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FROM: D J R HILL
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cc see distribution below

PS/Mr Murphy (B&L)

THE NEGOTIATIONS LEADING TO THE 18 DECEMBER AGREEMENT

Yesterday's discussions were even more fluid than normal. Mr Jeffrey has undertaken to produce an overview of the negotiations which led ultimately to this morning's agreement.

2. The only relatively formal meeting held all day was the meeting between the UUP and Irish Government officials to tie up the loose ends of the deal which had by then been cut on Implementation Bodies and the establishment of a publicly-owned company to deal with international tourism marketing for the island as a whole.

3. I attach a record of that meeting (which Mr Murphy attended) which seeks to bring out its significance in the wider scheme of things and which Mr Murphy and colleagues may find of some interest.

(Signed)

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cc PS/Secretary of State (B&L)
PS/PUS (B&L)
PS/Mr Semple
Mr Jeffrey
Mr Watkins
Mr Stephens
Mr Bell
Mr McCusker

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Mr Kelly
Mr Brooker
Mr Maccabe
Mr Priestly
Mr Whysall
Mr Warner
Mr Holmes, No 10
Mr Sanderson, Cab Off
Mr Fergusson, RID
HMA Dublin

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17 DECEMBER: MEETING BETWEEN THE UUP AND THE IRISH GOVERNMENT

Summary

1. A senior UUP delegation met Paddy Teahon and Dermot Gallagher for an hour commencing at 17.55 to finalise the texts of the emerging agreement on Implementation Bodies, areas for enhanced North/South co-operation and the establishment of a publicly owned limited company to carry forward international tourism marketing programmes for the whole island of Ireland. Mr Murphy, Mr Jeffrey and I were also present.
2. At the of the meeting Dermot Gallagher left for Markethill with a view to persuading Seamus Mallon (who had left for home, apparently in deep depression, shortly before 4.00pm) that he should endorse the agreement and authorise Eddie McGrady and his colleagues to engage with the UUP on Departmental Structures.
3. David Trimble led the discussion in a vigorous and decisive way, frequently overruling or cutting across Reg Empey, who was inclined to register points of difficulty and urge a more relaxed timetable; but he was clearly comforted by the support he received from John Taylor (who arrived from Strasbourg just as the meeting started).

Detail

4. In summarising the issues which remained to be resolved (and noting that Departmental Structures was a matter for the UUP and SDLP) Teahon raised the question of how any agreement should be presented, in Seamus Mallon's absence. He suggested that the two Governments might issue a communiqué, but Trimble made clear that that would cause difficulties for his constituency. Teahon mentioned Seamus Mallon's concern that Sinn Fein should not appear to be "excluded" from the

process. Trimble accepted that any statement should refer to the discussion which had taken place with all the parties at earlier stages.

5. In the first of a series of cautionary remarks, Empey noted that any emerging agreement would have to be cleared with the UUP Assembly party and then approved by the Assembly in the New Year. Gallagher, in noting these points, mentioned the need for a "round table" meeting between the parties and the Irish Government to informally seal any agreement (a theological point kept valiantly alive by Irish officials during the night, but which I hope can be quietly forgotten).

Tourism

6. Empey then reverted to the nature of the proposed arrangement on international tourism marketing, emphasising that there would be no "transfer of powers" and therefore it would be wrong to claim [as the SDLP appeared to have been briefing the media] that a "virtual implementation body" was being created. Trimble cut in to acknowledge the point while drawing attention to the fact that the tourism proposal built on "existing mechanisms" and was therefore clearly a "paragraph 9(i)" issue. When Empey pursued the point Trimble suggest a slight amendment to the current text to make clear that the proposed company would be established "by NITB and BFE" which the Irish accepted.

7. Teahon then suggested a reference to the fact that the company's Memorandum of Agreement and Articles of Association would be agreed by the two administrations [following discussion in the NSMC]. Trimble immediately agreed, although the words in square brackets were subsequently deleted.

8. Teahon then raised the politically very sensitive question of whether the company "would", rather than "could", establish overseas offices. A

similar proposal in connection with inward investment had been very strongly opposed by Unionists. Trimble immediately agreed. Empey objected that this would represent a public expenditure commitment: "take over" or "subsume" [existing offices] might be better. (John Taylor joked that "subsume" sounded to theological, but that he didn't like the phrase "take over" either: in any event, he didn't seem bothered about the substantive issue.) Trimble settled for "would", arguing that it could be interpreted as embracing subsuming, merging etc; and sought confirmation from Mr Murphy that the NIO would find the money!

9. There was rapid agreement on the rest of the text, including a role for industry representatives. [At a later point the Irish agreed to substitute "plan and deliver" for "plan and implement", presumably in response to concerns raised in the UUP Assembly party meeting about the need to distinguish the company from an implementation body.]

Implementation bodies

10. The texts setting out the functions of the six implementation bodies were rapidly cleared, mainly on the basis of the No 10 texts of 14 December. Both the UUP and the Irish officials were clearly keen to accommodate each other in respect of various minor points raised by either side.

Areas for enhanced co-operation

11. A similarly constructive mood marked an equally rapid run through the Irish side's text of 16 December on areas for co-operation.

Departments

12. Teahon enquired how long it might take to resolve the number and functions of Departments. Trimble was inclined to settle for announcing agreement in principle on ten Departments, perhaps listing their titles but not their functions, and hoped this could be settled quickly. Empey identified a number of issues which had to be resolved and Taylor made clear that he thought these needed to be pinned down. He argued that agreeing to ten Departments would be difficult for the UUP "both here and in London" and it was better not to give people two bites at it. Trimble then changed tack and began to explain the need for a powerful central Office for Budget and Management Efficiency: a "deal breaker" for the UUP, but he didn't think it cut across Seamus Mallon's interests. Teahon concurred. Empey noted that Mallon would need to lift his refusal to consider any reduction in the role of DFP. Mr Murphy intervened to point out that settling financial and economic strategy after devolution would be a very difficult exercise, probably requiring more resources and attention than under direct rule where the Government had been "negotiating with itself" - in other words an additional functions was probably needed. [This ultimately paved the way for the resolution of this issue.]

Closing the deal

13. Empey again made much of the need to consult the Assembly Party, and to avoid putting them up against any deadline; and seemed to be advocating a relatively relaxed timetable for reaching agreement. In particular he argued that the issues should not be put to the party before it was known whether Seamus Mallon was content with the documents which had just been agreed. Trimble and Taylor, however, both said that it would be best to start taking the Assembly party through the documents now to avoid wasting time.

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14. Gallagher left for Markethill undertaking to urge Mallon to allow negotiations to be opened on Departmental Structures. The UUP team went off to initiate the first in a series of meetings with their Assembly Party.

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