

CONFIDENTIAL

From Q J Thomas
AUS(L)
7 April 1989



cc PS/S of S (B) - B
PS/M of S (L&B) - B
PS/Dr Mawhinney (L&B) - B
PS/PUS (L&B) - B
PS/Sir K Bloomfield - B
Mr Burns - B
Mr Stephens - B
Mr Miles - B
Mr Spence - B
Mr A P Wilson - B
Mr Blackwell - B
Mr Masefield - B
Mr Kirk - B
Mr J McConnell - B
Mr Wood (L&B) - B
Mr Margetts

PS/Secretary of State (L) - B

ARTICLE 11 REVIEW: MINUTE TO THE PRIME MINISTER

1. Now that the Article 11 Review is nearing completion, the Secretary of State will wish to write to the Prime Minister and other senior colleagues, setting out his approach to the Review, indicating the likely outcome, and seeking their endorsement. I submit a draft minute for the Secretary of State's consideration.

2. If we are to meet the agreed aim of completion by 26 April, it will be important to circulate the minute soon, to enable colleagues to put forward their views in good time for the preparation of the next Conference meeting on 26 April. If the Secretary of State is content with the draft, therefore, I recommend that he issues it on Monday 10 April, asking colleagues to comment by 17 April. As the Secretary of State agreed a text of the Communique, as revised after the Conference, has been passed to the Irish. Before deciding what text is attached to the minute to the Prime Minister we should need to check the latest position on our exchanges with the Irish. We hope to get some indication of Irish reactions on Monday, probably in the afternoon. (I understand from Mr Masefield that the preliminary indications today are that the Irish see substantial difficulty in the new paragraph 3, and its omission of a reference

CONFIDENTIAL

to the two traditions in Ireland, and that they have minor reservations on the confidence passage.)

3. We discussed with the Secretary of State yesterday, and more fully with Mr Stewart afterwards, the handling of the UK paper on Achievements. It was noted that the Irish had expressed, at official level, concern about its publication as a British text on the same day as the joint Final Communique. On the other hand it would look a little odd to publish it shortly before the completion of the Review. And Ministers emphasised the value of the document at the time of the Statement following the review; and that delaying publication later would be artificial. The Secretary of State may wish to consider this further. One possibility mentioned yesterday would be for him to discuss the matter with Mr Lenihan, pointing out the value in Parliamentary handling terms of its being published at the same time as the Review is completed. Another was for the paper to be sent to Members of Parliament. In the meantime the attached draft merely mentions the possibility of placing the Achievements paper in the House Library without being specific on its handling.

4. I understand that the meeting on 26 April could not take place in the morning. In our discussion yesterday Mr Stewart suggested that Parliament would accept a Statement on the day following, if the timing of the meeting on the 26th made it self evidently difficult for the Statement to be made that day. The draft suggests the need for a Statement on 27 April and, if the Secretary of State approves that approach, you (or Mr Margetts) may wish to mention that possibility to the Lord President's Office at once.

(SIGNED)

Q J THOMAS
AUS(L)

7 April 1989
Ext OAB 6469
MRC/8601

CONFIDENTIAL

DRAFT MINUTE FROM SECRETARY OF STATE TO THE PRIME MINISTER

ANGLO-IRISH AGREEMENT: ARTICLE 11 REVIEW

1. As you are aware, for some time we have been working, with the Irish, on the Review of the working of the Intergovernmental Conference, to which we are committed under Article 11 of the Anglo-Irish Agreement.
2. I minuted you about this on 26 September last year. As I explained then I initially hoped that the Review process might play a part in bringing the Unionists in from the cold. Although it has long been clear that the exercise could not achieve that, I am nonetheless anxious that the outcome should not alienate them further, or be seen to close the door for all time. More generally my aim has been to ensure that the Conference focuses in future on real, rather than synthetic, issues, and develops the positive relationship we seek with the Irish.
3. The Review was launched at the Conference meeting on 2 November last year. I have been clear from the outset that there should be a thorough and serious review of each area of activity under the Agreement based on our experience of how the Conference has worked, with a view to seeing what changes in the scope and nature of its activities might be desirable. I wanted to register with the Irish our perception of their shortcomings, particularly in security and extradition matters. Full and frank papers have been passed to the Irish on the subject dealt with in every Article of the Agreement dealt with in the Review. Nonetheless the main thrust of the Review has been forward looking; and in conducting the Review the Irish have for the most part also adopted that approach though, not surprisingly, there were some attempts to resurrect issues we regard as properly belonging in the past.
4. The Review was, of course, of the working of the Conference and not of the Agreement itself, which is not in issue. The Agreement

CONFIDENTIAL

will remain, and be seen to remain, in place as the central feature of our relations with the Republic on matters concerning Northern Ireland, and that is both inevitable and desirable. Having said that, I nevertheless saw the Review as an opportunity to gain from the Irish a wholehearted commitment on all aspects of the Agreement. Accordingly I considered, and the Irish accepted, that it is right to take the opportunity for both Governments to reaffirm their commitment to the Agreement and the fundamental principles embodied in it (including, of course, the principle enshrined in Article 1 that the status of Northern Ireland is to be determined by the wishes of a majority of its people).

3. At the time of launching the Review, I issued an invitation to members of the public, political parties and other interested groups and bodies to let me have their views so that I could take them into account in formulating my own approach. Although this did not, in the event, lead to a useful exchange with the Unionists, a number of contributions were received. Most of these were from members of the public, mainly in Northern Ireland, but I also received generally helpful contributions from the Alliance Party, the Workers Party, the Labour Party and the SLD. I have however heard nothing from the two main Unionist parties nor, as yet, from the SDLP, though a contribution from the latter is promised. Most of the contributions have in fact concentrated on the Agreement itself rather than the working of the Conference, in some cases calling for fundamental amendment or even setting aside the whole Agreement. There were, therefore, comparatively few specific proposals which I was able to take into account in the course of the Review.

6. As far as the Review itself is concerned, the detailed analysis of the results achieved in each of the areas of operation of the Agreement has now been completed. The Irish have, on the whole, approached the Review in a constructive and cooperative spirit, particularly in the latter stages and there have been relatively few major disagreements between us. In the light of this, Brian Lenihan and I agreed at our meeting on 8 February that work on the Review should be given greater political impetus with the aim of reaching

CONFIDENTIAL

an early conclusion. There is some risk that delay raises expectation more than the modest, but useful, outcome could justify. Accordingly, we decided to move directly to the drawing up of the final Review Communique, and we made a major effort to reach agreement on a single draft of this at our meeting of the Conference on 5 April. This was a hard fought, though constructive, negotiation, which successfully secured our interests. In particular, the Communique includes a reaffirmation and recommitment to the Agreement as a whole and all it represents, gives an agreed account of the progress already made, makes it clear that the Agreement provides a valuable continuing framework for Anglo-Irish relations and sets a useful agenda for developing work under it, without committing us to grandiose or politically difficult matters. (For example, I succeeded in holding off the Irish wish to mention, again, as the Agreement itself does, further study of a Bill of Rights.) [Part of the price paid for this is that the draft Communique is rather longer and rhetorical than I would myself have chosen.]

7. We have also made clear to them in the course of the Review that while we welcome the progress that has been made on the security front, there is no room for complacency and that the Communique should stress the importance of securing the further improvements in security cooperation which are essential if we are successfully to combat terrorism. We have also registered our dissatisfaction with the way the existing extradition arrangements are working and the importance we attach to constructive and substantive consideration of the proposals we have put to them for making these arrangements operate more effectively.

8. The Irish naturally have their points of dissatisfaction too. Colleagues may find it helpful if I mention these briefly, as they do not feature expressly in the text of the draft Communique. The Irish have, in particular, tended to take the view that in a number of respects we were not operating the Agreement with sufficient determination or, because of an undue desire to take account of Unionist sensitivities, were seeking to play down the contribution

CONFIDENTIAL

it was making to resolving the problems of Northern Ireland. They also feel that we should do more to inform them in advance of matters relating to the internal administration of Northern Ireland and take greater account of their views. (For my part I was anxious that in this exercise, the text should make clear throughout, as it now does, that, while the Irish Government has the right to put forward views and proposals on matters within the scope of the Agreement, the British Government, as the Agreement itself makes clear, retains full responsibility for all decisions and the administration of government in Northern Ireland.) More specifically the Irish look to us to do more than they feel we have so far done in taking measures to improve the confidence of the minority community in the system of justice and the conduct of the security forces. This is an important issue which we are anxious to pursue on our own account in any event, but I have been anxious to ensure the issue is properly presented in this context.

9. The results of our efforts so far are set out in the draft attached of the joint final Review Communique as it emerged from our discussions on 5 April. This is close to being a document agreed between the two sides, subject to approval by the respective Governments. There are one or two points of drafting and emphasis to be resolved. However it represents, in my view, a good outcome from our point of view and I hope you and other colleagues will agree that I can now move, subject to any final drafting points, to reach agreement with the Irish on it.

10. I have agreed with the Irish that we should aim for completion of the Review by the end of April, not least so that it is completed well before the Northern Ireland local elections on 17 May and the European elections in June. Completion of the Review by the end of April will necessitate a tight timetable, involving a further meeting of the Conference to adopt the final Communique, probably on 26 April. (I have not considered that the outcome contains anything of sufficient novelty or significance to justify a Summit, nor do the Irish appear to have seen it in those terms.) If we are to be able to do this, I would need to have any comments you and other

CONFIDENTIAL

colleagues wish to put forward, if possible by 17 April. (If, for any reason, we are unable to meet the end of April deadline, I think formal completion of the Review would have to be put off at least until after the 17 May local elections.) Whenever the Review is completed, it will be important to handle the presentation of the outcome in such a way that it does not hinder the prospects for political progress in Northern Ireland, and I am giving consideration to how best we can do this. Paragraph 3 of the draft Communique, [on the first part of which the Irish may well have comments] is intended to acknowledge Unionist sensitivities, without compromising our own position.

11. As far as the Parliamentary handling of the completion of the Review is concerned, I have already agreed with John Wakeham that it should not be necessary to have a debate on this matter. There is apparently no pressure for one, either from our own side, or from the Opposition parties. I propose, therefore, simply to make a statement to the House probably on the following day (27 April) and, at the same time, deposit the text of the final Review Communique in library of the House. I have also prepared a British paper, summarising the progress achieved since the signing of the Agreement, and I will consider further the Parliamentary handling of that.

12. I should be grateful for early confirmation that you and other colleagues are content with the approach outlined above. I am copying this minute to Geoffrey Howe, Douglas Hurd, George Younger, James Mackay, Patrick Mayhew, John Wakeham, David Waddington and Sir Robin Butler.

MRC/8598