Gallagher
Secretary
Anglo-Irish Division

cc: Mr. T. Dalton
Dr. M. Mansergh

JES

Handling the Current Impasse - An Alternative Approach

Problem

1. Both the Republican movement and the UUP have publicly locked themselves into conflicting stances on decommissioning. We simply do not know the present bottom line of the Republican movement, and perhaps they have not fully worked it out internally themselves. To a lesser degree, this is also true of the Unionists. A solution will not be found, in my view, by putting the two sides under intense pressure through publicly-signalled meetings, as in Downing Street on Monday.
2. I understand from the NIO that the Secretary of State's feeling as of Monday night was that there should be 24/36 hours of "hot-housing" by the two Governments next week, possibly in Castle Buildings, to show we are doing everything possible to resolve the situation. In my view, a public move of this kind could be very unwise. Unless we knew we had a realistic chance of success, it would tend to heighten rather than diminish a sense of crisis. Success next week seems unlikely, not least because I doubt if those in attendance on the Sinn Féin side would have the necessary flexibility on the decommissioning issue to be able to move matters forward in a short timeframe.
3. We also need to bear in mind the very real difficulties which the continuing impasse is causing for the SDLP, and for Séamus Mallon as Deputy First Minister.

Possible approach - moving to full Executive

4. It may well be that the gap between the two sides is unbridgeable at this time. If this is the case (and I believe it is), we have to work towards a situation where the two sides are able/can appear at some future point to move spontaneously, rather than under pressure, and in the interim, make sure that the momentum of implementation is maintained, especially in the crucial North-South area.

5. Very considerable work has been done already on the designation of the Northern Departments and (at official level) on areas for North-South cooperation and implementation. The next step is to get agreement at political level on both sets of matters. In the absence of a Shadow Executive, and therefore of a Shadow North/South Ministerial Council, this will have to be done through some informal grouping (as we suggested previously) presided over by Trimble and Mallon. Ideally, this should be a grouping of party leaders, but it could also be done at a lower level or on a shuttle basis. There might also be sub-groups looking in detail at the individual sectoral areas to be handled by the existing and new Northern Ireland Departments. There would in addition, in respect of the North/South issues, need to be discussions between the core grouping and the Government.
6. Effectively, the objective would be to carry forward, and ideally to complete, all of the preparatory arrangements for the full establishment of the new institutions, so that when the political situation allowed the button could be pressed pretty well immediately.
7. In these circumstances it would have to be accepted that the shadow institutions as such would be unlikely to be formed (though this should not be ruled out down the line.) This would cause substantial presentational difficulties and careful thought would have to be given to the handling of this aspect. However, the transitional arrangements were never seen as an end in themselves, but as ways of carrying forward the implementation process. The important thing would be that the actual work required to achieve the establishment of the full Executive and North/South Ministerial Council in the New Year was being actively carried forward.
8. One complication is that, to avoid delay in the establishment of the Implementation Bodies (and hence, under the terms of the British-Irish Agreement, the other institutions as well - given that all are interlocking), the necessary legislative and other preparations, which would be likely to take at least a couple of months, would have to be undertaken by the two Governments on the basis of informal North/South agreement on the six areas, rather than following a decision in the Shadow Council. This would involve a slight bending of the terms of the

Agreement. But we would not want to be in a position whereby the entry into force of the Agreement was substantially delayed for largely technical reasons.

9. The International Commission would acknowledge that it had been receiving satisfactory cooperation but would indicate that it needed more time to finish its work.

Trimble

10. The above may be saleable to Trimble, albeit with some difficulty. It arguably takes pressure off him in the short term. In addition, he has consistently said he has no difficulty about moving ahead on the North-South front. The approach also gives him a safety net if things don't work out. However, he may well be reluctant to engage substantively with Sinn Féin, even in a mode which could be presented as considerably less formal than a Shadow Executive, without some sense of where Sinn Féin are going on decommissioning. He might therefore demand a "road map" before signing up to a leaders group with SF involvement.

Adams

11. While Sinn Féin would inevitably be extremely concerned about the failure to establish the Shadow Executive at this time, moving forward on implementation, especially in the crucial North-South area, should help ease fears that Trimble and the UUP are not committed to implementing the Agreement. However, given their continuing participation in the Assembly, the informal arrangements suggested would have to be of a sufficient solidity, genuineness and, above all, visibility to reassure their supporters. Whether Sinn Féin could in present circumstances provide a "road map" to decommissioning sufficient to satisfy Trimble remains an open question, however - and one which is at the heart of our present difficulties.

Possible Timing of Breakthrough on Decommissioning

12. Ideally, this should be as early as possible. However, we cannot judge the timing until we can form a realistic assessment of the room for manoeuvre of both sides. It might well be that things could be delayed for many months yet. Obviously, as

the preparatory work drew to a conclusion, thereby making the entry into force of the Agreement and the establishment of the institutions a practical possibility, the pressure would again intensify. It is hard to believe that Trimble could contemplate entering a full Executive, and setting up North/South institutions, without absolute clarity on decommissioning, and very possibly an actual start. This crunch might happen in February/March. Certainly, the first anniversary of the Agreement in April would put the spotlight on its continued viability if progress were not registered by then.

13. However, if sufficient movement were to occur, we could be in a position to achieve a breakthrough around Christmas, when concessions and gestures tend to be more possible (including on substantial prisoner packages). In those circumstances the formation of shadow institutions, while largely symbolic if the actual work had been progressing as envisaged, could be a valuable element in a package.

Immediate next step

14. We need to speak again, very frankly and privately, to Sinn Féin and see if they could accept the above approach. If they are not ready, or unable, to move now in regard to decommissioning, we need to reach an understanding of when and in what circumstances they could do so. They would clearly need to prepare their grassroots well in advance of this. In addition, the British would need to put strong pressure on Trimble to accept a scenario along the above lines.



Dermot Gallagher

20 October 1998

SECRET

Handling the Current Impasse - An Alternative Approach

Summary

- Step 1: Acceptance that shadow institutions will not be formed by 31 October. Formation of leaders group announced as alternative to advance the work required (especially on North-South issues) to achieve the establishment of the Full Executive and North-South Ministerial Council in New Year.
- Step 2: Statement of satisfactory ongoing contacts between International Commission and parties on decommissioning.
- Step 3: Informal agreement on demarcation of Northern Ireland Departments and on areas of North-South cooperation.
- Step 4: Necessary legislative and other preparatory steps by both Governments to prepare for formal establishment of the Executive and North-South institutions.
- Step 5: Progress within Republican movement on decommissioning issue leading to progress between Sinn Féin and other parties.
- Step 6: Resolution of decommissioning issue/establishment of Executive/Institutions and coming into force of the Agreement.

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